

MINUTES
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – NOVEMBER 28, 2018
REGULAR MEETING – 7:00 P.M.

Item 1. Call to Order. Chairman Hayes called the regular meeting of the Scarborough Town Council 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	Councilor Jean-Marie Caterina
Councilor Paul M. Johnson	Councilor William J. Donovan
Councilor Kathleen M. Foley	Councilor Donald R. Hamill
Chairman Peter F. Hayes	

Item 4. General Public Comments.

- Michael Doyle owner of Falmouthtoday.me and a resident of Portsmouth, New Hampshire, spoke on the possible promotion of a Police Officer to lieutenant and use of improper language and actions by this individual and wondered why this individual was still employed by the Town. He also noted that it was the one year anniversary on which he had been arrested here.

Item 5. Minutes: November 7, 2018 - Regular Town Council Meeting and November 14, 2018 - Special Town Council Meeting. Motion by Councilor Donovan, seconded by Councilor Foley, to move approval of the meeting minutes of the November 7, 2018 - Regular Town Council Meeting and November 14, 2018 - Special Town Council Meeting, as written.

Vote: 7 Yeas.

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

Item 7. Items to be signed: a. Treasurer's Warrants. Treasurer's Warrants were signed during the meeting.

Order No. 18-070, 7:00 p.m. Public hearing on the proposed amendments to Chapter 405 – the Scarborough Zoning Ordinance, Section VI. Definitions – Affordable Housing. [Housing Alliance Committee] Thomas J. Hall, Town Manager, gave a brief overview on this Order. Chairman Hayes opened the public hearing. As there were no comments either for or against, the hearing was closed at 7:04 p.m. The second reading on Order No. 18-070 will be scheduled for Wednesday, December 5, 2018.

Order No. 18-080, 7:00 p.m. Public hearing and action on the request for a Special Amusement from Davric Maine Corp d/b/a Scarborough Downs, located at 190 Payne Road. The Town Clerk gave a brief overview on this Order. Chairman Hayes opened the public hearing. As there were no comments either for or against, the hearing was closed at 7:06 p.m.

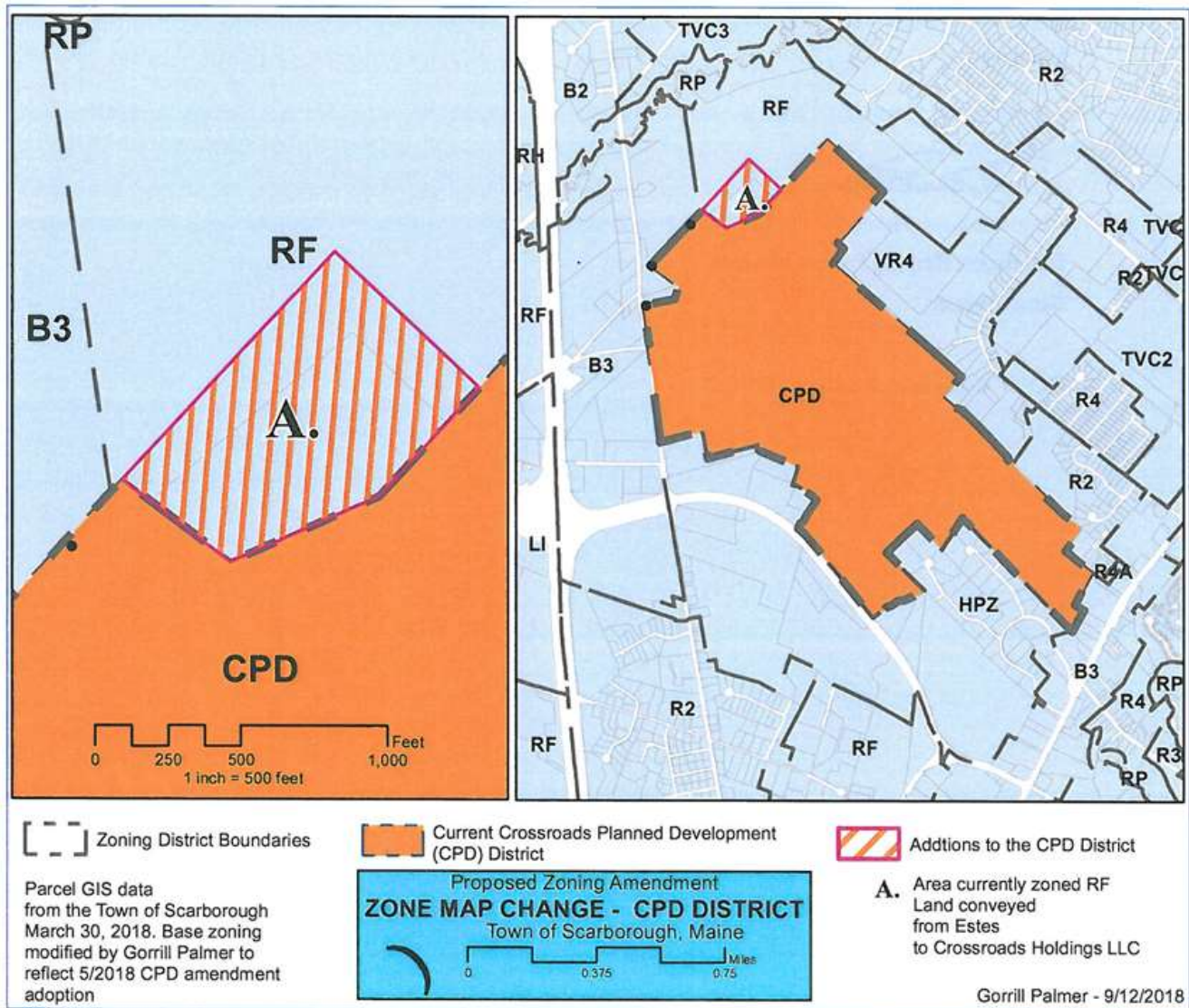
Motion by Councilor Babine, seconded by Councilor Caterina, to move approval on the request for a Special Amusement from Davric Maine Corp d/b/a Scarborough Downs, located at 190 Payne Road.

Vote: 7 Yeas.

OLD BUSINESS:

Order No. 18-063. Second reading on the proposed amendments to the Town of Scarborough Zoning Map. [Property Owner] Thomas J. Hall, Town Manager gave a brief overview on this Order. There were no public comments.

Motion by Councilor Babine, seconded by Councilor Caterina, to move approval of the second reading on the proposed amendments to the Town of Scarborough Zoning Map, as follows:



Vote: 7 Yeas.

Order No. 18-067. Second reading on the proposed amendments to Chapter 405, Zoning Ordinance, Section XII. Sign Regulations, subsection J. Temporary Signs. [Ordinance Committee] Chairman Hayes gave a brief overview on this Order. No public comments were made.

Motion by Councilor Caterina, seconded by Councilor Babine, to move approval of the Second reading on the proposed amendments to Chapter 405, Zoning Ordinance, Section XII. Sign Regulations, subsection J. Temporary Signs, as follows:

AMENDMENTS TO CHAPTER 405 THE ZONING ORDINANCE

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 as follows:

Amend SECTION J. TEMPORARY SIGNS, by deleting or adding the text as shown below:

J. TEMPORARY SIGNS

The following temporary signs are permitted and shall conform to standards within municipal, state or federal ordinances, statutes or regulations.

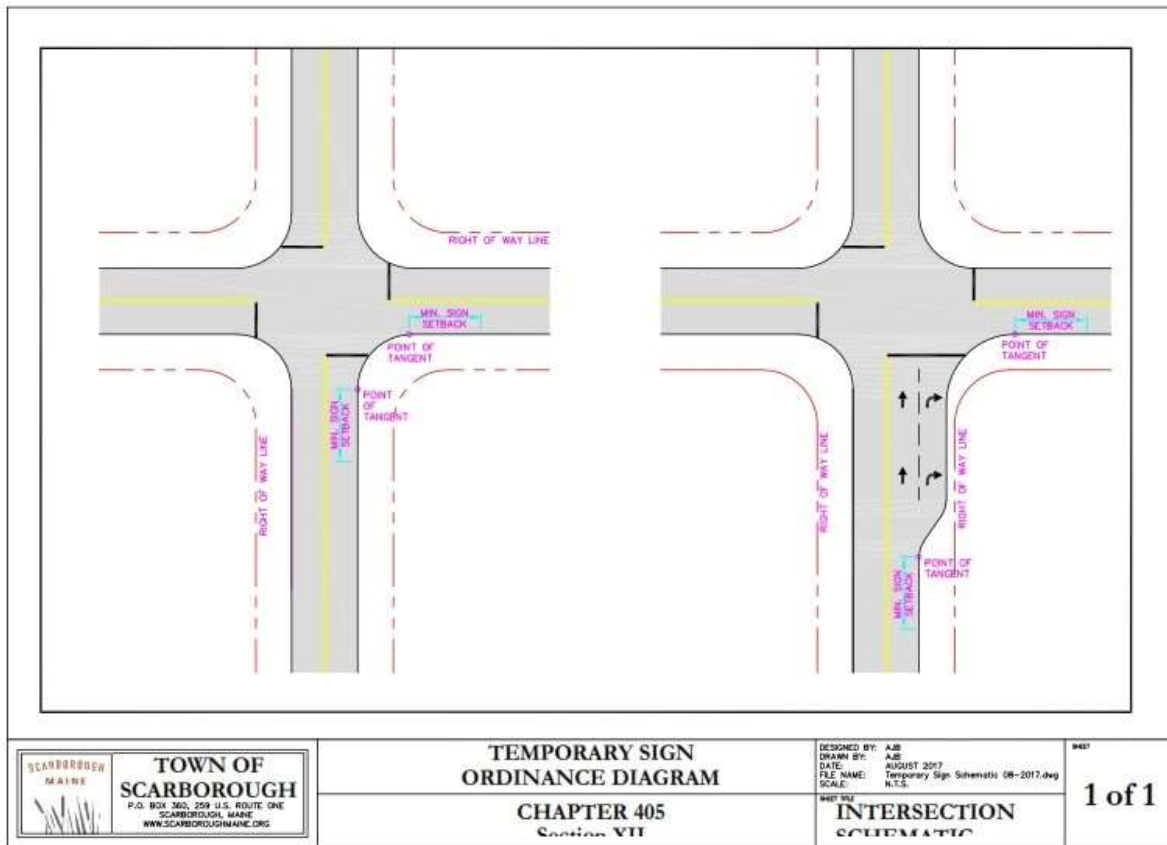
Temporary signs specified in this section shall not be attached to fences, trees, utility poles, light poles, traffic control devices or the like. [09/06/17]

To protect ecologically sensitive areas and scenic views no temporary signs shall be placed in the right- of-way along: [09/06/17]

- ☐ Route One between Dolloff Way and Southgate Road
- ☐ Black Point Road between Old County Road and Tide Mill Lane
- ☐ Black Point Road between Seal Rock Drive and Sanctuary Lane
- ☐ Pine Point Road between 67 Pine Point Road and the Eastern Trail
- ☐ Pine Point Road between Holly Street and Snow Canning Road
- ☐ Pleasant Hill Road from Minuteman Drive to Hackmatack Drive (Pleasant Hill Preserve Area)
- ☐ Bayview Avenue between Houghton Street and Morning Street

To promote public safety in and around intersections with high traffic volumes no temporary signs shall be placed in the right-of-way within 30 feet of the following intersections, as measure linearly from the point of tangent to the intersection, or the point of tangent where a dedicated turn lane is provided, whichever is furthest from the intersection:

- ☐ The Route One – Broadturn Road/Pine Point Road intersection
- ☐ The Route One – Payne Road intersection
- ☐ The Route One – Haigis Parkway intersection
- ☐ The Route One Gorham Road/Black Point Road intersection
- ☐ The Route One – Pleasant Hill Road intersection
- ☐ The Payne Road – Haigis Parkway intersection
- ☐ The Payne Road – Gorham Road intersection
- ☐ The Payne Road – Gallery Boulevard intersection



The number of temporary signs permitted under this subsection is in addition to the maximum number of signs allowed on a lot or the maximum gross display area allowed on a wall:

1. Temporary Signs in the Right-of-Way [Adopted 09/06/17]

Temporary signs in the right-of-way are permitted for a period not to exceed **6 12** weeks in a calendar year. All signs shall be removed by the deadlines established herein. All temporary signs in the right-of-way ~~will include the~~ must include or be marked with name and ~~phone number of the person placing the sign~~ address of the individual, entity or organization that placed the sign within the public right-of-way and the date the sign was erected within the public right-of-way. To control the proliferation of signs repeating the same or similar message, temporary signs in the right-of-way shall not be placed with 30 feet of another bearing the same message. This distance requirement applies to streets on a linear basis with a separate measurement done for every intersecting street. Temporary signs in the right-of-way may not be placed in a position that will obstruct or impair vision or traffic or in any manner create a hazard or disturbance to the health and welfare of the general public.

2. Temporary Signs on Private Property [Adopted 09/06/17]

Temporary signs on private property are permitted for no more than 6 consecutive months with not less than 30 days between displays of a sign bearing the same message. Temporary signs on private property may not be placed in a position that will obstruct or impair vision or traffic or in any manner create a hazard or a disturbance to the health and welfare of the general public.

3. Temporary Sandwich Board Sign. [Adopted 08/19/09][09/06/17]

One (1) Sandwich Board Sign may be displayed on the premises of a commercial or similar public entity for general commercial uses. Sandwich Board Signs shall be limited to a maximum gross area of eight (8) sq. ft. and a maximum height of 48". The location of Sandwich Board Signs shall be limited to the sidewalk or walkway leading to the main entrance of the building in which the business is located and shall be located no greater than fifteen feet (15') from the building's main entrance. Sandwich Board Signs shall only be displayed during the hours the business or use is open for customers or visitors and shall not be counted toward calculating the maximum number of signs or the maximum gross display area of signs on the property. A Sandwich Board Sign shall require a sign permit, per subsection A.2., which will establish a business or uses ability to use such a sign and delineate the area in which it will be displayed. A Sandwich Board Sign shall be located on a sidewalk or walkway in a manner that it does not infringe on handicap accessibility or safe pedestrian movement and that safely secures the sign in one location.

Vote: 7 Yeas.

NEW BUSINESS:

Order No. 18-081. Act on the request to approve the Downtown Redevelopment Plan, as presented and pursuant to Long Form Order. [Town Manager] Thomas J. Hall, Town Manager, gave a brief overview and suggested that when the public speaks they speak on all relating Orders at this time.

The following individuals spoke on the Orders:

- Art Dillon of Black Point Road and current President of the Scarborough Chamber of Commerce spoke in support of the Downs Project. He noted that he had read a letter of support at the public hearing from the Scarborough Chamber and urged the Town Council to vote in support of this Project.
- Liam Somers of the Holmes Road spoke on his work with large companies and how they diluted their product. He asked the Council if they believed Scarborough was a good location for this Project. This TIF would impact everyone in town and went on to asked each Councilor to sign a no-compete letter showing that they would not work for this company in the coming years.
- Kevin Freeman of Sterling Wood Drive comes before the Council as a private citizen and went on to voice his support of the Project. Every community uses TIFs and this is something that is good for the town. This TIF was not rushed into and is a tool that is used to make projects happen.
- John David Dittmer of Woodside Drive stated that he asked a lot of questions on this project. This is this a good deal, it is in the developer's interest to build. What happens if this is turned down? The town longer has a say in the project and would become just an overseer and would send a negative message to the business owners. He urged the Town council to support the Project.
- Michael Foley, a current Councilor from Westbrook, spoke on when this developer came to Westbrook and built a residential development. They were faced with more challenging items in Westbrook than here. They are invested in what they build and for the long term. To have an investor like Risbara Brothers is good. TIFs are a win/win for the Town. The TIF would be a benefit in many ways.

- Carroll Gautreau of Jameco Mill Road felt the project could be beneficial to the town, please make a good decision. The developers have invested \$6 million in the Downs Project. He went on to suggest that the Council remove the 40% given to the developer and put it toward the residential build. He asked that the Council vote to ensure that everything is equally fair.
- Dennis Meehan of Jameco Mill Road spoke on his research on the TIF and there were two ways the town could go; bond the money for the infrastructure or a TIF. These developers are in for the long term and amendments can be made along the way, if needed. He felt that this would be good for the town.
- Dave Merrill of Jameco Mill Road noted that he was a taxpayer and have been involved on many committees here in town. This is an incredible opportunity and we should take. They have the best interest for the town. The project would only help the build-out around it. This is a wise and efficient way to develop the town. He hoped the Council would support
- Tim Boardman a local business owner spoke in favor of the project and echoed everything that has been said this evening. The mix use is good for the tax base. He hoped the Council supported the project.
- Rocco Risbara one of the owners of Crossroad Holdings, LLC and Scarborough resident of Black Point Road spoke on the project. He noted that the Downs property had been under contract 17 times and all went through. He went on to give an overview on the project and how it came to what we are looking at this evening. There have been numerous hours spent on informational meetings for residents; many emails and endorsements for this Project. A vote of 7 affirmative votes would show unity.
- Barry Tibbets of Berry Road felt the project was a really good project and felt the documents were well balanced. He has lived in Scarborough over 40 and there has been a lot of talk about the Downs and nothing became of it. This developer has a good plan. TIFs are not uncommon for residential development. The TIF is the only economic tool that a municipality has. This is the right time and all the pieces of the puzzle are in place.

There being no further comments, the public comment period was closed at 7:38 p.m. Karen Martin, President of Sedco and Shana Cook Mueller, Town Attorney, responded to questions from the Town Council.

Motion by Councilor Babine, seconded by Councilor Foley, to move approval on the request to approve the Downtown Redevelopment Plan, as presented and pursuant to Long Form Order, as follows:

IN TOWN COUNCIL
ORDER #18-081
APPROVAL OF DOWNTOWN REDEVELOPMENT PLAN

WHEREAS, the Town of Scarborough (the "Town") is authorized pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended (the "Act"), to designate a specified area within the Town as the **Scarborough Downtown Omnibus Municipal Development and Tax Increment Financing District** (the "District") and adopt a development program (the "Development Program") for the District pursuant to the Act; and

WHEREAS, in order to designate a so-called "downtown" tax increment financing district, the Act requires such district to be related to the Town's downtown redevelopment plan (the "Downtown Redevelopment Plan") that describes the Town's comprehensive plan for the physical and economic redevelopment of its downtown.

ORDERED AS FOLLOWS:

The Town of Scarborough hereby adopts the **Town of Scarborough Downtown Redevelopment Plan** in such form and as presented to the Town Council.

Vote: 5 Yeas. 2 Nays [Chairman Hayes and Councilor Hamill]

Order No. 18-082. Act on the request to adopt the Scarborough Downtown Omnibus Municipal Development and Tax Increment Financing District and adopt the Development Program for such District as presented and pursuant to Long Form Order. [Town Manager] Chairman Hayes asked if there were any further public comments. There were no public comments made.

Motion by Councilor Babine, seconded by Councilor Foley, to move approval on the request to adopt the Scarborough Downtown Omnibus Municipal Development and Tax Increment Financing District and adopt the Development Program for such District as presented and pursuant to Long Form Order, as follows:

IN TOWN COUNCIL

ORDER #18-082

**ADOPTION OF SCARBOROUGH DOWNTOWN OMNIBUS MUNICIPAL DEVELOPMENT
AND TAX INCREMENT FINANCING DISTRICT AND ADOPTION OF DEVELOPMENT
PROGRAM FOR SUCH DISTRICT**

WHEREAS, the Town of Scarborough (the "Town") is authorized pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended (the "Act"), to designate a specified area within the Town as the **Scarborough Downtown Omnibus Municipal Development and Tax Increment Financing District** (the "District") and adopt a development program (the "Development Program") for the District pursuant to the Act; and

WHEREAS, in order to designate a so-called "downtown" tax increment financing district, the Act requires such district to be related to the Town's downtown redevelopment plan (the "Downtown Redevelopment Plan") that describes the Town's comprehensive plan for the physical and economic redevelopment of its downtown; and

WHEREAS, there is a need for economic development in the Town of Scarborough, in the surrounding region, and in the State of Maine; and

WHEREAS, there is a need to improve and broaden the tax base of the Town; and to improve the general economy of the Town and the surrounding region; and

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

WHEREAS, there is a need to implement continued economic development initiatives in those areas of Scarborough in and near the District area through the establishment of the District in accordance with the provisions of Act; and

WHEREAS, the Town desires to designate the District and adopt the Development Program; and

WHEREAS, it is expected that approval will be obtained from the State of Maine Department of Economic and Community Development (the "Department"), approving the designation of the District and adoption of the Development Program.

ORDERED AS FOLLOWS:

Section 1. The Town of Scarborough hereby designates the **Scarborough Downtown Omnibus Municipal Development and Tax Increment Financing District** and hereby adopts the Development Program for said District; such designation and adoption to be pursuant to the following findings, terms, and provisions:

Section 2. The Town Council hereby finds and determines that:

(a) The designation of the District and adoption of the related Development Program will make a contribution to the economic growth and well-being of the Town of Scarborough and the surrounding region, and will contribute to the betterment of the health, welfare and safety of the inhabitants of the Town of Scarborough, including a broadened and improved tax base and economic stimulus, and therefore constitutes a good and valid public purpose.

(b) The Town Council has considered all evidence, if any, presented to it with regard to any adverse economic effect on or detriment to any existing business and has found and determined that such adverse economic effect on or detriment to any existing business, if any, is outweighed by the contribution expected to be made through the District and the Development Program. Pursuant to Title 30-A M.R.S.A. Section 5223(3)(D), downtown tax increment financing districts are exempt from certain statutory requirements and thresholds, including valuation and acreage caps.

Section 3. The Town Manager, or his duly appointed representative, is hereby authorized, empowered and directed to submit the proposed designation of the District and the proposed Development Program for the District to the Department for review and approval pursuant to the requirements of 30-A M.R.S.A. § 5226.

Section 4. The foregoing designation of the District and approval of the Development Program shall automatically become final and shall take full force and effect upon receipt by the Town of approval of the designation of the District and adoption of the Development Program by the Department, without requirement of further action by the Town, the Town Council, or any other party.

Section 5. The Town Manager, or his duly appointed representative, is hereby authorized and empowered, at his/her discretion, from time to time, to make such revisions to the Development Program as the Town Manager, or his duly appointed representative, deems reasonably necessary or convenient in order to facilitate the process for review and approval of the District and/or the Development Program by the Department, or for any other reason, so long as such revisions are not inconsistent with these resolutions or the basic structure and intent of the District and the Development Program.

Section 6. The Town Council is hereby authorized to enter into additional credit enhancement agreements, if any, with business entities located within the boundaries of the District, following a duly noticed public hearing, to be in such form and to contain such terms and provisions not inconsistent with the Development Program.

Vote: 5 Yeas. 2 Nays [Chairman Hayes and Councilor Hamill]

Order No. 18-083. Act on the request to approve the Credit Enhancement Agreement with The Downs, d/b/a Crossroads Holdings, LLC as presented and pursuant to Long Form Order. [Town Manager] Thomas J. Hall, Town Manager, gave a brief overview on this Order. Chairman Hayes asked if there were any further public comments. There were no public comments made.

Motion by Councilor Babine, seconded by Councilor Caterina, to move approval on the request to approve the Credit Enhancement Agreement with The Downs, d/b/a Crossroads Holdings, LLC as presented and pursuant to Long Form Order, as follows:

IN TOWN COUNCIL

ORDER #18-083

**APPROVAL OF CREDIT ENHANCEMENT AGREEMENT WITH OWNER OF
SCARBOROUGH DOWNS PROPERTY**

WHEREAS, the Town of Scarborough (the "Town") is authorized pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended (the "Act"), to designate a specified area within the Town as the **Scarborough Downtown Omnibus Municipal Development and Tax Increment Financing District** (the "District") and adopt a development program (the "Development Program") for the District pursuant to the Act; and

WHEREAS, in order to designate a so-called "downtown" tax increment financing district, the Act requires such district to be related to the Town's downtown redevelopment plan (the "Downtown Redevelopment Plan") that describes the Town's comprehensive plan for the physical and economic redevelopment of its downtown; and

WHEREAS, there is a need for economic development in the Town of Scarborough, in the surrounding region, and in the State of Maine; and

WHEREAS, there is a need to improve and broaden the tax base of the Town; and to improve the general economy of the Town and the surrounding region; and

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

WHEREAS, there is a need to implement continued economic development initiatives in those areas of Scarborough in and near the District area through the establishment of the District in accordance with the provisions of Act; and

WHEREAS, the Town desires to designate the District and adopt the Development Program; and

WHEREAS, it is expected that approval will be obtained from the State of Maine Department of Economic and Community Development (the "Department"), approving the designation of the District and adoption of the Development Program.

ORDERED AS FOLLOWS:

The Town Manager is hereby authorized and directed to enter into the specific credit enhancement agreement with the owners of the Scarborough Downs property in substantially the form as presented to the Town Council and consistent with the terms of the credit enhancement agreement that are described in the Development Program.

Vote: 4 Yeas. 3 Nays [Chairman Hayes, Councilors Hamill and Johnson].

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

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

- Councilor Foley gave a brief overview on the Conservation Commission.
- Chairman Hayes gave a brief overview on the Shellfish Commission.

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

- The 3rd Annual Thanksgiving Dinner that had been held and over 300 individuals were served and 50 meals were sent home.
- The town had received confirmation from FEMA that they had received the appeal that the Town had filed and he would keep everyone updated as information comes in.
- The Town would be involved with a Route One corridor study. There would be held on Thursday, December 13th here at town hall.
- Santa in the Park would be held on Saturday, December 1st from 5:00 to 6:30 p.m.
- Spectrum has gone all digital and users would need a converter box in order to view channels. The local access channels are 1302 for the School and the public access is 1301.
- A new Police Lieutenant had been named, that individual being Tim Barker.

Councilor Donovan pointed out that there is a box that could be purchased at Best Buy for \$40.00 that could be attached to your television that allows an individual to view channels.

Item 11. Council Member Comments.

- Councilor Hamill is looking forward to the work ahead.
- Councilor Donovan was also looking forward to the year ahead and felt that the low income process needs to be reviewed. He would conduct an audit to see what had had been process last year before the budget process begins. He would also like to continue discussion around Affordable Housing.
- Councilor Caterina looked forward to working with the new Councilors and on behalf of the Town of Scarborough she would be in Augusta at the MMA Legislative Policy Committee tomorrow.
- Councilor Foley reflected quickly on the vote that had been taken this evening. She would like to see the town not taking sides, but having conversations. Thinking about the holidays and how stressful it can be for other – please do something good for someone else.
- Councilor Johnson felt that everyone had been very respectful and noted that he still had a lot to learn. He hoped that the Downs Project goes well for the Developer.
- Councilor Babine apologized for not getting in the assignments and may not be able to attend the next meeting. He too recapped the events of the evening and really hoped that everyone is thankful for what they have. He was excited about moving forward with the Project.
- Chairman Hayes thanked the two new Councilors for coming up to speed. He too was encouraged about the Project and there is a lot of work to do.

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

Vote: 7 Yeas.

Meeting adjourned at 9:06 p.m.

Respectfully submitted, Yolande P. Justice - Town Clerk