

## **REPORT OF THE REGULAR MEETING OF THE GORHAM TOWN COUNCIL December 1, 2009 - 7:00 p.m.**

Chairman Phinney opened the meeting at 7:02 pm.

Roll Call: Present: Chairman Phinney, Councilors; Caldwell, Csoros, Loveitt, Mattingly, Miner, & Robinson, Town Manager, David Cole and Town Clerk, Christina Silberman

Moved by Councilor Miner, seconded by Councilor Robinson and **VOTED** to accept the minutes of the November 10, 2009 Regular Town Council Meeting. **7 yeas.**

### **Open Public Communications**

Rep. Jane Knapp reported on the following;

- The state budget curtailment order issued by the Governor
- Gift passes are available for the Maine State Parks and can be ordered online.
- Consumer alert regarding door-to-door generator sales by unlicensed individuals.
- Department of Environmental Protection hearing in Augusta tomorrow on proposed changes to the site law. Interested parties should follow this closely; it will have a lot of effects.

Chairman Phinney thanked Rep. Knapp for her time.

Harold McFarland, 75 Libby Ave. (lower Libby Ave.), feels his neighborhood is a forgotten area. Upper Libby Ave. has a beautiful road with storm drains, granite curbs, and sidewalks. A lot of elderly people walk in his neighborhood. Where are the storm drains, granite curbs and sidewalks for lower Libby Ave? There are humongous ditches in this area that collect trash. He has asked if the town will mow the ditches and was told maybe. It is very difficult for him to mow the ditch in front of his house. He would like to see lower Libby Ave. beautified.

### **Councilor Communications**

Councilor Miner thanked the participants, volunteers and town staff for the 12<sup>th</sup> annual Burn off the Turkey 5k road race event last Saturday. Proceeds will benefit New Year Gorham. Councilor Miner urged residents to attend the New Year Gorham event.

Councilor Loveitt reported he received a call from someone regarding deposit money that had been put up for a subdivision project. The Town has since changed the way money is collected for these projects. The Council had discussed this and he understood that people that had put money up that wasn't used would have that money returned. Councilor Caldwell agreed that her understanding was that money would be returned. Chairman Phinney asked the Town Manager about the issue. Mr. Cole is aware of this individual and he will report back to the Town Council on the resolution.

### **Chairman's Report**

Chairman Phinney reported that he and his family attended the Christmas Tree Lighting and Lights Parade last Sunday. It was well attended and a good time. He thanked the Recreation Department for organizing the event.

### **Town Manager's Report**

Mr. Cole thanked the Recreation Department for Burn off the Turkey race and tree lighting ceremony. He has heard great compliments on both activities.

Worker's compensation insurance bids, which will be discussed tonight, and financial software bids were opened today. The financial software bids will be discussed with the Finance Committee at their next meeting.

Mr. Cole reported that Code Enforcement Officer Clint Cushman will retire on December 11<sup>th</sup> and he thanked him for his 15 years of service. Mr. Cole has issued a 10 year service pin to Georgia Humphrey, Station Manager, and he thanked her for her service.

Councilor Loveitt asked how the replacement of the Code Enforcement Officer position will be run. He stated that he was surprised to learn that the Town Planner position was filled from within without a search and without consulting the Chairman. Mr. Cole stated that Councilor Loveitt's comments are well noted and an ad will be placed to fill the Code Enforcement Officer position. There will be an oral interview board and we will do our best to hire the best qualified candidate for the position.

### **School Committee Report**

School Committee Chairman, Dennis Libby, reported on the following:

- The School Committee has appointed him as Chairman again and he will continue to report to the Council
- There was not enough H1N1 vaccine for all students, some of the high school students that wanted the vaccine still have not been vaccinated and the second nasal dose for students under 10 has not yet been received. The State Center for Disease Control is the supplier and as soon as the additional vaccine is received the remaining students will be scheduled for vaccination
- The General Purpose Aid Curtailment is \$476,064. The School Committee anticipated this curtailment and will be able to absorb this with minimal impact to programs.
- On December 10<sup>th</sup> there is a Superintendent's Association meeting, this is an opportunity to discuss our financial situation
- A lot of site work has begun at the new elementary school, work on the structure will begin in the spring. The next meeting of the project committee will be January 6<sup>th</sup> at 7 pm
- Each school has a parent interaction group called PIE (Partners in Education). Annually, the School Committee and the Superintendent will meet with each school's PIE group to discuss issues. Mr. Libby encouraged parents to attend these meetings
- The next School Committee meeting will be December 9<sup>th</sup> at 7 pm.

### **New Business**

**Public Hearing #1** Chairman Phinney opened the public hearing to consider approval to renew a liquor license for Thatcher's Restaurant and Sports Pub. There were no comments from the public. Chairman Phinney closed the public hearing.

**Item #7781** Moved by Councilor Robinson, seconded by Councilor Caldwell and **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled approve the renewal of a liquor license for Thatcher's Restaurant and Sports Pub. **7 yeas.**

**Public Hearing #2** Chairman Phinney opened the public hearing to receive comment on conducting a limited review of the Comprehensive Plan for the purpose of determining if areas of South Gorham should be rezoned and designated for more intense growth.

Hans Hansen reported that Bateman Partners who is developing the Mercy Hospital project has done a great job. This is a great asset for the area.

Jim Means, 7 Beatrice Dr., commented that he fears a zone change along route 114. There is a wildlife sanctuary that abuts his neighborhood and he would be opposed to any zoning change that would affect this parcel. He is concerned about a possible turnpike spur and it's location.

Sherry Garnett, 36 McLellan Rd., agrees with Mr. Means comments. The parcel on McLellan Rd. where the game preserve is should stay the way it is.

Donna Burke, 66 County Rd. stated that she has no problem with rezoning and looks forward to it. This is something that is coming along anyway and there is no getting around it. We do need businesses in Gorham to help with the tax base.

Pamela Milliken Garza, 26 McLellan Rd. is concerned about property values and quality of life. The traffic issues alone are enough to totally squash this idea. The quality of life in this neighborhood has gone downhill since the Bypass. Issues with the intersection of 22/114 need to be addressed. Is this area residential or commercial? She is strongly opposed to this rezoning.

Albert Frick, 95 County Rd., spoke in support of rezoning. There is a large body of commercial use in the Route 22 area and it is no longer suited for residential use. The current zoned uses in this area are no longer fitting.

Jeff O'Donal, South Gorham resident & business owner, stated that he disagrees with the timing of this and cited many excerpts from the current Comprehensive Plan that need to be addressed before zoning should be changed.

Demetria Chadbourne, 83 County Rd, traffic is unbelievably strong and this is a perfect place for commercial development that will alleviate the tax burden levied on residential citizens. She is in support of moving this along to the Ordinance Committee.

Chairman Phinney closed the public hearing.

**Item #7782** was moved by Councilor Robinson and seconded by Councilor Caldwell. Councilor Robinson read a letter from Mary McFarland who is in favor of the rezoning. The proposed order was then voted. **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled conduct a limited review of the Comprehensive Plan for the purpose of determining if areas of South Gorham, located along the Route 22/114 overlap and along Route 114 from the intersection of Route 22/114 north to the intersection of Route 114/112 (Gorham Bypass), should be rezoned and designated for more intensive growth; and,

**BE IT FURTHER ORDERED** that the Town Council refer the proposal to the Ordinance Committee for their review and recommendation. **7 years.**

**Public Hearing #3** Chairman Phinney opened the public hearing on a proposal to amend the Land Use and Development Code Chapters I, II, III and IV clarifying the administration of fees and performance guarantees. There were no comments from the public. Chairman Phinney closed the public hearing.

**Item #7783** The proposed order was moved by Councilor Caldwell, seconded by Councilor Loveitt, and voted.

**WHEREAS**, the Town of Gorham has a Land Use and Development Code that requires staff to charge applicants for their time to review applications and require applicants to provide performance guarantees; and,

**WHEREAS**, the Town Council has concluded that charging staff time directly to applicants is cumbersome and time consuming for applicants and town staff; and,

**WHEREAS**, requiring a performance guarantee to be in place prior to the start of a project ensures that the applicant has the financial capacity to do a project protects the community,

**NOW THEREFORE, BE IT ORDAINED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled amend the Land Use and Development Code Chapters I, II, III and IV clarifying the administration of fees and performance guarantees as presented. **7 years.**

(Note: Additions are underlined, changes made since the Council's version of October 6, 2009 are **highlighted**, and deletions are ~~struck-out~~.)

## **CHAPTER I**

### **SECTION I-GENERAL**

#### **G. CHANGES AND AMENDMENTS**

Any proposal to amend the official zoning map of the Town or to amend any provision of this Chapter shall be accompanied by a nonrefundable fee in such amount(s) and for such purpose(s) as the Town Council may from time to time establish by Council order, which shall be paid at the time the request is filed with the Planning Board. This fee shall be waived if the request is initiated by the Town. A proposed amendment shall be considered Town-initiated if it is proposed by the Town Council, Planning Board, Board of Appeals, the Town's Comprehensive Plan, or staff charged with the administration or enforcement of this Chapter.

To help recover costs incurred by the Town in the review, administration, site inspection, and public notice associated with the proposed amendment, 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 proposed amendment:

- 1) Publishing and public notice fee;
- 2) ~~Review fee;~~ Application fee; and
- 3) Independent consulting and peer review escrow account to be established with the Town in accordance with Chapter II, Section VIII of this Code.

All fees shall be non-refundable except unexpended escrow deposits, which shall be refunded in accordance with Chapter II, Section VIII, Subsection B of this Code.

#### **H. CONTRACT ZONING**

- (2) Any proposal to amend the official zoning map of the Town through the establishment of a contract zone shall be accompanied by a non-refundable fee in such amount(s) and for such purpose(s) as the Town Council may from time to time establish by Council order, which shall be paid at the time the request is filed with the Planning Board.

To help recover costs incurred by the Town in the review, administration, site inspection, and public notice associated with the contract zone proposal, 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 contract zone proposal:

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

#### **SECTION IV – BOARD OF APPEALS**

##### **F. SPECIAL EXCEPTION FEES**

To help recover costs incurred by the Town in the review, administration, site inspection, and public notice associated with the special exception 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 special exception application:

1. Publishing and public notice fee;
2. ~~Review fee~~; Application fee; and
3. Independent consulting and peer review escrow account to be established with the Town in accordance with Chapter II, Section VIII of this Code.

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

#### **CHAPTER II - GENERAL STANDARDS OF PERFORMANCE**

##### **SECTION I-ENVIRONMENTAL**

##### **C. MINERAL EXPLORATION, EXCAVATION AND GRAVEL PITS**

###### **3) Existing Pit Registration: Application for Expansion of Existing Pit Operations**

###### **b) Expansion of Existing Operations**

###### **(2) Plan Review**

(b) To help recover costs incurred by the Town in the review, administration, site inspection, and public notice associated with the Expansion of an Existing Pit 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 Expansion of an Existing Pit application:

1. Publishing and public notice fee;
2. ~~Review fee~~; Application fee; and
3. Independent consulting and peer review escrow account to be established with the Town in accordance with Chapter II, Section VIII of this Code.

All fees shall be non-refundable except unexpended escrow deposits, which shall be refunded in accordance with Chapter II, Section VIII, Subsection B of this Code. If an Expansion of an Existing Pit application is also subject to subdivision review, site plan or municipal review under any other ordinance, the applicant shall pay only the ~~later~~ larger review fee amount exclusive of escrow deposit

###### **4) Application for New Pit Operations**

###### **b) Plan Review**

- (2) To help recover costs incurred by the Town in the review, administration, site inspection, and public notice associated with the New Pit Operations 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 New Pit Operations application:

1. Publishing and public notice fee;
2. ~~Review fee;~~ Application fee; and
3. Independent consulting and peer review escrow account to be established with the Town in accordance with Chapter II, Section VIII of this Code.

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

**E. SHORELAND AREA PROTECTION**

10) Administration

d) Permit Fees

To help recover costs incurred by the Town in the review, administration, site inspection, and public notice associated with the shoreland zoning permit 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 permit application:

- (1) Publishing and public notice fee;
- (2) ~~Review fee;~~ Application fee; and
- (3) Independent consulting and peer review escrow account to be established with the Town in accordance with Chapter II, Section VIII of this Code.

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

**SECTION V - MINIMUM STANDARDS FOR THE DESIGN AND CONSTRUCTION OF STREETS AND WAYS**

**H. STANDARDS FOR PRIVATE WAYS**

- 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) ~~Review fee;~~ Application fee; and
- c) Independent consulting and peer review escrow account to be established with the Town in accordance with Chapter II, Section VIII of this Code.

All fees shall be non-refundable except unexpended escrow deposits, which shall be refunded in accordance with Chapter II, Section VIII, 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.

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

- ~~1) ——— At least fifteen (15) days before beginning construction of improvements for public benefit or public use associated with a private way, subdivision or site plan approved by the Planning Board under Chapters II, III or IV of this Code, the developer shall give written notice to the Town Engineer and Public Works Director. Such improvements~~

shall include, but not be limited to, street grading and paving, surface water drainage improvements, utilities, fire protection improvements and landscaping. The notice shall include the following:

- ~~a) Type of improvement(s)~~
- ~~b) Description of and amount of work to be completed~~
- ~~c) Beginning date~~
- ~~d) Duration of construction~~
- ~~e) Estimated costs to the Town of monitoring the construction of said improvement(s)~~

~~Construction shall be scheduled continuously until date of completion.~~

- ~~2) Upon receipt of said notice, the Town Engineer shall evaluate and verify the provided cost estimate(s) and request the Town Manager to set a fee for the Town or designated agent to monitor said construction. The fee shall be based upon and equal to the cost to the Town for such monitoring. Such monitoring will be paid for by the developer on a monthly basis. Interest shall be imposed on any unpaid balances of thirty (30) days or more. The interest rate shall be equal to the prevailing rate set by the Town Council for delinquent tax debts to the Town. Such monitoring will not in any way hold the Town liable for the improvement. All grades, materials, engineering and construction techniques are the responsibility of the developer.~~

- ~~3) Upon setting the fee for monitoring said improvements, the Town Manager shall give written notice to the developer of such fee.~~

- 1) Grading or construction of roads, grading of land or lots, or construction of buildings which require a final plan as provided in Chapters II, III, or IV of this code is prohibited, until such time as the final plan has been duly prepared, submitted, reviewed, approved and endorsed 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 ~~will be required~~ **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 Engineer or appointed representative shall find,~~ **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 Towns rights under the bond or guarantee. The Town shall issue no 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, the Developer must submit an accurate final set of “as built” record drawings that include:

- a. public and private 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 quasi-public improvement.
5. If at any time before or during the construction of the required improvements the developer demonstrates to the satisfaction of the ~~Town Engineer or appointed representative~~ Town’s Engineer that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the ~~Town Engineer or appointed representative~~ 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 Engineer or appointed representative~~ 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.

#### SECTION IX – INDEPENDENT CONSULTING AND PEER REVIEW FEES

- B. An escrow account shall be established with the Town by the applicant to guarantee payment in advance of actual fees assessed for peer review pursuant to this Section. The original deposit shall be an amount specific to the application, as accorded elsewhere in this Code. ~~If the balance in the escrow account shall be drawn down by 75 percent, the Town shall notify the applicant and require that an additional amount be deposited to cover the cost of remaining work. The Town shall continue~~ It is the duty of the Town Planner to notify the applicant and require that an additional amount be deposited whenever the balance of the account is drawn down by 75 percent of the original deposit. Any excess amount deposited with the Town in advance ~~shall~~ will be promptly refunded to the applicant ~~after final action on the application after receipt of as-built record drawings.~~
- ~~C. Any dispute regarding the application of this Section or the amount required to be paid, either in advance or upon completion, may be appealed in writing within 10 days to the Town Manager. The Town Manager, after due notice and investigation and for good cause shown, may affirm, modify, or reverse the disputed decision or reduce the not assessed.~~
- C. Prior to the issuance of a building permit or certificate of occupancy by the Code Enforcement Officer, all fees assessed hereunder must be paid in full.
- ~~D. In an effort to minimize the use of outside or independent consulting, the provisions of this Section shall be subject to the following additional limitations~~
- ~~1. The Town Engineer will devote no less than two hours, if needed, to each development project and, if in the Town Engineer's sole judgment his/her work load permits, he/she may work additional time on an individual development project without referring it to outside or independent consulting, but he Town shall charge for such additional time at a rate to be determined by the Town Council; and~~
  - ~~2. The Planning Director will devote no less than four hours, if needed, to each development project and, if in his/her sole discretion his/her work load permits, he/she may devote additional time to a project without referring it to outside or independent consulting, but the Town shall charge for his/her time at a rate to be determined by the Town Council; provided, however, in his/her sole discretion, he/she may immediately refer to outside or independent consulting any major subdivision having five or more lots or dwelling units or any major site plan.~~



- ~~E. This Section shall be administered by the Town Planner or other Town employee responsible for administering the ordinance under which review is sought. No building permit or certificate of occupancy may be issued nor subdivision plat released until all fees assessed hereunder have been paid in full.~~

### **CHAPTER III - SUBDIVISION**

#### **SECTION III – PRELIMINARY PLAN**

##### **A. APPLICATION**

- 1) Publishing and public notice fee;
- 2) ~~Review fee;~~ Application fee; and
- 3) Independent consulting and peer review escrow account to be deposited with the Town in accordance with Chapter II, Section VIII of this Code.

No fees shall be refunded except unexpended escrow deposits, which shall be refunded in accordance with Chapter II, Section VIII, Subsection B of this Code. If a subdivision application is also subject to site plan review under Chapter IV of this Code, or municipal review under any other ordinance, then the applicant shall pay only the larger review fee exclusive of escrow deposit.

#### **SECTION IV – FINAL PLAN**

##### **C. IMPROVEMENT GUARANTEE**

- 1) Purpose: Improvement guarantees shall be provided to ensure that the applicant has the financial capability to properly install and maintain ~~proper installation and maintenance of~~ the required street, utility, and other improvements. The nature and duration of the guarantee shall be structured to achieve this goal without adding unnecessary costs to the developer.
- 2) Application:
  - a) Before the recording of final subdivision plats, or as a condition of final subdivision plan approval, the Planning Board shall require and shall accept in accordance with the standards adopted by ordinance, the following guarantees:
    - 1) The furnishing of a performance guarantee in an amount equal to one hundred twenty-five percent (125%) of the cost of installation for proposed public or quasi-public improvements.
    - 2) Provision for a maintenance guarantee for a period not to exceed one (1) year after final acceptance of the improvement, in an amount not to exceed fifteen percent (15%) of the cost of the improvement. In the event improvements are covered by a performance or maintenance guarantee to another governmental agency, which guarantee is at least as stringent as that required hereunder, in which case, no performance or maintenance guarantee, as the case may be, shall be required by the Planning Board for such utilities or improvements.
    - 3) The time allowed for installation of the improvements for which the performance guarantee has been provided may be extended by the Planning Board but for no more than two additional years.
  - b) Upon substantial completion of all required improvements, the developer may notify the Planning Board of the completion or substantial completion of improvements, and shall send a copy of such notice to the appropriate municipal officials: The Director of Planning and Zoning, the Fire Chief, and/or the Town Engineer. The respective municipal officials shall inspect all improvements of which such notice has been given and shall file a report with the Planning Board indicating either approval, partial approval, or rejection. The cost of the improvements as approved or rejected shall be set forth.
  - c) The Planning Board shall either approve, partially approve, or reject the improvements on the basis of the report of the municipal officials.
  - d) Where partial approval is granted, the developer shall be released from all liability except for that portion of improvements not yet approved.

- 3) Performance and maintenance guarantees shall be provided by a variety of means including, but not limited to, the following which must be approved as to form and enforceability by the Town Manager and Town Attorney:
  - a) Security Bond. The applicant may obtain a security bond from a surety bonding company authorized to do business in the state.
  - b) Letter of Credit. The applicant may provide an irrevocable letter of credit from a bank or other reputable lending institution.
  - ~~e) Escrow Account. The applicant may deposit cash, or other instruments readily convertible into cash at face value, either with the municipality, or in escrow with a bank. Any such savings book shall require Town signature only and shall stipulate that the Town can withdraw the money, upon forty-eight (48) hour notice to the applicant.~~
  - ~~c) Escrow Account. The applicant may will enter into an escrow agreement with the Town for peer review and for field inspection as set forth in this chapter and section.~~
  - c) Escrow Account. The applicant may deposit cash, or other instruments readily convertible into cash a face value, into a non interest veering account with the Town. The applicant shall enter into an escrow agreement with the Town, which shall stipulate that the Town can withdraw the money upon forty-eight (48) hour notice to the applicant.
  - ~~d) Subdivision Improvement Guarantee. The Conditional Agreement, if acceptable in lieu of a Performance Guarantee, shall be endorsed by the Planning Board on the Final Plan, and shall provide that no lot or parcel of land may be conveyed, and that no permit may be issued by the Building Inspector for any building on any portion of the development until the completion of all streets, utilities, and other public or quasi-public improvements.~~

#### **CHAPTER IV – SITE PLAN REVIEW**

##### **SECTION VII - PROCEDURES FOR AN ADMINISTRATIVE REVIEW OF DEVELOPMENTS**

- A. Pre-application Conference - Applicants for site plan review of an Administrative Review development are encouraged to schedule a pre-application conference with the Town Planner. The purpose of this meeting is to familiarize the applicant with the review procedures and submission requirements, and the approval criteria and to familiarize the Director with the nature of the project. No decisions relative to the plan may be made at this meeting.
 

In connection with the pre-application review, the Town Planner may determine that an on-site inspection be held to familiarize the Site Plan Review Committee with the project site. The on-site inspection shall be scheduled by the Town Planner and shall be attended by the applicant and/or the applicant's representative and members of the Site Plan Review Committee.
- B. Application Procedure - The owner or his representative shall submit a formal application for Administrative review and approval to the Office of the Town Planner. The application shall consist of:
  - 1) A fully executed and signed copy of the application for site plan review (provided by the Town),
  - 2) One (1) original of the site plan on durable, permanent transparency material,
  - 3) Seven (7) copies of a site plan and supporting documentation as described in Subsection C,
  - 4) The required publishing and public notice, ~~review;~~ application, and independent consulting and peer review fees.

Upon receipt of an application, the Planning Office shall provide the applicant with a dated receipt showing the nature of the application and the fees paid.

##### **SECTION VIII - PROCEDURES FOR MAJOR DEVELOPMENTS**

- B. Application Procedure
  - 1) A fully executed and signed copy of the application for site plan review (provided by the Town),
  - 2) One (1) original of the site plan on durable, permanent transparency material,
  - 3) Fifteen (15) copies of a site plan and supporting documentation as described in Subsection C,
  - 4) The required publishing and public notice, ~~review;~~ application, and independent consulting and peer review fees.

Upon receipt of an application, the Planning Office shall provide the applicant with a dated receipt showing the nature of the application and the fees paid.

- D. Review Procedures

8) Improvement guarantee - The Planning Board may require the posting of an improvement guarantee in such amount as is reasonably necessary to ensure the proper installation and one year of maintenance of all off-site improvements required as conditions of approval. The nature and duration of the guarantee shall be structured to achieve this goal without adding unnecessary costs to the applicant.

a. Application

1. As a condition of final site plan approval, the Planning Board may require and shall accept in accordance with the standards adopted by ordinance, the following guarantees:

- a) The furnishing of a performance guarantee in an amount equal to one hundred ~~twenty five~~ percent ~~(100%)~~ ~~(125%)~~ of the cost of installation for proposed public or quasi-public off-site improvements.
- b) Provision for a maintenance guarantee for a period not to exceed one (1) year after final acceptance of the improvement, in an amount not to exceed fifteen (15%) percent of the cost of the improvement. In the event improvements are covered by a performance or maintenance guarantee to another governmental agency, which guarantee is at least as stringent as that required hereunder, no performance or maintenance guarantee, as the case may be, shall be required by the Planning Board for such improvements.
- c) The time allowed for installation of the off-site improvements for which the performance guarantee has been provided may be extended by the Planning Board, but for no more than two additional years.

2. Upon substantial completion of all required improvements, the developer shall notify the Planning Board of the completion or substantial completion of improvements, and shall send a copy of such notice to the appropriate municipal officials: the Director of Planning and Zoning, the Fire Chief, and/or the Town Engineer. The respective municipal officials shall inspect all improvements of which such notice has been given and shall file a report with the Planning Board indicating either approval, partial approval, or rejection of such improvements with a statement of reasons for any rejection. The cost of the improvements as approved or rejected shall be set forth.

3. The Planning Board shall ~~either~~ approve, partially approve, or reject the improvements on the basis of the report of the municipal officials.

4. Where partial approval is granted, the developer shall be released from all liability except for that portion of improvements not yet approved.

a. Form of Guarantee

Performance and maintenance guarantees may be provided by a variety of means including, but not limited to, the following which must be approved as to form and enforceability by the Town Manager and Town Attorney:

1. Security Bond. The applicant may obtain a security bond from a surety bonding company authorized to do business in the state.
2. Letter of Credit. The applicant may provide an irrevocable letter of credit from a bank or other reputable lending institution.
3. Escrow Account. The applicant may deposit cash, or other instruments readily convertible into cash at face value ~~either with the municipality, or in escrow with a bank. Any such savings book shall require Town signature only and shall stipulate that the Town can~~

withdraw the money into a non interest bearing account with the Town. The applicant shall enter into an escrow agreement with the Town, which shall stipulate that the Town can withdraw the money, upon forty-eight (48) hour advance notice to the applicant.

## **SECTION V - APPROVAL PROCESS**

### 5.2 Application

#### B. Application for Planning Board Approval

10) A form of surety approved by the Planning Board to pay for the costs of removing the facility if it is abandoned shall be provided by a variety of means including, but not limited to, the following which must be approved as to form and enforceability by the Town Manager and Town Attorney:

~~e) Escrow Account. The applicant may deposit cash, or other instruments readily convertible into cash at face value, either with the municipality, or in escrow with a bank. Any such savings book shall require Town signature only and shall stipulate that the Town can withdraw the money upon forty-eight (48) hour advance notice to the applicant.~~

~~e) Escrow Account. The applicant will enter into an escrow agreement with the Town for peer review and for field inspection as set forth in this Chapter and Section.~~

c) Escrow Account. The applicant may deposit cash, or other instruments readily convertible into cash a face value, into a non interest veering account with the Town. The applicant shall enter into an escrow agreement with the Town, which shall stipulate that the Town can withdraw the money upon forty-eight (48) hour notice to the applicant.

### 5.4. Fees

A. Application fee for approval by Code Enforcement Officer. A non-refundable application fee in an amount(s) and for such purposes 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 of the Wireless Telecommunications Facilities application. The application shall not be considered complete and will not be processed until this fee is paid.

B. Application Fee for approval by Planning Board. A non-refundable application fee for Planning Board approval shall include a non-refundable payment of an application fee established by the Town Council and amended from time to time in an amount(s) and for such purposes 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 of the Wireless Telecommunications Facilities application. The application shall not be considered complete until this fee is paid.

C. Independent Consulting and Peer Review Fees. An applicant for approval by the Planning Board shall pay all reasonable and customary fees incurred by the municipality that are necessary to review the application, per Chapter II, Section VIII. The peer review fee shall be paid in full prior to the release of the signed permit and prior to the start of construction.

#### D. Notice of Complete Application

If the application is deemed to be complete, and requires Planning Board review, the Planning Department shall notify all abutters to the site as shown on the Assessor's records, by first-class mail. This notice shall contain a brief description of the proposed activity and the name of the applicant, give the location of a copy of the application available for inspection, and provide the date, time, and place of the Planning Board meeting at which the application will be considered. Failure on the part of any abutter to receive such notice shall not be grounds for delay of any consideration of the application nor denial of the project.

Councilor Caldwell asked to be recused from Items #7784 and #7785 because she lives in this development and is a member of the association.

**Item #7784** Moved by Councilor Robinson, seconded by Councilor Miner and **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled accept Peregrine Drive, located in Pheasant Knoll off Fort Hill Road, as a public way; and,

**BE IT FURTHER ORDERED** that Peregrine Drive be classified as an Urban Subcollector Road. **6 yeas, 1 recused (Caldwell).**

**Item #7785** Moved by Councilor Robinson, seconded by Councilor Miner and **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled accept Falcon Crest Drive, located in Pheasant Knoll off Fort Hill Road, as a public way; and,

**BE IT FURTHER ORDERED** that Falcon Crest Drive be classified as an Urban Subcollector Road. **6 yeas, 1 recused (Caldwell).**

**Item #7786** was moved by Councilor Loveitt and seconded by Councilor Mattingly. Moved by Councilor Caldwell, seconded by Councilor Mattingly and **VOTED** to amend the proposed order to add “;and, be it further ordered that if the town receives a grant offer, the grant be brought back to the Town Council for final acceptance”. **6 yeas, 1 nay (Csoros).** The amended order was then voted. **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled authorize the Town Manager and the Fire Chief to apply for a Federal Safer Act Grant for two firefighter positions; and,

**BE IT FURTHER ORDERED** that if the town receives a grant offer, the grant be brought back to the Town Council for final acceptance. **5 yeas 2 nays (Csoros & Miner).**

**Item #7787** to refer a request to rezone property located at 630 Main Street did not receive a motion and therefore was not discussed or voted by the Town Council.

Moved by Councilor Mattingly, seconded by Councilor Miner and **VOTED** to waive the rules and take up an item not on the agenda. **6 yeas, 1 nay (Caldwell).**

Moved by Councilor Robinson, seconded by Councilor Miner and **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled accept the proposal from the Maine Municipal Association for Worker’s Compensation Insurance. **7 yeas.**

Moved by Councilor Loveitt, seconded by Councilor Mattingly, and **VOTED** to adjourn the meeting at 9:20 pm. **7 yeas.**

A TRUE RECORD OF MEETING

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