

MINUTES
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – MAY 3, 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 7:08 p.m. He noted that the late start was due to the workshop that was held prior to the Council meeting.

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
Robert W. Rowan	Peter F. Hayes
Kathleen M. Foley	Christopher J. Caiazzo
Shawn A. Babine, Chairman	

Item 4. General Public Comments.

- Eileen Richer of East Grand Avenue spoke on Avenue Five and the process that had been followed regarding the construction of a new fence that had been built on this location. She asked why there had been no input from the public.
- Mo Erickson of Pine Point Road suggested that at the next workshop the group should face the public. She went on to comment about Avenue Two and how she felt that was a “done deal”. She asked the Council to listen to the people and felt that the Council needs to represent the people and urged the Council to keep Pine Point as is.
- Susan Hamill of Bay Street also spoke on Avenue Two and how surprised everyone was to see the legal documents that had been posted late Friday afternoon and that were ready to sign. She spoke on the proposal that was presented and how she felt that it was similar to the one back in February. She felt that the government should defend the people.
- Genève Johnson of Black Point Road spoke as to why she moved back to the Scarborough and her connection to 37 King Street [her grandparents home]. Consider the setback for the condos and ask why these setbacks were put in place.
- John Thurlow of King Street also spoke on Avenue Two and the discontinuances that had occurred in the Pine Point area. Please slow down the process and consider what residents want
- Don Hamill of Bay Street also spoke on Avenue Two and voiced his concerns around the form of government that is currently in place. He was discouraged with what is currently in place.

Item 5. Minutes: April 19, 2017 – Regular Meeting. Motion by Councilor St, Clair, seconded by Councilor Rowan, to move approval of the meeting minutes of the April 5, 2017, regular Town Council meeting.

Vote: 7 Yeas.

Item 6. Adjustment to the Agenda. Chairman Babine noted that he would be adding an item to the agenda under Item 8. Non Action Items which would be to discuss what next steps on should be taken on Avenue Two.

Item 7. Items to be signed: a. Treasurer’s Warrants. Treasurer’s Warrants were signed during the meeting.

Item 8. Non Action Items

- a. **Discussion on the Workshop Avenue Two.** Thomas J. Hall, Town Manager, noted that the Council could do nothing or act on what is currently before you. There could be additional meetings and this item would not come before the council until June. Explaining what the process would be to – public hearing in June and second reading the second meeting in June to make a decision. Council discussion ensued regarding the process and did not want anything until the June meetings. Some felt that Mr. Leonie should be made part of the discussion and St Clair and Foley would not support the current proposal. Some felt that residents should be able to work together to see if they could resolve the issue. Another workshop prior to the next Town Council workshop on May 17th for Council only discussion. Please be clear with concerns so that they can be addressed.
- b. **Presentation on the Food Waste Recycling Program by Kerry Strout Grantham.** Kerry Strout Grantham, the Sustainability Coordinator gave a brief presentation on the Food Waste Recycling Pilot Program will be conducted in the Pleasant Hill Area. She noted that those who are not in the target area can take their waste to drop-off points at Walmart, Veterans Home and Hannaford.

Resolution 17-002. Act on the request to support Resolution 17-002, Supporting Community approach to expanding distributed power generation options for municipalities, businesses and homeowners. *[Energy Committee]* Kerry Strout Grantham, the Sustainability Coordinator, spoke briefly on this Resolve.

Motion by Councilor Donovan, seconded by Councilor St. Clair, to move approval and waive the reading on the request to support Resolution 17-002, Supporting Community approach to expanding distributed power generation options for municipalities, businesses and homeowners, as follows:

TOWN OF SCARBOROUGH, MAINE

RESOLUTION 17-002

**SUPPORTING COMMUNITY APPROACH TO EXPANDING
DISTRIBUTED POWER GENERATION OPTIONS FOR
MUNICIPALITIES, BUSINESSES AND HOMEOWNERS**

BE IT RESOLVED by the Council of the Town of Scarborough, Maine, in Town Council assembled that,

WHEREAS, historically the generation of power locally was a major factor driving community and economic development in towns and cities across Maine and New England; and,

WHEREAS, the ability of a municipality to offer locally generated power at stable long term rates would be important tool for supporting sustainable community and economic development; and,

WHEREAS, advances in technology and declines in installed system prices now make a variety of community scale options viable; and,

WHEREAS, at the end of 2016 the cost of power generated by community based renewable energy systems was in the range of \$0.049 to \$0.078/kWh and thus competitive with other sources; and

WHEREAS, there are currently over 1,800 acres of closed and capped municipal landfills in Maine for which there are few, if any, common reuse or redevelopment options; and,

WHEREAS, U.S. EPA has determined that developing solar power projects on capped landfills and other brownfield sites often represents the best reuse option; and,

WHEREAS, generating power at or near the location where the power is used can be a cost effective option both to minimize stress on the transmission grid and to minimize the cost to all ratepayers of grid expansion projects; and,

WHEREAS, Maine's current regulations governing distributed power generation, which limit system size and the number of users or locations that can subscribe to power from a local source, create significant barriers to developing cost effective projects in Maine communities; and,

WHEREAS, in 2015 and 2016 many parties participated in a stakeholder process at the Public Utilities Commission and in a subsequent legislative process in support of statutory changes that would have created a framework for, and removed barriers to, community distributed generation projects; and,

WHEREAS, last year a comprehensive and collaboratively supported solar bill (LD 1649) won broad bipartisan support in both the House and Senate but fell short of enactment, after which the Maine Public Utilities Commission voted to phase out net metering even in the absence of any new policy; and,

WHEREAS, there are four (4) bills pending in the current legislative session that in one way or another intend to advance reforms to solar policy in Maine; and,

NOW, THEREFORE, BE IT HEREBY RESOLVED, that the Town of Scarborough generally supports reforms to solar policy that enable the development of cost-effective municipal, small business and community solar projects in Maine and urges the First Regular Session of the 128th Maine Legislature to adopt these changes; and,

BE IT FURTHER RESOLVED, that the Town Manager as well as the Sustainability Coordinator are authorized to communicate the Council's support of the same to the Legislature's Energy and Utilities Committee, to State Representatives and Senators, to the Public Utilities Commission and to other municipalities.

Signed and sealed this the 3rd day of May 2017, on behalf of the Scarborough Town Council and the Town Manager of Scarborough, Maine. Signed by Shawn Babine, Council Chair and attested by Yolande P. Justice, Town Clerk.

Vote: 7 Yeas.

Order No. 17-030, 7:00 p.m. Public Hearing and schedule a second reading on the proposed FY2018 Municipal/School Budget. [Town Manager] Chairman Babine opened the public hearing. The following individuals spoke on this Order:

- Hillary Jorgenson of Scarborough spoke in support of the proposed budget and urged the Town Council to vote in favor.
- Ben Howard of Windsor Pines spoke on the proposed budget noting that he did not find the budget document informative if anything it left him with a number of questions. He would be emailing individuals in hopes of finding the answers to these questions.
- Sara Mullen of Gunstock Road spoke on the school budget and asked that the Council support the School Budget as presented by the School Board.
- Larry Hartwell of Puritan Drive spoke on the proposed budget and spoke in support of the Libraries budget. He asked the town council to put the monies back in the Library Budget that had been cut.
- Wallace Fengler of Holmes Road spoke on the taxes and how they have gone up. At 77 he still has to work in order to help pay for his taxes. He further commented on the impact fees and how they affect the town and suggested that these fees be increased to help offset town taxes.

- Meghan Fallon of Sequoia Lane spoke in support of the School Budget.
- Stacey Neumann of Windsor Pines Drive supported the School Budget and asked that it be put to the voters as recommended by the School Board.
- Josh Gelfand of Nutter Way spoke in support of the proposed school budget.
- Drew Stevens of Surry Lane spoke in support of the School Budget, noting the people move to Scarborough because of the school system.
- Ben Howard of Windsor Pines Drive further commented on the budget and stated that you do not throw money at problems ---- you must find what the problems are.

There being no further comments, the hearing was closed at 8:25 p.m. The second reading on the proposed FY2018 Municipal/School Budget will be held on Wednesday, May 17, 2017.

Order No. 17-036, 7:00 p.m. Public hearing and second reading on the proposed new ordinance entitled Town of Scarborough - Good Neighbor Ordinance. [Ordinance Committee]
Chairman Babine opened the public hearing. There being no comments either for or against, the hearing was closed at 8:27 p.m.

Motion by Councilor Donovan, seconded by Councilor Rowan, to move approval of the second reading on the proposed new ordinance entitled Town of Scarborough - Good Neighbor Ordinance.

Motion by Councilor Rowan, seconded by Councilor Foley, to move approval to amend the main motion, by striking in Section 2.b.(4).a and replacing it with reference to Chapter 604- Animal Control Ordinance section 604-8. Animal Noise

(4.) Specific prohibitions.

The following acts, among others, are declared to be loud, boisterous, unnecessary or unusual noises which shall annoy, disturb, injure, or endanger the comfort, repose, health, peace, or safety of others in violation of this ordinance, but such enumeration shall not be deemed to be exclusive:

- (a-) Excessive animal noise shall be regulated by the provisions in Chapter 604 – Animal Control Ordinance section 604-8 Animal Noise. ~~Ownning, possessing, or harboring a barking dog or any animal or bird which, frequently and repeatedly or for continued duration, makes sounds which create a noise disturbance across a property line onto residential property. For the purpose of this ordinance, a barking dog shall mean a dog that barks, bays, cries, howls, or makes any other noise continuously and/or incessantly for a period of ten minutes or barks intermittently for one half hour or more to the disturbance of any person at any time of day or night, regardless of whether the dog is physically situated in or upon private property; provided, however, that a dog shall not be deemed a “barking dog” for purposes of this ordinance if, at the time the dog is barking or making any other noise, a person is trespassing or threatening to trespass upon private property in or upon which the dog is situated. Frequent and repeated sounds by any animal which are reasonable in response to the use of consumer fireworks shall not be considered a violation of this ordinance. [Amended 03/07/2012]~~

Vote on Amendment: 7 Yeas.

Vote on main motion as amended:

BE IT HEREBY ORDAINED, by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the new Chapter 611 – Good Neighbor Ordinance of the Town of Scarborough, Maine is hereby adopted, as follows:

TOWN OF SCARBOROUGH
Good Neighbor Ordinance

1. PURPOSE.

The Scarborough Town Council recognizes certain basic standards that allow residents to enjoy their homes and property, preserve peace and quiet in our neighborhoods, help maintain property values and prevent disputes among neighbors. The purpose of this ordinance is to promote these standards and allow for enforcement of violations.

2. CREATION OF NOISE NUISANCES

(a.) **Purpose.** The Scarborough Town Council finds that excessive noise on the public ways may cause distraction to other drivers and preclude the safe operation of motor vehicles to the detriment of the health, welfare and safety of Scarborough’s citizens. Accordingly, it is the policy of the Town of Scarborough to prohibit unnecessary, excessive, annoying and distracting noise on the public right-of-way within the Town of Scarborough. The Town Council also finds that people have a right to the peaceful enjoyment of their property and that excessive or continuous noise may limit that enjoyment. Accordingly, it is the policy of the Town of Scarborough to discourage the creation of unnecessary and unpleasant noise when such noise negatively affects surrounding residents.

(b.) **Definitions.** For the purpose of this article, the following words and phrases shall have the following meanings:

Town means the Town of Scarborough, Maine.

Noise-creating devices means any electrical, mechanical or chemical device or instrument, or combination thereof that creates noise during its operation by a person.

Motorcycle means an unenclosed motor vehicle, having a saddle for the use of the operator, with two or three wheels in contact with the ground, including, but not limited to, motor-scooters and mini-bikes.

Operation means actual control by a person.

Public right-of-way means any street, roadway, alley, sidewalk, or other area deeded or dedicated for public travel or transportation purposes.

Straight pipe exhaust system means any straight through muffler that does not contain baffles, including, but not limited to, glass packs, steel packs and straight pipes.

A. Noise Upon Public Right-of-Way.

(1.) Creation of Certain Noises upon Public Right-of-Way Prohibited.

- (a.)** No person, while occupying any public right-of-way in the Town, shall operate any noise-creating device in such a manner that the public's attention is drawn to the source of the noise.
- (b.)** The prohibition of this section shall include, but not be limited to, the following activity or conduct:
 - i. Discharging fireworks or any exploding device,
 - ii. Firing a starter pistol, air gun, BB gun or a firearm,
 - iii. Sounding a bell or whistle for so extended a period of time as to cause annoyance to others,
 - iv. Rapid throttle advance and/or revving of an internal combustion engine resulting in increased noise from the engine,
 - v. Operations of a motor vehicle, as defined in 29-A M.R.S.A. §101 (42), including but not limited to a motorcycle, with a straight pipe exhaust system, an exhaust system with a cutout, bypass or similar device or an exhaust system that does not meet the requirements of Maine law, including, but not limited to, 29-A M.R.S.A §1912.

(2.) Exceptions. The provisions of this section shall not apply to the following activity or conduct:

- (a.)** Expression or communication protected by the United State's Constitution, including the First Amendment, or the Maine Constitution.
- (b.)** Any activity or conduct the regulation of which has been preempted by Maine Statute.
- (c.)** Any noise created by a governmental entity in the performance of an official duty.
- (d.)** Any noise for which a permit has been issued by an authority having jurisdiction to issue the permit.
- (e.)** The sounding of any signaling device permitted by law.

(3.) Engine Brake. A person operating a motor vehicle in the Town of Scarborough shall not use an unmuffled engine brake to slow the vehicle except in an emergency situation for the purpose of avoiding a collision with a vehicle, object, person or animal. As used in this section, "engine brake" means a device that retards the motion of a motor vehicle by using the compression of the engine of the motor vehicle and "unmuffled" means that the engine brake is not equipped with a muffler which complies with the requirements of 29-A M.R.S.A. section 1912. This section does not apply to emergency response vehicles operated by a governmental entity or licensed provider of emergency medical services.

B. Noise Abatement.

(1.) Loud, offensive noises prohibited.

No person shall make, continue, or cause to be made or continued any loud, boisterous, unnecessary or unusual noises which shall annoy, disturb, injure, or endanger the comfort, repose, health, peace, or safety of others.

(2.) Definitions.

For the purpose of this article, the following words and phrases shall have the following meanings:

Daytime hours means the hours between 7:00 a.m. and 9:00 p.m. Monday through Thursday; between 7:00 a.m. and 10 p.m. Friday through Saturday; and between 9:00 a.m. and 9:00 p.m. on Sunday.

Domestic power equipment means but is not limited to power saws, drills, grinders, lawn and garden tools, and other domestic power equipment intended for use in residential areas by a homeowner.

Nighttime hours means the hours between 9:00 p.m. and 7:00 a.m. Sunday evening through Friday morning; between 10:00 p.m. and 7:00 a.m. Friday evening through Saturday morning; and between 10:00 p.m. and 9:00 a.m. Saturday evening through Sunday morning.

Property line means that line along the ground surface and its vertical extension which:

- (1.) Separates real property owned or controlled by any person from contiguous real property owned or controlled by another person; or
- (2.) Separates real property from the public right-of-way.

(3.) Exclusions.

This ordinance shall not apply to noise emitted by or related to:

- (1.) Any bell or chime from any building clock, school, or church.
- (2.) Any siren, whistle, or bell lawfully used by emergency vehicles or any other alarm systems used in an emergency situation; provided, however, that burglar alarms or car alarms not terminating within 30 minutes after being activated shall be unlawful.
- (3.) Warning devices required by the Occupational Safety and Health Administration or other state or federal safety regulations.
- (4.) Farming equipment or farming activity.
- (5.) Noise from domestic power equipment, such as but not limited to power saws, sanders, grinders, lawn and garden tools, or similar devices operated during daytime hours.
- (6.) Timber harvesting (felling trees and removing logs from the woods).
- (7.) Noise generated by any construction or demolition equipment which is operated during daytime hours. Emergency construction or repair work by public utilities shall also be exempted. The police department may allow construction during nighttime hours if it is demonstrated that the extenuating circumstances disallow construction during the daytime hours.
- (8.) Noise created by refuse and solid waste collection.
- (9.) Municipal, public works, or utility projects.
- (10.) Using, displaying, firing, or exploding consumer fireworks within the Town of Scarborough in accordance with the Consumer Fireworks Ordinance, Chapter 608A and any other applicable law or regulation.

(4.) Specific prohibitions.

The following acts, among others, are declared to be loud, boisterous, unnecessary or unusual noises which shall annoy, disturb, injure, or endanger the comfort, repose, health, peace, or safety of others in violation of this ordinance, but such enumeration shall not be deemed to be exclusive:

- (a.) Excessive animal noise shall be regulated by the provisions in Chapter 604 – Animal Control Ordinance section 604-8 Animal Noise.

- (b.) The using or operating or the permitting to be played, used, or operated of any radio, receiver, electronically amplified musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of music or sound which is audible outside of any structure during the nighttime hours or which broadcasts the sound in a loud and unreasonable manner during day-time hours which is audible a minimum of 200 feet from the source of the noise except as otherwise permitted, licensed or sponsored by the Town.
- (c.) The use of any automobile, motorcycle or other vehicle, nonessential to safe and reasonable operation, in one or more of the following ways:
 - i. Revving of motor vehicle engines.
 - ii. Squealing of tires.
 - iii. Accelerating or braking unnecessarily so as to cause a harsh, objectionable or unreasonable noise.
 - iv. Operating audio equipment clearly audible beyond the confines of a motor vehicle.

C. Enforcement.

This section of the ordinance may be enforced by any officer of the Scarborough Police Department. No person shall interfere with, oppose or resist any authorized person charged with the enforcement of this ordinance while such person is engaged in the performance of her/his duty.

Violations of this ordinance shall be prosecuted in the same manner as other civil violations; provided, however, that for an initial violation of this ordinance, a written notice shall be given to the alleged violator which specifies the time by which the condition shall be corrected. No complaint or further action shall be taken on the initial violation if the cause of the violation has been removed or the condition abated or fully corrected within the time period specified in the written notice. If the cause of the violation is not removed or the condition abated or fully corrected within the time period specified in the written notice, or if the same person commits a subsequent violation of the same provision or provisions, of this ordinance specified in the written notice, then no further action is required prior to prosecution of the civil violation.

If the alleged violator cannot be located in order to serve the notice of violation, the notice as required shall be deemed to be given upon mailing such notice by registered or certified mail to the alleged violator at her/his last known address or at the place where the violation occurred, in which event the specified time period for abating the violation or applying for a variance shall commence at the date of the day following the mailing of such notice.

3. CREATION OF LIGHTING NUISANCES.

A. Purpose. The purpose of this ordinance is to provide reasonable restrictions on the use of lighting in or near the residential zones of the Town so as to prevent lighting from creating a nuisance to residents within residential zones. It is recognized that lighting is essential to the conduct of many commercial and industrial enterprises for advertising and security. It is further recognized that protective security lighting in residential zones constitutes a deterrent to crime and contributes to the safety of residents. Further, properly controlled lighting in residential areas for landscaping and highlighting architectural features of buildings and structures enhances the aesthetics of properties and neighborhoods. However, it is equally recognized that lighting, by virtue of its intensity, brightness, direction, duration, and hours of operation, can constitute a nuisance to adjacent residential dwellers. It is hereby the intent of the Town in adopting this ordinance to encourage the

appropriate use of lighting as set forth herein, but to regulate it in a manner to avoid any public nuisance in residential areas.

B. Exceptions. All properties covered by the Town of Scarborough Site Plan Review Ordinance, 405b, are exempt from this ordinance.

C. Outdoor light restrictions

- (1.) **Light confinement.** All outdoor lights shall, to the greatest extent possible, be allowed for safety, security, operational needs, and decorative purposes but must confine emitted light to the property on which the light is located, by means of shielded or hooded lighting elements and shall not be directed upwards except where the light is directed away from neighboring properties and limited to the greatest extent possible to avoid urban sky glow.
- (2.) **Spillover light.** Spillover light on to residential property shall not exceed one-tenth (0.1) of one (1) foot-candle at the residential property line.

D. Outdoor light prohibitions

- (1.) Any unhooded light source.
- (2.) Any light that creates glare observable within the normal range of vision of any public right-of-way or glare that creates a safety hazard.
- (3.) Any light that resembles an authorized traffic sign, signal or device, or that interferes with, misleads, or confuses vehicular traffic as determined by the Chief of Police or designee.

E. Enforcement

- (1.) This section of the ordinance may be enforced by any Code Enforcement or Law Enforcement officer.
- (2.) No person shall interfere with, oppose, or resist any authorized person charged with the enforcement of this ordinance while such person is engaged in the performance of her/his duty.
- (3.) Violations of this ordinance shall be prosecuted in the same manner as other civil violations; provided, however, that for an initial violation of this ordinance, a written notice of violation may be given to the alleged violating homeowner/responsible party which specifies the time by which the condition shall be corrected. No complaint or further action shall be taken on the initial violation if the cause of the violation has been removed or the condition abated or fully corrected within the time period specified in the written notice of violation. If the cause of the violation is not removed nor the condition abated or fully corrected within the time period specified in the written notice of violation, or if the same homeowner/responsible party commits a subsequent violation of the same provision or provisions, of this ordinance specified in the written notice, then no further action is required prior to prosecution of the civil violation. If the alleged violating homeowner/responsible party cannot be located in order to serve the notice of violation, the notice as required shall be deemed to be given upon mailing such notice by registered or certified mail to the alleged violating homeowner/responsible party at her/his last known address or at the place where the violation occurred, in which event the specified time period for abating the violation or applying for a variance shall commence at the date of the day following the mailing of such notice.

4. PENALTIES.

A. Noise Violations

Violation of the noise sections of this ordinance are a civil violation punishable by the following civil penalties:

(1) First Offense:	\$50.00
(2) Second Offense:	\$100.00
(3) Third Offense:	\$200.00
(4) Fourth and Subsequent Offenses:	\$500.00

B. Lighting Violations

Any person found to be in violation of the lighting section of this ordinance or who fails to obey any lawful order of any officer charged with the enforcement of the provisions contained therein commits a civil violation and shall be fined between \$100 to \$2,500 for each day such violation continues after the time for correction of the violation specified in the written notice of violation under Section E (3) has expired.

5. SEVERABILITY.

Should any section or provision of this ordinance be determined in a court of law to be unconstitutional, invalid or unenforceable, such determination shall not affect the validity of any other portion of the ordinance or of the remainder of the ordinance as a whole.

6. EFFECTIVE DATE AND REPEAL OF PRIOR ORDINANCE

This ordinance repeals Chapter 614, Noise Abatement Ordinance, adopted on November 7, 2007 and amended March 7, 2012 and repeals and replaces Chapter 611, Noise Ordinance, adopted August 20, 2003.

Vote: 7 Yeas.

Order No. 17-040, 7:00 p.m. Public Hearing and action on the new request for a Food Handlers License from Karl and Sarah Sutton, d/b/a Bite Into Maine, located at 185 US Route One, #2. [Town Clerk] Chairman Babine opened the public hearing. As there were no comments either for or against, the hearing was closed at 8:35 p.m.

Motion by Councilor St. Clair, seconded by Councilor Hayes, to move approval on the new request for a Food Handlers License from Karl and Sarah Sutton, d/b/a Bite Into Maine, located at 185 US Route One, #2.

Vote: 7 Yeas.

Order No. 17-041, 7:00 p.m. Public Hearing and action on the new request for a Combined Massage Establishment/Massage Therapist license from Stefanie M. Averill, d/b/a Stefanie Averill Massage Therapy, located at 51 US Route One, Suite R2. [Town Clerk] Chairman Babine opened the public hearing. As there were no comments either for or against, the hearing was closed at 8:36 p.m.

Motion by Councilor St. Clair, seconded by Councilor Hayes, to move approval on the new request for a Combined Massage Establishment/Massage Therapist license from Stefanie M. Averill, d/b/a Stefanie Averill Massage Therapy, located at 51 US Route One, Suite R2.

Vote: 7 Yeas.

OLD BUSINESS:

Order No. 17-037. Second reading on the Bond Order for the 2017 Municipal and School Capital Improvement Projects of the Town of Scarborough. [*Finance Director*] Thomas J. Hall, Town Manager, gave a brief overview on this order and responded to questions from the Town Council. He noted that one item listed in the Bond relating to the PW Fuel Station Replacement would need to go out to the voters.

The following individuals spoke on this Order:

- Larry Hartwell of Puritan Drive spoke in support of the Fuel Station Replacement going to vote and felt that it was an honest mistake.

Motion by Councilor Donovan, seconded by Councilor Hayes, to move approval of the second reading on the Bond Order for the 2017 Municipal and School Capital Improvement Projects of the Town of Scarborough.

Motion by Councilor Hayes, seconded by Councilor Rowan, to move approval to amend the main motion as recommended by the Town Manager by making the following adjustments to the proposed Bond Order by adjusting the Loader/Backhoe #4042 from 92,198 to 89,680 and removing the PW Fuel State Replacement.

Vote on amendment: 7 Yeas.

Vote on main motion as amended:

BOND ORDER FOR

2017 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>Municipal - Capital Equipment/Projects</u>	<u>Bond Order</u>
	<u>Amount</u>
<u>2016-2017 Municipal</u>	
Plow Truck # 4025	169,289
Loader/ Backhoe #4042	89,680
Snow Blower for Loader	95,370
PW Floor Sweeper #4157	55,580
PW HVAC Replacement /Efficiency Upgrades	82,000
CS Senior Recreation Area	100,000
PL Eastern Trail Improvements (Local Match)	216,700
PW Mid-Level Road Rehabilitation	543,000
PW Subsurface Drainage Assessment Project	118,750
PW Gorham Rd Reconstruction Final Plans	70,000
PW Pine Point Road Master Planning	150,000
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	1,690,366
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Prior Municipal Capital Budget Authorizations

F.D. Extrication Tool Upgrade Project	13,803
F.D. Tank 3 Re-chassis	33,925
F.D. Municipal Holding Tank	25,000
SWAT Equipment Replacement	39,800
Gorham Rd Engineering	35,000
Cummings Rd Reconstruction	250,000
Fuel Station Replacement Engineering & Permitting	25,000
Planning Gorham Rd Pedestrian Improvements	110,000
Town-Wide Direction Signage Program Phase 2	22,000
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	554,528
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Total Municipal Bond Order Request

2,244,894

School - Capital Equipment/Projects

2016-2017 School

School Bus Replacement Schedule	310,830
Furnishings Replace & Renew	50,000
HS Athletics Equipment	50,000
K-2 Tech Refresh	194,275
Building Envelope Maintenance	125,000
Energy Efficiency Upgrades	60,000
HVAC Repairs MS & K2	100,000
Roof Restoration	238,500
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	1,127,605
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Prior School Capital Budget Authorizations

DW Technology Equip Replacement	135,000
School Bus Purchase	22,501
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	157,501
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Total School Bond Order Request

1,285,106

Total Bond Order April 19, 2017

3,530,000

BE IT FURTHER ORDERED, That a sum, not to exceed \$3,530,000, is hereby appropriated to provide for the costs of 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 \$3,530,000 and the discretion to fix the date(s), maturity(ies), denomination(s), interest rate(s), place(s) of payment, call(s) for redemption, form(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 Donovan - Yea Councilor St. Clair - Yea
 Councilor Rowan - Yea Councilor Hayes - Yea
 Councilor Foley - Yea Councilor Caiazzo - Yea
 Chairman Babine - Yea

NEW BUSINESS:

Order No. 17-042. First reading and schedule a public hearing and second reading on the proposed amendments to Chapter 302 – Town Council Rules & Policies Manual. [Rules & Policies Committee] Councilor Foley gave a brief overview on the proposed amendments on this Order.

Motion by Councilor St. Clair, seconded by Councilor Rowan, to move approval on the proposed amendments to Chapter 302 – Town Council Rules & Policies Manual and schedule a public hearing and second reading for Wednesday, May 17, 2017, was follows:

**CHAPTER 302
SCARBOROUGH TOWN COUNCIL
RULES & PROCEDURES**

BE IT HEREBY ORDAINED, by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that Chapter 302, the Town Committees/Boards Manual of the Town of Scarborough, Maine is amended, as follows:

1. Amend Section 201.0 by adding the underlined text, as shown below.

Section 201.0: Appointments To Town Committees/Boards.

Appointments to town committee/boards must go through a two-meeting process. Name(s) of individual(s) will be posted at one Council meeting and approved at the next Council meeting. Current members will serve until a replacement is named by the Appointments and Negotiations Committee and certified by the Council. The term for new appointees will be for one year unless otherwise determined by the Town Council. [amended 09/04/02; amended 04/01/15]

2. Amend Section 203.0.b. by adding the underlined text, as shown below.

203.0.b: 3 Members to the Appointments and Negotiations Committee:

The Appointments Committee shall meet from time to time and review applications for vacancies on the various Town committees/boards and make their recommendations in accordance with Section 201.0 of the Rules and Policies Manual. The Committee will provide analysis and recommendations about the Town’s collective bargaining strategy, and compensation planning.

3. Amend Section 203.1 by adding the underlined text, as shown below.

203.1: The Council Chair shall select committee members after seeking input from Councilors on committee preference. Committee appointments are subject to confirmation by a majority of the Council. The Council Chair Shall serves as an ex-officio member of all Council Standing Committees and may vote only in the absence of any regular meeting member.

4. Amend Section 201.0 by adding the new definition relating to the Communications Committee, as shown below.

203.0.d.: 3 Members to the Communications Committee:

The members of the Communications Committee will provide direction, policy oversight and business decision support for all communication efforts of the Town Council. The Committee will from time to time review and offer feedback on the Town’s current mechanisms for promoting Town Council and community engagement. The Committee may identify new strategies and resources that will foster and promote a positive and productive dialogue with community members; help facilitate improvements to existing and new communications mediums; and they will provide the Council with an annual report summarizing the committee’s activities from the previous year and recommendation for the year to come.

Vote: 7 Yeas.

Order No. 17-043. First reading and schedule a public hearing and second reading on the proposed amendment to Chapter 302A – Town Committees/Boards Manual, Article I, Appointments/Re-Appointment. [Rules & Policies Committee] Councilor Foley gave a brief overview on the proposed amendments to Chapter 302A – Town Committees/Boards Manual.

Motion by Councilor St. Clair, seconded by Councilor Hayes, to move approval on the proposed amendments to Chapter 302A – Town Committee/Boards Manual and schedule a public hearing and second reading for Wednesday, May 17, 2017, was follows:

and schedule a public hearing and second reading for Wednesday, May 17, 2017, was follows:

**CHAPTER 302A
TOWN OF SCARBOROUGH
TOWN COMMITTEES/BOARDS MANUAL**

BE IT HEREBY ORDAINED, by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that Chapter 302A, the Town Committees/Boards Manual of the Town of Scarborough, Maine is amended by adding the text, as shown below:

Article I - Appointment/Re-Appointment

Once an application for a committee/board is received in the Town Clerk’s Office, it is then copied and sent to the Appointments and Negotiations Committee for review. The Appointments Committee will then refer its recommendation(s) to the Council. Pursuant to Section 201.00 of Chapter 302 – the Rules and Policies Manual for the Scarborough Town Council: “Appointments to town committee/boards must go through a two-meeting process. Name(s) of individual(s) will be posted at one Council meeting and approved at the next Council meeting. Current members will serve until a replacement is named by the Appointments and Negotiations Committee and certified by the Council.”

Vote: 7 Yeas.

Order No. 17-044. Act on the request to accept, pursuant to Title 23 MRSA §3025 and to the requirements of Section 4 of Scarborough Street Acceptance Ordinance, from New England Expedition – Scarborough LLC, the following public infrastructure associated with the development of the Gateway Shoppes on Payne Road at Exit 42 and authorize the Town Manager to sign any necessary documents:

- a) Fee Parcel, a strip of land associated with the widening of Payne Road and within land of the Grantor, as described in Book 24960, Page 99.
- b) Slope and Drainage Easement, as depicted on Planning Board approved plans for the purpose of granting rights, but not obligation, to the Town of Scarborough to enter upon the easement area to provide maintenance in order to continue operation of the stormwater facility.

[Town Engineer] Angela Blanchette, Town Engineer, gave a brief overview on this Order and responded to questions from the Town Council. Rick Shinay, attorney at Drummond Woodsum, noted that this was a housing keeping issue that should have been done a while ago. In response to a question from Wallace Fengler regarding what documents would be signed by the Town Manager Mr. Shinay noted that there is a tax form that would require the Manager's signature.

Motion by Councilor St. Clair, seconded by Councilor Rowan, to move approval to accept, pursuant to Title 23 MRSA §3025 and to the requirements of Section 4 of Scarborough Street Acceptance Ordinance, from New England Expedition – Scarborough LLC, the following public infrastructure associated with the development of the Gateway Shoppes on Payne Road at Exit 42 and authorize the Town Manager to sign any necessary documents:

- a) Fee Parcel, a strip of land associated with the widening of Payne Road and within land of the Grantor, as described in Book 24960, Page 99.
- b) Slope and Drainage Easement, as depicted on Planning Board approved plans for the purpose of granting rights, but not obligation, to the Town of Scarborough to enter upon the easement area to provide maintenance in order to continue operation of the stormwater facility.

Vote: 7 Yeas.

Order No. 17-045. Act on the request, pursuant to Title 23 MRSA §3025 and to the requirements of Section 4 of Scarborough Street Acceptance Ordinance to the drainage easement associated with the Burnham Heights Subdivision as depicted in Planning Board approval documents dated, January 26, 2015 and to authorize the Town Manager to sign any necessary document. *[Town Engineer]* Motion by Councilor Rowan, seconded by Councilor St. Clair, to move approval of, pursuant to Title 23 MRSA §3025 and to the requirements of Section 4 of Scarborough Street Acceptance Ordinance to the drainage easement associated with the Burnham Heights Subdivision as depicted in Planning Board approval documents dated, January 26, 2015 and to authorize the Town Manager to sign any necessary document.

Vote: 7 Yeas.

Order No. 17-039. Act on the request to set the date, time and location of the School Budget Validation Referendum Tuesday, June 13, 2017. *[Town Clerk –Tabled from the April 19th Town Council meeting]* Motion by Councilor , seconded by Councilor , to move approval on the request to set the date, time and location of the School Budget Validation Referendum, as follows:

**WARRANT
SCHOOL BUDGET VALIDATION REFERENDUM ELECTION
(20-A M.R.S.A. § 1486 and 2307)
TOWN OF SCARBOROUGH**

Tuesday, June 13, 2017

Municipality: Scarborough

Voting District: Town Wide

Voting Place Name: Scarborough Municipal Building

Voting Location: 259 US Route One

Polls Open at 7:00 A.M.

Polls Close at 8:00 P.M.

Absentee Ballot Processing (check all that apply):

Processed by: Clerk (Centrally) **X** Warden (At Polls)

Date/Time of Processing:

X **Monday, June 12, 2017** Early Processing of Absentee Ballots:

1-Hour Inspection Time: 9:00 A.M. IF NO INSPECTION IS REQUESTED OR

Time Processing Begins: 10:00 A.M. IF INSPECTION HAS BEEN REQUESTED.

X **During** Election Day (6/13) Processing Time(s): 8:00 a.m. 11:00 a.m. 3:00 p.m. AND
AFTER

Only after 8:00 p.m. on Election Day (6/13)

Cumberland County, ss.

State of Maine

TO: Robert A. Moulton, the Chief of Police for the Town of Scarborough:

You are hereby required in the name of the State of Maine to notify the voters of the Town of Scarborough of the School Budget Validation Referendum Election, as described in this warrant.

To the Voters of the Town of Scarborough:

You are hereby notified that a School Budget Validation Referendum Election will held at the Scarborough Municipal Building, located at 259 U.S. Route One, in the Town of Scarborough on Tuesday, June 13, 2017, for the purpose of determining the following questions:

School Budget Validation Referendum Question No. 1:

- YES Do you favor approving the Scarborough School budget for the upcoming school
 NO year that was adopted at the latest Town of Scarborough budget meeting?
-

The Registrar of Voters will hold office hours while the polls are open to correct any error in or change a name or address on the voting list; to accept the registration of any person eligible to vote, and to accept new enrollments.

A person who is not registered as a voter may not vote in any Scarborough election.

Given under our hand this 3rd day of May, 2017, at Scarborough, Maine. Signed by a majority of the Town Council members.

Vote: 7 Yeas.

Order No. 17-046. Act on the request to hold a Special Municipal Election to place a referendum question to construct/replace a Fueling Station located on Manson Libby [as mandated by State and Federal D.E.P.] on a local Ballot and set the date, time and location of the Special Municipal Referendum for Tuesday, June 13, 2017. [Town Clerk] Motion by Councilor St. Clair, seconded by Councilor Hayes, to move approval on the request to hold a Special Municipal Election to place a referendum question to construct/replace a Fueling Station located on Manson Libby [as mandated by State and Federal D.E.P.] on a local Ballot and set the date, time and location of the Special Municipal Referendum for Tuesday, June 13, 2017, as follows:

**WARRANT
SPECIAL MUNICIPAL REFERENDUM ELECTION
(20-A M.R.S.A. § 1486 and 2307)
TOWN OF SCARBOROUGH
Tuesday, June 13, 2017**

Municipality: Scarborough

Voting District: Town Wide

Voting Place Name: Scarborough Municipal Building

Voting Location: 259 US Route One

Polls Open at 7:00 A.M.

Polls Close at 8:00 P.M.

Absentee Ballot Processing (check all that apply):

Processed by: Clerk (Centrally) Warden (At Polls)

Date/Time of Processing:

Monday, June 12, 2017 Early Processing of Absentee Ballots:

1-Hour Inspection Time: 9:00 A.M. IF NO INSPECTION IS REQUESTED OR

Time Processing Begins: 10:00 A.M. IF INSPECTION HAS BEEN REQUESTED.

During Election Day (6/13) Processing Time(s): 8:00 a.m. 11:00 a.m. 3:00 p.m. AND

AFTER

Only after 8:00 p.m. on Election Day (6/13)

Cumberland County, ss.

State of Maine

TO: Robert A. Moulton, the Chief of Police for the Town of Scarborough:

You are hereby required in the name of the State of Maine to notify the voters of the Town of Scarborough of the Special Municipal Referendum Election, as described in this warrant.

To the Voters of the Town of Scarborough:

You are hereby notified that a Special Municipal Referendum Election will held at the Scarborough Municipal Building, located at 259 U.S. Route One, in the Town of Scarborough on Tuesday, June 13, 2017, for the purpose of determining the following questions:

Referendum Question No. 1 :

Shall the Order entitled “**ORDER AUTHORIZING ISSUANCE OF UP TO \$687,482 BONDS OF THE TOWN TO FUND COSTS OF REPLACING THE 1988 PUBLIC**

WORKS FUEL STATION WHICH IS REQUIRED BY THE STATE OF MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION TO BE REPLACED BY 2018” be approved?

COUNCIL RECOMMENDATION: The Town Council supports approval of this Referendum question. Approval would assure compliance with the State of Maine Department of Environmental Protection order and avoid potential fines and penalties.

FINANCIAL STATEMENT

1. Total Indebtedness:

A. Bonds outstanding and unpaid:	\$88,875,000
B. Bonds authorized and unissued:	\$ 1,824,722
C. Bonds to be issued if this Article is approved:	\$ 687,482

2. Costs:

At an estimated maximum interest of 3.25% for a maximum twenty (20) year maturity, the estimated costs of this bond issue will be:

Principal:	\$ 687,482
Interest:	\$ 205,966
Total Debt Service	\$ 893,448

3. Validity:

The validity of the bonds and of the voters’ ratification of the bonds may not be affected by any errors in the above estimates. If the actual amount of the total debt service for the bond issue varies from the estimate, the ratification by the electors is nevertheless conclusive and the validity of the bond issue is not affected by reason of the variance.

S/ Ruth D. Porter
Town Treasurer

The Registrar of Voters will hold office hours while the polls are open to correct any error in or change a name or address on the voting list; to accept the registration of any person eligible to vote, and to accept new enrollments.

A person who is not registered as a voter may not vote in any Scarborough election.

Given under our hand this 3rd day of May, 2017, at Scarborough, Maine. A majority of the Town Council members.

Vote: 7 Yeas.

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

- Councilor Caiazzo gave an update on the Transportation Committee.
- Councilor Hayes gave an update on the Finance Committee.

- Councilor St. Clair noted that the next Communication Committee meeting would be Thursday, May 4th and the next round table on Tuesday, May 30th
- Councilor Donovan gave an update on the Planning Board, the Housing Alliance Committee and the ecomaine Board meeting.
- Councilor Rowan gave an update Historic Implementation Preservation Committee;
- Councilor Foley gave an update on the Rule & Policies Committee, the Eastern Trail Alliance and the Conservation Commission -

Item 10. Town Manager Report. None at this time.

Item 11. Council Member Comments.

- Councilor Donovan noted that plover monitors were wanted and anyone interested, please contact Kerry Strout Grantham at town hall. 740-4049 or Glennis Chabot at Higgins beach. He commented on the emails that the Town Council had received relating to the budget and then commented on a letter to the editor regarding the possible tax increase.
- Councilor Rowan also commented on the tax rates that has been going around started at 10% and it down to 7% - with much work yet still to be done.
- Councilor Foley commended the Board of Education for the discussion around a new start time for the schools. The best was the way you spoke to each other and respected what each other had to say.
- Councilor Hayes also commented about the budget and the process and the communication between the everyone.
- Councilor Caiazzo also commented about the budget process and applauded the professionalism of everyone involved.
- Chairman Babine thanked everyone who attended the workshop held prior to this meeting. Thank you to the two finance chairs for a great finance forum. He went on to mention a former Scarborough resident, Peter Crichton, who was also the Cumberland County Manager and is now is the new Auburn City Manager. The new Community Services Director is also mention in MMA Newsletter. He further commented on the emails relating to the budget. He gave a shout out to Emily Hawkins who just became engaged to Devon Fields.

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

Vote: 7 Yeas.

Meeting adjourned at 9:28 p.m.

Respectfully submitted,

Yolande P. Justice
Town Clerk