

REPORT OF THE REGULAR MEETING OF THE GORHAM TOWN COUNCIL February 3, 2009 - 7:00 p.m.

Chairman Robinson opened the meeting at 7:01 pm.

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

Moved by Councilor Phinney, seconded by Councilor Miner and **VOTED** to accept the minutes of the January 6, 2009 Regular Town Council Meeting. **7 yeas.**

Open Public Communications

Hans Hansen, Hansen's Farm Market in South Gorham, reported that he surveyed businesses in his area and he calculates that 99% are in favor of changing the zoning. Contract zoning is not a good idea for a small business. Mr. Hansen stated that his business is for sale and he presented some information and a map of the area showing who he has contacted.

Representative Jane Knapp gave a report on actions in Augusta. Bills have been submitted and she is thankful there are not as many as in years past. Bills are being referred to committees and hearings have begun. On Friday they had an all day symposium on health care. Rep. Knapp thanked the citizens for sending her to Augusta. Chairman Robinson asked Rep. Knapp why she had voted in favor of the supplemental LD 45 to reduce another 27 million dollars from education. Rep. Knapp explained that she is a proponent of education. People worked very diligently in the Appropriations Committee on this. Everyone took a hit and she saw this as a bipartisan effort. Councilor Phinney commented that rather than make serious cuts themselves they seem to pass the buck to the towns and it is frustrating to see the state do this. Councilor Csoros asked if the EPS formula was changed or was it a reduction of money the state would provide to the old formula. Rep. Knapp understands that they are still using the old formula. Councilor Csoros commented that if the state is going to cut their budget, they should cut their budget and not the money going to the towns.

Matt Mattingly, PineCrest Bed & Breakfast on South St., expressed that it was a pleasant surprise to see the effect the opening of the bypass was to his business. There is a significant difference in travel time for guests of the Inn and he can turn left onto South St. in evening traffic.

Rep. Knapp showed a map of the representative districts and pointed out the difference in size between the northern and southern districts noting the northern districts are much larger.

Councilor Communications

Councilor Moulton apologized for his absence last week due to a death in the family. He reported that the Capital Improvements Committee will meet on Feb. 12th at 9 am in the conference room. On Jan. 14th, he attended a Greater Portland Council of Governments (COG) meeting. They discussed some regionalization items such as Code Enforcement. They also discussed a regional comprehensive plan and this is in the very early stages of thought and planning. COG will hold a Main Street Marketplace on Feb. 10th at USM to discuss support to the local food system. They will also hold a

sustainability Forum on March 27th at USM with speaker Michael Schuman and a panel discussion with local business and economic leaders. Go to www.gpcog.org for more info and registration. Councilor Moulton reported that he spoke with Senator Bartlett and asked that he submit a bill to include a municipal fee with traffic violations so towns will get some money to help pay for costs associated with traffic enforcement. Currently, Gorham Police Officers attend court for traffic violations but all of the money collected goes to the state. The state does send a small compensation that is not nearly what the town's cost is. Councilor Moulton is pleased that a state official is working with a town official and he will be looking for a resolution in support of this bill when it is written.

Councilor Caldwell reported that the Finance Committee met Jan. 27th and the Town Manager updated them on the progress of the audit and it is coming along well. She met on Jan. 23rd with the auditor and she was pleased with what she heard. The auditor told her that Gorham is very lucky because we have one of the best Finance Directors in the state.

Councilor Loveitt reported that Ecomaine continues to meet and there is a diligent effort to salvage profitability or at least solvency. Councilor Loveitt, on behalf of Chairman Robinson, attended the dedication of the Town Clock at the Congregational Church. Mr. Cole and Councilors Caldwell and Moulton were also there and it went very well. The Ordinance Committee has met and will meet again tomorrow with GOCAT. Councilor Loveitt's goal is to have the Committee come up with a prototype ordinance for the Town Council to hear at the March meeting.

Chairman Robinson thanked Councilor Loveitt for attending the Town Clock dedication on his behalf and he is pleased that the clock is finally resting where it is.

Councilor Csoros attended the Legislative Policy Committee meeting in Augusta. There were about 100 people in attendance, Town Managers, Town Councilors, and members of the Legislature. It was interesting to see how people reacted to state budget cuts. There is genuine fear about how towns will make ends meet. Gorham residents can take comfort that Gorham is conservatively fiscally managed. There are some towns very worried about how they will deal with these cuts. Councilor Csoros reported that the Appointments Committee will be meeting soon and volunteers are needed. He asked citizens that are interested in volunteering to serve on town boards and committees to submit an application to the Town Clerk's office.

Chairman's Report

Chairman Robinson reported that he attended a meeting on Jan. 20th with Town Manager David Cole, Town Planner Deb Fossum, Code Enforcement Officer Clint Cushman, Chief Lefebvre, Public Works Director Bob Burns, and Economic Development Director Tom Ellsworth and they discussed concerns some businesses have had and what the town can do to help. A workshop is scheduled for Feb. 10th at 6 pm to discuss some of the comments we have been hearing over the years and to discuss the proposed new Department Head position. Chairman Robinson stated that Gorham is keeping a close eye on all of the finances and the audit is in process. The Town Council has been fiscally responsible. Gorham has not used fund balance money on payroll. They are constantly monitoring and looking for ways to save money and

reduce expenses. The GOCAT Committee will meet again on Feb. 12th. Chairman Robinson welcomed Boy Scout Troop 73 in attendance tonight to work on their communications merit badge.

Town Manager's Report

Town Manager David Cole reported that the Gorham Food Pantry will have a ribbon cutting ceremony this Saturday at 10 am. The town donated a portable building and secured a grant for the Food Pantry to establish a new facility. The Maine Turnpike Authority kickoff meeting on the East-West Corridor study will be Feb. 24th. The audit is coming along well and we may yet try to obtain the Certificate of Financial Achievement.

School Committee Report

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

- The Maine Emergency Management Agency recommends every school have an Emergency Management plan in place. This is a large and time consuming project but will be extremely useful if the need arises to use it. Mr. Libby thanked Police Chief Shepard and Fire Chief Lefebvre and staff for their help.
- The Pledge of Allegiance at Gorham High School began being recited with morning announcements on Jan. 26th.
- The State supplemental budget was approved and this includes a cut to General Purpose Aid to schools. The amount cut to Gorham is \$324,552. The administrative team has come up with a plan to defer purchases instead of making further staff reductions. While the School Department continues to actively seek ways to reduce costs, Chairman Libby is fearful that there may be a significant impact to how students will receive their education in Gorham.
- The White Rock School replacement project continues to make progress. A public forum is scheduled for Feb. 9th in the upstairs conference room.
- Next edition of School Talk will feature Mike Wing and Cindy Hazelton
- Next School Committee meeting will be Feb. 11th
- An all day budget meeting is scheduled for March 14th

Councilor Loveitt stated that he would like to hear the School Department's philosophies regarding required reductions. Athletics, drama, and band are not necessarily classroom related. He hopes that innovation will be used with respect to funding some things from something other than the tax base. Councilor Loveitt is concerned to see classroom sizes increased to the detriment of the student while other activities continue business as usual. Chairman Libby indicated everything that they do is based on three principles, numeracy, literacy and citizenship, and they feel athletics and extra curricular activities are part of this philosophy. They will review all programs to look for savings. Councilor Loveitt looks forward to their report in March. Councilor Phinney commented on places where we can save money and they can look for new revenue streams. There could be pay-to-play fees in place. Chairman Robinson asked if the School Committee would like to do a presentation at the March meeting and to let David Cole know if they do. Chairman Robinson stated that pay to play fees can be for all programs, not just sports.

Chairman Robinson would like to know how many kids there are in Gorham schools that don't live in Gorham. Chairman Libby did not know the number and explained the process.

Chairman Robinson asked if there has been any conversation with the teachers union about their contracts and salaries. Chairman Libby replied that the teacher's union contracts are not up for negotiation until next year and the other two union contracts are up this year and are currently being reviewed. Chairman Robinson stated that everyone will have to give a little to get through this. He does not want to see non-union employees taking it on the chin because it is an easier move than union contracts and would like all contracts opened. Chairman Robinson is looking for a flat tax increase this year and everyone has to be open minded. Chairman Libby responded that they are considering all options and no stone will be left unturned.

Department Report – Police Department

Police Chief Ronald Shepard thanked the Town Council for allowing him to be here to give this report. Chief Shepard reported that the Gorham Police Department has evolved from a part time constable service. Willis Carl was the first Police Chief in 1958 and was part time with a part time staff. Patrols were made by one or two men in their own personal vehicles. They brought 19 cases before the Municipal Court in Westbrook, handled 26 accidents and dealt with numerous juvenile delinquents. At the annual town meeting in 1964 it was voted to hire the first full time Police Chief with an appropriation of \$15,000. Chief Shepard continued to report on the history of the Gorham Police Department. Chief Shepard joined the force in 1972 as a Police Officer and he was the sixth person in the Police Department at that time. In 2007 the Police Department handled over 16,000 calls for service, made 423 arrests, issued almost 3,000 traffic summonses and investigated 544 accidents. Chairman Robinson thanked Chief Shepard for his presentation.

New Business

Moved by Councilor Loveitt, seconded by Councilor Caldwell and **VOTED** to take item #7672 out of order and hear it now. **7 yeas.**

Item #7672 was moved by Councilor Phinney and seconded by Councilor Loveitt. Representative Knapp reported that she has submitted legislation to have the Gorham Bypass named the Bernard P. Rines Highway and reported on Mr. Rines' service to the town. Hans Hansen commented that Bernard Rines also made irrigation pumps and he bought one almost 50 years ago and it is still running. The proposed order was then **VOTED.**

Whereas, the Town of Gorham, worked for over fifty years and endured at least 16 major planning studies, to obtain a highway Bypass of Gorham Village and reduce traffic congestion; and,

Whereas, Bernard P. Rines, a life long resident of Gorham, worked at times in an official capacity as a member of the Gorham Town Council or as Gorham's representative on one of the various study committees that existed over the past fifty years, and sometimes in an unofficial capacity as an interested member of the Gorham community, to advance the cause of obtaining the Gorham Bypass; and,

Whereas, Bernard P. Rines, served on the Gorham Bypass Environmental Assessment Study Advisory committee, which directly led to the actual construction of the Southern Route of the Gorham Bypass; and,

Whereas, Bernard P. Rines, has exhibited great dedication with his tireless efforts to advance the cause of the Gorham Bypass over many years, and exhibited uncommon and unselfish public service to the Town of Gorham,

Now Therefore Be It Resolved that the Town Council of Gorham, Maine in Town Council assembled hereby asks the Maine Legislature to recognize the sustained and dedicated efforts of Mr. Rines and formally name the southern route of the Gorham Bypass, the Bernard P. Rines Highway. **7 yeas.**

Public Hearing #1 Chairman Robinson opened the public hearing to consider approval to renew a Massage Therapist / Establishment License. There were no comments from the public. Chairman Robinson closed the public hearing.

Item #7667 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 renewal of a Massage Therapist / Establishment License for Michelle C. Loeber to expire December 31, 2009. **7 yeas.**

Public Hearing #2 Chairman Robinson opened the public hearing to consider approval to renew a liquor license for Lucky Thai Restaurant. There were no comments from the public. Chairman Robinson closed the public hearing.

Item #7668 Moved by Councilor Loveitt, seconded by Councilor Miner and **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled approve the renewal of a liquor license for Lucky Thai Restaurant. **7 yeas.**

Public Hearing #3 Chairman Robinson opened the public hearing to consider approval to renew a liquor license for PineCrest Bed & Breakfast, LLC. Matt Mattingly, owner of PineCrest Bed & Breakfast, spoke about his business. Chairman Robinson closed the public hearing

Item #7669 Moved by Councilor Caldwell , seconded by Councilor Moulton and **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled approve the renewal of a liquor license for PineCrest Bed & Breakfast, LLC. **7 yeas.**

Public Hearing #4 Chairman Robinson opened the public hearing on a proposal to amend the Land Use and Development Code, Chapter II, General Standards of Performance and Chapter IV, Site Plan Review relative to noise. Larry Grondin of R. J. Grondin & Sons explained that they were not aware of this noise ordinance change and they have some concerns about it. Mr. Grondin asked that this go back to committee. Chairman Robinson closed the public hearing

Item #7670 on a proposal to amend the Land Use and Development Code, Chapter II, General Standards of Performance and Chapter IV, Site Plan Review relative to noise was moved by Councilor Loveitt and seconded by Councilor Phinney. Moved by Councilor Loveitt, seconded by Councilor Moulton and **VOTED** to postpone action on this item and send it back to the Ordinance Committee for further review. **7 yeas.**

Public Hearing #5 Chairman Robinson opened the public hearing on a proposal to amend the Land Use and Development Code, Chapter II, Section 5 (E), Acceptance of Streets and Ways, to remove the Planning Board from the street acceptance process. There were no comments from the public. Chairman Robinson closed the public hearing.

Item #7671 was moved by Councilor Phinney, seconded by Councilor Moulton and **VOTED.**

WHEREAS, the Town's Land Use and Development Code requires the Planning Board to hold a public hearing when a developer is asking that a street become a public road, even though the street proposed for acceptance has already been through Planning Board review; and,

WHEREAS, the requirement for another public hearing is a duplication of effort that needlessly costs money and staff time,

NOW THEREFOR BE IT ORDAINED by the Town Council of the Town of Gorham, Maine, in Town Council assembled that Chapter II, General Standards of Performance, Section V – Minimum Standards for the Design and Construction of Streets and Ways, E. Acceptance of Streets and Ways, 4) Streets Offered for Acceptance of the Gorham Land Use and Development Code be as shown in Attachment B.

AMENDMENTS TO GORHAM LAND USE CODE

E. ACCEPTANCE OF STREETS AND WAYS

4) Streets Offered for Acceptance

- a) No street or way shall be placed on the ~~Planning Board's~~ Town Council's agenda until the Developers Engineer has certified that the streets or ways were constructed in accordance with the specifications of the Town of Gorham's Land Use and Development Code and in accordance with the plans approved by the Planning Board and that "Record Drawings" are accurate. No road may be placed on a ~~Planning Board~~ Town Council agenda until:
 - (i) the Public Works Director or the Director's designee has issued a final report that the road is complete and meets the appropriate specifications of the Town's Land Use and Development Code and
 - (ii) the Planning Director, after consultation with the Public Works Director or the Director's designee, has determined in writing that there is no outstanding condition or restriction placed on the applicable subdivision plan or other Town-approved plan on which the proposed streets or ways have been proposed that have not yet been satisfactorily completed in accordance with the requirements of such plan.
- b) ~~No street or way shall be placed on the Town Council's agenda for consideration or accepted by the Town Council until the Planning Board and the Public Works Director or the Director's designee shall have made a careful investigation thereof, and shall have reported to the Town Council their recommendations in writing with respect thereto.~~ Such ~~investigation report~~ shall include results of at least one (1) core sample from the base course and may include more than one core sample for each road proposed for acceptance as a public way with the core sample and reports paid for by the applicant.
- c) The owner shall warranty all public improvements for a period of one year from the date of acceptance and post a maintenance guarantee per the subdivision ordinance. At the conclusion of the one-year warranty period, the owner shall request the Public Works Director or the Director's designee to prepare a written report of inspection prior

to the release of the improvement guarantee, per the requirements of Chapter III, Section IV, C., a, 2).1

d) No street may be accepted unless the Town Council finds that acceptance is in the public interest and for

(i) residential subdivisions consisting of more than twenty (20) lots, no street may be accepted until certificates of occupancy have been issued for at least 50 % of the housing units on that street in the subdivision or,

(ii) in the case of a street in a subdivision for which the Planning Board has formally granted approval for phased construction, until certificates of occupancy have been issued for 50% of the housing units on that street in the phase in question.

e) The surface pavement shall not be placed until the base paving has gone through one (1) complete winter. The application of a tack coat and/or shim coat to the base may be required by the Public Works Director or the Director's designee, when necessary, to insure appropriate bonding between base and final surface coats of pavement.

f) Notwithstanding the provisions of any other Section hereof, the Town may at any time lay out and accept any street or way in the Town of Gorham, Maine, as a public street or way of said Town whenever the general public interest so requires. The cost of said street or way may be borne by said Town or may be borne by another party.

~~g) Notwithstanding paragraph e) above, a street may be accepted by the Town Council prior to final paving, provided that 150% of the cost of completion, as estimated by the Public Works Director or the Director's designee is deposited in a road improvement account with the Town. Any funds not used shall be returned to the developer upon completion. 7 years.~~

Item #7672 This item was taken out of order and heard at the beginning of new business prior to Public Hearing #1.

Item #7673 Moved by Councilor Phinney, seconded by Councilor Loveitt and **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled accept Gorham Industrial Park Way, located off of Mosher Road (Route 237), as a public way; and,

BE IT FURTHER ORDERED that Gorham Industrial Park Way be classified as an industrial / commercial road. **7 years.**

Item #7674 to accept Harding Bridge Road Extension as a public way was moved by Councilor Phinney and seconded by Councilor Loveitt. Town Manager, David Cole reported that this item is not yet ready to be voted on. Moved by Councilor Loveitt, seconded by Councilor Moulton and **VOTED** to postpone action on this item. **7 years.**

Item #7675 Moved by Councilor Moulton, seconded by Councilor Phinney and **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled refer a proposal to develop an ordinance to regulate windmills to the Ordinance Committee for their review and recommendation. **7 years.**

Item #7676 Moved by Councilor Loveitt, seconded by Councilor Moulton and **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled accept perpetual care funds as presented. **7 years.**

Douglass, Stephen & Leslie: Hillside Cemetery, Sec. R, Lot 43 A-D (4 graves)	\$ 800.00
Egers, Cathy: Hillside Cemetery, Sec. R, Lot 44 B (1 grave)	\$ 200.00

Knapp, Jane: Eastern Cemetery, Sec. H, Lot 336 A-D (4 graves)	\$ 500.00
Laskey, George, Jr.: Hillside Cemetery, Sec. R, Lot 38 A-D (4 graves)	\$ 800.00
Laughlin, Rebecca: North Street Cemetery, Sec. 17 E-H (4 graves)	\$ 500.00
Leslie, Edward & Patricia: Hillside Cemetery, Sec. L, Lot 39 A (1 grave) in exchange for Sec. K, Lot 1 A	\$0.00
Meggison, Jane I & Keith E.: Eastern Cemetery, Sec. H, Lot 361 A-D (4 graves)	\$500.00
Paulin, Kim & Roberts, Steven W.: Eastern Cemetery, Sec. H, Lot 350 A-D (4 graves)	\$700.00

Item #7677 Moved by Councilor Phinney, seconded by Councilor Moulton and **VOTED** to waive the clerk reading of the proposed order. **7 years**. The proposed order was moved by Councilor Phinney and seconded by Councilor Moulton. Hans Hansen commented that he would like to see a specific list in the industrial zone. The proposed order was then voted. **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled refer a proposal, to add the following uses as permitted uses to Gorham’s Industrial Zone, to the Ordinance Committee for their review and recommendation: Hotels/Motels with accessory uses of convention center & restaurant within the structure of the motel but no freestanding buildings allowed, Financial Institutions, Hospitals/Clinics for human or animal, Medical Laboratories, Day Care Facilities, Fitness Center, Food Production Facilities, Funeral Homes, Communication Broadcasting Facilities with accessory use of communication towers or satellite dishes but no lone towers allowed as a primary function, Equipment Rental Facilities, Towing Services and Junk Yards with proper screening and buffering from any roadways or residential boundaries, Monument Works, Auto, Truck, RV Rental Storage, Leasing and Repair facilities with accessory retail use, Construction Yards & Offices, Dry Cleaning Plants & Industrial Launderers, Private Vocational Schools. **7 years**.

Item #7678 was moved by Councilor Csoros and seconded by Councilor Miner. Jeremy Green, 27 State St. and owner of the Art Guru, spoke in opposition to this proposal. Roger Flannery, Sign Design, Inc., spoke about a sign his company designed for Ocean Gardens Restaurant and asked that there to be some kind of appeals process in the sign ordinance. Hans Hansen raised issues with non-conforming signs. **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled refer a proposal to amend the sign ordinance, to allow the replacement of legally non-conforming signs, with another non-conforming sign as long as the replacement sign is less non-conforming than the original sign, to the Planning Board to draft the proposed amendment, hold a public hearing and make a recommendation to the Town Council. **4 years, 3 nays (Robinson, Loveitt, Moulton)**.

Moved by Councilor Moulton seconded by Councilor Caldwell and **VOTED** to waive the Council Rules for the purpose of adding an item on the agenda regarding the Gorham East-West Corridor Study. **7 years**.

Moved by Councilor Caldwell seconded by Councilor Phinney and **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled authorize the Town Manager to sign the Memorandum of Agreement between the Maine Department of Transportation, Maine Turnpike Authority, PACTS, and the municipalities of Scarborough, South Portland, Westbrook and Gorham; and,

BE IT FURTHER ORDERED that the Town Council appoints Burleigh Loveitt as Gorham's representative on the Study's Steering Committee. **6 yeas, 1 abstention (Loveitt).**

Item #7679 Moved by Councilor Loveitt, seconded by Councilor Moulton and **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled go into executive session, pursuant to Title 36 M.R.S.A., Section 841 (2) for the purpose of considering an application to abate taxes based on poverty. **7 yeas.**

Moved by Councilor Loveitt, seconded by Councilor Phinney and **VOTED** to come out of executive session. **7 yeas.**

Moved by Councilor Phinney, seconded by Councilor Loveitt and **VOTED** to deny the application #A0901 for an abatement of taxes based on poverty because the applicant has assets that could be used to contribute to the public charge. **7 yeas.**

Moved by Councilor Caldwell, seconded by Councilor Csoros and **VOTED** to adjourn the meeting. **7 yeas.**

A TRUE RECORD OF MEETING

Attest: _____
Christina Silberman, Town Clerk