

**REPORT OF MEETING
GORHAM TOWN COUNCIL
REGULAR MEETING
MAY 6, 2014**

Chairman Phinney opened the meeting with the Pledge of Allegiance to the Flag. There were 70 members of the public present at the start of the meeting.

Roll Call: Chairman Phinney; Councilors: Roullard, Moulton, Phillips, Benner, Robinson, Hartwell. Town Manager David Cole and Town Clerk Jennifer Elliott and Town Attorney Mark Bower.

Moved by Councilor Moulton, Seconded by Councilor Phillips and VOTED to accept the minutes of the April 1st, 2014 Town Council meeting. 7 yeas

Open Public Communications

Kelly DeVoe of Herrick Road read a statement supporting all-day kindergarten and its importance. She asked all in the audience that supported this statement to stand and about 55 members of the audience stood.

Council Communications

Councilor Moulton reported that the Personnel/Appointments Committee conducted interviews for remaining positions for Committees and Board and that went well. He thanked everyone who applied and all those serving on Boards and Committees.

Councilor Roullard reported that he had recently visited and toured the Sebago Lake Water Treatment Facility. He stated that it was an amazing facility and encouraged all to visit.

Councilor Phillips reported that the Taste Walk will take place in Gorham on Sunday, June , from 11am-2pm. She also reported that maps are on sale for \$5 that will get you into the event. The event also has a Facebook page.

Councilor Robinson reported that the Ordinance Committee will meet on May 12th at 8 am and will be discussing Special Amusement permits. He reported on attending the 50th anniversary of the full time Gorham Police Department. He thanked Police Chief Shepard and Lieutenant Sanborn for doing an amazing job. He stated that the ceremony was nice and that it was nice to see some of the retired Police Officers there as well.

Councilor Hartwell referenced a recent Supreme Court ruling that deals with invocations at public meetings. He encouraged any religious leaders to give an invocation before meetings.

Chairman Phinney reported on the loss of one of Gorham's biggest supporters, Bernard Rines. Mr. Rines was the first Chairman of the Town Council and was an early advocate of the Bypass, which was named

after him. Mr. Rines always put the needs of the Town before his own, and the town will be a sadder place without him.

Town Manager's Report

David Cole reported that he gave a 25 year service pin to Terry Deering , Deputy Public Works Director. Mr. Cole made reference to the New Portland Road project and that the money for the project was from the 2012-2013 Capital Part II account with MDOT paying the balance. Mr. Cole stated that Bernard Rines was a great friend, not only of his, but the community, and they had worked together many years. Mr. Cole said that Mr. Rines was sharp witted and had a great sense of humor.

School Committee Report

Chairman Dennis Libby reported that at the April 9th, 2014 School Committee meeting, the Committee approved the School Budget for FY15. There were several amendments that resulted in lowering the mil rate. However, an updated ED279, shows a reduction in the expected aid for Gorham, which results in the projected increase in the mil of .22 cent from last year. The School Committee will hold a workshop with the Town Council on May 13th. This is the time of year that the School Committee starts its annual evaluation of the Superintendent. Mr. Libby also reminded people that spring sports are underway and invites all to come and enjoy. The next School Committee meeting is scheduled for May 14th, 2014 at 7 pm in the Council chambers.

Old Business

Item #8413 The Order as previously Moved and Seconded, was Moved by Councilor Benner , Seconded by Councilor Hartwell to POSTPONE to the June 3rd, 2014 Town Council Meeting. 7 years

Item #8444 ORDERED, that the Town Council approve an updated Capital Improvements Plan as presented. 7 yeas.

New Business

Chairman Phinney opened Public Hearing #1 on a renewal Restaurant Liquor License in the name of Ocean Garden. There was no public comment and the hearing was closed.

Item #8457 Moved by Councilor Robinson, Seconded by Councilor Benner and OREDERED, that the Town Council approve a Restaurant Liquor License in the name of Ocean Garden. 7 yeas

Chairman Phinney opened Public Hearing #2 on a renewal Liquor License in the name of Aramark Education Services. There were no public comments and the hearing was closed.

Item #8458 Moved by Councilor Robinson, Seconded by Councilor Benner and OREDERED, that the Town Council approve a renewal Liquor License in the name of Aramark Education Services. 7 yeas

Chairman Phinney opened Public Hearing #3 on a proposal to amend the Land Use and Development Code, Chapter II, Section V (H), Standards for Private Ways that clarifies that the Planning Board can require improvements to off-site public ways and private roads as deemed unsuitable to handle

additional traffic. The Town Planner, Tom Poirier, explained the principle right to a private way. There were no further comments, and the hearing was closed.

Item #8459 Moved by Councilor Moulton, Seconded by Councilor Benner to waive the reading of the Order. 7 yeas

Moved by Councilor Moulton, Seconded by Councilor Roullard,

Whereas, the Town of Gorham has a Land Use and Development Code that allows the Planning Board to require improvements to off-site road when reviewing application for Subdivision to ensure that the development will not cause congestion or unsafe conditions, and

Whereas, when a proposed development includes a private road which may lead to additional development over time when the cumulative impacts could cause congestion or unsafe conditions, the Planning Board's authority is less clear, and

Whereas, the current ambiguity is unfair to developers as well as the Town and could result in an unequal treatment of applications, and

Whereas, on April 7, 2014, the Planning Board, after a Public Hearing, recommended approval,

Now Therefore Be It Ordered,

Chapter II: General Standards of Performance, Section V – Minimum Standards for the Design and Construction of Streets and Ways, H. Standards for Private Ways.

- 5) Private ways shall be designed to **meet the following requirements:**
 - a) **Private Ways shall conform with meet** the standards presented in Tables 1 and 2 and the typical cross sections depicted in Figures 9 and 10.
 - b) **Private ways will not cause congestion or unsafe conditions with respect to use of the highways or public roads, existing or proposed on or off the site.**

10) The Planning Board shall have the ability to require improvements to both public roads and private ways serving any proposed private way to ensure off-site access is suitable to serve the proposed private way.

7 yeas

Chairman Phinney opened Public Hearing #4 on a proposal to amend Chapter 1, Section V, Definitions, and add Chapter II Section XIV, Performance Standards for Dog Kennels, of the Land Use and Development Code to allow Dog Kennels and clarify the Performance Standards. There were no comments from the public and the hearing was closed.

Item #8460 The Proposed Order was Moved by Councilor Phillips, Seconded by Councilor Robinson. Moved by Councilor Roullard, Seconded by Councilor Hartwell to AMEND the Proposed Order to accept the Planning Boards recommended changes. 4 yeas 3 nays (Roullard, Moulton, Benner). The Amended Order reads as follows;

Whereas, at the request of Amy Beckwith, the Town Council reviewed the language in the Land Use and Development Code regarding Dog Kennels and concluded that the language needed to be clarified with more appropriate performance standards, and

Whereas, after a proposal was developed by the Town Council Ordinance Committee,

the Town Council forwarded it to the Planning Board, and Whereas, after hearing the Planning Board's recommending approval with some changes to the proposed language,
Now Therefore Be It Ordered,

CHAPTER I – ZONING REGULATIONS

SECTION V - DEFINITIONS

Dog Kennels _____ A facility for the boarding and / or daycare of dogs including accessory activities such as grooming or training. ~~Dog kennels shall conform to the performance standards in Chapter II, Section XIV of the Land Use Development Code.~~

SECTION VIII - RURAL DISTRICT

B. PERMITTED USES

~~22) Dog Kennels that meet performance standards in Chapter II, Section XIV of this Code.~~

CHAPTER II – GENERAL STANDARDS OF PERFORMANCE

SECTION XIV – DOG KENNEL STANDARDS

~~The purpose of this section is to provide standards for the boarding and / or daycare of dogs, including accessory activities such as grooming or training, to ensure that dog kennels are safe and maintained in a clean and sanitary manner and not creating a nuisance to surrounding properties. Dog kennels shall meet the below standards:~~ The purpose of this section is to provide standards to ensure that Dog Kennels are safe and maintained in a clean and sanitary manner and do not create a nuisance to surrounding properties. The Dog Kennel owner shall submit a fully dimensioned and detailed plan illustrating all structures and areas that will be used in the operation of the Dog Kennel showing compliance with the Town's Land Use and Development Code. The Code Enforcement Officer may conduct an inspection as needed to verify that the Dog Kennel is operating as approved and in conformance with this Land Use and Development Code. A Dog Kennel shall meet the following standards:

- ~~1) Shall be located on lots not less than three (3) acres in area.~~
- ~~2) Shall not have more than ten (10) dogs at any given time.~~
- ~~3) Dogs shall be housed within a permanent structure / outbuilding between the hours of 7:00 p.m. and 7:00 a.m.~~
- ~~4) All structures, including barns, pens, play areas, runs, cages, enclosures etc., for housing or containing the dogs shall be setback a minimum of one hundred (100) feet from all property lines. The Town's Administrative Review Committee or Planning Board may grant a waiver to the above setback standard providing the proposed improvements are adjacent to a dedicated open space / conservation area which may be used towards meeting the minimum one hundred (100) foot setback standard and if they find that a negative impact to surrounding properties will not be created.~~

- 4) Any structure used for housing the dogs and/or containment area shall be:
- a) Designed, constructed and located on the lot in a manner that will minimize the negative impact upon abutting properties.
 - b) Set back a minimum of one hundred (100) feet from all property lines. The Town's Planning Board or Administrative Review Committee may grant a waiver from this setback requirement provided the structure or containment area is adjacent to a dedicated open space or conservation area which may be used towards meeting the minimum one hundred (100) foot setback requirement based upon a finding that a negative impact to abutting properties will not be created.
 - c) Structurally sound and maintained in good repair at all times.
 - d) Well ventilated so as to provide constant fresh air.
 - e) Maintained at a comfortable temperature.
 - f) Maintained in a clean and sanitary condition at all times. Any animal excrement shall be removed at least twice daily from the dog pens and runs. Each pen shall be washed down with water and disinfectant cleaner as often as necessary to maintain a safe and sanitary condition for the dogs, but in no event less than once each day.
- ~~5) All play areas, runs, cages and other similar facilities shall be designed, constructed and located on the site in a manner that will minimize the adverse effects upon the surrounding properties. Among the factors that shall be considered are the relationship of the use to the topography, natural and planted horticultural screening the direction and intensity of the prevailing winds, the relationship and location of residences and public facilities on nearby properties and other similar factors.~~
- 5) Any structure used for housing the dogs shall have its floor constructed of cement, asphalt or a similar material.
- ~~6) All enclosures shall be completely fenced in and shall be paved with cement, asphalt or a similar material to provide for cleanliness and ease of maintenance. Outside play areas may be grassed but shall be fully enclosed.~~
- 6) Outside containment areas shall be enclosed with fencing with a height of no less than eight (8) feet.
- ~~7) The owner or operator of a kennel shall maintain the premises in a clean, orderly and sanitary condition at all times. No garbage, offal, feces or other waste material shall be allowed to accumulate on the premises. The premises shall be maintained in such a manner that they will not provide a breeding place for insects, vermin or rodents.~~
- 7) All dog pens shall provide sufficient room for the dogs housed therein to turn about freely, to stand erect, and to lie down in a natural position.
- ~~8) Temporary storage containers for any kennel wastes containing or including animal excrement shall be kept tightly covered at all times and emptied no less frequently than once~~

~~every two (2) days. Such containers shall be made of steel or plastic to facilitate cleaning and shall be located in accordance with the setbacks required for structures.~~

- ~~8) Any storage container used for holding waste that includes animal excrement shall be kept tightly covered at all times and emptied at least once every two (2) days. Such container shall be located in accordance with the setback requirements for structures as stated in this section.~~
- ~~9) The facilities for housing dogs shall be structurally sound and shall be maintained in good repair to prevent injury to the dogs, to contain the dogs and restrict the entrance of other animals.~~
- ~~9) All dogs shall have access to shelter to protect them from the weather.~~
- ~~10) Feces and other excreta shall be removed at least twice daily from the individual dog kennels and runs and shall be washed down with water and disinfectant cleaner.~~
- ~~10) The dogs shall be provided with sufficient fresh water and wholesome food so as to maintain their health. Food and water containers shall be kept clean and sanitized.~~
- ~~11) The kennel space shall be ventilated in such a manner as will provide fresh air at all times.~~
- ~~12) The kennel temperature shall be maintained at a reasonable and suitable level to promote the health and comfort of the type of dog or dogs housed.~~
- ~~13) All dogs shall be provided access to shelter which will protect them against inclement weather, preserve the dogs' body heat and keep them dry. The shelter shall be kept clean and in a sanitary condition.~~
- ~~14) Each dog enclosure shall be large enough for the dog or dogs housed therein to turn about freely, to stand erect and to lie down in a natural position.~~
- ~~15) Water and food supplies. Dogs shall be provided with clean fresh water and sufficient and wholesome food. Food and water containers shall be kept clean and sanitized.~~
- ~~16) All kennels shall operate to conform to the Town's Noise Ordinance (Chapter IV, Section IX, Subsection T).~~
- ~~17) One (1) parking stall shall be provided for every five (5) boarded dogs.~~
- ~~18) The Code Enforcement Officer may conduct an annual inspection to verify that the facility is operating as approved and not creating a nuisance to surrounding properties.~~
- ~~19) All kennel operators shall submit a fully dimensioned and detailed plan illustrating all barns, pens, play areas, runs, cages, waste storage areas, enclosures etc. that will be used in the operation of the facility. This plan shall be reviewed by the Town's Code Enforcement Officer for compliance with the above regulations / standards. All proposals that do not meet minimum setback standards shall be reviewed by the Town's Administrative Review Committee.~~

Moved by Councilor Moulton, Seconded by Councilor Benner to AMEND the Amended Order to send it to the Ordinance Committee. 7 yeas

Item #8461 Moved by Councilor Phillips, Seconded by Councilor Moulton and ORDERED, that the Town Council, pursuant to Section 4.3 of the Town of Gorham Consumer Fireworks Ordinance grant permission to Cub Scout Pack 85 to do a fireworks Display at Shaw Park on June 7th, 2014, provided that Cub Scout Pack 85 complies with all of the other requirements of the Ordinance. 7 yeas. Prior to the above vote, Roger Stein, Pack leader explained that another leader in the Pack was a licensed Pyro technician.

Item #84362 The proposed Order was Moved by Councilor Robinson, Seconded by Councilor Roullard. Moved by Councilor Roullard, Seconded by Councilor Robinson to AMEND the order to read as follows; 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 include conviction of a Class A, B, C or D crime, while in office, or conviction of a similar crime if outside the State of Maine, or 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 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. 7 nays MOTION FAILS

Prior to the above vote, 7 members of the public spoke in disagreement with defining "moral turpitude". Comments also reflected the choice of the voters to recall a Councilor, or not re-elect them.

The original Order was Moved by Councilor Robinson, Seconded by Councilor Roullard to TABLE to the July 1st, 2014 Town Council Meeting. 5 yeas. 2 nays (Phillips, Hartwell)

Item# 8463 Moved by Councilor Robinson, Seconded by Councilor Roullard to POSTPONE the Proposed Order to approve a referendum for November 4, 2014 preceded by a Public Hearing at least 30 days in advance (with prior notice) that would ask the 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:

For the purpose 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 while under the influence of alcohol and/or drugs or driving to endanger ,and

Be It Further Ordered, that the ballot question specifies that a majority of the Town Council recommend a yes vote. 5 yeas, 2 nays (Phillips, Hartwell)

Item #8464 Moved by Councilor Roullard, Seconded by Councilor Robinson and ORDERED that the Town Council appoint the following people to serve on the Historic Preservation Committee: Bruce Roullard as Chair of the Committee, Sherrie Benner, Janet Adams, Noah Miner, Marla Stelk, Jane Bell and Janice Labrecque, and
Be It Further Ordered that the Committee identify the buildings that could be impacted by the Ordinance, and assess how current Building Codes are applied to these buildings, and assess the potential impact to business and residential owners who reside or are located within the buildings, and
Be It Further Ordered, that upon completion of their work, the Committee provides a report to the Town Council with the Committee's recommendation about whether the Ordinance should apply to residential and/or business property. 7 years

Item #8465 Moved by Councilor Robinson, Seconded by Councilor Benner and ORDERED, that the Town Council accept an easement for a fire pond in South Gorham (Tax Map 6, Lot 19) from the Estate of Barbara King. 7 years

Item #8466 Moved by Councilor Moulton, Seconded by Councilor Phillips and ORDERED, that the Town Council approve combining the Fire Department Account and the Rescue Department Account into a single Fire and Rescue Department Account for the fiscal year beginning July 1, 2014. 7 years

Item #8467 Moved by Councilor Moulton, Seconded by Councilor Benner and ORDERED, that the Town Council authorize the Town, through its Fire Department, to apply for a Staffing For Adequate Fire and Emergency Response (SAFER) Federal Grant to pay for the cost of hiring two Fire Fighter/EMS positions in the Fire Department during the next round of applications. 7 years

Item #8468 The Proposed Order was Moved by Councilor Moulton, Seconded by Councilor Roullard. Moved by Councilor Moulton, Seconded by Councilor Phillips to AMEND the Proposed Order to replace "warning" signs with "stop" signs. 4 yeas, 3 nays (Hartwell, Robinson, Benner)
The Order as AMENDED to read as follows;
ORDERED, that the Town Council approve a recommendation of the Ordinance Committee to add stops signs at the intersection of Railroad Avenue and Mechanic Street. 4 yeas, 3 nays (Hartwell, Robinson, Benner)

Item #8469 Moved by Councilor Roullard, Seconded by Councilor Benner and ORDERED that the Town Council refer a proposal to amend Chapter 1, Section V, Definitions and Chapter II, Section XIV of the Land Use and Development Code to allow Airstrips, including Runways and Landing Strips in Gorham to the Planning Board for Public Hearing and their recommendation. 4 yeas, 3 nays (Roullard, Phillips, Robinson) Prior to the above vote 3 members of the public spoke against airstrips in the Town of Gorham.

Item #8470 Moved by Councilor Robinson, Seconded by Councilor Moulton and ORDERED, that the Town Council authorize the Town Clerk to issue the warrant for the June 10, 2014 School Budget Validation Election, and
Be It Further Ordered, that the polls be open from 7:00 until 8:00 pm, and
Be It Further Ordered, that the Town Council appoint the following persons for the designated voting districts and if any of the following should fail to serve the Town Council hereby authorizes the Town Clerk to appoint substitutes:

District 1- Susan Emerson, Warden and Laurel Smith, Ward Clerk
District 2- Marina Lewis, Warden and Patricia Clay Ward Clerk
Central-Laurie Nordfors, Warden and Paula Nystrom Ward Clerk

Be It Further Ordered, that the Registrar of Voters be in session during the hours of 8:00 am to 4:00 pm on Tuesday June 3rd, 2014 and Wednesday June 4th, 2014; between the hours of 8:00 am and 7:00 pm on Thursday June 5th, 2014, between the hours of 8:00 am and 1:00 pm on Friday June 6th, 2014 and between the hours of 8:00 am and 4:00 pm on Monday June 9th, 2014, and

Be It Further Ordered, that the Town Clerk be authorized to process absentee ballots Tuesday June 10th, 2014 at the Central Voting District at 9:00 am, 3:00 pm a 8:00 pm.

7 years.

Item #8471 Moved by Councilor Moulton, Seconded by Councilor Benner and ORDERED, that the Town Council appoint people to serve on the following Boards/Committees:

Board of Appeals – Christine Hume

Planning Board- Scott Herrick

Gorham Economic Development Corporation – Daniel Nichols

7 years

Moved by Councilor Phillips, Seconded by Councilor Moulton and VOTED to Adjourn.

7 years

Time of Adjournment 9:45 pm

A True Record of Meeting

ATTEST: _____
Jennifer Elliott, Town Clerk