

**REPORT OF THE REGULAR MEETING OF THE GORHAM TOWN COUNCIL
May 4, 2010 - 7:00 p.m.**

Chairman Phinney opened the meeting at 7:08 pm.

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

Absent: Councilor Robinson

Moved by Councilor Miner, seconded by Councilor Loveitt and **VOTED** to accept the minutes of the April 6, 2010 Regular Town Council Meeting with amendments to the Advisory Referendum Item #7828 as recommended by Town Attorney Bill Dale. **6 yeas.**

Open Public Communications

State Representative Jane Knapp reported to the Town Council on the following;

- Information regarding the Land and Conservation Fund applications for grants.
- Citizens can go online for tax refund status at www.maine.gov/revenue.
- The spring turkey hunting season opened May 3rd and goes to June 5th.
- Maine has averaged over 600 moose/vehicle collisions over the last 10 years so be careful of moose in the roadway.
- Rep. Knapp provided information on the bond packages for the June 8th Election and encouraged people to go vote on Tuesday June 8th.

Councilor Csoros confirmed that the State bond package is 123 million thus far and these would be 20 year bonds.

Councilor Communications

Councilor Loveitt reported that the Department of Transportation / Maine Turnpike Authority Committee continues to meet and good work is being done. There will be a meeting here on Thursday with the Advisory Committee. This reflects well on our community and helps to garner support for Gorham's interests.

Councilor Caldwell reported that the Finance Committee met on April 15th. They wrote off personal property accounts and there is another one that is over \$500.00 on the agenda tonight. The Committee also discussed rescue fees that are also on the agenda tonight. They reviewed the March financials, and discussed the property tax due postcard that was sent. There were some complaints about the postcard but this did save a lot of money and they plan to do the same next year.

Councilor Mattingly reported that he participated in an online seminar by the Maine Planning Office on form based zoning that was very interesting. A quote from the presentation is that "the current code is a textural base full of litigious nuances". The very simplest of projects require an act of god. This continues to reinforce the belief that Gorham is anti small business. This is an unfortunate message to send. Councilor Mattingly stated that we should throw out the current Land Use Code and revert back to the way things were 100 years ago. Councilor Mattingly would like to see the Town have a discussion about form based zoning. Chairman Phinney commented that form based zoning has a lot of interesting aspects. There are plans to have a workshop on form based zoning in June or July.

Councilor Miner reported that the Appointments & Personnel Committee met prior to this meeting and there are a few recommendations for appointments tonight and they are still considering some others.

Chairman's Report

Chairman Phinney reported that he attended the Narragansett School 1st grade musical extravaganza and it was a wonderful performance. Chairman Phinney has heard a number of comments from people who were happy to see the Public Works crews out maintaining the cemeteries. In past years, the weather has made it difficult to get cemetery maintenance done in the spring and we have been blessed with nice weather this spring. Chairman Phinney reported that his children participated in the block party in Gorham Village on Saturday. It was a nice time for everyone involved.

The School board has asked for a member of the Town Council to sit on new school naming committee and Chairman Phinney named Councilor Brenda Caldwell to this committee with no objections.

Town Manager's Report

Town Manager, David Cole, reminded everyone that there is a Statewide and Local Referendum Election on Tuesday June 8th. The Town Clerk has absentee ballots available. The school budget absentee ballots will not be available until May 25th, which is just prior to the Council's vote on the budget, due to state law. There will be a budget workshop with the school on May 18th. Mr. Cole reported that the Planning Board gave final approval to the application and site plan for phase 1 of the Chick property.

School Committee Report

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

- The school budget for FY 2011 was approved by the School Committee and has been submitted to the Town Manager
- The last day of school for students is Wednesday June 16th, graduation for Seniors will be at Merrill Auditorium on Sunday, June 6th
- A School Naming Committee and a Playground Equipment Committee have been initiated for the new elementary school project
- The K-5 Transition Committee has announced Staff placement for the new school, Village School and Narragansett School. The Principals for these schools and student attendance areas will be announced later. The next Building Committee meeting will be June 2nd
- The Race To The Top federal grant program
- The Next School Committee meeting will be May 12th

New Business

Public Hearing #1 Chairman Phinney opened the public hearing to renew the liquor license for Aramark Educational Services, LLC. There were no comments from the public. Chairman Phinney closed the public hearing.

Item #7837 Moved by Councilor Loveitt, seconded by Councilor Caldwell and **ORDERED**, that the Town Council of the Town of Gorham, Maine, in Town Council

assembled approve the renewal of the liquor license for Aramark Educational Services, LLC. **6 yeas.**

Public Hearing #2 Chairman Phinney opened the public hearing on a proposal to amend the Land Use and Development Code Chapter I, Section XVIII. There were no comments from the public. Chairman Phinney closed the public hearing.

Item #7838 Moved by Councilor Loveitt, seconded by Councilor Miner and **VOTED** to waive the reading of the proposed order. **6 yeas.** The proposed order was moved by Councilor Caldwell, seconded by Councilor Loveitt and voted.

WHEREAS, a portion of any new subdivision or project with more than ten lots or units, must be set aside within the development and protected as open space; and,

WHEREAS, the total combined area of the open space shall be a minimum of 10% of the gross area of the parcel; and,

WHEREAS, at least 50% of the required open space must be developed for formal spaces or recreation facilities; and,

WHEREAS, in many instances it is appropriate for the facilities to be placed on parcels that are less than normal size; and

WHEREAS, the current ordinance requires normal (full-sized) lots, unnecessarily burdening the developer and wasting useful land,

NOW THEREFORE BE IT ORDAINED, that the Town Council of the Town of Gorham, Maine, in Town Council assembled approve the amendment to the Land Use and Development Code Chapter I, Section XVIII (E) (5) to allow the setting aside of parcels that are smaller than a normal lot size in the Development Transfer Overlay District for formal recreation facilities as follows: (Note: Additions are underlined and deletions ~~struck out.~~)

5. Open Space

A portion of any new subdivision or project with more than ten lots or units must be set aside within the development and permanently protected as open space to serve the residents of the project. This requirement is in addition to any requirement for the payment of a recreational facilities or open space impact fee. The total combined area of the open space set aside within the subdivision shall be a minimum of ten percent (10%) of the gross area of the parcel. This open space must include an area of usable land as defined by the net acreage provision that is at least five percent (5%) of the total net acreage of the parcel (For example, if the net acreage of the parcel is twenty acres then at least 5% or one acre of the open space must be usable land).

The required open space within the subdivision or project may be used for the following types of uses:

- formal open spaces such as greens, commons, and parks
- passive recreation areas
- natural resource or conservation areas

At least fifty percent (50%) of the required usable land within the open space shall be developed for formal spaces or recreation facilities. The Planning Board may waive or reduce this requirement if it finds that, due to the scale of the development, compliance with this requirement will not result in usable open space.

The setting aside of less-than-lot-sized pieces of land for specific formal spaces or recreation facilities is only permitted in a Development Transfer Overlay District approved subdivision. These areas can be aggregated to meet the 50% of the required usable open space and shall be developed for formal recreation facilities use. Formal recreation facilities shall include, but not be limited to, school bus stops with waiting shelters and/or benches or structures of any type, public monuments, small parks or gardens

with structures such as benches or fountains, playground sets, basketball courts, etc. trail heads with amenities, picnic tables, etc. and may occupy less-than-lot-sized areas within the development. Where appropriate the Planning Board may require buffering or screening from adjoining residential properties.

No parcels less than required lot size may be set aside for any other open space requirements prescribed in the Development Transfer Overlay District standards such as passive recreation areas, or natural resource or conservation areas. **6 yeas.**

Public Hearing #3 Chairman Phinney opened the public hearing to provide information on the Gorham Special Referendum Question #1. Town Manager David Cole explained that this is for a bond for \$3,000,000 for road improvements. There were no comments from the public. Chairman Phinney closed the public hearing. There was no Town Council action for this public hearing.

Public Hearing #4 Chairman Phinney opened the public hearing to provide information on the Gorham Special Referendum Question #2. Town Manager David Cole explained that this is for a bond to replace the Town's heavy rescue vehicle. Fire Chief Bob Lefebvre talked about the need to replace the heavy rescue truck. There were no comments from the public. Chairman Phinney closed the public hearing. There was no Town Council action for this public hearing.

Public Hearing #5 Chairman Phinney opened the public hearing to provide information on the Gorham Advisory Referendum Question #1. Town Manager David Cole explained that this is an advisory question only and it is noncompulsory. The Town Council wants to gauge the sentiment of the community about raising additional funds for capital items. Bill Wise, former Town Councilor, 16 Richard Rd., commented that whenever possible these questions should be put out in November instead of in June because elections in June have a lower turnout than in November. Mr. Wise is not in favor of this and does not feel this matter should go to the voters. Councilor Loveitt explained that the Town Charter still prevails requiring a referendum for expenditures over \$250,000. Councilor Caldwell asked how many ballots each voter will have to vote and commented that voters may want to come early to the polls. James Lockman, 274 North Gorham Road, had questions about the use of the additional funds. Hans Hansen stated that he likes the idea of "pay as you go" and the Town should quit all the borrowing and get back to adding on a little each year. Chairman Phinney closed the public hearing. There was no Town Council action for this public hearing.

Item #7839 The proposed order was moved by Councilor Loveitt and seconded by Councilor Mattingly. Paul Kennedy, Bar Manager at Sebago Brewing Company, explained the request. The order was then voted. **ORDERED**, that the Town Council of the Town of Gorham, Maine, in Town Council assembled approve a temporary extension of privileges for Sebago Brewing Company's liquor license to allow the sale of beer in a roped off area in their parking lot during the Classic Car Cruise Night events on 6/21/10, 6/28/10, 7/05/10, 7/12/10, 7/19/10, 7/26/10, 8/2/10, 8/16/10, 8/26/10, and 8/30/10. **5 yeas, 1 nay (Csoros).**

Item #7840 The proposed order was moved by Councilor Caldwell and seconded by Councilor Miner. Councilor Loveitt stood with Mark Faunce, Moderator at the First Parish Church, to demonstrate that the Church and the Town have come to common ground. Mr. Faunce stated that the First Parish Executive Council did vote to accept the new language in the lease. The proposed order was then voted. **ORDERED**, that the

Town Council of the Town of Gorham, Maine, in Town Council assembled amend the lease agreement approved by the Town Council in Order #7829 on April 6, 2010 with minor amendments that have been mutually developed between the Town and the Church and incorporated into the final lease agreement formally presented to the Town Council for this May 4, 2010 meeting; and,

BE IT FURTHER ORDERED that the Town Council recognizes that the First Parish Congregational Church has formally approved the lease and authorizes the Town Manager to sign the lease on behalf of the town. **5 yeas, 1 nay (Csoros).**

Item #7841 The proposed order was moved by Councilor Caldwell and seconded by Councilor Loveitt. James Lockman, 274 North Gorham Road, Chairman - Cable Television Committee, stated that they have been working very hard to look at what the future will be to best serve the Town Council and citizens of Gorham. Mr. Lockman stated that video streaming is an important step towards broadening the reach of what the Cable Television Committee is doing. They look forward to being able to take the deliberations of committees and other activities and make them available to a broader community. Station Manager Georgia Humphrey further explained this item. The order was then voted. **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled approve a proposal from Virtual Town Hall to provide "Streaming Video" capability for the Town's cable television system; and,

BE IT FURTHER ORDERED that the Town Council appropriate \$7,500.00 from the Capital Reserve Fund for the initial cost of set up and hardware; and,

BE IT FURTHER ORDERED that the Town Council adjust the proposed 2010-2011 budget for the Cable Television account by increasing line # 15181012 by \$3,400.00 and line #15182056 by \$3,000 and by increasing the Cable Franchise Fee Revenue line by \$6,400.00. Councilor Caldwell moved the question, seconded by Councilor Loveitt. **6 yeas.** The order was then **VOTED. 6 yeas.**

Item #7842 Moved by Councilor Loveitt, seconded by Councilor Mattingly and **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled authorize that \$528.00 in personal property taxes, assessed to Sierra's Restaurant for the 2007/2008 fiscal year, be written off because they have gone out of business and the taxes can not be collected, as recommended by the Finance Committee. **6 yeas.**

Item #7843 Moved by Councilor Loveitt, seconded by Councilor Caldwell and **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled approve an increase in Rescue User Fees as proposed, effective June 1, 2010.

Proposed Adjustments

1. Increase the mileage rate from \$9.00 per mile to \$10.00 per mile.
2. Increase the BLS rate from \$350 to \$368
3. Increase the ALS rate from \$625 to \$633
4. Increase the IV rate from \$90 to \$100
5. Intraosseous infusion IV procedure -- \$150 (new)
6. CPAP (constant positive airway pressure) \$100 (new)

7. Glucose Scan \$25 (new) **6 yeas.**

Item #7844 Moved by Councilor Caldwell, seconded by Councilor Loveitt and **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled appoint additional board and committee members as recommended by the Town Council Appointments Committee at their meeting on May 4, 2010. **6 yeas.**

Cable Television Committee: Tim Plumer to an existing vacancy with a term to expire 4/1/2012, **Recycling Committee:** Kimberly Hammond to a three year term to expire 4/1/2013, **Baxter Memorial Library Board of Trustees:** David Arthur Fogg, Geraldine Day & Rita Cantor to three year terms to expire 4/1/2013.

Item #7845 Moved by Councilor Mattingly, seconded by Councilor Loveitt and **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled authorize the Town Clerk to issue the warrant for the June 8, 2010 Special Referendum and School Budget Validation Referendum Election; and,

BE IT FURTHER ORDERED that the Town Council appoint the following persons as Wardens and Ward Clerks for the designated voting districts for the June 8, 2010 Election and if any of the following should fail to serve the Town Council hereby gives the Town Clerk the authority to appoint substitutes:

District 1 - Linda Deering, Warden and Laurel Smith, Ward Clerk

District 2 - Pat Clay, Warden and Nancy Kenty, Ward Clerk

Central - Connie Loughran, Warden and Christina Silberman, Ward Clerk

BE IT FURTHER ORDERED that the Registrar of Voters be in session during regular office hours on Tuesday, June 1, 2010, Wednesday, June 2, 2010, Thursday, June 3, 2010, Friday June 4, 2010, and Monday, June 7, 2010 and,

BE IT FURTHER ORDERED that the Town Clerk be authorized to process absentee ballots at the Gorham Municipal Center on Monday, June 7, 2010 starting at 10:00 am and on Tuesday June 8, 2010 at 9:00 am, 11:00 am, 1:00 pm, 3:00 pm, 5:00 pm, 7:00 pm and at 8:00 pm. **6 yeas.**

Item #7846 Moved by Councilor Loveitt, second by Councilor Mattingly and **VOTED** to read the introduction and changes in the proposed order only. **6 yeas.** The proposed order was moved by Councilor Loveitt and seconded by Councilor Caldwell. Ginger Proulx, 244 Libby Ave., spoke in favor of the proposed changes. The order was then voted. **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled refer a proposal to amend the Land Use Development Code Chapter I, Section VI (C)(2) to allow the keeping of farm animals on lots smaller than six acres to the Planning Board for public hearing and their recommendation. **5 yeas, 1 nay (Csoros).**

Item #7847 Moved by Councilor Caldwell, seconded by Councilor Loveitt and **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled approve an updated Mission Statement for Baxter Memorial Library, as recommended by the Baxter Memorial Library Board of Trustees and as recommended by the Ordinance Committee. **5 yeas, 1 nay (Csoros).**

Item #7848 The proposed order was moved by Councilor Miner and seconded by Councilor Mattingly. Richard Curtis, 76 Wards Hill Road, President - Presumpscot

Region Land Trust, thanked the Town Council for considering this resolution for the Sebago to Sea Coalition and spoke about the proposed trail. Councilor Loveitt recognized Mr. Curtis for his volunteer work. The order was then and **VOTED**.

WHEREAS, citizens, land trusts, conservations groups and municipalities in the Presumpscot River Watershed are working together to create a contiguous trail connecting Sebago Lake to the Sea at Casco Bay; and

WHEREAS, members of these groups have formed the “Sebago to the Sea Coalition” to advance the planning and construction of the trail; and

WHEREAS, a trail linking these destinations would benefit the residents of and visitors to the region; and

WHEREAS, a trail linking these destinations would serve as a regional transportation and recreational corridor; and

WHEREAS, along existing rail corridors, trails and rails are compatible; and in such corridors the trail will be located as to preserve the option of future rail service; and

WHEREAS, the Town of Gorham seeks more regional connectivity; and

WHEREAS, the Town of Gorham supports trail use as a healthy and desirable activity;

NOW, THEREFORE, BE IT RESOLVED that the Town of Gorham, in collaboration with the Sebago to the Sea Coalition, supports the planning and development for the Sebago to the Sea Trail. **6 yeas**.

Item #7849 Moved by Councilor Loveitt, seconded by Councilor Mattingly 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. **6 yeas**.

Moved by Councilor Loveitt, seconded by Councilor Csoros and **VOTED** to come out of executive session. **6 yeas**.

Councilor Caldwell was recused from voting on this item. She identified the applicant as a friend and felt it may create a favorable bias in her view of the application.

Moved by Councilor Loveitt, seconded by Councilor Miner and **VOTED** to deny application #A1002 for an abatement of taxes based on poverty because the applicant had assets to contribute to the public charge and was not delinquent with any taxes. **5 yeas, 1 recused (Caldwell)**.

Moved by Councilor Mattingly, seconded by Councilor Miner and **VOTED** to adjourn the meeting at 9:52 pm. **6 yeas**.

A TRUE RECORD OF MEETING

Attest: _____
Christina Silberman, Town Clerk