

**MINUTES
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – JUNE 3, 2015
REGULAR MEETING – 6:30 P.M.**

Item 1. Call to Order. Council Chair Holbrook called the regular meeting of the Scarborough Town Council to order at 6:30 p.m.

Item 2. Pledge of Allegiance.

Item 3. Roll Call. The roll was called by Thomas J. Hall, Town Manager.

Shawn A. Babine [Left due to illness]

Katherine A. St. Clair

William J. Donovan

Edward NMI Blaise, III

Jean-Marie Caterina, Council Vice Chair [Arrived Late]

Pete F. Hayes

Jessica L. Holbrook, Council Chair

Order No. 15-040. Act on the request for an executive session pursuant to Title 1, M.R.S.A. §405(6)(D) pertaining to Labor negotiations pertaining to the Scarborough police Benevolent Association. Motion by Councilor St. Clair, seconded by Councilor Babine, to move approval on the request for an executive session pursuant to Title 1, M.R.S.A. §405(6)(D) pertaining to Labor negotiations pertaining to the Scarborough police Benevolent Association.

Vote: 6 Yeas.

The Council adjourned at 6:31 p.m. Council Chair Holbrook reconvened the meeting at 7:01 p.m. Council Chair Holbrook noted that Councilor Babine had left the meeting due to being ill. She welcomed Councilor Caterina to the meeting.

Item 4. General Public Comments.

- Michael Doyle of Falmouth, spoke about an invoice that he had obtained through a Freedom of Access Request and it showed the cost of attorney fees relating to his Freedom of Access Requests for emails that the Town had paid. He further noted that he had submitted another request for more of these bills. He went on to comment on a complaint that two individuals who had filed against a Scarborough business owner. He then went on to compared the Town Council to ISIS – at this point Council Chair Holbrook called Mr. Doyle out-of-order; Mr. Doyle continued to make comments to which the Council Chair called him out-of-order and asked Mr. Doyle to leave the meeting; Mr. Doyle continued to comment to which the Council Chair asked the Mr. Doyle be removed. That being said, Mr. Doyle left the meeting on his own.

Item 5. Minutes: May 20, 2015 – Regular Meeting. Motion by Councilor St. Clair, seconded by Councilor Blaise, to move approval of the regular meeting minutes of the May 20, 2015, regular meeting of the Scarborough Town Council.

Vote: 6 Yeas.

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

Item 7. Items to be signed: a. Treasurer’s Warrants. Treasurer’s Warrants

Order No. 15-038, 7:00 p.m. Public Hearing and second reading on the proposed amendments to Chapter 1002 – Shellfish Conservation Ordinance. Council Chair Holbrook opened the public hearing. As there were not comments either for or against, the hearing was closed at 7:05 p.m.

Motion by Councilor Hayes, seconded by Councilor St. Clair, to move approval of the second reading on the proposed amendments to Chapter 1002 – Shellfish Conservation Ordinance, as follows:

**CHAPTER 1002
TOWN OF SCARBOROUGH
SHELLFISH CONSERVATION ORDINANCE**

IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, amends Chapter 1002 - the Town of Scarborough Shellfish Conservation Ordinance by adding either the underlined text or deleting the text shown in strikeover type, as shown below:

1. Authority:

This Ordinance is enacted in accordance with 12 M.~~R.~~S.R.A., Section 6671.

2. Purpose:

To establish a shellfish conservation program for the Town of Scarborough which will insure the protection and optimum utilization of shellfish resources within its limits. These goals will be achieved by means which may include:

- a. Licensing
- b. Limiting the number of shellfish harvesters
- c. Restricting the time and area where digging is permitted
- d. Limiting the minimum size of clams taken
- e. Limiting the amount of clams taken daily by a harvester
- f. Engaging in activities intended to protect and enhance the resource such as transplanting or seeding of shellfish.

3. Shellfish Conservation Committee:

The Shellfish Conservation Program for the Town of Scarborough will be administered by the Shellfish Conservation Committee consisting of 7 members to be appointed by the Town Council for terms of 3 years. The Committee's responsibilities include:

- a. Establishing annually in conjunction with the Dept. of Marine Resources, the number of shellfish digging licenses to be issued.
- b. Surveying the clam flats to maintain current information on shellfish resources.
- c. Submitting to the Town Council, proposals for the expenditures of funds for the purpose of shellfish conservation.
- d. Keeping this Ordinance under review and making recommendations for its amendments.

- e. Securing and maintaining records of shellfish harvest from the Town's managed shellfish areas and closed areas that are conditionally opened by the D.M.R.
- f. Approving conservation closures and openings in conjunction with the Area Biologists of the D.M.R. [amended 01/03/01].
- g. Submitting an annual report to the Municipality and the D.M.R. covering the above topics and all other committee activities.

4. Definitions:

a. Resident

The term "resident" refers to a person who has physically resided at a fixed, permanent and principal home in the town for at least six months next prior to the date of application for a license under this Ordinance or, in the case of student, to a student living temporarily outside of Scarborough while enrolled in a college, university or post-secondary school, provided such student maintains his or her fixed permanent principal home in Scarborough. [amended 07/17/02]

b. Non-resident

The term "non-resident" means anyone not qualified as a resident under this Ordinance.

c. Shellfish, Clams

When used in the context of this Ordinance, the words "shellfish and clams" mean soft-shell clams MYA ARENARIA.

d. Municipality

Refers to the Town of Scarborough, Maine.

c. Conservation Projects

Conservation Projects may include seeding projects, crab projects, school projects, surveys or any other projects accepted by the Shellfish Conservation Commission.

5. Licensing - Municipal Shellfish License Digging is required:

It is unlawful for any person to dig or take shellfish from the shores and flats of this municipality without having a current license issued by this municipality as provided by this Ordinance.

A Commercial Digger must also have a valid STATE OF MAINE COMMERCIAL SHELLFISH LICENSE issued by the Department of Marine Resources, if state law makes possession of the state license a prerequisite to issuance of a municipal license.

A. Designation, Scope and Qualifications:

1. Resident Commercial Shellfish License:

The license is available to residents of the Town of Scarborough who are 18 years or older and entitles the holder to dig and take any amount of shellfish from the shores and flats of this municipality and reciprocating municipalities.[amended 03/21/13]

2. Non-resident Non-reciprocating Commercial Shellfish License:

The license is available to non-residents of this municipality who are 18 years or older and entitles the holder to dig and take any amount of shellfish from the shores and flats of this municipality.[amended 03/21/13]

3. Resident Student Commercial License:

The license is available to residents of the Town of Scarborough who are full time students between the minimum age of twelve (12) years old and the maximum age of twenty-two (22) years old on May 1 of the year in which the application is made. Applicants must show proof of age and proof of school attendance, ~~and except that~~ students attending college must also show proof of a minimum of twelve (12) college credit hours per semester to be considered full-time students. Applicants under the age of 18 must also have the signature of a parent or guardian on the application for the license to be valid. This license entitles the holder to dig or take any amount of shellfish from the shores and flats of this municipality. [amended 01/03/01] [amended 07/17/02]

4. Non-resident Student Commercial License:

The license is available to non-residents of the Town of Scarborough who are full time students between the minimum age of twelve (12) years old and the maximum age of twenty-two (22) years old on May 1 of the year in which the application is made. Applicants must show proof of age and proof of school attendance, ~~except and except that~~ students attending college must also show proof of a minimum of twelve (12) college credit hours per semester to be considered full-time students. Applicants under the age of 18 must also have the signature of a parent or guardian on the application for the license to be valid. This license entitles the holder to dig or take any amount of shellfish from the shores and flats of this municipality. [amended 01/03/01] [amended 07/17/02]

5. Over 60 Resident Commercial Bushel License:

The license is available to residents of the Town of Scarborough who are 60 years old and over. Applicants must show proof of age and residence. This license entitles the holder to dig or take one (1) bushel of shellfish from the shores and flats of this municipality at each tide. [amended 02/18/98] [amended 01/20/99]

6. Residential Recreational Shellfish License:

The license is available to residents and real estate taxpayers of this municipality and entitles the holder to dig and take no more than one peck of shellfish in any one day for the use of ~~himself the holder~~ and his ~~or her~~ family. It is a violation of this ordinance for any person to sell, or otherwise receive remuneration for, any shellfish harvested pursuant to a residential recreational shellfish license. Any holder of a recreational license who is cited by the Shellfish Conservation Officer for selling or otherwise receiving remuneration for any shellfish harvested pursuant to that license, in addition to being subject to the other penalties provided in this ordinance, shall be ineligible for a recreational license in the next licensing year following that violation. The Shellfish Conservation Officer's determination of violation may be appealed in the same manner as a license suspension under Section 5(H)(3).

6-a. Non-resident Recreational Shellfish License:

The license is available to non-residents of the Town of Scarborough and entitles the holder to dig and take no more than one peck of shellfish in any one day for the use of

himself the holder and his or her family. It is a violation of this ordinance for any person to sell, or otherwise receive remuneration for, any shellfish harvested pursuant to a non-resident recreational shellfish license. Any holder of a non-resident recreational shellfish license who is cited by the Shellfish Conservation Officer for selling or otherwise receiving remuneration for any shellfish harvested pursuant to that license, in addition to being subject to the other penalties provided in this ordinance, shall be ineligible for a recreational license in the next licensing year following that violation. The Shellfish Conservation Officer's determination of violation may be appealed in the same manner as a license suspension under Section 5(H). [03/19/03]

7. Resident Recreational Day Licenses.

This license entitles residents and real estate taxpayers of the Town of Scarborough to dig or take up to one peck of shellfish from the shores and flats or this municipality during a single calendar day specified in the license. The duration of this license is one calendar day only. [02/18/98]

8. Non-resident Recreational Day Licenses.

This license entitles non-residents of the Town of Scarborough to dig or take up to one peck of shellfish from the shores and flats or this municipality during a single calendar day specified in the license. The duration of this license is one calendar day only. [02/18/98]

9. License must be signed.

The licensee must sign the license to make it valid.

10. Commercial license applicant may only apply for one type.

A commercial license applicant may only apply for one type of commercial license under this Ordinance.

B. Contents of Application:

Any person may apply to the Town Clerk for the license required by this ordinance on forms provided by the municipality.

1. Contents of the Application:

The application must be in the form of an affidavit and must contain the applicant's name, current address, birth date, height, weight, signature and whatever other information the Town Clerk may require.

2. False Statements.

Any person who provides information in support of an application under this ordinance must do so in the form of an affidavit. If the applicant provides false information, the applicant forfeits the right to a license and a license previously issued to that applicant shall become void. Any other person who gives false information in support of an application under this ordinance commits a violation of this ordinance punishable under section 5(K). [02/18/98].

C. Fees:

The fees for the licenses are as specified in the Schedule of License, Permit and Application Fees established by the Town Council, and must accompany in full the application for the respective license. Fees for non-resident licenses shall not exceed twice the amount charged for the equivalent resident licenses. The Town Clerk shall pay all fees received to the Town

Treasurer. Fees received for shellfish licenses shall be used by the Town for shellfish management, conservation and enforcement. Fees are non-refundable, except that the holder of a student commercial license who surrenders the license within seventy-five (75) after the date of issuance shall receive a refund of one-half the license fee. [01/05/00]

D. Conservation Activities:

The Town encourages all shellfish diggers to protect and enhance the resource by participating in conservation activities such as seeding clam beds, participating in shellfish surveys, and participating in other approved resource management activities. All Commercial License holders 18 years of age or older may be required to participate in shellfish seeding as deemed necessary by the Shellfish Conservation Committee. Seeding or other approved conservation activities also may be undertaken on a volunteer basis. Commercial License Holders who complete the specified number of hours of conservation activities which may include required shellfish seeding hours and volunteer hours for a total of twelve (12), will be eligible for priority license renewal pursuant to Section 5.E.4.(a) of this Ordinance.

The Shellfish Conservation Committee will approve all accepted conservation activities by a majority vote. The names and number of hours completed on an accepted conservation activity will be recorded in writing by the Shellfish Conservation Officer and submitted to the Shellfish Committee on a monthly basis for their records.

It shall be the sole responsibility of the Commercial License holder to contact the Shellfish Committee Members or the Shellfish Officer to determine the conservation available to participate in. The Shellfish Committee Chair, with consent of the majority membership of the Committee, may designate special conservation work during any period of State closure of the Town of Scarborough shellfish beds. The Chair may poll the Committee by telephone, email, fax or in person for the purposes of this section. Each Commercial License holder is encouraged to contribute at least half of their voluntary conservation activity in the form of low tide work. All crab trapping is considered low tide work. The conservation year will run from May 1st to November 30th. School conservation activities have a deadline of December 31st and are limited to a maximum of three (3) hours per project and six (6) hours total allowed.

The Shellfish Conservation Committee may waive all or part of the requirement for shellfish seeding for an applicant who provides the Committee with a written statement from a physician indicating that the applicant was not able to participate in any regularly scheduled shellfish seeding do to incapacitation by illness or injury. The Committee may also allow the following alternative conservation work, on an hour for hour basis, upon the request of an applicant made at a regular monthly meeting of the Committee. Such alternative work may be used to meet the shellfish seeding requirement or may be used to qualify as additional volunteer conservation activity:

- i. Another time to complete conservation time for an applicant who demonstrates to the Committee that the illness or incapacitation of a parent, spouse or child prevented that person from participating in regularly scheduled conservation time; or,
- ii. Alternate, less strenuous work for an applicant who provides the Committee with a written statement from a physician indicating that the applicant is not physically able to participate in regular conservation work.

E. Issuance of Shellfish Licenses Limitation of Diggers:

Clam resources vary in density and size distribution from year to year and over the limited soft clam producing area of the Town. It is essential that the town carefully husband its shellfish resources. Following the annual review of the town's clam resources, its size distribution, abundance and the warden's reports, as required by Section 3, the Shellfish Conservation Committee, in consultation with the D.M.R. area biologist, will determine whether limiting commercial or recreational shellfish licenses is an appropriate shellfish management option for the following year.

~~The Shellfish Conservation Committee will approve all accepted conservation projects by a majority vote. The names and number of hours completed on an accepted conservation project will be recorded in writing by the Shellfish Conservation Officer and submitted to the Shellfish Committee on a monthly basis for their records.~~

~~It shall be the sole responsibility of the Commercial License holder to contact the Shellfish Committee Members or the Shellfish Officer to determine the conservation work available to participate in. The Shellfish Committee Chair, with consent of the majority membership of the Committee, may designate special conservation work during any period of State closure of the Town of Scarborough shellfish beds. The Chair may poll the Committee by telephone, email, fax or in person for the purposes of this section. Each Commercial License holder is required to contribute half their required conservation hours in the form of low tide work. The conservation year will run from May 1 to October 31. School conservation projects have a deadline of December 31 and are limited to a maximum of three (3) hours per project and six (6) hours total allowed. [amended 01/03/01] [amended 07/17/02] [amended 03/17/04][amended 03/21/13]~~

~~The Shellfish Conservation Committee may waive all or part of the requirement for conservation time for an applicant who provides the Committee with a written statement from a physician indicating that the applicant was not able to participate in any regularly scheduled conservation time due to incapacitation by illness or injury. The Committee may also allow the following alternative conservation work, on an hour for hour basis, upon the request of an applicant made at a regular monthly meeting of the Committee:~~

- ~~i. — Another time to complete conservation time for an applicant who demonstrates to the Committee that the illness or incapacitation of a parent, spouse or child prevented that person from participating in regularly scheduled conservation time, or~~
- ~~ii. — Alternate, less strenuous work for an applicant who provides the Committee with a writing statement from a physician indicating that the applicant is no physically able to participate in regular conservation work. [01/05/00]~~

1) Prior to February 1 of 1998 and each succeeding year, the committee shall report its findings and document recommendations for the allocation of commercial and recreational licenses to be made available for the following license-year to the Commissioner of Marine Resources for concurrence.

2) After receiving approval of proposed license allocations from the Commissioner of Marine Resources and prior to February 1 of 1998 and each succeeding year, the

Shellfish Conservation Committee shall notify the Town Clerk in writing of the number and allocation of shellfish licenses to be issued.

3) Notice of the number of licenses and the procedure for application shall be published in a trade or industry publication, or in a newspaper or combination of newspapers with general circulation, which the municipal officers consider effective in reaching persons affected, not less than 10 days prior to the period of issuance and shall be posted in the municipal offices until the period concludes.

4) The Town Clerk shall accept applications for shellfish licenses annually commencing on the first Monday in April, or on the first town office business day thereafter if the first Monday is not a business day. [03/19/03]

(a) Commercial Renewal Licenses.

(i): On ~~that~~ the first Monday of April and on the next subsequent business day, the Clerk shall issue license only to holders of resident and non-resident commercial shellfish licenses who seek renewal and who have completed at least 12 hours of approved conservation activities which may include mandatory shellfish seeding as well as voluntary conservation work ~~time~~ approved under this Ordinance during the term of their current licenses or at least 4 hours of such work if the holder is 70 years of age or older. Such applicants may apply by mail pursuant to subparagraph (ii) below or must appear in person at the office of the Town Clerk during that two day period and pay the application fee at the time of issuance of the license. The Clerk shall issue commercial licenses to such qualified applicants on a first come, first served basis during those two business days. Any holder of a commercial license whose status as a resident or non-resident has changed at the time of application or who did not complete the requisite hours of approved conservation activities shall not be entitled to apply for renewal under this subsection (a) but may apply for a new license under subparagraph (b) below. [03/16/2005]

(ii): Effective March 1, 1998 in lieu of applying in person pursuant to subparagraph (I) above, an applicant for a renewal resident or non-resident commercial license may apply by mail. Applications by mail must be received at the Town Clerk's office on a day that office is open for business no earlier than March 1 and no later than March 31. The application must be accompanied by the required license fee, a copy of the applicant's driver's license, a copy of the applicant's motor vehicle registration certificate, and any other information upon which the applicant relies to document residency. The Clerk shall mark all applications with the date and time of receipt. If more than one application is received at the same time, the Clerk shall determine their order or receipt of random drawing and mark them accordingly. The Clerk's marks concerning order of receipt shall be conclusive for purposes of applying the first-come first-served provisions of paragraph (i) above.

(b) Non-Renewal Resident Commercial and Non-Resident Non-Reciprocating Commercial Licenses.

(i) On the third and fourth subsequent business days, the Clerk shall accept applications for any remaining resident commercial shellfish licenses and non-resident non-reciprocating commercial shellfish licenses. Applicants must apply in person and be 18 years of age at the time of application, at the office of the Town Clerk. The Clerk shall not issue any licenses during the third and fourth business days, but shall inform each applicant that licenses will be awarded on the basis of a lottery and advise each applicant of the time and place where the lottery will be held. On the fifth subsequent business day, the Clerk shall conduct a lottery for the issuance of the remaining resident commercial shellfish licenses and a lottery for the issuance of non-resident non-reciprocating commercial shellfish licenses. In order to be entered into the lottery, an applicant must be present and must tender the application fee at the time of the lottery drawing. The Clerk shall award the remaining resident commercial shellfish licenses by drawing the names of qualified applicants at random and then shall award the non-resident non-reciprocating commercial shellfish licenses by drawing the names of qualified applicants at random.

(ii) If, after June 1 annually, any allocated licenses remain unissued, on the first consecutive Monday, Tuesday and Wednesday in June applications shall be taken and placed in a lottery pool. Applicants must apply in person and be 18 years of age at the time of application. On the following Friday, applicants' names shall be drawn at random by the Town Clerk. Physical presence and full payment are required at the time of drawing, and all applicants must meet eligibility requirements for the license category that they apply for. The lottery shall be conducted in the same fashion as the lottery under section 5(~~DE~~)(4)(b)(i).

(c) **Resident Student Commercial Renewal Licenses, Non-Resident Student Commercial Renewal Licenses and Over 60 Resident Commercial Bushel Renewal Licenses.** Shall be renewable in the same manner as Resident and Non-Resident Commercial Licenses under Section 5-~~DE~~.4(a), except that required shellfish seeding hours and additional voluntary conservation hours shall be:

Resident & Non-Resident Student Commercial Licenses <u>under the age of 18</u>	<u>No conservation time required. [Voluntary participation is encouraged.]</u>
<u>Resident & Non-Resident Student Commercial Licenses 18 years of age or older at the time the license is issued.</u>	<u>Twelve (12) hours of approved conservation activities</u>
Over 60 Resident Commercial Bushel Licenses	Eight (8) Hours <u>of approved conservation activities</u> [03/16/2005] [11/02/2005]
All Commercial License Holders 70 or Older	Four (4) hours <u>of approved conservation activities</u> [03/16/2005] [11/02/2005]

Any holder of a student commercial license or over 60 license whose status as a resident or non-resident has changed at the time of application or who did not complete the

requisite hours of approved conservation activities shall not be entitled to apply for renewal under this subsection (a) but may apply for a new license under subparagraph (d) below.

(d) Non-Renewal Resident Student Commercial Licenses, Non-Resident Student Commercial Licenses and Over 60 Resident Commercial Bushel Licenses.

Applications for new (non-renewal) Resident Student Commercial Licenses, Non-Resident Student Commercial Licenses and Over 60 Resident Commercial Bushel License shall be processed in the same manner as applications for non-renewal Resident Commercial and Non-Resident Non-Reciprocating Commercial Licenses under Section 5. ~~DE~~4(b), except that for Resident Student Commercial Licenses and Non-Resident Student Commercial Licenses the clerk shall continue drawing names after all licenses have been awarded and until all applicants have been placed on a list in the order their names have been drawn. Any Student Commercial License which is surrendered after issuance shall be made available to the remaining applicants on that list in the order their names were drawn, and then to other applicants on a first-come, first-served basis.

(d) Resident Recreational Licenses.

Commencing on the second Monday in April annually the Town Clerk shall accept applications for resident recreational shellfish licenses. Applicants must appear in person at the office of the Town Clerk. Licenses shall be awarded on a first come, first served basis.

(e) Non-resident Recreational Licenses.

On the second Monday, Tuesday and Wednesday until noon, in April annually, the Town Clerk shall accept applications for non-resident recreational licenses. Applicants must apply in person at the office of the Town Clerk and shall have their names placed in a lottery pool. On that Wednesday at 6:00 p.m., the licenses shall be awarded to applicants drawn at random from the pool by the Clerk and shall not exceed ten percent (10%) of the number of allocated resident recreational shellfish licenses. Physical presence and full payment are required at the time of drawing. The lottery shall be conducted in the same fashion as the lottery under section 5(~~DE~~)(4)(b)(i).

(f) Remaining Licenses.

If, after August 1 annually, any allocated licenses remain unissued, the clerk shall issue such licenses on a first-come, first served basis, without regard to the residency of the applicant or the allocation between resident and non-resident licenses. [03/16/2005] [11/02/2005]

(g) Day Licenses.

After all available resident and non-resident recreational licenses have been issued under Section 5(~~DE~~)(4)(d) and 5(~~DE~~)(4)(e) above, the clerk may receive applications for and issue resident recreational day licenses and non-resident recreational day licenses, on a first-come, first-served basis without regard to residency of the applicant. Applicants must appear in person at the office of the Town Clerk no earlier than 5 calendar days before the day for which the license is requested. An applicant may obtain only one day license at a time and must appear in person on a separate day for each license requested. Each license issued under this section shall specify the calendar day for which it is issued and shall be valid for that day only. [03/16/2005] [11/02/2005]

E. License expiration date:

Each license issued under authority of this Ordinance expires at midnight the 30th of April next following the date of issue.

F. Reciprocal Harvesting Privilege:

Licenses from any other municipality co-operating with this municipality on a joint shellfish management program may harvest shellfish according to the terms of their management program, may harvest shellfish according to the terms of their licenses.

G. Children 16 years or younger may accompany a recreational license holder:

The recreational license holder and accompanying children are entitled to dig no more than the previously stated amount, "one peck of shellfish in any one day for the use of himself the holder and his or her family." [amended 07/17/02]

H. Suspension: [amended 04/18/01] [amended 03/01/06]

1. Any shellfish licensee having one conviction for a violation of this Ordinance or for a violation occurring within the Town of Scarborough of any state statute regulating the digging or taking of shellfish shall have his or her shellfish license automatically suspended for a period of 14 days. Subsequent convictions during the same license year (May 1 - April 30) shall result in an automatic suspension of sixty (60) days. A licensee shall have his or her record cleared if there are no convictions within one year from the time of a conviction. As used in this paragraph, the term "digging" means using a shovel, spade, rake, tool or hands to uncover shellfish from the ground and the term "taking" means removing a marine organism from its natural habitat. [amended 04/18/01]

2. Any shellfish licensee having one conviction for a violation occurring within the Town of Scarborough of 12 M.R.S.A. § 6625 (governing identification and tagging of shellfish) shall have his or her shellfish license automatically suspended for a period of seven (7) days. Subsequent convictions during the same license year (May 1 - April 30) shall result in an automatic suspension of fourteen (14) days. A licensee shall have his or her record cleared if there are no convictions within one year from the time of a conviction. [amended 04/18/01]

3. A licensee whose shellfish license has been suspended pursuant to this section shall automatically have his or her license reinstated after the period of suspension has been served. [amended 04/18/01]

4. The suspension shall be effective from the third business day after the date of mailing of a Notice of Suspension by the Town Clerk to the Licensee or upon presentation of a Notice of Suspension by the Town Marine Resource Officer, whichever is earlier. [amended 02/18/98].

5. Any licensee whose shellfish license has automatically been suspended pursuant to this section shall be entitled to a hearing before the Shellfish Conservation Committee upon filing of a written Request for Hearing with the Town Clerk within 30 days following the effective date of suspension. Filing of the request for hearing with the Town Clerk stays the suspension until the end of the seventh day following the decision of the Shellfish Conservation Committee. The licensee may appeal the decision of the Shellfish Committee before the Town Council by filing a written Request for Appeal

with the Town Clerk within 7 days of the decision of the Shellfish Conservation Committee. Filing of the Request for Appeal with the Town Clerk stays the suspension until the Town Council has rendered its decision. [amended 04/18/01]

6. No holder of a commercial license under this Ordinance shall dig or take shellfish during any time that holder's State of Maine Shellfish License is suspended. During any such period of suspension, the holder's license under this Ordinance is automatically suspended. [amended 02/18/09]

I. Opening and Closing of Flats:

The Shellfish Conservation Committee, with the approval of the Commissioner of Marine Resources, may open and close the areas for shellfish harvest (the "Conservation Areas"). Except in the case of emergencies, the Shellfish Conservation Committee shall follow the following procedure prior to opening or closing a Conservation Area:

1. Upon determination by the Shellfish Conservation Committee or by the Chair of the Committee that the opening or closing of a Conservation Area should be considered, the Chair shall place the proposed opening or closing on an agenda for a public hearing.
2. No less than 7 days prior to the hearing, a notice of the hearing describing the location of the Conservation Area proposed to be opened or closed shall be: (a) posted at the Town Office; (b) published in a newspaper of general circulation in the Town of Scarborough; and, (c) communicated to the Department of Marine Resources. The notice may also be placed on the Scarborough Shellfish Conservation Officer's telephone recording.
3. At the public hearing, the Shellfish Conservation Committee shall present and entertain evidence obtained from shellfish surveys and other sources. Members of the public may then comment on such evidence and may present additional evidence relevant to the proposed opening or closing.
4. At the conclusion of the evidence, the Shellfish Conservation Committee shall make findings of fact based on the evidence presented, shall reach conclusions based on those findings of fact, shall order whether the Conservation Area in question shall be opened or closed, and may set such time limitations and other harvesting conditions as are consistent with good conservation practices.
5. The order of the Shellfish Conservation Committee shall be forwarded to the Commissioner of Marine Resources and shall not take effect until approved by the Department of Marine Resources.

In the event the Shellfish Conservation Committee determines that an emergency closing of a Conservation Area is necessary, the Committee may take action without following the procedures described above, provided that the Committee makes a reasonable effort to give adequate public notice and allow for public participation. [amended 01/03/01]

J. Hours Prohibited:

It shall be unlawful to dig any shellfish anywhere in the Town of Scarborough between the hours of one half hour after sundown and one half hour before sunrise. (amended 10/17/2007)[amended 03/21/13]

K. Penalty:

Any person who violates any provision of this ordinance commits a crime, not a civil violation, punishable by a fine of up to \$1,500 per offense, as provided in 12 M.R.S.A. §6671(10). Any person holding a commercial license under this Ordinance who aids or abets the harvest of shellfish in violation of this Ordinance also commits a violation of this Ordinance and shall be subject to the same fines as the person he or she assisted. [amended 04/04/2007]

L. Administrative Suspension of Recreational License:

If the Shellfish Conservation Officer determines that the holder of a recreational license has sold or otherwise received remuneration for shellfish harvested pursuant to the recreational license, or that the holder of a license has violated Section 5(N) of this ordinance the Shellfish Conservation Officer may impose an administrative suspension of the License and of eligibility for a license in the next licensing year. The Shellfish Conservation Officer shall give written notice to the license holder of the administrative suspension, which shall be effective from the third business day after mailing of the Notice of Suspension or upon presentation of the Notice of Suspension by the Shellfish Conservation Officer, whichever is earlier. The license holder may appeal the administrative suspension in the same manner as an automatic suspension under section 5.H.(3). The Shellfish Conservation Officer may, ~~in his~~ at their discretion, employ the administrative suspension in addition to or as an alternative to the penalties provided in section 5.K. The administrative suspension process and determinations resulting from that process are separate from and shall not be affected by the pendency or outcome of any court proceeding for the imposition of penalties under section 5.K. [amended 02/18/98]

M. Clam Size and Tolerance of Harvest:

- 1) Clam size and tolerance of harvest. A person shall not harvest or possess softshell clams which are less than two (2) inches in the longest diameter to the amount of more than ten (10) percent of any lot.
- 2) The method of determining tolerance. The tolerance of ten (10) percent must be determined by a numerical count of not less than one (1) nor more than four (4) pecks taken at random from various parts of the lot. If the lot contains less than one (1) peck, the tolerance must be determined by numerical count of the entire lot.

N. Unlawful Sale of Shellfish.

It is a violation of this Ordinance for any holder of a license under this Ordinance to sell or otherwise receive remuneration for any shellfish dug or taken within the Town of Scarborough by any person who does not hold a valid shellfish license issued by the Commissioner of Marine Resources pursuant to 12 M.R.S.A. § 6601. [02/18/98]

O. Method of Harvest.

The only acceptable method of harvest shall be by use of the hand-held clamrake, with a handle no more than eighteen inches in length. Use of shovels, spades and pitch forks shall be prohibited. [03/01/06]

Vote: 6 Yeas.

Order No. 15-041, 7:00 p.m. Public Hearing and action on the request for a Combined Massage Establishment / Massage Therapist License from Marie Ann Dittmer located at 7 Oakhill Terrace. Council Chair Holbrook opened the public hearing. As there were no comments either for or against, the hearing was closed at 7:09 p.m.

Motion by Councilor St. Clair, seconded by Councilor Caterina, to move approval on the request for a Combined Massage Establishment / Massage Therapist License from Marie Ann Dittmer located at 7 Oakhill Terrace.

Vote: 6 Yeas.

Order No. 15-042, 7:00 p.m. Public Hearing and action on a request for a Liquor License from DJIJR, Inc. d/b/a Salty Bay Seafood Take-Out located at 68 Jones Creek Drive. Council Chair Holbrook opened the public hearing. As there were no comments either for or against, the hearing was closed at 7:09 p.m.

Motion by Councilor St. Clair, seconded by Councilor Caterina, to move approval on the request for a Liquor License from DJIJR, Inc. d/b/a Salty Bay Seafood Take-Out located at 68 Jones Creek Drive.

Vote: 6 Yeas.

OLD BUSINESS: None at this time.

NEW BUSINESS:

Order No. 15-043. Act on the request as follows: Be it Ordered that the Town Council, following a the request made by the Treasurer, grants a tax abatement of the 2013-2014 taxes specially assessed to FLP, LLC in the amount of \$16,542.50 along with interest and fees in the amount of \$1,011.26 such taxes securing collection of the special assessment of the proportional costs of the utility improvements installed in the Haigis Parkway Development District benefitting the FLP, LLC property and the amount of the abatement reflecting the correct frontage and area of the FLP, LLC parcel used in determination of the special assessment to apportion development costs for the Haigis Parkway utility improvements; the Treasurer, Tax Collector and Assessor to also prepare and issue such other documents as also may be required. Thomas J. Hall, Town Manager, gave a brief overview on this Order.

Motion by Councilor St. Clair, seconded by Councilor Caterina, to move approval of Order No. 15-043 as follows: Be it Ordered that the Town Council, following a the request made by the Treasurer, grants a tax abatement of the 2013-2014 taxes specially assessed to FLP, LLC in the amount of \$16,542.50 along with interest and fees in the amount of \$1,011.26 such taxes securing collection of the special assessment of the proportional costs of the utility improvements installed in the Haigis Parkway Development District benefitting the FLP, LLC property and the amount of the abatement reflecting the correct frontage and area of the FLP, LLC parcel used in determination of the special assessment to apportion development costs for the Haigis Parkway utility improvements; the Treasurer, Tax Collector and Assessor to also prepare and issue such other documents as also may be required.

Vote: 6 Yeas.

Order No. 15-044. Act to authorize the Town Manager to renew the Parking Agreement with the Higgins Beach Inn. Thomas J. Hall, Town Manager, gave a brief overview on this Order.

Motion by Councilor St. Clair, seconded by Councilor Caterina, to move approval to authorize the Town Manager to renew the Parking Agreement with the Higgins Beach Inn.

Vote: 6 Yeas.

Order No. 15-045. Act on the request to ratify the collective bargaining agreement between the Town of Scarborough and the Scarborough Professional Dispatchers Unit of Scarborough Firefighter Association - IAFF #3894. Jaclyn Mandrake, Director of Human Resources, gave a brief overview on the proposed changes to the agreement.

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

Vote: 5 Yeas. 1 Nay [Councilor Blaise].

Item 8. Non Action Items.

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

- Councilor Caterina reminded everyone that would be a “Charette” going on at the Higgins Beach this weekend, along with a pot luck and silent auction.
- Councilor Blaise noted that the Public Works Director, Mike Shaw, hosted a meeting with other Public Works Directors who about the Eastern trail. Their discussion was around how they maintained the trail. Councilor Blaise also noted that he had attended the Planning Board meeting and there was an application for the Transmission tower on the agenda. The Board had many questions that would need to be answered and this item would be continued to the next Planning Board meeting. The Board wants to make sure they do everything right.
- Councilor Hayes gave an update on the Shellfish Conservation Commission as well as on the Transportation Committee.
- Council Chair Holbrook gave an update on the Appointments Committee and would like to post the following names:

Conservation Commission:

Benjamin Keller as a full voting member with a term to expire in 2017.

Historic Preservation Committee:

Sharman Kivatisky, Craig Frederick, Becky Delaware and Jessica Holbrook as full voting members with a terms to expire in 2017.

Senior Advisory Board:

Bud Hanson as a full voting member with a term to expire in 2016.

Council Chair Holbrook gave an update on the VIP Appreciation Night, noting that this group does an amazing job for the community.

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

- He too acknowledge VIPs, the community truly benefits from the service of these individuals and they truly enjoy what they do.
- The attorney bill that had been commented on was a bill for the town in defending the lawsuit that the individual [that spoke] had brought forward.
- He has had success on the tax acquired property list – he will continue to update the Council at the progress.
- School Budget Validation voting has been very busy noting that there have been over 630 absentee ballots cast. Voting here at town hall Tuesday, June 9th
- Habitat Project had its closing was held last week and Grondin would be doing the site work.
- There retaining wall at the skate park is in need of repair as the wall is leaning forward toward the park side.

- There would be a Finance Committee meeting on Wednesday, June 10th at 4:00 p.m. and a Rules & Policies Committee meeting on Thursday, June 11th at 4:00 p.m.

Item 11. Council Member Comments.

- Councilor Hayes spoke on the energy this year regarding the budget. We are all one community and we all have different opinions – please be respectful and urged everyone to come out and vote.
- Councilor Blaise commented on the Dispatcher’s Contract and state that he was against the COLA increases and felt the town needed to look at this at some point.
- Councilor St. Clair apologized to the Chair for her outburst, but she took personal offense to some of the comments that were made during the public comment period. If anyone has any issues, they can speak with any Councilor. She then addressed a couple of emails that she had received since the approval of the budget. She made the choice to support the budget so it could go out to the voters to decide.
- Councilor Caterina thanked Councilor Hayes for his comments. Voter should get energized in the election and remember to keep it civil as we all are neighbors. She also agreed with Councilor St. Clair on her comments regarding email, adding that one can get further if the emails are constructive.
- Councilor Donovan spoke on allocating money for non-profits. He strongly supports the money that was approved. These monies will go to those in need here in Scarborough.
- Councilor Chair Holbrook sent condolences to the family of Melanie Fengler. She too spoke on the budget and the process. There are no reason to be rude or argumentative. There could possibly be a little more money coming in from Augusta, but we will not know that until mid-summer. I have never been called a terrorist before – that is a new one.

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

Vote: 6 Yeas.

Meeting adjourned at 7:53 p.m.

Respectfully Submitted,

Yolande P. Justice
Town Clerk