

**CORRECTED REPORT OF THE REGULAR MEETING OF THE  
GORHAM TOWN COUNCIL  
SEPTEMBER 4, 2007**

Chairman Justice opened the meeting at 7:06 pm.

Roll Call: Present: Chairman Justice, Councilors Phinney, Dugas, Loveitt, Caldwell, Willett & Moulton, Town Manager, David Cole, and Town Clerk, Christina Silberman.

Moved by Councilor Dugas, seconded by Councilor Phinney, and **VOTED** to accept the minutes of the August 7, 2007 regular meeting as printed and distributed. **7 years.**

**Open Public Communications**

There were no communications from the public.

**Councilor Communications**

Councilor Willet reported that the Finance Committee met on August 15<sup>th</sup>. They discussed burial fees and processing fees for recording and these items are on the agenda tonight. They will continue to discuss tax acquired property at their next meeting.

**Chairman's Report**

The groundbreaking ceremony for the Gorham By-Pass project was well attended by the entire council, bypass committee members, and state and local representatives. Chairman Justice expressed appreciation to everyone for all of the hard work done. Chairman Justice acknowledged the Town Manager, David Cole, and his staff for their work in this endeavor.

The Town Manager, Superintendent of Schools, Chairman of the School Board, and the School Business Manager are discussing ideas to find efficiencies between the school and the town.

**Town Manager's Report**

The Town Manager had no items to report.

**School Committee Report**

School Chairman Hager reported on the following school business.

- There is a remaining fund balance of approximately \$254,000 from Gorham Middle School project. The School Committee plans to put \$200,000 towards development of new fields at the Gorham Middle School and use the remaining \$54,000 for outdoor security cameras at the school and to pave a pathway at the school, the remainder will be used for future projects at the Gorham Middle School.
- The School Committee will be requesting an additional \$150,000 for the necessary preliminary work for the White Rock Project.
- The next meeting of the White Rock Project Committee will be Sept. 5<sup>th</sup> at 6 pm.

Councilor Loveitt asked if Gorham has considered consolidation with any other schools. Chairman Hager replied that they have discussed it but there are currently no other districts that they are seeking to collaborate with at this time.

### **New Business**

**Public Hearing #1** Chairman Justice opened the public hearing regarding renewal of Automobile Graveyard and/or Junkyard permits. There were no comments from the public. Chairman Justice closed the public hearing.

**Item #7464** Moved by Councilor Phinney, seconded by Councilor Willett, and **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled approve renewal of the following Automobile Graveyard and/or Junkyard permits that will expire on October 1, 2008.

Chet's Auto Sales, Inc., Dumbo Enterprises, Hopkins Salvage, LKQ Corporation, M & D Realty, Moody's Collision Centers, Reichert's Auto Body, South Street Auto Body. Inc., and Young's Auto Salvage. **7 yeas.**

**Public Hearing #2** Chairman Justice opened the public hearing to consider approval of a new Victualer's License for Howard and Lisa Ross d/b/a Java Dogs by Lisa. Mr. Ross explained that this is a mobile unit that will be used at one location and will be removed from the property at night. Chairman Justice closed the public hearing.

**Item #7465** Moved by Councilor Phinney, seconded by Councilor Loveitt, and **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled approve issuance of a new Victualer's License for Howard and Lisa Ross d/b/a Java Dogs by Lisa. **7 yeas.**

**Public Hearing #3** Councilor Loveitt declared that his son is employed by Shaw Brothers, he does not seek to recuse himself but wants to make the Council aware. Moved by Councilor Moulton, seconded by Councilor Willett and **VOTED** that Councilor Loveitt recuse himself from this item because of the appearance of a conflict. **1 yea, 5 nays (Dugas, Phinney, Willett, Justice and Caldwell (Councilor Loveitt did not vote on this item)), motion fails.**

Chairman Justice provided background information for this item and then opened the public hearing regarding the proposal to amend the Gorham Land Use and Development Code.

Jennifer Everett, 184 Libby Ave., thanked Councilor Moulton for initiating the discussion and the vote on the conflict of interest question. Ms. Everett spoke against approval of the proposed changes.

Noah Miner, 32 green St., spoke about day and night time noise standards and feels that the proposed changes are for the benefit of a certain applicant and he is opposed to this.

Deb Cassidy, 6 Timber Ridge, expressed that the proposed changes should be rejected but if they are voted on, they should be voted on separately.

Teresa Dolan, 309 Mosher Rd, commented on the appropriate use of Council authority regarding conflicts of interest. Ms. Dolan pointed out an error in the Planning Board

proposed changes, for chapter 2, section I (H)(1)(a), the planning board indicated that the wording would be as follows; the first sentence “where a non-residential use is **approved**....” and the last sentence “...existing residential uses and the **proposed** use; or”. The Chairman of the Planning Board was in attendance and agreed with Ms. Dolan on the correction.

Russell Sprague, 184 Libby Ave., feels that the town doesn't need another quarry or gravel pit and he urged the Council not to approve any of these changes. Mr. Sprague feels that the process needs to slow down and a committee should be formed to look at the language.

Shell Goldman, 23 Clearview Dr., raised many questions regarding the proposed changes.

Charles Kent, 12 Matthew Dr., spoke about pollution from an asphalt plant.

Melinda Shain, 12 Timber Ridge, recognizes that the ordinance needs more extensive review and feels the need to take a larger look at the whole ordinance.

Hans Hansen, South Gorham, indicated that Gorham has 25,000 square miles and will need more resources. Ordinances change constantly. Shaw Brothers are trying to clean up the ordinance as well as the Planning Board.

David Kent, 726 Fort Hill Rd., stated that there are additional applicants lined up, not just one. Mr. Kent spoke in support of the changes.

Chairman Justice closed the public hearing.

**Item #7466** The prepared order was moved by Councilor Phinney, and seconded by Councilor Dugas. Moved by Councilor Phinney and seconded by Councilor Loveitt to amend the proposed order by using Document number 1 and adding all of the changes recommended by the Planning Board on Page 2 and adding the changes recommended by the Planning Board found in the last paragraph on page 3 and adding all of the changes recommended by the Planning Board on Page 4 and adding all of the changes recommended by the Planning Board on Page 5 and adding the following paragraphs to the Order that is on the floor; and, BE IT FURTHER ORDERED that the Town Council ask the Ordinance Committee to review the Noise Ordinance and make appropriate recommendations for revising it, and BE IT FURTHER ORDERED that the Town Council ask the Ordinance Committee to consider the recommendations made by the Planning Board as part of their review of the Noise Ordinance. Chairman Justice asked Walter Stinson, Civil Engineer, about the comment that Shaw Brothers will avoid DEP review. Mr. Stinson reviewed the application process with the DEP and answered additional questions from the Council. The proposed amendment was then **VOTED. 5 yeas, 2 nays (Willett & Moulton)**

Moved by Councilor Loveitt, seconded by Councilor Phinney and **VOTED** to suspend debate & move the question. **7 yeas.**

**WHEREAS**, the original Mineral Exploration Ordinance was adopted on July 5, 1989, and primarily focused on regulating the development of gravel pits; and,

**WHEREAS**, the ordinance is also used to regulate rock quarries; and,

**WHEREAS**, the language in certain sections needs to be clarified or made consistent with prior interpretations; and,

**WHEREAS**, the Town's Noise Ordinance contains unclear and outdated language,

**NOW THEREFORE BE IT ORDAINED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled adopt the proposed amendments to the Land Use and Development Code, Chapter II General Standards of Performance, Section I. Environmental, Sub sections C. Mineral Exploration, Excavation and Gravel Pits, 5) Operational Requirements for New and Existing Pits, and 6) Reclamation, relative to slopes within quarries, noise, and hours of operation, and Sub section 1.H. Noise Abatement by using Document number 1 and adding all of the changes recommended by the Planning Board on Page 2 and adding the changes recommended by the Planning Board found in the last paragraph on page 3 and adding all of the changes recommended by the Planning Board on Page 4 and adding all of the changes recommended by the Planning Board on Page 5; and,

**BE IT FURTHER ORDERED** that the Town Council ask the Ordinance Committee to review the Noise Ordinance and make appropriate recommendations for revising it, and

**BE IT FURTHER ORDERED** that the Town Council ask the Ordinance Committee to consider the recommendations made by the Planning Board as part of their review of the Noise Ordinance. **5 years, 2 nays (Willett & Moulton).**

AMENDMENT TO THE GORHAM LAND USE AND DEVELOPMENT CODE  
CHAPTER II, SECTIONS I.C.4, I.C.5, I.C.6, AND I.H

RE: PERFORMANCE STANDARDS FOR MINERAL EXTRACTION, EXCAVATION  
AND GRAVEL PITS

(additions are underlined and deletions are ~~struck through~~)

- 1) Amend Sec. I.C.4.b)(3) – The Planning Board shall approve, deny or approve with conditions any such application within ninety (90) days of its public hearing provided any such conditions of approval directly relate to the specific approval standards contained in this ordinance. The Planning Board may also include conditions of approval that relate to the safety and protection of persons who might access the site, including but not limited to site or operations area fencing and signage. Where considered.....
- 2) Amend Sec. I.C.5) Operational Requirements for New and Existing Pits – Unless otherwise expressly provided, tThe following requirements apply to all...
- 3) Amend Sec. I.C.5)a) – A buffer strip of 100 feet from all public rights of way and two hundred (200) feet from all other boundaries of the property is required except in the instance of a waiver as provided in this section. The slopes of the side of the pit shall be no more than 3:1. This slope requirement shall not apply to a quarry that is operating under a Notice of Intent to Comply filed with the Maine Department of Environmental Protection under the provisions of 38 M.R.S.A., section 490-Y or under any other quarry permit, license or approval - issued by the Maine Department of Environmental Protection. No excavation is permitted within the buffer strip of any pit, including a quarry, except where.....
- 4) Amend Sec. I.C.5)a)(3) – where all adjacent property owners within the area of reduced buffer agree to a lesser distance. Any such agreed upon reduction (to

not less than a 10 foot buffer) will be consistent with the purposes of this ordinance in Section 1, The buffer strip may be reduced upon recording by all abutting property owners within the area of reduced buffer of reciprocal deeds stating that each agrees to the waiver. In the event of a reduced buffer under this subsection, the pit shall not be subject to the noise limits established by subsection 4 of this section or Chapter II, Section H of this Code in the area of the boundary reduced under the terms of this subsection if the abutting property owner agrees that the noise limits will not apply to the shared property line or that the noise limits may exceed an amount established in writing. Any agreement concerning noise levels shall be included in the reciprocal deeds.

- 5) Amend Sec. I.C.5)a)(4)(a) – Noise generated at the excavation site, including noise generated within the reduced setback area may not exceed ~~an average of 75 decibels at 600 cps measured at the property boundary line during any consecutive eight hour period.~~ the noise requirements set forth in Chapter II, Section I (H)(1) of this Code. During the peak activity of 60 minutes in a 24 hour period, noise may not exceed 100 decibels at 600 cps when measured at the source.
- 6) Amend Sec. I.C.5)b) – Excavation shall not extend below an elevation of five (5) feet from the seasonal high water table as established by competent, technical data. A variance from this requirement shall be allowed pursuant to paragraph 490-E, Variance, Performance Standards for Excavation for Borrow, Clay, Topsoil or Silt, 38 M.R.S.A Sec 490-A~~3~~490-M and Article 8, Performance Standards for Quarries, 38 M.R.S.A. Sec. ~~3~~490-W to 490-EE....
- 7) Amend Sec. I.C.5)c) by adding at the end of the paragraph – These slope requirements will not apply to a quarry that is operating under a Notice of Intent to Comply filed with the Maine Department of Environmental Protection under the provisions of 38 M.R.S.A. § 490-Y or under any other quarry permit, license or approval issued by the Maine Department of Environmental Protection, except for those extraction operations that occur in any area where a buffer has been reduced under the provisions of Section I, subsection C(5)(a) of this Chapter.
- 8) Amend Sec. I.C.5)d) by adding at the end of the paragraph – Where a mineral extraction operation abuts a lot with an industrial operation that uses product from the mineral extraction operation as part of its manufacturing use, the Planning Board may approve additional hours of operation for the mineral extraction operation so that the hours are consistent with the hours of operation of the abutting industrial use. The extended hours of operation shall be limited to the area of the mineral extraction operation located within one hundred (100) feet of the boundary line of the abutting industrial use lot. This area of the mineral extraction operation shall be included in any site plan or other review for the industrial operation. In no event shall any crushing or screening of materials or mining occur during any extended hours of operation.
- 9) Amend Sec. I.C.6) Reclamation - The following provisions apply with respect to any existing pit in excess of five (5) acres, any gravel pit for which approval has been obtained for expansion under Section 3, or a new pit under Section 4. A reclamation plan must be submitted to the Planning Board, and the site shall be reclaimed in accordance with the requirements of this Section. The reclamation

work shall be completed within nine months of the closing of a site (or a portion of a site with regard to phased reclamation plans) or approval of the reclamation plan, whichever occurs later. Reclamation of continuing operations shall be conducted in phases, if necessary, so that there is never open more than fifteen (15) acres of pit area or fifty percent (50%) of the pit area for pits less than fifteen (15) acres in size. Failure to remove....

- 10) Amend Sec. I.C.6)a) by adding at the end of the paragraph – These slope requirements shall not apply to quarries that have been operated under a Notice of Intent pursuant to 38 M.R.S.A. § 490-Y or under any other quarry permit, license or approval issued by the Maine Department of Environmental Protection, except for those portions of a quarry where extraction operations have occurred in any area where a buffer has been reduced under the provisions of Section I, subsection C(5)(a) of this Chapter.
- 11) Amend Sec. I.C.6)b) by adding at the end of the paragraph – The reclamation plan for any quarry shall include specific provisions to ensure the stability of any exposed rock faces.
- 12) Amend Sec. I.H. NOISE ABATEMENT- 1) Noise is required to be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness. Noise may be equal but not exceed during any consecutive 8-hour period an average of 75 decibels at 600 cps measured at any boundary line. ~~During the peak activity of 60 minutes in a 24-hour period a noise may not exceed 100 decibels at 600 cps when measured at the source.~~ This section shall not apply to mineral exploration, excavation or gravel pits that are subject to the provisions of Chapter II, Section I, C(5)(a)(3) of this Code.  
2) A use shall not be subject to the noise limits established by this section at any property line where the property owner and the abutting property owner have agreed in writing that those noise limits will not apply at their shared property line or that the noise limits may exceed the 75-decibel limit by an amount established in writing. Any such agreement concerning the noise limits at the shared property line shall be set forth in reciprocal deeds between the property owners and shall be recorded in the Cumberland County Registry of Deeds.

**Item #7467** Moved by Councilor Phinney, seconded by Councilor Dugas and **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled approve a request of the Lions Club to place flags on utility poles provided that the Lions Club obtain permission from the owners of the utility poles. **7 years.**

**Item #7468** Moved by Councilor Phinney, seconded by Councilor Loveitt and **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled refer a request from Norman Richardson to amend the Land Use and Development Code to allow gravel parking areas for certain businesses, to the Ordinance Committee for their review and recommendation. **6 years, 1 nay (Moulton).**

**Item #7469** Moved by Councilor Moulton, seconded by Councilor Caldwell and **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled refer a request from Louise Jones to develop an ordinance to address issues with dogs that are not on a leash to the Ordinance Committee for their review

and recommendation. **1 yea, 6 nays (Dugas, Phinney, Willett, Justice, Loveitt, & Moulton), motion fails.**

**Item #7470** Moved by Councilor Phinney, seconded by Councilor Willett and **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled adopt the schedule of burial fees as recommended by the Finance Committee. **7 yeas.**

Type of Burial	Current Fee	Recommended Fee
Full burial	\$350 weekday	<b>\$550 weekday</b>
Full burial	\$450 weekends	<b>\$550 weekends</b>
Cremation	\$100 weekdays	<b>\$250 weekdays</b>
Cremation	\$150 weekends	<b>\$250 weekends</b>
Disinterment	<b>The cost of the disinterment would be double, unless the disinterment was caused by a mistake made by the Town. If the Town caused the disinterment, there would be no charge.</b>	

**Item #7471** Moved by Councilor Willett, seconded by Councilor Phinney and **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled adopt a \$25.00 processing fee for burials; and,

**BE IT FURTHER ORDERED** that this processing fee shall be used for the maintenance of cemetery records. **7 yeas.**

**Item #7472** Moved by Councilor Phinney, seconded by Councilor Dugas, and **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled ask the Capital Improvements Committee to review the level of maintenance provided by the Municipality at cemeteries and a review of the agreements between the Town and various cemetery associations and make any appropriate recommendations. **7 yeas.**

**Item #7473** Moved by Councilor Loveitt, seconded by Councilor Caldwell and **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled refer a proposal to amend the Land Use and Development Code Chapter VII, Impact Fees, Section III, (A) by adding a new paragraph to include the Little Falls Recreation Area to the Planning Board for public hearing and their recommendation as proposed. **7 yeas.**

**Item #7474** Moved by Councilor Caldwell, seconded by Councilor Willett and **ORDERED** by the Town Council of the Town of Gorham, Maine, in Town Council assembled that the ballot question for the three million dollar referendum for road improvements, scheduled for November 6, 2007 shall be;

“Shall a capital expenditure of a sum of money not to exceed \$3,000,000 be authorized to finance costs of improvements to roads in the Town, said sum of money to be raised by the issuance of general obligation bonds and/or notes of the Town in a total aggregate principal amount of up to \$3,000,000, with such dates, maturities, denominations, interest rate(s) and other details (including provisions that the bonds may be subject to call for redemption with or without premium) as the Municipal Officers shall determine? (The town Council recommends a “Yes” vote)”. **7 yeas.**

**Item #7475** Moved by Councilor Phinney, seconded by Councilor Loveitt and **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled authorize a referendum on November 6, 2007 on developing athletic fields at the Gorham Middle School; and,

**BE IT FURTHER ORDERED** that the Town Council schedule an informational public hearing for October 2, 2007, and

**BE IT FURTHER ORDERED** that the Town Council approve the ballot question as presented. **6 yeas, 1 nay (Willett).**

“Shall a capital expenditure of a sum of money not to exceed \$750,000 be authorized to finance costs of construction of a new athletic field or fields at or near the Gorham Middle School, with the details of the proposed improvements (which may include additional parking) to be determined by the Town Council, said sum of money to be funded by: (a) use of up to \$550,000, hereby authorized, of funds in the existing recreation impact fee account of the Town, and (b) the reallocation, hereby authorized, of up to \$200,000 in surplus, unexpended funds, from the Town’s 2002 General Obligation Bonds, which funded the construction of the Middle School (which surplus bond funds will be applied to construction of a new athletic field only if any necessary consent is obtained from the State Department of Education)? [Explanatory note: If passed, this will not involve any new borrowing and will not involve raising any new property taxes.] (The Town Council recommends a "Yes" vote.)”

**Item #7476** The proposed order was moved by Councilor Phinney and seconded by Councilor Dugas. Moved by Councilor Willett, seconded by Councilor Dugas and **VOTED** to amend the proposed order to also seek alternate bids for lights and tennis courts. **2 yeas, 5 nays (Phinney, Justice, Loveitt, Caldwell, and Moulton).**

**ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled authorize the Town to develop bid specifications and solicit bids for the development of multipurpose fields with a softball field and parking lot as separate alternate bids with all bids subject to voter approval of a referendum to be held on November 6, 2007. **7 yeas.**

**Item #7477** Moved by Councilor Phinney, seconded by Councilor Dugas and **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled approve a Memorandum of Understanding regarding use of new athletic fields at Gorham Middle School as presented. **7 yeas.**

**Item #7478** Moved by Councilor Willett, seconded by Councilor Moulton and **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled issue a proclamation honoring Public Safety Personnel in remembrance of September 11, 2001 as presented. Moved by Councilor Loveitt, seconded by Councilor Phinney and **VOTED** to amend the resolution to include the military. **6 yeas (Councilor Moulton left the meeting and did not return prior to this vote).** The amended resolution was then **VOTED**.

Resolution Honoring Gorham’s Public Safety and Emergency Services Personnel



Whereas the Town of Gorham has dedicated Police Officers and Fire and Emergency Medical Service providers who often make difficult decisions with limited information while providing life-saving services and protecting and preserving property, and

Whereas, the critical functions performed by these Police Officers and Fire and Emergency Medical Service providers play a significant role in the daily lives of the residents of the Town of Gorham, and

Whereas, we are approaching the sixth anniversary of terrorist attacks of September 11, 2001 when we are reminded that many Public Safety and Emergency Services Personnel lost their lives, and

Whereas many sons and daughters of Gorham and our nation have volunteered for military service to protect our liberties and to defend our freedoms,

Now Therefore Be It Resolved that the Gorham Town Council, express it's appreciation for the work performed by the Town's Public Safety and Emergency Services Personnel and further express our admiration and appreciation to our military for their valiant service to our country. **6 yeas.**

Moved by Councilor Phinney, seconded by Councilor Dugas and **VOTED** to adjourn the meeting at 10:58 pm. **6 yeas.**

A TRUE RECORD OF MEETING

Attest: \_\_\_\_\_  
Christina Silberman, Town Clerk