

GORHAM TOWN COUNCIL

REPORT OF THE REGULAR MEETING

NOVEMBER 15, 2011

Gorham Municipal Center Burleigh H Loveitt Council Chambers

Chairman Robinson opened the meeting with the Pledge of Allegiance; there were eleven (11) members of the public present at the start of the meeting.

Roll Call of the 2010-2011 Town Council: Present Chairman Robinson; Councilors: Caldwell, Gagnon, Mattingly, Phinney, and Pressey. Absent Miner.

Also present were Town Manager, David Cole and Town Clerk, Connie Loughran

Moved by Councilor Phinney, seconded by Councilor Gagnon and VOTED to accept the minutes of the October 4, 2011, Special Meeting, October 4, 2011 Regular Meeting and the October 18, 2011 Special Town Council Meeting. 6 yeas.

Open Public Communications

Hans Hansen reminded everyone that a special smoke detector is needed if gas appliances are used.

Councilor Communications

Councilor Mattingly praised Shaw Earthworks on the completion of the new round-about on New Portland Road and also the Public Works Department for their response to a sidewalk issue after the snow storm.

Councilor Gagnon thanked everyone that came out to vote on November 15, 2011 and reminded everyone that he is on the Jetport Noise Abatement Committee.

Councilor Caldwell welcomed the newly elected Councilor Suzie Phillips and congratulated Councilor Phinney on his re-election. She also reminded candidates to remove their signs from the right of way. On Veterans Day Councilor Caldwell attended the Baxter Memorial Library Veterans Celebration and congratulated Librarian, Pamela Turner, GOCAT manager, Georgia Humphrey and Photographer, Martha Harris on an excellent program. She also thanked all the veterans who participated.

Chairman's Report

Chairman Robinson reported that he also attended the Veterans Day Event and he feels it was by far one of the best events he has attended in Gorham. He reported that the interviews would be replayed on GOCAT for everyone to enjoy. Chairman Robinson congratulated the winning Council Candidates, Suzie Phillips and Michael Phinney and also congratulated the three (3) winning School Committee Candidates and Cumberland County Commissioner, Neil Jamieson. He also encourages the County Commissioners to listen to the Towns' representatives when working on the County budget. Chairman Robinson also attended the Gorham Education Spelling Bee. He also acknowledged the passing of Phil Dugas who had served on the Council for 14 years.

Town Manager's Report

Town Manager, David Cole reported that he had issued a 5 year service pin to Jeff Grant and a 10 year service pin to Dave Herrick both of the Public Works Department. Mr. Cole presented a 25 year service pin to Town Clerk, Connie Loughran.

Election Report

Town Clerk, Connie Loughran reported that at the November 8, 2011 Annual Municipal Election Suzanne E. Phillips and Michael J. Phinney were elected to three (3) year terms on the Town Council and Anne M. Lawrence, Dennis C. Libby and Sara M. Nelson were elected to three (3) years terms on the School Committee.

The Town Clerk conducted the swearing in of the newly elected Town Councilors, Suzanne E. Phillips and Michael J. Phinney.

Roll Call of the 2011-2012 Town Council: Present: Councilors Caldwell, Gagnon, Mattingly, Phillips, Phinney, Pressey and Robinson.

New Business

Item #8087 Moved by Councilor Phinney, seconded by Councilor Pressey and VOTED to elect Brenda Caldwell as Chairman of the 2011-2012 Gorham Town Council. 7 yeas

Item #8088 Moved by Councilor Robinson, seconded by Councilor Phinney and VOTED to elect Philip Gagnon as Vice-Chairman of the 2011-2012 Gorham Town Council. 7 yeas

Item #8089 Moved by Councilor Phinney, seconded by Councilor Robinson and VOTED to appoint the following members to Town Council Committees for 2011-2012 with the first person listed as the Chairman:

Finance Committee	Improvements Committee
Philip Gagnon, Chairman	Matthew Mattingly
Matthew Mattingly	Philip Gagnon
Suzanne Phillips	Michael Phinney
Ordinance Committee	Representative to the Greater Portland Council of Governments
Michael Phinney, Chairman	John Pressey
Matthew Robinson	Philip Gagnon, Alternate
John Pressey	
Appointments/Personnel Committee	Ecomaine Representative
John Pressey, Chairman	David Cole
Suzanne Phillips	
Matthew Robinson	Representative to the Jetport Noise Abatement Committee
Economic Development/Capital	Philip Gagnon

Item #8090 The prepared order was moved by Councilor Phinney, seconded by Councilor Gagnon, Councilor Gagnon presented Section 32 *Policies of the Gorham Town Council* and requested that in Policy Two: *Volunteer Board and Committee Reporting and Organization* be reworded by deleting the wording from "The Volunteer" to "prior year" and in Policy Four to strike 'first be with' and replace with 'notify' Moved by Councilor Phinney, seconded by Councilor Robinson and VOTED to AMEND Policy One by removing the words "any volunteer board or committee" and replace with "the Planning Board, Zoning Board of Appeals or the Economic Development Corporation" 7 yeas Moved by Councilor Phinney, seconded by Councilor Robinson and VOTED to AMEND Policy Three: Council Procedure by inserting after the word drafting 'and inquiries to committees not related to Town Ordinance' and deleting the last sentence. 7 yeas The amended order was VOTED resulting in the following:

RULES OF THE GORHAM TOWN COUNCIL

Section 1. The regular meetings of the Town Council shall be held in the Gorham Municipal Center, or such other facilities as the Town Council may designate from time to time, at 7:00 p.m., current time, on the first Tuesday of each calendar month. When said day falls on a holiday or on Election Day, the regular meeting shall be held on the following Tuesday, at the same time and place. The date of any regular meeting may be changed by an order or resolve passed at the previous meeting upon the vote of five members of the Council, provided, however, that said change in date will still provide for one regular meeting each month.

Section 2. Special Meetings may be called by the Chairman, and in case of the Chairman's absence, disability or refusal, may be called by three members of the Town Council. Notice of such meeting shall be served in person or delivered to the residence of each member of the Town Council at least twenty-four (24) hours before the time for holding said special meeting, unless all members sign a waiver of said notice. Such a notice mailed to each council member and postmarked in Gorham at least three mail delivery days preceding the date of such special meeting shall meet the requirement for delivery to the Councilors' residences. The call for said special meeting shall set forth the matters to be acted upon at said meeting, and nothing else shall be voted upon at such special meeting.

Section 3. A majority of the members of the Town Council shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time. At least twenty-four (24) hours' notice of the time and place of holding such adjourned meeting shall be given to all members who are not present at the meeting from which adjournment is taken, unless such absent members sign a waiver of said notice.

Section 4. The Town Council shall act only by ordinance, order or resolve. All ordinances, orders, and resolves shall be confined to one subject, which shall be clearly expressed in the title.

Section 5. All Orders approved by the Town Council that ask the voters of Gorham, through a referendum vote, to approve an expenditure of funds, shall include a statement advising voters of the estimated impact on property taxes of said expenditure.

Section 6. All By-Laws passed by the Town Council shall be termed "ordinances" and the enacting style shall be: "Be it ordained by the Town Council of the Town of Gorham, Maine, in Town Council assembled".

Section 7. In all votes of command, the form of expression shall be "Ordered"; and of opinions, principles, facts, or purposes, the form shall be "Resolved".

Section 8. Every ordinance, order or resolve shall have a full reading unless the reading is dispensed with by the unanimous vote of those present, in which case reading shall be by title only.

Section 9. The yeas and nays shall be taken upon the passage of all ordinances and entered upon the record of the proceedings of the Town Council by the Clerk. The yeas and nays shall be taken on the passage of any order or resolve when called for by any member of the Town Council. Every ordinance, order and resolve shall require, on passage, the affirmative vote of four members of the Town Council.

Section 10. No ordinance, except emergency ordinances as defined in Article II, Section 213.1 of the Charter, shall take effect and be in full force until 30 days from and after it shall have received publication as required by Section 213 of the Charter.

Section 11. Orders or resolves shall take effect immediately upon passage.

Section 12. No ordinance, order, or resolve shall be in order for action at any meeting of the Town Council unless such ordinance order or resolve shall be filed in the office of the Town Manager on or before noon of the Wednesday prior to the regular meeting held on the first Tuesday of each month, and before noon of the fourth secular day next prior to the day of any other meeting. Delivery of all items to the members of the Town Council in accordance with the foregoing, if by postal service, shall be postmarked not later than Thursday prior to the regular meeting.

Sub-section 12.01. Any item to be placed on the agenda of the Council or recommended for consideration of the Council must be sponsored by a member of the Council, or by the Town Manager. Those items sponsored by the Manager shall normally be restricted to routine town administration.

Section 13. The Chairman shall take the chair at the time appointed for the meeting, call the members to order, cause the roll to be taken, and, a quorum being present, shall proceed with the order of business.

Section 14.01. The Chairman shall preserve decorum and order, may speak to points of order in preference to other members, and shall decide all questions of order subject to an appeal to the Council by motion regularly seconded, and no other business shall be in order until the question on appeal is decided. The Council may also, at its first meeting or thereafter during the year, elect a Vice Chairman or Chairman Pro Tempore from among its members to exercise all the powers of Chairman during the temporary absence or disability of the Chairman.

Section 14.02. No member of the Town Council shall represent to anyone or knowingly allow anyone to infer that he/she speaks on behalf of the Town Council unless, by Order of the Council, a Councilor has been officially designated as its Representative to another organization.

Section 15. The Chairman shall declare all votes, but if any member doubts a vote, the Chairman shall cause a return of the members voting in the affirmative and in the negative without debate.

Section 16. When a question is under debate, the Chairman shall receive no motion but to:

- (1) adjourn
- (2) lay on the table
- (3) for the previous question
- (4) postpone to a day certain
- (5) refer to a committee or some administrative official
- (6) amend
- (7) postpone indefinitely

which several motions shall be precedence in the order in which they stand arranged.

Section 17. The Chairman shall consider a motion to adjourn as always in order except on immediate repetition; and that motion, and the motion to lay on the table, or to take from the table, and the motion for the previous question, shall be decided without debate.

Section 18. When a vote is passed, it shall be in order for any member who voted in the majority, or in the negative on a tie vote, to move a reconsideration thereof at the same, or the next regular meeting, but not afterwards; and when a motion of reconsideration is decided, that vote shall not be reconsidered. No motion to reconsider a vote passed at a previous meeting shall be in order for consideration at the next regular meeting unless an item to that effect is contained on the agenda for such next regular meeting or unless five of the members present consent to such reconsideration. A petition once presented to and acted upon by the Town Council shall not again be received by the Town Manager for presentation to the Council in the same or substantially the same form during the term of the present Council. A member of the Town Council, voting with the majority on the original petition, shall be privileged to reintroduce such a petition.

Section 19. Upon the motion for the previous question being made and seconded, the Chairman shall put the question in the following form: "Voting is now on whether there shall be further debate on (state the motion)." All debate shall then be suspended. If the motion for the previous question is adopted by a majority of the Councilors present, the motion to which it applied shall be voted at once.

Section 20. No debate shall be allowed on a motion for the previous question. Neither is it susceptible of amendment. All questions of order arising incidentally thereon must be decided without discussion whether appeal be had from the chair or not.

Section 21. Every member present when a question is put shall give their vote, unless the Council, for special reasons, shall excuse that Councilor. Application to be so excused must be made before the Council is divided, or before the calling of the yeas and nays, and decided without debate.

Section 22. Every motion shall be reduced to writing, if the Chairman shall so direct.

Section 23. Any member may require the division of a question when the sense will admit it.

Section 24. A motion for referral to a committee or administrative official, until it is decided, shall preclude all amendments of the main question.

Section 25. All questions relating to priority of business to be acted upon shall be decided with discussion limited to Council members, but any Councilor may solicit information from any other person.

Section 26. The rules shall not be dispensed with or suspended unless five of the members of the Council consent thereto. No rule or order shall be amended or repealed without notice, in writing, being given at the preceding meeting.

Section 27. Any person wishing to address the Town Council will be given the opportunity to do so in accordance with the following procedures:

1. Persons wishing to address the Council on an item which appears on the agenda shall wait until the public hearing is opened on the particular item or, if there is no public hearing, until the consideration of such item is announced, at which time they may address the Council on that particular item. Public comment on an agenda item or during a public hearing is encouraged to be limited to no more than five minutes by any one speaker. The Chair is granted the discretion to allow an extension of time if deemed necessary. The public shall be encouraged to limit their comments to items directly relating to the actual agenda item, and not to repeat statements made by prior speakers. The Chair may decide questions of relevance. The Chair shall not allow comments of a personal or derogatory nature, as they relate to the applicant, Councilor or other speakers.

Once the public hearing has been closed or public comment has ceased on an agenda item that did not have a public hearing, the Council shall begin its deliberation and no further public comment will be taken. The Chair may, at its discretion, allow additional clarification of the facts adduced at the public hearing and individual Councilors may ask specific questions through the Chair of either the public or staff to further inform themselves prior to completing their deliberations.

2. Persons wishing to address the Council on an item not appearing on the agenda shall do so only on invitation from Council or after disposition of all items appearing on the agenda.

3. Any person wishing to address the Council shall so signify by raising a hand and/or standing. After being recognized by the Chairman and giving adequate identification he or she may address the Council. When, in the opinion of the Chairman, their identify has not been adequate for those assembled, the Chairman shall request further information before permitting the person to speak.

4. Persons present at Council meetings are requested not to applaud or otherwise express approval or disapproval of any statements made or actions taken at such meeting.

Section 28. In all cases where the parliamentary proceedings are not determined by the foregoing rules and orders, "Robert's Rules of Order" shall be taken as authority to decide the course of proceedings.

Section 29. Within seven days after the Municipal Election, the Council shall hold an organizational meeting for the purpose of electing a Chairman and the following committees, each committee to consist of such members of the Council as the Town Council may designate:

1. Finance Committee
2. Ordinance Committee
3. Appointments/Personnel Committee
4. Economic Development/Capital Improvements Committee

Committees shall serve at the pleasure of the Council and will receive and act upon only those items and will perform only such duties as have been specifically referred to each Committee by Council action.

Sub-section 29.01 The Finance Committee shall consist of three members of the Council. Said Finance Committee shall act by majority vote. The Council Chairman shall serve as an ex-officio member of said committee, having no vote on the committee. The members of the Finance Committee shall be appointed annually by vote of the Council. The Chairman shall be elected by a majority vote of the Committee members. Among such other powers as the Council may from time to time assign to said committee, it shall have the power and duty to meet with the Town Manager to review his annual budget, and order public hearing thereof; to make recommendations to the entire Council on said budget. The Finance Committee shall have the power and duty to review and advise the Town Manager on matters of current expenditures within the Municipal Budget and to approve all warrants for the expenditures of Town funds. The signatures or votes of two of the members of such committee shall be sufficient authorization for the expenditures of such funds. The Council may refer matters relating to Town finances brought to its attention by the Town Manager to the Finance Committee, which shall study the same and make appropriate recommendations to the entire Council.

Sub-section 29.02. The Ordinance Committee shall consist of three members of the Council. Said Ordinance Committee shall act by majority vote. The Council Chairman shall serve as an ex-officio member of said Committee, having no vote on the committee. The members of the Ordinance Committee shall be appointed annually by vote of the Council. The Chairman shall be elected by a majority vote of the Committee members. In addition to those other powers which the Council may, from time to time assign to it, the Ordinance Committee shall review all proposed ordinances or amendments and make recommendations thereon to the Council prior to final action.

Sub-section 29.03. The Appointments/Personnel Committee shall act by majority vote. The Council Chairman shall serve as an ex-officio member of said committee, having no vote on the committee. Among such other powers as the Council may from time to time assign to said committee, it shall recommend to the entire Council persons for appointment to various positions and offices which are properly to be filled by the Council, except that the Committee shall not make recommendations as to the composition of committees of the Council, such as the Finance Committee, the Appointments Committee, or to any other standing or ad hoc committees of the Council which may hereafter be established. In addition to those other personnel matters which the Council may, from time to time, assign to it, the Committee shall review and make recommendations to the Council on methods of evaluating Council employees, implementing such evaluations, determining staff levels, additions and deletions to Personnel Policies, and evaluating and implementation of salary survey.

Sub-section 29.04. The Economic Development/Capital Improvements Committee shall act by majority vote. The Council Chairman shall serve as an ex-officio member of said committee, having no vote on the committee. In addition to those other powers which the Council may, from time to time, assign to it, the Committee shall review

and make recommendations to the Council on the Town's industrial and commercial development goals and objectives. The Committee will be responsible for developing and maintaining an economic development program and policies subject to full Council approval. In addition the Committee shall consult with the Town Manager and appropriate department heads regarding all proposed capital improvements or purchases of equipment, for fire, police, public works, or other public safety functions and shall serve as an advisory body to the Town Council.

Section 30. The members of the Council to serve on the Finance and Ordinance committees shall be chosen by the Council by majority vote, and the Chairman of the Council shall be ex-officio a member of such standing committees.

Section 31. A copy of the record of Council decisions taken at a formal meeting shall be attested and posted by the Town Clerk within three working days at one or more places within the Town of Gorham. Such minutes shall constitute the official record of the actions on all Ordinances, Resolutions, Orders and Votes taken by the Council; such posting shall constitute publication within the meaning of Section 902 of the Town Charter and the date of such posting shall be the date of publication for the purpose of determining the required time for filing petitions under this

Section 32. Policies of the Gorham Town Council

Pursuant to the Council Rules, the Gorham Town Council hereby directs the Town Manager to memorialize the following policies of the Gorham Town Council:

Council Policies;

A Council Policy is a guide for the consideration of certain recurring issues, and is not binding upon the Council. Council Policies shall be adopted in written form and shall be maintained in a document entitled "Policies of the Gorham Town Council."

Policy One: Appointments Procedure.

1. Prior to recommending an applicant for service on the Planning Board, Board of Appeals or Economic Development Corporation, the Chair of the Appointments & Personnel Committee shall contact the Council Chair and the Chair of the volunteer board or committee to discuss the appointment or reappointment of the applicant. The Chair of the board or committee in question should be invited to attend the interview of the applicant.
2. Prior to recommending an applicant for service on Planning Board, Board of Appeals or Economic Development Corporation, the Town Council's Appointments & Personnel Committee shall interview the applicant, unless that applicant is currently serving on the committee.
3. The meeting agenda, the applications to be considered, and any other supporting documents shall be sent to Appointments & Personnel Committee members, in a timely manner, prior to the proposed meeting.
4. Applicants are encouraged to attend a meeting of the committee to which they wish to be appointed.

Policy Two: Volunteer Board and Committee Reporting and Organization.

Meeting agendas should be posted to the Town web site in a timely manner prior to a proposed meeting. Meeting minutes are encouraged to be taken and posted to the Town website. The Town Council Chair will be in receipt of all Reporting in a reasonable time frame from the original date of each meeting.

Policy Three: Council Procedure.

Initiatives to amend or enact a Town ordinance, prior to their referral to a committee or an administrative official for development and drafting, and inquiries to committees not related to Town Ordinance shall be placed on a Council agenda for provisional approval. If the ordinance initiative obtains the provisional approval of a majority of Councilors, it may then be referred to the appropriate committee or administrative official for further development and drafting.

Policy Four: Council Norms on Contacting Staff.

Councilor inquiries concerning routine Town business should notify the Town Council Chair and then the Town Manager. Direct inquiries by Councilors, on such matters, to department heads, should be avoided.

7 years

Public

Hearing #1 A Public Hearing on a new Victualer's License for the New Jan Mee II located at 14 School Street. There were no comments from the public and the public hearing closed at 7:47.

Item #8091 Moved by Councilor Robinson, seconded by Councilor Gagnon and ORDERED that the Town Council approve a New Victualer's License in the name of Jing Huang Dong for the New Jan Mee II located at 14 School Street. 7 years.

The prepared orders for Items #8092, #8093, #8094 and #8095 were moved by Councilor Phinney and seconded by Councilor Gagnon. The items were discussed at the same time but voted on separately.

Moved by Councilor Phinney, seconded by Councilor Robinson to AMEND Items #8092, #8093, #8094 and #8095 by adding "with substantially similar requirements or conditions that are included in the contract zone for the Hans Hansen property" after "to develop a contract zone" 7 years moved by Councilor Robinson, seconded by Councilor Phinney to AMEND the amended orders by replacing "Ordinance Committee" with "Planning Board" 7 years

The Amended Orders were VOTED resulting in the following:

Item #8092 ORDERED that the Town Council refer a request from Donna Burke to develop a contract zone with substantially similar requirements or conditions that are included in the contract zone for the Hans Hansen

property for property located at 66 County Road (Tax Map 6, lot 27) to the Planning Board for their review and recommendation.

Item #8093 ORDERED that the Town Council refer a request from Kurt Albert to develop a contract zone with substantially similar requirements or conditions that are included in the contract zone for the Hans Hansen property for property located at 103 and 109 County Road (Tax Map 4, lot 9.002 and lot 9.003) to the Planning Board for their review and recommendation. 7 yeas

Item #8094 ORDERED that the Town Council refer a request from James Bruni to develop a contract zone with substantially similar requirements or conditions that are included in the contract zone for the Hans Hansen property for property located on County Road (Tax Map 4 lot 6.008) to the Planning Board for their review and recommendation. 7 yeas

Item #8095 ORDERED that the Town Council refer a request from Chandler and Christine Bearce to develop a contract zone with substantially similar requirements or conditions that are included in the contract zone for the Hans Hansen property for property located at 18 County Road (Tax Map 6, lot 8) to the Planning Board for their review and recommendation. 6 yeas 1 nay (Phinney)

Item #8096 Moved by Councilor Phinney, seconded by Councilor Gagnon and ORDERED that the Town Council appropriate \$60,738 from the Equipment Reserve Fund to make improvements to the Town's radio communication system that are needed as a result of the federally required conversion from broad band to narrow band radio communication. 7 yeas

Item #8097 The following item FAILED for lack of a motion - that the Town Council endorse the attached letter supporting an application from the Maine Department of Transportation to the U. S. Department of Transportation asking for funding to rebuild the Mountain Division rail line from the City of Portland to the Town of Baldwin.

Item #8098 The prepared order was Moved by Councilor Robinson, seconded by Councilor Gagnon, moved by Councilor Robinson, seconded by Councilor Phinney and VOTED to AMEND the prepared order. 7 yeas The order as amended was voted resulting in the following ORDERED that the Town Council appropriate \$3672 for repair of the Founders Monuments from the contingency account as proposed by Collette Monument. 7 yeas

Item #8099 The prepared order was moved by Councilor Phinney, seconded by Councilor Gagnon, moved by Councilor Pressey, seconded by Councilor Phinney to AMEND the prepared order 7 yeas. The order as amended was voted resulting in the following ORDERED the Town Council send a request to the finance committee to determine the cost of a landscape plan or design and development of the front lawn courtyard and to determine the scope of the committee that is going to be appointed. 7 yeas

Prior to the above vote there was a motion to refer this back to the finance committee to report back on the financial scope of this project.

Item #8100 Moved by Councilor Robinson, seconded by Councilor Phinney and ORDERED that the Town Council approve a post issuance compliance policy relating to Bonds issued by the Town, as presented. 7 yeas

Item #8101 Moved by Councilor Gagnon, seconded by Councilor Phinney and ORDERED, that the Town Council go into Executive Session pursuant to Title 36, MRSA, Section 841(2) for the purpose of considering an abatement of taxes based on poverty. 7 yeas

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

Moved by Councilor Phinney, seconded by Councilor Mattingly and VOTED to deny application A11-78 for an abatement of taxes based on poverty because the applicant is not late and it is too early to determine if the applicant has or will have the ability to contribute to the public charge. 7 yeas

Moved by Councilor Phinney, seconded by Councilor Robinson and VOTED to ADJOURN. 7 yeas Time of adjournment 9:18 pm 7 yeas

A True Copy

ATTEST

Cornelia C. Loughran, Town Clerk