

**MINUTES
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – FEBRUARY 15, 2017
REGULAR MEETING – 7:00 P.M.**

Item 1. Call to Order. Chairman Babine called the regular meeting of the Scarborough Town Council to order at 7:04 p.m.

Item 2. Pledge of Allegiance.

Item 3. Roll Call. Roll was called by Yolande P. Justice, Town Clerk. Thomas J. Hall, Town Manager, was also present.

William J. Donovan	Katherine A. St. Clair, Vice-Chair [Absent]
Robert W. Rowan	Peter F. Hayes
Kathleen M. Foley [Absent]	Christopher J. Caiazzo
Shawn A. Babine, Chairman	

Chairman Babine noted that Councilors Foley and St. Clair were away on business.

Item 4. General Public Comments. None at this time.

Item 5. Minutes: February 1, 2017 – Regular Meeting. Motion by Councilor Rowan, seconded by Councilor Hayes, to move approval of the minutes of the February 1, 2017, regular Town Council meeting.

Vote: 5 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. 17-013, 7:00 p.m. Public Hearing and action on the new request for a Combined Massage Establishment/Massage Therapist License from Jamil-Jalim Ritch, d/b/a Ritch Massage & Skincare, located at 51 US Route One, Suite R-2. [Town Clerk] Chairman Babine opened the public hearing, as there were not comments either for or against the hearing was closed at 7:06 p.m.

Motion by Councilor Donovan, seconded by Councilor Rowan, to move approval on the new request for a Combined Massage Establishment/Massage Therapist License from Jamil-Jalim Ritch, d/b/a Ritch Massage & Skincare, located at 51 US Route One, Suite R-2.

Vote: 5 Yeas.

OLD BUSINESS: None at this time.

NEW BUSINESS:

Order No. 17-014. First reading and schedule a public hearing on the proposed amendments to Chapter 601- the Town of Scarborough Traffic Ordinance, Section 25. Parking Restrictions, subsection A.IV-1. Pine Point. [Ordinance Committee] Thomas J. Hall, Town Manager, gave a brief overview on this Order. Angela Blanchette, Town Engineer, gave a brief presentation on the proposed changes that was before the Town Council and responded to questions from the Town Council.

Motion by Councilor Donovan, seconded by Councilor Hayes, to move approval of the first reading the proposed amendments to Chapter 601- the Town of Scarborough Traffic Ordinance, Section 25. Parking Restrictions, subsection A.IV-1. Pine Point and schedule a public hearing for Wednesday, March 1, 2017, as follows:

CHAPTER 601
TOWN OF SCARBOROUGH
TRAFFIC ORDINANCE

BE IT HEREBY ORDAINED, by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that Chapter 601 - - the Traffic Ordinance of the Town of Scarborough, Maine is amended by adding the underlined text, as shown below:

Section 25. Parking Restrictions.

A. PARKING RESTRICTIONS

I. NO PARKING AT ANY TIME.

IV-1. PINE POINT (from May 1 to September 15 of each year).

- (1) On Pine Point Road (formerly Depot Street) from East Grand Avenue to the Ocean.
- (2) On Pine Point Road, both sides, within twenty (20) feet of either side of the driveway opening of the Audubon Nature Center.
- (3) No parking shall be allowed on Pine Point Road from east Grand Avenue to Snow Canning Road, except for within the delineated on-street parking spaces on the southwesterly side of the road.

Vote: 5 Yeas.

Order No. 17-015. First reading and schedule a public hearing and second reading on a six month moratorium on Retail Marijuana Establishments and Retail Marijuana Social Clubs. [Ordinance Committee] Councilor Donovan gave a brief overview on this order. The following individual spoke on this Order:

- Benjamin Howard of Windsor Pines Drive stated that he did not understand the need for this Moratorium – the time is now to act and not to wait. He then spoke on stats from Colorado and Maine relating to marijuana use by teenagers. He urged the Council to not support this Order.

Motion by Councilor Rowan, seconded by Councilor Hayes, to move approval of the first reading on a six month moratorium on Retail Marijuana Establishments and Retail Marijuana Social Clubs and schedule a public hearing and second reading.

Motion by Councilor Donovan, seconded by Councilor Caiazzo, to move approval to amend the main motion to move approval of the first reading on a six month moratorium on Retail Marijuana Establishments and Retail Marijuana Social Clubs and schedule a public hearing for Wednesday, September 6, 2017.

Vote on Amendment: 5 Yeas.

Main Motion as Amended:

**TOWN OF SCARBOROUGH
ORDINANCE ESTABLISHING A MORATORIUM ON RETAIL MARIJUANA
ESTABLISHMENTS AND RETAIL MARIJUANA SOCIAL CLUBS**

WHEREAS, a referendum on legislation titled the Marijuana Legalization Act, codified at 7 M.R.S.A. Chapter 417, was approved, subject to recount, by the voters of the State of Maine on November 8, 2016; and,

WHEREAS, as enacted by the voters, the Marijuana Legalization Act will authorize the licensure and operation of retail marijuana establishments and retail marijuana social clubs as a regulated program of the State of Maine; and,

WHEREAS, the Maine Department of Agriculture, Conservation and Forestry is required to adopt rules for the proper regulation and control of the cultivation, manufacture, distribution, sale and testing of retail marijuana and retail marijuana products and for the enforcement of the Act no later than February 2018; and,

WHEREAS, 7 M.R.S.A. Section 2449, Local Licensing, allows municipalities to regulate the location, operation and licensing of retail marijuana establishments and retail marijuana social clubs and to adopt and enforce regulations for such uses; and,

WHEREAS, operations related to retail marijuana establishments and retail marijuana social clubs raise a number of concerns related to public safety and welfare, including, but not limited to, potential adverse effects on neighborhoods, security of the facilities, and odors that may create a public nuisance or hazard; and,

WHEREAS, there has been an increasing number of requests regarding the establishment of facilities for the cultivation and/or retail sales of marijuana; and,

WHEREAS, the Town's existing ordinances do not provide an adequate mechanism to regulate and control the location and operation of retail marijuana establishments and retail marijuana social clubs and are inadequate to prevent the potential for serious public harm from the future establishment of retail marijuana establishments and retail marijuana social clubs; and,

WHEREAS, the Town needs a reasonable amount of time to study the land use implications of retail marijuana establishments and retail marijuana social clubs, to review the rules and regulations to be developed by the Maine Department of Agriculture, Conservation and Forestry and to develop reasonable regulations governing their location and operation; and,

WHEREAS, during the period of this Moratorium, the Town will work on developing appropriate land use regulations concerning retail marijuana establishments and retail marijuana social clubs; and,

NOW THEREFORE, pursuant to the authority granted to it by 30-A M.R.S. § 4356, be it hereby ordained by the Scarborough Town Council, assembled as the legislative body of the Town, as follows:

1. **DEFINITIONS.** As used in this Ordinance, the following terms have the following meanings as defined in the Marijuana Legalization Act:

“Marijuana”: means cannabis.

“Retail Marijuana Establishments”: a retail marijuana store, a retail marijuana cultivation facility, a retail marijuana products manufacturing facility or a retail marijuana testing facility.

“Retail Marijuana Cultivation Facility”: an entity licensed to cultivate, prepare and package retail marijuana and sell retail marijuana to retail marijuana establishments and retail marijuana social clubs.

“Retail Marijuana Products Manufacturing Facility”: an entity licensed to purchase retail marijuana; manufacture, prepare and package retail marijuana products; and sell retail marijuana and retail marijuana products only to other retail marijuana products manufacturing facilities, retail marijuana stores and retail marijuana social clubs.

“Retail Marijuana Social Club”: An entity licensed to sell retail marijuana and retail marijuana products to consumers for consumption on the licensed premises.

“Retail Marijuana Store”: an entity licensed to purchase retail marijuana from a retail marijuana cultivation facility and to purchase retail marijuana products from a retail marijuana products manufacturing facility and to sell retail marijuana and retail marijuana products to consumers.

“Retail Marijuana Testing Facility”: an entity licensed and certified to analyze and certify the safety and potency of retail marijuana and retail marijuana products.

2. APPLICABILITY AND PURPOSE.

This moratorium shall apply to retail marijuana establishments and retail marijuana social clubs, as defined above, that are proposed to be located within the Town of Scarborough on or after the effective date of this Ordinance. Notwithstanding anything to the contrary in 1 M.R.S.A. § 302 or any other law, this Ordinance applies to any application relating to the establishment or operation of a proposed retail marijuana establishment and retail marijuana social club, whether or not such application had become a “pending proceeding” as defined in 1 M.R.S.A. § 302 prior to the enactment of this Ordinance.

3. PROHIBITION.

During the time this Ordinance is in effect, no official, officer, board, body, agency, agent or employee of the Town of Scarborough shall accept, process or act upon any application for any approval, including but not limited to a building permit, certificate of occupancy, site plan review, conditional use, or any other approval, received after the effective date of this Ordinance relating to the establishment or operation of a business or operation of a retail marijuana establishment and/or retail marijuana social club. No person shall establish or operate a business or operation of a retail marijuana establishment and/or retail marijuana social club within the Town of Scarborough that was proposed on or after the effective date of this Ordinance.

4. ENFORCEMENT, VIOLATION AND PENALTIES.

This Ordinance shall be enforced by the Scarborough Code Enforcement Officer. Any person who violates Section 3 of this ordinance shall be subject to civil penalties and other remedies as provided in 30-A M.R.S.A. § 4452.

5. EFFECTIVE DATE.

This Ordinance takes effect immediately upon adoption and shall expire on the 180th day thereafter, unless earlier extended by the Scarborough Town Council.

6. SEVERABILITY.

Should any section or provision of this Ordinance be declared by any court to be invalid, such a decision shall not invalidate any other section or provision.

Vote: 5 Yeas,

Order No. 17-016. Act on the request from the Police Department to authorize submission of a Community Development Block Grant [CDBG] in the amount of \$33,000 for Operation Hope. [Police Department] Thomas J. Hall, Town Manager, gave a brief overview on this Order. Dave Grover, Police Captain, responded to questions from the Town Council.

Motion by Councilor Rowan, seconded by Councilor Hayes, to move approval on the request from the Police Department to authorize submission of a Community Development Block Grant [CDBG] in the amount of \$33,000 for Operation Hope.

Vote: 5 Yeas.

Order No. 17-017. Act on the request to accept a \$500 grant from the Natural Resources Council of Maine for the food waste pilot program and authorize the Town Manger to sign the grant document. [Sustainability Coordinator] Thomas J. Hall, Town Manager, gave a brief overview on this Order.

Motion by Councilor Rowan, seconded by Councilor Hayes, to move approval to accept a \$500 grant from the Natural Resources Council of Maine for the food waste pilot program and authorize the Town Manger to sign the grant document.

Vote: 5 Yeas.

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

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

- Councilor Donovan gave an update on the Energy Committee and the Ordinance Committee.
- Councilor Hayes gave an update on the Public Safety Building Committee; the Coastal Water & Harbor Committee and the Shellfish Conservation Commission.
- Councilor Caiazzo gave an update on the Long Range Planning Committee and the Appointments Committee – the following names were posted:

Parks and Conservation Land Board:

Appoint Rebel Douglas as a full voting member, with a term to expire in 2018

Senior Advisory Board:

Appoint Jean-Marie Caterina, as a full voting member with a term to expire in 2018

Shellfish Conservation Commission:

Re-appoint Terry Twomey and Robert Willette as full voting members, with a terms to expire in 2019.

- Chairman Babine commented the Workshop that had been held prior to the Town Council meeting of the East/West Corridor and encouraged residents to watch it. He added that he would have the Goals document to the Town Council before the next meeting.

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

- Fourth Annual Community Dialogue would be held on Thursday, March 9th from 5:00 to 8:00 p.m. at the Wentworth School.
- WinterFest would be held this coming weekend – Saturday, February 18th from Noon to dusk.

Item 11. Council Member Comments.

- Councilor Caiazzo mentioned the Fuel Rally that had been held on February 4th raised over \$10,000 in two hours and contributions are still welcomed for this program. Project GRACE is over \$17,000 which includes matching donations from Classic Eyewear and Eddie Wooden. He went on to list all those who were sponsors for this event and thank you for the town employees for their donations as well.

- Councilor Rowan thanked Rachel Cummings for her letter relating to litter on the beach. He mentioned that the Council would be hearing from a Committee whom is discussing placement of a monument in honor of the Battle of Moore's Brook.
- Councilor Donovan noted that he had spoken with two the new employees – Kerry Strout, the Sustainability Coordinator and Larissa Crockett, the Assistant Town Manager both of whom are well versed in their specific field.
- Chairman Babine encouraged residents to “Adopt a Hydrant.” He thanked Public Works and Public Safety for a job well done on this past storm. He noted that Absentee ballots available were still available until Thursday, February 23rd. He would be speaking at the Kiwanis meeting. He thanked Stephanie Cox for organizing the Fuel Rally and to all the volunteers who help make it work.

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

Vote: 5 Yeas,

Meeting adjourned at 8:23 p.m.

Respectfully submitted,

Yolande P. Justice
Town Clerk