

AGENDA NOTES

Gorham Town Council Regular Meeting

December 1, 2020 – 6:30pm

Remote Zoom Meeting

Public hearing #1

On Item #2020-12-01

Public hearing to hear comments on the proposed amendments to the Town of Gorham Cable Television Ordinance. (Admin. Spon.)

This item comes from the Ordinance Committee where it has been waiting to be sent to the Town Council. The proposed amendments replace the old ordinance in its entirety. Staff will be on hand to answer questions on the ordinance at the meeting but simply put the Cable Television Ordinance governs cable franchises in the Town of Gorham according to state and federal law.

Public hearing #2

On Item #2020-12-02

Public hearing to hear comment on the proposed amendments to the Gorham Municipal Employees Personnel Ordinance. (Admin. Spon.)

This item was tabled until the December 1, 2020 Town Council meeting by the Council at your November meeting. The Council had questions on whether or not paternity leave could be reduced for a male compared to a female. There also was a question about language to be placed in the ordinance regarding preference for veterans. After consulting with legal Counsel, it was advised that the Town could face challenge with both proposed amendments. An email from the Town Attorney who specializes in personnel matters is attached, which outlines the risk of both amendments.

Regardless of the Council's decision on amending the Personnel Ordinance, staff will still be directed to give preference to Veterans in hiring decisions, all other things being *equal*.

Public hearing #3

On Item #2020-12-03

Public hearing to hear comment on the proposed performance standards for Medical Marijuana Caregivers. (Ordinance Committee Spon.)

This item provides amendments and a renaming of the Marijuana Cultivation or Manufacturing Licensing Ordinance, mostly with regards to new legislation, legal clarification and clarification of applicability with regards to medical marijuana caregivers. Staff will be on hand to answer specific questions at the meeting.

Public hearing #4

On Item #2020-12-04

Public hearing to hear comment on the proposed amendments to the Town of Gorham Fire Suppression Systems Ordinance. (Ordinance Committee Spon.)

This item was referred to the Ordinance Committee by the Council due to issues the Town is having with municipal assessed value being out of alignment with current real estate values. In the Ordinance, when a home is altered, renovated, or added onto it triggers a review as to whether or not it needs to be sprinkled for fire suppression at that time (more than 50% assessed value of the Town). As the Town's assessed values are so far out of whack (waiting on a revaluation this coming year), simple additions and renovations are triggering the provision.

The proposed amendment is a stop gap measure that allows a resident to get an appraisal, use a realtor analysis or utilize an online real estate platform to provide for a fair market value to be used to determine if the entire structure needs to be sprinkled. The Ordinance Committee plans on further exploring this issue, but the amendment is meant to address the most pressing issue until more researched language can be implemented.

Item # 2020-12-05

Action to consider adopting Council Rules for the 2020-2021 year. (Admin. Spon.)

Adoption of Council rules. The rules from the past year are attached.

Item # 2020-12-06

Action to consider forwarding proposed amendments to the Land Use & Development Code with regards to medical marijuana performance standards. (Ordinance Committee Spon.)

The proposed order would forward to the Planning Board for public hearing and their recommendation proposed amendments to the LUDC regarding medical marijuana caregivers performance standards and related modifications. This item is in conjunction with the previous public hearing, but as it is changing the LUDC it requires a planning board review and public hearing before final adoption by the Town Council after your own public hearing. Staff will be on hand at the meeting to answer any specific questions.

Item # 2020-12-07

Action to consider reviewing requirements for commercial and residential solar installations in the Town of Gorham. (Councilor Hartwell Spon.)

This item would instruct the Ordinance Committee to review requirements relating to residential and commercial solar installations in the Town and report back on ways to make the process easier for residents and/or developers.

Item # 2020-12-08

Action to consider entering into a joint planning study with the Town of Windham for the Little Falls Village (Councilor Pratt Spon.)

The order as proposed would authorize staff to work with the Town of Windham on a joint Community Development Block Grant application for funding for a joint use and planning study on improving and revitalizing the Little Falls Village of Gorham / Windham. If funded, the Towns would work jointly on the study.

Item # 2020-12-09

Action to consider selecting a commercial broker for the new business and industrial park. (Councilor Pratt Spon.)

On Tuesday, November 24, 2020, the Industrial Park Steering Committee voted to recommend Malone (MCB) as a commercial broker to work with the Town Council on developing, projecting and selling lots in the new Gorham Business / Industrial Park. Two consultants were interviewed by the committee. Their proposal documents are attached.

Item # 2020-12-10

Action to consider selecting a consulting firm for a town wide facilities planning study. (Councilor Pratt Spon.)

This item will authorize the Town Manager to enter into an agreement for services with a qualified consulting / engineering firm to conduct a town wide facilities inventory and planning study. The Town Council authorized funding for the study in conjunction with the School Department budget in the FY21 fiscal year. At the time of this writing, four of the five firms have been interviewed by a sub section of the joint committee. The last interview is the day before the Council meeting where a formal recommendation will be provided to the Council. The School Committee will also need to endorse the final firm. Documentation will be provided before the meeting once a recommendation is known.



Jessica Hughes <jhughes@gorham.me.us>

Fwd: Personnel Policy - Town Council Requests

Christie Young <cyoung@gorham.me.us>
To: Jessica Hughes <jhughes@gorham.me.us>

Thu, Nov 19, 2020 at 12:49 PM

FYI

Christie E. Young, PHR, SHRM-CP
Human Resources Director
Town of Gorham
75 South Street, Suite 1
Gorham, ME 04038
TEL. (207) 222-1651
FAX (207) 839-5408
cyoung@gorham.me.us

----- Forwarded message -----

From: **Christie Young** <cyoung@gorham.me.us>
Date: Wed, Nov 18, 2020 at 12:45 PM
Subject: Fwd: Personnel Policy - Town Council Requests
To: Ephrem Paraschak <eparaschak@gorham.me.us>

Please let me know how we need to proceed based on Alyssa's feedback.

Christie E. Young, PHR, SHRM-CP
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----- Forwarded message -----

From: **Alyssa C. Tibbetts** <ATibbetts@jbggh.com>
Date: Wed, Nov 18, 2020 at 12:14 PM
Subject: RE: Personnel Policy - Town Council Requests
To: Christie Young <cyoung@gorham.me.us>

Christie,

With regard to parental leave, you can offer different levels of parental leave for mothers and fathers. It's certainly subject to challenge (and has been challenged in EEOC cases), but is still a common practice. The two cases in which it has been challenged were settled so we don't have a clear rule as it would apply to all employers, but we do know that the EEOC sided with the fathers in the claims of discrimination by a parental leave policy that offered a greater benefit to mothers and their employers paid as a result. Part of the argument in challenging the differing levels of parental leave is that the FMLA applies equally to mothers and fathers following the birth of a child. There is obviously a difference between FMLA eligibility and the additional voluntary benefit the Town is offering for paid parental leave. However, it leaves the additional voluntary benefit open to a discrimination claim, which could be supported by the theory that the FMLA does not similarly discriminate against fathers when it comes to leave time.

You can offer additional paid leave for mothers based on the actual medical need following childbirth, but I think it's difficult to state that three weeks is a blanket policy given that the circumstances will be different for every situation. Some people will require more time in terms of medical necessity, some may not medically require even that additional three weeks, although I'm certain any doctor would certify six weeks total regardless of the circumstances. In any event, I'm just not sure that a one-size-fits-all time frame for additional paid leave for mothers works on the basis of medical necessity on its own. It likely helps, but it may not be enough to withstand a discrimination claim.

With regard to Veterans hiring preference, federal law protects employers in certain circumstances for claims of discrimination related to preference afforded to veterans in the hiring process. However, this protection only exists when the employer is required to give such preference to veterans by some state or federal law. Typically, that exists when some kind of federal or other grant funding is involved. If the employer establishes a hiring preference for veterans on a voluntary basis, it is not exempt from claims of discrimination related to that preference. One of the issues that has come up in this area is the argument that a hiring preference for veterans disparately impacts women because the military has a history of excluding women, which means they are simply less likely to be a veteran and be eligible for this hiring preference. If the Town adopted this type of policy, you would need to be able to demonstrate that the application of this policy did not result in an adverse impact on women if it were ever challenged. If you are going to consider this, I would advise doing so in a more limited sense and apply the preference only to those positions where veteran preference is job-related or meets a legitimate business need. That could still be challenged, but will help the Town to overcome such a challenge on the basis of discrimination.

Please let me know if you have any other questions or would like to discuss these further.

Thanks,

Alyssa

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NOTICE: Under Maine's Freedom of Access ("Right to Know") Law, documents - including emails - in the possession of public officials about Town business are considered public records. This means if anyone asks to see it, we are required to provide it.