

**MINUTES
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – JUNE 7, 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 7:05 p.m. [Later start due to workshop prior to 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.

- Jessica Libby of Black Point Road spoke on behalf of the PTA, stating that there would be an end of year event for the Middle School students and parents. We would like to have a food truck, but found out they were not allow and the PTA was wondering whether we could get a waiver for this event. Chairman Babine asked that she contact him tomorrow to discuss this further.

Item 5. Minutes: May 17, 2017 – Regular Meeting. Tabled to next meeting

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. 17-049, 7:00 p.m. Public hearing and schedule a second reading on the proposed amendments to Chapter 608 – Town of Scarborough Fireworks Display Ordinance, Section II. Definitions; Section III Regulations & Codes; Section IV Permit Required; Section V. Application Procedure and Section XII Consumer Fireworks. [Ordinance Committee] Chairman Babine opened the public hearing.

The following individual spoke on this item:

- Jeff Graham of Phantom Fireworks Store wondered what exactly would the store be required to do to comply with this ordinance.

There being no further comments the hearing was closed at 7:10 pm. The second reading would be scheduled for the Wednesday, June 21, 2017, Town Council meeting.

Councilor Donovan gave a brief overview on this order noting that the stores would be required to handout written notice that a permit is required with each purchase.

Order No. 17-050, 7:00 p.m. Public hearing and schedule a second reading on the proposed amendments to Chapter 608A – Town of Scarborough Consumer Fireworks Ordinance Section IV, Use of Consumer Firework Restricted; Section V. Violation and Enforcement and Section VIII: Notice. [Ordinance Committee] Chairman Babine opened the public hearing. As there were no comments either for or against the hearing was closed at 7:19 p.m. The second reading would be scheduled for the Wednesday, June 21, 2017, Town Council meeting.

Order No. 17-051, 7:00 p.m. Public hearing and second reading on the proposed amendments to Chapter 313A – the Town of Scarborough Property Tax Relief - Section 5. Determination of eligibility and amount of eligibility. [Ordinance Committee] Chairman Babine opened the public hearing on this Order. As there were no comments either for or against, the hearing was closed at 7:27 p.m.

Motion by Councilor Rowan, seconded by Councilor St. Clair, to move approval of the seconding reading on the proposed amendments to Chapter 313A – the Town of Scarborough Property Tax Relief - Section 5. Determination of eligibility and amount of eligibility; as follows:

Chapter 313A – the Town of Scarborough Property Tax Assistance Ordinance

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that Chapter 313-A the Town of Scarborough Property Tax Assistance Ordinance is amended as follows:

Section 5. Determination of eligibility and amount of eligibility

1. Eligibility for Homeowners

If the Tax Assessor determines that the applicant is eligible to participate in the Program, he shall determine the amount of the benefit paid. The amount shall be the least of the following:

- a. The amount, if any, by which (i) the taxes assessed for fiscal year of the Town beginning on July 1 of the preceding calendar year exceeds (ii) 5% of the federal adjusted gross income of the applicant (plus that of any other adult members of the applicant’s household); or
- b. A pro-rata share of the available monies in the Program Fund, including any amount in the Property Tax Assistance Reserve Account, allocated based on the amount of the refunds determined under sub-section a for all eligible applicants; or
- c. ~~\$500.00~~ \$600.00.

In the case of applicants who did not file federal income tax returns, the Tax Assessor, upon presentation of adequate information returns and other information, shall calculate the federal adjusted gross income.

Vote: 7 Yeas.

Order No. 17-052, 7:00 p.m. Public hearing and schedule a second reading on the request for discontinuance of a portion of Beech Ridge Road. [Town Engineer] Chairman Babine opened the public hearing. As there were no comments either for or against, the hearing was closed at 7:31 p.m. The second reading would be scheduled for the Wednesday, June 21, 2017, Town Council meeting.

Order No. 17-054, 7:00 p.m. Public Hearing and action on the new requests for a Food Handlers License: a. Melissa Carr, d/b/a Aurora Provisions at the Beach, located at 4 Seal Rock Drive and b. BHM17, LLC, d/b/a Beach House Market, located at 27 East Grand Avenue. [Town Clerk] Chairman Babine opened the public hearing. As there were no comments either for or against, the hearing was closed at 7:32 p.m.

Motion by Councilor Rowan, seconded by Councilor Hayes, to move approval of the new requests for a Food Handlers License: a. Melissa Carr, d/b/a Aurora Provisions at the Beach, located at 4 Seal Rock Drive and b. BHM17, LLC, d/b/a Beach House Market, located at 27 East Grand Avenue.

Vote: 7 Yeas.

Resolution 17-003. Act on Resolution 17-003, requesting the Town Council's support on the Transportation Improvement Program Project to PACTS. [Town Engineer] Angela Blanchette, Town Engineer, gave a brief overview on this Resolution.

Motion by Councilor Donovan, seconded by Councilor Caiazzo, to move approval of Resolution 17-03, requesting the Town Council's support on the Transportation Improvement Program Project to PACTS, as follows:

RESOLUTION 17-003

PACTS TRANSPORTATION IMPROVEMENT PROGRAM PROJECT ENDORSEMENT

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

WHEREAS, the Town of Scarborough does hereby support the Portland Area Comprehensive Transportation System (PACTS) 2020 & 2021 Complex Project application for work associated with the East Grand Avenue Complete Street Redesign and,

WHEREAS, the submission of the 2020 & 2021 Complex Projects application referred to in Exhibit A, cover letter to John Duncan, PACTS Executive Director, have been made to PACTS for review and consideration for inclusion in the 2020 & 2021 Transportation Improvement Plan.

NOW, THEREFORE, BE IT RESOLVED, by the Scarborough Town Council, in Town Council assembled, that we do hereby support the submission of this roadway improvement project application.

Signed and sealed this the 7th day of June 2017, on behalf of the Scarborough Town Council and the Town Manager of Scarborough, Maine. Signed by the Council Chair and attested by the Town Clerk.

Vote 7 Yeas.

OLD BUSINESS: None at this time.

NEW BUSINESS:

Order No. 17-055. First reading and refer to the Planning Board on the proposed fourth amendment to Contract Zone I – Frank R. Goodwin, E & F Limited Liability Company and Raymond C. Field [Land Rover Dealership], located at 371 US Route One. [Planning Department] Jay Chase, Senior Planner, spoke on the process that would need to be followed in order for this to move forward. At this time representatives from the Land Rover Dealership so Paul Stroski of Sebgo Technics and Ryan Senatore of RSA, gave a brief presentation to the Town Council.

Motion by Councilor Donovan, seconded by Councilor Hayes, to move approval of the first reading and refer to the Planning Board on the proposed fourth amendment to Contract Zone I – Frank R. Goodwin, E & F Limited Liability Company and Raymond C. Field [Land Rover Dealership], located at 371 US Route One, to come back to the Town Council for a public hearing, upon receipt of the Planning Board’s recommendations; as follows:

**FOURTH AMENDMENT TO EXHIBIT I
CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND
FRANK R. GOODWIN, E & F LIMITED LIABILITY COMPANY
AND RAYMOND C. FIELD**

WHEREAS, E & F Limited Liability Company (“E & F”) entered into a Contract Zoning Agreement with the Town of Scarborough on the 15th day of July 1996 (the “Contract”), a copy of which is attached hereto as Schedule A; and,

WHEREAS, E & F acquired certain real estate from Raymond C. Field by two deeds dated June 21, 1996 and recorded in the Cumberland County Registry of Deeds at Book 12576 Page 54 and by Corrective Warranty Deed dated October 27, 1997, recorded in the Cumberland County Registry of Deeds at Book 13402, Page 45; and,

WHEREAS, E & F built a 3,826 square foot addition to its existing building on the north side of the building away from U.S. Route One, which addition is used for the purposes of automobile sales and service pursuant to a First Amendment to the Contract, dated October 2, 2000, a copy of which is attached hereto as Schedule B; and,

WHEREAS, in order to have the proper set backs, E & F acquired an approximate additional 17,070 square feet by deed of KDA LLC (successor to Raymond Field), which deed was dated April 10, 2000 and recorded in the Cumberland County Registry of Deeds at Book 15410, Page 322; and,

WHEREAS, the Amended Contract, Schedule B, at paragraph 3(a), states that E & F was authorized to have an automobile dealership with the structure of 13,730 square feet; and,

WHEREAS, the current initial structure is 13,730 square feet and the anticipated additions to the structure will be 2,270 square feet for a total building footprint of 16,500 square feet; and,

WHEREAS, the addition to the automobile dealership will also involve an increase in the square footage of the area utilized for outdoor display, storage or parking of vehicles. An additional 7 parking spaces, 5 new spaces being visible from the road will bring the total number of parking spaces to 115, 23 of which will be visible from the road. The relocation of outdoor vehicle storage and display or parking areas to parts of the site closer to the property boundaries or road sidelines than shown on the originally approved site plan is contemplated; and,

WHEREAS, the size, location, configuration and topography of this site permit a level of buffering, landscaping and site design which will mitigate what might otherwise be adverse impacts of outdoor

displays, storage and sales, because the additional square footage of the building is away from U.S. Route One.

WHEREAS, the Amendment to the Contract Zoning Agreement would be consistent with the policies and future land use plan of part three of the Scarborough Comprehensive Plan and is permitted pursuant to the Zoning Ordinance and Maine Law and is consistent with the existing and permitted uses within the original zoning classification.

NOW THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The Town will amend the Zoning Map of the Town of Scarborough by adopting the map change shown on Schedule C hereto.
2. All references in the original Contract Zoning Agreement, the First Amendment to the Contract, the Second Amendment to the Contract, the Third Amendment to the Contract, and the Fourth Amendment to the contract and to the "site plan" shall hereafter mean the amended site plan approved by the Scarborough Planning Board on (TBD), 2017, attached hereto as Schedule D.
3. Upon approval of an amended site plan by the Scarborough Planning Board, E & F Limited Liability Company is authorized to construct the addition to the automobile dealership as portrayed on the Attached Schedule C. The additional construction will be completed within 12 months after execution of this Agreement. Construction of the addition shall be subject to the following conditions:
 - a. The maximum allowable building footprint for the building shall be 16,500 square feet and the maximum building height shall be two stories.
 - b. Building design, style and materials for the addition shall be substantially as depicted on the building elevation plans as prepared by Ryan Senatore Architecture dated TBD 2017, submitted during Site Plan Review.
 - c. No trees or other vegetation existing on the date of this Agreement shall be removed except as indicated in the approved addition site plan.
4. Except as amended hereby, E & F Limited Liability Company reaffirms each and every provision of the Contract Zoning Agreement, Schedule A and the First Amendment, Schedule B.
5. E & F Limited Liability Company shall record this Amendment to Contract Zoning Agreement in the Cumberland County Registry of Deeds within 30 days after its approval by the Scarborough Town Council.

IN WITNESS WHEREOF, the parties hereto have executed this Third Amendment to Contract Zoning Agreement this _____ day of _____, 2017.

WITNESS:

TOWN OF SCARBOROUGH
By: _____
Its: Town Manager (duly authorized by a vote of
the Scarborough Town Council on (TBD), 2017)

_____ **E & F LIMITED LIABILITY COMPANY**
By: _____
Frank R. Goodwin Its: Managing Member

STATE OF MAINE
COUNTY OF CUMBERLAND

_____, 2017

Personally appeared the above named _____, in his/her capacity as Scarborough Town Manager and acknowledged the foregoing instrument to be his/her free act and deed.

Before me,

Notary Public/Attorney at Law

STATE OF MAINE
COUNTY OF _____

_____, 2017

Personally appeared the above named Frank R. Goodwin in his capacity as Managing Member of E & F Limited Liability Company and acknowledged the foregoing instrument to be his free act and deed.

Before me,

Notary Public/Attorney at Law

Vote 7 Yeas.

Order No. 17-056. First reading and refer to the Planning Board on the proposed amendment to Chapter 405, the Scarborough zoning Ordinance - definition of a Golf Course. [Planning Department] Karen Martin, Interim Town Planner, gave a brief overview on this request.

Motion by Councilor Caiazzo, seconded by Councilor Hayes, to move approval of the first reading and refer to the Planning Board on the proposed amendment to Chapter 405, the Scarborough zoning Ordinance - definition of a Golf Course, to come back to the Town Council for a public hearing, upon receipt of the Planning Board’s recommendations; as follows:

**AMENDMENT TO CHAPTER 405 THE ZONING ORDINANCE
REGARDING DEFINITION OF GOLF COURSE**

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that Section VI (Definitions) of the Zoning Ordinance of the Town of Scarborough, Maine is amended as follows:

Amend the definition of Golf Course by adding the underlined text as shown below.

Section VI Definitions.

A golf course may include a clubhouse, shelter for players and other accessory structures, including one dwelling unit in an accessory structure and accessory use to the golf course, provided the dwelling unit is occupied by a resident facility manager or by on-duty employees of the facility.

Vote: 7 Yeas.

Order No. 17-057. Act on the request to appoint Larissa Crockett as the Acting Town Manager, in accordance with Chapter 200, the Scarborough Town Charter, Article III, Section 305, Absence of Town Manager. [Town Manager] Thomas J. Hall, Town Manager, gave a brief overview on this order.

Motion by Councilor St. Clair, seconded by Councilor Hayes, to move approval to appoint Larissa Crockett as the Acting Town Manager, in accordance with Chapter 200, the Scarborough Town Charter, Article III, Section 305, Absence of Town Manager.

Vote: 7 Yeas.

Order No. 17-058. Act on the request to renew the Town Manager's contract. [Council Chair] Chairman Babine gave a brief over on this Order.

Motion by Councilor Hayes, seconded by Councilor Rowan, to move approval to renew the Town Manager's for another 3 years with a term to expire in June of 2020.

Vote: 7 Yeas.

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

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

- Councilor Foley gave an update on the John Andrew 5K in support of the Eastern Trail and mentioned an event that had been at Town & Country Federal Credit Union that helped draw awareness to the Eastern Trail.
- Councilor St. Clair gave an update on the Communications Roundtable event that had been held. There would be a Council Table at the Polls and would like to see fellow Councilors take a turn manning the table.
- Councilor Rowan gave an update on the SEDCO Board and the Historic Implementation Presentation Committee.
- Councilor Donovan gave an update on the Planning Board, the Comp Plan Kickoff meeting; the GPCOG Meeting and the Scarborough Police Department was presented the President's Award for Operation Hope. He also gave an update on the Ordinance Committee.
- Chairman Babine gave an update on the Library Trustees; the ecomaine Annual Meeting would be held on June 15th. The first meeting in July will be a workshop on Council Goals.

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

- The thanked everyone on the employment contract.
- Site walk on Avenue 2 with residents of Pine Point on June 15th at 2 p.m.
- Mentioned there had been concerns with a neighbor on Sawyer Road who was growing medical marijuana in the back yard and reminded the Council that the moratorium would be coming back at the September 6th Town Council meeting.
- He commented on the Workshop earlier this evening on the Running Hill Road.
- Good news for the Town in that the Maine Department of Labor has awarded us the Shape Award, the Town is good through to September 2018.

Item 11. Council Member Comments.

- Councilor Caiazzo reminded voters to get out and vote on June 13th on the School Budget Validation Referendum and the Municipal Fueling Station Referendum.
- Councilor Hayes urged everyone to vote on Tuesday, June 13th.

- Councilor St. Clair noted that on June 19th Bikes for Books would be taking place and they would be 48 bikes being given away. She had volunteered at Heidi's House and it was a neat experience.
- Councilor Foley urged to voters to vote and really check the information, be informed.
- Councilor Rowan encouraged resident to vote. There would be a Public Safety Tour on Wednesday, June 15th and information on the proposed new Public Safety Building would be available.
- Councilor Donovan commented on some of the political signs that have been posted relating to the budget; they misrepresent what had been passed. He noted the Highland Avenue Greenhouse had been awarded the Maddy Corson Small Business Award from the Institute for Family-Owned Business. There would be a meeting the Higgins Beach Club House on June 11th to review the Higgins Beach Character Code.
- Chairman Babine noted that Graduation was this weekend and congratulated the graduates. Get out the vote – 3 questions – School Budget Validation Referendum ballot, the Municipal Fueling Station ballot and the State Referendum ballot. He thanked Council Hayes and Board member Jodi Shea for the letter to the editor relating to the proposed Budget. He reminded voters that the Polls would be at Town Hall from 7:00 a.m. to 8:00 p.m. He then commented on the fueling station and hoped that the residents would support it. He went on to comment on the Maine family Business Award. He also thanked the Communications Committee for their work on the roundtable. He encouraged anyone to contact him and to call – his cell phone is a public number. He too commented on the political signs.

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

Vote: 7 Yeas.

Meeting adjourned at 8:28 p.m.

Respectfully submitted,

Yolande P. Justice
Town Clerk