

**MINUTES
SPECIAL MEETING
THE GORHAM TOWN BOARD
NOVEMBER 2, 2022 6:00pm**

The Gorham Town Board held a Special Meeting on November 2, 2022 at 6:00pm at the Gorham Town Hall.

Present were Councilmembers; Brian S. Case, Jake Chard, Phil Curtis and Brian Lazarus.

Town Officials in attendance; Chief Operator Water and Wastewater Plants Greg Coston and Town Clerk Darby Perrotte.

Supervisor Lightfoote was necessarily absent.

Other guests in attendance; Ben Page, Bill Glitch, Barb Frank, Jennifer Kerrick, Sylvia Clarke, Rebecca Long, Josh & Chrissy Watkins, Peter Virkler, Brian Mastro Simone, Sally Napolitano, Lynn Klotz, Mike Kestler, Don & Connie Mussaw, Ed & Debbie Merritt, Deborah North and Ben Smith.

Guests joining via Zoom; Bob Gusciora, Annie St. George, Abby Allen, Brent Ayers, Danielle Ayers, Margaret Morrison-White, Jeff North, Christine Ayers, Sharon Schingsing and Adrienne Smith. Several callers logged on with a phone number listed.

1. Call to Order/Pledge to the Flag – Deputy Supervisor Case opened the meeting and led the pledge to the flag.
2. Privilege of the Floor –

Ed Merritt, Deer Run resident, read the following statement;

Thank you for posting the tentative Town Budget on the website for the taxpayers of the community to review. It is much easier for the folks working to review before the meeting.

With that said, I'd like to bring to your attention a few issues that I have with Highway Superintendent position and this seems like the appropriate time to do so.

Supervisory Responsibilities:

Directly supervises seven employees in the highway department.

It the very first line of the job description of responsibilities.

I know that we have went through this at many board meeting and I've heard that Zack had the charges dropped on a technicality, but the fact remains that Zack was arrested on a DWI charge in the middle of the afternoon on a weekday. Zack was very lucky to have the charges dropped. My point at reviving this discussion is how is Zach maintaining the ability to be directly supervising his employees while drinking during working hours?

This should concern each of you and steps should be taken to properly address this. My suggestions are as follows:

I was told at a board meeting when asked about being "on the clock" at the time of his arrest, that he was an elected official, so he has "flexible hours". Well, the town clerk is an elected official, and the positions typical hours are posted in the job description. With regards to the

attention that this has received over the last few months, it's time that we actually specify the "normal office hours of the highway dept", i.e., 7:30 am to 4:00 pm in the Highway Superintendent job description. In doing so we are actually holding the highway superintendent accountable for a real work schedule and being sober on the job.

Additionally, the job description does require a Commercial Drivers License. I was told by Fred in an earlier meeting that the position did not require a CDL.

Under the title Essential Duties and Responsibilities, the first two lines are as follows:

- **Supervise the care, repair, and maintenance of all highway roads and bridges**
- **Provide for snow removal from highways and bridges.**

I would think that those two very important responsibilities would benefit greatly from the superintendent having a CDL. When employees are out sick or on vacation, the superintendent could actually fill in and legally drive truck.

Quoting from the last paragraph of the job description **"The Highway Superintendent, performing all of the duties provided herein shall be paid an annual salary set by the town board"**.

Being that Zack has not met the qualification for the job per the Town of Gorham Highway Superintendent Job Guidelines, and this adversely effects his ability to perform the two most critical roles, and the Town Board has the duty to set his annual salary, as a taxpayer of Gorham, I implore you as the Town Board to reduce his annual salary by at least 20% to reflect his inability to legally perform his duties. Upon completion of receipt of his CDL, Zack's pay could return to normal.

Darby, I ask that this become a matter of public record.

Councilmember Lazarus stated "Ed I did see your email the other day, read it and I did ask Zach the other day and he said does hold a CDL. If you refuse to blow, you should be subject to a 1 year license revocation. The Hearing Judge did not choose to keep his license. As far as I know he has a valid, unrestricted CDL."

Debbie North, County Road 18 resident, read the following statement;

First Amendment of the Constitution of the United States of America:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

A quote from one of my favorite actresses from the golden age of Hollywood, Mae West:

"A dame that knows the ropes isn't likely to get tied up."

At this time I will not be offering any further public commentary due to the ongoing police investigation I have initiated through the New York State Police.

Mrs. North requested that this become as a matter of public record.

Bill Glitch, 2640 Main Street resident, stated "A year ago, or so, I asked that they change the law in the Town of Gorham so it is not an elected position at the Highway Department so that it is an appointed Highway Superintendent. The reason was, and it's not personal but, Zach is the guy we have all worried about coming along and he's here and he's out of control. He's not working the hours. People in other towns know it, guys in other Highway Departments know it. I've talked to them in restaurants, I've seen them around. He's not doing what he should do. I know as an elected official you guys can't, quote, unquote, make him do anything. I get that. The way to take care of it is to make it an appointed position, get somebody in there that's willing to do the job the way it should be done. It's going to take a year to change the law it always does. I've said it a year ago, it hasn't gotten any better, since then he's gotten his DWI. I'm not prophetic but, I saw it coming and you guys know what I'm talking about. One other thing, 4% for everybody, you guys are nuts."

Ben Page, County Road 17 resident, asked why the bookkeeper line on the budget says Do Not Use Budget. Contractual went from \$29,000.00 from last year to \$43,000.00. A1310. 1 and 1310.4. He said that is a big increase. Is the Town hiring out more bookkeeping?

Sally Napolitano, Lake Drive resident, asked several questions regarding the change, what personnel services encompasses.

Several other residents had questions pertaining to the bookkeeper position.

Councilmember Chard said the budget is composed by Fred. The best he can say is 2023 reflects a change from bookkeeper to personnel services.

Residents had many questions on the projected payroll document with a lot of confusion. It came to light the Board members had a different document than what was given out at the meeting. There was a whole column missing on the document handed out.

Residents were asking for clarity.

Discussion was held regarding wages, benefits and retirement. Residents had lots of questions, an explanation is important.

Bob Guschiora, Thorndale Beach resident, joining via zoom, said "Let me preface this, I have had accounting courses but, I'm a retired Electrical Engineer. I have done math like you wouldn't even want to know and I can't figure out what is going on. I heard something that really disturbs me. Your accounting firm wants it this way. Who's the customer? The Town of Gorham or the accounting firm? And if that accounting firm is not towing the mark then maybe the Town of Gorham needs another accounting firm.

I'm really confused and a little bothered because I expected to see more explanation of line items that made sense. I don't, and that's really sad. In this day and age everybody is trying to get the most bang for their buck and this is really disappointing. This is very, very difficult to understand, even for an educated person. That should not be. All of us in this town are going to have to pay whatever the bottom line is on this thing and it's getting increasingly more difficult to pay taxes. People are very, very concerned about dollars and cents, this, I have to say, our accounting people did not do a very good job of presentation so that it is understandable and that's wrong."

Sally Napolitano said the Town has 3 capital projects on the table and nothing budgeted for those.

Councilmember Lazarus said there is \$1.1 million set aside for Capital Projects and \$410,000.00 of that is from the American Rescue Plan.

Mrs. Napolitano said there are Waste Treatment and Water Treatment required upgrade. She doesn't see any of that appropriated in the budget. She asked if the Town has applied for State revolving funds for low or no interest loans.

Lynn Klotz, Lake Drive resident, said she asked at the May meeting if MRB could provide a simple table of the Capital Projects. What their fees were, what grants were eligible, what grants were received and what the total projects were. She thought it would be a helpful, a simple table for taxpayers to understand what the projected spending was. That hasn't been provided yet. She said a simple visual would be helpful. MRB prepared documents for each one of those projects, she knows they have the information.

Councilmember Lazarus said MRB sent him the following information; Gorham Water Treatment Plant has been awarded a Water Infrastructure Improvement grant (WIA) in the amount of \$3 million. Based on net eligible product cost but certain we will exceed that requirement. Additionally the project will be financed through the Drinking Water State Revolving Fund (DWSRF) administered by the New York State Department of Health and the New York State Environmental Facilities Corporation (NYSEFC).

Gorham Wastewater Treatment Plant; this project has been awarded a Water Quality Improvement Project grant for \$537,800.00 and a WIA grant of \$90,550.00. The WIA grant will be available based on net eligible product cost so if the project costs are lower than anticipated we would end up with a lower WIA grant. This project is anticipated to be financed via the Clean Water Program administered by the NYSEFC.

The last thing is the Highway Project which is on hold now.

Mrs. Napolitano said that is awesome to hear. Her next question is, why did we pass bond resolutions for those projects if we had access to grants.

Peter Virkler, County Road 18 resident, stated often when you get those grants you have to have a bond resolution passed saying the Town will fund it.

Councilmember Chard said a lot of times with NYS grants you pay, then they give us money back. Towns have to apply for bonds then the State refunds the money.

Mrs. Napolitano asked several questions regarding line items that were clearly a mistake. She asked why EFPR is not at the meeting. Were they asked to be here?

Councilmember Lazarus said they were asked to be here and they declined.

Debbie Merritt, Deer Run resident, said she appreciates the Board is trying to explain the tentative. She said "This is very confusing stuff and EFPR should be here and them calling the

Town toxic, it's really disparaging that they would say that. They should come and explain it. This has been a very productive meeting, EFPR does not know the residents."

Susan Carpenter, County Road 11 resident, stated she has the same question she had last year. She asked if the Board thinks it is appropriate for taxpayers to pay for excessive garbage disposal and fees. She thinks it is irresponsible that the Town is losing money. She suggests moving to paying per pound or per bag. That would force residents to be more conscientious about recycling.

Jennifer Kerrick, County Road 18 resident, said her husband works for the town highway department. They purchased a transfer station permit for 2022 but she believes they are the only employee to buy one. She asked if every town employee purchases a transfer station permit or is it a benefit of working for the town that employees do not purchase them.

Councilmembers Case, Lazarus and Curtis said they know there are problems, they are looking into them.

Christine Watkins, Lake to Lake resident, asked when the questions brought up tonight will be answered.

Rebecca Long, Maple Avenue resident, asked if Mr. Lightfoote will be at the next meeting and she thanked the Board for answering her questions.

Councilmembers asked the Town Clerk to write up a list of questions asked. They will ask Supervisor Lightfoote and EFPR and will have the answers at the meeting on November 9, 2022.

Lynn Klotz said Crystal Beach Fire Department numbers went way up. Did the Board get an accounting of their spending from 2 years ago.

Councilmember Lazarus said they are working with the County to get help with Crystal Beach Fire Department.

Sally Napolitano asked about the Water Billing Audit. Whether it has been completed.

Councilmember Lazarus said they were starting with a procedural audit. He is not sure if that has been completed. The procedural audit is looking at how bills are completed, the steps of the billing process and moving forward how we can make that better.

Ben Smith, Kearney Road resident, said looking back and finding out what happened so it doesn't happen again is very important.

Councilmember Lazarus said "We are not going to look back a few years and hold people accountable for billing errors in the past. That is why we are doing a procedural audit. We can look back and find out how we can do it better in the future. "

Councilmember Case said they did purchase a new printer so the bills are readable in the future.

Residents agreed the billing should be clear and accurate.

Susan Carpenter said according to the accounting firm it looks like the Town is not going to exceed the tax cap. She would have felt better if the Board waited to decide on passing the tax cap override. She believes taxpayers would feel confident that the Board is making a conscience effort to stay under the tax cap and only pass the override if and when it is needed.

3. Business –

a. Adopt the 2023 Preliminary Budget

The Board held a lengthy discussion regarding the budget.

Councilmember Chard went through the budget line by line. He had lots of questions.

Town Clerk Perrotte will compile all the questions from the meeting to give to Supervisor Lightfoote and EFPR for clarification.

Councilmember Chard suggests the Board take some of the ARPA money, \$410,000.00 to put towards the employees. Meaning a bonus for essential workers for Departments that did not shut down and those who suffered hardship because of covid.

Discussion ensued regarding what you can use ARPA money for.

Residents spoke up voicing the money should be kept to put towards future Capital Projects.

Councilmember Chard asked if it was an oversight, why tax collector and deputy tax collector were not given a 4% increase.

Councilmember Case said it is an open subject right now, that's why there is not a figure.

Councilmember Chard asked if it could be shared.

Councilmember Case said no, not at this time. I'm not going to go into detail.

Councilmember Chard suggested freezing the salary for members of the Town Board and the Town Supervisor, like he suggests every year. He asked why the budget was delayed. Chard said the reason given why the budget was late was that budget sheets were not handed in on time and Fred had to do all the work. He would like to know what or who held up the process.

Councilmember Chard said he is uneasy about voting on this with the Tax Collector not getting the 4% increase.

Councilmember Chard made a motion to approve the resolution for the 2023 Preliminary Budget Chard said with the following changes, to reduce the budgeted amount of \$254,515.00 to \$215,178.00 for Crystal Beach Fire Department. The motion was seconded by Councilmember Lazarus and the resolution was adopted unanimously. 4-0

Ayes –Case, Chard, Curtis, Lazarus.

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4. Privilege of the Floor –

Ben Smith, Kearney Road resident, stated he would like to ask a few questions about the Tax Collector.

"A. Do you know how much training she had? You don't have to answer that but I can tell you how much she had."

B. Do we know what she has done, or hasn't done? worse than getting a DWI on the clock or sending out thousands of dollars of \$0.00 water bills or an insubordinate Code Enforcement Clerk. I just want to know if you know what she has done that is so bad or worse than all these other employees that still have jobs, yet we're thinking of making changes? And yet she knows nothing about any of this?"

Sally Napolitano said "I know nothing about this but I totally agree with Ben."

Ben Smith said "It sounds like we're protecting some employees and throwing others to the dogs and making them glue their pieces back together and figure out how to do their job. She had zero training. The busiest 2 weeks of the year for tax collection, Sue went on vacation. So she had zero training, zero but yet we're here trying to make changes instead of helping an employee."

Bill Glitch said "These guys are saying they don't really know what it is."

Ben Smith said "I understand but Brian obviously does."

Councilmembers Case and Lazarus said it's a personnel matter."

Sally Napolitano stated "To piggyback on what Ed Merritt said earlier, it didn't dawn on me until we were talking about the Tax Collector not getting a raise, then why on earth are we giving the Highway Superintendent a raise?"

Ben Page stated "I said that to Fred the day they were supposed to have the second open house and there were no signs up, I called Fred and said what the heck? The Highway Supervisor is making himself and the Board look like a bunch of idiots. His comment to me was, we can't do anything about it. I said to him, when it comes to the budget, you can do something about it. If you don't hold people accountable, nothing gets done, nothing changes, its accountability."

Ben Smith said "It's an elected official that the Town pays. We all pay her payroll so the Town should be involved with what's the issue, right? If we have an employee in the Town that's not doing their job, the Town should know about it. We all know about the DWI, we all know about the \$0.00 water bills that cost the Town how many thousands of dollars. We have water bills that are misprinted, we know these issues but we can't know about the issues with this and we're withholding pay."

Councilmember Lazarus said he doesn't know what they are going to talk about in executive session, he couldn't answer a question about how he feels until they talk about it.

Sally Napolitano stated "By not giving her the 4 %, that caught somebody's eye, and it would appear the decision had already been made when the budget came out and frankly Brian, you did kind of reinforce that with what you said."

Lynn Klotz said "I might put a different spin on this, that would be, what are the Human Resource protocol for employees in the Town. People getting regular evaluations and if they are falling short they could be mentored and given the opportunity to improve. I think that's a reasonable thing for every employee."

Councilmember Lazarus said that 0% isn't set in stone.

Ben Page and Sally Napolitano said they hope the 4% increase for the Highway Superintendent isn't set in stone either.

Ben Page said "So budget, right, when you're paying people, you give them a raise when they're doing good, you give them a raise when they're doing 100% of their job, when their doing 110% of their job.

When they aren't doing their job is when you can hold them accountable for their pay and you can give them maybe not a decrease in pay, but maybe not a raise.

Maybe it would be, I need to wake up, maybe it would be, I'm going to do less. Less than nothing is nothing. Less than mismanagement is still mismanagement.

You guys as a Board, need to make that decision before you vote on this budget, and you guys need to clear yourselves."

Josh Watkins has been part of the water mishap. He is concerned if they are auditing water billing the Town should be auditing every aspect of the job detail for all of that position. Is there correct training for all of those positions."

He said this is a bit concerning also seeing a 4% increase when we are having a procedural audit on the water and sewer and how many other positions in that accounting is not having an audit on the handling of those positions. That same person is listed for bookkeeper, personal services, water clerk, sewer clerk, safety inspector, highway clerk but we are only having one procedural audit. Where is the accountability for that."

Councilmember Case thanked everyone for their patience. He said it's not easy sitting up here trying to figure out what way to go especially when Fred is not here. These things are not the easiest thing to look at and figure out (the budget). He said they are trying their best so that town business can carry on.

Discussion was held regarding the short-term rental law.

Councilmember Lazarus said he would like to push back the vote on Short Term Rental until he has more time to review it.

5. Set the Next Meeting Date – The next Meeting and Public Hearings will be held November 9, 2022 at Gorham Town Hall at 7:00 pm.

6.. Executive Session –

On the motion by Councilmember Lazarus, seconded by Councilmember Curtis, the Board entered into executive session at 8:49 pm to discuss a personnel matter.

On the motion by Councilmember Chard, seconded by Councilmember Case, the Board returned to regular session at 9:08 pm. Both motions carried unanimously. 4-0

Ayes –Case, Chard, Curtis, Lazarus.

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7. Adjournment – with no further business, on the motion by Councilmember Chard, seconded by Councilmember Curtis, the meeting was adjourned at 9:10 pm. The motion carried unanimously. 4-0

-Ayes –Case, Chard, Curtis, Lazarus.

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Respectfully Submitted,

Darby L. Perrotte
Town Clerk