

**MINUTES
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – OCTOBER 17, 2018
REGULAR MEETING - 7:00 P.M.**

Item 1. Call to Order. Chairman Donovan 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.

Councilor Shawn A. Babine [Late]

Councilor Jean-Marie Caterina

Councilor Robert W. Rowan

Councilor Peter F. Hayes

Councilor Kathleen M. Foley

Councilor Christopher J. Caiazzo – Vice Chair [Absent]

Chairman William J. Donovan

Item 4. General Public Comments.

- Michael Sawyer of Track View Terrace voiced his concerns relating to the Downs Project and the amount of traffic that it could cause.
In response to Mr. Sawyer's concerns, Chief Moulton noted that currently sirens are not normally used in a residential area and there are some instances where they could be used. NO one wants to be in a situation where there is harm to people or animals. Officers are trained to handle various situations.
- Susan Hamill of Bay Street spoke on the Scarborough Downs TIF – an independent analysis and when would it be posted to the Town's website. She went on to speak about the growth that has occurred in Scarborough. She then commented on the public hearing and asked that the vote not occur until after the new Council has been seated. Chairman Donovan noted that the vote would not take place on November 7th.
In response to Ms. Hamill's concerns, Mr. Hall, Town Manager noted that an independent group would be taking place soon and when the information is ready it would be placed on the Town's Website. He then commented on the growth concerns.

Item 5. Minutes: October 3, 2018 - Regular Town Council Meeting. Motion by Councilor Babine, seconded by Councilor Rowan, to move approval of the minutes of the October 3, 2018, regular Town Council meeting, as written.

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.

Resolution 18-002. Act on the request to establish a standing *Transportation Committee*. [*Transportation Committee*] Thomas J. Hall, Town Manager, gave a brief overview on this Resolution.

The following individuals spoke on this item:

- Judy Roy of Second Avenue and a member of the Transportation Committee supported this recommendation. Once the Committee had completed its original charge, we found that there were other areas that needed to be addressed.

Motion by Councilor Babine, seconded by Councilor Caterina, to move approval of Resolution 18-002, on the request to establish a standing *Transportation Committee*, as follows:

Motion by Councilor Babine, seconded by Councilor Rowan, to move approval to amend the main motion and appoint the current seating members with the staggered terms to be determined by the Town Clerk and Staff Liaison.

Vote: 6 Yeas.

Main motion as amended:

**Resolution 18-002 to Approve the Formation of a
*TRANSPORTATION COMMITTEE***

BE IT RESOLVED, by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that,

WHEREAS, the Town Council did approve Resolution 12-03 on April 4, 2012, to establish a Transportation Committee to consider traffic congestion and development pressure town-wide, with immediate focus on the Oak Hill area; and,

WHEREAS, the Town Council did approve Resolution 12-04 on June 6, 2012, which established an Ad-Hoc Transportation Committee to review the traffic congestion and development pressure town-wide, with an immediate focus on the Oak Hill area; and,

WHEREAS, the Ad-Hoc Transportation Committee feels that, work is on-going and recommends to the Town Council to establish a Transportation Committee to continue to review issues that could come forward in the unforeseeable future.

NOW, THEREFORE, BE IT HEREBY RESOLVED, by the Town Council of the Town of Scarborough, in Town Council assembled, that in accordance with the recommendations of Chapter 5 of the Comprehensive Plan, did established a Transportation Committee.

NOW, THEREFORE, BE IT FURTHER RESOLVED, by the Town Council of the Town of Scarborough, Maine in Town Council assembled, that the Charge for the Transportation Committee shall be as follows:

1. Purpose. The purpose of the Committee is to serve as a Committee to the Town Council regarding transportation-related plans, studies and initiatives; more specifically:

- to craft a Town-wide Transportation Plan for transportation infrastructure and system improvements that uses past Town, PACTS and State-level plans and studies as guiding documents;
- to develop design recommendations on priority transportation improvement projects highlighted in the Transportation Plan; and
- to study and analyze trends in land use and transportation to prepare Scarborough for future growth and transportation needs and investments.

2. Duties. The Committee shall have the following duties:

- Review and consider prior transportation planning efforts
- Prepare a Town-wide Transportation Plan(s) and establish implementation schedules and approaches, with the Oak Hill intersection as its first priority;
- Coordinate the process of implementing the Transportation Plan(s);

- Develop conceptual design recommendations for specific transportation improvements to the Town Council;
- Study and analyze trends in land use and transportation to prepare Scarborough for future growth and transportation needs and investments;
- Consider funding sources such as impact fees, grants and private investment to leverage local funds; and,
- Provide an Annual Report to the Council.

3. Membership. The Committee should be comprised of seven (7) members as follows: One (1) Town Councilor; one (1) Long Range Planning Committee Member; one (1) Planning Board member; three (3) Scarborough Residents; and one (1) Representative of the Business Community (a business/commercial property owner, Chamber of Commerce member or SEDCO Board member). The initial appointments will be three (3) members will be for three (3) years to expire on December 31, 2021 and two (2) members with terms to expire December 31, 2020 and two (2) members with terms to expire December 31, 2019. All terms thereafter will be for three (3) years.

The Town Manager, Town Planner, Assistant Town Planner, Public Works Director, and/or the Town Engineer will provide staff assistance to the Committee as appropriate or needed. In addition, assistance and coordination with PACTS staff, Maine DOT staff, and other transportation-related agencies will occur as needed.

All appointments will be made by the Town Council.

4. Vacancies and Removal. Any vacancies shall be filled by the Town Council. The Town Council may remove any member of the Committee by vote of a majority of its members for misconduct or non-performance of duty.

5. Procedures. Four (4) members of the Committee shall constitute a quorum. The Committee shall select one of its members to serve as chair and another member who shall serve as recording clerk and keep the minutes of all proceedings and submit these to the Town Clerk's Office for filing. The Committee shall set its own meeting schedule which will be open to the public.

Vote: 6 Yeas.

OLD BUSINESS: None at this time.

NEW BUSINESS:

Order No. 18-070. First reading and refer to the Planning Board on the proposed amendments to Chapter 405 – the Scarborough Zoning Ordinance, Section VI. Definitions – Affordable Housing. [Housing Alliance Committee] Councilor Rowan, gave a brief overview on this Order. He noted that the one that had been before the Council did not reflect what the Housing Alliance Committee had wanted.

Motion by Councilor Caterina, seconded by Councilor Babine, to move approval of the first reading and refer to the Planning Board the proposed amendments to Chapter 405 – the Scarborough Zoning Ordinance, Section VI. Definitions – Affordable Housing and schedule the public hearing upon receipt of the recommendations from the Planning Board; as follows:

**Proposed Zoning amendments based on Sept. 26, 2018 Alliance meeting
Drafted by Jay Chace, Sept. 27, 2018**

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that Chapter 405 - the Zoning Ordinance of the Town of Scarborough, Maine is amended (Additions underlined. ~~Deletions strikethrough~~) as follows:

Section VI., Definitions:

**Affordable Housing: [Adopted 11/03/2004] [Amended 05/03/2006][Amended 12/03/2014]
[proposed amendment 2018]**

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 (i) is occupied by its owner, (ii) is owned by a Qualifying Household and (iii) has a maximum sales price that is reasonably anticipated to result in Annual Housing Costs that are less than or equal to 30% of the Imputed Income Limitation applicable to the unit. ~~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 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.~~

(I) A Qualifying Household is one with a total household income that, at the time of purchase, is 80% or less than the most recently published Median Family Income for the Portland, Maine, MSA, adjusted for family size, as determined by the U.S. Department of Housing and Urban Development (the "MFI Standard").

(II) Annual Housing Costs shall equal the sum of (i) the total annual payments of principal and mortgage interest, (ii) the total property insurance premium, (iii) the real estate taxes due (iv) any homeowners association or condominium fees that are due; and (v) a reasonable estimate of the annual cost of any additional water, sewer, heat, hot water and electricity in the home.

(III) The maximum sale price is to be based on the assumed interest rate and loan term established by the U.S. Department of Housing and Urban Development for housing affordability limits, plus Imputed Income Limitations. In the case of a unit which has two or fewer bedrooms, the Imputed Income Limitation shall be 80% of the MFI Standard for a household of two (2) people. In the case of a unit which has more than two bedrooms, the Imputed Income Limitation shall be 80% of the MFI standard for a household of four (4) people.

~~(I) B.~~ A Renter-Occupied Affordable Housing Unit is a unit which is leased by a Qualifying Household at an Annual Gross Rent that is less than or equal to 30% of the Imputed Income Limitation applicable to the unit. ~~to a household 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.~~

(I) A Qualifying Household is one with a total household income that, at the time of move-in, is 80% or less than the most recently published Median Family Income for the Portland,

Maine, MSA, adjusted for family size, as determined by the U.S. Department of Housing and Urban Development (the “MFI Standard”). To remain a Qualifying Household, the household’s income must remain at or below 140% of the income limitation described in the preceding sentence.

(II) Annual Gross Rent shall equal twelve (12) times the sum of (i) monthly rent due to the landlord, (ii) any required monthly payments to the landlord for additional services or facilities and (iii) a reasonable estimate of the monthly utility costs (not including television, internet or telephone) that the household is responsible for paying. In the case of a unit which does not have a separate bedroom, the Imputed Income Limitation used to determine the maximum annual gross rent shall be 80% of the MFI Standard for a household of one (1) person. In the case of a unit which has one or more bedrooms, the Imputed Income Limitation used to determine the maximum annual gross rent shall be 80% of the MFI standard for a household with a size equal to one and one half (1.50) people per bedroom.

SECTION VIIC. RESIDENTIAL DENSITY AND AFFORDABLE HOUSING PROVISIONS
[06/06/2007][amended 11/06/2013][amended 03-09/18][proposed amendments 09/27/2018]

C. AFFORDABLE HOUSING CERTAINTY

1. Prior to the sale of an Owner-Occupied Affordable Housing Unit, the owner of the unit shall obtain approval from the Town Manager to transfer the unit to a new buyer. In determining whether to approve the transfer, the Town shall determine whether the proposed buyer will be a Qualifying Household and that the sale price does not exceed the maximum sale price as defined in this Ordinance. The proposed buyer shall provide documentation, as reasonably requested by the Town, to support the transfer request. In granting the request, the Town shall be entitled to impose conditions upon the transfer to ensure that physical deficiencies and code violations are addressed and that delinquent property tax, water and sewer bills are paid.

2. Owners of Renter-Occupied Affordable Housing Units shall be required to certify that the units continue to be occupied by Qualifying Households on an annual basis to the Town Manager and in so certifying shall be entitled to rely upon the household certifications described in the following sentence. Households shall certify to Owners of Renter-Occupied Affordable Housing Units that they continue to qualify based on the standards in this Ordinance and shall provide documentation to support their certification upon the reasonable request of the Town through the Town Manager.

Vote: 6 Yeas.

Order No. 18-071. First reading and schedule a public hearing on the proposed amendments to the Chapter 303 – the Town of Scarborough Personnel Ordinance. [Town Manager] Ian Gallagher, Director of Human Resources, gave a brief overview on this Order and responded to questions from the Town Council.

Motion by Councilor Babine, seconded by Councilor Hayes, to move approval of the first reading on the proposed amendments to the Chapter 303 – the Town of Scarborough Personnel Ordinance and schedule a public hearing for Wednesday, November 7, 2018; as follows:

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that Chapter 303 - the Town of Scarborough Personnel Ordinance, is amended (Additions underlined. Deletions strikethrough) as follows:

Resources Department will provide the employee with notice of impending FML exhaustion. If an employee fails to return to work at the end of FML, the employee will be considered to have voluntarily resigned from his/her position with the organization.

Section 510. Leave for Victims of Domestic Violence. I

In accordance with Maine Law, the Town will grant employees a reasonable and necessary amount of time off from work without pay if an employee is a victim of domestic violence, domestic assault, sexual assault or stalking, and needs the time to:

- Prepare for or attend court proceedings,
- Receive medical treatment, or
- Obtain necessary services to remedy a crisis caused by domestic violence, sexual assault or stalking.

Employees must request the leave from the Human Resources Director as soon as circumstances make it clear that time off is necessary. Approval of leave will be dependent upon (a) whether the employee's absence will create an undue hardship for the Town, (b) whether the employee requested leave within a reasonable time, and (c) whether the requested leave is impractical, unreasonable or unnecessary given the facts made available to the Human Resources Director at the time of the request.

If an employee's leave is approved, the employee will be required to first use any accrued paid vacation, sick or compensatory time before taking unpaid leave. Employees will not be discriminated against for taking or asking for leave. (amended 09/05/2007)

Section 511. Medical Insurance.

Currently, the Town offers group medical insurance to eligible employees in accordance with plan provisions and federal regulations. Eligible employees, regardless of probationary status, are eligible on the first day of the month following employment date or at open enrollment. The Town reserves the right to change insurance carriers and/or benefit level as deemed necessary. (amended 08/17/2011) (amended 07/17/2013)

Currently, the Town contributes 100% of the health insurance premiums for all eligible employees. As determined by the Town Manager, the Town will contribute a percentage of the premium for covering additional eligible dependents. (amended 07/17/2013)

Effective January 1, 2019, the Employees will be offered the opportunity to enroll in the POS-C or PPO- 500 plans through the Maine Municipal Employees Health Trust. The Town agrees to contribute 92.5% of the single premium, 87.5% of the employee and child premium, and 82.5% of the family premium of the PPO-500 plan. Employees wishing to enroll in the POS-C will pay the difference in premium between the amounts the employer would otherwise pay towards the PPO-500 plan. (proposed 10/17/2018)

Employees who are currently covered or can be covered under other medical coverage can opt to receive an annual buy-out payment of \$1,500 (divided over 52-weeks). Proof of valid medical coverage must be presented in order to be eligible for this option.

If other health and/or dental coverage ends for any of the following reasons, the employee (and his/her eligible dependents) may still enter the Health and/or Dental programs offered through the Health Trust.

Vote: 6 Yeas.

Order No. 18-072. Act on the request to ratify the collective bargaining agreement between the Town of Scarborough and the Scarborough Professional Dispatchers Unit of Scarborough Firefighter Association - IAFF #3894. [Police Department] Ian Gallagher, Director of Human Resources, gave a brief overview on this Order and responded to questions from the Town Council.

The following individual spoke on this Order:

- Don Hamill of Bay Street voiced his concerns relating to the process and the numbers used. He felt this was highly unusual and he would like to understand better as we move forward in the process and what the impact would be.

Motion by Councilor Babine, seconded by Councilor Caterina, to move approval of the request to ratify the collective bargaining agreement between the Town of Scarborough and the Scarborough Professional Dispatchers Unit of Scarborough Firefighter Association - IAFF #3894.

Vote: 6 Yeas.

Order No. 18-073. Act on the request to authorize the sale of a tax-acquired property, located at 127 Holmes Road, to a Daniel Soley and to authorize the Town Manager to sign any and all documents necessary. [Town Manager] Thomas J. Hall, Town Manager, gave a brief overview on this Order.

Motion by Councilor Babine, seconded by Councilor Caterina, to move approval on the request to authorize the sale of a tax-acquired property, located at 127 Holmes Road, to a Daniel Soley and to authorize the Town Manager to sign any and all documents necessary.

Vote: 6 Yeas.

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

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

- Councilor Hayes gave an update on the Shellfish Commission; the Coastal Waters & Harbors Committee and the Finance Committee.
- Councilor Caterina gave an update on the Senior Advisory Committee. She added that Community Services would be hosting a table on Election Day and asked if any Councilor would be able to take a turn. The Ordinance Committee meeting is scheduled for Thursday, October 18th at 4:30 p.m.

Item 10. Town Manager Report. Thomas J. Hall, Town Manager, gave the following updates:

- Noted that in 1999 the state started a salt shed program to replace municipal salt sheds and at the time the Town was listed as a priority 5 and today the town received \$124,000 for reimbursement of the old salt shed.
- Early voting: ballots issued 2,195 with 822 returned. The State has issued 16,800 ballots, which is 100% of active voters as of August 1st. 35% of this number will be for absentee voting.
- There are two chrome books setup outside of Chamber B where absentee voting is taking place and residents can participate in a survey relating to medical and residential marijuana. Individuals can also sign-up for the Town's e-newsletter.
- There would be TIF and CEA workshop on Wednesday, October 24th at 6:00 p.m.
- The second meeting in November falls on Wednesday, November 21st and this is just before the Thanksgiving holiday, so the meeting has been rescheduled for Wednesday, November 28th at 6:00 p.m.

- Board of Assessment Review will hear the abatement appeals on Sam's Club and Wal-Mart Tuesday, November 13th at 4:00 p.m.

Item 11. Council Member Comments.

- Councilor Babine thanked the Community Chamber for hosting candidates' night. This would be aired over the course of the new few weeks prior to Election Day. He noted that the School Department would be hosting a function the Sunday, 21st for Jackie Perry for her commitment to the School Department and service to the Town.
- Councilor Rowan noted that he voted this evening and urged everyone to get out and vote
- Councilor Caterina commented on signs and the complaints she had received. She commented on the statements regarding the lack of transparency – she felt that no other community does what we do to inform the public of what is going on in town. She thanked Ms. Crocket, Assistant Town Manager, for taking care of getting information out to the public.
- Councilor Hayes also commented on the election and the number of candidates that are on the ballot and urged the voters to educate themselves before they vote.
- Chairman Donovan commented on the Chamber meeting that he had attended. He too urged the public to vote and mentioned the survey that the public could take.

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

Vote: 6 Yeas.

Meeting adjourned at 8:12 p.m.

Respectfully submitted,

Yolande P. Justice
Town Clerk