

**AGENDA AND PROPOSED ORDERS
GORHAM TOWN COUNCIL
REGULAR MEETING
January 5, 2021
6:30pm
On-line Zoom Meeting**

The Town of Gorham invites you to view our upcoming Regular Town Council Meeting on January 5, 2021, starting at 6:30PM. This meeting will be held remotely, hosted as a Zoom Webinar and streamed over GoCAM and Facebook Live for anyone who wishes to view. Staff strongly recommends those who would like to make public comment regarding agenda items to email written comments by 4pm on Tuesday, January 5, 2021 to the following email address: TC_Mtg_Public_Comment@gorham.me.us.

To join the meeting, follow this link on your computer or mobile device:

<https://us02web.zoom.us/j/89476198041>, or join by phone by calling 1-929-205-6099 and entering Webinar ID: 894 7619 8041.

To make a public comment during the meeting, we ask that you raise your hand using the button in Zoom, or for those joining by phone, you may type *9.

Please be advised that any comments made during the meeting on Facebook Live or GoCAT will not be reviewed and are not considered public comment for purposes of the public record.

Pledge of Allegiance to the Flag

Roll Call

Acceptance of the minutes of the December 1, 2020 Regular Town Council Meeting.

Open Public Communications

Councilor Communications

Town Manager Report

School Committee Report

Public hearing #1

On Item #2021-1-02

Public hearing to hear comment on a proposal to issue a renewal liquor license to Gorham House of Pizza. (Admin. Spon)

Proposed

Order #21-002

Ordered, that the Town Council approve a renewal liquor license for Gorham House of Pizza, 2 State Street.

Item #2021-1-03 Action to consider appointing three people to the Board of Health.
(Appointments Committee Spon.)

**Proposed
Order #21-003** Ordered, that the Town Council appoint Dr. Colby Wyatt to a 3 year term, Melissa VanMeter to a 2 year term and Jennifer Toms to a 1 year term on the Board of Health.

**Public hearing #2
On Item #2021-1-04** Pubic hearing to hear comment on the proposed amendments to the Land Use and Development Code to allow for varied density for mixed-use developments in the Gorham Village and Urban Commercial zoning districts.
(Ordinance Committee Spon.)

**Proposed
Order #21-004** Ordered, that the Town Council amend the Land Use and Development code to allow for varied density for mixed-use developments in the Gorham Village and Urban Commercial Zoning Districts.

***Note - Due to the length of the amendments, 31 pages, it is included as a separate attachment.**

**Public hearing #3
On Item #2021-1-05** Public hearing to hear comment on the proposed amendments to the Land Use and Development Code to add new private way standards that would allow up to 25 lots or residential units.
(Ordinance Committee Spon.)

**Proposed
Order #21-005** Ordered, that the Town Council amend the Land Use and Development Code to as follows:

CHAPTER 1: ZONING REGULATIONS
SECTION 1-5: DEFINITIONS

PRIVATE WAYS: A lane established and maintained under private authority on a recorded private way plan approved by the Planning Board.

STREET: A **way road** established and maintained under public authority, or a fifty (50) foot wide recorded **private way approved by the Planning Board, or a way road** shown on a plan of a subdivision approved by the Planning Board.

CHAPTER 2: GENERAL STANDARDS OF PERFORMANCE

Section 2-5 – MINIMUM STANDARDS FOR THE DESIGN AND CONSTRUCTION OF STREETS AND WAYS

D. DEFINITIONS

3. Sub-collector Street: A street which is designed to carry traffic between local access streets and collector streets.

- a) Rural Sub-collector - Any sub-collector street ~~which is classified as a sub-collector and~~ located in ~~either a the~~ Rural ~~or Suburban Residential~~ District and which is projected to have an Average Daily Traffic Volume of between 250 and 1,000 vehicles per day shall be designed and constructed to the standards required for Rural Sub-collector Street, as present in Table 1.
- b) Urban Sub-collector – All other sub-collector streets ~~which are classified as sub-collectors, including a sub-collector street that is~~ located within a growth area per the Comprehensive Plan or in a subdivision designed to the Development Transfer Overlay District ~~standards and serves a subdivision or development that conforms to the overlay district requirements~~, shall be designed and constructed to the standards required for an urban sub-collector as presented in Table 1.

4. Access Street: A local street designed to provide access to abutting property and to carry no more traffic than that generated by uses along the street.

- c) Rural Access Street - Any access street located in ~~either~~ a Rural ~~or Suburban Residential~~ District, ~~except for an access street that is located within the Development Transfer Overlay District and serves a subdivision of development that conforms to the overlay district requirements~~, which serves less than 25 dwelling units and which is projected to have an Average Daily Traffic Volume of less than 250 vehicles shall be designed and constructed to the standards for a Rural Access Street, as present in Table 1.
- d) Urban Access Street – All other access streets located within a growth area per the Comprehensive Plan or in a subdivision designed to the Development Transfer Overlay District standards, which are classified as access streets shall be designed and constructed to the standards required for an Urban Access Street, as presented in Table 1.

7. Private Way: A minor ~~street~~ road which has not been dedicated to the Town as a public street or public way, serving no more than six (6) lots with up to maximum of six (6) dwelling units, and which, if it has not been built to public way standards, shall not be accepted as a public street ~~or way~~ by the Town.

8. Paved Private Way: A minor ~~street road~~ which has not been dedicated to the Town as a public street or public way. **The Town has 2 standards for paved private ways: 7-10 dwelling unit serving no more than ten (10) lots with up to a maximum of ten (10) dwelling units or a twenty-five (25) dwelling unit serving no more than twenty-five en (10 25) lots with up to a maximum of twenty-five en-(10 25) dwelling units and constructed to the standards for a paved private way, and which, if it has not been built to public way standards, shall not be accepted as a public street or way by the Town.**

a) **7-10 Dwelling Unit Paved Private Way**

1) **Paved Private Way – A private way serving between 7 - 10 dwelling units designed and constructed to the standards as presented in Table 2. Private ways located in a growth area per the Comprehensive Plan or in a subdivision designed to the Development Transfer Overlay District standards shall be designed with a sidewalk.**

b) **25 Dwelling Unit Paved Private Way**

1) **Rural Paved Private Way - Any rural paved private ways located in a Rural District, which serves less than 25 dwelling units and which is projected to have an Average Daily Traffic Volume of less than 250 vehicles shall be designed and constructed to the standards as present in Table 2.**

2) **Urban Paved Private Way – All other paved private ways located in a growth area per the Comprehensive Plan or in a subdivision designed to the Development Transfer Overlay District standards, which are classified as a 25 dwelling unit paved private ways shall be designed and constructed to the standards required as presented in Table 2.**

9. Condominium Driveways: A driveway that provides access from a street, road, or way to a condominium development. The driveway is required to be constructed to a private way or public road classification that handles the estimated Average

Annual Daily Trips for the development. The driveway does not need to provide for a 50' right-o-way if the lot being developed has the minimum amount of street frontage on an existing public street or private way.

10. Dead End Streets: A street or private way with a single common ingress and egress.

E. ACCEPTANCE OF STREETS AND WAYS

A street ~~or way~~ constructed on private lands by the owner(s)/developer(s) thereof and not dedicated for public travel prior to the date of enactment of this ordinance, (September 2, 1997), may be laid out and accepted as a public street ~~or way~~ by the Town Council only upon the following conditions:

1. The owner(s) shall give the Town a deed to the property within the boundaries of the street at the time of its acceptance by the Town and a separate deed to areas reserved for the future development of streets.
2. A plan of said street ~~or way~~ shall be recorded in the Cumberland County Registry of Deeds at the time of its acceptance.
3. A petition for the acceptance of said street or way shall be submitted to the Town Council upon a form to be prescribed by the Town Attorney. Said petition shall be accompanied by a plan, profile and cross section of said street or way as follows:
 - a) A plan when practical drawn to a scale of 40' to 1", or other suitable engineering scale as approved by the Public Works Director or the Director's designee, and be on one or more sheets of paper not exceeding 24 inches by 36 inches in size. Said plan shall show true and magnetic north, the location and ownership of all adjoining lots of land, passageways, easements, street lights and electric lines, boundary monuments, water ways, and natural drainage courses. Topography will be shown with a contour interval not to exceed two (2) feet, angles, bearings and radii necessary for the plotting of said street and lots necessary for their reproduction on the ground. No street will be accepted until one (1) set of reproducible and three (3) bound paper sets of project record "as built" drawings are provided to the Public Works Director. The plans and profile sheets should reflect design and actual locations and elevations of drainage and sanitary rims and inverts. Contours will be revised to show the finished conditions. Projects having a closed sewer system shall show building services and ties to their connection points and locations at the property lines. Record drawing will be sealed by the design engineer. As-built drawings shall include the following, as a minimum.

- (i) The cover sheet as signed and approved by the Planning Board.
 - (ii) All sheets, including detail sheets, as found in the approved project set.
 - (iii) The registered subdivision plat.
- b) A profile of said street ~~or way~~ drawn when practical to a horizontal scale of 40 feet to 1 inch, and a vertical scale of 4 feet to 1 inch, or other suitable engineering scale as approved by the Public Works Director or the Director's designee.
 - c) A typical cross section of said street ~~or way~~ drawn to a horizontal scale of 4 ft. to 1 inch and a vertical scale of 4 ft. to 1 inch.
 - d) The location and size of the constructed, in place, drain and sewer lines and roadway ditching in accordance with this Code.
 - e) All plans shall include the GPS coordinates.

4. Streets Offered for Acceptance

- a) No street ~~or way~~ shall be placed on the Town Council's agenda until the Developers Engineer has certified that the streets ~~or ways~~ were constructed in accordance with the specifications of the Town of Gorham's Land Use and Development Code and in accordance with the plans approved by the Planning Board and that "Record Drawings" are accurate **and have been stamped by the developers licensed professional engineer.** No ~~street road~~ may be placed on a Town Council agenda until:
 - (i) The Public Works Director or the Director's designee has issued a final report that the ~~street road~~ is complete and meets the appropriate specifications of the Town's Land Use and Development Code and
 - (ii) The ~~Planning~~ Director **of Community Development,** after consultation with the Public Works Director or the Director's designee, has determined in writing that there is no outstanding condition or restriction placed on the applicable subdivision plan or other Town-approved plan on which the proposed streets or ways have been proposed that have not yet been satisfactorily completed in accordance with the requirements of such plan.
- b) Such report shall include results of at least one (1) core sample from the base course and may include more than one core sample

for each **street road** proposed for acceptance as a public **way street** with the core sample and reports paid for by the applicant.

- c) The owner shall warranty all public improvements for a period of one year from the date of acceptance and post a maintenance guarantee per the subdivision ordinance. At the conclusion of the one-year warranty period, the owner shall request the Public Works Director or the Director's designee to prepare a written report of inspection prior to the release of the improvement guarantee, per the requirements of Chapter 3, Section 3-4. C. a. 2.
- d) No street may be accepted unless the Town Council finds that acceptance is in the public interest and for complies with the following standards:
 - (i) The street must serve at least 25 lots which is not a dead end street. ~~and is part of an~~ **The street must be part of an interconnected road street network that provides at least 2 points of connection to other interconnected streets does not lead to a dead end street unless the street provides connection to at least 2 other interconnected streets.** The Town Council may waive the interconnected street requirement if the Town Council finds that the dead end street provides access to Town or State property and it is in the public interest to accept the dead end road.
 - (ii) Residential subdivisions consisting of more than twenty (20) lots, ~~a~~ No street may be accepted until certificates of occupancy have been issued for at least 50 % of the housing units on that street in the subdivision or,
 - (iii) In the case of a street in a subdivision for which the Planning Board has formally granted approval for phased construction, until certificates of occupancy have been issued for 50% of the housing units on that street in the phase in question.
- e) The surface pavement shall not be placed until the base paving has gone through one (1) complete winter. The application of a tack coat and/or shim coat to the base may be required by the Public Works Director or the Director's designee, when necessary, to insure appropriate bonding between base and final surface coats of pavement.
- f) Notwithstanding the provisions of any other Section hereof, the Town may at any time lay out and accept any street or way in the

Town of Gorham, Maine, as a public street ~~or way~~ of said Town whenever the general public interest so requires. The cost of said street ~~or way~~ may be borne by said Town or may be borne by another party.

- g) Notwithstanding paragraph c) above, a street may be accepted by the Town Council prior to final paving, provided that 150% of the cost of completion, as estimated by the Public Works Director or the Director's designee is deposited in a road street improvement account with the Town. Any funds not used shall be returned to the developer upon completion.
- h) Prior to street acceptance, the Town, at its sole discretion, has the right to annually evaluate the condition of the street and the costs associated with completing the street. The Public Works Director or the Director's designee will estimate said completion costs following the evaluation and recalculate the bonding requirements for the project. The recalculated bonding requirements for the project will be 125% of the total cost of the outstanding construction. The Town will stop issuing permits for the project until the new bonding requirement is established and met. All items contained within the performance guarantee, or each phase of the project, must be completed within 36 months from when the performance guarantee was established. This 36 month deadline may be extended a maximum of 24 months with Town Council review and approval. The Town may require the developer to submit the street for Town Council acceptance within five (5) years of the placement of the street base pavement, or may pull the bonding and complete the street as approved.

5. Streets Offered for Acceptance but Not Accepted

The Planning Board shall require, as a condition of approval for any subdivision application that includes the creation of one or more streets, that the lot owners form a homeowners association by written agreement which shall specify the rights and responsibilities of each lot owner with respect to the maintenance, repair, and plowing of the subdivision streets(s) shall remain the responsibility of the homeowners association as provided under that agreement. This homeowners association agreement shall be in a form acceptable to the Town Attorney and, upon approval by the Planning Board of the subdivision, shall be recorded in the Cumberland County Registry of Deeds within ninety (90) days of the date of subdivision approval by the Planning Board.

H. STANDARDS FOR PRIVATE WAYS

The Planning Board may approve the use of private ways to provide access to individual lots of land provided that the following conditions are met:

- 1) An approved private way may serve a combination of dwelling units/lots identified below:

1 lot gravel private way – 1 lot with a single family house

2-6 dwelling unit gravel private way – up to 6 lots, with no more than 6 total dwelling units served by the private way

7-10 dwelling unit paved private way – up to 10 lots, with no more than 10 total dwelling units served by the private way

25 dwelling unit paved private way– up to 25 lots, with no more than 25 total dwelling units served by the private way

- 2) A plan showing the private way shall be prepared by a registered land surveyor. The plan shall be drawn in permanent ink on permanent transparency material and shall be sealed by the registered professional engineer preparing the plan. The plan shall be labeled "Plan of a Private Way" and shall provide an approval block for the signatures of a legal majority of the Planning Board, the date of approval, and the words, "Private Way, Approved by the Town of Gorham Planning Board". The plan shall show information sufficient to establish on the ground the exact location, direction, width and length of the private way. In addition, a street plan, profile and cross section prepared in accordance with Chapter 2, Section 2-5.E.3 shall be submitted for each private way. The plan shall also contain a note which shall read, "The Town of Gorham shall not be responsible for the maintenance, repair, plowing, or similar services for the private way shown on this plan, and if the private way has not been built to public way standards, the Town Council will not accept it as a public way. The original plan(s) shall be recorded in the Cumberland County Registry of Deeds within 30 days of signing by the Planning Board. If the plan is not recorded within this period, the approval of the Planning Board shall be void.

- 3) If a private way provides access to 2 or more lots, a maintenance agreement **or in the case of a subdivision a homeowners' association declaration and bylaws** shall be prepared for the lots accessed by any private way. This agreement **or homeowners' association declaration and bylaws** shall specify the rights and responsibilities of each lot owner with respect to the maintenance, repair and plowing of the private way. This agreement **or homeowners' association declaration and bylaws** shall also specify that the Town of Gorham shall not be responsible for the maintenance, plowing, or repair of the private way. This agreement **or homeowners' association declaration and bylaws**, upon approval by the Planning

Board, shall be recorded in the Cumberland County Registry of Deeds within 30 days of approval by the Planning Board.

a) **The parties to a private way agreement or the homeowners' association shall be responsible for maintenance of the private way, including winter maintenance. Maintenance shall be sufficient to allow the safe passage of vehicles, including emergency services vehicles. In the event that the private way is not sufficiently maintained to support the passage of emergency services vehicles, the Town shall so notify the parties to the private way agreement or the homeowners' association, which shall be responsible for causing such repairs or maintenance as are necessary to allow safe passage of vehicles.**

4) Private ways shall have a minimum right-of-way width of 50 feet and a paved apron 20 feet in length commencing at the existing edge of pavement where it intersects with the private way.

The paved apron shall be constructed to the following standards:

- a) 9" of MDOT Spec. 703.06 Type E;
- b) 12" of base gravel MDOT Spec. 703.06 Type D;
- c) 3" of 1 1/2" crushed gravel, Type A or reclaimed;
- d) a minimum of 4" of paved surface, or greater as specified by the Town Engineer;
- e) a negative 2.0% grade from the existing edge of pavement to an appropriate drainage way, but in no case less than 5 feet from the travel surface of the public way it intersects;
- f) approach radius shall be specified by the Town Engineer.

5) Private ways shall be designed to meet the following requirements:

- a) Private Ways shall meet the standards presented in Tables **1 2** and **2 3** and the typical cross sections depicted in Figures 9 and 10.
- b) Private Ways will not cause congestion or unsafe conditions with respect to use of the highways or public roads, existing or proposed on or off site.

6) Private ways while under construction may be monitored and inspected by the Town Engineer, or a representative designated by the Town Manager or at the Town's option, a registered professional engineer hired by the

Town at the developer's expense per the requirements of Chapter 2, Section 2-5, Subsection I.

Notwithstanding the above, prior to the issuance of **the first** occupancy permits for any of the lots served by the private way, the Developer's **licensed professional** engineer shall certify to the Code Enforcement Officer that the private way ~~has been constructed~~ **is passable for vehicular use including public safety vehicles** in accordance with this section and the approved Private Way Plan. **For paved private ways, the private way base pavement is required to have been placed prior to issuance of the first certificate of occupancy permit. For gravel private ways, the gravel private way is required to have all its type D aggregate sub-base course installed and properly compacted.**

Prior to the issuance of the last occupancy permit for a lot served on the private way the following shall be completed:

- a) **All the improvements including monumentation for the private way and/ or subdivision improvements have been completed per the approved plans.**
- b) **The submission of the final as-built drawings meeting the requirements under Chapter 2, Section 2-5, I, 4) stamped by the developers' licensed professional engineer.**

7) To help recover costs incurred by the Town in the review, administration, site inspection, and public notice associated with the private way application, the following fees and deposit in such amount(s) and for such purpose(s) as the Town Council may from time to time establish by Council order shall be paid by the applicant to the Town of Gorham at the time of filing the private way application:

- a) Publishing and public notice fee;
- b) Application fee; and
- c) Independent consulting and peer review escrow account to be established with the Town in accordance with Chapter 2, Section 2-9 of this Code.

All fees shall be non-refundable except unexpended escrow deposits, which shall be refunded in accordance with Chapter 2, Section 2-9, Subsection B of this Code. If a private way application is also subject to subdivision review, site plan or municipal review under any other ordinance, the applicant shall pay only the larger fee amount exclusive of escrow deposit.

- 8) Notwithstanding other provisions of the Code to the contrary, no gravel surfaced private way shall provide access to or serve in any way to provide compliance with the requirements of the Code for more than the greater of six lots or six dwelling units; provided; however, nothing in this paragraph 8) shall serve to limit the use of such private way for occasional use by and for agricultural purposes.
- 9) The land area of the private way may not be used to satisfy the minimum lot area requirements for any lot (whether the lot(s) to be served or any front lot over which the private way runs).
- 10) The Planning Board shall have the ability to require improvements to both public roads and private ways serving any proposed private way to ensure off-site access is suitable to serve the proposed private way.

I. SUBDIVISION, PRIVATE WAY AND SITE CONSTRUCTION MONITORING OF PUBLIC IMPROVEMENTS

- 1) Grading or construction of roads, grading of land or lots, or construction of buildings which require a final plan as provided in Chapters 2, 3, or 4 of this code is prohibited, until:
 - a) the final plan has been duly prepared, submitted, reviewed, approved and endorsed.
 - b) the original copy of the final plan so approved and endorsed by the Planning Board is duly recorded in the Cumberland County Registry of Deeds;
 - c) the Town's engineer has evaluated and verified the estimated costs of improvements;
 - d) an escrow account for field inspection and compliance work equivalent to two and one-half percent (2.5%) of the estimated cost of improvements is established with the Town Planner by the Developer to guarantee payment in advance of actual fees assessed pursuant to this Section; and
 - e) a performance guarantee in the form of a bond, letter of credit, irrevocable letter of credit, and such equivalent to the estimated cost of improvements is evaluated and accepted by the Town Manager.
- 2) If the balance in the escrow account is drawn down by seventy-five percent (75%), the Developer is required to place an additional amount in escrow to cover the remaining inspection and compliance work. Such monitoring will not in any way hold the Town liable for quality of improvement(s). All grades, materials, engineering and construction techniques are the responsibility of the Developer.
- 3) Any excess amount deposited with the Town in advance will be promptly refunded when it is determined that the work has been completed to the satisfaction of the Town after receipt of as-built record drawings.
- 4) If the Town's Engineer finds, upon inspection of the improvements performed before expiration date of the performance guarantee or bond, that any of the required improvements

have not been constructed in accordance of plans and specifications filed by the developer, he shall so report to the Town Manager. The Town Manager shall then notify the developer and, if necessary, the bonding company or other financial institution providing the performance guarantee, and take all necessary steps to preserve the Town's rights under the bond or guarantee. The Town shall issue no **final** Certificate of Occupancy for the project until (1) all monitoring fees are paid in full, (2) all required improvements have been constructed in substantial accordance with the approved plans and specifications, ~~**except as expressly authorized to the contrary by the Planning Board and the developer has submitted an accurate set of "as built" record drawings that include all improvements constructed to date.**~~

Prior to issuing the **final** certificate of occupancy **within a subdivision or lots located on a private way**, the Developer must submit an accurate final set of "as built" record drawings **stamped by the developers' licensed professional engineer** that include:

- a. public **streets** and/ **or** private **ways roads** and sidewalks;
 - b. all utilities, including but not limited to, water systems, sewer systems, and electrical systems;
 - c. all fire ponds;
 - d. all drainage structures; and
 - e. any work items designated by the Planning Board as a public or quasipublic improvement.
- 5) If at any time before or during the construction of the required improvements the developer demonstrates to the satisfaction of the Town's Engineer that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Town's Engineer may authorize modifications, provided that these modifications are within the spirit and intent of the Planning Board's approval, that they do not materially affect the criteria and standards employed by the Planning Board during its review, and that they do not substantially alter the function of any public improvements required by the Board. ~~**The Town's Engineer shall issue any authorization under this provision in writing and shall transmit a copy of such authorization to the Planning Board at its next regular meeting.**~~

*Additions - Underlined

**Deletions - ~~Struck Through~~

Item #2021-01-06 Action to considering amending the Land Use & Development Code to allow for agricultural event centers and agricultural tourism. (Councilor Hartwell Spon.)

Proposed Order #21-006 Ordered, that the Town Council forward to the Ordinance Committee, for their review and recommendation, adding agricultural event centers and agricultural tourism uses to the Land Use & Development Code.

Item #2021-01-07 Action to consider amending the Land Use & Development Code with regards to permitting on certain types of private driveways. (Councilor Pratt Spon.)

Proposed Order #21-007 Ordered, the Town Council forward to the Ordinance Committee, for their review and recommendation, amending the Land Use & Development Code with regards to permitting of certain private driveways.

Item #2021-01-08 Action to consider adding allowed uses to home occupations. (Councilor Phillips Spon.)

Proposed Item #21-008 Ordered, that the Town Council forward to the Ordinance Committee, for their review and recommendation, adding additional allowed uses to home occupations in the Land Use & Development Code.

Item #2021-01-09 Action to consider revised operations for the public access of recycling containers at the Public Works Facility. (Councilor Pratt Spon.)

Proposed Order #21-009 Ordered, that the Town Council permits staff to make operational changes for public access to the recycling containers at the Public Works Facility.

Item #2021-01-10 Action to consider authorizing the split, marketing and sale of a lot located on the new Gorham Business Campus. (Councilor Pratt Spon.)

**Proposed
Order #21-010**

ORDERED, that the Town Council authorizes the Town Manager to market for sale a parcel of land, approximately seven (7) acres in size, which parcel is located off Libby Avenue and is a portion of Tax Map 29, Lot 1, and to take all actions necessary to market said parcel for sale on such terms and conditions as the Town Manager deems to be in the best interests of the Town of Gorham; and

Be It Further ORDERED that the Town Manager is authorized to enter into and sign a purchase and sale agreement for said parcel on such terms and conditions as the Town Manager deems to be in the best interests of the Town of Gorham.

Item #2021-01-11 Action to consider instructing the Finance Committee to review federal and state COVID 19 grants and reimbursements. (Councilor Hartwell Spon.)

**Proposed
Order #21-011**

Ordered, that the Town Council instructs the Finance Committee to review federal and state COVID 19 grants and reimbursements at their next regular meeting.

Item #2021-01-12 Action to consider adopting a resolution authorizing the issuance of a general obligation bond for the Gorham School Department. (Admin. Spon.)

**Proposed
Order #21-012**

Ordered, that the Town Council adopt a resolution authorizing the issuance of a general obligation bond for the Gorham School Department as follows:

WHEREAS, the Town desires to issue its general obligation bonds in an aggregate principal amount not to exceed \$5,689,000 and to appropriate the proceeds thereof to finance the Project described in this Order;

NOW, THEREFORE, be it voted, resolved, and ordered by the Town Council of the Town of Gorham, Maine,

Section 1: Appropriation. The sum of \$5,689,000 is hereby appropriated, from the proceeds of the Bonds and Notes herein authorized, to finance costs of up to: 1.) \$2,265,00 for HVAC heat pump upgrades and repairs at the Gorham Middle School; 2.) \$1,423,000 for Phase II of the Naragansett School expansion project; 3.) \$351,000 for upgrades and repairs to the Naragansett School bus loop and sidewalk; 4.) \$300,000 for repairs to the sidewalk at the Gorham Middle School; 5.) \$1,275,000 for repairs to the lighting at the competition, baseball and softball fields and tennis courts for safety purposes; and 6.) \$75,000 for civil engineering related to such projects, and which Bonds and Notes may also finance costs of issuance of the Bonds and Notes and capitalized interest of up to three years on the Bonds and Notes (the "Project").

Section 2: Authorization of Bonds. For the purposes of financing the aforesaid appropriation, pursuant to the Town Charter and all other authority thereto enabling, there is hereby authorized and approved the issuance of the general obligation bonds (the "Bonds") of the Town in an aggregate principal amount not to exceed \$5,689,000. The Bonds shall be designated "Town of Gorham, Maine, 2021 General Obligation Bonds." The proceeds of the Bonds and any Notes in anticipation thereof shall be used to finance the costs of the Project.

Section 3: Authorization of Notes. The Treasurer is authorized to borrow money in anticipation of said Bonds by the issuance and sale of notes or renewal notes in anticipation thereof (the "Notes"). Any notes issued in anticipation of the Bonds shall be designated "Town of Gorham 2021 General Obligation Bond Anticipation Notes."

Section 4: Interest Rates and Details. The Treasurer is authorized to determine the date(s), form(s), interest rate(s) (which interest rate may be a fixed rate or a variable rate or some combination of the two), maturities and all other details of each issue of the Bonds and the Notes, including the form and manner of their sale and award. The Bonds and any Notes shall mature at the times and shall be in the amounts, and be dated as of such date, bear interest at the rate or rates and be in such form and contain such terms and provisions (including but not limited to early redemption provisions, if any) as the Treasurer may hereafter determine or authorize.

Section 5: Redemption; Execution. The Treasurer is authorized to provide that any of the Bonds and Notes be made callable, with or without premium, prior to their maturity, and each Bond or Note issued hereunder shall be signed by the Treasurer, shall be countersigned by the Chair of the Town Council, and shall be sealed with the seal of the Town, attested to by its Clerk.

Section 6: Financial Advisor; Underwriter. The Treasurer is authorized to select a municipal advisor and/or an underwriter for the Bonds and Notes, and the Treasurer of the Town is authorized and empowered to execute and deliver such contracts or agreements as may be necessary or appropriate in connection therewith.

Section 7: Official Statement. The Treasurer is authorized to prepare, or cause to be prepared, a Notice of Sale and/or a Preliminary Official Statement and an Official Statement for use in the offering and sale of the Bonds and/or Notes, such Notice of Sale, Preliminary Official Statement and Official Statement to be in such form and contain such information as may be approved by the Treasurer, with

the advice of the bond counsel for the Town, and that the distribution of the Notice of Sale and/or Preliminary Official Statement and the Official Statement in the name of and on behalf of the Town in connection with offering the Bonds and/or Notes be and hereby is approved.

Section 8: Transfer Agent. The Treasurer is authorized to select the registrar, paying agent and transfer agent (the "Transfer Agent") for the Bonds and Notes and to execute and deliver such contracts and agreements as may be necessary or appropriate to secure their services.

Section 9: Registration. The Bonds and Notes shall be transferable only on registration books of the Town kept by the transfer agent, and said principal amount of the Bonds or Notes of the same maturity (but not of other maturity) in the denomination of \$5,000 or any multiple thereof (or such other minimum denomination as the Treasurer shall establish) upon surrender thereof at the principal office of the transfer agent, with a written instrument of transfer satisfactory to the transfer agent duly executed by the registered owner or his attorney duly authorized in writing. Upon each exchange or transfer of a Bond or Note the Town and the Transfer Agent shall make a charge sufficient to cover any tax, fee or any other governmental charge required to be payable with respect to such exchange or transfer, and with respect to such exchange or transfer, and subsequent to the first exchange or transfer, the cost of preparing new Bonds or Notes upon exchanges or transfer thereof to be paid by the person requesting the same.

Section 10: Book Entry. The Treasurer is authorized to undertake all acts necessary to provide, if deemed necessary or appropriate by the Treasurer in his discretion, for the issuance and transfer of such Bonds and Notes in book-entry form pursuant to the Depository Trust Company Book-Entry Only System, as an alternative to the provisions of the foregoing Order above regarding physical transfer of Bonds and Notes, and the Treasurer is authorized and empowered to enter into a Letter of Representation or any other contract, agreement or understanding necessary or, in his opinion, appropriate in order to qualify the Bonds or Notes for and participate in the Depository Trust Company Book-Entry Only System.

Section 11: Exchanges and Transfers. The Treasurer and Chair of the Town Council from time to time shall execute such Bonds or Notes as may be required to provide for exchanges or transfers of Bonds or Notes as heretofore authorized, all such Bonds or Notes to be executed as above described, and in case any officer of the Town whose signature appears on any Bond or Note shall cease to be such officer before the delivery of said Bond or Note, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery thereof.

Section 12: Tax-Exempt Bond Covenants. The Treasurer is authorized to covenant and certify on behalf of the Town that no part of the proceeds of the issue and sale of the Notes or the Bonds authorized to be issued hereunder shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause such Notes or Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and that no part of the proceeds of the issue and sale of such Notes or Bonds (including any notes and bonds in renewal thereof) shall be used, directly or indirectly, in such manner which would cause the Notes or

Bonds to be "private activity bonds" within the meaning of Section 141 of the Code.

To the extent permitted under the Code, the Treasurer is authorized to designate any of the Bonds or Notes authorized to be issued hereunder as qualified obligations for purposes of Section 265(b) of the Code.

The Treasurer is authorized to covenant and agree, on behalf of the Town, for the benefit of the holders of the Bonds and Notes, that the Town will file any required reports and take any other action that may be necessary to ensure that interest on the Bonds and Notes will remain exempt from federal income taxation, and that the Town will refrain from any action that would cause interest on the Bonds or Notes to be subject to federal income taxation.

Section 13: Continuing Disclosure. The Treasurer is authorized to covenant, certify and agree, on behalf of the Town, for the benefit of the holders of the Notes or Bonds, that the Town will file any required reports, make any annual financial or material event disclosure, and take any other action that may be necessary to insure that the disclosure requirements imposed by Rule 15c2-12 of the Securities and Exchange Commission, if applicable, are met.

Section 14: Town Officials. If any of the officers or officials of the Town who have signed or sealed the Bonds or Notes shall cease to be such officers or officials before the Bonds or Notes so signed and sealed shall have been actually authenticated or delivered by the Town, such Bonds or Notes nevertheless may be authenticated, issued, and delivered with the same force and effect as though the person or persons who signed or sealed such Bonds or Notes had not ceased to be such officer or official; and also any such Bonds or Notes may be signed and sealed on behalf of the Town by those persons who, at the actual date of the execution of such Bonds or Notes, shall be the proper officers and officials of the Town, although at the nominal date of such Bonds or Notes any such person shall not have been such officer or official.

Section 15: Deputy Officials. If the Treasurer, Chair of the Town Council or Clerk are for any reason unavailable to approve and execute the Bonds or Notes or any of the related financing documents, the person or persons then acting in any such capacity, whether as an assistant, a deputy, or otherwise, is authorized to act for such official with the same force and effect as if such official had herself performed such act.

Section 16: Other Actions. The Treasurer, Chair of the Town Council, Clerk and other appropriate officers of the Town are hereby authorized and empowered to do all such acts and things, and to execute, deliver, file, approve, and record all such financing documents, contracts, deeds, assignments, certificates, memoranda, abstracts, and other documents as may be necessary or advisable, with the advice of counsel for the Town, including but not limited to any certificates, bond insurance agreements, notices of sale and other documents as may be necessary or appropriate in connection with the sale of the Bonds and Notes and any letter of credit agreement or liquidity facility agreement necessary to the issuance of any Bonds or Notes, to carry out the provisions of the resolutions heretofore adopted at this meeting in connection with the Project, the execution, sale, and delivery by the Town of the Bonds and Notes and the execution and delivery of any related financing documents.

Section 17: Costs; Reallocation. The term “cost” or “costs” as used herein and applied to the Project, or any portion thereof, includes, but is not limited to (1) the purchase price or acquisition cost of all or any portion of the Project; (2) the cost of construction, building, alteration, enlargement, reconstruction, renovation, improvement, and equipping of the Project; (3) the cost of all appurtenances and other facilities either on, above, or under the ground which are used or usable in connection with the Project; (4) the cost of landscaping, site preparation and remodeling of any improvements or facilities; (5) the cost of all labor, materials, building systems, machinery and equipment; (6) the cost of land, structures, real property interests, rights, easements, and franchises acquired in connection with the Project; (7) the cost of all utility extensions and site improvements and development; (8) the cost of planning, developing, preparation of specifications, surveys, engineering, feasibility studies, legal and other professional services associated with the Project; (9) the cost of environmental studies and assessments; (10) the cost of financing charges and issuance costs, including premiums for insurance, interest prior to and during construction and for a period not to exceed three (3) years from the issue date of the Bonds or Notes, underwriters' fees and costs, legal and accounting fees and costs, application fees, and other fees and expenses relating to the financing transaction; and (11) the cost of all other financing authorized hereunder, whether related or unrelated to the foregoing. In the event that any proceeds of the Bonds or Notes remain unspent upon completion of a Project, or if the Town abandons a Project, the Town reserves the right to reallocate unspent proceeds to the costs of other qualified projects approved, or to be approved, by the Town Council, or to apply unspent proceeds to the payment of debt service on the Bonds or the Notes.

Section 18: Tax Levy. In each of the years during which any of the Bonds or Notes issued hereunder are outstanding, there shall be levied a tax in an amount which, with other revenues, if any, available for that purpose, shall be sufficient to pay the interest on said Bonds or Notes, payable in such year, and the principal of such Bonds or Notes maturing in such year (except in the case of Notes to be refunded in that year by the issuance of Bonds).

Section 19: Consolidation. Any or all of the Bonds or Notes issued hereunder may be consolidated with and become a part of any other issue of temporary notes or general obligation bonds authorized to be issued by any previous or subsequent Order of the Town Council of the Town of Gorham.

Section 20: Investment Earnings; Premium. The investment earnings on the proceeds of the Bonds and Notes, if any, and the excess proceeds (including any premium on the sale) of the Bonds and Notes, if any, be and hereby are appropriated for the following purposes, such proceeds to be held and applied in the following order of priority: (a) to any costs of the Project in excess of the principal amount of the Bonds or Notes; and (b) in accordance with applicable terms and provisions of the Arbitrage and the Use of Proceeds Certificate delivered in connection with the sale of the Bonds or Notes.

Section 21: Reimbursement. It is the intent of the Town Council that this Bond Order shall constitute the Town's declaration of official intent within the meaning of Treasury Regulation 1.150-2 to pay, on an interim basis, costs of the Project in an amount up to the principal amount of the

Bonds to be issued, which costs the Town reasonably expects to reimburse with proceeds of the Bonds or Notes.

This Order shall be effective immediately upon adoption. Adopted this ____ day of January, 2021 by the Town Council of the Town of Gorham.

Lee Pratt, Chair

Suzanne Phillips, Vice Chair

Ronald Shepard

Benjamin Hartwell

James Hager, Jr.

Janet Kuech

Virginia Wilder Cross

Adjourn