

MINUTES
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – FEBRUARY 6, 2019
REGULAR MEETING – 7:00 P.M.

Item 1. Call to Order. Chairman Hayes called the regular meeting of the Scarborough Town Council to order at 7:09 p.m.

Item 2. Pledge of Allegiance.

Item 3. Roll Call. Roll was called by Yolande P. Justice, Town Clerk. Thomas Hall, Town Manager, was also present. The following Councilors were 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, stated that he had written a number of stories on Scarborough and went on to comment on a current case that had recently been settled and also spoke on past lawsuits.
- David Green of Beech Ridge Road spoke on the loss of the research on the Milky Ribbon Worm by University of New England as the Shellfish Diggers could not step up to do surveys, which had been requested by the Town Council.
- Travis Turner of Dunstan Landing Road, spoke on the purchase on the Pine Point Co-Op and the changes that could happen. He asked the Council to consider the following recommendations: Onsite buying year round; provide 75 barrel bait sites; no interference with commercial access; guaranteed access of the dirt parking lot as well as access for other non-resident commercial vehicles and to please consider the right of first refusal on the sale of the property.
- Josh Cohen of Iris Drive spoke in support of the Bayley Family buying the Co-Op. He has worked for them the past 5 years and they really support their staff. He feels that everything they do is for their customers. They will continue to do this at the Co-Op.
- Shelly Pelletier works at JDS Enterprises and she has worked for the Bayley family for years. They are a business minded family and felt they were a good group to purchase the Co-Op.
- Alison Dube an employee of the Bayley Family felt that the Bayley's want to keep the Co-Op as a working waterfront. They are good at what they do.
- Stephanie Harmon of South Portland, spoke in support of the Bayley Family purchasing the Co-Op. They are hard-working individuals and the same staff comes back year after year. They are successful at what they do, because they love what they do.
- Stephanie Wilkinson of South Portland also spoke in support of the Bayley Family purchasing the Co-Op.
- Adriana Bayley-Ney of Huntley Drive, stated that she also has worked for the Bayley Family and they are hard-working and their standards are high. It would be beneficial for the town for them to own the Co-Op
- Mo Erickson of Pine Point Road voiced her concerns of the fisherman, concerns with not having the bait box or not buying from the local fisherman – what would the recourse be

Item 5. Minutes: January 16, 2019 - Town Council Meeting. Motion by Councilor Donovan, seconded by Councilor Foley, to move approval of the January 16, 2019, regular 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.

OLD BUSINESS:

Order No. 19-005. Act on the names posted to the Planning Board, as recommended by the Appointments/Negotiations Committee on January 16, 2019. [Appointments/Negotiations Committee] Motion by Councilor Caterina, seconded by Councilor Foley, to move approval on the appointments to the Planning Board, as follows:

Re-appoint Robyn Saunders as a full voting member, with a term to expire in 2021 and appoint Jennifer Ladd as a full voting member with a term to expire in 2021 and appoint Rick Meinking as 2nd Alternate to fill a term to expire in 2019.

Vote: 7 Yeas.

NEW BUSINESS:

Order No. 19-006. First reading and schedule a public hearing on the proposed amendments to Chapter 901 – the Town of Scarborough Garbage and Recycling Collection & Disposal Ordinance, Article I, Section 1.02., Section 1.10. & Section 1.12. and Article III, Section 3.01. [Ordinance Committee] Mike Shaw, Public Works Director, gave a brief overview on the proposed amendments to Chapter 901.

Motion by Councilor Caterina, seconded by Councilor Donovan, to move approval of the first reading on the proposed amendments to Chapter 901 – the Town of Scarborough Garbage and Recycling Collection & Disposal Ordinance, Article I, Section 1.02., Section 1.10. & Section 1.12. and Article III, Section 3.01 and schedule a public hearing for Wednesday, February 20, 2019, as follows:

CHAPTER 901

TOWN OF SCARBOROUGH

Garbage and Recycling Collection and Disposal Ordinance

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that Chapter 901, the Garbage and Recycling Collection Ordinance of the Town of Scarborough is amended, as follows:

ARTICLE I. GENERAL PROVISIONS

Section 1.01 PURPOSE

The purpose of this Ordinance is to protect the health, safety and general well-being of the citizens of Scarborough: enhance and maintain the quality of the environment, conserve natural resources and prevent water and air pollution by providing for a comprehensive, rational and effective means of regulating the disposal of solid waste in the Town of

Scarborough in accordance with the provisions of Title 38 M.R.S.A. §§ 1304-B and 1305, as amended.

Section 1.02 DEFINITIONS

1. CART:

”Cart” means a wheeled receptacle distributed by the Town of Scarborough to Scarborough residents for the purpose of facilitating the collection of garbage and recyclable materials at the curb.

2. CONSTRUCTION OR DEMOLITION DEBRIS:

”Construction or demolition debris” means solid waste resulting from construction, remodeling, repair, and demolition of structures. It includes but is not limited to: building materials, discarded furniture, asphalt, wall board, pipes, and metal conduits. It excludes: partially filled containers of glues, tars, solvents, resins, paints, or caulking compounds; friable asbestos; and other special wastes.

3. CONTAINERS:

”Containers” means items including glass bottles and jars, plastic bottles and jugs, and metal cans.

4. DISPOSAL:

”Disposal” means the discharge, deposit, dumping or placing of any solid waste into or on any land.

5. ECOMAINE DISPOSAL FACILITY :

”**ecomaine** Disposal Facility” means any land or structure or combination of land area and structures, including dumps and transfer stations, owned or operated by **ecomaine**, or any other site designated by **ecomaine**, used for storing, salvaging, reducing, incinerating or disposing of solid wastes.

6. GARBAGE:

”Garbage” means solid waste which the Town Public Works Director and/or his/her designee shall designate on a list of items that are acceptable for garbage collection posted on the Town web page.

7. HAZARDOUS WASTE:

”Hazardous waste” means a waste substance or material, in any physical state, designated as hazardous by the Board of Environmental Protection under 38 MRSA section 1319-O or by the terms of a certain Waste Handling Agreement between the Town and **ecomaine**. It does not include waste resulting from normal household or agricultural activities. The fact that a hazardous waste or a part or a constituent may have value or other use or may be sold or exchanged does not exclude it from this definition.

8. OVERFLOW:

”Overflow” means garbage set out for collection that exceeds the amount contained in the Town-provided collection cart; applies only to those solid wastes considered acceptable in the curbside collection program.

9. PERSON:

“Person” means any person, firm, partnership, corporation, association, company, or organization of any kind.

10. RECYCLABLE MATERIALS or RECYCLABLES:

“Recyclable Materials” or “Recyclables” means solid waste designated by the Town Manager or his/her designee as suitable for inclusion in the Town’s recycling program. These items are as follows: newspapers, magazines, office paper, paperboard, cardboard, glass bottles, glass jars, #1-7 plastics, aluminum cans, aluminum foil, tin cans, steel cans and milk and juice cartons. These items are subject to change and are in reference to the materials accepted by **ecomaine**. [amended 11/01/17]

11. RECYCLING VEHICLE:

“Recycling vehicle” means a vehicle utilized by the Town of Scarborough or its designated agent to collect recyclable materials at the curb from all residential uses on a Town-maintained public way.

12. RESIDENTIAL USES:

“Residential uses” means, for the purpose of providing solid waste collection, single-family, duplex and multifamily dwellings (up to and including five units) on public ways. Residential uses may include home occupations as defined in the Town Zoning Ordinance, but not other mixed commercial and residential uses.

13. SOLID WASTE:

“Solid waste” shall mean useless, unwanted or discarded solid material with insufficient liquid content to be free flowing, including by way of example, and not by limitations, rubbish, garbage, scrap materials, junk, inert fill material and landscaping refuse, and including material that may have value or other use or may be sold or exchanged, but not including septage tank sludge nor agricultural or hazardous wastes.

14. SOLID WASTE DISPOSAL FACILITY or DISPOSAL FACILITY:

“Solid Waste Disposal Facility” or “Disposal Facility” means any land or structure or combination of land area and structures, including dumps and transfer stations and any other site used for storing, salvaging, reducing, incinerating or disposing of solid wastes, including the **ecomaine** disposal facility.

15. TOWN:

“Town” means the Town of Scarborough, Maine.

16. UNIVERSAL WASTE:

“Universal waste” means any waste listed in section 3.A(13)(b) of Chapter 850, the Maine Hazardous Waste Management Rules, including but not limited to cathode ray tubes; mercury-containing lamps; mercury-containing thermostats; and totally enclosed, non-leaking polychlorinated biphenyl (PCB) ballasts.

17. WOOD WASTES:

“Wood wastes” means brush, stumps, lumber, bark, wood chips, shavings, slabs, edgings, slash, sawdust and wood from production rejects, that are not mixed with other solid or liquid waste. For the purposes of this definition, “lumber” is entirely made of wood and is free from metal, plastics and coatings.

18. YARD WASTE:

“Yard waste” means earthen fill, soil, sand, grass clippings, leaves, and other vegetal matter other than wood wastes and land clearing debris.

Section 1.08 UNLAWFUL TO PLACE, DEPOSIT GARBAGE IN VIOLATION OF ORDINANCE

It shall be unlawful for any person to place, deposit or allow to be placed or deposited on his premises any garbage, except in the manner permitted by the provisions of this Ordinance.

Section 1.10 CARTS REQUIRED; HOURS FOR PLACEMENT AND REMOVAL; REPLACEMENT OR ADDITIONAL CARTS; OVERFLOW WASTE [Amended 10/18/17-Effective 04/18/18]

A. It shall be the responsibility of the Town to provide and make available suitable and sufficient carts as described by §1.09 to receive the accumulation of weekly household waste. Each cart shall be placed as instructed by the Town or its designated garbage collector along the street, sidewalk or roadside for automated collection. Town-designated garbage carts may be set out for collection the evening or day before, but must be set out by 7:00A.M. the morning of collection, and ~~should~~ shall be removed from the Town’s right of way the day of collection.

B. Should a Town-owned cart be damaged, defaced or lost by a household, the Town will make another such cart available for replacement at a fee.

C. Residents who have “overflow waste,” defined as garbage set out for collection that exceeds the amount contained in the Town-provided collection cart, may take it to the Department of Public Works for disposal.

Section 1.12 UNLAWFUL TO ~~RAKE LEAVES~~ PUT ANY YARD WASTE OR WOOD WASTES INTO STREETS OR TOWN RIGHTS OF WAY

It shall be unlawful to ~~rake-leaves~~ put any yard waste or wood wastes into any paved street or the Town’s ~~or~~ right of way.

ARTICLE III. COLLECTION AND REMOVAL

Section 3.01 ACCUMULATION OF GARBAGE PROHIBITED

- 1) Each household or business is responsible for preventing accumulation of garbage. On the designated day of pickup, all residential garbage must be set out in a Town designated cart for garbage collection. Each household unit should contain its waste in carts as described in § 1.10. Pursuant to § 1.10, each cart shall be placed as instructed by the garbage collector along the street, sidewalk or roadside for automated collection. Town-designated garbage carts may be set out for collection the evening or day before, and ~~should~~ shall be removed

from the street or roadside ~~after~~ on the day of collection, in no event more than 24 hours thereafter. No person shall cause or permit any accumulation of garbage which, in the opinion of the Health Officer or Health Inspector, is unsanitary or hazardous to the health of the public or, in the judgment of the Fire Chief of the Fire Department, constitutes a fire hazard.

- 2) Dumping prohibited. No person shall throw or place any garbage; recyclable materials, including paper, glass, nails, wire, bottles, and cans; yard waste, including, brush, branches, and earthen fill; construction or demolition debris; garbage carts; litter or other debris in any ditch, stream, river or retention basin that regularly or periodically carries surface water runoff. Any person who deposits any of the above shall remove it or cause it to be removed immediately. The Code Enforcement Officer, the Public Works Director or anyone else designated by either shall be responsible for the enforcement of this provision.

Vote: 7 Yeas.

Order No. 19-007. Act on the request from the Town Manager, to direct the annual funds from the Pine Point Parking Lease to be deposited into the Pine Point Waterfront Reserve Capital Improvement Account. *[Town Manager]* Thomas J. Hall, Town Manager, gave a brief overview on this Order. Chairman Hayes, liaison to the Coastal Harbor Committee, also spoke on this Order.

Motion by Councilor Caterina, seconded by Councilor Foley, to move approval on the request from the Town Manager, to direct the annual funds from the Pine Point Parking Lease to be deposited into the Pine Point Waterfront Reserve Capital Improvement Account.

Vote: 7 Yeas.

Order No. 19-008. Act on the request that the Town Council expresses the intent to form two Ad-Hoc Committees [a Community Center Ad-Hoc Committee and a Downtown Ad-Hoc Committee] and direct the Town Manager to propose charges for each committee no later than September 4, 2019. *[Town Manager]* Thomas J. Hall, Town Manager, gave a brief overview on this Order.

Motion by Councilor Caterina, seconded by Councilor Foley, to move approval on the request that the Town Council expresses the intent to form two Ad-Hoc Committees [a Community Center Ad-Hoc Committee and a Downtown Ad-Hoc Committee] and direct the Town Manager to propose charges for each committee no later than September 4, 2019.

Vote: 7 Yeas.

Item 8. Non Action Items:

- a. **Discussion on the sale of the Pine Point Co-Op.** Thomas J. Hall, Town Manager noted that Peter Van Hemel, town attorney, was present and has prepared information regarding this item. He then introduced Mr. Van Hemel who reviewed the memo that he had provided the Town Council. He noted that the process of obtaining the “writ of mandamus” was taking longer than expected. He then proceeded to give a chronological history of the Co-Op and responded to questions from the Town Council.

Councilor Hamill read the following disclosure statement into the record:

“When we met last on the topic of the Pine Point Fisherman’s Co-Op at our January 16 Town Council meeting, I disclosed my relationship to several member of the Pine Point Community including shellfish harvesters and other individuals who are engaged in this matter. I would

like to do this again. My son William Hamill who is on the Shellfish Committee and served as a spokesperson, and other relatives including several Erickson's who participated as well. I am also related to at least two Toohey's who are also clambers and hold commercial licenses to harvest shellfish in Scarborough. I'll stop there because time may not permit my listing of other relatives who hold recreational licenses, had student licenses and became commercial diggers or who have worked in seafood-related businesses in Pine Point including, Bayley's, Ken's and Salty Bay.

In addition to this - Maine statutes and our own town charter require municipal officials including councilors to address any conflicts of interest – actual or perceived. This extends to “avoiding the appearance of a conflict of one” by disclosure. I do not have any financial interests at all in this matter, neither direct nor indirect business interests nor any personal financial interests whatsoever - past, present or contemplated. On the matter of any perceived conflicts: though my relatives and I may share a tendency to be outspoken on issues that are important to us – we are, each and every one of us – very independent-minded by nature, and not afraid to speak up and be heard - not unlike many Mainers and perhaps especially Pine Pointers. We form our own opinions and make up our own minds. My comments and positions are my own – just as theirs are their own.

As a public official I took an oath to act to the best of my ability in the best interests of the entire town of Scarborough – not solely my own or those of my family or neighborhood or special interests.

I am capable, confident and committed to study this issue and others like it, fairly and objectively - and to participate in the process to make decisions that are informed, objective, and unbiased for the benefit of the whole community.”

Chairman Hayes asked if any Councilors had any concerns with Councilor Hamill continuing with the discussion. Councilors thanked Councilor Hamill bringing this forward and they did not have any concerns on his participation on this item.

Prior to Council discussion on this item, Mr. Hall reviewed the list that Mr. Turner had previously stated: Onsite buying year round; provide 75 barrel bait sites; no interference with commercial access; guaranteed access of the dirt parking lot as well as access for other non-resident commercial vehicles and to please consider the right of first refusal on the sale of the property.

Council discussion ensued and all agreed that the Town should preserve the working waterfront. The list presented by Mr. Turner was reasonable and the parking lease could be the mechanism to pull things together. The Town Manager noted that the sellers should be part of any discussion that take place with the potential buyers as the outcome of the terms could determine that selling price.

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

- Councilor Babine gave a brief overview on the Finance Committee.
- Councilor Johnson gave a brief overview on the Communications Committee and the Board of Education.
- Councilor Foley gave a brief overview on the Conservation Commission and the Eastern Trail Taste of the Town date would be out soon.
- Councilor Caterina gave a brief overview on the MMA Legislative Policy Committee; the Historic Preservation Implementation Committee and the Ordinance Committee.
- Councilor Donovan gave a brief overview on the Housing Alliance; the Energy Committee; the Rules & Policies Committee.

- Councilor Hamill gave an update on the Appointments/Negotiations Committee and posted the following names:

Appoint of Nick Cloutier to the Board of Assessment Review, as 1st Alternate with a term to expire in 2021.

Appoint Patricia Brigham to the Community Services & Recreational Advisory Board, as 2nd Alternate, with a term to expire in 2020.

Appoint Thomas Nolan to the Conservation Commission, as a full voting member, with a term to expire in 2021.

SEDCO Board Appointment:

Re-Appoint Andrea Killiard and Kevin Freeman as Full Voting Members, for their third and final terms ending 2021.

Appoint Travis Kennedy to Full Voting Member term ending 2021 and David Martin to Full Voting Member term ending 2020.

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

- The tax bills went out today and are due March 15th.
- Department Heads are working on their budget and must be to him by February 22nd.
- He and the Superintendent had a Listen and Learn Session on January 30th and did not have many participants, but had a healthy discussion with those present.
- The interest in the sale of the Public Safety Building has slowed down and we may need to shake things up and adjust the current price.
- Regarding the Tax Appeal matter, the plaintiffs have appealed to law court and we will file a counter appeal.
- IT Director search is going well and we will be scheduling second interviews soon.
- At your places this evening you found the Audit reports and he was pleased to note that were no Administrative Directives. He reminded the Council there would be a joint presentation with the School Board at the next town Council meeting on the 20th of February at 6:00 p.m.
- The Council Team Building meeting has been scheduled for Monday, February 25th here at Town Hall.

Item 11. Council Member Comments.

- Councilor Hamill felt there had been good discussions this evening and thanked the Town Council for their support on his disclosure statement.
- Councilor Donovan noted that the Piper Shore Residents allows the public to come in around their space and the proposal is to have an open space that would allow public usage, this could be great space hidden away in a great setting.
- Councilor Caterina agreed with Councilor Hamill about the good discussions this evening. She noted that there are decision made and not all may be happy with them.
- Councilor Foley participated in the GPGOG Chair/Vice Chair training and found that all communities grapple with the same issues. She had met with a group of individuals on a project for Veterans in our town and Karen Martin, President of SEDCO also attend and was very helpful. Project Grace is having its Fuel Rally on Saturday, February 16th from 10:00 a.m. to 2:00 p.m.
- Councilor Johnson noted that 9 year old Mary McGarry felt that the old Public Safety Building should be used as a homeless shelter.
- Councilor Babine stated the Anthony Attardo retired after 30 years of service to the Town of Scarborough and the Legislative Delegation presented him with a Sentiment from Augusta. He noted that John Fallona of Scarborough was also presented with a Sentiment for his Lifetime

Achievement recognition for service to his work in Auburn. If you see of anyone that is deserving of a Sentiment, please let the delegation know. Any issues regarding State issues, please send inquires to shawn.babie@legislative.gov He thanked everyone for showing up for the workshops [Piper Shores and Pine Point Co-Op]. He commented on statements made by David Green regarding the surveys on the Milky Ribbon Worm. There were two legislative bills being brought forward that could affect Scarborough: the Maine Revenue Sharing Bill and the Pre-K Bill. He received one complaint from a resident of Scarborough regarding the Assessors who are going around doing assessments in that they are not identified and asked if this could be addressed. Mr. Hall responded by indicated that all individuals have IDs and their vehicles are appropriately marked. He also reminded everyone on Project Grace Fuel Fundraiser from 10:00 a.m. to 2:00 p.m. at the Oak Hill Fire Station.

- Chairman Hayes also commented on the Audit.

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

Vote: 7 Yeas.

Meeting adjourned at 9:43 p.m.

Respectfully submitted,

Yolande P. Justice
Town Clerk