

AGENDA AND PROPOSED ORDERS
GORHAM TOWN COUNCIL
REGULAR MEETING
October 6, 2015
Burleigh H Loveitt Council Chambers

Pledge of Allegiance to the Flag

Roll Call

Acceptance of the minutes of the September 1, 2015 Regular Town Council Meeting

Open Public Communications

Councilor Communications

Town Manager Report

School Committee Report

Old Business

Order # 8854 Ordered that the Town Council approve a proposal to divide Ward 1 into two voting districts and have registered voters, who reside North of the Little River, vote at the Little Falls Activity Center.

Order # 8858 Ordered, that the Town Council approve the update of the Town of Gorham Main Street Master Plan.

Order # 8862 Ordered, that the Town Council refer a proposal to adopt a residential transfer overlay district off New Portland Road, near the Gorham/Westbrook Town line, to the Planning Board for a Public Hearing and their recommendation.

New Business

Public

Hearing # 1

On

Item # 8963

Public Hearing on a proposal for a contract zone on property located at the intersection of Mosher Road (Rte 237) and Main Street (Rte. 25) for Sebago Brewing Company to construct a Brewery, Manufacturing and Warehouse facility, Events/Function area, Restaurant and Corporate Offices with reduced setbacks and parking in front, an ATM facility and appropriate signs. (Admin. Spon.)

Proposed
Order # 8963

Whereas, Sebago Brewing Company has operated Corporate Offices and manufacturing facilities in the Gorham Industrial Park for approximately 10 years, and has outgrown their existing space, and
Whereas, Sebago Brewing Company has found a suitable location at the intersection of Mosher Road (Rte. 237) and Main Street (Rte. 25) to expand and grow their business, and
Whereas, the Town Council believes this project is similar to and compatible with the existing commercial office zone that already exists, and
Whereas, the Town Council believes this contract zone is consistent with the Comprehensive Plan, and
Whereas, the Town Council believes that supporting a growing agricultural, restaurant and retail business like Sebago Brewing Company, is in the Town's best interest, and
Whereas, the Planning Board held a Public Hearing on this proposal,
Now Therefore, Be It Ordered, that the Town Council approve the following contract zone:

CONTRACT ZONING AGREEMENT BETWEEN SEBAGO BREWING COMPANY AND THE TOWN OF GORHAM

This Contract Zoning Agreement, made this _____ day of _____, 2015, by the TOWN OF GORHAM, a body corporate and politic, located in the County of Cumberland and State of Maine, with a mailing address of 75 South Street, Suite 1, Gorham, ME 04038 (hereinafter "the Town"), and SEBAGO BREWING COMPANY, a Maine corporation with a mailing address of 48 Sanford Drive, Gorham, Maine 04038 (hereinafter "Sebago").

WITNESSETH:

WHEREAS, Sebago seeks to develop a property located at the intersection of Main Street and Mosher Road, identified in the Town tax maps as Map 32, Lots 24.101, 24.102, 24.103, 24.104, 24.105, and 24, as further described in a deed recorded in the Cumberland County Registry of Deeds in Book _____, Page ____ (the "Property"); and

WHEREAS, Sebago seeks to develop the Property with one or more buildings that will include its corporate headquarters, a brewery, a restaurant and event/function area and manufacturing and warehousing associated with the brewery; and

WHEREAS, Chapter III, Section A of the 1993 Gorham Comprehensive Plan ("the Comprehensive Plan") establishes objectives of the Town that include the following: "encourages business which offer services and shopping opportunities to the local market and specialty business and services with local, national, and even worldwide markets;"

WHEREAS, Chapter III, Section B. 3 of the 1993 Gorham Comprehensive Plan ("the Comprehensive Plan") establishes goals of the Town that include the following: "To create an

economic climate in the Town of Gorham which accommodates the remaining agricultural and forest products enterprises and fosters good quality commercial, industrial, and specialty enterprises which produce sustainable growth in the economic base and job opportunities;”

WHEREAS, Chapter III, Section B. 3 of the 1993 Gorham Comprehensive Plan (“the Comprehensive Plan”) establishes goals of the Town that include the following: “The Town should actively work to attract good quality, clean, nonpolluting industries to locate in Gorham to provide jobs and expand the local tax base;”

WHEREAS, the Gorham Planning Board reviewed this proposed rezoning and recommended its approval after a public hearing held on October 5, 2015 and

WHEREAS, the Town, by and through its Town Council, has determined that said rezoning will be pursuant to and consistent with the Comprehensive Plan and has authorized the execution of this Contract Zoning Agreement on _____, 2015;

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 in the Land Use and Development Code, Chapter I, Section I, Subsection C, by adopting the map change amendment shown on Attachment 1.

2. Permitted Uses. Sebago is authorized to utilize the Property for the following uses:

- a. Brewery.
- b. Manufacturing.
- c. Warehouse.
- d. Corporate offices.
- e. Restaurant
- f. Event/function area.

All such uses shall be operated by Sebago or any successor in interest to Sebago. No division of the lot shall occur without amendment to this Agreement.

3. Performance Standards. All development and uses shall be subject to all applicable performance standards set forth in Chapter II of the Code, except as follows:

The following signs shall be allowed:

- a. A building façade sign facing the intersection of Routes 25 and 237 of up to sixty (60) square feet in size.
- b. A lighted pole sign at each entrance to the property of up to forty-eight (48) inches by forty-eight (48) inches in size.

- c. One (1) sign shall be allowed on each of two (2) silos on the site, with each sign not to exceed forty (48) inches by forty-eight (48) inches in size.
- d. Wayfinding signs for facility walkways up to a maximum of six (6) signs, with each sign not to exceed twelve (12) inches by eighteen (18) inches in size. Two additional wayfinding signs shall be allowed in the warehouse area, with the same size limitation.
- e. A warehouse sign not to exceed forty-eight (48) inches by forty-eight (48) inches.
- f. Parking spaces shall be permitted in the front, side, and rear setbacks.

4. Dimensional Requirements. The following dimensional requirements shall apply:

- a. The minimum building setback from Main Street shall be thirty (30) feet and the minimum setback from Mosher Road shall be twenty (20) feet.
- b. There shall be no maximum building height.
- c. There shall be no maximum floor area ratio, maximum impervious coverage ratio, maximum gross floor area per each principal structure or maximum gross floor area per lot requirement for the Property.

5. Agreement to Be Recorded. Sebago shall record this Contract Zoning 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.

6. Amendments to Agreement. The provisions of this Contract Zoning 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 Sebago or its successors in interest to the Property.

7. Site Plan and Subdivision Review. Approval of this Agreement will not serve as a waiver of site plan or subdivision review if otherwise required under 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 Sebago, its successors and assigns, 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 representatives. The provisions of this Agreement, including the permitted uses listed in Section 2, the specific performance standards in Section 3 and the specific dimensional requirements in Section 4, are intended to completely replace the uses, the performance standards and the dimensional requirements of the existing Office Residential District. 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. This contract rezoning 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 Court or the Code Enforcement Officer, the Town Council, after recommendation of the Planning Board, may amend, modify or rescind the Contract Zone.

In the event that Sebago fails to develop the Property in accordance with this Agreement, or in the event of any other breach of any condition 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 a termination of the 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.

WITNESS:

TOWN OF GORHAM

By: _____
David O. Cole, Town Manager (duly
authorized by vote of the Gorham
Town Council on _____, 2015)

SEBAGO BREWING COMPANY

By: _____
Brad Monarch, its President

STATE OF MAINE
CUMBERLAND, ss

_____, 2015

Personally appeared the above-named David O. Cole, in his capacity as Town Manager for the Town of Gorham, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of the Town of Gorham.

Notary Public/Attorney at Law

Print Name

STATE OF MAINE
CUMBERLAND, ss

_____, 2015

Personally appeared before me the above-named Brad Monarch, President of Sebago Brewing Company, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said corporation.

Notary Public/Attorney at Law

Print Name

Public
Hearing # 2
On
Item # 8964

Public Hearing on a proposal to amend Chapter II, Section III, Signs, of the Land Use and Development Code to allow off-premise signs with larger dimensional variations in limited situations in Gorham Village. (Admin. Spon.)

Proposed
Order # 8964

Whereas, the Town's Land Use and Development Code has a section regulating signs in Gorham Village that does not allow off-premise signs and restricts the size of signs, and
Whereas, if the existing regulation was followed, it would lead to multiple signs located side by side that would confuse people intending to shop at one of the businesses, clutter the landscape by essentially creating sign pollution and thereby create a distraction for people driving vehicles who are attempting to find these businesses, and
Whereas, the Town Council wishes to enhance the experience of people by allowing directional signs that assist people and reduce distraction and confusion while they are driving,
Now Therefore Be It Ordered, that the following amendment is approved:

CHAPTER II: GENERAL STANDARDS OF PERFORMANCE
SECTION III - SIGNS

D. PROHIBITED SIGNS, DISPLAYS, AND RELATED MATERIALS

- o) Off-Premises Signs: All signs must be located on the same lot as the use or occupant that is the subject of the sign or where the goods or services are

available except as specifically provided for in this section. Off-premises signs are allowed only for Exempt Signs in accordance with subsection C., Official Business Directional Signs in accordance with subsection H., Business Park Identification Signs in accordance with subsection I, ~~and~~ Farm Stand Signs in accordance with subsection E. ~~Performance Standards, 13) Farm Stand Directional Signs and Village Shared Entrance Signs in accordance with subsection E., 14).~~

E. PERFORMANCE STANDARDS

14. **Village Shared Entrance Signs: Lots that share entrance(s) as the only means of access into their lots are allowed to utilize a shared entrance sign(s). The sign will only advertise the businesses located on the lots utilizing the shared driveway and a readerboard sign is not allowed as part of the sign. The sign shall only be an externally illuminated sign and must reflect Village character in the design. No internally illuminated sign shall be allowed.**

Only one Shared Entrance Sign is allowed per street. For lots with shared entrances located on more than one street, one Village Shared Entrance Sign is allowed per street. No other freestanding signs are allowed for lots whose businesses utilize space on a shared entrance sign. Village Shared Entrance Signs and any associated exterior lighting are required to be approved as part of a site's Master Sign Plan.

G. PERMITTED NON-RESIDENTIAL SIGNS

- 1) Village Environment
- b) Multi-Occupant Property
- (1) Allowed Freestanding Signs
- (a) Ground-Mounted Project Signs: One ground-mounted project sign having not more than twenty-four (24) SF of sign area and being not more than eight (8) feet high for each frontage from which the property has vehicular access
- (b) Ground-Mounted Directory Signs: One ground-mounted directory sign having not more than twenty-four (24) SF of sign area and being not more than eight (8) feet high for each frontage from which the property has vehicular access
- (c) Combination Ground-Mounted Project/Directory Signs: One combination ground-mounted project/directory sign having not more than forty-eight (48) SF of sign area and being not more than eight (8) feet high for each frontage from which the property has vehicular access but only if the property has no other freestanding project or directory signs.
- (d) Village Shared Entrance Signs: One shared entrance sign is allowed to be up to 56 sq.ft. in total area for all businesses on the sign and no more than 14' in height. For properties**

with multiple shared entrances onto different streets, only one shared entrance sign is allowed to have up to 56 sq.ft. in total area for all businesses on the sign and no more than 14' in height; all other shared entrance signs must conform to the height and sign area allowed under the Village Sign Environment Combination Ground-Mounted Project/Directory Sign.

Public
Hearing # 3
On Item # 8965

Public Hearing on a referendum question to amend Section 901 of the Town's Charter to allow the Town to accept and expend a third party grant or gift when the grant or gift is fully covering the expenditure or the Town's share does not exceed \$250,000 with the following language:

PROPOSED TOWN CHARTER AMENDMENT

EXEMPTION OF GRANT-FUNDED EXPENSITURES
FROM REFERENDUM APPROVAL

Shall Sec. 901 of the Gorham Town Charter be amended as follows:

Sec 901 Capital Expenditures over \$250,000. Any proposed capital expenditure over \$250,000 except emergency ordinances ~~ad~~ as previously defined in Article II, Section 213.1, shall be submitted to a referendum vote on the proposed expenditure. The Council shall fix the time and place for such referendum. A majority of the electors present and voting at the referendum shall determine the result. Notwithstanding the above, no referendum vote shall be required for any expenditure where (A) it is fully paid for by a third party grant award or gift fully covering the expenditure or where (B) the Town's share of the expenditure does not exceed \$250,000, as long as, in either instance, the Town Council, after a public hearing on the same, determines there will be no directly related costs accompanying such expenditure. The Council's determination on that issue shall be conclusive unless challenged by an action filed in Superior Court within thirty (30) days of such Council determination.

(Note: Additions are underlined and deletions are **struck out**.)

Explanation: The Purpose of this proposed amendment is to eliminate the need for a referendum vote to approve large expenditures if they are to be fully funded by a third party, such as a Government Grant or private gift, or where the Town's share will not exceed \$250,000

Public
Hearing # 4
On Item # 8966

Public Hearing on a referendum to authorize the Town to borrow and expend up to \$600,000 for its share of a project to reconstruct Main Street, with Town funds being combined with funding from the Maine Department of Transportation and Portland Water District for a combined project estimated at \$2.2 million.

Public
Hearing # 5
On Item # 8967

Public Hearing on a referendum to authorize that Town to borrow and expend \$1,175,500 for major roof, locks and hardware and mechanical equipment projects at Gorham Schools.

Public
Hearing # 6
On Item # 8968

Public Hearing on an amendment to the Town's General Assistance Ordinance to update the Maximum levels of assistance. (Admin. Spon.)

Proposed
Order # 8968

Whereas, the Town has an ordinance to regulate its General Assistance program, as required by Maine Law, and
Whereas, the State periodically promulgates updated levels of maximum levels of assistance that local municipalities are required to adopt, and
Whereas, the State recently issued new maximum levels of assistance that became effective October 1, 2015,
Now, Therefore Be It Ordered, that the Town Council adopt the new maximum levels of assistance as issued by the State of Maine.

Public
Hearing # 7
On Item # 8969

Public Hearing on a renewal Liquor License for Ocean Gardens Restaurant and Tavern, 390 Main Street. (Admin. Spon.)

Proposed
Order # 8969

Ordered, that the Town Council approve a renewal liquor license for Ocean Gardens Restaurant and Tavern.

Public
Hearing # 8
On Item # 8970

Public Hearing on a renewal Liquor License for Gorham Sports Center, 215 Narragansett Street. (Admin. Spon.)

Proposed
Order # 8970

Ordered, that the Town Council approve a renewal liquor license for Gorham Sports Center.

Public
Hearing # 9
On Item # 8971

Public Hearing on renewal applications for Automobile Graveyards/Junkyard Permits for 2016.(Admin. Spon.)

Proposed
Order #8971

Ordered, that the Town Council approve renewal applications for the following Automobile Graveyard/ Junkyard Permits for 2016;

STEVE LUCE	LKQ CORP./GORHAM AUTO	176 NARRAGANSETT ST
CHRIS CASTALDO	346 SOUTH STREET LLC	346 SOUTH STREET
JIM STONE	CASCO FED CREDIT UNION	375 MAIN STREET
GARY NELSON	CHET'S AUTO SALES	475 OSSIPEE TRL
GORDON REICHERT	REICHERT'S AUTO BODY	112 SHAWS MILL RD
SHAWN MOODY	MOODYS/ INS AUTO AUCTION	200 NARRAGANSETT
JOHN DUMBROCYO	DUMBO ENTERPRISES	86 LONGFELLOW RD

Item # 8973

Action to consider a request from Scott Guimond for a contract zone on Route 25 in West Gorham (tax map 57, lot 1) to consolidate and grow his business, National Attachments. (Admin. Spon.)

Proposed
Order # 8973

Ordered, that the Town Council refer a request from Scott Guimond, for a contract zone on an approximate 17 acre parcel of land (Tax map 57, Lot 1) off Route 25 in West Gorham, to consolidate and grow his business, National Attachments to the Planning Board for a Public Hearing and their recommendations.

Item # 8974 Action to consider appropriating funds returned to the Town from the Maine State Retirement System. (Admin. Spon.)

Proposed
Item # 8974 Ordered, that the Town Council appropriate funds, that have been deemed excess or surplus funds, by the MainePERS (the State Retirement System) as follows:
1. \$371,738.47 to the School Department for School purposes.
2. \$396,844.92 to be placed in a reserve fund with annual appropriations of \$30,000 to be used as contributions towards the Town’s annual costs of the State Retirement System (MainePERS), until the fund is depleted.

Item # 8975 Action to consider accepting a bid to reconstruct a sidewalk in Little Falls. (Admin. Spon.)

Proposed
Order # 8975 Ordered, that the Town Council accept a bid from _____ in the amount of _____ to reconstruct a sidewalk in Little Falls, using Community Development Block Grant Funds, and Town Funds.

Item # 8976 Action to consider not accepting a Federal and State Grant for a pedestrian Trail.

Proposed
Order # 8976 Ordered, that the Town Council inform the Maine Department of Transportation, that because the estimated project costs have increased significantly, the Town is not going to accept a Grant for Federal Project AC-STP-1938 (500) X; Maine DOT WIN 19385, and
Be It Further Ordered that they express its appreciation to MDOT and its Staff for their prior work on the project.

Adjourn