

REPORT OF THE
GORHAM TOWN COUNCIL
REGULAR MEETING
August 7, 2017

Chairman Phinney opened the meeting with the Pledge of Allegiance to the Flag. There were 6 members of the Public in attendance at the start of the meeting.

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

Moved by Councilor Hager, seconded by Councilor Shepard and VOTED to amend the July 11, 2017 Meeting Minutes, Item # 9238, to read; Moved by Councilor Stelk, seconded by Councilor Hager and ORDERED, that the Town Council appropriate **\$42,888.63** from the completed New Portland Road Project to the County Road Project. 7 years.

Councilor Communications

Councilor Hartwell reported that the Ordinance Committee met on July 25, 2017 and discussed the movement on the Narragansett Development District and also the Fire Sprinkler Inspection Ordinance which is on the Agenda.

Chairman Phinney took a few minutes to thank Town Manager David Cole for his many years of service to the Town of Gorham and for all of his accomplishments throughout the years as Town Manager. Tonight's meeting was David's last before his retirement.

Town Manager Report

David Cole thanked Chairman Phinney for his kind words and noted that it has been an honor to serve the Community and work with the many Councilors and Staff of the Town of Gorham over the past years as Town Manager. He also reported that he issued a 20 year service pin to Mike Coffin of the Police Department and thanked him for his dedicated service to the Town of Gorham. David acknowledged that Nomination Papers for the upcoming November Election will be available in the Town Clerks office on Monday, August 14, 2017. There are three positions on the School Board for a 3 year term and one position for a 1 year term to fill a vacancy. There are also two positions on the Town Council and one position on the Portland Water District Board of Trustees. Nomination papers are due back on September 22, 2017 by 1pm.

School Committee Report

Darryl Wright reported that School will be opening for Students on August 28th and 29th. All Staff returns on August 24th and 25th for opening workshop days. The K-5 enrollment is again above projections and is expected to continue to increase. Bus schedules will be posted to the District website and published in

the Gorham Times edition in August. Darryl reminded parents that the times listed are approximate and it is strongly recommended that students get to their bus stops 10 minutes early, realizing that the first week or so may have some delays as issues are worked out. The process of hiring a new Assistant Principal in the High School is underway and there are a few Ed Tech positions as well as substitute teacher and spare bus driver position still available. The next School Committee regular meeting is scheduled for September 13, 2017.

Old Business

Moved by Councilor Hager, seconded by Councilor Stelk and VOTED to table item #9144 until the December Council meeting. 7 yeas

Moved by Councilor Shepard, seconded by Councilor Benner and VOTED to table item # 9237 until the next Council meeting. 6 yeas, 1 abstention (Smith)

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

Proposed

Order # 9246

Whereas, the Marijuana Legalization Act allows retail marijuana establishments, including retail marijuana stores, cultivation, manufacturing and testing facilities and retail marijuana social clubs, and
Whereas, under the Marijuana Legalization Act and under Municipal Home Rule Authority, municipalities may prohibit retail marijuana establishments, and
Whereas, the production, processing and sale of marijuana is illegal under federal law and anyone producing, processing or selling marijuana, even in a state where it is legal for medical or recreational purposes, would be committing a federal crime, and
Whereas, marijuana is a Schedule 1 substance under the US Controlled Substance Act, and
Whereas, the new law is inconsistent and the consequences are uncertain, and
Whereas, State regulations intended to implement the Marijuana Legalization Act won't go into effect until at least 2018.
Now Therefore Be It Ordered, that the Town Council adopt the following Ordinance:

TOWN OF GORHAM

Ordinance Prohibiting Retail Marijuana Establishments and Retail Marijuana Social Clubs

Section 1. Authority.

1.1 This ordinance is enacted pursuant to the Marijuana Legalization Act; Title 7 MRSA c. 417; and Municipal Home Rule Authority, Me. Const., art. VII, pt. 2; and Title 30-MRSA Section 3001.

Section 2. Definitions

2.1 For purposes of this ordinance, retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, and retail marijuana products manufacturing facilities and retail marijuana testing facilities, and retail marijuana social clubs are defined as set forth in Title 7 MRSA Section 2442.

Section 3. Prohibition on Retail Marijuana Establishments and Retail Marijuana Social Clubs.

3.1 Retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, and retail marijuana testing facilities, and retail marijuana social clubs, are expressly prohibited in Gorham.

3.2 No person or organization shall develop or operate a business that engages in retail or wholesale sales of a retail marijuana product, as defined by Title 7 MRSA Section 2442.

3.3 Nothing in this ordinance is intended to prohibit any lawful use, possession or conduct pursuant to the Maine Medical Use of Marijuana Act, Title 22 MRSA c. 558-C.

Section 4. Penalties

4.1 This ordinance shall be enforced by the municipal officers or their designee. Violations of this ordinance shall be subject to the enforcement and penalty provisions. Of 30-A MRSA §4452.

Section 5. Severability

5.1 In the event that any section, subsection or portion of this Ordinance shall be declared by any court of competent jurisdiction to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection or portion of this Ordinance.

Section 6. Effective Date.

6.1 This ordinance shall take effect on August 8, 2017.

Moved by Councilor Hager, seconded by Councilor Stelk and VOTED to forward item # 9246 to the Planning Board for their recommendations before sending back to the Council for their vote.
6 yeas, 1 nay (Stelk)

Chairman Phinney opened Public Hearing #2. There were no comments from the public and the hearing was closed.

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

Proposed

Order # 9247

Whereas, many building plans must currently be reviewed by the State Fire Marshal's office for compliance with various codes, like NFPA 1 Uniform Fire Code and NFPA 101 Life Safety Code, and

Whereas, the State Fire Marshal has a lot of work and often takes a long time to complete their review, and

Whereas, the State Fire Marshal will allow this review to be conducted locally as long as the local municipality is able to meet appropriate criteria and other Maine communities are providing this service, and

Whereas, the review can often be done more quickly by the local community, and

Whereas, the developers will have the option of applying to the State Fire Marshal or having the review done locally,

Now therefore, the Town Council adopts the following ordinance:

ORDINANCE FOR OPTIONAL PROGRAM FOR LOCAL BUILDING PLAN REVIEW.

Section 1: Purpose:

1.1 This Ordinance is intended to provide a program for local building plan review other than one and two family dwelling units. This program shall be optional for the applicant who may choose to apply for local review of building plans or chose to apply for review of building plans through the State Fire Marshal.

Section 2: Adoption of NFPA 1.

2.1 The Town hereby adopts the 2006 edition of NFPA 1, Uniform *Fire Code*, as amended by the State of Maine, except that NFPA 1, Section 1 and Section 10 are hereby deleted and Appeals shall be made in accordance to Section 7 of this Ordinance.

Section 3: Optional Local Building Plan Review.

3.1 The Town, through its Fire Department, may provide review of building plans, other than one and two family dwelling units, as an option to the review provided by the State Fire Marshal.

3.2 This review does not include Barrier-Free construction review/permits which are done separately through the State Fire Marshal.

Section 4: Fees.

4.1 For projects reviewed by the Town of Gorham, the fee schedule for local review shall be 5 cents per square foot for occupied and unoccupied spaces and one cent per square foot shall be remitted to the State.

Section 5: Enforcement of Fire Prevention Codes.

5.1 The Fire Inspector shall be primarily responsible for enforcement of the Fire Prevention Code and review of Commercial and Industrial building plans under the general supervision of the Fire Chief. The Fire Chief may detail such members of the Fire Department, as inspectors, as shall from time to time be necessary for the review of the building plans and subsequent enforcement, if necessary.

Section 6: Penalty for violating codes.

6.1 Any person, being the owner or tenant or having control of any property or structure or part thereof which violates any of the provisions of the said Fire Prevention Codes and/or another section of this article or who fails to conform to any of the provisions thereof, after having received a ten-day notice of such violation, shall be subject to the penalty provisions pursuant to Title 30-A M.R.S.A. Section 4452. The Fire Inspector, Fire Chief, or a person designated by the Fire Chief may cause a notice of violation or order to be served on the person responsible for the violation or non-compliance condition, in violation of the provisions hereof or in violation of a plan or of a detail statement made with a permit application. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation. If the notice is complied with promptly, the Fire Inspector or Fire Chief, or a person designated by the Fire Chief, may issue a civil summons, or after consulting with the Town Manager, may request the Town Attorney to initiate the appropriate enforcement, to restrain, correct or abate such violation.

6.2 Such violations shall be punishable by a fine, as set forth in Title 30-A M.R.S.A. Section 4452, together with such injunctive relief or administrative remedies, as may be available. Each and every day such a violation continues after the ten-day notice period shall constitute a separate offense. In addition, the Town may seek recovery of costs and any other legal and equitable remedies as may be available to the Town.

Section 7: Appeals

7.1: Any decision by the Fire Inspector may be appealed to the Fire Chief within thirty (30) days after issuance of a written decision by the Fire Inspector.

7.2: A person aggrieved by a decision by the Fire Chief may appeal to Superior Court as provided by law or may submit a new application to the State Fire Marshal. If a new application is submitted to the State Fire Marshal, such application shall be considered a new application and any fees paid as part of the local application shall be non-refundable.

Section 8: Severability Clause

8.1 If any part of this Ordinance is held to be invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this Ordinance.

Item # 9247 was voted. 7 yeas

Proposed

Order # 9248

Moved by Councilor Hartwell, seconded by Councilor Benner and ORDERED, Ordered that the Town Council accept the bid of \$167,704 for a tandem axle dump truck to replace a 2003 dump truck. 6 yeas, 1 nay (Smith)

Proposed

Order # 9249

Moved by Councilor Shepard, seconded by Councilor Benner and ORDERED, that the Town Council accept the bid of \$142,651 for a 6-wheel dump truck to replace a 2004 dump truck. 6 yeas, 1 nay (Smith)

Proposed

Order # 9250

Moved by Councilor Shepard, seconded by Councilor Benner and ORDER, that the Town retain a used Rescue vehicle as a backup vehicle for use when one of the Town's two front-line Rescue vehicles is unavailable for use. 7 yeas

Proposed

Order # 9251

Moved by Councilor Hager, seconded by Councilor Shepard and ORDERED, that the Town Council vote for the slate of officers for the Maine Municipal Association as presented. 7 yeas

Proposed

Order # 9252

Moved by Councilor Hartwell, seconded by Councilor Shepard and ORDERED, that the Town Council authorize the Planning Board to review the Town's Land use and Development Code and where appropriate, forward recommendations to amend the Land use and Development Code for the purpose of making the Land use and Development Code consistent with the Town's Comprehensive Plan.

Moved by Councilor Shepard, seconded by Councilor Benner and VOTED to postpone the Item until it is ready to come back to Council. 7 yeas

Proposed

Order # 9253

Moved by Councilor Benner, seconded by Councilor Hartwell and ORDERED, that the Town Council ask staff to develop a Senior Property Tax Assistance Rebate Ordinance, similar to the ordinances developed in Cumberland and Scarborough, for the Town Council to consider. 7 yeas

Proposed
Order # 9254

Moved by Councilor Shepard, seconded by Councilor Benner and ORDERED, that the Town Council approve the transfer of \$1,420 to the Town of Gorham pursuant to Title 15 MRSA Section 15824 (3) and 5826 (6) seized in a criminal case (Docket No. CR-16-4344) and
Be it further ordered that the Town Manager is authorized to sign the approval form on behalf of the Town of Gorham. 7 years

Proposed
Order # 9255

Moved by Councilor Shepard, seconded by Councilor Stelk and ORDERED, that the Town Council ask the Town Attorney to begin the process of removing any deed restrictions or any other regulatory legal restrictions that restrict the Town's use of Robie Park. 7 years

Proposed
Order # 9256

Moved by Councilor Benner, seconded by Councilor Shepard and ORDERED, that the Town Council approve a Municipal/State agreement for improvements to the intersection of Libby Avenue and Main Street (Rte. 25) (State WIN # 022873.00, Federal aid Project # 2287300). 7 years

Moved by Councilor Hager, seconded by Councilor Stelk and VOTED to add an item to the agenda. 7 years

Moved by Councilor Stelk, seconded by Councilor Hager and ORDERED, that the Town Council approve the transfer of \$5018 to the Town of Gorham pursuant to Title 15 MRSA Section 5824 (3) and 5826 (6) seized in a criminal case (Docket No. CR-15-760), and
Be It Further Ordered, that the Town Manager is authorized to sign the approval form on behalf of the Town of Gorham. 7 years

Proposed
Order # 9257

Moved by Councilor Stelk, seconded by Councilor Hager and ORDERED, that the Town Council go into executive session, pursuant to Title 1 MRSA Section 405 (6) (D) to discuss labor negotiations with Firefighters. 7 years

Moved by Councilor Hager, Seconded by Councilor Smith and VOTED to come out of Executive Session. 7 years

Moved by Councilor Hager, seconded by Councilor Benner and VOTED to adjourn. 7 years
Time of adjournment 8:10pm

A True Record of Meeting

ATTEST _____
Laurie Nordfors, Town Clerk

