

**MINUTES
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – JUNE 20, 2018
EXECUTIVE SESSION 6:30 P.M.
REGULAR MEETING – 7:00 P.M.**

Item 1. Call to Order. Chairman Donovan 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. Roll was called by Thomas J. Hall, Town Manager.

Councilor Shawn A. Babine -Absent	Councilor Jean-Marie Caterina
Councilor Robert W. Rowan -	Councilor Peter F. Hayes
Councilor Kathleen M. Foley	Councilor Christopher J. Caiazzo – Vice Chair
Chairman William J. Donovan	

Order No. 18-043. Act on the request for an executive session pursuant to 1 M.R.S. § 405(6)(E) for consultation with legal counsel concerning the Town’s legal rights and duties related to an exemption request. Motion by Councilor Caterina, seconded by Councilor Rowan, to move approval on the request for an executive session pursuant to 1 M.R.S. § 405(6)(E) for consultation with legal counsel concerning the Town’s legal rights and duties related to an exemption request.

Vote: 6 Yeas.

The Town Council adjourned to executive session. Chairman Donovan reconvened the meeting at 7:14 p.m.

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

Item 5. Minutes: June 6, 2018 - Regular Town Council Meeting. Motion by Councilor Rowan, seconded by Councilor Caterina, to move approval of the minutes from the June 6, 2018, regular Town Council meeting.

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 were signed during the meeting.

Order No. 18-041, 7:00 p.m. Public Hearing on the proposed amendments to Chapter 601 – the Traffic Ordinance, Section 25.A.1 to eliminate year round parking along a portion of the Black Point Road. [Ordinance Committee] Sargent O’Malley gave a brief overview on this Order. He noted that the issue been brought forward by Greg Wilfert of Scarborough Beach who was concerned with the safety of his patrons. Sargent O’Malley responded to questions from the Town Council. Chairman Donovan opened the public hearing. The following individuals spoke on this order:

- Larry Bruns of Hanson Road noted that he was confused as to when you could park along Black Point. Chairman Donovan responded to questions from Mr. Bruns. Mr. Bruns offered some suggestions on options that the Town Council to look at.
- Marvin Gates of Black Point Road stated that he lives directly across from the entrance of the State Park. He noted that there had been times in the winter where the parking was directly in

front of the entrance. He was afraid that parking would inch down toward Prouts Neck. He supported the recommendation.

- Police Chief Moulton noted that the issue would be from March to May 1st when the Park could be busy and the parking could be a problem. He responded to questions from the Town Council.
- Larry Bruns noted that the auxiliary parking was owned by a private land owner and it could be possible to work with this individual to keep the lot cleared in the winter time to allow parking.
- Ryan McDermott, one of the owners of Black Point Surf Shop stated that he wanted to be assured that there would be ample parking for surfers.

There being no further comments, Chairman Donovan closed the public hearing at 7:41 p.m. The second reading on this Order would be Wednesday, July 18, 2018.

Order No. 18-044, 7:00 p.m. Public Hearing and action on the new request for a Food Handlers License, a Special Amusement License and a Liquor License from Jennifer Siegler, d/b/a 21 Taps, LLC, located at 185 US Route One. [Town Clerk] Chairman Donovan opened the public hearing. As there were no comments either for or against, the hearing was closed at 7:42 p.m.

Motion by Councilor Caterina, seconded by Councilor Rowan, to move approval on the new request for a Food Handlers License, a Special Amusement License and a Liquor License from Jennifer Siegler, d/b/a 21 Taps, LLC, located at 185 US Route One.

Vote: 6 Yeas.

OLD BUSINESS:

Order No. 18-030. Second reading on the proposed amendments to Chapter 405 - the Zoning Ordinance of the Town of Scarborough, Maine Section VI. Definitions and Section XVII.B. Haigis Parkway District, HP – B Permitted Uses, Conventional and Planned Developments. [Planning Department] Jay Chace, Town Planner, gave a brief overview on this Order and responded to questions from the Town Council.

Motion by Councilor Caterina, seconded by Councilor Rowan, to move approval of the second reading on the proposed amendments to Chapter 405 - the Zoning Ordinance of the Town of Scarborough, Maine Section VI. Definitions and Section XVII.B. Haigis Parkway District, HP – B Permitted Uses, Conventional and Planned Developments, as follows:

Motion by Councilor Caterina, seconded by Councilor Rowan, to move approval to amend the main motion as follows:

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that Chapter 405 - the Zoning Ordinance of the Town of Scarborough, Maine Section VI. Definitions, is amended as follows:

Distribution Facility:

A structure or building used primarily for the receiving and shipping, receiving and storing of finished goods and articles where goods are received and/or stored for delivery to the ultimate customer at remote locations.

Warehousing Facility and Storage:

A structure or building where goods or materials are stored specifically for distribution to other sites or locations.

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that Chapter 405 - the Zoning Ordinance of the Town of Scarborough, Maine Section XVIII.B. HAIGIS PARKWAY DISTRICT, HP, is amended as follows:

B. PERMITTED USES, CONVENTIONAL AND PLANNED DEVELOPMENTS
NON-RESIDENTIAL USES

~~10. Warehousing or wholesale distribution accessory to and located in the same building with a permitted principal use, provided that the floor area of the warehousing and/or wholesale distribution does not exceed 50% of the floor area of the principal use~~

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that Chapter 405 - the Zoning Ordinance of the Town of Scarborough, Maine Section XXI. INDUSTRIAL DISTRICT-I, is amended as follows:

B. PERMITTED USES

5. Warehouse Facility and storage

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that Chapter 405 - the Zoning Ordinance of the Town of Scarborough, Maine Section XXI.B. LIGHT INDUSTRIAL DISTRICT-I is amended as follows:

B. PERMITTED USES

13. Warehouse Facility and storage

Vote on amendment: 6 Yeas.

Main Motion as amended:

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that Chapter 405 - the Zoning Ordinance of the Town of Scarborough, Maine Section VI. Definitions, is amended as follows:

Distribution Facility:

A structure or building used primarily for the shipping, receiving and storing of finished goods and articles where goods are received and/or stored for delivery to the ultimate customer at remote locations.

Warehousing Facility:

A structure or building where goods or materials are stored specifically for distribution to other sites or locations.

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that Chapter 405 - the Zoning Ordinance of the Town of Scarborough, Maine Section XVIII.B. HAIGIS PARKWAY DISTRICT, HP, is amended as follows:

B. PERMITTED USES, CONVENTIONAL AND PLANNED DEVELOPMENTS
NON-RESIDENTIAL USES

~~10. Warehousing or wholesale distribution accessory to and located in the same building with a permitted principal use, provided that the floor area of the warehousing and/or wholesale distribution does not exceed 50% of the floor area of the principal use~~

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that Chapter 405 - the Zoning Ordinance of the Town of Scarborough, Maine Section XXI. INDUSTRIAL DISTRICT-I, is amended as follows:

B. PERMITTED USES

5. Warehouse Facility and storage

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that Chapter 405 - the Zoning Ordinance of the Town of Scarborough, Maine Section XXI.B. LIGHT INDUSTRIAL DISTRICT-I is amended as follows:

B. PERMITTED USES

13. Warehouse Facility and storage

Vote: 6 Yeas.

NEW BUSINESS:

Order No. 18-045. First reading on the proposed second amendment to Contract Zone III - Maine Life Care Retirement Community, Inc., located at 5 Dorado Drive. Jim Adamowicz, Chief Executive Officer of Piper Shores, gave a quick overview and noted that with him this evening was Will Conway of Sebago Technics, Eric Conway, Modus Development and Ron Epstein – Legal Counsel. Mr. Adamowicz then introduced Mr. Will Conway of Sebago Technics to make the presentation this evening. Mr. Conway went on present the proposal to the Town Council. He and Mr. Adamowicz responded to questions from the Town Council. The complete application is on file with the Town Clerk.

Motion by Councilor Caterina, seconded by Councilor Hayes, to move approval of the first reading and refer to the Planning Board the proposed second amendment to Contract Zone III – Maine Life Care Retirement Community, Inc., located at 5 Dorado Drive, to come back to the Town Council upon the receipt of the recommendations of the Planning Board, as follows:

SECOND AMENDMENT TO CONTRACT ZONING AGREEMENT

This Second Amendment to Contract Zoning Agreement made as of the ____ day of _____, 2018 by and between the Town of Scarborough, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter the "Town"), and Maine Life Care Retirement Community, Inc., d/b/a Piper Shores, a Maine non-profit corporation, with an address of 15 Piper Road, Scarborough, ME 04074 (hereinafter "Maine Life Care"), pursuant to the Contract Zoning provisions of the Scarborough Zoning Ordinance.

WHEREAS, the Town and Maine Life Care entered a Contract Zoning Agreement, dated November 6, 1997 and November 17, 1997 and recorded in the Cumberland County Registry of Deeds, Book 13437, Page 19, and Book 13449, Page 171, as amended by a First Amendment to Contract Zoning Agreement, dated May 21, 2015, and recorded in said Registry, Book 32302, Page 205 (collectively, the "Agreement"); and

WHEREAS, the Town of Scarborough, by and through its Town Council has determined that the amendments set forth herein to said rezoning would be pursuant to and consistent with the Town's local growth program and 2006 Update of the Comprehensive Plan adopted pursuant to Title 30-A, Maine Revised Statutes, Chapter 187, Sub-part 6-A, by providing a range of senior housing opportunities within a growth area served by public water and sewer facilities, encouraging the development of multiplex/multi-family housing, growing a non-profit business that offers high quality jobs, and adding new residential development that does not result in demands for expanded services beyond the Town's ability to meet those demands; and such amendments are consistent with the existing and permitted uses within the original zoning district classifications; and

WHEREAS, the Town of Scarborough, by and through its Town Council, has determined that the amendments set forth herein to said rezoning are in the public interest and will have beneficial effects on the Town as a whole which would not result if the property were developed under the existing zoning district classification by: (i) providing housing and amenities to senior citizens with innovative design features, (ii) providing public access to recreational trails, (iii) improving the Town's tax base, (iv) providing a contribution to the Town's Affordable Housing Initiative Fund; and (v) increasing employment opportunities in the Town; and

WHEREAS, the Town of Scarborough, by and through its Town Council has authorized the execution of this Second Amendment to Contract Zoning Agreement ("Second Amendment").

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 hereby amends the Zoning Map of the Town of Scarborough by adopting the map change amendment shown on Attachment 1. The Agreement is amended to add to the provisions of the Agreement the property described in Exhibit A of this Second Amendment (hereinafter called the "Dorado Property"). The provisions of Section 2 of the Agreement are hereby amended to provide that Sections 2(a) through 2(j) of the Agreement shall

not apply to the Dorado Property and instead the following provisions shall apply to the Dorado property, and Maine Life Care is authorized to construct up to 61 dwelling units and related improvements as described below and subject to the conditions set forth below and notwithstanding the provisions of Sections XIV and IX of the Zoning Ordinance of the Town:

(a) Building Height: The maximum building height is 55 feet. Building height for purpose of this Agreement shall be as defined in the zoning ordinance.

(b) Density: The maximum residential density for the Dorado Property shall be 61 dwelling units. The dwelling units may be located in any combination of single family dwelling units, duplex or two family dwelling units, and multi-family dwelling units, and any building with multi-family dwelling units may also contain additional common facilities such as meeting rooms, activity rooms, recreational facilities, common dining and kitchen facilities and parking facilities and other facilities that may be part of a Continuing Care Retirement Community.

(c) Permitted Uses: The uses allowed or permitted on the Property shall be a Continuing Care Retirement Community and accessory uses, including maintenance and operations support facilities. The term "Continuing Care Retirement Community" shall have the meaning set forth in the Contract Zoning Agreement, dated November 6, 1997 and November 17, 1997 and recorded in the Cumberland County Registry of Deeds, Book 13437, Page 19, and Book 13449, Page 171, as amended by the First Amendment to Contract Zoning Agreement, dated May 21, 2015, and recorded in said Registry, Book 32302, Page 205 and as amended by this Amendment.

(d) Building Design: Building design, style and materials shall be substantially as depicted on plans submitted during site plan review, with any changes thereto as approved by the Planning Board.

(e) Residents: Occupancy of the Continuing Care Retirement Community shall be limited to person 62 years of age or older households with at least one resident who is 62 years of age or older; provided, however, that in the case of any dwelling occupied by a person age 62 or older and by a person older than age 35 and younger than age 62, in the event that the person age 62 or older moves out of the dwelling unit or dies, the younger person may continue to reside the dwelling unit.

(f) Sewer and Water: The facility will be served by both public water and public sewer.

(g) Setbacks: The front yard setback from Spurwink Road shall be a minimum of 200 feet and the side and rear yards from the exterior boundary of the Dorado Property shall be a minimum of 50 feet.

(h) Parking: The following minimum off-street parking shall be provided: 1 space for each dwelling unit.

(i) Road Length: In recognition of the fact that all units will be equipped with residential sprinkler systems and that adequate fire hydrants will be provided throughout the project. The cumulative length of a dead end private way on the Dorado Property may exceed 2,000 feet but shall not exceed 2,800 feet.

(j) Site Plan and Subdivision Plan: The property shall be developed in a manner consistent with the site plan and subdivision plan as finally approved by the Scarborough Planning Board, and as said approved site plan and subdivision plan may be amended from time to time pursuant to the provisions of the Site Plan Review Ordinance of the Town of Scarborough and the Subdivision Ordinance of the Town of Scarborough.

Any amendment which involves the following changes will require an amendment to this Contract Zoning Agreement: (a) any change to the definition of a Continuing Care Retirement Community; and (b) any increase in the number of units, decrease in minimum setbacks or increase in maximum building height.

2. Maine Life Care shall record this Second Amendment to Contract Zoning Agreement in the Cumberland County Registry of Deeds within 90 days after its execution by the Town.

3. In recognition of Scarborough's interest in expanding affordable housing opportunities, Maine Life Care agrees to make a \$20,000.00 contribution for the equivalent of 1 unit per every 10 units, payable to the Scarborough Affordable Housing Initiative Fund at the time of applying for each building permit, such amount to be payable in the amount of \$2,000 per dwelling unit at the time of application for each building permit. The total cumulative amount to be paid assuming that Maine Life Care applies for building permits for all 61 dwelling units permitting under this Amendment is \$122,000.

4. Maine Life Care agrees that walking trails located on the Dorado Property may be used by the general public during daylight hours subject to reasonable rules and regulations adopted by Maine Life Care from time to time. Maine Life Care shall provide two parking spaces for the general public to access such trails. Maine Life Care shall have the right to relocate such trails and parking spaces from time to time.

5. Unless extended by the Town by further amendment of this Agreement, construction of the additional improvements to the Property authorized by this Second Amendment may commence within five (5) years after execution of this Second Amendment and shall be substantially completed within ten (10) years from the date of this Second Amendment.

6. Maine Life Care acknowledges and agrees that the 61 dwelling units authorized by this Amendment will not be licensed as skilled nursing or assisted living or residential care and that accordingly such independent living dwelling units shall be subject to property tax by the Town.

76. Except as specifically amended herein, all terms and conditions of the Agreement shall remain in full force and effect.

WITNESS:

TOWN OF SCARBOROUGH

By: _____
Thomas Hall, Its Town Manager

MAINE LIFE CARE RETIREMENT COMMUNITY, INC.

By: _____
James E. Adamowicz, Its Chief Executive Officer

STATE OF MAINE
CUMBERLAND, ss.

_____, 2018

Personally appeared the above-named Thomas Hall, Town Manager of the Town of Scarborough, and acknowledged the foregoing to be his free act and deed in his said capacity, as duly authorized, and the free act and deed of said Town of Scarborough.

Before Me,

Notary Public

STATE OF MAINE
CUMBERLAND, ss.

_____, 2018

Personally appeared the above-named James E. Adamowicz, Chief Executive Officer of Maine Life Care Retirement Community, Inc., and acknowledged the foregoing to be his free act and deed in his said capacity, as duly authorized, and the free act and deed of said Maine Life Care Retirement Community, Inc.

Before Me,

Notary Public

Vote: 6 Yeas.

Order No. 18-046. Act on the request to certify the result of the School Budget Validation that was held on Tuesday, June 12, 2018. Thomas J. Hall, Town Manager, gave a brief overview on this Order. He then went on to address concerns that had been voiced by citizens.

Motion by Councilor Caterina, seconded by Councilor Rowan, to move approval of the request to certify the result of the School Budget Validation that was held on Tuesday, June 12, 2018, as follows:

School Budget Validation Referendum

Yes:	2,966*
No:	2,868
Blanks:	81

Vote: 6 Yeas.

Item 9. Non Action Items. None at this time.

Item 10. Standing and Special Committee Reports and Liaison Reports.

- Councilor Hayes gave an update on the Finance Committee, the Coastal Waters & Harbor Committee and the Shellfish Conservation Commission.
- Councilor Caterina gave an update on the Communications Committee and the Ordinance Committee.
- Councilor Foley gave an update on the Conservation Commission.
- Chairman Donovan gave an update on the Metro Coalition Group.

Item 12. Town Manager Report. Thomas J. Hall, Town Manager, gave the following updates:

- Revised flood maps have been filed and he would keep the Council updated.
- Public Safety Building – DEP had started their review process and we could be on target with the September 1st start date.
- The communications tower would not be part of the bid process, but would be bid out by the town.
- The Town would be moving forward with the sale of 5 tax acquired properties, which had been authorized by the Town Council.
- Possible workshop on Pine Point Co-Op at a future meeting and it remains to be seen who will be purchasing this parcel.
- The commercial industrial revaluation is nearing completion. The residential revaluation will be conducted as soon as a firm has been selected and would take a full 12 months to complete.
- Concerts in Memorial Park would be starting on Thursday, June 28th and continue every Thursday until August 2nd at 6:30 p.m.

Item 13. Council Member Comments.

- Councilor Foley noted that school would be out for summer tomorrow and asked everyone to please be careful as the kids would be playing outside.
- Councilor Caterina congratulation 2018 Graduates and wished them good luck.
- Councilor Caiazzo stated that he had attended the groundbreaking for the Beacon at Gateway.
- Chairman Donovan also stated that he, along with the Town Manager had attended the groundbreaking ceremony at Beacon at Gateway. He added that rentals would begin in October and they anticipate that the project would be completed by next summer. He thanked the School Board for their work on the budget that had been approved and went on to thanked the Finance Committee and Town Manager for the town’s budget. He went on to thank the voters who supported the budget. He went on to comment on national news relating to child immigrants.

Item 14. Adjournment. Motion by Councilor Rowan, seconded by Councilor Caterina, to move approval to adjourn the regular meeting of the Scarborough Town Council.

Vote: 6 Yeas

Meeting adjourned at 9:01 p.m.

Respectfully submitted,

Yolande P. Justice
Town Clerk