

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – JANUARY 16, 2019
WORKSHOP RE: PINE POINT CO-OP 6:00 P.M.

Item 1. Call to Order.

Item 2. Those Present.

Item 3. Discussion on the potential purchase of the Pine Point Fisherman's Co-Op.

Item 4. Adjournment.

Town of Scarborough

Manager's Office Memorandum

To: Members of the Town Council

From: Thomas J. Hall, Town Manager

Re: Pine Point Fisherman's Co-Op- Potential Change of Ownership

Date: January 11, 2019

We have been advised that there is a perspective buyer for the Pine Point Fisherman's Co-Op. The prospective buyer is Susan Bayley Clough and Vincent Clough, dba 96 King LLC and it is my understanding that they have a Purchase and Sales Agreement in place- see attached letter of introduction. The Town is involved in this matter as the Town imposed certain deed restrictions (that have been modified over the years) on the property for which they are seeking further modification.

A bit of history may be helpful to place this matter in context. The short history on the property is that in 1964 the Town conveyed a parcel of land at the Scarborough Town Landing to the Pine Point Cooperative Association (subsequently re-named the Pine Point Fisherman's Co-Operative), subject to certain restrictions and conditions. In 1976 and again in 1977 the Town and the CoOp agreed to modify the restrictions. I have attached copies of all three agreements for your review. In relevant part, the current restrictions require that:

- the Town consent to any sale;
- the Town must approve any mortgage indebtedness on the property in excess of \$125,000, and;
- Any expansion of the building occur only in the front and back.

At a minimum the Town must grant consent to the sale. In addition, and for reasons I will let them articulate, the limitation on the mortgage amount is apparently problematic and a modification is requested to raise the amount of indebtedness to \$900,000.

Given the importance of this property and the Town's interest, we have scheduled a workshop for January 16, 2019 for the prospective buyers to introduce themselves, describe their vision for the property and discuss possible modifications to the deed restrictions. These facilities play an important role in support of the working waterfront and commercial fisherman, so we can expect keen interest in this matter.

It is my understanding that closing is scheduled for late February, so consideration by the Town Council is requested at the February 6, 2019 meeting. I expect we will require legal counsel regarding this matter; however I look forward to receiving input at the workshop before engaging the Town Attorney.

Susan Bayley Clough and Vincent Clough
78 King Street
Scarborough, ME 04074

December 28, 2018

Tom Hall
Scarborough Town Manager
259 US Rte 1
Scarborough, ME 04074

Dear Tom,

My husband and I have recently executed a purchase and sale agreement for the property at 96 King Street, known as The Pine Point Fisherman's Co-op. Due to certain deed restrictions, we are appealing to the Scarborough Town Council to approve its transfer of ownership and a new mortgage limit.

It is likely that the deed restriction regarding transfer of ownership exists in order to ensure that the property would continue to provide working waterfront services to Scarborough harvesters. This property has historically been a lobster buying station and restaurant. It is our intention to use this property in the same manner and expand services to include a buying station for steamers and local aquaculture. Restaurant services will also be maintained.

In both of these respects, we have a proven track record. We currently operate Bayley's Lobster Pound and represent the fourth generation in that business. Over the last thirty years, my husband and I have purchased lobsters, steamers, fin fish, oysters, mussels and many other types of seafood. Last year alone, our facility bought in excess of 300,000 pounds of lobsters. Some of those purchased were from local harvesters and some of them from other lobster dealers.

In conclusion, we would like to Point out that the current owners of this property, Gary Johnson and Tim Staples, are clearly ready to sell. Many buying stations in Maine are owned by out-of-state interests and even international ones. By approving the sale to us, the council is ensuring that this property will continue to be in the hands of Scarborough residents who care about the environment, the health of the working waterfront and the impression that Pine Point makes on visitors to the area. We have the skin in the game necessary to make this property something of which residents, harvesters and our family can be proud.

Thank You,

Susan Bayley Clough

Vincent Clough

Know all Men by these Presents, . . . 57

That the INHABITANTS OF THE TOWN OF SCARBOROUGH, a municipal corporation and body politic duly organized and existing under the laws of the State of Maine in the County of Cumberland and State of Maine

Scarboro
Town of

in consideration of One Dollar and other valuable considerations but less than One Hundred Dollars .

.tq

paid by PINE POINT COOPERATIVE ASSOCIATION, a corporation duly organized and existing under the laws of the State of Maine and having a place of business in Scarborough in the County of Cumberland and State of Maine

Pine
Point
Cooperative
Assn

the receipt whereof it ~~does~~ ^{does} hereby acknowledge, ~~and hereby grants,~~
release, surrenders, waives and forever quit-claim unto the said

C C

PINE POINT COOPERATIVE ASSOCIATION, its

successors ~~Haines~~ and Assigns forever.

a certain lot or parcel of land located in Scarborough and more particularly bounded and described as follows:

Beginning at a point on the northwesterly side line of the Town Landing at Pine Point, so-called, which said point is located 85 ft. northeasterly along said northwesterly sideline from an existing monument marking the easterly terminus of King Street Extension, so-called; thence south 60° 30' east 100 feet to a point; thence north 29° 30' east to the Scarborough River, so-called; thence northwesterly by said Scarborough River to the extension northeasterly of the northwesterly sideline of said Town Landing at Pine Point, so-called; thence south 29° 30' west to the point of beginning.

This conveyance is made subject to the following restrictions:

1. The said grantee may not sell, mortgage or otherwise encumber the premises without prior approval of any regular or special town meeting.
2. In the event of dissolution of its corporate structure by the said Pine Point Cooperative Association, or its ceasing to do business and operate at the site of Town Landing at said Pine Point for a period of more than one year, such dissolution or abandonment shall constitute and cause immediate reversion of title of said premises to the Town.
3. The said Pine Point Cooperative Association shall not enlarge the building on any side of said structure as it presently exists upon the date of this instrument, except that side facing the Scarborough River.

Subject also to the right and privilege forever to the said grantor, the Inhabitants of the Town of Scarborough, to pass and repass, park automobiles, launch boats, load and unload fishing gear in boats and vehicles, over any of the above premises not occupied by buildings.

Meaning and intending to convey a portion of the premises conveyed to this grantor by Winslow H. Pillsbury by his deed dated October 9, 1947 and recorded in Cumberland County Registry of Deeds in Book 1887, Page 104..

~~On here and in full~~ the same, together with all the privileges and appurtenances thereunto belonging to it the said

Pine Point Cooperative Association,

its successors

~~Hereby~~ and Assigns forever.

~~In Witness Whereof,~~ the said Inhabitants of the Town of Scarborough, has caused this instrument to be executed and its corporate seal affixed by its Selectmen duly authorized, this 4th day of March in the year of our Lord one thousand nine hundred sixty ~~four~~ ^{four}.

~~with:~~

~~of the said~~

~~joining in this deed as Grantor, and relinquishing and conveying~~

~~rights by descent and all other rights in the above~~

~~described premises have herunto set~~

~~hand and seal this~~

~~day of~~

~~in the year of our Lord~~

~~one thousand nine hundred and~~

Signed, Sealed and Delivered
in presence of

Carl D. Stevens
Carl D. Stevens
Carl D. Stevens
Carl D. Stevens
Carl D. Stevens
Carl D. Stevens
Carl D. Stevens

(as to all)

Donald J. Clark
Robert D. White
Neal A. Gannell
Ralph R. Loughlin
Wendell B. White
Russell W. Bayley
Neil L. Loughlin

State of Maine,
Cumberland }

March 4, 1964

1963

Personally appeared the above named Donald J. Clark and acknowledged the foregoing instrument to be his free act and deed in his capacity as Chairman of the Board of Selectmen, and the free act and deed of the Inhabitants of the Town of Scarborough.
~~and acknowledged the above instrument to be his free act and deed.~~

MAR 5 1964

Before me,

Norman E. Brown

Justice of the Peace

My Commission expires July 24, 1964

Register

REGISTRY OF DEEDS, CUMBERLAND COUNTY, MAINE

Received at 2 H 3 M, and recorded in

BOOK 2807 PAGE 87

Samuel P. Johnson

May 29
1964

*First Town
Agreement*

3956

31239

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AGREEMENT

AGREEMENT between the Town of Scarborough, a municipal corporation and body politic duly organized and existing under the laws of the State of Maine in the County of Cumberland and State of Maine, and Pine Point Cooperative Association, a corporation duly organized and existing under the laws of the State of Maine with its principal place of business in Scarborough in said County and State.

WHEREAS, on March 4, 1964, the said Town of Scarborough did convey certain premises to the said Pine Point Cooperative Association by deed recorded in Cumberland County Registry of Deeds in Book 2807 at Page 87; and

WHEREAS, said conveyance contained certain restrictions and covenants therein enumerated; and

WHEREAS, the Pine Point Cooperative Association is desirous of conveying the subject premises to Pine Point Fisherman's Co-op; and

WHEREAS, the said Pine Point Fisherman's Co-op is desirous of obtaining mortgage financing; and

WHEREAS, the Town of Scarborough is agreeable to amending the restrictions to accommodate the Pine Point Cooperative Association and the Pine Point Fisherman's Co-op; and

WHEREAS, Deed Restriction #1 required the approval of a regular or special Town Meeting prior to any sale, mortgage or other encumbrance affecting the subject premises; and

WHEREAS, by charter adopted October 7, 1969, all of the powers of the Town Meeting of the Town of Scarborough have vested in the Town Council of the Town of Scarborough;

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NOW THEREFORE, the parties hereto do agree and covenant with each other, their successors and assigns respectively, as follows:

1. That Deed Restriction #1 be amended by striking the language therein contained and by inserting in its place the following:

"The said Grantee may not sell, mortgage or otherwise encumber the premises without the prior written approval of the legislative body of the Town of Scarborough; provided, however, that the Grantee is hereby authorized to transfer title to the said premises to the Pine Point Fisherman's Co-op, subject to the terms and conditions of this instrument as amended to date. The said Pine Point Fisherman's Co-op is hereby authorized to execute a mortgage deed securing indebtedness which shall not exceed Seventy-five Thousand Dollars (\$75,000.00) at any given time; provided, however, that the said mortgage financing gives the first right of refusal to the Town of Scarborough to purchase said premises in the event of a default and/or the rights of redemption of Pine Point Fisherman's Co-op are assigned to the Town of Scarborough."

2. That Deed Restriction #2 be deleted.

3. That Deed Restriction #3 be amended by adding the following at the end thereof:

"and except that side facing away from the Scarborough River, provided that, in either case, the width of the structure shall not be increased."

IN WITNESS WHEREOF, the Town of Scarborough and the Pine Point Cooperative Association have caused this instrument to be executed and their corporate seals affixed by their duly authorized officers this 27th day of December, 1976.

SIGNED, SEALED AND DELIVERED
in the presence of:

Norman E. Morse

TOWN OF SCARBOROUGH

By [Signature]
Its Town Manager

PINE POINT COOPERATIVE
ASSOCIATION

Norman E. Morse

By [Signature]
Its President

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STATE OF MAINE
CUMBERLAND, SS

December 27, 1976

Personally appeared the above-named Robert D. Steele, Town Manager, who acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of the Town of Scarborough.

Before me,

Norman E. Morse
Justice of the Peace
Notary Public
My Commission Expires May 19, 1978

STATE OF MAINE
CUMBERLAND, SS

December 27, 1976

Personally appeared the above-named David W. Jordan, President, who acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of Pine Point Cooperative Association.

Before me,

Norman E. Morse
Justice of the Peace
Notary Public
My Commission Expires May 19, 1978

DEC 28 1976

RECORDS OF DEEDS, CUMBERLAND COUNTY, MAINE

Received at 11:29 AM, and recorded in

BOOK 3956 PAGE 245. Margaret L. Liden Acting Register

1978

3984

3:3

4621

AGREEMENT

AGREEMENT between the TOWN OF SCARBOROUGH, a municipal corporation and body politic duly organized and existing under the laws of the State of Maine in the County of Cumberland and State of Maine, and PINE POINT COOPERATIVE ASSOCIATION, a corporation duly organized and existing under the laws of the State of Maine, with its principal place of business in Scarborough in said County and State.

WHEREAS, on March 4, 1964, the said Town of Scarborough did convey certain premises to the said Pine Point Cooperative Association by deed recorded in the Cumberland County Registry of Deeds in Book 2807, Page 87; and

WHEREAS, said conveyance contains certain restrictions and covenants thereon enumerated; and

WHEREAS, said restrictions and covenants were amended by Agreement dated December 27, 1976 and recorded in said Registry in Book 3956, Page 245; and

WHEREAS, the parties desire to further amend said restrictions and covenants.

NOW THEREFORE, the parties hereto do agree and covenant with each other their successors and assigns respectively, as follows:

1. That deed restriction number 1, as amended as aforesaid, is further amended by deleting the phrase "Seventy-Five Thousand Dollars (\$75,000.00)" therefrom and inserting in its place the following:

"One Hundred Twenty-Five Thousand Dollars
(\$125,000.00)"

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IN WITNESS WHEREOF, the Town of Scarborough and the Pine Point Cooperative Association have caused this instrument to be executed and their corporate seals affixed by their duly authorized officers this day of March, 1977.

SIGNED, SEALED & DELIVERED
in the presence of:

TOWN OF SCARBOROUGH

Helene D. Dudley

BY: Robert D. Steele
Its Town Manager

PINE POINT COOPERATIVE ASSOCIATION

Helene D. Dudley

BY: David W. Jordan
Its President

STATE OF MAINE
CUMBERLAND, SS

March 2, 1977

Personally appeared the above-named Robert D. Steele, Town Manager, who acknowledged the foregoing instrument to be his free act and deed in his said capacity and free act and deed of said Town of Scarborough.

Before me,

Helene D. Dudley
Justice of the Peace
Notary Public

My Comm. expires Sept. 22, 1983



STATE OF MAINE
CUMBERLAND, SS

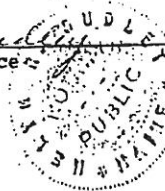
March 2, 1977

Personally appeared the above-named David W. Jordan, President, who acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of Pine Point Cooperative Association.

Before me,

Helene D. Dudley
Justice of the Peace
Notary Public

My Comm. expires Sept. 22, 1983



MAR 14 1977

REGISTRY OF DEEDS, CUMBERLAND COUNTY, MAINE

Received at 11:37 AM, and recorded in

BOOK 3984 PAGE 313. Margaret L. Baker Register