

Gorham Town Council
Report of the Regular Meeting
September 6, 2011

Vice Chairman Caldwell opened the meeting with the Pledge of Allegiance to the Flag.
There were 12 members of the public present at the start of the meeting.

Roll Call: Present: Vice Chairman Caldwell; Councilors, Gagnon, Phinney, Pressey, Mattingly and Miner;
Town Manager, David Cole and Town Clerk, Connie Loughran.
Absent: Chairman Robinson

Moved, by Councilor Gagnon, seconded by Councilor Pressey and VOTED to accept the minutes of the August 12, 2011 Regular Meeting as printed and distributed.

Open Public Communications

Representative Jane Knapp spoke regarding the Circuit Breaker Program; old pesticides which may be turned in, to register and obtain details go to the Maine Board of Pesticides Control's web site; the aftermath of Hurricane Irene and there will be a special Legislative Session to address redistricting convening on September 27, 2011.

Suzie Phillips spoke regarding the *275 Commemorative Books* that should be available shortly and may be purchased in the Town Clerk's office, Baxter Memorial Library and the Historical Society for \$10.00.

Councilor Communications

Councilor Miner welcomed students back to University of Southern Maine. He requested that Council Committee agendas be posted on the web site. He also suggested creating a Council Public Safety Committee. Councilor Miner thanked Norene Lanoie for her care of Phinney Park.

Councilor Mattingly reported that he had chance to listen to the Gorham Middle School Steel Band and commended the Director Tracy Wheeler for an outstanding performance.

Councilor Gagnon reported that he attended the Jetport Noise Abatement Committee quarterly meeting and asked that the Jetport to begin tracking all noise complaints from Gorham residents and that they be reported to him. He spoke regarding the new terminal and that it will bring more air traffic over the south side of Gorham. Councilor Gagnon also requested a moment of silence to honor those who passed on September 11.

Vice Chairman Caldwell called for a moment of silence to honor those who passed on September 11.

Councilor Phinney reported for the Ordinance Committee and that they are recommending acceptance of the Firearms Ordinance on tonight's agenda.

Councilor Pressey reported that the Appointments and Personnel Committee has recommended appointments on tonight's agenda.

There was no Chairman's report.

Town Manager's Report

David Cole reminded members of the Council that there will be a Council Workshop on September 20 and the workshop starts at 5:00 pm. He reminded citizens that nomination papers for the open positions on the School Committee and the Town Council are due in the Town Clerk's office on September 23, 2011 by 1:00 p.m. Mr. Cole reported that Ecomaine has an open house scheduled for September 24, 2011 from 8:30 am. to 11:30 am. for those who have an interest in Ecomaine's recycling facility or the waste energy plant.

School Committee Report

Dennis Libby, Chairman of the School Committee reported that there was a rather eventful start to the school year due to Tropical Storm Irene forcing the start of school to be postponed one day. He reported that the paperwork for substantial completion of the Great Falls School project was signed to officially take ownership of the school on August 26, 2011. The projected enrollment this year was 2,630 and as of September 3, 2011 enrollment was 2,698. In response to Councilor Phinney's question Chairman Libby stated that 45 minutes or less on the school bus is the targeted goal of the transportation department. The centralizing of bus stops is also being reviewed. He encouraged anyone who feels that their bus stop is not safe to call the transportation department. In response to Councilor Miner Chairman Libby stated that there are no projected intentions to change attendance zones. The school department finds that it is much easier to move staff than students. The next School Committee meeting is September 14, 2011. In response to Councilor Gagnon, Chairman Libby stated that this is the same contractor that built the Middle School.

New Business

Vice Chairman Caldwell opened the Public Hearing on a proposal to amend the Town's Firearms Ordinance and Shotgun Only Map. There were no public comments and the Public Hearing was closed at 7:25 pm.

Item #8050 The order as read by the Town Clerk was Moved by Councilor Phinney, seconded by Councilor Mattingly; Moved by Councilor Pressey, seconded by Councilor Phinney AND VOTED to AMEND the proposed Order Section 2 2.1 to reflect today's date. 6 years. The order as amended was VOTED resulting in the following:

Whereas, the Town of Gorham adopted a Firearms Ordinance on June 7, 1994 and amended it September 6, 1994, and

Whereas, the Ordinance restricted the discharge of firearms in certain areas because of development, and

Whereas, the Town has continued to grow with additional development and the Ordinance needs to be updated,

NOW THEREFORE BE IT ORDAINED by the Town Council of the Town of Gorham, Maine in Town Council assembled that the Town Council approve the amendment to the Firearms Ordinance, and

BE IT FURTHER ORDERED, that as part of the Firearms Ordinance, the updated Shotgun and Muzzleloading Restricted Zone map is also approved, and

BE IT FURTHER ORDERED, that the effective date of this ordinance amendment shall be October 7, 2011.

TOWN OF GORHAM

FIREARMS ORDINANCE

Enacted June 7, 1994

Amended September 6, 1994

SECTION 1. DEFINITIONS

1.1 ~~The definition of "Firearm", as defined by 12 M.R.S.A. Sec. 10001, includes any instrument used in the propulsion of pellets, shot, or bullets by action of gunpowder, compressed air or gas exploded or released within it~~ as defined by 12 MRSA Section 1001.

A. ~~"Autoloading firearm" means a firearm that reloads itself after each shot and requires that the trigger be pulled for each shot.~~

B. ~~Automatic firearm means a firearm that will continue to fire as long as the trigger is held back.~~

1.2 Muzzle-Loading Firearm: "Muzzle-loading firearm" means a muzzleloader, a traditional muzzleloader, modern inline muzzleloader, or a muzzle-loading shotgun.

1.3 Muzzleloader: "Muzzleloader" means a firearm that:

A. Is capable of being loaded only through the muzzle;

B. Is ignited by a matchlock, wheel lock, flintlock or caplock, including an in-line caplock or shotgun or rifle primer mechanism;

C. Has a rifled or smooth-bored barrel or barrels, each barrel capable of firing only a single charge;

D. Propels a ball, bullet or charge of shot; and

E. May have any type of sights, including scopes.

1.4 Direct family members: Any person related to the property owner by blood or by marriage.

1.5 Shotgun: A firearm typically used to fire a number of small balls from a shotgun shell through a rifled or smoothbore barrel of relatively large diameter, propelling a load of pellets, buckshot, bullets or slugs, for the purpose of big or small game hunting.

A. A shotgun may have any type of sights, including scopes.

SECTION 2. SHOTGUN, ONLY AND MUZZLE LOADING, RESTRICTED ZONE

2.1 It shall be a violation of this ordinance for any person to discharge a firearm of any kind or description, except for shotguns or muzzle loaders, within the "Shotgun ~~only~~ and Muzzle Loading

Restricted Zone” as shown on the Gorham Firearms Map, which is dated September 6, 2011 **and subsequently amended**, as is kept in the Gorham Town Clerk’s office.

2.2 This section shall not apply to any person while on their own property to which they are legally entitled to possession, ~~and or~~ on which they are actually domiciled, **or their direct family members or persons who have written permission from the owner.**

SECTION 3. OWNER OF PROPERTY

3.1 This ordinance shall not restrict an owner of said property, **or any person that has obtained written permission from the owner**, whether or not such property is located in the “Shotgun ~~Only and Muzzle Loading Restricted~~ Zone” from discharging a ~~shotgun or a 22-caliber rim~~ firearm on his/her own property to dispatch a wild animal that is destroying said property, so long as said owner or permitted individual of the property acts pursuant to and in accordance with ~~38 M.R.S.A. Sec. 7501 et seq. as amended.~~ **Title 12 M.R.S.A., Sections 12401-12404.**

SECTION 4. DISCHARGE OF FIREARM NEAR DWELLING IS PROHIBITED.

4.1 The discharge of a firearm, including shot guns or muzzleloaders, within 100 yards of a building or residential dwelling is prohibited without the permission of the owner, or in the owners absence, an adult occupant of the building or dwelling authorized to act on behalf of the owner.

SECTION 5. MUNICIPAL PROPERTIES

5.1 It shall be a violation of this ordinance for any person to discharge a firearm of any type of description at or on the following municipal properties ~~any school properties, Municipal Center, Baxter Memorial Library, the Chick Property located between Main Street, Libby Avenue and Gray Road,~~ within 500 feet of the municipal landfill, transfer station and ~~the fuel tanks located on Huston Road, or any municipal property posted by the Town, as listed:~~

- A. Within 500 feet of any School Property**
- B. Gorham Municipal Center**
- C. Baxter Memorial Library**
- D. The Chick Property located between Main Street, Libby Avenue and Gray Road**
- E. Within 300 feet of the Public Works Garage**
- F. Within 300 feet of the fuel tanks located on Huston Road**
- G. Fort Hill Park**
- H. Little Falls Recreation Area**
- I. Little Falls School Area**
- J. Shaw Park**
- K. Robie Park**

SECTION 6. NARRAGANSETT GAME SANCTUARY

6.1. “Narragansett Game Sanctuary” as defined in Title 12 M.R.S.A. Sec. ~~7651~~ **12706 (1)(S)** is: “The following described territory situated in the Town of Gorham, in the County of Cumberland: Bounded on the north by the right-of-way of the W.N. and P. division of the Boston & Maine Railroad; on the east side by the Black Brook Road or Scarborough Road, also known as Brackett Road and Libby Avenue¹ so called, in said Town of Gorham; on the south side by the Stroudwater River; and on the west side by South Street or South Gorham Road, so called, in the Town of Gorham, containing 3,600 acres, more or less. For provisions relating specifically to Narragansett Game Sanctuary, see ~~Section 7654, Subsection 8, Paragraph A, Subparagraph (4)~~ **Title 12, M.R.S.A. Section 12707 (2)(D).**

SECTION 7. VIOLATIONS/FINES

7.1 Any person found to be in violation of any part of this ordinance shall be fined not less than ~~\$100.00~~ **\$300.00** and not more than \$5,000.00, with the fine recovered for use by the Town of Gorham. The Town of Gorham may initiate any and all actions and proceedings either legal or equitable that may be appropriate or necessary for the enforcement of this ordinance and the Town shall be entitled to recover its legal costs.

SECTION 8. SEVERABILITY

¹ Amended September 6, 1994

8.1 If any section or provision of this ordinance shall be finally declared invalid by a court of competent jurisdiction, such invalidity shall not affect the remaining sections and provisions of the ordinance.

5 yeas, 1 nay (Miner)

Prior to the above vote a motion to amendment to extend the boundary of the Shotgun Only map failed for lack of a second.

Item #8051 Moved by Councilor Phinney, seconded by Councilor Gagnon and ORDERED, that the Town Council send a letter to the Maine Turnpike Authority asking the Authority to fund phase 2 of the Gorham East/West Corridor Study as presented. 6 yeas.

The next four items were heard together for discussion purposes only. Amendments and votes were taken for each item.

Item #8052 Moved by Councilor Phinney, seconded by Councilor Pressey; Moved by Councilor Phinney, seconded by Councilor Mattingly to AMEND the proposed by sending it to the Ordinance Committee rather than the Planning Board. 6 yeas. The order as AMENDED was voted resulting in the following: ORDERED, that the Town Council refer a request from Dennis and Demetria Chadbourne to develop a contract zone for property located at 83 County Road (Tax map 6, Lot 30) with substantially similar requirements that are included in the proposed contract zone for the Hans Hansen property, to the Ordinance Committee for review and recommendation. 6 yeas

Item #8053 Moved by Councilor Phinney, seconded by Councilor Pressey; Moved by Councilor Phinney, seconded by Councilor Pressey to AMEND the proposed order by replacing Planning Board with Ordinance Committee. 6 yeas. The order as AMENDED was voted resulting in the following: ORDERED, that the Town Council refer a request from Albert Frick to develop a contract zone for property located at 95 County Road (Tax Map 6, Lot 31 and Tax Map 4, Lot 09) with substantially similar requirements that are included in the proposed contract zone for the Hans Hansen property, to the Ordinance Committee for review and recommendation. 6 yeas

Item #8054 Moved by Councilor Pressey, seconded by Councilor Miner; Moved by Councilor Phinney, seconded by Councilor Mattingly to AMEND the proposed order by replacing Planning Board with Ordinance Committee. 6 yeas. The order as AMENDED was voted resulting in the following: ORDERED, that the Town Council refer a request from Mike and Sally Ordway to develop a contract zone for property located at 94 County Road (Tax Map 4, Lot 6.001) with substantially similar requirements that are included in the proposed contract zone for the Hans Hansen property to the Ordinance Committee for review and recommendation. 6 yeas

Item #8055 Moved by Councilor Gagnon, seconded by Councilor Pressey; Moved by Councilor Phinney, seconded by Councilor Mattingly to AMEND the proposed order by replacing Planning Board with Ordinance Committee. 6 yeas. The order as AMENDED was voted resulting in the following; ORDERED, that the Town Council refer a request from Mary McFarland to develop a contract zone for property located at 86 County Road (Tax Map 3, Lot 22.002) with substantially similar requirements that are included in the proposed contract zone for the Hans Hansen property, to the Ordinance Committee for review and recommendation. 6 yeas

Item #8056 Moved by Councilor Gagnon, seconded by Councilor Phinney and ORDERED, that the Town Council accept the bid of \$48,484.63 for a Cole - Toro Ground Master from Turf Product Inc. 6 yeas

Item #8057 FAILED for lack of a motion. That the Town Council authorize staff to issue an RFP to develop a communications tower on Fort Hill to replace the existing tower.

Item #8058 Moved by Councilor Miner, seconded by Councilor Pressey and ORDERED, that the Town Council ask the Ordinance Committee to develop an Ordinance to regulate the sale and use of fireworks for the Council to consider. 6 yeas.

Item #8059 Moved by Councilor Gagnon, seconded by Councilor Miner, Moved by Councilor Phinney, seconded by Councilor Mattingly to AMEND the proposed order to consult with the Town Attorney to see if this is an appropriate use of the Open Space Impact Fee Funds. 6 yeas. The order as AMENDED was voted resulting in the following: ORDERED, that the Town Council accept a grant to design a pedestrian trail from New Portland Road to Hutcherson Drive with a 20% local match, and

BE IT FURTHER ORDERED, that the Town Council appropriate \$3,370.00 from the Contingency Account for the local match, and

BE IT FURTHER ORDERED that the Town Attorney be consulted to see if this is an appropriate use of the Open Space Impact Fee Funds. 6 yeas

Item #8060 Moved by Councilor Miner, seconded by Councilor Phinney, Moved by Councilor Mattingly, seconded by Councilor Phinney and voted to AMEND the proposed order by sending it to the Ordinance Committee 6 yeas. The amended order was voted resulting in the following: ORDERED, that the Town Council forward a proposed Ordinance to regulate medical marijuana dispensaries to the Ordinance Committee for review and their recommendation, and

BE IT FURTHER ORDERED that said Ordinance shall have an effective date of September 6, 2011. 6 years

Item #8061 Moved by Councilor Gagnon, seconded by Councilor Pressey and ORDERED, that the Town Council consider asking the Finance Committee to research the feasibility and cost of preserving the Town Monument located at the intersection of Church Street and School Street (Rt. 114) and to make a recommendation to the Town Council regarding their findings. 6 years

Moved by Councilor Pressey, seconded by Councilor Phinney to take up an item not on the agenda.

Item #8062 Moved by Councilor Pressey, seconded by Councilor Phinney and ORDERED to appoint Melinda Shain to the open position on the Planning Board; to appoint Keith McBride to serve on the Parks and Conservation Commission and to appoint Jennifer Rush to serve on the Fair Hearing Board with each of these terms to expire on April 1, 2013. 6 years

Item #8063 Moved by Councilor Phinney, seconded by Councilor Gagnon 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. 6 years

Moved by Councilor Phinney, seconded by Councilor Gagnon and VOTED to come out of Executive Session. 6 years

Moved by Councilor Phinney, seconded by Councilor Mattingly to deny the requested abatement of taxes based on poverty. 6 years.

Moved by Councilor Phinney, seconded by councilor Mattingly and VOTED to ADJOURN. Time of adjournment 9:14 pm. 6 years

A True Copy

Attest

Cornelia C Loughran, Town Clerk