

**MINUTES
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – SEPTEMBER 2, 2015
REGULAR MEETING – 6:30 P.M.**

Item 1. Call to Order. Council Chair Holbrook called the regular meeting of the Scarborough Town Council to order at 6:30 p.m.

Item 2. Pledge of Allegiance.

Item 3. Roll Call. The roll was called by Thomas J. Hall, Town Manager.

Shawn A. Babine

Katherine A. St. Clair

William J. Donovan

Edward NMI Blaise, III

Jean-Marie Caterina, Council Vice Chair

Pete F. Hayes

Jessica L. Holbrook, Council Chair

Order No. 15-067. Act on the request for an executive session in consultation with legal counsel to discuss the Town's legal rights and duties as permitted by Title 1, M.S.R.A §405(6)(E). Motion by Councilor Babine, seconded by Councilor Caterina, to move approval on the request for an executive session in consultation with legal counsel to discuss the Town's legal rights and duties as permitted by Title 1, M.S.R.A §405(6)(E).

Vote: 7 Yeas.

The meeting recessed to an executive session at 6:32 p.m. Council Chair Holbrook reconvened the meeting at 7:00 p.m.

Item 4. General Public Comments.

- Robert Rovner of King Street spoke on the passing of Judy Shirk noting that she had been a long-time resident of Pine Point and was very passionate about this area. She started the July 4th Pine Point Parade, which evolved over the years. He then asked the Council to consider renaming the current path to the beach [Snowberry Ocean View Park] after Mrs. Shirk.

Item 5. Minutes: August 19, 2015 – Regular Meeting. Motion by Councilor Blaise, seconded by Councilor St. Clair, to move approval of the minutes of the August 19, 2015, 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. The Treasurer's Warrants were signed during the meeting.

Order No. 15-062, 7:00 p.m. Public Hearing and second reading on an order designating the Avesta Housing Affordable Housing Municipal Development and Tax Increment Financing District and Adopting the development program for such District. Council Chair Holbrook opened the public hearing. The following individuals spoke:

- Ms. Shana Cook-Mueller of Bernstein Shur and attorney for the Town on TIF matters, noted that this agreement would be between the Town and Avesta Affordable Housing. The Agreement dictates the way the property taxes on the increase assessed value resulting on the

project would be divided. The Order in your packet also provided delegated authority to the Town Manager to execute the Credit Enhancement Agreement, also authorizes the Town Manager to make changes that are non-substantive as well. She went on to describe the possible changes that could take place and what the term of the TIF would be.

- Kyle Ambler of Avesta Housing stated that he would be available to answer any questions that the Council might have.

There being no further comments, Council Chair Holbrook closed the public hearing at 7:07 p.m.

Motion by Councilor Babine, seconded by Councilor Caterina, to move approval of the second reading on an order designating the Avesta Housing Affordable Housing Municipal Development and Tax Increment Financing District and Adopting the development program for such District; as follows:

Town Councilors stated their support for this TIF and that it would be a win/win for the Town and Avesta Housing. Funds could be used for future affordable housing developments in the town. The Council supports this recommendation and in supporting it, it will save an historical building in the process.

Vote on Main Motion:

**AN ORDER DESIGNATING THE AVESTA HOUSING AFFORDABLE HOUSING
MUNICIPAL DEVELOPMENT AND TAX INCREMENT FINANCING DISTRICT AND
ADOPTING THE DEVELOPMENT PROGRAM FOR SUCH DISTRICT**

WHEREAS, the Town of Scarborough (the "Town") is authorized pursuant to Chapter 206, Subchapter 3 of Title 30-A of the Maine Revised Statutes, as amended, to designate a specified area or areas within the Town as an affordable housing municipal development and tax increment financing district and adopt a development program for such district; and,

WHEREAS, there is a need for the development of affordable, livable housing and the containment of the costs of unplanned growth in the Town of Scarborough, in the surrounding region, and in the State of Maine; and;

WHEREAS, the designation of the District and implementation of the Development Program will help to improve and broaden the tax base in the Town of Scarborough and improve the economy of the Town of Scarborough and the region by attracting business development to the Town; and,

WHEREAS, the Town has held a public hearing on the question of establishing the District, in accordance with the requirements of 30-A M.R.S.A. § 5250, upon at least ten (10) days prior notice published in a newspaper of general circulation within the Town; and,

WHEREAS, the Town desires to designate the *Avesta Housing Affordable Housing Municipal Development and Tax Increment Financing District* (the "District") and adopt a development program for the District (the "Development Program"); and,

WHEREAS, the Development Program includes a description of the Credit Enhancement Agreement the Town desires to enter into with the developer of the project to be located in the District on terms that include a split of tax increment financing revenues of 50% to the Town and 50% to the developer for a term of seventeen (17) years; and,

WHEREAS, it is expected that approval will be obtained from the Maine State Housing Authority (“MaineHousing”) approving the designation of the District and the adoption of the Development Program for the District; and,

NOW THEREFORE, BE IT ORDERED BY THE TOWN COUNCIL OF THE TOWN OF SCARBOROUGH, MAINE:

Section 1. The designation of the District and pursuit of the Development Program will create affordable, livable housing within the Town of Scarborough, and therefore constitutes a good and valid public purpose.

Section 2. Pursuant to Chapter 206, Subchapter 3 of Title 30-A of the Maine Revised Statutes, as amended, the Town hereby designates ***Avesta Housing Affordable Housing Municipal Development and Tax Increment Financing District*** and hereby adopts the Development Program for the District described as more particularly set forth in the documents presented to the Town Council in conjunction with this Order.

Section 3. Pursuant to the provisions of 30-A M.R.S.A. § 5250-A, the percentage of captured assessed value to be retained in accordance with the Development program is hereby established as set forth in the Development Program.

Section 4. The Town Manager be, and hereby is, authorized, empowered and directed to submit the proposed designation of the District and the proposed Development Program for the District to MaineHousing for review and approval pursuant to the requirements of 30-A M.R.S.A. Chapter 206, Subchapter 3; and further is authorized and directed to execute a Credit Enhancement Agreement consistent with the provisions of ***Avesta Housing Affordable Housing Municipal Development and Tax Increment Financing District*** Development Program as presented and approved herein and to create the accounts and take all the actions described in such agreement, if and when the Town Manager is presented with a written copy of the MaineHousing “Notice to Proceed” with respect to the Project to be located in the District.

Section 5. The Town Manager be and hereby is authorized and empowered at his direction from time to time to make such revisions to the Development Program for the District as he deems reasonably necessary or convenient in order to facilitate the process of review and approval of the District by MaineHousing, or for any other reason, so long as such provisions are not inconsistent with these resolutions or the basic structure and intent of the Development Program. The Town Manager is also hereby authorized and directed to submit any reports to MaineHousing regarding the District and Development Program throughout the term of the District.

Section 6. The foregoing designation of the District and the adoption of the Development Program for the District shall automatically become final and shall take full force and effect upon receipt by the Town of approval of the proposed District by MaineHousing without requirements of further action by the Town, Town Council or any other party.

Section 7. The Town hereby finds and determines that:

- a. At least twenty-five percent (25%), by area, of the real property within the District, as hereinafter designated, is suitable for residential use, blighted area or is in need of rehabilitation or redevelopment; and,

- b. the total area of the District does not exceed two percent (2%) of the total acreage of the Town, and the total area of all development districts within the Town, and the total area of all development districts within the Town does not exceed five percent (5%) of the total acreage of the Town; and,
- c. The original assessed value of the District plus the original assessed value of all existing affordable housing development districts within the Town does not exceed five percent (5%) of the total acreage of the Town.
- d. The District and pursuit of the Development Program will contribute to the expansion of affordable housing opportunities within the municipality or to the betterment of the health, welfare or safety of the inhabitants of the Town. The Town has considered all evidence, if any, presented to it with regard to any substantial detriment to another party's existing property interests in the Town and has found and determined that such interested party's property interests in the Town are outweighed by the contribution made by the District or Development Program to the availability of affordable housing within the Town or to the betterment of the health, welfare or safety of the inhabitants of the Town.

Section 8. The Town Manager is authorized to file the yearly reports required by Title 30-A M.R.S.A. §5250-E and otherwise to take all lawful actions required in the administration of the District and Development Program.

Dated First Reading: August 19, 2015

Dated Second Reading: September 2, 2015

Vote: 7 Yeas.

OLD BUSINESS: None at this time.

NEW BUSINESS:

Prior to reading Order No. 15-068 and Order No. 15-069, Council Chair Holbrook stated that the Council would hear comments on both Orders at the same time and asked each person to state their name, address and which Order they were speaking on.

The following individuals spoke on Order No. 15-068 and Order No. 15-069:

- Tim Cronin of South Portland spoke against the proposed changes [15-068-Parking] and he then spoke on the proposed changes to [15-069-changing] – sometimes it is not doable in using the bathhouse for changing and did not support the proposed change.
- Douglas Lund-Yates of Fowler Farm Road spoke against both Orders noting the changes would not allow others to enjoy the beach in the early morning and would not work in the winter months.
- Connor Bellevue of Portland spoke on both Orders and felt that it was an issue of access. Each beach has their own set of rules. He did not support the proposed changes being recommended for ordinances.
- Katie Foley of Lucky Lane stated that she was opposed to both recommendations and went on to voice why. She felt that the compromise that was reach a few years ago should be left alone and the education and enforcement are already in place. She stated that since moving here she feels that Scarborough is not the same as it was when she first moved here.

- Tom Serberg, the son-in-law of a resident who lives across from the Parking lot stated that both groups need to work together in a partnership to eliminate the bad feelings. There had been complaints logged regarding noise that occur early in the morning. Visitors/rental are not happy with all the noise. Things have changed, it is not the same as in the past and he supports the changes being recommended.
- Joel Norton of 13 Nelson Road spoke against the two recommendations and added we do need to work together to reach an agreement that is best for all.
- Maureen Burns of Morning Street spoke on both issues. She added that all residents had contributed to the maintenance at Higgins Beach. As well as a donation from the Surfriders Group which assisted in the funding of parking lot. She did not support the changing amendments that were being proposed.
- Crystal Burnett, owner of Black Point Surf Shop spoke on the proposed amendments. She felt everything was petty and that everyone was butting heads. She did not agree with either recommendation.
- Nick Littlefield stated that he felt that the changes were punishing the productive and did not support the proposed recommendations
- Melissa Gates of the Surfriders Foundation of Maine thanked the Council for their work on this issue and then noted that she had handed in a petition to the Clerk earlier in the evening that did not support the proposed changes.
- Terry Kane of Scarborough also spoke against the proposed changes.
- Joan Lorie of Higgins Beach
- David Fillinger of Pearl Street stated that he felt certain things were being made up and were silly. He did not agree with the proposed changes and felt that the needs to move on.
- Richard Napolitano of Ocean Avenue spoke on all the issues that have occurred while he has been there, 30 plus years and asked that things be left the way they are.
- Barb Price of Ramsay Terrace – thanked the Council for the beach house and the parking slots along the beach. Tolerance is something that is not a lot of. She appreciates that keep
- Tess Hawkes of Portland voiced her opposition of the recommendations.
- Jeff Woodbury of South Portland stated that the coastal access laws are over 300 years old – and felt that both amendments should be voted down.

There being no further comments, the public comment time was closed.

Order No. 15-068. First reading and schedule a public hearing on the proposed amendments to Chapter 601 – the Town of Scarborough Traffic Ordinance Section 25, Parking Restrictions, Section A. Parking Restrictions, subsection II. Higgins Beach. Motion by Councilor Caterina, seconded by Councilor Babine, to move approval of the first reading on the proposed amendments to Chapter 601 – the Town of Scarborough Traffic Ordinance Section 25, Parking Restrictions, Section A. Parking Restrictions, subsection II. Higgins Beach and schedule a public hearing for Wednesday, September 16, 2015.

Motion by Council Chair Holbrook, seconded by Councilor Babine, to move approval to amend the main motion to Order No. 15-068 to return the start time for Bayview Avenue parking to 6:00 a.m. and replace the 1 hour time-limit with 30 minutes.

Vote on amendment: 5 Yeas. 2 Nays [Councilors Hayes and St. Clair].

Vote on main motion as amended:

CHAPTER 601 TOWN OF SCARBOROUGH TRAFFIC ORDINANCE

BE IT HEREBY ORDAINED, by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that Chapter 601 - - the Traffic Ordinance of the Town of Scarborough, Maine is amended by adding the underlined text and deleting the text shown in strikeover type, as shown below:

II. HIGGINS BEACH.[amended 01/19/2011][amended02/16/2011]

- a. Upon any of the public streets or highways within the area known as Higgins Beach. For the purpose of this Ordinance the Higgins Beach area is defined as including the area bounded on the South by the Atlantic Ocean, on the East by the Spurwink River, on the West by the property now or formerly of one Edward Piper and on the North by the Spurwink Road (Route #77).

Parking shall be allowed on the easterly side of Acorn Lane from September 16^h to April 30th.

- b. Exempt from paragraph (a) of this subsection are the following:

- (i) two handicapped parking spaces on Bayview Avenue across from Ashton Street, with no time limit. (amended April 21, 1999)
- (ii) 30 minute parking shall be allowed, from 6:00 a.m. to 10:00 p.m., in designated parking spaces, on the ocean side only of Bayview Avenue from the end of the drop-off zone to Morning Street from September 16th to April 30th, the 30 minute parking shall not be in effect.
- (iii) On all other areas of Bayview Avenue there shall be no parking at any time, except during the off-season [September 16th to April 30th] on the ocean side of Bayview Avenue from Morning Street to Vesper Street. (amended02/16/2011)
- (iiii) there shall be no parking on any of the other streets year round unless otherwise noted herein.

Vote: 5 Yeas. 2 Nays [Councilors Hayes and St. Clair].

Order No. 15-069. First reading and schedule a public hearing on the proposed amendments to Chapter 612 – the Town of Scarborough Ordinance creating Rules and Regulations for Use of Parks and Recreational Facilities by adding a new Section 19. Dressing. Motion by Councilor Caterina, seconded by Councilor Donovan, to move approval to table Order No. 15-069 indefinitely.

Vote: 6 Yeas. 1 Nay [Councilor Babine].

Order No. 15-070. Act to authorize the Town Manager to sign documents authorizing acceptance of \$1,690.00 or any portion thereof, to be placed in the Asset Forfeiture Account. [This money is the Police Department's equitable share for its contribution to the investigation of criminal cases]. Thomas J. Hall, Town Manager, gave a brief overview on this Order.

Motion by Councilor Caterina, seconded by Councilor Blaise, to move approval to authorize the Town Manager to sign documents authorizing acceptance of \$1,690.00 or any portion thereof, to be placed in the Asset Forfeiture Account. [This money is the Police Department's equitable share for its contribution to the investigation of criminal cases].

Vote: 7 Yeas.

Order No. 15-071. Act to adopt the 2015/2016 School Budget Resolutions, as required by State Statute. Motion by Councilor St. Clair, seconded by Councilor Caterina, to move approval to adopt the 2015/2016 School Budget Resolutions, as required by State Statute; as follows:

**Scarborough School Department
2015-2016 Budget Resolutions
(based on State Subsidy Funding enacted by
Legislature as part of their biennial budget)**

ARTICLE I. To see what sum the municipality will appropriate for the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act.

Recommend \$ 34,537,295

and to see what sum the municipality will raise as the municipality's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act in accordance with the Maine Revised Statutes, Title 20-A, section 15688.

Recommend \$ 29,130,634

Explanation: The school administrative unit's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act is the amount of money determined by state law to be the minimum amount that a municipality must raise in order to receive the full amount of state dollars.

ARTICLE II. To see what sum the municipality will raise and appropriate for the annual payments on debt service previously approved by the municipality for non-state-funded school construction projects, or non-state-funded portions of school construction projects in addition to the funds appropriated as the local share of the school administrative unit's contribution to the total cost of funding public education from kindergarten to grade 12.

Recommend \$5,118,437

Explanation: Non-state-funded debt service is the amount of money needed for the annual payments on the municipality/district long-term debt for major capital school construction projects that are not approved for state subsidy. The bonding of this long-term debt was previously approved by the voters.

ARTICLE III. To see what sum the municipality will raise and to appropriate that sum in additional local funds for school purposes under Maine Revised Statutes, Title 20-A, 15690.

Recommend \$3,410,417

Explanation: The additional local funds are those locally raised funds over and above the school administrative unit's local contribution to the total cost of funding public education from kindergarten

to grade 12 as described in the Essential Programs and Services Funding Act and local amounts raised for the annual payment on non-state-funded debt service that will help achieve the municipality budget for educational programs.

ARTICLE IV. To see what sum the municipality will authorize the School Board to expend for the fiscal year beginning July 1, 2015 and ending June 30, 2016 from the school administrative unit's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act, non-state-funded school construction projects, additional local funds for school purposes under the Maine Revised Statutes, Title 20-A, section 15690, unexpended balances, tuition receipts, state subsidy and other receipts for the support of schools.

Recommend \$43,543,756

Pursuant to Maine Revised Statutes, Title 20-A, section 1485, voters and the Town Council authorize the School Board to expend the above funds in the following State-mandated categories:

ARTICLE IV-A. To see what sum the school administrative unit will be authorized to expend for Regular Instruction.

Recommend \$18,119,515

ARTICLE IV-B. To see what sum the school administrative unit will be authorized to expend for Special Education.

Recommend \$6,996,457

ARTICLE IV-C. To see what sum the school administrative unit will be authorized to expend for Career and Technical Education.

Recommend \$293,591

ARTICLE IV-D. To see what sum the school administrative unit will be authorized to expend for Other Instruction.

Recommend \$925,117

ARTICLE IV-E. To see what sum the school administrative unit will be authorized to expend for Student and Staff Support.

Recommend \$4,189,753

ARTICLE IV-F. To see what sum the school administrative unit will be authorized to expend for System Administration.

Recommend \$997,264

ARTICLE IV-G. To see what sum the school administrative unit will be authorized to expend for School Administration.

Recommend \$1,595,697

ARTICLE IV-H. To see what sum the school administrative unit will be authorized to expend for Transportation and Buses.

Recommend \$1,529,166

ARTICLE IV-I. To see what sum the school administrative unit will be authorized to expend for Facilities Maintenance.

Recommend \$3,753,759

ARTICLE IV-J. To see what sum the school administrative unit will be authorized to expend for Debt Service and Other Commitments.

Recommend \$5,118,437

ARTICLE IV-K. To see what sum the school administrative unit will be authorized to expend for All Other Expenditures.

Recommend \$25,000

ARTICLE V. To see if the municipality will appropriate **\$181,552** for Adult Education and raise **\$99,552** as the local share; with authorization to expend any additional, incidental or miscellaneous receipts in the interest and for the well-being of the Adult Education program.

Recommend \$99,552 (Local)

Vote: 7 Yeas.

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

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

- Councilor Hayes noted that the Harbor Master announced his retirement and the Committee has been given an Intervener Status with regards to the renewal of the Nonesuch Oyster Lease Application and he also gave an update on the Senior Advisory Committee.
- Councilor Caterina gave an update on the Long Range Planning Committee
- Councilor Donovan gave an update on the Higgins Beach rezoning meeting.
- Council Chair Holbrook noted that the Appointments Committee would be meeting prior to the next Council meeting and then gave an overview on the Historic Implementation Committee.

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

- The Town had warning signs installed at Pine Point along the train trusses. There had been a couple of situations that have occurred over the past couple of weeks and the need for these signs were very much needed.
- The Fire Department would be holding its 1st Annual Citizens Fire Academy, those interested should contact the Fire Department for further information.
- SEDCO would be hosting its Annual Meeting on Tuesday, October 6th at the Black Point Inn and encourage the Council to please respond to the online invitation.
- Ruth Porter, Finance Director, received the Finance Excellence Recognition in Financial Reporting.
- The Town received a dividend check from the MMA Risk Management Services: Workers Compensation was just over \$24,000.

Item 11. Council Member Comments.

- Council Chair Holbrook sent condolences to the families of Judy Shirk and Sue Berube. She would love to hear the feedback on the amendment that had been made regarding the Higgins Beach Parking.
- Councilor St. Clair reminded everyone that school is back in session and asked that teenage drivers be extra careful when driving. She thanked Councilor Blaise for his conversation..... respect him for following
- Councilor Blaise mention that the Planning Board approve its first cell tower outside a commercial area and the location was at the gun club.
- Councilor Hayes complemented the Town Manager for posting the signs in a timely manner – the currents are very strong and any one can get caught up very quickly.

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

Vote: 7 Yeas.

Meeting adjourned at 9:31 p.m.

Respectfully submitted,
Yolande P. Justice
Town Clerk