

**AGENDA AND PROPOSED ORDERS
GORHAM TOWN COUNCIL
REGULAR MEETING
January 2, 2024
6:30PM
Burleigh Loveitt Council Chambers**

Pledge of Allegiance to the Flag

Roll Call

Acceptance of the minutes of the December 5, 2023 Regular Town Council Meeting and the December 12, 2023 Special Town Council Meeting.

Open Public Communications

Councilor Communications

Town Manager Report

School Committee Report

**Public hearing #1
On Item #2023-7-3**

Public hearing to hear comments on a proposal to amend the Land Use & Development Code – Roadside Commercial – Outside Storage as an Accessory Use. (Admin. Spon.)

**Proposed
Order #24-1**

Ordered, that the Town Council amend the Land Use & development Code-Roadside Commercial-Outside Storage as an Accessory Use as follows:

**Proposed Amendment:
Chapter 1: Zoning Regulations**

Section 1-5 Definitions

Landscape buffer Landscape buffer shall contain an adequate mix of trees, shrubs, plants, hardscapes, berms, topography, and other landscaping features that adequately break up the proposed development.

**Section 1-11– Roadside Commercial District
B. Permitted Uses**

3) Accessory uses and buildings including a caretaker unit and accessory outdoor storage meeting the requirements outlined in Section E. Performance Standards f). with an

area not greater than 2 times the total square footage of all the structures located on the site or 15,000 sq. ft whichever is greater.

E. Performance Standards

2) The following additional performance standards shall also apply.

a) Lot Layout

2) All generators, HVAC units, outdoor storage areas, and dumpster pads shall be landscaped and located behind buildings and structures so that they are not visible from any public street or residential properties. The Planning Board may allow generators, HVAC units, outdoor storage areas, and dumpster pads to be located so they are not located behind the buildings if the Board finds that the proposed locations are required to provide for a better overall design of the lots/ development and that are sufficiently buffered from public roads and residential properties.

f) Outdoor Storage of equipment, supplies, machinery, commercial vehicles, and other materials may be permitted pursuant to the following:

1. Outdoor storage shall be an accessory use to the primary permitted use on the property. Outdoor storage areas shall be limited to the following:

. Locations that are visible from the street or an adjacent primary residential or commercial structure:

- i. Lots up to five acres = 25% of the lot area**
- ii. Lots between five and ten acres = 15% of the lot area or 1.25 acres whichever is greater.**
- iii. Lots above ten acres = 10% of the lot area or 1.5 acres whichever is greater.**

b. Locations that are not visible from the street or adjacent primary residential or commercial structure:

- i. 25% of the lot area based upon the applicant successfully demonstrating to the Board or Site Plan Review Committee that visibility is precluded by topography, vegetation or by other means.**
- ii. The applicant shall provide written documentation to the Board or Site Plan Review Committee that all means used to satisfy the intent of this Section are either owned or under acceptable lease by the applicant and will be preserved and remain undisturbed for the duration of the permitted outdoor storage use.**

2. Outdoor storage areas shall be fully screened from the street view (except for necessary access drives) by buildings, fences, walls, landscape buffers or by topographic features such as earthen berms, or a combination there-of. The proposed method of enclosure shall have a height sufficient to completely screen the storage area and shall have a minimum height of eight (8) feet.
3. Existing topography, vegetation, buildings or other structures may be utilized in whole or in part, to achieve the screening noted above. The applicant must demonstrate to the satisfaction of the Board or Site Plan Review Committee that these existing features meet the intent of this regulation.
4. No outdoor storage shall be permitted in any areas of Special Flood Hazards as defined by the Federal Emergency Management Agency (FEMA).
5. Outdoor storage areas shall not extend beyond the front face of the subject parcels primary building, furthermore these areas shall not extend into the zone's minimum front, side and rear yard setbacks. Outdoor storage buffers shall accommodate adequate space for snow storage, maintain clear sight lines for safe vehicle and pedestrian access and be comprised of durable materials that will be suitable for all-weather outdoor exposure.
6. All loading/unloading areas shall be interior or adjacent to the permitted outdoor storage area and be oriented away from the street and neighboring properties, in order to maintain public safety and minimize disturbance to abutting properties.
7. Outdoor storage areas shall not be utilized for retail/commercial display purposes, unless explicitly authorized by the Board or Site Plan Review Committee.
8. No temporary or permanent storage of any State regulated waste product or material shall be permitted under this Section.
9. The Board or Site Plan Review Committee shall consider the impact upon public safety, public health, sanitation and aesthetics when considering applications under this Section and they may regulate such outdoor storage based upon the quantity, location, enclosure/screening and nature of materials to be stored.

NOTE: The TC amendment language is shown in black and underlined with the Planning Board Ordinance Committee’s recommended changes shown in **black, bolded, underlined, and struck through.**

Public hearing #2
On Item #2024-1-1

Public hearing to hear comments on a proposal to issue a new Medical Marijuana License to Anthony Digilio, DL Farms, 36 Bartlett Road, Unit 2. Property owned by Hinks Realty. (Admin. Spon.)

Proposed
Order #24-2

Ordered, that the Town Council issue a new Medical Marijuana License to Anthony Digilio, DL Farms, 36 Bartlett Road, Unit 2. Property owned by Hinks Realty.

Public hearing #3
On Item #2022-12-1

Public hearing to hear comments on a request for a contract zone to allow for a recreational, agricultural, educational and social gatherings facility at 239 County Road (M15/L25-1). (Admin. Spon.)

Proposed
Order #24-3

Ordered, that the Town Council approve a request for a contract zone to allow for a recreational, agricultural, educational and social gatherings facility at 239 County Road (M15/L25.1) as follows:

CONTRACT ZONING AGREEMENT
BETWEEN
WILLIAM CHICOINE, KATHLEEN CHICOINE, RYAN CHICOINE,
AND TOWN OF GORHAM

THIS CONTRACT ZONING AGREEMENT, (the “Agreement”), made **this _____ day of _____ 2023**, by and between the TOWN OF GORHAM, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter the “Town”), and WILLIAM CHICOINE, KATHLEEN CHICOINE, and RYAN CHICOINE, their successors in interest to the Property (collectively, the “Chicoines”) with a mailing address of 4 Dolphin Ave, Old Orchard Beach, Maine 04064.

WHEREAS, the Chicoines are the owners of property located at 239 County Road, Gorham, Maine 04038 as recorded in the Cumberland County Registry of Deeds at Book 37902 and Page 155 (hereinafter “the Property”); and

WHEREAS, the Property is shown on the Town of Gorham Tax Map 15, Lot 25-1 and 24-203; and

WHEREAS, the Property is currently located in a portion of one of the Town of Gorham’s Rural Districts and is approximately 124 acres in total area; and

WHEREAS, the Chicoines’ intended development of the Property (“the Project”) would include a great number of agricultural uses permitted in the Rural District, including the production and on-site sale of apples, strawberries, blueberries, raspberries, cranberries, pumpkins, hops, honey, maple syrup, flowers, and Christmas trees; the keeping of farm animals; and provision to the public of educational opportunities on topics including, but not limited to, tree cultivation, beekeeping, and wreath making; and

WHEREAS, the Project would include certain ancillary recreational uses not currently permitted in the Rural District, including the construction and operation of commercial outdoor recreational facilities such as curling rinks, pickle ball courts, a disc golf course, and a trail system for walking, snowshoeing, and cross-country skiing; and

WHEREAS, the Project would include certain ancillary commercial uses not currently permitted in the Rural District, including the construction and operation of a conference center/banquet hall for community, social, and charitable events, such as cornhole tournaments, craft fairs, dances, and weddings; a retail store in the form of a restaurant; a facility for brewing in the form of a microbrewery/tasting room; a performing arts center/amphitheater; and a campground comprised of yurts and a tree house; and

WHEREAS, the Town has the authority to enter into a contract rezoning for property, pursuant to 30-A M.R.S.A. § 4352(8) and Section 1-1(H), of the Gorham Land Use and Development Code (the “Code”); and

WHEREAS, after notice and hearing and due deliberation upon this rezoning proposal, the Gorham Planning Board recommended the rezoning of the Property; and

WHEREAS, the Project is consistent with the Rural District’s purpose of securing for the Town’s residents the “economic, recreational, and scenic benefit[s]” of continued agricultural use; and

WHEREAS, the rezoning will be consistent with the goals of the Gorham Comprehensive Plan Update of 2016, as amended in 2021, by “protecting the State’s rural character,” “continu[ing] to diversify the business base to build a stronger community,” “promot[ing] and protect[ing] the availability of outdoor recreation opportunities,” and “[p]romot[ing] a working rural landscape including a wide range of agricultural . . . activities in the designated rural and resource areas”; and

WHEREAS, the Town, by and through its Town Council, has determined that said rezoning will be pursuant to and consistent with the Town’s Comprehensive Plan and has authorized the execution of this Agreement on , 2023;

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. **Amendment of Zoning Map.** The Town will amend the Zoning Map of the Town of Gorham, as amended, a copy of which is on file at the Gorham Municipal Offices and which is incorporated by reference into Code Section 1-1(C), by adopting the map change amendment shown on Attachment 1.

2. **Definitions and Permitted Uses.** The Chicoines are authorized to conduct any of the following uses on the Property without additional Town Council authorization. Except where specifically defined herein, all Permitted Uses shall be defined pursuant to Chapter 1 of the Code.

a. All Permitted Uses and Special Exceptions allowed in the Rural District

b. Campground

c. Commercial Outdoor Facilities

- d. Commercial School
- e. Conference Center or Banquet Hall
- f. Recreational and Performing Arts Facility: An indoor or outdoor facility where private parties may hold weddings, receptions, reunions, performances, sporting events and other special gatherings.
- g. Light Industrial Use
- h. Mobile Vending Unit
- i. Retail Store
- j. Tree House: A cabin or similar structure suspended off the ground maintained for occupancy as temporary living quarters for recreation, education, or vacation purposes and which has no plumbing or sewage disposal hookup.
- k. Yurts: A round, domed shelter of cloth or canvas on a collapsible frame with no plumbing or sewage disposal hookup that does not exceed 850 square feet.
- l. Other Uses found by Town Staff to be accessory to existing allowed Uses
- m. Additional Uses allowed with Town Council approval

3. **Consistency.** After conducting a public hearing on _____, 2023, with public notice as required by 30-A M.R.S. § 4352(8), the Planning Board has determined that the contract rezoning hereunder is consistent with the Comprehensive Plan, which is a “growth management” plan, and establishes a rezoned area consistent with existing and permitted uses with the original Rural District.

4. **Performance Standards.** All development and uses shall be subject to all applicable performance standards set forth in Chapters 1 and 2 of the Code, except as follows:

- a. The development shall provide a minimum of 250 total parking spaces.
- b. Building locations shall be as generally shown on the provided concept plan appended to this document. Modifications to the locations of any buildings may be made as part of the Planning Board review process without requiring a modification of this Agreement, as long as such modifications do not result in a substantial change to the building massing as shown on Exhibit A.
- c. An Event Center event may not exceed a capacity of 500 attendees. Notwithstanding the foregoing, an Event Center may hold up to 6 events per calendar year that exceeds such capacity. When calculating capacity, event staff (including any third party caterers), shall not count towards the capacity cap.

- d. A Mobile Vending Unit shall not be required to be removed from the Property every day and may remain on the Property for up to seven (7) consecutive days, provided that such Mobile Vending Unit is located in defined parking areas constructed for that purpose.
- e. There shall be no more than ten (10) Yurts located on the Property. A Yurt shall not be considered a Dwelling Unit for building code purposes but shall be considered a structure requiring a building permit prior to construction; provided, however, that as conditions of permitting, the Chicoines shall (i) provide structural plans for the Yurts satisfactory to the CEO; (ii) provide evidence of liability insurance sufficient to cover any third-party claims relating to the structural failure of any Yurt and (iii) equip each Yurt with a monitored fire alarm system in lieu of any sprinkler or other fire suppression system that may otherwise be required under any applicable building codes.
- f. Building permits will not be issued for any Yurt or Tree House on the Property unless the Chicoines or their successors in interest submit plans for such Yurt or Tree House, bearing the stamp of a professional engineer licensed to practice in the State of Maine, to the Code Division of the Town of Gorham's Community Development Department.
- g. Any Yurt or Tree House on the Property built or placed on the Property shall be built in such a way as to comply with any applicable provisions of the Americans with Disabilities Act (12 U.S.C. § 12101 et seq.).

5. Dimensional Standards. All development on the Property, except for any residential development, shall comply with the following dimensional requirements, which shall apply to the Property as a whole (as if the Property were a single lot) and not to individual buildings, except for maximum building height:

- a. Minimum lot size: None
- b. Minimum lot area per dwelling unit: N/A
- c. Minimum street frontage: 200 ft.
- d. Minimum front yard setback: 70 ft.
- e. Minimum side and rear setbacks: 50 ft.
- f. Maximum building height: 65 ft. (excluding the Tree House)

Any residential development shall comply with the following dimensional requirements, with such calculations being performed based on the dimensions of the specific lot the development takes place on, rather than the Property as a whole.

- a. Minimum lot size: 40,000 sq. ft.
- b. Minimum lot area per dwelling unit: None.
- c. Minimum street frontage: 100 ft.
- d. Minimum front yard setback: 50 ft.

- e. Minimum side and rear setbacks: 20 ft.
- f. Maximum building height: None.

6. **Agreement to Be Recorded.** The Chicoines shall record this Agreement in the Cumberland County Registry of Deeds and shall submit proof of recording to the Gorham Code Enforcement Officer and the Town Planner before any site work is undertaken or any building permits are issued.

7. **Amendments to Agreement.** The provisions of this Agreement shall be deemed restrictions on the use of the property and shall be amended only upon further written agreement of the Town of Gorham and the Chicoines or its successors in interest to the Property.

8. **Site Plan Review.** Approval of this Agreement will not serve as a waiver of site plan review if otherwise required by the Code.

The above stated restrictions, provisions, and conditions, are an essential part of the rezoning, shall run with the Property, shall bind and benefit the Chicoines, any entity affiliated with the Chicoines, and any party in possession or occupancy of the Property or any part thereof, and shall inure to the benefit of and be enforceable by the Town, by and through its duly authorized officials and employees. The provisions of this Agreement, including the permitted uses listed in Section 2, the performance standards described in Section 4, and the dimensional requirements listed in Section 5, are intended to replace the uses and dimensional restrictions of the Rural District standards set forth in Section 1-8 of the Code. The above restrictions, provisions and conditions are an essential part this Agreement, shall run with the Property, shall bind the Chicoines, their successors in interest and any assigns of said Property or any part thereof, and shall inure to the benefit of and be enforceable by the Town of Gorham. If any of the restrictions, provisions, conditions, or portions of this Agreement is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed as a separate, distinct and independent provision and such determination shall not affect the validity of the remaining portions hereof.

Except as expressly modified herein, the use and occupancy of the Property shall be governed by and comply with the provisions of the Code and any applicable amendments thereto or replacement thereof.

This Agreement shall be enforced pursuant to the land use enforcement provisions of state law (including 30-A M.R.S.A. § 4452) and the Code. Following any determination of a zoning violation by the Code Enforcement Officer, the Town Council, after recommendation of the Planning Board, may amend, modify or rescind its conditional rezoning of the site.

In the event that the Chicoines or their successors or assigns fail to develop and operate the Property in accordance with this Agreement, or in the event that any other breach of any conditions set forth in this Agreement, the Town Council shall have the authority, after hearing, to resolve the issue resulting in the breach or the failure to develop or operate. The resolution may include termination of this Agreement by the Town Council and a rezoning of the Property to the prior or any successor zoning districts. In such an event, the Property shall then be used only for such other uses as are otherwise allowed by law.

[SIGNATURES ON THE FOLLOWING PAGE]

WITNESS:

TOWN OF GORHAM

By: _____
Ephrem Paraschak, Its Town Manager

(Duly authorized by vote of the Gorham
Town Council on _____, 2023)

WITNESS:

William Chicoine

WITNESS:

Kathleen Chicoine

WITNESS:

Ryan Chicoine

STATE OF MAINE
CUMBERLAND, ss.

_____, 2023

Personally appeared the above-named _____, Town Manager of the Town of Gorham, and acknowledged the foregoing to be his free act and deed in his said capacity, as duly authorized, and the free act and deed of said Town of Gorham.

Before Me,

Notary Public: _____

My Commission Expires: _____

STATE OF MAINE
CUMBERLAND, ss.

_____, 2023

Personally appeared the above-named William Chicoine and acknowledged the foregoing to be his free act and deed.

Before Me,

Notary Public: _____

My Commission Expires: _____

STATE OF MAINE
CUMBERLAND, ss.

_____, 2023

Personally appeared the above-named Kathleen Chicoine and acknowledged the foregoing to be her free act and deed.

Before Me,

Notary Public: _____

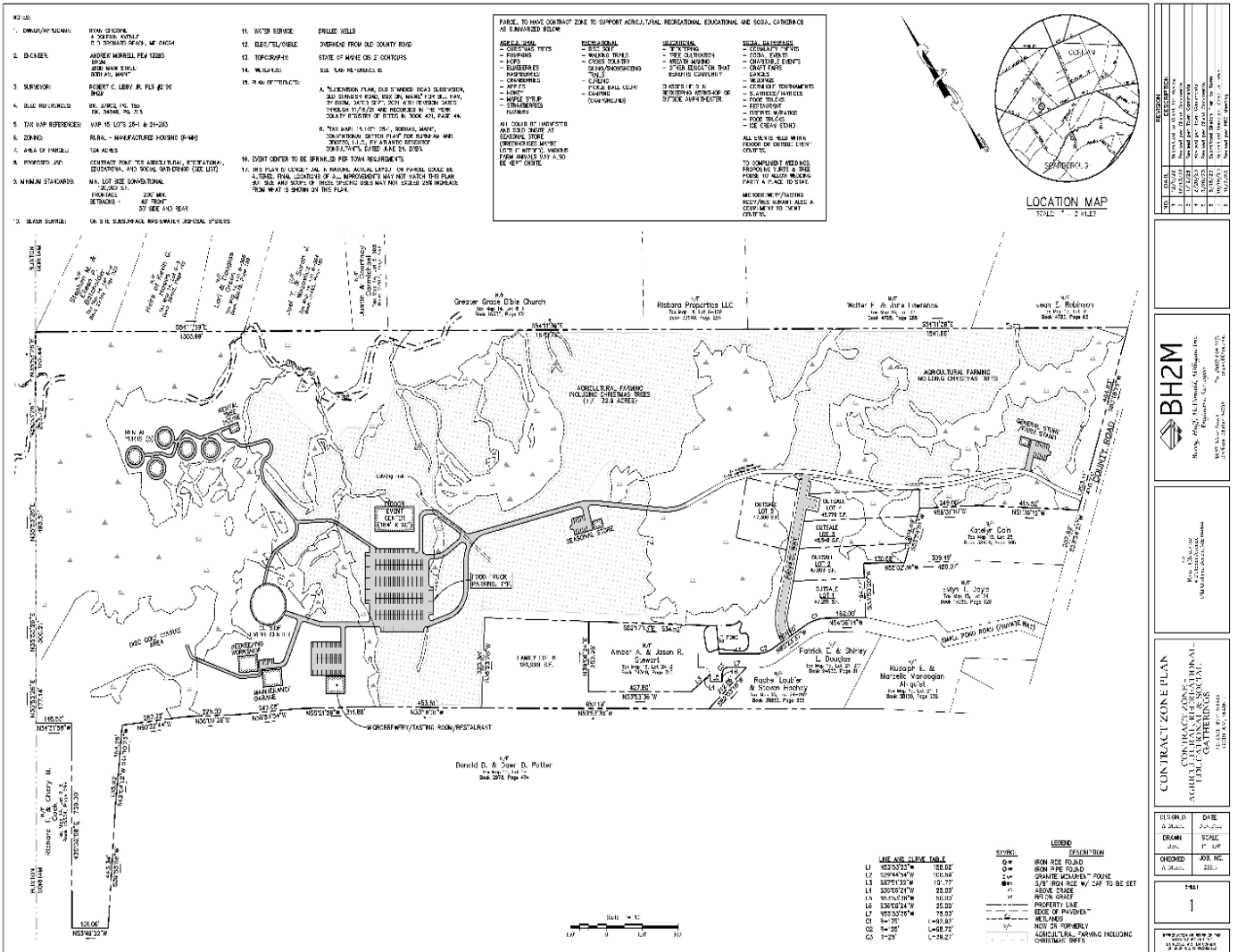
My Commission Expires: _____

Personally appeared the above-named Ryan Chicoine and acknowledged the foregoing to be his free act and deed.

Before Me,

Notary Public: _____

My Commission Expires: _____



REVISIONS

NO.	DATE	DESCRIPTION
1	10/10/23	ISSUED FOR PERMITTING
2	10/10/23	ISSUED FOR PERMITTING
3	10/10/23	ISSUED FOR PERMITTING
4	10/10/23	ISSUED FOR PERMITTING
5	10/10/23	ISSUED FOR PERMITTING
6	10/10/23	ISSUED FOR PERMITTING
7	10/10/23	ISSUED FOR PERMITTING
8	10/10/23	ISSUED FOR PERMITTING
9	10/10/23	ISSUED FOR PERMITTING
10	10/10/23	ISSUED FOR PERMITTING

BH2M
BRYAN H. CHICOINE, P.E.
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Tel: 603.752.1234
Fax: 603.752.1235
bh2m.com

CONTRACT ZONE PLAN
CONTRACT ZONE PLAN
MOUNTAIN STATE CONTRACTORS
JULIA L. KAY & SONS
CATHLEEN GOSWAMI

ISSUED DATE: 10/10/23
CHECKED BY: J.L.K.
SCALE: 1" = 100'
SHEET NO.: 233

TITLE
1

PROJECT NO.: 233001
DATE: 10/10/23

Item #2024-1-2

Action to consider instructing the Ordinance Committee to review standards for private leach fields. (Councilor Pratt Spon.)

**Proposed
Order #24-4**

Ordered, that the Town Council instruct the Ordinance Committee to review the Town's Waste Water Ordinance to allow for private clustered waste water systems.

Item #2024-1-3

Action to consider appointing the Town Council Chair as liaison with the University of Southern Maine. (Councilor Gagnon Spon.)

**Proposed
Order #24-5**

Ordered, that the Town Council designates the Council Chair as a liaison with the University of Southern Maine.

Item #2024-1-4

Action to consider instructing Public Works to conduct drainage and ground improvements at the Little Falls Recreation Complex. (Councilor Gagnon Spon.)

**Proposed
Order #24-6**

Ordered, that Public Works improves the drainage and ground areas around Little Falls, with work directed around the baseball fields first.

Be it further ordered that Public works contacts Little League to help facilitate any improvements to the site.

Item #2024-1-5

Action to consider authorizing the expenditure of funds to renovate the Robie Softball Field. (Councilor Gagnon Spon.)

**Proposed
Order #24-7**

Ordered, that the Town Council authorize the Recreation Department to spend \$55,000 to renovate the Robie Softball field.

Be it further ordered that the funding come from the contingency account (or other account designated by the Town Manager).

Be it further ordered that the Recreation Department work with the School Athletic Department.

Item #2024-1-6

Action to consider setting a Town Council workshop to discuss METRO membership and economic goals with the Gorham Economic Development Corporation. (Councilor Philips Spon.)

Proposed

Order #24-8

Ordered, that the Town Council sets February 20, 2024 as a workshop date to discuss METRO membership and goals for the GEDC.

Item #2024-1-7

Action to consider authorizing the release of funding in Capital Part II for the Gorham School Department. (Councilor Philips Spon.)

Proposed

Order #24-9

Ordered, that the Town Council authorizes the release of \$75,000 previously designated in the Capital Part II FY 2024 Town budget for the Gorham School Department for capital projects.

Item #2024-1-8

Action to consider recommendations for awarding allocations of the Capital Expenditure matching grant program. (Admin. Spon.)

Proposed

Order #24-10

Ordered, that the Town Council authorizes the recommended allocation amounts to eight (8) Gorham businesses and farms (Green Growth Lawn Care, Jotul North America, The Montalvo Corporation, Sebago Brewing Co., Azul Tequila Restaurant, Iaia Brazil, LLC, Orchard Ridge Farm, and Rustic Farm Holdings, LLC.) as outlined by the Gorham Economic Development's review committee for a total of \$45,000 in grant funding

Adjourn.