

MINUTES
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – OCTOBER 15, 2014
REGULAR MEETING – 7:00 P.M.

Item 1. Call to Order. Councilor 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 by Yolande P. Justice, Town Clerk. Thomas J. Hall, Town Manager was also present.

Jessica L. Holbrook, Vice Chair	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.

- Michael Doyle of FalmouthToday.ME voiced his concerns with regards to inappropriate actions by a police officer and was curious to know whether there were any protocols in place to address this type of behavior.
- Pammela Rovner of King Street spoke on candidate's night and was concerned why people do not want to vote and could it be politics as usual? She also commented on a situation that came up with regards to her husband being accused of doing something wrong and felt that those who are making accusations are called cowards.
- Bud Hanson of Stoney Creek Drive voiced his concerns with regards to the dangers of crossing US Route One and spoke on his own experience of almost got hit crossing US Route and Commerce Drive. He felt that the timing on the cross walks could be lengthen by at least 5 or 6 seconds. He also spoke against the Hockey Center at the Oak Hill area.
- Mo Erickson of Pine Point Road voiced her concerns regarding the Hockey Rink and also commented on the possible changes to the Dunstan Area.
- Suzanne Foley-Ferguson of Black Point Road spoke against the cell tower issue that was coming forward this evening. She felt that the Town Council did not follow the rules to notify the residents of this possible change. The Town Council should be protecting the health and welfare of the residents of Scarborough.
- Ace Holton of Bayberry Drive spoke on the Memorandum of Understanding with regards to the Ice Hockey Rink, but did not agree with the town giving up any parking spaces that the town spent money on.
- Jeff Jones of Acorn Lane and representing the Prouts Neck Residents Association spoke on the Cell tower issue and suggested several recommendations.
- Jean Crisci of Meadowood Drive also spoke against the cell tower issue. She appreciated the time that has been put in on this issue, but hoped that the Council considered the health and welfare of residents.

Item 5. Minutes: October 1, 2014 – Regular Meeting. Motion by Councilor Holbrook, seconded by Councilor Caterina, to move approval of the minutes of the October 1, 2014, regular Town Council meeting.

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 during the meeting.

OLD BUSINESS:

Order No. 14-53. Second reading on the proposed changes to Chapter 405 – the Town of Scarborough Zoning Ordinance to create a Transmission Tower Overlay District and to update the Performance Standards thereto. [Tabled from the September 17, 2014, Town Council meeting.] Dan Bacon, Town Planner, gave an overview on this Order and the possible amendments that could come from the workshop that had been held on October 9th. The following individuals spoke on this item:

- Julie Tupper of Spurwink Road spoke against the proposed amendments and referenced a book call “Cell Towers”. She asked when the last time the current towers were inspected. Lawsuits could be filed against those who lease space for towers if there are health issues related to the said tower.
- Laura Hannon of Powderhorn Drive asked the Town Council to take baby steps and felt that the towers should stay in the Industrial Zones.
- Suzanne Foley-Ferguson of Black Point Road hoped that the Town Council would postpone this item and felt that with the proposed new changes this is a completely new ordinance and felt that a public hearing should be held. She agreed with the proposed changes, but felt that the Town Council should be moving slower. She urged the Town Council to postpone this item.
- Liam Somers of Holmes Road noted that this Council spent months covering the shore birds, so take your time and be mindful of comments from the public.
- Pammela Rovner of King Street noted that she could get on line while on the Pine Point Beach adding that she has never had an issue using her phone in various areas of the Pine Point.

Motion by Councilor Donovan, seconded by Councilor Caterina, to move approval to approve the second reading on the proposed changes to Chapter 405 – the Town of Scarborough Zoning Ordinance to create a Transmission Tower Overlay District and to update the Performance Standards thereto.

Motion by Councilor Donovan, seconded by Councilor Caterina, to move approval to amend the main motion to replace the current document approved at first reading with the October 10th document that was presented to the Town Council and the public last Friday [October 10th].

Vote on 1st Amendment: 4 Yeas.
 3 Nays [Councilors Benedict, Blaise and St. Clair].

Motion by Councilor St. Clair, seconded by Councilor Holbrook, to move approval of the main motion as amended to remove telecommunications facilities from the Ordinance all together.

Vote on 2nd Amendment: 3 Yeas.
 4 Nays [Chairman Sullivan, Councilors Caterina, Donovan & Holbrook].

Motion fails.

Motion by Councilor Caterina, seconded by Councilor Donovan, to move approval of the main motion as amended and add under subsection 2. Standards for Telecommunications Facilities by adding a standard b. as follows:

b. Utility poles and transmission lines.

For the purpose of these performances standards, telecommunication facilities shall be allowed to be attached or mounted on high voltage public utility transmission line poles and structures, subject to Board of Appeals and/or Planning Board review and approval, but shall not be permitted to be attached or mounted on distribution scale utility poles and structures.

Vote on 3rd Amendment: 4 Yeas.
3 Nays [Councilors Benedict, Blaise and St. Clair].

Councilor Caterina stated that she had brought the above motion forward as a response to citizens' concerns regarding the negative visual impact of antennae on the top of poles throughout town. The Town has been encouraging and requesting builders to do underground utilities. We do not need more visual clutter.

Motion by Councilor Blaise, seconded by Councilor Holbrook, to amend the main motion as amended to allow towers in the Industrial and Light Industrial Districts to be 200 feet, as follows:

2. Standards for Transmission Towers.

In addition to the priority of location requirements in Section IX(F)(1) above, transmission towers must comply with the following performance standards:

a. Height.

(i) Within the Transmission Tower Overlay District the standard height limit for a new transmission tower shall be 130 feet as measured from the base of the tower to the highest point of the tower, including any attached receiving or transmitting antennas and devices. The Planning Board may allow the standard height limit to be exceeded by up to an additional 20 feet, to a maximum of 150 feet, if the increase in height enables the collocation of additional antennas that otherwise could not be accommodated on the tower and results in no material increase in the visual impacts of the tower as determined by the Planning Board. The Planning Board may also require the height of a tower be reduced down by as much as 20 feet, to a maximum of 110 feet if the Board finds through review that reducing the tower height most effectively screen and mitigate the visual impacts of the tower from surrounding properties, abutters, roadways and public spaces. When considering a reduction in the maximum tower height, the Planning Board shall ensure that such a reduction still accommodates the collocation requirements of subsection g.

(ii) Within the Industrial and Light Industrial Districts the height limit for a new transmission tower or the expansion of an existing transmission tower shall be 200 feet as measured from the base of the tower to the highest point of the tower, including any attached receiving or transmitting antennas and devices. The Planning Board may require the height of a tower be reduced down by as much as 20 feet, to a maximum of 180 feet if the Board finds through review that reducing the tower height would materially reduce the visual impacts of the tower from surrounding properties, abutters, roadways and public spaces, including to avoid the need for FAA lighting.

Vote on 4th Amendment: 6 Yeas.
1 Nay [Councilor Benedict].

Motion by Councilor Blaise, seconded by Councilor Caterina, to move approval of the main motion as amended by allowing transmission towers within the Industrial Overlay District at Pine Point.

Vote on 5th Amendment: 1Yeas.
6 Nays [Chairman Sullivan, Councilors Benedict, Caterina, Donovan, Holbrook and St. Clair].

Motion fails.

Motion by Councilor Holbrook, seconded by Councilor Blaise, to move approval to amend the main motion as amended, Subsection 2.i. Coverage, as follows by adding at the end of the last sentence “ and a map demonstrating significant gaps in service and coverage must also be submitted.”

i. Coverage.

As part of any proposal the applicant shall submit a radio frequency coverage analysis showing existing or planned wireless facilities within 10 miles of the proposed location. Maps shall be supplied that indicate on street and in building coverage for both existing/planned sites and the proposed location. The coverage analysis for the proposed location must show all available optional antenna heights if it is a co-location or all possible antenna heights starting at a minimum of 90 feet if it is a new facility. The coverage analysis must use each current licensed frequency band by the applicant [and a map demonstrating significant gaps in service and coverage must also be submitted.](#)

After a brief discussion, Councilor Holbrook and Councilor Blaise withdrew their motion. The following motion was made.

Motion by Councilor Donovan, seconded by Councilor Blaise, to move approval to amend the main motion as amended, Subsection 2.i. Coverage, as follows:

i. Coverage.

As part of any proposal the applicant shall submit a radio frequency coverage analysis showing existing or planned wireless facilities within 10 miles of the proposed location. Maps shall be supplied that indicate on street and in building coverage for both existing/planned sites and the proposed location. The coverage analysis for the proposed location must show all available optional antenna heights if it is a co-location or all possible antenna heights starting at a minimum of 90 feet if it is a new facility. The coverage analysis must use each current licensed frequency band by the applicant. [An applicant shall demonstrate that there is inadequate coverage for the area covered by the application.](#)

Vote on 6th Amendment: 5 Yeas.
 2 Nays [Councilor Benedict and St. Clair].

Motion by Councilor Blaise, seconded by Councilor St. Clair, to move approval to table this item and move it back to the Ordinance Committee for further review.

Vote on Tabling Motion: 3 Yeas.
 4 Nays [Chairman Sullivan, Councilor Caterina, Donovan and Holbrook]

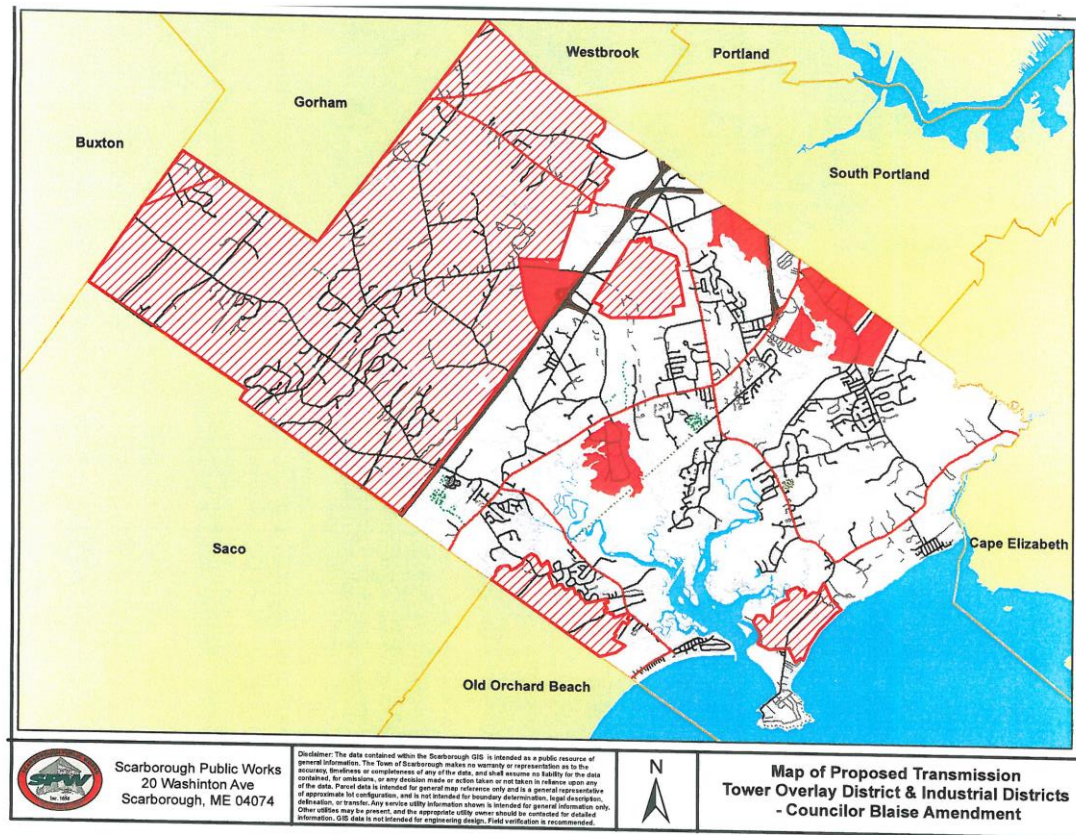
Motion by Councilor Holbrook, seconded by Councilor Caterina, to amend the main motion as amended on page 8 under d. Public Notification as follows:

n. Public Notification.

When an application for a modification to an existing transmission tower or for a new transmission tower is received and accepted by the Town Planner, the Planner shall give a dated receipt to the applicant and shall notify by mail all property owners ~~within 500 feet of~~ [abutting](#) the tower site or lot once the application has been scheduled for a Planning Board agenda.

Vote on 7th Amendment: 6 Yeas.
 1 Nay [Councilor Benedict].

Motion by Councilor Blaise, seconded by Councilor St. Clair, to amend the main motion as amended to shrink to the overlay district from Piper Shores to Scarborough Beach to Scarborough Beach to the Scarborough Sanitary District, as noted on the map below:



Vote on 8th Amendment: 7 Yeas.

Main Motion as Amended:

**Proposed Amendments to the Zoning Ordinance
to Update the Performance Standards and Allowances for Transmission Towers and
Telecommunication Facilities:**

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following amendments to the Zoning Ordinance of the Town of Scarborough, Maine, be and hereby are adopted, [with an effective date of November 15, 2014](#):

1. Amend the PERFORMANCE STANDARDS for TRANSMISSION TOWERS as by deleting Section IX(F) in its entirety and replacing it with the following:

**F. PERFORMANCE STANDARDS - TRANSMISSION TOWERS AND
TELECOMMUNICATION FACILITIES**

The purpose of these standards are to allow for the appropriate siting of transmission towers and telecommunications facilities for wireless transmission and reception for the use and benefit of the

general public, while minimizing adverse visual effects of transmission towers and telecommunication facilities through careful design, siting, and vegetative screening; avoiding potential damage to adjacent properties from tower failure and falling ice through proper engineering; and promoting cooperation of service providers and the collocation of antennas. All new transmission towers and telecommunications facilities, or the increase in height of an existing transmission tower, as applicable, shall conform to the following standards and be reviewed and permitted under the Site Plan Review Ordinance by the Planning Board or as a Special Exception by the Board of Appeals, unless the changes to a tower comply with subsection 2(k). below.

1. Priority of Locations.

Applicants shall use the following procedure when proposing the siting and installation of any transmission tower or telecommunications facility. The siting of transmission towers, wireless transmission or reception antennas, and wireless telecommunications facilities must be located according to the priorities below: (a) new wireless transmission or reception antennas on existing transmission towers; (b) new transmission towers in the Industrial (I) and Light Industrial (LI) Districts; (c) new telecommunication facilities mounted on, or within, buildings and structures in the districts where they are permitted or special exception uses; and (d) new transmission tower in the Transmission Tower Overlay District (TTOD). The application shall demonstrate that a location of higher priority cannot reasonably fulfill the applicant's requirements for coverage improvements in the intended geographic area.

- a. Existing Transmission Towers – When available, new wireless transmission or reception antennas shall be installed on existing transmission towers, provided that such installation will comply with the performance standards of this subsection.
- b. New Transmission Towers within the I or LI Districts – New transmission towers are permitted in the I and LI Districts, but the Planning Board may not approve an application for a new transmission tower in the I or LI Districts unless the Board first finds that the applicant has submitted substantial evidence and justification and has demonstrated that a location of higher priority under subsection 1(a) above cannot reasonably accommodate the applicant's proposed facility.
- c. New Telecommunication Facilities – New telecommunication facilities are permitted, but the Planning Board may not approve an application for a new telecommunications facility unless the Board first finds that the applicant has submitted substantial evidence and justification and has demonstrated that a location of higher priority under subsection 1(a-b) above cannot reasonably accommodate the applicant's proposed facility. The application and design of a new telecommunication facility shall comply with the performance standards of this subsection.
- d. New Transmission Towers within the Transmission Tower Overlay District -New transmission towers are permitted in the TTOD, but the Planning Board may not approve an application for a new transmission tower within the TTOD unless the Board first finds that the applicant has submitted substantial evidence and justification and has demonstrated that a location of higher priority under subsection 1(a-c) above cannot reasonably accommodate the applicant's proposed facility.

As stated above, an applicant must submit substantial evidence and justification to demonstrate that a location of higher priority cannot reasonably accommodate the applicant's proposed facility. Justification may include evidence that: existing towers are not of sufficient height to

meet the applicants engineering requirements; existing towers do not have sufficient strength, capacity or expansion capabilities for additional antennas as determined by a Maine P.E.; a facility in a different location would not be suitable to adequately serve the intended geographic area necessary to meet the applicants requirements; a new transmission tower would cause electromagnetic interference with antennas on existing towers or structures in proximity to a proper location in the I or LI District; no buildings or structures were identified that could accommodate or would be suitable for installing a telecommunications facility, or where the owner of the building or structure rejected the installation of such a facility; and/or other reasons that a new transmission tower or telecommunications facility cannot meet the applicant's engineering requirements for the geographic area. This evidence shall be submitted to the Planning Board for review as part of any application for a new installation.

2. Standards for Transmission Towers.

In addition to the priority of location requirements in Section IX(F)(1) above, transmission towers must comply with the following performance standards:

a. Height.

(i) Within the Transmission Tower Overlay District the standard height limit for a new transmission tower shall be 130 feet as measured from the base of the tower to the highest point of the tower, including any attached receiving or transmitting antennas and devices. The Planning Board may allow the standard height limit to be exceeded by up to an additional 20 feet, to a maximum of 150 feet, if the increase in height enables the collocation of additional antennas that otherwise could not be accommodated on the tower and results in no material increase in the visual impacts of the tower as determined by the Planning Board. The Planning Board may also require the height of a tower be reduced down by as much as 20 feet, to a maximum of 110 feet if the Board finds through review that reducing the tower height most effectively screen and mitigate the visual impacts of the tower from surrounding properties, abutters, roadways and public spaces. When considering a reduction in the maximum tower height, the Planning Board shall ensure that such a reduction still accommodates the collocation requirements of subsection g.

(ii) Within the Industrial and Light Industrial Districts the height limit for a new transmission tower or the expansion of an existing transmission tower shall be 200 feet as measured from the base of the tower to the highest point of the tower, including any attached receiving or transmitting antennas and devices. The Planning Board may require the height of a tower be reduced down by as much as 20 feet, to a maximum of 180 feet if the Board finds through review that reducing the tower height would materially reduce the visual impacts of the tower from surrounding properties, abutters, roadways and public spaces, including to avoid the need for FAA lighting.

b. Minimum Lot Size and Setbacks.

(i). Within the I and LI Districts there is no minimum lot size for transmission towers, but the standard setback from the base of the tower to all property lines shall be a distance equivalent to 100% of the total tower height, including any attached transmitting or receiving antennas and devices. Accessory structures shall meet the minimum setbacks for the zoning district. The Planning Board may decrease the standard 100% setback if the applicant secures an easement(s) from the abutting property(s) that allows for a lesser setback. The easement shall allow the tower to be located closer to the property line than the 100% requirement above. An easement from an abutting property shall not however enable a tower to be sited closer to the abutting

property line than the minimum front, side and rear yard setback requirements of the zoning district and the combined distance of the easement from the property boundary and the setback must be equivalent to 100% of the tower height.

(ii) Within the Transmission Tower Overlay District, the minimum lot size for a new transmission tower shall be twenty-five (25) acres. The standard setback from the base of the tower to all property lines shall be a distance equivalent to 150% of the total tower height, including any attached transmitting or receiving antennas and devices. Accessory structures shall meet the minimum setbacks for the zoning district. The Planning Board shall have the discretion to either increase the standard setback up to 300% or decrease the standard setback down to 100% of the total tower height if it finds through review that siting the tower in a different location will better screen and buffer the tower from view of the surrounding properties, abutters, roadways and public spaces. The Planning Board may also decrease the standard 150% setback if the applicant secures a restrictive easement(s) from the abutting property(s) that allows for a lesser setback. The restrictive easement shall prohibit dwellings within the easement area so as to allow the tower to be located closer to the property line than the 150% requirement above. A restrictive easement from an abutting property shall not however enable a tower to be sited closer to the abutting property line than the minimum front, side and rear yard setback requirements of the zoning district., but the combined distance of the restrictive easement from the property boundary and the lot setback must be equivalent to 150% of the tower height.

After a transmission tower is approved and installed, the Planning Board may allow a reduction in the minimum lot size from 25 acres to a minimum of 5 acres and a setback distance equivalent to 150% of the total tower height including any attached transmitting or receiving antennas and devices. This lot size reduction is allowed only through Planning Board review to enable additional uses and/or subdivision of the parcel. The allowed reduction in original lot size shall not however reduce or lessen the buffering requirements under subsection (c) below and shall not increase the visual impact of the tower on surrounding properties, roadways and/or public spaces.

c. Buffering.

(i) Within the I and LI Districts, transmission towers shall be surrounded by a buffer of dense tree growth and vegetation that screens the facility and minimizes the visual impact from all directions. If the majority of the site is heavily vegetated with mature tree growth and effectively screens the facility, the Planning Board may require the existing vegetation to be preserved, and supplemented with new plantings where necessary, except for the minimum amount of clearing necessary to install the facility and provide access and utilities. If the site is already developed for a commercial or industrial use, the Planning Board shall have the authority to allow a reduced buffer based on site conditions and the current use of the property so long as the visual impacts of the tower are minimized to the extent practical.

(ii) Within the Transmission Tower Overlay District, all transmission towers shall be surrounded by a buffer of dense tree growth and vegetation that screens the facility and minimizes its visual impact from abutting properties, roadways and public spaces. If the majority of the site is heavily vegetated with mature tree growth and effectively screens the facility, the Planning Board may require the existing vegetation to be preserved, and supplemented with new plantings where necessary, except for the minimum amount of clearing necessary to install the facility and provide access and

utilities. If heavy vegetation and mature tree growth are not present to effectively screen the facility on one or more property lines or from surrounding roadways or public spaces, the Planning Board shall have the authority to require the tower to be sited in an alternative location on the property that exhibits an adequate buffer or screening as provided for under subsection (b)(ii) above. The Planning Board shall have the authority to require the landscape buffer be protected by a landscape easement specifying that the trees within the buffer not be removed or topped, unless the trees are dead or dying. This landscape easement may include a distance equivalent to 150% of the total tower height, be within the carrier's lease, and/or apply to buffering and vegetation on other areas of the site that provide effective screening.

d. Visual Impact Analysis.

In order to review and assess the suitability of the proposed buffering of a tower (under subsection c.), the optimal tower setback from adjacent property lines (under subsection b), the proposed color, style and height of the tower (under subsections a. and e.), and the towers overall visual impacts and effects, the Planning Board may require photo simulations of the tower within the landscape from a variety of perspectives, including surrounding roadways, abutting properties, and public spaces. In addition, the Planning Board may also require other simulations of the tower height and location within the landscape using a balloon test or similar method typical in the industry. Using this visual impact analysis the Planning Board shall have the authority and discretion to mitigate and minimize the visual impact of a tower by: specifying the required tower setback and location as provided for under subsection b., requiring changes and/or enhancements to the buffering as provided for under subsection c.; and regulating the tower height and style as provided for under subsections a. and e.

e. Tower Style.

Tower types shall be limited to monopole-style towers painted in a sky tone above the top of surrounding trees and in an earth tone below tree-top level or stealth towers exhibiting concealed antennas or camouflaging treatment, such as mono-pine towers, as determined by the Planning Board.

f. Lighting.

Towers and attached antennas and devices shall not be artificially lighted, unless required by the FAA or other federal or state agency. If lighting is required, the Planning Board may review the available lighting alternatives and require the design that would cause the least impact to surrounding properties and views.

g. Colocation.

All new transmission towers shall be designed and constructed to accommodate the colocation of additional antennas, equipment and facilities on the tower and site. To meet this standard the applicant, owner and all other tower users shall allow other commercial wireless telecommunication service providers using functionally compatible technology to collocate; shall provide a mechanism for the construction and maintenance of collocated antennas and infrastructure; and shall provide for reasonable sharing of costs in accordance with industry standards. To ensure colocation and prevent the need for additional new towers within the same coverage area, the Planning Board may require an existing or new tower to be increased in height up to the maximum height allowed and/or make other accommodations in order to provide for colocation. When designing a tower and site for colocation the facility should be

designed to accommodate the inclusion of at least three additional telecommunication service providers and shall have the structural integrity to accommodate these additional antennas and/or an expansion in height of the tower. The Planning Board may waive the requirement for colocation or the number of additional providers to be collocated, but only after the Planning Board reviews and determines with satisfactory evidence that technical constraints prohibit colocation.

h. Advertising.

No advertising or signage is permitted on transmission towers or any attached transmitting and receiving antennas or devices.

i. Coverage.

As part of any proposal the applicant shall submit a radio frequency coverage analysis showing existing or planned wireless facilities within 10 miles of the proposed location. Maps shall be supplied that indicate on street and in building coverage for both existing/planned sites and the proposed location. The coverage analysis for the proposed location must show all available optional antenna heights if it is a co-location or all possible antenna heights starting at a minimum of 90 feet if it is a new facility. The coverage analysis must use each current licensed frequency band by the applicant. [An applicant shall demonstrate that there is inadequate coverage for the area covered by the application.](#)

j. Structural Standards.

Transmission towers erected after May 17, 1995 shall meet all applicable requirements of federal and state regulations and shall be designed and installed in accordance with the standards of the Electronic Industries Association (EIA) Structural Standards for Steel Antenna Towers and Antenna supporting Structures.

k. Existing Towers.

Transmission towers existing before May 17, 1995 which do not comply with these performance standards or with the use or dimensional requirements of the zoning district in which they are located may continue to be used subject to the provisions of Section III of this Ordinance. The addition, removal or relocation of transmitting or receiving devices on such towers does not constitute the expansion or enlargement of the nonconforming use and does not require review under the Scarborough Site Plan Review Ordinance, provided the total height of the transmission tower, including attached devices, is not increased.

l. Abandonment.

A transmission tower and associated facilities that is not operating for a continuous twelve month period shall be considered abandoned. The Code Enforcement Officer shall notify the owner of an abandoned facility in writing and order the removal of the facility within ninety (90) days of receipt of the written notice. The owner of the facility shall have thirty (30) days from the receipt of the notice to demonstrate to Code Enforcement that the facility has not been abandoned. If the owner fails to show that the facility is in active operation, the owner shall have sixty (60) days to remove the facility. The removal of the facility shall include removing the tower and associated facility and returning the site to its pre-construction condition including removing of roads and replanting vegetation.

If the facility is not removed within this period, the Town may remove the facility at the owner's expense. A copy of the relevant portions of a signed lease or other comparable signed legal instrument which requires the applicant to remove the tower and associated facilities and reclaim the site upon abandonment shall be submitted as part of the application. Further, a surety shall be provided to the Town to guarantee the removal of an abandoned tower, prior to the installation of the tower. The applicant must submit a sample form of surety along with its application to pay for the costs of removing the facility if it is abandoned. The surety must be obtained and delivered to the Planning Department after approval of the application by the Planning Board and prior to construction.

m. Shoreland Zoning.

Transmission towers shall not be allowed within any Shoreland Zoning District, including the Shoreland Overlay District and the Resource Protection District. Land within a Shoreland Zoning District however can be counted toward the minimum lot size and/or setback requirements provided the siting of the transmission tower is outside any Shoreland Zoning District.

n. Public Notification.

When an application for a modification to an existing transmission tower or for a new transmission tower is received and accepted by the Town Planner, the Planner shall give a dated receipt to the applicant and shall notify by mail all property owners [abutting](#) the tower site or lot once the application has been scheduled for a Planning Board agenda.

3. Standards for Telecommunications Facilities.

In addition to the priority of location requirements in Section IX(F)(1) above, telecommunications facilities must comply with the following performance standards. Where allowed as a special exception use, the Board of Appeals may issue a special exception for the installation of a telecommunication facility only if the facility also meets the standards for special exceptions in Section IV(I)(4). Before making a decision on any telecommunication facility special exception application, the Board of Appeals shall refer the application to the Planning Board for an advisory opinion. The Planning Board shall consider the standards of this subsection and the standards for special exceptions in Section IV(I)(4) in formulating its recommendation.

a. Design. If a telecommunication facility is proposed to be mounted or attached to the exterior of a building or structure the facility shall be designed and located in a manner that is consistent and compatible with the architecture of that building or structure. If applicable, the addition of a facility to the exterior of a building shall also comply with the Design Standards for Scarborough's Commercial Districts, including the standards for rooflines and roof mounted equipment.

b. Utility poles and transmission lines.

For the purposes of these performance standards, telecommunication facilities shall be allowed to be attached or mounted on high voltage public utility transmission line poles and structures, subject to Board of Appeals and/or Planning Board review and approval, but shall not be permitted to be attached or mounted on distribution scale utility poles and structures.

c. Ground mounted equipment.

Ground mounted equipment associated with, and accessory to, the telecommunication facility may be allowed through Board review and approval provided the Board finds there is adequate screening of this equipment and that is compatible with the site.

d. Exemption.

Telecommunication facilities that are proposed to be fully enclosed within an existing building and will not alter the exterior dimensions of the building or the exterior appearance of the building to accommodate the facility, shall be exempt from special exception review by the Board of Appeals or site plan review by the Planning Board. These installations may be permitted through review and approval by the Code Enforcement Officer. Ground mounted equipment associated with, and accessory to, the telecommunication facility may be allowed by the Code Enforcement Officer provided there is adequate screening of this equipment and that is compatible with the site.

e. Public Notification.

When an application for a telecommunication facility is received and accepted by the Town Planner or Code Enforcement Officer, the Planner/CEO shall give a dated receipt to the applicant and shall notify by mail all property owners abutting the tower site or lot once the application has been scheduled for a Planning Board or Board of Appeals agenda.

2. Amend Section XVIII.B. HAIGIS PARKWAY DISTRICT HP to add Telecommunication Facility to the list of permitted uses (additions are underlined; deletions are struck through):

24. Telecommunication Facilities

3. Amend Section XIX. REGIONAL BUSINESS DISTRICT B2 to add Telecommunication Facility to the list of permitted uses and delete it as a special exception use (additions are underlined; deletions are struck through):

24. Telecommunication Facilities

4. Amend Section XIXA. GENERAL BUSINESS DISTRICT B3 to add Telecommunication Facility to the list of permitted uses and delete it as a special exception use (additions are underlined; deletions are struck through):

19. Telecommunication Facilities

5. Amend Section XX. BUSINESS OFFICE RESEARCH DISTRICT BOR to add Telecommunication Facility to the list of permitted uses and delete it as a special exception use (additions are underlined; deletions are struck through):

22. Telecommunication Facilities

6. Amend Section XXA. RUNNING HILL MIXED USE DISTRICT RH to add Telecommunication Facility to the list of permitted uses and delete it as a special exception use (additions are underlined; deletions are struck through):

28. Telecommunication Facilities

7. Amend Section XVIII.F. PINE POINT INDUSTRIAL OVERLAY DISTRICT to delete Transmission Towers as a permitted use (additions are underlined; deletions are struck through):

~~22. Transmission towers subject to the performance standards of Section IX(F) of this Ordinance.~~

8. Amend the definition of Transmission Tower and Telecommunication Facility under Section VI. DEFINITIONS as follows (additions are underlined; deletions are struck through):

Transmission Tower:

Any structure which extends more than 35 feet above grade or more than 10 feet above the highest point of the building or structure to which it is attached, whichever is higher, and which is used for the wireless transmission or reception of electric impulses or signals by means of electromagnetic waves. The term transmission tower does not include structures utilized by the Town of Scarborough for public safety or public works communications or utilized in the operation of federally licensed amateur radio stations, which are permitted in all zoning districts where municipal uses are allowed.

Telecommunication Facility:

Transmission and reception antennas, cables, electronic equipment and associated facilities used for wireless transmission and reception of voice or data, mounted on, or enclosed within, a building, structure or use, no part of which shall be more than ten (10) feet above the height of the existing structure to which it is attached.

9. Add a new Transmission Tower Overlay District as follows:

SECTION VII.G. TRANSMISSION TOWER OVERLAY DISTRICT – TTOD.

A. PURPOSE AND APPLICABILITY

The purpose of the Transmission Tower Overlay District is to establish specific geographic areas within the Town of Scarborough to allow for the appropriate siting of transmission towers in accordance with Section IX.F. Performance Standards – Transmission Towers and Telecommunication Facilities of this Ordinance.

B. PERMITTED USES

1. Transmission Towers subject to the performance standards of Section IX.F. of this Ordinance.
2. Any use permitted in the underlying zoning district in which the land is located.

C. SPECIAL EXCEPTIONS

1. Any special exception use allowed for in the underlying zoning district in which the land is located.

D. SPACE AND BULK REGULATIONS

The space and bulk regulations required in the performance standards of Section IX. F. of this Ordinance shall apply to Transmission Towers, otherwise the space and bulk regulations of the underlying zoning district shall apply.

Vote: 4 Yeas.

3 Nays [Councilors Benedict, Blaise and St. Clair].

Chairman Sullivan called for a brief recess. Meeting recessed at 9:01 p.m. Chairman Sullivan reconvened the meeting at 9:10 p.m.

Order No. 14-76. Act to authorize the Town Manager to sign a Memorandum of Understanding with Friends of Scarborough Hockey. [Tabled from the August 20, 2014, Town Council meeting.] Thomas J. Hall, Town Manager gave a brief overview on the changes that had been made to the original Memorandum of Understanding.

The following individuals spoke on this Order:

- Martin Tripp of Ocean Wood drive spoke against the proposed Memorandum of Understanding. He would like to see something that is more concrete and he would prefer not on town owned property.
- Ace Holton of Snowberry Drive spoke on the possible parking issue and stated why should the Town Council be parting the something that we are still paying for?
- Bud Hanson of Stoney Creek Drive noted that these ventures are good for a couple of years and then other means of income have to be looked at; however, he not in Oak Hill area.

Motion by Councilor Holbrook, seconded by Councilor Caterina, to move approval to authorize the Town Manager to sign a Memorandum of Understanding with Friends of Scarborough Hockey.

Members of FOSH responded to questions from the Town Council.

Vote: 7 Yeas.

NEW BUSINESS:

Order No. 14-89. First reading and refer to the Planning Board, the proposed amendment to Chapter 405 – Scarborough Zoning Ordinance to amend Section VI (Definitions). Thomas J. Hall, Town Manager, gave a brief overview on this Order.

Motion by Councilor Holbrook, seconded by Councilor Caterina, to approval of the first reading and refer to the Planning Board, the proposed amendment to Chapter 405 – Scarborough Zoning Ordinance to amend Section VI (Definitions) and schedule a public hearing following the filing of the recommendations of the Planning Board, as follows:

AMENDMENT TO CHAPTER 405 - ZONING ORDINANCE REGARDING DEFINITION OF AFFORDABLE HOUSING

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that Section VI (Definitions) of the Zoning Ordinance of the Town of Scarborough, Maine is amended as follows:

Amend the definition of Affordable Housing, by adding the underlined text and deleting the text shown in strikeover type, as shown below:

Affordable Housing: [Adopted 11/03/2004] [Amended 05/03/2006] Affordable Housing means decent, safe and sanitary living accommodations that are affordable to households, in accordance with following provisions:

- A. An Owner-Occupied Affordable Housing Unit is a unit which has an expected sales price that is reasonably anticipated to result in monthly housing costs (including mortgage principal, interest, and insurance; homeowners' insurance costs, real

estate taxes and basic utility and energy costs) that do not exceed 30% of a household's gross monthly income. The qualified household gross income for an Affordable Housing Unit is ~~120~~ 80% or less than the most recently published Portland, Maine, MSA Median Family income adjusted for family size and consistent with the income thresholds published by the U.S. Department of Housing and Urban Development for the region.

- B. A Renter-Occupied Affordable Housing Unit is a unit which is leased to a household ~~(including rent and basic utility and energy costs)~~ for an amount ~~(including rent and basic utility and energy costs)~~ that does not exceed 30% of the household's gross monthly income. The qualified household gross income for a Renter-Occupied Housing Unit is 80% or less than the most recently published Portland, Maine, MSA Median Family Income adjusted for family size and consistent with the income thresholds published by the U.S. Department of Housing and Urban Development for the region.

Vote: 7 Yeas.

Order No. 14-90. Act on the request from the Coastal Waters and Harbor Commission to utilize funds from the Pine Point Waterfront Reserve Capital Improvement Account to purchase a crane system to be installed at the Pine Point Pier in an amount not to exceed \$9,000.00 and authorize the Town Manager to sign any and all documents related to this purchase. Thomas J. Hall, Town Manager, gave a brief overview on this Order. In response to questions from Martin Tripp of Oceanwood Drive and Robert Rovner of King Street, Mr. Hall noted that there two cranes, but only one would be replaced at this time and the cranes are used to hoist items from the lobster boats as well as other vessels.

Councilor Holbrook recused herself from the vote as her father serves on the Coastal Waters and Harbor Commission.

Motion by Councilor Blaise, seconded by Councilor St. Clair, to move approval on the request from the Coastal Waters and Harbor Commission to utilize funds from the Pine Point Waterfront Reserve Capital Improvement Account to purchase a crane system to be installed at the Pine Point Pier in an amount not to exceed \$9,000.00 and authorize the Town Manager to sign any and all documents related to this purchase.

Vote: 6 Yeas [Councilor Holbrook recused herself].

Order No. 14-91. Act on the request to accept the following streets, pursuant to Title 23, M.R.S.A. §3025 and the requirements of Section 4, of the Scarborough Street Acceptance Ordinance: Old Colony Lane and Winding Way, located in the Old Colony Park Subdivision. Motion by Councilor Holbrook, seconded by Councilor Blaise, to move approval on the request to accept the following streets, pursuant to Title 23, M.R.S.A. §3025 and the requirements of Section 4, of the Scarborough Street Acceptance Ordinance: Old Colony Lane and Winding Way, located in the Old Colony Park Subdivision.

Vote: 7 Yeas

Order No. 14-92. Act on the proposal from the Scarborough Land Trust and Friends of the Scarborough Marsh to pay back taxes [with interest] and cost for cleanup of property located at 11 Bradford Lane, Map U25, Lot 16A, in an amount of \$38,846.74 and authorize the Town Manager to sign any and all documents relating to the transfer of ownership of this parcel to the Scarborough Land Trust. Motion by Councilor St. Clair, seconded by Councilor Benedict, to move

approval on the proposal from the Scarborough Land Trust and Friends of the Scarborough Marsh to pay back taxes [with interest] and cost for cleanup of property located at 11 Bradford Lane, Map U25, Lot 16A, in an amount of \$38,846.74 and authorize the Town Manager to sign any and all documents relating to the transfer of ownership of this parcel to the Scarborough Land Trust.

After a brief discussion with regards to verbiage being added that would allow public access to this property, Councilor Holbrook made the following motion.

Motion by Councilor Holbrook, seconded by Councilor St. Clair, to table Order No. 14-92 to the November 5th Town Council meeting.

Vote to Table: 7 Yeas.

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

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

- Councilor Holbrook gave an update on the Historic Preservation Committee, noting it will host an owner outreach meeting to October 21st at 6:30 p.m. at Town Hall. The Housing Alliance will meet on Thursday, November 6th at 6:00 p.m. at Town Hall. The Appointments Committee will be meeting at 6:45p.m. prior to the next Town Council meeting.

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

- Update on dredge on noting that Southwind Construction won the bid and they should begin on Monday, November 10th.
- Ribbon cutting on the new Wentworth School would be official held on Saturday, October 18th at 1:00 p.m.
- He explained that should the referendum on the revaluation fails it would not happen and the next process would be delayed a year.

Item 11. Council Member Comments.

- Councilor St. Clair noted the Second Annual Team Kyle 5k Run/Walk would be held on Saturday, October 18th at the Black Point Community Park with over 400 runners/walkers.
- Councilor Blaise noted that he had attended the SEDCO Annual meeting and there he had met with Paul Austin regarding the Benjamin Farm and he would love to give the Council a tour of the Farm.
- Councilor Benedict noted that it is hunting season and wanted residents to beware and remain safe and to please wear orange.
- Councilor Caterina reminded the voters to vote on Tuesday, November 4th. She then commented on public awareness on the issues that go on in town, adding that one does need to make the effort to know what is going on as well.
- Councilor Donovan congratulated Mike Murphy, Golf Coach and the Team for winning the State Championship, the first in 27 years. He also congratulated the Field Hockey Team with an undefeated season.
- Councilor Holbrook sent condolences to the families of the following: Reverend William MacNeil Baxter, James David Dipietro, Earlene Adams Dumais, Joseph A. Dussalt, Frances Farwell, Stuart Crosby Giles, Arthur Balcom, Frederick Earl Culberson, Raymond Osborn and Mary Simpson. A friendly reminder the cold season is on us, so take care. There are Clynk bags located in the Town Clerk's Office. She reminded voters to vote. She then touched on a communication piece regarding public awareness of issues going on in Town Government – she noted that one does need to make the effort to know what is going on – there is a civic duty as well.

- Chairman Sullivan mentioned the SEDCO Annual meeting & that the Risbara was recognized for their contributions to the community

Councilor St. Clair left prior to adjournment.

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

Vote: 6 Yeas.

Meeting adjourned at 10:08 p.m.

Respectfully submitted,

Yolande P. Justice
Town Clerk