

**MINUTES
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – DECEMBER 6, 2023
HYBRID REGULAR MEETING – 7:00 P.M.**

Item 1. Call to Order. Chairman McGee called the regular meeting of the Scarborough Town Council to order at 7:00 p.m.

Item 2. Pledge of Allegiance.

Item 3. Roll Call. Roll was called by Kristen Barth, Deputy Town Clerk. Thomas J. Hall, Town Manager and Liam Gallagher, Assistant Town Manager, were also present. Those Councilors present:

Councilor April V. Sither -Vice Chair	Councilor Jean-Marie Caterina
Councilor Donald W. Cushing, Jr.	Councilor Donald R. Hamill
Councilor Karin B. Shupe	Councilor Jonathan E. Anderson
Chairman Nicholas S. McGee	

Item 4. General Public Comments.

- Moira Erickson of Pine Point Road, spoke in regards to the Coastal Water Committee bringing forward paid parking along Pine Point Road and Snow Canning. She stated that she does not support this.
- Tim Lambert of Iris Drive, spoke in regards to the Downs being under represented at Council meetings and the divide it is creating in the community.
- Jim Pritchard of Maple Avenue, spoke in regards to receiving a draft of the traffic calming policy and increased traffic. He suggested a 18-24 month building moratorium.
- Nina McKee of Black Point Road, spoke in regards to the beautiful lights outside of Town Hall.

Item 5. Minutes: November 15, 2023 - Town Council Meeting. Motion by Councilor Caterina, seconded by Councilor Sither, to move approval of the minutes from the November 15, 2023, regular Town Council meeting, as written.

Vote: 7 Yeas.

Item 6. Adjustment to the Agenda. None at this time.

Item 7. Items to be signed: a. Treasurer’s Warrants. Treasurer’s Warrants were signed prior to the meeting.

Item 8. Town Manager Report. Thomas J. Hall, Town Manager, gave the following updates:

- School Building Project Update
 - BOE/TC Workshop on 11/16/2023 and Building Committee on 11/28/2023
 - Buyers Obligations under the Purchase Option Agreement
 - Defeat of various items on November 15, 2023
 - Recommend Defeat of TIF/CEA provisions – Order Nos. 109 and 110
 - Order No. 23-136 Official “Cancellation of Option Agreement”
 - Crossroads’ Requirement to Reserve Land for a School
- Eastern Trail—Close the Gap: Meet with new ETMD ED and Board President
 - Resumption of Key Stakeholder Meetings
- Gorham Connector – public engagement start up
- Dredge Update – operations fully underway
 - Additional 30,000 CY – Total dredge of 140,000 CY

- Western Beach – public to avoid
- Pine Point Pier Improvements – update on crane replacement and pier
- Financial Audit Complete – audit presentation scheduled for December 20
- Alger Hall Lease – workshop scheduled for December 20
- School Impact Fee – hold for new school solutions/estimated cost
 - Impact Fee Comparisons
- GPCOG “Welcome and Congrats” Reception
 - Centerboard Yacht Club – Wednesday, December 13 at 5:30pm – RSVP

Order No. 23-105, 7:00 p.m. Public hearing and second reading on the request from 3iHoMe/POAH to enter into a Credit Enhancement Agreement with the Town of Scarborough, to develop a state of the art accessible apartment community in the Town Center at The Downs. [Tabled from the September 20th Town Council meeting.] [Housing Alliance] Thomas J. Hall gave a brief overview of this order. Chairman McGee opened the hearing for public comment and the following comments were made:

- Nina McKee of Black Point Road, spoke in regards to the project financial information being long and confusing but supports the project to help Scarborough residents.
- Susan Hamill of Bay Street, spoke in regards to the value of this project but granting the CEA hurts the taxpayers and helps the Downs.
- Jim Pritchard of Maple Ave, spoke in regards to confusion about the CEA and asked questions in regards to how the process works.
- Bill Shanahan of Cumberland Way, spoke in regards to being in favor of his order and how much the CEA can help this project.

Chairman McGee gave an overview of Alyson Bristol’s email in regards to her comments on this order and requested that the email is made part of the record.

“Dear Nick and April -

I am unable to attend tomorrow night’s Council meeting, but after reading the agenda attachments in regard to the proposed 3iHoME Credit Enhancement Agreement, I still have comments/concerns I wanted to share. I would appreciate my bulleted comments below being read during the public comment portion of the agenda item.

First and foremost, I want to reiterate what an important project this is and, as a Scarborough resident, something to be proud of. However, as a retired fundraiser, I believe PoaH, as a 501(c)3 non-profit charitable organization, has other fundraising options at its disposal.

The cover memo states one purpose of this CEA is to demonstrate local support for the project. Scarborough Housing Authority’s recommended \$200K towards the project already demonstrates that support. If, according to Karen’s memo, \$15K in financing from other sources can be generated from each \$1000 of this \$200K investment, this provides PoaH with the potential of raising another \$3M from sources other than Scarborough taxpayers, or 4 times the amount of the CEA reimbursement.

Karen’s Projected 50% Reimbursement over 15 years averages out to \$52K a year. If the average projected total taxes for the property then come to \$104K annually, that means the remaining 10% to cover Scarborough’s cost-to-serve would only be \$10K a year. Using Karen’s example of Harmon Apartments in Boston as to how many school children to anticipate, \$10K a year wouldn’t even cover the cost of one student.

The cover memo also states the CEA is intended to offset operating costs. This is inconsistent with standards outlined in the town's CEA Policy. Although the CEA Policy states Town Council can make CEA decisions on a case-by-case basis, the project does not meet the required three Rules and Conditions set forth in the policy. At the first reading, I believe Mr. Fellows stated the project's infrastructure costs would be covered by infrastructure put in place by The Downs. Providing both The Downs and PoaH a CEA intended to support infrastructure is essentially taxpayer double-dipping.

Karen's memo also clarified that The Downs would indeed not get affordable housing credit for all 51 units, only 44, which would still cover the 10% needed for their 400 growth permits over the next 3 years. However, allowing The Downs to take those permits out of the open-ended affordable/workforce housing pool vs their 400 essentially voids the affordable housing requirement in their CEA.

I've attached PoaH's 2021 IRS Form 990 Tax Return as a point of reference, which shows PoaH's 2021 Revenue Less Expenses was \$71M, and Total Assets Less Liabilities was over a quarter of a BILLION dollars. If there is a real need for a CEA, I would again suggest The Downs forego its 40% reimbursement for this project - perhaps it could be treated as a charitable contribution - leaving 50% of the property's tax revenue to cover the cost to serve.

Thanks very much for the Council's time and consideration, with a shout out to Karen Martin for her thoughtful and thorough response to concerns raised at the first reading.

*All best,
Alyson"*

There being no further comments either for or against the hearing was closed at 7:40 p.m. Chairman McGee and Thomas J. Hall, Town Manager answered questions asked during public comment.

Motion by Councilor Caterina, seconded by Councilor Sither, to move approval on the on the request from 3iHoMe/POAH to enter into a Credit Enhancement Agreement with the Town of Scarborough, to develop a state of the art accessible apartment community in the Town Center at The Downs.

Vote: 6 Yeas and 1 Nay (Councilor Hamill). Motion Passes.

Order No. 23-117, 7:00 p.m. Public hearing and second reading on the new request for a Cannabis Establishment License from Nickolas Levasseur, d/b/a Watchtower, LLC, located at 137 Pleasant Hill Road for an Adult Cannabis Products Manufacturing Facility. [Tabled from the October 18th & November 8th Town Council meeting.] [Assistant Town Manager] Liam Gallagher, Assistant Town Manager, gave a brief overview on this Order. Chairman McGee opened the hearing for public comment and the following comments were made:

- Darlene Smith of Bickford Street, wanted to know why this applicant is requesting two licenses.
- Nine McKee of Black Point Road, spoke in regards to limits on Cannabis Licenses.
- Dave Rabideau of Bickford Street, spoke in opposition of this order.

There being no further comments either for or against the hearing was closed at 8:07 p.m. Chairman McGee and Liam Gallagher, Assistant Town Manager answered questions asked during public comment.

Motion by Councilor Caterina, seconded by Councilor Sither, to move approval on the new request for a Cannabis Establishment License from Nickolas Levasseur, d/b/a Watchtower, LLC, located at 137 Pleasant Hill Road for an Adult Cannabis Products Manufacturing Facility.

Vote: 7 Yeas and 1 Nay (Councilor Hamill). Motion Passes.

Order No. 23-128, 7:00 p.m. Public hearing and second reading on the proposed amendments to Chapter 311 – the Schedule of Fees. *[Planning Director]* Thomas J. Hall, Town Manager gave a brief overview on this order. Chairman McGee opened the public hearing. As there were no public comments either for or against, the hearing was closed at 8:15 p.m.

Motion by Councilor Caterina, seconded by Councilor Sither, to move approval on the proposed amendments to Chapter 311 – the Schedule of Fees; as follows:

**Chapter 311 – the Town of Scarborough
Schedule of Fees Ordinance**

BE IT HEREBY ORDAINED, by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following changes to Chapter 311 – the Town of Scarborough Schedule of Fees Ordinance, be and hereby is amended, by adding the following new section (additions are underlined; deletions are struck through):

<u>Chapter 602B – Temporary Overflow Parking Ordinance</u>	<u>Fee</u>
<u>Parking Permit Fee</u>	<u>\$300 500 per day requested Not to Exceed \$5,000</u>

Vote: 7 Yeas. Motion Passes.

Order No. 23-129, 7:00 p.m. Public hearing and second reading on the new request for a Cannabis Establishment License from Nickolas Levasseur, d/b/a Pine Point Medical, LLC, located at 137 Pleasant Hill Road for a Medical Cannabis Products Manufacturing Facility. *[Assistant Town Manager]* Liam Gallagher, Assistant Town Manager, gave a brief overview on this Order. Chairman McGee opened the public hearing As there were no public comments either for or against the hearing was closed at 8:16 p.m.

Motion by Councilor Caterina, seconded by Councilor Sither, to move approval on the new request for a Cannabis Establishment License from Nickolas Levasseur, d/b/a Pine Point Medical, LLC, located at 137 Pleasant Hill Road for a Medical Cannabis Products Manufacturing Facility.

Vote: 7 Yeas. Motion Passes.

Order No. 23-130, 7:00 p.m. Public hearing and action on the new requests for a Food Handlers License, Hana Group Franchising, LLC d/b/a Mai Sushi, located at 440 Payne Road, Casey Prentice d/b/a 58 Culinary, LLC, located at 15 Pleasant Hill Road and an outstanding renewal from Maine Baking Company, LLC d/b/a Pizza by Fire, located at 51 Dynamic Drive #4. *[Town Clerk]* Kristen Barth, Deputy Town Clerk, gave a brief overview of this order. Chairman McGee opened the public hearing. As there were no public comments either for or against, the hearing was closed at 8:20 p.m.

Motion by Councilor Caterina, seconded by Councilor Sither, to move approval on the new requests for a Food Handlers License, Hana Group Franchising, LLC d/b/a Mai Sushi, located at 440 Payne Road, Casey Prentice d/b/a 58 Culinary, LLC, located at 15 Pleasant Hill Road and an outstanding renewal from Maine Baking Company, LLC d/b/a Pizza by Fire, located at 51 Dynamic Drive #4.

Vote: 7 Yeas. Motion Passes

OLD BUSINESS:

Order No. 23-109. Second reading on the Council Order approving the Third Amendment to the Scarborough Downtown Omnibus Municipal Development and Tax Increment Financing District and Development Program. [Tabled from the November 8th Town Council meeting.] [Town Council] Thomas J. Hall, Town Manager gave a brief overview of this order. No public comments were made either for or against this order.

Motion by Councilor Caterina, seconded by Councilor Sither, to move approval on the Council Order approving the Third Amendment to the Scarborough Downtown Omnibus Municipal Development and Tax Increment Financing District and Development Program.

Vote: 7 Nays. Motion Fails.

Order No. 23-110. Second reading on the Council Order approving the First Amendment to the Credit Enhancement Agreement between the Town of Scarborough, Maine and Crossroads Holdings LLC. [Tabled from the November 8th Town Council meeting.] [Town Council] Thomas J. Hall, Town Manager gave a brief overview of this order. The following public comments were made:

- Nina McKee of Black Point Road, asked for clarification on the amendment.

Chairman McGee responded to the question from public comment.

Motion by Councilor Caterina, seconded by Councilor Sither, to move approval on the Council Order approving the Third Amendment to the Scarborough Downtown Omnibus Municipal Development and Tax Increment Financing District and Development Program.

Vote: 7 Nays. Motion Fails.

NEW BUSINESS:

Order No. 23-131. First reading on the new request for a Cannabis Establishment License from Arthur Oliveira, d/b/a Rare, LLC., located at 10 Snow Canning Road for a Medical Cannabis Products Manufacturing Facility and schedule a public hearing and second reading. [Assistant Town Manager] Liam Gallagher, Assistant Town Manager gave a brief overview of this order. No comments either for or against this order.

Motion by Councilor Caterina, seconded by Councilor Sither, to move approval on the first reading on the new request for a Cannabis Establishment License from Arthur Oliveira, d/b/a Rare, LLC., located at 10 Snow Canning Road for a Medical Cannabis Products Manufacturing Facility and schedule a public hearing and second reading for December 20, 2023.

Vote: 7 Yeas and 1 Nay (Councilor Hamill). Motion Passes.

Order No. 23-132. First reading and schedule a second reading on the request to approve the expenditure, in an amount not to exceed, \$210,000, from the Land Acquisition Reserve Fund for the purpose of purchasing property located at 50 Hanson Road located more specifically identified by the Scarborough Tax Assessors Map R001/Lot 007, as recommended by the Parks and Conservation Land Board, and authorize the Town Manager to execute any and all documents as are necessary to protect the Town's interest. [Parks and Conservation Land Board] Suzanne Foley-Ferguson, Chair of the Parks and Conservation Land Board gave an overview of this order. No comments either for or against this order.

Motion by Councilor Caterina, seconded by Councilor Sither, to move approval on the first reading on the request to approve the expenditure, in an amount not to exceed, \$210,000, from the Land Acquisition Reserve Fund for the purpose of purchasing property located at 50 Hanson Road located more specifically identified by the Scarborough Tax Assessors Map R001/Lot 007, as recommended by the Parks and Conservation Land Board, and authorize the Town Manager to execute any and all documents as are necessary to protect the Town's interest and schedule second reading for December 20, 2023.

Vote: 7 Yeas. Motion Passes.

Order No. 23-133. Act on the request from the Tax Collector for a waiver of foreclosure on the following properties: 332 Garnet Drive – MapT002/Lot 332 and 30 Matthews Way – Map T003/Lot 030 and authorize the Town Manager to sign the necessary documentation. [Tax Collector] Thomas J. Hall, Town Manager gave a brief overview of this order. No comments either for or against this order.

Motion by Councilor Caterina, seconded by Councilor Sither, to move approval on the request from the Tax Collector for a waiver of foreclosure on the following properties: 332 Garnet Drive – MapT002/Lot 332 and 30 Matthews Way – Map T003/Lot 030 and authorize the Town Manager to sign the necessary documentation.

Vote: 7 Yeas. Motion Passes.

Order No. 23-134. Act on the request, pursuant to Title 23, M.R.S.A. §3025 and the requirements of Section 4, of the Scarborough Street Acceptance Ordinance, to approve the acceptance of public infrastructure, as noted and recommended by the Town Engineer. [Town Engineer] Angela Blanchette, Town Engineer, gave a brief overview of this order. The following public comments were made:

- Nina McKee of Black Point Road, asked if the Town is doing this to help the Downs.

Thomas J. Hall, Town Manager answered the public comment questions.

Motion by Councilor Caterina, seconded by Councilor Sither, to move approval on the request, pursuant to Title 23, M.R.S.A. §3025 and the requirements of Section 4, of the Scarborough Street Acceptance Ordinance, to approve the acceptance of public infrastructure, as noted and recommended by the Town Engineer.

Vote: 7 Yeas. Motion Passes.

Order No. 23-135. Act on the request from the Scarborough Housing Alliance to utilize \$200,000 from the Affordable Housing Initiative Fund to support the 3i Home project. [Town Manager] Thomas J. Hall, Town Manager and Council Caterina gave a brief overview of this order. No comments either for or against this order.

Motion by Councilor Caterina, seconded by Councilor Sither, to move approval on the request from the Scarborough Housing Alliance to utilize \$200,000 from the Affordable Housing Initiative Fund to support the 3i Home project.

Vote: 7 Yeas. Motion Passes.

Order No. 23-136. Act on the request to terminate the Purchase Option Agreement between the Town of Scarborough and Crossroads Holdings LLC dated September 7, 2023, pursuant to Sections

2 and 11 of the Agreement. *[Town Manager]* Thomas J. Hall, Town Manager gave a brief overview of this order. No comments either for or against this order.

Motion by Councilor Caterina, seconded by Councilor Sither, to move approval on the request to terminate the Purchase Option Agreement between the Town of Scarborough and Crossroads Holdings LLC, dated September 7, 2023, pursuant to Sections 2 and 11 of the Agreement.

Vote: 7 Yeas. Motion Passes.

Order No. 23-137. Act on the Council Chair Appointments for 2024. *[Chairman McGee]* Chairman McGee gave a brief overview of this order. The following public comments were made:

- Nina McKee of Black Point Road, spoke in regards to the number of committees each Councilor is on and if the Town should increase the number of Councilors.

Councilor Anderson: Finance (Chair)
Communications
Rules and Policies
GPCOG
Library
Transportation
SEDCO
Chamber of Commerce
Metro Coalition
PACTS
Long Range Planning

Councilor Caterina: Ordinance (Chair)
Appointments
Fair Hearing
Firing Range
Senior Advisory
MMA
Legislative Policy
Long Rang Planning
ADA Advisory
Housing Alliance
Ad Hoc Community Center

Councilor Cushing: Fair Hearing (Chair)
Communications
Finance
Board of Education
Historic Preservation
Zoning Board of Appeals
ecomaine
MMA

Councilor Hamill: Rules and Policies (Chair)
Ordinance
Fair Hearing
Shellfish
Coastal Waters
Board of Assessment Review
Sanitary District
ecomaine

Councilor Shupe: Appointments
and Negotiations (Chair)
Finance
Rules and Policies
Ad Hoc Community Center
Community Services
Conservation Commission
Planning Board
Parks and Conservation
Ad Hoc Open Space

Councilor Sither: Communications (Chair)
Ordinance
Appointments
School Building Committee
Sustainability
Personnel Appeals
ETA
GPCOG

Chairman McGee: School Building Committee

Motion by Councilor Caterina, seconded by Councilor Sither, to move approval on the Council Chair Appointments for 2024.

Vote: 7 Yeas. Motion Passes.

Item 9. Non-Action Item. None at this time.

Item 10. Standing and Special Committee Reports and Liaison Reports.

- Councilor Sither spoke in regards to the Communities Committee in regards upcoming Councilor Corners and articles. She also spoke in regards to meeting with Councilor Cushing, Councilor Catarina, and Scarborough Middle School 7th Graders.
- Councilor Caterina also spoke in regards to meeting with the Scarborough Middle School 7th Graders and their upcoming MMA essay contest they will be involved in.
- Councilor Anderson provided a reminder of the next Finance Committee meeting on December 14th.
- Councilor Shupe spoke in regards to the up coming Community Center event.
- Councilor Hamill spoke in regards to Coastal Waters and Shellfish Committee's upcoming meeting and the public comment in regards to paid parking on the streets.

Item 11. Council Member Comments.

- Chairman McGee thanked this fellow Councilors on their support. He also wants to start providing School Board Committee updates going forward. Councilor goal setting will be coming up in January.

Item 12. Adjournment. Motion by Councilor Caterina, seconded by Councilor Sither, to move approval to adjourn the regular meeting of the Scarborough Town Council.

Vote: 7 Yeas.

Meeting adjourned at 9:09pm

Respectfully submitted,

Kristen Barth
Deputy Town Clerk