

REPORT OF THE
GORHAM TOWN COUNCIL
REGULAR MEETING

October 1, 2013

Gorham Municipal Center – Burleigh H. Loveitt Council Chambers

There were 31 members of the public present at the start of the meeting. Chairman Gagnon opened the meeting with the Pledge of Allegiance to the Flag.

Roll Call: Present: Chairman Gagnon, Councilors: Moulton, Benner, Robinson, Phillips, Phinney, Pressey. Also Present Town Manager David Cole, Town Attorney William Dale and Acting Town Clerk, Jennifer Elliott.

Moved by Councilor Phinney, seconded by Councilor Pressey and VOTED to accept the minutes of the September 3, 2013 Regular Meeting as printed and distributed. 7 yeas.

Open Public Communications

Matt Reed of South Branch Drive had questions and concerns about his taxes and prices of projects and other items going up.

Shawn Moody of Elkins Road Encouraged the Town Council to take another look at the Comprehensive Plan of the Town that was last revised in 1993, because of the many changes that the Town is going through as far as growth.

Susan Smith of Phinney Street addressed her concern about traffic safety issues at the Gorham Post Office/Hannaford intersection.

Councilor Communications

Councilor Robinson spoke of Community Access TV and questioned if there was special service that was need to watch this station. He praised the program.

Councilor Phillips encouraged people to visit the Economic Development Corporation's website at www.gorhammaine.org, stating that it is a very nice website. She stated that the Finance Committee met and discussed the Preble Street project. She also thanked the candidates that are running for Council. She presented Bob Lowell of the American Journal with an email in reference to a Councilor's personal email.

Councilor Pressey stated that he was not running for re-election and discussed the Council's responsibility to serve the community and to be honorable.

Chairman Gagnon reminded the public that the Public Works department will be having the annual brush drop off on October 12th and 26th; they will help you unload the brush as well. He reported that the Gorham Co-Op will have a Kids run at the school field this weekend as a fundraiser. He reminded people that the Kids mile will be held on October 5th at Hannafords on Forrest Ave, in cooperation with the Big Brothers/Big Sisters organization.

Town Manager's Report

Mr. Cole reported that he gave a 5 year pin to Sprit Dove, who works at the Baxter Library. He reported that the Town is getting ready to issue the 1.4 million dollar bond. He stated that he and the Finance Director met with Moody's and Standard and Poor. The Town has received a very good rating from Standard and Poor's. of AA + and a AA2 rating from Moodys. Mr. Cole stated that the Next Council meeting will be held on November 12th, not the 5th, because of the upcoming Election.

School Committee Report

School Board Chairman, Kyle Currier reported that the School Committee held its regular meeting on September 9, 2013 and had a workshop on the 23rd. Norman Justice had given them a security update report that was very informative. The High School Renovation Committee met on the 24th and they are on track to ask for a referendum in November 2014. She stated that the Village School is turning 50 years old and in honor of that Ms. Meggison is looking for any memorabilia from the school/students for a celebration. She also reported that the High School Booster club is consolidating to help streamline fundraising effort. She reported that there is a Captains Club, involving Varsity sports captains, and that flu clinics are coming up. Chairman Currier encouraged people to visit the School Department's website for much more information.

Old Business

Item #8349 Eight (8) members of the public spoke, 3 of those people opposing the contract zone, and 5 in favor of it. After public comment the chairman called for a recess and the meeting resumed at 9:10 pm. The Order as previously moved, seconded, and amended was VOTED that;

WHEREAS, the Town entered into a Contract Zoning Agreement with Hansen, dated October 21, 2011 and recorded in the Cumberland County Registry of Deeds in Book 29646, Page 97 (hereinafter the "Contract Zoning Agreement") that established zoning regulations for a parcel of real estate located at 74 County Road, Gorham, Maine, consisting of 23.8 acres (hereinafter "the Property"); and

WHEREAS, the Property consists of Lots 22.401, 22.402, 22.403, 22.404, 22.502, 22.503, 22.504, 22.505, 22.506 and 22.507 on the Town's Tax Map 3; and

WHEREAS, the Contract Zoning Agreement established use, dimensional and performance standards for the Property; and

WHEREAS, Hansen has entered into a Purchase and Sale Agreement with GC CF New England, LLC, for the purchase of the unit to be located on the area consisting of Tax Map 3, Lot

22.404 of the Property (hereinafter the “Parcel”), also known as Unit 4 of the Stargazer Subdivision, a condominium development; and

WHEREAS, Hansen seeks to amend the dimensional and performance standards established by the Contract Zoning Agreement in order to facilitate the proposed development of the Parcel; and

WHEREAS, the Town has the authority to enter into a contract rezoning for property and to amend the contract rezoning, pursuant to 30-A M.R.S.A. § 4352(8) and Chapter I, Section I, Subsection H, as amended, of the Gorham Land Use and Development Code; and

WHEREAS, after notice and hearing and due deliberation upon this rezoning proposal, the Gorham Planning Board recommended this Amendment to the Contract Zoning Agreement; and

WHEREAS, this Amendment will change only dimensional and performance standards for the Parcel and will not allow additional uses on the Property or the Parcel; and

WHEREAS, both the Planning Board and the Town Council determined that the original Contract Zoning Agreement was pursuant to and consistent with the Town’s Comprehensive Plan and the Town Council has authorized the execution of this Amendment to Contract Zoning Agreement;

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. **Amendment to Contract Zoning Agreement, Section 2.d.** The Contract Zoning Agreement is amended to revise Section 2.d to read as follows: Convenience stores, either with or without associated gasoline sales, provided that the hours of operation shall be limited to between 5:00 A.M. and midnight.

2. **Amendment to Contract Zoning Agreement, Section 4.** The Contract Zoning Agreement is amended to revise Section 4 to read as follows:

Performance Standards. All development and uses shall be subject to all applicable performance standards set forth in Chapter II of the Land Use and Development Code. No construction shall occur on the Property between the hours of 7:00 P.M. and 7:00 A.M.

3. **Amendment of Contract Zoning Agreement, Section 6A.** The Contract Zoning Agreement is amended to add a new Section 6.A, to read: Notwithstanding the provisions of Section 5.e and 6.a and d, development on Unit 4, Tax Map 3, Lot 22.404 shall be allowed in substantial conformance with the plans included in Exhibit A, which is hereby incorporated and made a part of this Agreement. In the event of any conflict between the provisions of Sections 5.e, 6.a or 6.d and Exhibit A, the provisions of Exhibit A shall control.

4. **Remaining provisions remain in full force and effect.** Except as expressly amended herein, the provisions of the Contract Zoning Agreement shall remain in full force and effect.

5 yeas, 2 nays (Gagnon, Phillips) Prior to the vote, Councilor Pressey acknowledged that he used to work for the landscape architect that reviewed this project. Chairman Gagnon ruled that Councilor Robinson was out of order. The question was moved by Councilor Robinson, seconded by Councilor Moulton and VOTED 4 yeas, 3 nays (Pressey, Phillips, and Gagnon).

Item #8354 The Order as read by the Acting Town Clerk, was previously Moved and, Seconded; Moved by Councilor Phillips, Seconded by Councilor Phinney to AMEND the prepared Order by removing #6 , Arson Reward for \$10,000, and reduce the funds for maintenance or replacement of Basketball and Tennis Courts by \$10,000. 7 Yeas. The Order as AMENDED was VOTED 6 yeas, 1 nay (Gagnon) resulting in the following:

Ordered, that the Town Council relocate the following funds:

1. Facilities Study	\$ 6,201.00
2. Little Falls Tennis Courts	\$ 1,469.00
3. Baxter Library Carpet Replacement	\$ 5.50
4. Pager Replacement	\$ 6,306.00
5. Pay Per Bag Start-up costs	\$ 5,636.43
6. Unallocated Cap.Part 2 (fy2012-13)	\$ 5,000.00
7. White Rock School Demolition	\$ 60,000.00

	\$84,617.93
With funds applied to;	
Holiday Lights on Main Street	\$ 310.00
Facility Study-Little Falls	\$ 43,491.65
Narragansett School Parking lot	\$ 6,027.89
Maintenance or replacement	\$ 34,788.39
of Basketball and	
Tennis Courts at Little Falls Rec. area.	\$ 84,617.93

Prior to the above vote, Councilor Phinney requested a point of order as to whether the Town Manager should be looking back to see where funding had come from at this point. 5 yeas, 2 nays (Gagnon, Phillips)

Item #8361 This item was Moved by Councilor Phinney, Seconded by Councilor Benner and VOTED to move to the end of this agenda and combine with Order 8372. 7 yeas.

Item #8364 Moved by Councilor Phinney, Seconded by Councilor Phillips to take this item out of order. 7 yeas.

Chairman Gagnon opened Public Hearing #3 on a proposal to amend the Town's Special Amusement Ordinance. Matt Mattingly spoke on behalf of addressing just the noise issue in the Town and not an ordinance of this type, and of on premise vs. off premise permits. There were no further comments and the Public Hearing was closed at 9:55 pm.

Item #8364 Moved by Councilor Phinney, Seconded by Councilor Benner and VOTED 2 yeas, 5 nays (Pressey, Phillips, Gagnon, Benner, Moulton) Motion FAILED OF PASSAGE.

Chairman Gagnon opened Public Hearing #1 proposing approval of Automobile Graveyard/Junkyard Permits for 2014. There was no public comment and the hearing was closed at 10:00 pm.

Moved by Councilor Phinney, Seconded by Councilor Phillips to waive the reading of the Order. 7 yeas.

Item # 8362 Moved by Councilor Phinney, Seconded by Councilor Benner and VOTED, Ordered, that the Town Council approve the renewal of the following Automobile Graveyard/Junkyard permits for 2014;

DARRYL WESTON	LKQ CORP. /GORHAM AUTO	176 NARRAGANSETT ST
RALPH CARTONIO	SOUTH ST. AUTO BODY	346 SOUTH ST.
DAVE MCCULLOUGH	M&D RENTAL	393 OSSIPEE TRL.
GARY NELSON	CHET'S AUTO SALES	475 OSSIPEE TRL.
DONALD HOPKINS	HOPKINS SALVAGE	230 NORTH GORHAM RD.
BRUCE YOUNG	YOUNG'S AUTO SALVAGE	721 FORT HILL RD.
GORDON REICHERT	REICHERT'S AUTO BODY	112 SHAWS MILL RD.
SHAWN MOODY	MODDYS/ INS AUTO AUCTION	200 NARRAGANSETT ST.
JOHN DUMBROCYO	DUMBO ENTERPRISES	86 LONGFELLOW RD.

7 Yeas

Chairman Gagnon opened Public Hearing #2 on an application for a Special Amusement Permit for Your Space-SMCRC. There were no public comments and the Hearing was closed at 10:05 pm.

Item # 8363 The proposed order was Moved by Councilor Phinney, Seconded by Councilor Phillips; Moved by Councilor Phinney, Seconded by Councilor Robinson to AMEND the proposed Order by adding the condition “any outdoor events can take place if and when the Town Council approves a subsequent Special Amusement Ordinance which allows outdoor events”. 5 yeas, 2 nays (Pressey, Gagnon)
The Order as AMENDED was VOTED 5 yeas, 2 nays (Pressey, Gagnon)

Chairman Gagnon opened Public Hearing #4 on a proposal to amend the Land Used and Development Code by adding definitions for airstrips (including Runways and Landing strips) ad Runways and a proposal to allow off-premise signs for farm stands. Alan Caruso of Fort Hill Road spoke in opposition to this amendment, as he has been had an application in since about 2008.

Brian Willing, a C & C family representative spoke in opposition. Shawn Moody of Elkins Road suggested tabling the item for more time for discussion.

N.A Martin of Fort Hill Road spoke of his concerns that people will be losing their property rights. There were no further comments and the hearing was closed at 10:40 pm.

Item # 8365 The Order, as read by the Acting Clerk, was Moved by Councilor Phinney, Seconded by Councilor Benner; Moved by Councilor Phinney, Seconded by Councilor Robinson, and VOTED to send this item to the Ordinance Committee. 6 yeas, 1 nay (Pressey). Prior to the above vote, Councilor Moulton disclosed that Mr. Caruso was a past client of his, as well as Shawn Moody. A vote was taken to determine if Councilor Moulton should recuse himself. 7 nays

Item #8366 The Order as read by the Acting Clerk, was Moved by Councilor Moulton, Seconded by Councilor Benner and VOTED that;

Whereas, the State of Maine allows off-premise directional signs for farm-stands, and

Whereas, the Town’s Land Use and Development Code doesn’t currently allow off-premise signs but believes there is a valid public interest to be served by allowing limited off-premise directional signs for farm-stands, without harming the public interest, and

Whereas, the Planning Board held a Public Hearing on September 9, 2013, and after hearing, recommended approval,

Now Therefore, Be it Ordered, that the Town Council approve an amendment to Chapter II, Section III, Signs, of the Land Use and Development Code to allow off-premise farm – stand signs, as proposed. 7 yeas.

Item #8367 Moved by Councilor Phinney, Seconded by Councilor Pressey and VOTED that;
Be It Further Ordered, that Town Common Road be classified as an Urban Access Road. 7 yeas

Item #8368 Item FAILED for lack of Motion.

Item #8369 The Order as read by the Acting Clerk, was Moved by Councilor Moulton, Seconded by Councilor Phillips and ORDERED that the Town Council appropriate \$32,120 from Recreation Impact Fees to amend the Department of Environmental Protection Site Location permit for the Chick property for future projects pursuant to the Chick Property Master Plan approved by the Gorham Town Council on September 2, 2008, to include separate projects for the development of a 90 foot baseball field, the

construction of the basketball court, construction of the Ice Rink, construction of a parking lot in the Northwest corner of the Chick property and construction of 2 multi-purpose athletic fields , and

Be It Further Ordered, that the Town Council accept the proposal from Sebago Tec. for preparation of the application to D.E.P. and support service to obtain the amended permit. 6 years, 1 nay (Phillips)

Item #8370 Moved by Councilor Moulton, Seconded by Councilor Phillips and ORDERED, that the Town Council appropriate \$30,000 from Recreation Impact Fees to move forward and begin implementation of the Little Falls Recreation Area Master Plan, approved by the Town Council on August 6, 2013, by excavating the large hill and relocating the material on site as much as possible, and

BE IT FURTHER ORDERED, that the Town Council accepts a proposal from Sebago Tec. to provide engineering and support services for this project, and

BE IT FURTHER ORDERED, that the Town Council understands that this project will be done, over time, primarily by the Public Works Department as their schedule of work allows. 7 years

Item #8371 Moved by Councilor Phinney, Seconded by Councilor Moulton and ORDERED, by the Town Council that the polls be open for the November 5, 2013 State Referendum Election and the Annual Municipal Election between the hours of 7:00 am and 8:00 pm, and

BE IT FURTHER ORDERED, that absentee ballots will be processed on Monday November 4, 2013 at 9:00 and on Tuesday, November 5, 2013 at 8:00 am, 2:00 pm, 6:00 pm, and 8:00 pm, and

BE IT FURTHERED ORDERED, that the Registrar of Voters is in session between the hours of 8:00 am and 4:00 pm on Tuesday ,October 29 and Wednesday October 30; 8:00 am and 7:00 pm Thursday, October 31; 8:00 am and 1:00 pm on Friday, November 1, and 8:00 am until 4:00 pm on Monday November 4, 2013 for the purpose of registering citizens to vote, correcting the Voter list and accepting Absentee Ballots, and

BE IT FURTHER ORDERED, that the Town Council appoint the following Wardens and Ward Clerks for the November 5, 2013 State Referendum, Municipal Election and that the Acting Town Clerk is authorized to make changes to these appointments as needed:

Ward 1 Warden- Susan Emerson, Ward Clerk- Laurel Smith

Ward 2 Warden Patricia Clay, Ward Clerk- Nancy Kenty

Central Warden –Laurie Nordfors, Ward Clerk- Marina Lewis

7 Years

Item #8372 Moved by Councilor Moulton, Seconded by Councilor Benner to go into Executive session Pursuant to Title 36, M.R.S.A., Section 841 (2) for the purpose of considering four applications for abatement of taxes based on poverty. 7 years

Chairman Gagnon left the Council meeting before the Council began the Executive Session.

Moved by Councilor Phinney, Seconded by Councilor Moulton to come out of Executive Session. 6 yeas

Item# 8373 Moved by Councilor Pressey, Seconded by Councilor Phillips and ORDERED, that the application for an abatement of taxes based on poverty for applicant 13-47, be denied because it is too early to determine if the applicant will be able to contribute to the public charge. 6 yeas.

Item #8374 Moved by Councilor Phinney, Seconded by Councilor Benner and ORDERED that the Town Council grant an abatement of taxes and costs based on poverty to applicant 13-48 for the 2011/12 fiscal year. 6 yeas

Item #8375 Moved by Councilor Moulton, Seconded by Councilor Benner, and ORDERED, that the Town Council deny the application for an abatement of taxes based on poverty of the applicant 13-49 because it is too early to determine if applicant can contribute to the public charge. 6 yeas

Item #8376 Moved by Councilor Phillips, Seconded by Councilor Moulton and ORDERED, that the Town Council postpone action on an application 13-50 request for an abatement of taxes based on property to obtain additional information. 6 yeas

Moved by Councilor Moulton, Seconded by Councilor Benner to ADJOURN. 6 yeas Time of Adjournment 11:42 P.M.

A True Record of Meeting

Jennifer Elliott, Acting Town Clerk