

MINUTES
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – MAY 15, 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.

- Tim Youmans of Newcomb Ridge presented a portion of a Planning Board meeting where the Piper Shores Contract Zoning Amendment was being discussed. He did not support this amendment.
- Donald Simoneau of Newcomb Ridge also spoke on the Piper Shores Development noting that it was the size of the project that they opposed.
- Meg McKinnon on Newcomb Ridge was not in support of the Contract Zone.

Item 5. Minutes: May 1, 2019 - Town Council Meeting and May 6, 2019 - Special Council Meeting. Motion by Councilor Caterina, seconded by Councilor Foley, to move approval of the minutes of May 1, 2019 - Town Council Meeting and May 6, 2019 - Special 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. 19-033, 7:00 p.m. Public Hearing on the proposed amendments to Chapter 601 – the Traffic Ordinance, Section II. Higgins Beach and Section IV-2 Pine Point Co-Op (Time Limit). *[Ordinance Committee]* Councilor Caterina gave a brief overview on this Order. Chairman Hayes opened the public hearing. The following individual spoke on this Order:

- David Green of Beech Ridge Road voiced his concerns about the commercial parking at the Co-Op and asked that the town to please revisit this item and felt this was bogus.

As there were no further comments either for or against, the public hearing was closed at 7:24 p.m. The second reading on Order No. 19-033, will be scheduled for Wednesday, June 5, 2019.

Order No. 19-038, 7:00 p.m. Public Hearing on the following renewal requests for a Special Amusement Permit:

- 21 Taps, LLC, located at 185 US Route One

- **Black Point Inn, located at 510 Black Point Road**
- **Bayley's Campground, located at 274 Pine Point Road**
- **Dunstan Tap and Table, located at 5 Stewart Drive**
- **Famous Dave's, Located at 1 Cabela Blvd.**
- **Migis Hotel Group Higgins Beach LLC d/b/a Higgins Beach Inn, located at 34 Ocean Avenue**
- **None Such River Brewing, located at 201 Gorham Road**
- **Libby-Mitchell Post 76, located at 40 Manson Libby Road**
- **Loyal Order of Moose, located a 19 Spring Street**
- **The Landing at Pine Point, located at 353 Pine Point Road**
- **Clambake Inc. located at 352 Pine Point Road**
- **Bayley's Lobster Pound located at 78 King Street**
- **Togello, LLC, d/b/a The Garage BBQ, located at 3 East Grand Avenue**
- **O'Reilly's Cure located 264 US Route One**
- **Beech Ridge Barn, located at 21 Beech Ridge Road**
- **Flaherty's Event Barn, located at 130 Payne Road**

[Town Clerk]

The Town Clerk gave a brief overview on this Order. Chairmen Hayes opened the public hearing. The following individuals spoke on this Order:

- Malgorzata Anderson of 200 Gorham Road spoke on the issues that she has had relating to the parking along the road from the None Such River Brew and all the noise from car door slamming to car alarms going off.
- Elisa McClough of 12 E Grand Avenue voiced her concerns with The Garage BBQ.
- Vinnie Clough, owner of the Garage BBQ and the Bait Shed noted that on Wednesday between 1:00 and 4:00 p.m. there is music at the Bait Shed and on Sunday between 1:00 to 4:00 p.m. at the Garage BBQ. There have been no police calls have been made and it is during the middle of day.
- Gary Mortinson of Beech Ridge Road voiced his concerns with noise and traffic with the Beech Ridge Barn. He also had concerns with onsite parking.
- Roland Lavigne 14 Beech Ridge Road also voiced his concerns with Beech Ridge Barn and was not aware of this establishment until he had received the letter from the Town. He was concerned with flow of traffic and was not sure if they had enough parking space on their property. He had no concerns with Flaherty's Event Barn.
- Will Hamill of Bay Street voiced his concerns with the music at the Bait Shed and felt they could run their busy without this or with just an acoustic guitar without an amplifier.
- Liam Erickson of Pine Point Road stated that he had called town hall to complain about the noise at the Bait Shed. He does not agree with amplified music and felt they were not good neighbors.
- Peter Brunet of Avenue 6 noted that he lives close to the Bayley's and felt the Bayley's have done a great job in developing the area and would hope they would continue to do so. They are doing good things.

There being no further comments either for or against, the hearing was closed at 7:39 p.m.

Motion by Councilor Donovan, seconded by Councilor Caterina, to move approval of Order No.-19-038 as written above.

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

OLD BUSINESS:

Order No. 19-024. Second reading on the proposed amendments to Chapter 405, the Zoning Ordinance, Section I, Contract Zoning. *[Ordinance Committee]* Jay Chace, Town Planner, gave a brief overview on this Order.

Motion by Councilor Donovan, seconded by Councilor Foley, to move approval of the second reading on the proposed amendments to Chapter 405, The Zoning Ordinance Section I, Contract Zoning, as follows:

CHAPER 405 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 Section II. Zoning Ordinance, is amended as follows:

SECTION II. ZONING ORDINANCE

I. CONTRACT ZONING [September 19, 2001][Amended 10/03/01][Amended 11/20/02] [Amended 07/21/2004]

1. Contract Zoning Authorized

Contract zoning is authorized for zoning map and/or text changes when the Town Council, exercising its sole and exclusive judgment as the legislative body of the Town of Scarborough, determines that it is appropriate to modify the zoning district regulations applicable to a parcel of land, subject to appropriate conditions and restrictions which relate to the physical development or operation of the property, and which will allow reasonable uses of the land which would not have been permitted by the existing zoning district regulations but which remain consistent with the Town of Scarborough Comprehensive Plan and compatible with the existing and permitted uses within the existing zoning district classification. For purposes of this section the term “contract zoning agreement” shall mean either an original agreement or any subsequent amendments.

2. Relationship to Shoreland Zoning

A parcel rezoned under this Section II(I) may include land areas subject to the Shoreland Zoning Ordinance for the Town of Scarborough, but any provision of a contract zoning ~~amendment~~ agreement adopted by the Town Council which removes or modifies any restrictions or limitations imposed by the Shoreland Zoning Ordinance shall not take effect until approved by the Commissioner of Environmental Protection as required by 38 M.R.S.A. Section 438-A(3).

3. Public Benefit Required

Contract zoning shall promote the general welfare of the residents of the Town of Scarborough. The Town Council shall approve a contract zoning request only if it determines, exercising its sole and exclusive judgment as the legislative body of the Town, that the proposed contract zoning is in the public interest and will have beneficial effects on the Town as a whole which would not result if the property were developed under the existing zoning district classification.

Guidelines for the Council to apply in making those determinations are set forth in Appendix A to this Ordinance.

4. Procedures

Requests for a contract zoning agreement or an amendment to an existing contract zoning agreement shall not be subject to Section II(G), but shall be processed exclusively as provided in this Section II(I). A summary of the procedural steps is contained in Appendix B to this Ordinance.

a. Preliminary Joint Review of Application for Contract Zoning by Planning Board and Town Council.

- i. The person proposing a contract zoning agreement or an amendment to an existing contract zoning agreement shall submit an application for contract zoning to the Town Planner, which shall include, at a minimum, the following elements:
 - A map showing existing and proposed zoning district lines.
 - The address or exact location of the request, including the Scarborough Assessor's map references for the property to be rezoned.
 - The name, address and telephone number of the property owner and of the applicant, if the applicant is not the owner.
 - Evidence of the applicant's right, title or interest in the property.
 - A site analysis that describes the major features of the property, allowing the Planning Board and Town Council to make informed judgments about how it will be used. Guidelines for preparation of the site analysis are contained in Appendix C to this Ordinance. This requirement may be waived by the Town Planner for amendments that do not propose to utilize lands that were not previously considered as part of the contract zone process.
 - A conceptual development plan showing the approximate layout of all buildings, structures, streets, driveways, parking areas and other significant improvements to be constructed on or above the surface of the ground plus any proposed open spaces, conservation areas, buffer areas or other features of the development, but is not required to show subsurface infrastructure installations, building plans, engineering plans or other details which would be required for a subdivision plan or site plan. This requirement may be waived by the Town Planner for amendments that do not propose to utilize lands that were not previously considered as part of the contract zone process.
 - A statement describing the existing use of the property and the proposed new use and development and describing how the proposed contract zone will be consistent with the Town of Scarborough Comprehensive Plan, will be consistent with existing and permitted uses within the existing zoning district classification of the property, will be in the public interest, and will have beneficial effects on the Town as a whole which would not result if the property were developed under the existing zoning district classification .
 - A proposed contract zoning agreement which complies with the requirements of Section II(I)(5) below.

- Any other information requested by the Town Planner and/or the Town Engineer.
 - A non-refundable application fee as specified in the Schedule of License, Permit and Application Fees established by order of the Town Council
- ii. The Town Planner will review the application and, upon being satisfied that the application is sufficiently complete for review by the Planning Board and the Town Council, will schedule a joint meeting of the Planning Board and Town Council to commence review of the request for contract zoning. The Town Planner shall cause notice of the joint Planning Board/ Town Council meeting to be given in accordance with the requirements of 30-A M.R.S.A. § 4352(8), at the applicant's expense. Such notice shall be sent to the owners of all properties within five hundred (500) ~~abutting~~ of the property to be rezoned. Such notice shall indicate that the joint meeting will include a public hearing conducted by the Planning Board at which the public will be given an opportunity to speak on the proposed contract zoning ~~amendment~~ agreement.
- iii. The joint Planning Board/Town Council meeting shall be conducted as follows:
- Presentation by the applicant.
 - Comments from Town staff.
 - Comments from members of the public. (This shall constitute the public hearing by the municipal reviewing authority required by 30-A M.R.S.A. § 4352(8).)
 - Response or rebuttal from applicant.
 - Discussion among members of the Planning Board and the Town Council, which may include questions posed to the applicant, staff and the public.
 - Comments from members of the Planning Board concerning the land use implications of the proposed contract zoning ~~amendment~~ agreement.
 - Preliminary Town Council discussion of contract zoning ~~amendment~~ agreement.

The Joint Planning Board/Town Council meeting may be continued from time-to-time by vote of the Town Council until the Council has concluded its discussion and is prepared to give the applicant preliminary direction concerning the further processing of the contract zoning request. At the conclusion of the discussion, the Council shall, by vote, advise the applicant: (1) to withdraw the request for contract zoning; (2) to continue to process the request for contract zoning, with or without modifications suggested by the Council; or (3) to revise and resubmit the application for contract zoning, under Section II(I)(4)(a)(i) above. The vote of the Town Council shall constitute direction from the Council to the applicant as to how to proceed, but shall not be binding on either the applicant or the Council, which reserves its sole and exclusive judgment as the elected legislative body of the Town of Scarborough until its final vote on the proposed contract zoning ~~amendment~~ agreement.

b. Planning Board Plan Review.

- i. Every development proposed in an application for contract zoning shall require review and approval under the Town of Scarborough Site Plan Review Ordinance. In addition, if the development proposed is a subdivision, it shall require review under the ordinance entitled "Subdivision Regulations of the Town of Scarborough,

Maine” (the “Subdivision Ordinance”). The application(s) for plan review shall be submitted only after the Town Council has given its preliminary directions to the applicant pursuant to Section II(I)(4)(a)(iii) above.

- ii. The Planning Board shall hold a public hearing to consider the site plan review application and the subdivision application, if required, whether or not a public hearing is required by the Site Plan Review Ordinance or the Subdivision Ordinance. The Planning Board shall review the site plan review application under the Scarborough Site Plan Review Ordinance and the subdivision application, if required, under the Subdivision Ordinance, applying the applicable standards of each ordinance and the zoning standards of the proposed contract zoning ~~amendment~~ agreement. If the Planning Board determines that the proposed development meets such standards, the Board shall grant preliminary, provisional approval to the plan[s], subject to enactment of the contract zoning ~~amendment~~ agreement by the Town Council.
 - a. The Planning Board shall also provide an advisory opinion to the Town Council and advise to the applicant of any changes or revisions to the proposed contract zoning agreement necessary to conform the ~~amendment~~ agreement to the Planning Board’s preliminary approval of the plan.
- iii. In the case of a subdivision, the Planning Board shall not make findings as to whether the proposed subdivision is in conformity with the Town of Scarborough Comprehensive Plan, but shall condition preliminary subdivision approval upon a determination by the Town Council under Section II(I)(4)(c)(ii), below that the proposed contract zoning ~~amendment~~ agreement is consistent with the Comprehensive Plan.

c. Town Council Action on the Contract Zoning ~~Amendment~~ Agreement. [Amended 08/20/08]

- i. Except as provided in Section II(I)(6)(b) below, the Town Council shall not take final action on the contract zoning ~~amendment~~ agreement until after the Planning Board has given preliminary site plan approval and preliminary subdivision approval, if required. The Council shall process the proposed contract zoning ~~amendment~~ agreement under the procedures of section 213 of the ~~Council-Manager Charter of the~~ Town of Scarborough Charter and the Rules and ~~Orders~~ Procedures of the Scarborough Town Council. In addition to the public hearing required by section 213 of the Charter, the Council may also conduct as many additional hearings and meetings as the Council deems necessary for consideration of the contract zoning application.
- ii. Before taking its final vote on the contract zoning ~~agreement request~~, the Town Council shall determine whether the proposed contract zoning ~~amendment~~ agreement:
 - (1) is consistent with the Town of Scarborough Comprehensive Plan,
 - (2) is consistent with the existing and permitted uses within the existing zoning district classification of the property,
 - (3) is in the public interest, and
 - (4) will have beneficial effects on the town as a whole which would not result if the property were developed under the existing zoning district classification.

The Council shall state its reasons for its findings and conclusions on each of those determinations, which shall constitute the legislative findings of the Town Council. The Town Council shall then vote on the contract zoning ~~amendment~~ agreement, which shall include any necessary map change and a contract zoning agreement complying with the requirements of Section II(I)(5) below. Final passage of the contract zoning ~~amendment~~ agreement shall require the affirmative vote of at least two thirds of the Council members present and voting, but in no event less than four. [Amended 05/21/03 – retroactive to 11/20/02]

- iii. The contract zoning agreement approved by the Town Council shall be executed by the Town Manager or by such other Town officer as the Council may designate and recorded by the applicant in the Cumberland County Registry of Deeds. The agreement shall not take effect until it is recorded. If the agreement is not recorded within 90 days after the Town Council approves the request for rezoning, the Council, after giving the applicant notice and an opportunity to be heard, may rescind its approval of the agreement if the Council determines that changed circumstances warrant rescission. All contract zoning agreements approved and recorded prior to August 20, 2008 are hereby ratified, notwithstanding any different recording requirements in effect at the time of their approval.

d. Final Planning Board Action.

After the contract zoning agreement is recorded in the Registry of Deeds, the Planning Board shall complete its final site plan review of the development proposal and final subdivision review, if required. In the case of a subdivision, the Planning Board shall adopt as its findings under 30-A M.R.S.A. § 4404(9) and Sections 3(I) and 6:1 of the Subdivision Ordinance the findings made by the Council under Section II(I)(4)(c)(ii) above concerning consistency with the Town of Scarborough Comprehensive Plan.

5. The Contract Zoning Agreement

a. Contents of the Agreement.

The contract zoning agreement shall include a provision granting the Town of Scarborough the power to enforce all conditions and restrictions, both through enforcement action pursuant to this Ordinance and through legal action for specific performance. Conditions and restrictions imposed by the Town Council may include, but shall not be limited to, the following:

1. Limitations on the number and types of uses permitted.
2. Restrictions on the scale and density of development.
3. Specifications for the design and layout of buildings and other improvements, including landscaping.
4. Schedules for commencement and completion of construction.
5. Performance guarantees securing completion and maintenance of improvements, including landscaping, and guarantees against defects.
6. Preservation of open space and buffers, and protection of natural areas and historic sites.
7. Contributions toward the provision of municipal services required by the development, including, for example, infrastructure improvements such as roads and sewer, and special maintenance needs arising from the rezoning.
8. Provisions for enforcement and remedies for breach of any conditions or restrictions.
9. Provisions for reservation or dedication of land for public purposes.

The Town Council may impose conditions under this Section II(I) which are more restrictive than the otherwise applicable requirements of this Ordinance.

b. Effects of the Agreement.

The conditions and restrictions set forth in the agreement shall run with the land and bind all future owners of the land and any other person who claims an interest in the property, and may be removed only by subsequent action of the Town Council expressly removing, relieving or discharging one or more of the specific conditions or restrictions. If the conditions and restrictions are not fulfilled or complied with within the specified time limits, the Town Council may extend the time limits or may initiate a rezoning to the original zoning district classification or to another zoning district classification.

c. Modifications and Amendments. [Amended 07/21/2004][Amended 08/20/08]

The contract zoning agreement may allow for changes or modifications to the development, but shall specify the procedure for approval of any such changes or modifications, setting forth categories of changes or modifications which would require Planning Board approval only, those which would require Town Council approval only, and those which would require both Planning Board and Town Council approval. Unless otherwise specified in the contract zoning agreement, a request to amend a contract zoning agreement shall be processed as ~~follows:~~ stated in Section II(I)(4) above.

- ~~(i) The applicant requesting the amendment shall submit a letter to the Town Council, in care of the Town Manager, explaining the proposed amendment and the reasons for the request, together with the text of the proposed amendment and the application fee specified in the Schedule of License, Permit and Application Fees established by order of the Town Council. If the request includes any change to the boundary of the existing contract zoning district, the applicant shall also include a map of the area proposed to be rezoned.~~
- ~~(ii) The Town Manager shall transmit the request to the Town Council and shall place the proposed amendment on the Council's agenda for a first reading.~~
- ~~(iii) If the proposed amendment does not receive an affirmative vote by a majority of the Council upon first reading, the request shall be deemed denied and the application fee shall be refunded. If the proposed amendment receives an affirmative vote by a majority of the Council upon first reading, then the Council shall forward the application to the Town Planner for Planning Board review.~~
- ~~(iv) The Town Planner shall review the request and, upon being satisfied that the materials submitted are sufficiently complete for review by the Planning Board, shall schedule a public hearing before the Planning Board, causing notice of such hearing to be given in accordance with the requirements of 30-A M.R.S.A. § 4352(8) at the applicant's expense.~~
- ~~(v) Upon conclusion of the public hearing, the Planning Board shall forward any recommendations or comments concerning the proposed amendment to the Town Council. In addition, if the proposed amendment requires a revision to a site plan and/or subdivision plan previously approved by the Planning Board, the Planning Board shall simultaneously consider such requested revisions, applying the applicable standards of the Site Plan Review Ordinance and/or Subdivision Ordinance and the zoning standards of the proposed amendment to the contract zoning agreement. If the Planning Board determines that the proposed development meets such standards, the Board shall grant preliminary, provisional approval to the~~

~~plans, subject to enactment of the requested amendment to the contract zoning agreement by the Town Council.~~

- ~~(vi) After the Planning Board has forwarded its recommendations or comments to the Town Council and granted preliminary site plan approval and/or preliminary subdivision approval, as required, the Town Council shall proceed to a public hearing and second reading of the proposed amendment to the contract zoning agreement, under the procedures of section 213 of the Council Manager Charter of the Town of Scarborough and the Rules and Orders of the Scarborough Town Council. Final passage of the amendment to the contract zoning agreement shall require the affirmative vote of at least two thirds of the Council members present and voting, but in no event less than four.~~
- ~~(vii) The amendment to the contract zoning agreement approved by the Town Council shall be executed by the Town Manager or by such other Town officer as the Council may designate, and recorded by the applicant in the Cumberland County Registry of Deeds. The amendment shall not take effect until it is recorded. If the amendment to the contract zoning agreement is not recorded within 90 days after the Town Council approves the request, the Council, after giving the applicant notice and an opportunity to be heard, may rescind its approval of the amendment if the Council determines that changed circumstances warrant rescission. All contract zoning amendments approved and recorded prior to August 20, 2008, are hereby ratified, notwithstanding any different recording requirements in effect at the time of their approval. [Amended 08/20/08]~~
- ~~(viii) After the amendment to the contract zoning agreement is recorded in the Registry of Deeds, the Planning Board shall complete its final site plan review and subdivision review, if required.~~

d. Performance Guarantees.

As part of the contract zoning agreement, the Town Council may, but is not obligated to, require a bond, escrow agreement, irrevocable letter of credit, or other surety in such amount as is approved by the Town Manager as being reasonably necessary to ensure compliance with the conditions or restrictions required by the rezoning and, where necessary to ensure continued compliance, may require such surety to remain in effect after occupancy of the rezoned property. Such surety shall be posted before the agreement is recorded in the Registry of Deeds.

6. General Provisions

a. Use of Consultants.

Both the Planning Board and the Town Council may obtain the services of independent technical consultants if either body considers such services necessary for adequate review of the application for contract zoning, such consultants to be retained at the applicant's expense. By submitting an application for contract zoning under this Section II(I), the applicant agrees to reimburse the Town for the reasonable and necessary costs of such consultations, and the Town will not execute the contract zoning agreement until such amounts have been paid in full.

b. Waiver of Procedures for Phased Developments.

Notwithstanding any other provision of this Section II(I), where the development proposed in a request for contract zoning is designed to be constructed in phases and the Council concludes that it would be impracticable to require preliminary subdivision and/or site plan review and

approval of all phases before approval of the contract zoning amendment agreement, the Town Council, in its discretion, may waive the provisions of Section II(I)(4)(c)(i) requiring the Planning Board to approve a preliminary plan before the Council takes final action on the contract zoning amendment agreement, but only with respect to phases subsequent to the first phase of the development to be constructed. If it grants such a waiver, the Council shall include a phasing schedule in the contract zoning agreement, specifying the dates for completion of the subdivision and/or site plan review, and may reserve in the contract zoning agreement the right of the Town Council to review the plans for subsequent phases prior to their construction.

c. No Rights Created Before Final Council Vote.

The submission of a request for contract zoning under this Section II(I), the payment of application fees, or the expenditure of funds by the applicant in presenting such a request shall not create any vested rights in the application. The conduct of meetings and hearings, the review of the application, comments by Town officials or staff, preliminary votes, findings or determinations, preliminary subdivision or site plan approval, and the availability of contract zoning under this Section II(I) shall not be construed as creating any entitlement to approval of a request for contract zoning. The decision whether or not to rezone remains committed to the Town Council exercising its sole and exclusive judgment as the elected legislative body of the Town of Scarborough and will not be made until the Council takes its final vote on the contract zoning amendment agreement.

Vote: 7 Yeas.

Order No. 19-029. Second reading on the proposed FY2020 Municipal/School Budgets. [Town Manager] Thomas Hall, Town Manager, gave a brief overview on this Order. The following individuals spoke on this Order:

- Will Rowan of Bonneygrove Drive spoke on the budget process when he was on the council and then spoke on the current budget being that would be voted on.
- Mo Erickson of Pine Point Road spoke on not increasing the tax rate and asked for the Council to think about the residents of the town.

Motion by Councilor Donovan, seconded by Councilor Caterina, to move approval to approve the second reading on the FY2020 Municipal/School Budgets.

Motion by Councilor Babine, seconded by Councilor Donovan, to move approval to amend the main motion and approve the Finance Committee's adjustments of \$1,328,493 to the proposed FY202 Budget, resulting in a new Total Net Budget of \$68,828,789.

Motion by Councilor Donovan, seconded by Councilor Foley, to move approval to divide the Question for purposes of considering the PW/CS Share Position, the PW/CS Part-Time Adjustments and the Town Hall Carpet Replacement project separately from the recommended adjustments.

Vote to Divide: 7 Yeas.

Motion by Councilor Foley, seconded by Councilor Caterina, to move approval to amend the main motion to remove the PW/CS Shared Position and PW/CS Part-Time Adjustments from the list of recommended adjustments, thereby restoring funding for the share position resulting in an additional net appropriation of \$25,459 for a new Total Net Budget of \$68,854,248.

Vote on Amendment: 7 Yeas.

Motion by Councilor Johnson, Councilor Donovan, to move approval to amend the main motion as amended, to remove the Town Hall Carpet Replacement Project from the list of recommended adjustments, thereby restoring funding for this project in the Capital Budget at an additional appropriation of \$20,000 for a new Total Net Budget of \$68,874,248.

Vote on Amendment: 7 Yeas.

Motion by Councilor Caterina, seconded by Councilor Foley, to move approval to amendment main motion as amended, to add \$10,000 to General Government in the Town Operating Budget for the purpose of funding a Citizen Satisfaction Survey resulting in a new Total Net Budget of \$68,884,248.

Vote on Amendment: 7 Yeas.

Motion by Councilor Babine, seconded by Councilor Caterina, to move approval to amend the main motion as amended, to add \$189,500 to the School Capital Budget for the purchase of two modular classrooms (one modular unit) for Pleasant Hill School and increase the Eight Corners Trailer Classroom project appropriation by \$29,500, such projects are to be finance with no change in the Total Net Budget.

Motion by Councilor Johnson, seconded by Councilor Babine, to move approval to divide the Question for the purposes of taking the purchase of two modular classrooms (one modular unit) for Pleasant Hill School and increase the Eight Corners Trailer Classroom project appropriation by \$29,500, separately.

Vote to Divide: 7 Yeas.

Motion by Councilor Johnson, seconded by Councilor Foley, to move approval to amend the main motion as amended, to move approval to amend the main motion as amended, to add \$189,500 to the School Capital Budget for the purchase of two modular classrooms (one modular unit) for Pleasant Hill School.

Vote on Amendment: 7 Yeas.

Motion by Councilor Johnson, seconded by Councilor Babine, to move approval to amend the main motion as amended, increase the Eight Corners Trailer Classroom project appropriation by \$29,500,

Vote on Amendment: 7 Yeas

Main Motion as Amended:

Be it ordered that the Scarborough Town Council moves approval of the second reading on the proposed FY2020 Budget, reflecting the amendment of a new total Net Appropriation of \$68,884,248 and other additional operating expenditures which may result from the receipt of Federal or State funds or other grants and subsidies not requiring local taxation:

SUMMARY MUNICIPAL OPERATING BUDGET 2020	
TOTAL EXECUTIVE	\$2,534,644
TOTAL HUMAN RESOURCE/GENERAL ASSISTANCE	344,415
TOTAL FINANCE ALL DIVISIONS	1,143,165
TOTAL MUNICIPAL INFORMATION SYSTEMS	1,455,868
TOTAL PLANNING DEPARTMENT ALL DIVISIONS	1,088,057
TOTAL COMMUNITY SERVICES ALL DIVISIONS	2,607,033
TOTAL LIBRARY NET – TOWN APPROPRIATION	1,164,166

TOTAL SEDCO	246,644
TOTAL FIRE ALL DIVISIONS	5,494,268
TOTAL POLICE ALL DIVISIONS	7,092,691
TOTAL PUBLIC WORKS ALL DIVISIONS	6,891,977
TOTAL DEBT (Town Only)	<u>6,145,997</u>
MUNICIPAL TOTALS	36,208,925

Be it further ordered, that the Scarborough Town Council hereby appropriates the sum of **\$210,000** for Resident Senior Property Tax Relief as authorized under – Chapter 313 – Property Tax Assistance Ordinance; and,

Be it further ordered, that the Scarborough Town Council hereby appropriates, for school purposes, the Education Operating Budget (including school debt), the sum of **\$51,426,993** and the Town of Scarborough raises as the local share for the Education Operating Budget, the sum of **\$47,184,461**; and,

Be it further ordered, that the Scarborough Town Council hereby appropriates, for school purposes, the Education Adult Education and Food Services, the sum of **\$1,948,866** and the Town of Scarborough raises as the local share for the Education Adult Education and Food Services Budgets, the sum of **\$297,527**; and,

Be it further ordered, that the Town Council hereby authorizes the Chairperson of the Town Council to sign the Municipal Expenditure Warrant approving all expenditures paid at the regular meetings of the Town Council; and,

Be it further ordered, that the Town of Scarborough hereby appropriates the Town's due portion of the County Tax, in the amount of **\$2,956,659** for the period July 1, 2019 through June 30, 2020; and,

Be it further ordered, that the Scarborough Town Council hereby appropriates for capital purposes, the sum of **\$2,441,070** for school capital programs and **\$4,457,867** for town capital programs and **\$-0-** as the initial funding for the town capital equipment reserve program; for a total Capital Budget of **\$6,898,937** to be funded from property taxes, lease and bond arrangements and other local, state and federal sources; and,

Be it further ordered, that the Total Gross Budget of **\$101,071,289** this total less estimated revenues and other credits of **\$32,187,041** result in a Net Appropriation of **\$68,884,248**, which shall be raised from taxation. The Scarborough Town Council further fixes **Tuesday, October 15, 2019**, and **Monday, March 16, 2020**, as the dates upon each of which one-half of such tax is due and payable, and pursuant to Title 36, M.R.S.A. Section 505.4 with interest to accrue upon taxes due and unpaid after each such date at the rate of **9.00%** per annum.

Be it further ordered, that in accordance with Title 36, M.R.S.A Section 506, the Tax Collector/Treasurer is authorized to accept prepayment of taxes not yet committed or prior to any due date and pay no interest thereon. In accordance with Title 36, M.R.S.A. Section 506-A, a taxpayer who pays an amount in excess of that finally assessed shall be repaid the amount of overpayment plus interest from the date of overpayment at the annual rate of **5.00%**.

Be it further ordered, that the Town Council hereby authorizes the Finance Director-Tax Collector/Treasurer or Deputy Tax Collector/Treasurer to withhold monies payable to the Town of Scarborough to cover taxes due pursuant to Title 36, M.R.S.A. Section 905; to sign on behalf of the

Town, the necessary deeds and liens and tax settlements; and to invest funds in accordance with Title 30-A, M.R.S.A. Section 5706; in accordance with Title 36, M.R.S.A. Section 906, the Tax Collector/Treasurer is authorized to apply any tax payment received as payment for any property tax against outstanding or delinquent taxes due on that property in chronological order beginning with the oldest unpaid tax bill and processed in the order of liens and fees, interest and then to principal and, after the date of perfection of the tax, the Tax Collector/Treasurer is authorized to discharge any obligation to collect unpaid property taxes in the amount of \$5.00 or less and remove same from the municipal books, pursuant to Title 36, M.R.S.A. Section 970-A.

Be it further ordered, that in the event that that the 2020 Municipal Budget exceeds the Property Tax Levy Limit for fiscal 2020, pursuant to Title 30-A, M.R.S.A. Section 5721-A, it is the intent of the Town Council to increase the commitment to greater than the Property Tax Levy Limit.

Roll Call Vote: Councilor Shawn A. Babine - Nay Councilor Jean-Marie Caterina - Yea
 Councilor Paul M. Johnson - Yea Councilor William J. Donovan - Yea
 Councilor Kathleen M. Foley - Yea Councilor Donald R. Hamill - Yea
 Chairman Peter F. Hayes - Yea

Order No. 19-034. Second reading on the Bond Order for the Municipal and School Capital Improvement Projects of the Town of Scarborough. *[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 of the second reading on the Bond Order for the Municipal and School Capital Improvement Project of the Town of Scarborough, as follows:

**2019 BOND ORDER FOR
MUNICIPAL AND SCHOOL CAPITAL IMPROVEMENTS**

BE IT ORDERED, That under and pursuant to the provisions of Title 30-A, Sections 5721-5729 and 5772 of the Maine Revised Statutes, as amended, and the Charter of the Town of Scarborough, Maine, the following Municipal and School Capital Improvement Projects are hereby approved for funding:

<u>2018-2019 Municipal - Equipment</u>	
FD Major Apparatus Refurbishing	\$38,885
FD Rescue Power Stretcher Replacement Program	43,945
FD Replace staff vehicles (replacement schedule)	36,000
FD New Safety & Personal Protective Equipment	46,250
CS 4x4 Dump Truck with plow	50,595
PD Motorcycle Replacement (2)	40,015
PW Plow Truck #4018	173,075
PW Pickup Truck #4055 w/lift gate	36,095
PW Street Sweeper #4200	254,200
Total	<u><u>\$719,060</u></u>
<u>2018-2019 Municipal - Projects</u>	
PW Rt 1: Mill & Pave (Broadturn Rd to Saco Line)	\$175,000
PW Subsurface Drainage Project	118,750

PW Phase II LED Conversion	215,000
Total	\$508,750

2018-2019 School - Equipment/Projects

K-2 Pavement Maintenance	\$140,000
GMC Pickup Truck #315116	22,890
School Bus Replacement Schedule	333,900
Facilities Support Equipment	44,400
Building Envelope Maintenance	50,000
Total	\$591,190

2017-2018 Municipal - Equipment

ACO Vehicle Replacement	\$29,600
Total	\$29,600

2017-2018 Municipal - Projects

Mid-Level Road Rehabilitation	\$263,000
Gorham Road Reconstruction Phase I	1,850,000
Total	\$2,113,000

2017-2018 School - Equipment/Projects

Kitchen Equip & Furnishings Replace & Renew	\$60,000
Energy Efficiency Upgrades	60,000
Building Envelope Maintenance	30,000
Total	\$150,000

Totals **\$4,111,600**

BE IT FURTHER ORDERED, That a sum, not to exceed **\$4,111,600**, is hereby appropriated to provide for the costs of said projects and expenses associated with said projects; and,

BE IT FURTHER ORDERED, That to fund said appropriation, the Treasurer and the Chairman of the Town Council are hereby authorized to issue, at one time or from time to time, general obligation securities of the Town of Scarborough, Maine, including temporary notes in anticipation of the sale thereof, in an aggregate principal amount not to exceed \$4,111,600 plus any additional premium, and the discretion to fix the date(s), maturity(ies), denomination(s), interest rate(s), place(s) of payment, call(s) for redemption, refunding, form(s), premium(s), and other details of said securities, including execution and delivery of said securities against payment therefore, and to provide for the sale thereof, is hereby delegated to the Treasurer and the Chairman of the Town Council; and,

BE IT FURTHER ORDERED, That in furtherance of the voter-approved referendum question authorizing the issuance of up to \$19,500,000 in general obligation bonds of the Town of Scarborough, of which at least \$3,500,000 remain authorized but unissued, in furtherance of the prior approved

Council Order No. 17-113 relating thereto, and in order to continue to fund the prior-approved appropriation for a new public safety building, the Treasurer and the Chairman of the Town Council are hereby authorized to issue, at one time or from time to time, general obligation securities of the Town of Scarborough, Maine, including temporary notes in anticipation of the sale thereof, in an aggregate principal amount not to exceed **\$3,500,000** plus any additional premium, and the discretion to fix the date(s), maturity(ies), denomination(s), interest rate(s), place(s) of payment, call(s) for redemption, refunding, form(s), premium(s), and other details of said securities, including execution and delivery of said securities against payment therefore, and to provide for the sale thereof, is hereby delegated to the Treasurer and the Chairman of the Town Council.

Roll Call Vote: Councilor Shawn A. Babine - Yea Councilor Jean-Marie Caterina - Yea
 Councilor Paul M. Johnson - Yea Councilor William J. Donovan - Yea
 Councilor Kathleen M. Foley - Yea Councilor Donald R. Hamill - Yea
 Chairman Peter F. Hayes - Yea

NEW BUSINESS: None at this time.

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

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

- Councilor Hamill gave an update on the Appointments/Negotiations posted the following names to the various committees/boards:

Coastal Waters and Harbor Committee:

Move Mr. Michael Slavin from 1st Alternate to the full voting position, with at term to expire in 2021 and appoint Mr. Vincent Clough as 1st Alternate, with a term to expire in 2021.

Shellfish Conservation Commission:

Appoint Barney Martin as the 1st Alternate, with a term to expire in 2019.

Transportation Committee:

Appoint Katie Fellowes as the 1st Alternate with a term to expire in 2020.

Zoning Board of Appeals:

Appoint Alton Howe as 1st Alternate with a term to expire in 2019.

- Councilor Caterina gave an update on the Maine Municipal Legislative Policy Committee
- Councilor Babine gave an update on the Finance Committee.
- Chairman Hayes gave an update on the Shellfish Commission and Coastal Waters and Harbor Committee

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

- Residential Revaluation is on schedule; they have finished and are now on the next part of process what is called “callback” and will take 5 or 6 weeks. He urged residents to allow tax personnel access to their property so it could be properly assessed.
- There are a few potential workshop issues relating to the Public Officials Stormwater/Public Safety update; the potential sale of old Public Safety building and the Pest Management Report.

Item 11. Council Member Comments.

- Councilor Johnson stated that he might take Mr. Green up on having a workshop at the Co-Op
- Councilor Foley urged residents to get out and vote and reminded everyone about the John Andrews 5K is this weekend.

- Councilor Caterina thanked everyone for their input on the budget. She asked voters to please get out and vote and absentee voting has started at Town Hall.
- Councilor Donovan noted that he had attended the Scarborough Land Trust Annual meeting adding they were in the process of purchasing a parcel off Pine Point Road and being called the Blue Point Preserve. Mr. Hall noted that the Land trust is going to asking the Council
- Councilor Hamill thanked fellow councilors for the budget process.

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

Vote: 7 Yeas.

Meeting adjourned at 9:32 p.m.

Respectfully submitted,

Yolande P. Justice
Town Clerk