

REPORT OF THE
GORHAM TOWN COUNCIL
REGULAR MEETING
JULY 1, 2014

Gorham Municipal Center-Burleigh H. Loveitt Council Chambers

Chairman Phinney opened the meeting with the Pledge of Allegiance to the Flag. There were 20 members of the public at the start of the meeting.

Roll Call: Chairman Phinney, Councilors; Roullard, Moulton, Phillips, Benner, Robinson, Hartwell. Also present were Town Manager David Cole, Town Attorney William Dale and Town Clerk Jennifer Elliott.

Moved by Councilor Moulton, Seconded by Councilor Benner and VOTED to approve the minutes from the June 2, 2014 regular Town Council meeting and the June 17, 2014 Special Town Council meeting as printed and distributed. 7 yeas

Open Public Communications

Phil Gagnon of Gordon Farms spoke of his disagreement of going out for the re-bid for the Public Safety Building Project.

Bernard Broader of Phinney Street thanked the Council for their hard work. He expressed concern that the square footage of the new Public Safety Building project exceeds what the public was told, although overall he felt the desires of the public were being met on this project.

Councilor Communications

Councilor Hartwell welcomed home the Maine 133rd after almost a year of deployment, stating it was just in time for the fireworks for the fourth of July. He encouraged the public to get a fireworks permit and enjoy a safe and fun 4th of July.

Councilor Robinson reported that the Ordinance Committee had met on June 16th. He reported that he along with Councilor Roullard attended the Greater Portland Council of Governments annual meeting and it was very well attended and informational. Councilor Robinson introduced a letter into the record from a Mr. Garcia who had complaints about the Recreation fields and hiring process. Councilor Robinson also spoke of Point of reference and going back as far as possible to research things that come up.

Councilor Benner attended a ribbon cutting ceremony for Dr. Robert Lavoie and stated she was pleased that an older building could be renovated and used in such a rewarding way.

Councilor Phillips reported that the Finance Committee had met on June 26th and at the upcoming meeting they will be looking at the year-end financials.

Councilor Roullard reported that he attended the Greater Portland Council of Governments annual meeting along with Council Robinson and was very pleased to see that the re-structuring is working well. He reported that the Historic Preservation Committee had a very productive first meeting and will meet again on July 10th at 5 pm.

Chairman Phinney wished everyone a safe and happy Fourth of July.

Town Managers Report

David Cole reported that he presented Benjamin Moreland, of the Gorham Police Department, with a 10 year pin. He reported that the Town of Gorham achieved the Certificate of Achievement in Excellence in Financial Reporting for the 10th year in a row and that only about 10 other municipalities have earned this award. The bonding agencies like to see this when dealing with towns. He thanked Sharon LaFlamme the Finance Director and staff for the hard work.

School Committee Report

Dennis Libby, Chairman of the School Committee, reported that the Committee would like to thank the Council for the support of their budget, which had passed on June 10th. High School graduation took place on June 8th followed by project graduation, both were outstanding. The last day of school was June 18th. The School Committee has been working on reviewing the proposal from the building Committee on the GHS renovation/addition project, and have decided at this time not to bring the project forward to the Town Council for consideration. The next School Committee meeting will be September 10th at 7:00 pm, in Council Chambers.

Darryl Wright of the Westbrook Gorham Chambers of Commerce reported that the Founder's Festival will take place on July 25-26, 2014. The opening ceremonies will include members of the founding families. He stated that there are many new sponsors and new activities this year to mark the 250th Anniversary of the Incorporation of the Town. There is more information on Facebook and on the website www.gorhamfoundersfestival.com.

Election Report

The Town Clerk reported that the State Primary and Local School Budget Validation Election took place on June 10, 2014 with a turnout of 13% (1634 people voting).

Old Business

Item #8462 This item was previously Moved and Seconded. Before the Council discussion and vote, Dennis Libby of asked if this would apply to all elected officials including School Committee members. Bernard Broader referred to an upcoming item on the recall of a Council member and also stated that State law says you are not convicted of a crime until you are sentenced for that crime. Ken Curtis spoke of concern with more regulations and the fact that this issue does not have much to do with the overall issues that face the Town.

Moved by Councilor Robinson to AMEND the order to replace the underlined language with the following: Section 5.5 : Pursuant to Section 202 of the Town Charter, if a member of the Town Council is convicted of a crime of moral turpitude, the Council member's office shall immediately become vacant upon conviction or a guilty plea or a plea of no contest. For purposes of this Section, the term "crime of moral turpitude" shall include conviction of Murder or a class A, B, C or D crime, while in office, or conviction of a similar crime if outside the State of Maine.

Amendment FAILED due to a lack of a Second.

Ordered, that the Town Council amend the Council Rules by adding a new Section 5.5 that would define "crime of moral turpitude" with the following language;

Section 5.5 Pursuant to Section 202 of the Town Charter, if a member of the Town Council is convicted of a crime of moral turpitude, the Council member's office shall immediately become vacant upon

conviction. For purposes of this Section, the term "crime of moral turpitude" shall mean a statutory criminal offense involving an element of bad moral choice for which a councilor has been convicted while in office, including, without limitation, crimes based on fraud, larceny or an intent to harm persons or things. The term shall include conviction(s) for operation of a motor vehicle under the influence of alcohol and/or drugs or driving to endanger.

2 yeas (Robinson, Phinney) 5 nays (Roullard, Moulton, Phillips, Benner, Hartwell)

Item #8463 This order was previously Moved and Seconded. Moved by Councilor Robinson, Seconded by Councilor Benner to AMEND the proposed order to replace the current underlined language with the following; Section 5.5 : Pursuant to Section 202 of the Town Charter, if a member of the Town Council is convicted of a crime of moral turpitude, the Council member's office shall immediately become vacant upon conviction or a guilty plea or a plea of no contest. For the purposes of this Section, the term "crime of moral turpitude" shall include conviction of Murder or a Class A, B, C or D crime, while in office, or conviction of a similar crime if outside the State of Maine.

4 yeas, 3 nays (Hartwell, Moulton, Phillips)

The Order as Amended to read as follows: Ordered, that the Town Council approve a referendum for November 4, 2014 preceded by a Public Hearing at least 30 days in advance (with prior notice) that would ask voters to amend Section 202 of the Town Charter by adding a definition of "crime of moral turpitude", and

Be It Further Ordered, that the Town Council call a Public Hearing for September 2, 2014 on said referendum for the purpose of providing information, and

Be It Further Ordered, that the following language be added as an amendment to Section 202 of the Town Charter:

Section 5.5 : Pursuant to Section 202 of the Town Charter, if a member of the Town Council is convicted of a crime of moral turpitude, the Council member's office shall immediately become vacant upon conviction or a guilty plea or a plea of no contest. For the purposes of the Section, the term "crime of moral turpitude" shall include conviction of Murder or a Class A, B, C or D crime, while in office, or conviction of a similar crime if outside the State of Maine.

Be It Further Ordered, that the ballot question specifies that a majority of the Town Council recommended a yes vote.

4 yeas, 3 nays (Moulton, Hartwell, Phillips)

Prior to the above vote, 2 members of the public spoke of concern of wasting time with this issue and what the possibilities of re-running for office would be after any conviction.

Chairman Phinney opened Public Hearing #1 on a proposal to amend the Town's Special Amusement Ordinance to allow special amusements outdoor and relax the sound provisions in the Ordinance.

Phil Gagnon asked how many establishments/people have approached looking for this type of permit and if USM will be effected.

Ken Curtis spoke and had concerns that if we have a noise measuring device who will be the entity that will respond to measure for any complaints.

There were no further comments and the Hearing was closed.

Item #8477 Moved by Councilor Moulton, Seconded by Councilor Benner and VOTED to waive the reading of the minutes. 7 yeas

The proposed order was Moved by Councilor Moulton, Seconded by Councilor Benner. Moved by Councilor Phillips, Seconded by Councilor Moulton to AMEND the order to remove from Section 9, the existing paragraph F, and re-letter the section. 7 yeas.

The Order as Amended to read as follows:

Whereas the Town has an Ordinance to regulate special amusements, and

Whereas , in the past the Town has received applications to conduct special amusements outdoor that the Town Council was unable to approve because the existing Ordinance didn't allow them, and

Whereas, the Town of Gorham is growing and likely to receive other applications for outdoor special amusements, and

Whereas the Town Council would like to allow those applications, while also being fair and reasonable with abutting property owners and neighborhoods,

Now Therefore,

SPECIAL AMUSEMENT ORDINANCE AND PERMITS

Section 1. Applicability

This Ordinance amendment applies to all events at all facilities licensed by the State to sell liquor, regardless of whether liquor is served at any specific event. This Ordinance does not apply to off-premise catering services who have a license from the State of Maine and for catering at planned events or gatherings pursuant to Title 28-A, MRSA, Section 1052.

Section 2. Repeal

All ordinances or parts thereof, inconsistent with the terms and provisions of this Ordinance, are hereby replaced.

Section 3. Authority

This Ordinance is enacted pursuant to Title 28-A, M.R.S.A., Section 1054 and Title 30-A, M.R.S.A., Section 3001.

Section 4. Purpose

The purpose of this Ordinance is to control the issuance of special amusement permits as required by 28-A M.R.S.A., Section 1054, for music, dancing or entertainment of facilities licensed by the state to sell liquor.

Section 5. Severability

If any section, subsection, sentence or part of this Ordinance is for any reason held to be invalid or unconstitutional, such decisions shall not affect the validity of the remaining portions of this Ordinance.

Section 6. Definitions

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Entertainment shall include any amusement, performance, exhibition or diversion for patrons or customers of the licensed premises whether provided by professional or amateur entertainers, by patrons, or by full-time or part-time employees of the licensed premises whose incidental duties include activities with an entertainment value.

Exotic Dancing shall mean the appearance of a person or persons, on the licensee's premises, in such a manner or attire as to expose to view any portion of the pubic area, anus, buttocks, vulva or genitals or any simulation thereof, or when any female appears on a licensee's premises in such a manner or attire as to expose to view any portion of the breast referred to as the aureole, nipple or simulation thereof. "Expose to view" shall be interpreted to mean, without limitation, clear, see-through or clothing which is otherwise non-opaque.

Licensee shall include any person, individual, partnership, firm, association, corporation or other legal entity which is the holder of a license from the State Bureau of Alcoholic Beverages and Lottery Operations for the sale of liquor to be consumed on premises owned by said licensee, or any agent or employee of any such licensee.

Premises shall mean all parts of the contiguous real estate occupied by a licensee over which the licensee has direct or indirect control or interest that the licensee uses in the operation of the licensed business and that have been approved by the State of Maine Bureau of Alcoholic Beverages and Lottery Operations.

Catering Service shall mean a catering establishment as defined in Title 28-A MRSA, Section 2, and licensed by the State of Maine Department of Human Services.

Off-Premise Catering shall mean services of liquor, with or without food, by a person or persons at prearranged functions located at a place other than the licensee's premises.

Area of Consumption shall mean the area within the licensed premises approved by the State of Maine for the legal consumption of liquor.

Section 7. Penalty

Except as otherwise provided by state law, anyone found guilty of violating any provision of this ordinance shall be subject to a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000) to be recovered for the use of the Town of Gorham and shall be subject to such other legal and equitable remedies as may be available to the Town. Each day such violation continues shall be deemed to be a new offense.

Section 8. Application

a) No licensee for the sale of liquor to be consumed on the applicant/applicants licensed premises shall permit on the licensed premises any music, except radio or other mechanical device, any dancing or entertainment of any sort unless the licensee shall have first obtained from the Town Council a special amusement permit.

(b) Applications for all special amusement permits shall be made in writing to the Town Council and shall state:

- (1) The name of the applicant;
- (2) The applicant/applicants resident address;
- (3) The name of the business to be conducted;
- (4) The applicant/applicants business address;

- (5) The nature of the applicant/applicants business;
- (6)** A sketch of the area within the licensed premises approved by the State of Maine for the consumption of liquor;
- (7) The location to be used for the special amusement;
- (8) Whether the applicant has ever had a license to conduct the business therein described either denied or revoked and, if so, the applicant shall describe those circumstances; and
- (9) Whether the applicant, including all partners, corporate officers, managers or principal employees has ever been convicted of a felony or a Class A, B or C crime within the past five years and, if so, the applicant shall describe specifically those circumstances;
- (10)** A description of the Special Amusement; and
- (11) Any additional information as may be required by the Town Council prior to the issuance of the permit, including but not limited to a copy of the applicant's current liquor license.

Section 9. General Requirements

- a) No special amusement permit shall be issued for any thing or act or premises, if the premises and buildings to be used do not fully comply with all ordinances, codes, and regulations of the Town.
- b) The application fee for a special amusement permit shall be as set by order of the Town Council and on file in the Town Clerk's office and is nonrefundable and must be paid when application is made for the permit.
- c) A licensed hotel, Class A restaurant, Class A tavern or restaurant malt liquor licensee as defined in the Maine Revised Statutes who has been issued a special amusement permit may charge admission in designated areas approved in the permit.
- d) All music, dancing and/or entertainment licensed under this ordinance, on the premises, shall comply with the following hours:
 - (1) Outdoor Events:
 - 8:00 am to 10:00 pm Sunday - Thursday
 - 8:00 am to 11:00 pm Friday & Saturday
 - (2) Indoor Events:
 - 8:00 am to 1:00 am Thursday – Saturday
 - 8:00 am to 11:00 pm Sunday - Wednesday
- e) The applicant will comply with the following noise regulations:
 - (1) The maximum permissible hourly A-weighted equivalent sound level produced by any activity regulated by this Ordinance shall be established by the time period and type of land use listed below in Table 1. The term *A-weighted equivalent sound level* (L_{Aeq}) shall be as defined by applicable American National Standards Institute (ANSI) Acoustical Terminology.

Table 1: Sound Level Limits: A-weighted hourly equivalent sound level

	Sound Level Limit (dBA)
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District	Daytime (8am -12am midnight)	Nighttime (12am - 8am midnight)
Residential: <i>Urban, Suburban, Rural, Office Residential</i>	70	50
Industrial/Commercial: <i>Urban Commercial, Roadside Commercial, Industrial, Commercial/Office, Village Center, Narragansett Development</i>	70	60
The district classification of a lot is determined by that lot's zoning classification. Where two lots of differing district classifications abut, the residential sound level limit will apply.		

(2) Sound level limits shall apply at all lot lines of the building, premises or location set forth under Section 8 of this ordinance where the sound is produced including all Residential District lot lines. Compliance measurements shall be taken in accordance with this Noise Ordinance, which is generally consistent with appropriate ANSI standards. Sound levels shall be measured at a height of at least five (5) feet (1.52 meters) above the ground surface using a Type 1 or Type 2 sound level meter (as defined by ANSI S1.4) at all major lot lines. The sound level meter and microphone shall be field calibrated at the site prior to and after conducting the sound level measurements. The sound level meter, microphone and field calibrator shall also have been calibrated by a certified acoustic laboratory within 12 months of field measurements.

(f) The Town Council may impose conditions for protecting the public health, safety and welfare on any Special Amusement License it issues.

Section 10. Conduct Constituting Offenses by Licensees

Tumultuous Conduct. The Licensee shall not knowingly allow on any licensed premises any person or persons to disturb, tend to disturb, or aid in disturbing the peace of others of ordinary sensibilities or be disorderly by violent, tumultuous, offensive or obstreperous conduct; or to permit or gather a crowd, or audience, or patrons to witness any entertainment, amusement, or show as to create a dangerous condition because of fire or other risks in derogation of the public health, comfort, convenience, safety, or welfare.

Riots. The Licensee shall not allow on any licensed premises any public entertainment or amusement or show of any kind which tends to or is calculated to cause or promote any riot or disturbance.

Unnecessary Noise. The Licensee shall not allow on any licensed premises the making, creation, or maintenance of excessive, unusually loud noise which disturbs, annoys, injures or prejudices, or endangers the comfort, repose, health, peace, or safety of individuals of ordinary sensibilities or the public in general, or the property rights of others, and which noises affect and are a detriment to public health, comfort, convenience, safety, welfare, or the prosperity of the residents of the municipality.

Nuisances. The Licensee shall not allow any licensed premises to be so conducted or operated as to amount to a nuisance in fact under any ordinances, or any sections of any ordinances or rules and regulations of the municipality, or under any statutes of the State of Maine.

Prostitution and Public Indecency. The Licensee shall not allow on any licensed premises or aid in or offer or agree to or allow near such licensed premises any prostitution, or prostitutes, or any public indecency under any or in derogation of any statutes of the State of Maine; or any meretricious display, or lewd act, or act of moral perversion, or knowingly receive, or offer or agree to receive any person on such

licensed premises for the purpose of performing a lewd act, or an act of prostitution or moral perversion, or public indecency, or to knowingly permit any person to remain on such licensed premises for any such purpose, or to aid, abet, allow, permit, or participate in the commission of any such acts.

Gambling. The Licensee shall not allow on any licensed premises the use or occupancy thereof for gambling or games of chance as prohibited by the statutes of the State of Maine.

Obscenity. The Licensee, on any licensed premises, shall not:

- a) *Material.* Knowingly disseminate, distribute or make available to the public any obscene material; or
- b) *Performance.* Knowingly make available to the public any obscene performance; or
- c) *Commercial Activity.* Knowingly engage in commerce and/or for commercial gain with materials depicting and describing explicit sexual conduct, nudity, or excretion utilizing displays, circulars, advertisements, or any other public sales efforts that promote such commerce primarily on the basis of their prurient appeal; or
- d) *Exposure.* Provide service to patrons in such a manner as to expose to public view:
 - (1) The Licensee's or any of his agent's or employee's genitals, pubic hair, buttocks, perineum, anal region or pubic hair region;
 - (2) Any device, costume or covering which gives the appearance of or simulates the genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or
 - (3) Any portion of the female breast at or below the aureole thereof; or
- e) *Promotion.* Knowingly promotes the commission of any of the above-listed acts of this Section.
- f) *Definitions.* For the purpose of this Section, "obscene" means that to the average person applying contemporary community standards the predominant appeal of the matter or act taken as a whole, is to prurient interest, and the matter or act depicts or describes in a patently offensive manner sexual conduct or lewd exhibition of the genitals or other body parts mentioned in this Section above, and the matter or act or performance considered as a whole lacks serious literary, artistic, political, or scientific value; or any matter or acts or performance which are prohibited by the statutes of the State of Maine. "Material" means any book, magazine, newspaper or other printed or written material or any picture, drawing, photograph, motion picture or other pictorial representation or any statute or other figure, or any recording, transcription or mechanical, chemical, or electrical reproduction or any other articles, equipment or machines. "Disseminate" means to transfer possession of, with or without consideration. "Knowingly" means being aware of the character and the content of the material. "Performance" means any preview, play, show, skit, film, dance, or other exhibition, or entertainment performed before an audience. "Available to the public" means that the matter or performance or act may be purchased or attended on a subscription basis, on a membership fee arrangement, or for a separate fee for each item or performance or act, or available merely by being a patron of or present in an establishment that is licensed to sell liquor. "Service to patrons" means the provision of services to customers, patrons, or any other persons present in establishments providing food and beverages, including but not limited to hostessing, hat-checking, cooking, bartending, serving, table setting and clearing, waiter and waitressing, and entertainment. For the purposes of this Section and any other section of this Article, unless specified otherwise, "promote" means to cause, permit, procure, counsel or assist.

Section 11. Regulations for exotic dancing.

The following regulations apply to the performances of exotic dancers in establishments holding a special amusement permit:

- (1) No dancer shall dance in the establishment except on a platform raised at least two (2) feet from the floor.
- (2) No dancer shall dance closer than ten (10) feet from any patron.
- (3) There shall be no fondling, mingling or caressing in the establishment between any patron and any dancer with the intent to sexually arouse or excite a patron's sexual desire.
- (4) No patron shall directly pay or give any gratuity to any dancer, and no dancer shall solicit any pay or gratuity from any patron.
- (5) The licensee shall provide on the premises a separate dressing room and toilet facilities for use by dancers only.
- (6) Dancers on the premises who remove any outer garments shall not toss or throw those outer garments at or in the direction of the patrons.
- (7) The licensee shall, at his own expense, post a licensed security guard or an individual authorized to act as a law enforcement officer (whether full-time or part-time and whether on-duty or off-duty) at each entrance and exit to the premises during each performance by dancers on the premises and for one hour after each such performance.
- (8) No one under twenty-one (21) years of age shall be permitted on the premises or portion of the premises where a performance by dancers is conducted during any such performance.
- (9) Any premises upon which entertainment including a dancer or dancers is proposed to be conducted shall be located at least one thousand (1,000) feet from any church; school; park; other facility holding a special amusement license under this Ordinance and which provides "dancers" as defined in this Ordinance; or any area for which residential uses are either a permitted use or a conditional use under the Zoning Ordinance of the Town of Gorham, Maine (in each of the above instances, the distance shall be measured from property line to property line).
- (10) There shall be no graphic evidence on the exterior of any facility licensed under this Ordinance of the dancers, either live or simulated, requiring the licensee, if necessary, to black out windows or install curtains to prevent viewing of the dancers from the outside; provided, nothing in this paragraph shall prohibit the establishment from advertising by words the nature of the entertainment.

Section 12. Classes and Fees

- (a) The fee for a special amusement permit shall entitle the applicant to one (1) of the following classes of permits:
 - (1) *Class I.* Permit for live performances of music. No dancing or floor show entertainment shall be allowed on the premises holding a Class I permit.
 - (2) *Class II.* All of the privileges allowed in a Class I permit plus dancing to recorded or live music with no limitation upon the number of live musicians or singers.
 - (3) *Class III.* All of the privileges allowed in Class I and Class II permits plus a floor show type of entertainment.
- (b) The entertainment allowed under any class of permit provided for herein shall be conducted at a level which complies with the provisions of Section 9(e) of this ordinance. Permits issued hereunder shall specify the hours during which permitted entertainment may be provided.

(c) An applicant may apply for any of the above three (3) classes of permit.

Section 13. Hearing.

(a) The Town Council shall, prior to granting a special amusement permit and after reasonable notice to the town residents and the applicant, hold a public hearing within thirty (30) days of receipt of a completed application, at which hearing the testimony of the applicant and that of any interested members of the public shall be taken.

(b) Prior to obtaining a permit, the applicant must show at the public hearing required in this section that:

(1) The issuance of the requested permit will not be detrimental to the public health, safety, or welfare;

(2) The proposed activity to be licensed will not create a traffic hazard;

(3) The applicant has ample parking to accommodate the proposed activity;

(4) The proposed activity will not, either by reason of its scope or noise, adversely affect surrounding or abutting property and that it will not unreasonably interfere with the use, enjoyment and value of surrounding and/or abutting property;

(5) The applicant is in conformance with all provisions of the town zoning ordinance, all applicable health codes, and other applicable municipal, state and federal codes, ordinances, regulations and statutes;

(6) In the case of a facility located in a residential zone, that the activities will not tend to change the residential character of the neighborhood.

(7) Neither applicant nor its officers, agents, or principle employees has been convicted of a felony or Class A, B, or C crime within the past five years.

(c) In making the determination of whether the applicant has satisfied the criteria set forth in (b) above, the Town Council shall consider, but shall not be bound by, neighborhood opinion and sentiment.

Section 14. Term of Permit

A special amusement permit shall be valid only for the license year of the applicant's existing liquor license.

Section 15. Inspections

(a) Whenever inspections of the premises used for or in connection with the operation of a licensed business which has obtained a special amusement permit are approved for or required by ordinance or state law or are reasonably necessary to secure compliance with any town ordinance, code or regulation or state law, it shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit any officer, official, or employee of the town authorized to make the inspection at any reasonable time that admission is requested.

(b) Whenever an analysis of any commodity or material is reasonably necessary to secure conformance with any ordinance provision or detect violations thereof, it shall be the duty of the licensee, or person in charge of such premises, to give any authorized officer, official or employee of the Town requesting the same, sufficient samples of such material or commodity for such analysis or investigation upon request.

(c) In addition to any penalty which may be provided, the Town Council may revoke the special amusement permit of any licensee who refuses to permit any such officer, official or employee to make an inspection or who interferes with such officer, official or employee while in the performance of his duty, provided that no license or special amusement permit shall be revoked unless written demand for the inspection is made upon the licensee or person in charge of the premises at the time it is sought to make the inspection.

Section 16. Suspension or Revocation

The Town Council may, after a public hearing preceded by notice to interested parties, suspend or revoke any special amusement permit which has been issued under this ordinance on the grounds that the music, dancing, or entertainment permitted constitutes a detriment to the public health, safety or welfare or violates any town regulations, ordinances, or rules or determines that the application was false or misleading in a fashion material to the approval.

Section 17. Appeals

(a) Any licensee requesting a special amusement permit from the Town Council shall be notified in writing of their decision no later than thirty (30) days from the date his application was received. In the event that a licensee is denied a permit, the licensee shall be provided with the reasons for the denial in writing. The licensee may not reapply for a permit within thirty (30) days after an application for a permit has been denied.

(b) Any licensee who has requested a permit and has been denied or whose permit has been revoked or suspended may, within thirty (30) days from the date of the denial, suspension or revocation, appeal the decision to the Board of Appeals.

Section 18. Rules and Regulations for Special Use Permits

The Town Council is hereby authorized, after public notice and hearing, to establish written rules and regulations governing the issuance, suspension and revocation of special amusement permits; the classes of permits; the music, dancing or entertainment permitted under each class; and other limitations on these activities required to protect the public health, safety and welfare. These rules and regulations may specifically determine the location and size of permitted premises, the facilities that may be required for the permitted activities on those premises and the hours during which the permitted activities are permitted. Such rules and regulations shall be additional to and consistent with all sections of this division.

5 yeas, 2 nays (Phillips, Hartwell)

Chairman Phinney opened Public Hearing #2 on a proposed Ordinance to provide for the Recall of elected officials.

Dennis Libby spoke in favor of this Ordinance and also having it apply to the School Committee.

Phil Gagnon spoke in opposition stating this could be used as a political tool

There were no further comments and the Hearing was closed.

Item #8478 Moved by Councilor Moulton, Seconded by Councilor Roullard and ORDERED,

Whereas, the Town of Gorham had several instances that have led to discussions about whether individual Council members have violated Section 202 of the Town Charter, and whether the Town Council should act on these instances, and

Whereas, in the course of those discussions, it was realized that the citizens had no recourse to recall an elected official, and
Whereas, the Town Council believes that citizens should have an opportunity to recall elected officials but also wants to have effective government and not hold elected officials hostage every time they vote on a controversial issue,
Now Therefore Be It Ordained by the Town Council of the Town of Gorham, Maine in Town Council assembled that the following Town of Gorham Ordinance for the Recall of Elected Officials be and hereby adopted:

**Ordinance for the Recall of Elected
Officials of the Town of Gorham**

SECTION 1. Establishment

Under M.R.S.A. Title 30-A Section 2602 (6), a town may enact an ordinance for the recall of elected municipal officials with the exception of school board members (“Elected Officials”)

SECTION 2. Purpose and Authority

This ordinance provides the means and method by which the voters of Gorham may seek the recall of Elected Officials. This ordinance is enacted pursuant to Title 30-A M.R.S.A., §2528, §2602, §3001, and §3002.

SECTION 3. Procedure

- a.** The petition for recall must contain only signatures of the registered voters of the Town of Gorham, equal to, or greater than, 25% of the number of votes cast in Gorham for and against Governor in the last gubernatorial election.
- b.** The petition shall be addressed to those members of the Town Council, whose recall is not the subject of the petition. If all Elected Officials are the subject of the recall, then the petition shall be addressed to the Town Clerk.
- c.** The petition shall state the name and office of the person whose removal is being sought, and specify the petitioners’ reason(s) the recall is sought, as outlined in Section 3. d.
- d.** An Elected Official may be recalled for (i) failure to appropriately carry out duties and responsibilities of the office (such as failure to represent the will of the people of Gorham); (ii) engaging in conduct which brings the office into disrepute; (iii) engaging in conduct which displays an unfitness to hold the office; or (iv) for the indictment or conviction of a felony under the laws of the State of Maine or the laws of the United States, or the laws of any other State or Nation, or entry of a plea of guilty or no-contest to such an offense.
- e.** If recall of more than one Elected Official is being sought, there shall be a separate petition for each official whose recall is being sought.
- f.** Each page of the petition shall provide a space for the voter's signature, address and printed name.

g. The petition blanks shall be dated with the date the petitioner initiates the recall request. The petition shall be available for signatures for 30 calendar days. At the expiration of said 30 calendar days, the Town Clerk shall declare the petition closed.

h. A petition form may be circulated or signed only by a registered voter of the Town of Gorham. Petitions may not be left, unattended or unsupervised for signatures. Circulators are responsible for certifying the validity of signatures on a petition and certifying that the signatures were made in their presence.

i. All petition pages shall be filed as one document.

SECTION 4. Incumbent Duties Continued

The incumbent shall continue to perform the duties of the office until the results of the recall election are certified. If not recalled, the official shall continue in office for the remainder of the unexpired term, subject to the subsequent recall. If recalled, the official shall be deemed removed from office upon certification of the election results.

SECTION 5. Clerk's Certification

Within ten days of receipt of the petition, the Town Clerk shall certify the signatures contained on the petition and shall determine if the petition meets all of the qualifications as set forth in Section 3 of this ordinance. Should the petition be found insufficient, the petition will be filed in the clerk's office, and the voter who filed the petition will be notified.

SECTION 6. Calling the Recall Election

a. If the Town Clerk certifies the petition as sufficient, the Clerk will submit the petition with his or her certification to the Town Council at its next regular meeting and shall notify the official or officials whose removal is being sought of such action.

b. Subject to the provisions of Sec. 211 and Sec. 811 of the Town Charter, within ten days of receipt of the certified petition, the Town Council shall order an election by written, secret ballot, pursuant to 30-A MRSA § 2528, to be held not less than 45 nor more than 60 days thereafter, provided that a regular municipal election will not be held within 90 days of receipt of the certified petition. In such case, the Town Council may, at its discretion, provide for the holding of the recall election on the date of the regular municipal election.

c. In the event that the Town Council fails or refuses to order an election as herein provided, the Town Clerk shall call the election to be held not less than 45 days nor more than 60 days following the Town Council's failure or refusal to order the required election.

d. If, between the time of ordering the recall election and the 21st day before said election, the official whose recall is being sought requests a public hearing, the Town Council shall promptly schedule such a hearing to occur not fewer than 7 days before the election, and shall provide adequate posting at least 7 days before said hearing.

SECTION 7. Ballots for Recall Election

Unless the official or officials whose removal is being sought have resigned within ten days of receipt of the petition by the Town Council, the ballots shall be printed and shall ask the question: "SHALL (name of official) BE RECALLED?," and provide adjacent boxes for "Yes" or "No" responses.

SECTION 8. Result of Election; applicability

a. To be valid, the total number of votes cast in the recall election shall be at least 25% of the number of votes cast in Gorham for and against Governor in the last gubernatorial election.

b. If a 65% majority, or more, of those voting in a recall election shall vote in favor of recalling such official, such official is thereby removed from office upon certification of the vote by the Town Clerk. A tie vote will defeat the recall.

d. This ordinance shall apply to Elected Officials in office at the time of adoption of this ordinance, as well as those elected subsequently.

SECTION 9. Vacancies to be filled

A vacancy resulting from removal from office under this ordinance shall be filled in accordance with the provisions of Maine law and the Town Charter.

SECTION 10. Limitations

a. No petition for recall shall be filed against an official with fewer than 60 days of a multiyear term remaining.

b. If an official has been the subject of an unsuccessful recall election, no new recall petition shall be filed against that official until at least twelve months have passed since said recall election.

SECTION 11. Validity

It is intended that each section of this ordinance shall be deemed independent of all other sections herein and that if any provision within this ordinance is declared invalid, all other sections shall remain valid and enforceable.

SECTION 12. Effective date

This ordinance shall be in full force and effect as soon as passed by the Town Council.

7 yeas

Chairman Phinney opened Public Hearing #3 on a proposal to amend Chapter II, Section V, and Chapter II, Section VI of the Land Use and Development Code to adopt a campground overlay district. There were no comments from the public.

Item #8479 Moved by Councilor Robinson, Seconded by Councilor Benner and VOTED to POSTPONE the Order to consider a proposal to amend Chapter II, Section V, and Chapter II, Section VI of the Land Use and Development Code to provide for a campground overlay district. 7 yeas

Item #8480 Moved by Councilor Phillips, Seconded by Councilor Roullard and ORDERED, that the Town Council clarify that the on-going responsibilities of the Finance Committee include reviewing all of the monthly financial reports, including the monthly report of the recreation reimbursable accounts, reviewing restricted and reserve accounts that are not part of the annual budget, tax lien foreclosures, to meet with the Town Auditors to review the annual audit and , in addition, to consider other items referred to the Finance Committee by the Town Council. 7 years

Item #8481 Moved by Councilor Benner, Seconded by Councilor Roullard and ORDERED, that the Town Council ask the Ordinance Committee to consider developing amendments to Chapter II, Section III, Signs, of the Land Use and Development Code to allow for A-Frame or Sandwich board signs in Gorham Village and as directional signs for Farm stands for the Council to consider at a future meeting. 6 years, 1 nay (Moulton)

Item #8482 The proposed order was Moved by Councilor Roullard, Seconded by Councilor Moulton. Moved by Councilor Moulton, Seconded by Councilor Robinson to POSTPONE action to consider appropriating funds from the South Street Sidewalk reserve fund for improvement to the sidewalk on South Street. 7 years

Item #8483 Moved by Councilor Robinson, Seconded by Councilor Moulton and ORDERED, that the Town Council remove the parking spaces abutting the driveway at 60 South Street. 1 yay, 6 nays (Roullard, Phillips, Phinney, Robinson, Benner, Hartwell)
Item Fails

Item #8484 Moved by Councilor Robinson, Seconded by Councilor Benner, and ORDERED, that the Town Council ask the Ordinance Committee to review the Narragansett Development District to see if additional permitted uses or other changes could be made to encourage more development with the District and recommend appropriate changes to the Land Use and Development Code for the Town Council to consider. 5 years 2 nays (Phillips, Moulton)

Item #8485 The proposed Order was Moved by Councilor Hartwell, Seconded by Councilor Phillips. Moved by Councilor Moulton, Seconded by Councilor Roullard to TABLE the Order to consider sending the certificate of taking document produced for the Phinney Street Extension eminent domain proceedings to Spekin Forensic Laboratories in East Lansing, Michigan for verification, until the next meeting following communication from the Attorney General's Office. 4 years, 3 nays (Robinson, Hartwell, Phillips)

Item #8486 Moved by Councilor Moulton, Seconded by Councilor Phillips and ORDERED, that the Town Council, pursuant to Title 1, M.R.S.A Section 405 (6) (D), go into Executive Session to discuss labor negotiations with employees of the Fire Department and the Labor Contract with the Police employees. 7 years

Moved by Councilor Moulton, Seconded by Councilor Robinson and VOTED to come out of Executive Session. 7 years

Moved by Councilor Robinson, Seconded by Councilor Benner and VOTED to Adjourn. 7 years
Time of Adjournment 11:16 pm

A True Record of Meeting

ATTEST: _____
Jennifer Elliott, Town Clerk