

**MINUTES  
SCARBOROUGH TOWN COUNCIL  
WEDNESDAY – MARCH 19, 2014  
REGULAR MEETING – 7:00 P.M.**

**Item 1. Call to Order.** Chairman Sullivan 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 Yolande P. Justice, Town Clerk. Thomas J. Hall, Town Manager, was also present.

|                                          |                         |
|------------------------------------------|-------------------------|
| Jessica L. Holbrook, Vice Chair [Absent] | Katherine A. St. Clair  |
| William J. Donovan                       | Edward NMI Blaise , III |
| Jean-Marie Caterina                      | James E. Benedict       |
| Richard J. Sullivan, Jr., Council Chair  |                         |

**Item 4. General Public Comments.**

- Katy Foley of Lucky Lane noted that she has turned in 3 Clynk bags for the Fuel Assistance Program. She then spoke on the issue that is going on south of us in Saco with regards to dealing with the Federal U.S Fish and Wildlife. Maybe there should be a Regional effort. She then spoke on an email with regards to the process that had been followed. She then noted that she needs to admit a
- Liam Summers of Holmes Road thought that this would be the first time the recommendations of the proposed changes would be presented and was glad that they were not. He then asked if the Councilors were in agreement with each other and well informed and that the process had been ethical. He then requested that Councilor Donovan recuse himself from any vote on the proposed changes.
- Pammela Rovner of King Street commented on the proposed “dog tag” program and then went on to further comment on a sitting Councilor and asked why a fence had been built in front of his home. At this point Chairman Sullivan called a point of order and asked that Ms. Rovner refrain from the personal attacks. She continued with her comments regarding a sitting Council to which Chairman Sullivan gaveled her out of order and asked that she be seated.
- Joanne Mahoney of Pillsbury Drive commented on the workshops and articles that had appeared in the newspaper. She then asked the Council to respect the majority of the voters and if this is really about the plover then please focus on that, not on removing the dogs. She had concerns about the possibility of winter hours being implemented.
- Sue Foley-Ferguson of Black Point Road commented on an issue in Saco that involved U.S. Fish and Wildlife and felt that U.S. Fish and Wildlife were out of control. She then referenced the 2003 Maine Audubon Piping Plover Report [page 10] regarding a piping plover that had been found and what the determination was that lead to the death of the plover. She then suggested that the Town of Scarborough Work with Saco as they would be going through the same thing.
- Peter Hayes, a resident of ScarbOrough, was appalled at the action of this Council. He felt that the Town had spoken and the Council works for the people not for themselves.
- Ami Derienzo of Lucky Lane voiced her concerns as to what could possibly happen if the plover population increases.

**Item 5. Minutes: March 5, 2014 – Regular Meeting.** Motion by Councilor Benedict seconded by Councilor Blaise, to move approval of the minutes from the March 5, 2014, regular Town Council meeting.

Vote: 6 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 during the meeting.

**Order No. 14-01, 7:00 p.m. Public Hearing and action on the renewal request for a Junkyard Permit from A. Gagnon/E. Perry Iron & Metal, located at Rigby Road. [Tabled from the January 15<sup>th</sup> Town Council Meeting.]** Chairman Sullivan opened the public hearing on these items. As there were no comments either for or against, the hearing was closed 7:22 p.m.

Motion by Councilor Caterina, seconded by Councilor Blaise, to move approval on the renewal request for a Junkyard Permit from A. Gagnon/E. Perry Iron & Metal, located at Rigby Road.

Vote: 6 Yeas.

**Order No. 14-25, 7:00 p.m. Public hearing and second reading on the proposed amendments to Chapter 405B – the Site Plan Review Ordinance, to add historic preservation and wildlife review standards to enable Municipal Capacity of DEP Site Law Review.** Chairman Sullivan opened the public hearing on these items. As there were no comments either for or against, the hearing was closed 7:30 p.m.

Motion by Councilor Blaise, seconded by Councilor Benedict, to move approval of the amendments to Chapter 405B – the Site Plan Review Ordinance, to add historic preservation and wildlife review standards to enable Municipal Capacity of DEP Site Law Review; as follows:

Proposed Amendments to Chapter 405B Site Plan Review Ordinance  
Relative to Historic and Archeological Resources and Municipal Capacity

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following amendments to the Site Plan Review Ordinance of the Town of Scarborough, Maine, be and hereby are adopted:

Proposed additions to the ordinance are underlined; proposed ~~deletions~~ are struck through.

1. Amend subsection C. Submission Requirements in section III. Administrative & Review Procedures by adding a new item 12 to read:

12. The location and description of all historic and archeological resources on the parcel as identified by the Maine State Historic Preservation Office, the Town's adopted Comprehensive Plan, or other list of local historic and/or archeological resources adopted by the Town Council together with a narrative describing how these resources can be preserved and incorporated into the development plan. If an identified resource will be removed, altered, or not included as part of the development plan, a statement shall be provided as to why the resource cannot be preserved and the options considered but rejected for including it as part of the development plan.

2. Amend section IV. Performance & Design Standards by adding a new subsection M. Historic and Archeological Resources to read:

**M. Preservation of Historic and Archeological Resources**

Any historic or archeological resource that has been identified by the Maine Historic Preservation Commission, the Town's adopted Comprehensive Plan, or other list of local historic and/or archeological resources adopted by the Town Council should be preserved and incorporated into the development plan in a manner that retains its historic or archeological value if feasible. If an identified resource will be removed or will be altered in a manner that diminishes its historic or archeological value, the burden is on the applicant to demonstrate that options for preserving the resource have been explored. The Planning Board, Planning Department, and the applicant may consult the State Historic Preservation Office, the Scarborough Historical Society, or similar organizations with the mission of historic and archeological preservation on options for preserving the resource. If the resource will be removed, the applicant must demonstrate that reasonable efforts have been made to preserve the resource value or relocate it to another location.

3. Amend section IV. Performance & Design Standards by adding a new subsection N. Municipal Capacity and State Agency Review to read:

**N. Municipal Capacity and State Agency Review**

Within the Town's designated growth areas as depicted in the current version of the Comprehensive Plan, the Town of Scarborough's Planning Board has municipal capacity to review development activities that otherwise would require review by the Maine Department of Environmental Protection under the Site Location of Development Law. This authority has been provided for under 38 M.R.S.A. Section 488(19). Municipal capacity shall only apply to development projects that are located wholly within the Town of Scarborough and wholly within a designated growth area. All other development projects that meet or exceed the thresholds for Site Location of Development Law shall be reviewed by the Maine Department of Environmental Protection accordingly. Municipal capacity within the Town's growth areas shall apply to both new development projects and modifications to past development projects that may have existing Site Location of Development approvals.

In addition to meeting the standards and requirements of this Ordinance, the Scarborough Zoning Ordinance, and any other applicable local ordinances, site plans that include a minimum of three (3) acres or more of building and impervious coverage shall also be submitted and reviewed by the State of Maine regarding significant wildlife and fisheries habitat and natural resources and significant historic and archeological resources as follows:

1. The Maine Department of Inland Fisheries and Wildlife shall be provided with a complete site plan application and shall have the ability to review and provide advisory comments on the site plan's impact on any significant wildlife habitat, aquatic habitat, fisheries habitat, or wildlife travel corridor. The Planning Board shall not issue a final decision on a site plan application until it receives comments from the Maine Department of Inland Fisheries and Wildlife or thirty (30) days from the submission of the application to the department, whichever comes first.

The Maine Historic Preservation Commission shall be provided with a complete site plan application and shall have the ability to review and provide advisory comments on the presence of any significant historic or archeological resources that may exist on the site. The Planning Board shall not issue a

final decision on a site plan application until it receives comments from the Maine Historic Preservation Commission or thirty (30) days from the submission of the application to the department, whichever comes first

Vote: 6 Yeas.

**Order No. 14-26, 7:00 p.m. Public hearing and second reading on the proposed amendments to Chapter 406 – the Subdivision Ordinance, to add historic preservation and wildlife review standards to enable Municipal Capacity of DEP Site Law Review.** Chairman Sullivan opened the public hearing on these items. As there were no comments either for or against, the hearing was closed 7:31 p.m.

Motion by Councilor Blaise, seconded by Councilor Benedict, to move approval of the amendments to Chapter 406 – the Subdivision Ordinance, to add historic preservation and wildlife review standards to enable Municipal Capacity of DEP Site Law Review; as follows:

Proposed Amendments to Chapter 406 Subdivision Ordinance Relative  
to Historic and Archeological Resources and Municipal Capacity

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following amendments to the Subdivision Ordinance of the Town of Scarborough, Maine, be and hereby are adopted:

Proposed additions to the ordinance are underlined; proposed ~~deletions~~ are struck through.

1. Amend subsection 7.2. in Section 7. Preliminary Plan Requirements and Procedures by adding a new item p to read:

(p) The location and description of all historic and archeological resources on the parcel as identified by the Maine State Historic Preservation Office, the Town's adopted Comprehensive Plan, or other list of local historic and/or archeological resources adopted by the Town Council together with a narrative describing how these resources can be preserved and incorporated into the subdivision plan. If an identified resource will be removed, altered, or not included as part of the subdivision plan, a statement shall be provided as to why the resource cannot be preserved and the options considered but rejected for including it as part of the plan.

2. Amend Section 6. General Requirements by adding a new subsection 6.8 to read:

6.8 Any historic or archeological resource that has been identified by the Maine State Historic Preservation Office, the Town's adopted Comprehensive Plan, or other list of local historic and/or archeological resources adopted by the Town Council should be preserved and incorporated into the subdivision plan in a manner that retains its historic or archeological value if feasible. If an identified resource will be removed or will be altered in a manner that diminishes its historic or archeological value, the burden is on the applicant to demonstrate that options for preserving the resource have been explored. The Planning Board, Planning Department, and the applicant may consult the State Historic Preservation Office, the Scarborough Historical Society, or similar organizations with the mission of historic and archeological preservation on options for preserving the resource. If the resource will be removed, the applicant must demonstrate that reasonable efforts have been made to preserve the resource value or relocate it to another location.

3. Amend Section 6. General Requirements by adding a new subsection 6.9 to read:

6.9. Within the Town's designated growth areas as depicted in the current version of the Comprehensive Plan, the Town of Scarborough's Planning Board has municipal capacity to review

subdivisions that otherwise would require review by the Maine Department of Environmental Protection under the Site Location of Development Law. This authority has been provided for under 38 M.R.S.A. Section 488(19). Municipal capacity shall only apply to subdivisions that are located wholly within the Town of Scarborough and wholly within a designated growth area. All other subdivisions that meet or exceed the thresholds for Site Location of Development Law shall be reviewed by the Maine Department of Environmental Protection accordingly. Municipal capacity within the Town's growth areas shall apply to both new subdivisions and modifications to past subdivisions that may have existing Site Location of Development approvals.

In addition to meeting the standards and requirements of this Ordinance, the Scarborough Zoning Ordinance, and any other applicable local ordinances, subdivisions that include fifteen (15) or more lots on thirty (30) or more acres shall also be submitted and reviewed by the State of Maine regarding significant wildlife and fisheries habitat and natural resources and significant historic and archeological resources as follows:

- (a) The Maine Department of Inland Fisheries and Wildlife shall be provided with a complete site plan application and shall have the ability to review and provide advisory comments on the site plan's impact on any significant wildlife habitat, aquatic habitat, fisheries habitat, or wildlife travel corridor. The Planning Board shall not issue a final decision on a site plan application until it receives comments from the Maine Department of Inland Fisheries and Wildlife or thirty (30) days from the submission of the application to the department, whichever comes first.

The Maine Historic Preservation Commission shall be provided with a complete site plan application and shall have the ability to review and provide advisory comments on the presence of any significant historic or archeological resources that may exist on the site. The Planning Board shall not issue a final decision on a site plan application until it receives comments from the Maine Historic Preservation Commission or thirty (30) days from the submission of the application to the department, whichever comes first.

Vote: 6 Yeas.

**Order No. 14-29, 7:00 p.m. Public hearing and action on the new request for a liquor License and a Food Handlers License from Sheila Masselli d/b/a the Pine Point Grille, LLC, located at 240 Pine Point Road. [Formerly the First & Last Tavern].** Chairman Sullivan opened the public hearing on these items. As there were no comments either for or against, the hearing was closed 7:32 p.m.

Motion by Councilor Caterina, seconded by Councilor Blaise, to move approval on the new request for a liquor License and a Food Handlers License from Sheila Masselli d/b/a the Pine Point Grille, LLC, located at 240 Pine Point Road.

Vote: 6 Yeas.

**OLD BUSINESS:** None at this time.

**NEW BUSINESS:**

**Order No. 14-30. First reading and schedule a second reading on the Bond Order for the 2014 Municipal and School Capital Improvements.** Thomas J. Hall, Town Manager, gave a brief overview on this item.

Motion by Councilor Caterina, seconded by Councilor Benedict, to move approval of the first reading on the Bond Order for the 2014 Municipal and School Capital Improvements, as follows:

**BOND ORDER FOR  
2014 MUNICIPAL AND SCHOOL CAPITAL IMPROVEMENTS**

**BE IT ORDERED,** That under and pursuant to the provisions of Title 30-A, Sections 5721-5729 and 5772 of the Maine Revised Statutes, as amended, and the Charter of the Town of Scarborough, Maine, the following Municipal and School Capital Improvement Projects are hereby approved for funding:

|                                                  | <b>Amount to<br/>Bond</b> |
|--------------------------------------------------|---------------------------|
| <b><u>2013-2014 Municipal - Equipment</u></b>    |                           |
| CS 4x4 Truck Replacement w/plow                  | \$ 36,104.00              |
| PW Plow Truck #4024                              | 159,985.00                |
| PW Plow Truck #4025                              | 159,985.00                |
| PW Pickup Truck #4006                            | 39,140.00                 |
| PW Crash Attenuator                              | 22,230.00                 |
| PW Fuel Island - Fuel Mgmt System Upgrade        | 53,980.00                 |
|                                                  | <u>\$471,424.00</u>       |
| <b><u>2013-2014 Municipal - Projects</u></b>     |                           |
| 259 US Rte 1 - Waterproofing                     | \$ 40,000.00              |
| 259 US Rte 1 - Tri -Generation Energy Efficiency | 500,000.00                |
| MIS Replacement Telecom System                   | 83,426.00                 |
| Black Point Sidewalk Project                     | 415,000.00                |
| Pine Point Rd/ Eastern Trail Crossing            | 75,000.00                 |
| Mid-Level Road Rehabilitation (3 miles per year) | 503,000.00                |
| Jasper Street Reconstruction                     | 400,000.00                |
| Pine Point Rd Sidewalk Improvements              | 112,250.00                |
| Pleasant Hill Rd Engineering Study               | 205,000.00                |
|                                                  | <u>\$2,333,676.00</u>     |
| <b><u>2013-2014 School Projects</u></b>          |                           |
| CIP Bus Purchase                                 | 314,220.00                |
| MS Tech FY 2014                                  | 61,100.00                 |
| Security System Upgrade                          | 385,000.00                |
| 2014 Building Envelope                           | 50,000.00                 |
| MS Tech FY14 New                                 | 387,300.00                |
| DW Tech FY 14 New                                | 83,425.00                 |
| DW HVAC/Mechanical                               | 50,000.00                 |
|                                                  | <u>\$1,331,045.00</u>     |
| <b><u>2003-2004 Capital Projects</u></b>         |                           |
| Comstock Farm (22 Berry Rd)                      | \$ 270,000.00             |
|                                                  | <u>\$ 270,000.00</u>      |
| <b><u>Total Amount to Bond</u></b>               | <b><u>\$4,406,145</u></b> |

**BE IT FURTHER ORDERED,** That a sum, not to exceed \$4,406,145, is hereby appropriated to provide for the costs of said projects; and

**BE IT FURTHER ORDERED,** That to fund said appropriation, the Treasurer and the Chairman of the Town Council are hereby authorized to issue, at one time or from time to time, general obligation securities of the Town of Scarborough, Maine, including temporary notes in anticipation of the sale thereof, in an aggregate principal amount not to exceed \$4,406,145 and the discretion to fix the date(s), maturity(ies), denomination(s), interest rate(s), place(s) of payment, call(s) for redemption, form(s), and other details of said securities, including execution and delivery of said securities against payment therefore, and to provide for the sale thereof, is hereby delegated to the Treasurer and the Chairman of the Town Council.

Vote: 6 Yeas.

**Order No. 14-31. Act to approve the Resolve to accept donations for the Fuel Assistance Program.** Motion by Chairman Sullivan, seconded by Councilor Caterina, to move approval to approve the Resolve to accept donations for the Fuel Assistance Program, as follows:

**TOWN OF SCARBOROUGH  
IN TOWN COUNCIL ASSEMBLED**

March 14, 2014

**RESOLVE** Accepting Donations for the Fuel Assistance Program.

**BE IT HEREBY RESOLVED BY THE TOWN COUNCIL AS FOLLOWS:**

**THAT THE** Town of Scarborough gratefully accepts the pledges and donations from the following businesses and/or persons, that have been collected to date, to be used for the Fuel Assistance Program:

**Mary Adams**

**James Fee**

**Mr. & Mrs. Michael Fontana**

**AND,** be it further Resolved that each business, organization and/or person be recognized for their generous donations as a token of the Town's appreciation.

Sponsor: Town Council  
Originator: Town Council

Vote: 6 Yeas.

**Item 8. Non Action Items.** None at this time.

**Item 9. Standing and Special Committee Reports and Liaison Reports.**

- Councilor Blaise gave an update on the Senior Advisory Board meeting
- Councilor Benedict gave an update on the Coastal Waters and Harbor
- Councilor Caterina gave an update on the Conservation Commission; the Long Range Planning Committee; In response to a question from Chairman Sullivan, Mr. Hall, Town Manager, noted that there have been no meetings scheduled relating to the FEMA MAPS
- Councilor Donovan commented on the FEMA Maps and noted that patience is the only thing to offer at this time and reassured the public there would be meetings. He then commented on the compromise proposal for the dog changes. The Finance Committee would be meeting weekly

throughout the month of April and the Town Manager would be presenting the Municipal Budget at a special meeting on Wednesday, March 26<sup>th</sup>.

- Chairman Sullivan asked the Town Manager to give an update on the Transportation Committee – to which he did. Chairman Sullivan noted the Appointments Committee had met earlier and would like to post the name of Robert Baizley to Historic Preservation Commission.

**Item 10. Town Manager Report.** Thomas J. Hall, Town Manager, gave an update on the following:

- The Municipal Budget presentation would be Wednesday, March 26<sup>th</sup> at 7:00 p.m. in Chambers.
- Once the FEMA Flood maps are filed with the Federal Registry, the appeals process can begin and Senator King was successful in passing law that allow municipalities to be reimbursed if the appeals were successful.
- MDOT hosting public meeting on Tuesday, April 1<sup>st</sup> at 7:00 p.m. at Town Hall regarding the project upgrade at the intersection of Route 114 and the Running Hill Road area.
- The Habitat Project would be hosting a neighborhood meeting on Thursday, March 27 at 6:30 p.m. at Town Hall.

**Item 11. Council Member Comments.**

- Councilor St. Clair spoke on the dog issue and didn't expect anyone to agree with her on her position. This would be a learning year for everyone and there will be bumps along the way. We need to ensure of the enforcement piece as well as the education part. The Council has a responsibility to 20,000 residents.
- Councilor Caterina agreed with Councilor St. Clair's comments. She also hoped that there would be open communications and that everyone would use the correct tone. She reminded everyone that what is coming forward is a proposal and thanked everyone for their input.
- Chairman Sullivan also spoke on the proposed ordinance. As soon as it is ready, it will be available to the public. He sent condolences to the families of Frederick E. Hunnewell, Sr. and Rocco C. Risbara, Jr.

**Item 12. Adjournment.** Motion by Councilor St. Clair, seconded by Councilor Benedict, to move approval to adjourn the regular meeting of the Scarborough Town Council.

Vote: 6 Yeas.

Meeting adjourned at 7:57 p.m.

Respectfully submitted,

Yolande P. Justice  
Town Clerk