

MINUTES

SCARBOROUGH TOWN COUNCIL WEDNESDAY – SEPTEMBER 3, 2008 REGULAR MEETING – 7:30 P.M.

Item 1. Call to Order. Chairman Messer called the regular meeting of the Scarborough Town Council to order at 7:31 p.m.

Item 2. Pledge of Allegiance.

Item 3. Roll Call. Roll was called by Yolande P. Justice, Town Clerk. Ronald W. Owens, Town Manager, was also present.

Ronald D. Ahlquist, Vice Chair [Absent]	Michael J. Wood
Carol S. Rancourt	Judith L. Roy
Richard J. Sullivan, Jr.	Sylvia J. Most
Jeffrey A. Messer, Chair	

Item 4. Minutes: August 19, 2008 – Special Meeting and August 20, 2008 – Regular Meeting. Motion by Chairman Messer, seconded by Councillor Most, to move approval of the August 19, 2008, special meeting Town Council meeting, as written.

Vote: 6 yeas.

Motion by Chairman Messer, seconded by Councillor Rancourt, to move approval of the August 20, 2008, regular meeting Town Council meeting, as written.

Vote: 6 yeas.

Item 5. Items to be signed: a. Treasurer's Warrants. Treasurer's warrants were signed during the meeting.

Order No. 08-94, 7:30 p.m. Public Hearing on the proposed amendments to Chapter 405, the Zoning Ordinance to establish a Running Hill Mixed Use District (RH) - Continued from the Town Council meeting that was held on Wednesday, August 20, 2008. Prior to the re-opening of the public hearing, the Town Planner, Dan Bacon, gave a brief overview on this order and on the next two Orders. Chairman Messer reviewed the process that had been followed thus far.

Chairman Messer re-opened the public hearing. The following spoke on this Order: Harry White of 135 Running Hill Road; Denis Dinsmore of 119 Running Hill Road; Virginia Libby-Plummer of 117 Running Hill Road; Ron Aubrey of 32 New Road and Allen Paul of 17 Wynmoor Drive [Chair of the Planning Board and CPIC Committee member].

There being no further comments, Chairman Messer closed the hearing at 8:00 p.m. The second reading on Order No. 08-94 will be scheduled for Wednesday, September 17, 2008.

Order No. 08-95, 7:30 p.m. Public Hearing on the proposed amendments to Chapter 405, the Zoning Ordinance to establish a Running Hill Mixed Use District (RH2) - Continued from the Town Council meeting that was held on Wednesday, August 20, 2008. Chairman Messer re-opened the public hearing. The following spoke on this Order: Martin Feeney of 99 Running Hill Road and Loretta Aubrey of 32 New Road.

There being no further comments, Chairman Messer closed the hearing at 8:06 p.m. The second reading on Order No. 08-95 will be scheduled for Wednesday, September 17, 2008.

Order No. 08-96, 7:30 p.m. Public Hearing on the proposed amendments to the Town of Scarborough GIS Zoning Map regarding the new zone changes to the Running Hill Area - Continued from the Town Council meeting that was held on Wednesday, August 20, 2008. Chairman Messer re-opened the public hearing. There being no further comments, Chairman Messer closed the hearing at 8:07 p.m. The second reading on Order No. 08-96 will be scheduled for Wednesday, September 17, 2008.

Order No. 08-106, 7:30 p.m. Public Hearing and second reading on the proposed amendments to Chapter 301, the Administrative Code, Article XIII, Conservation Commission Ordinance. Councillor Most gave a brief overview of this Order. Chairman Messer opened the public hearing. The following spoke of this Order: Janet Robertson of 3 Coralburst Lane and conservation contaminates professional; Susan Dewitt-Wilder of Tide Mill Lane; Patrick Kelly of 3 Sandy Point Road; Jeannine Uzzi of Sunset Road; Paul Austin of 3 Tide Mill Lane; Lauren Swaney of 7 Stone Brooke Road; Judy Demena of 6 Tiger Lily Lane; Kerry Anderson of 5 Frederick Thompson Lane and Thomas Eschner of 11 Pine Ledge Drive and an Environmental Specialist. There being no further comments, Chairman Messer closed the public hearing at 8:36 p.m.

Motion by Councillor Wood, seconded by Chairman Messer, to move approval of the second reading on the proposed amendments to Chapter 301, the Administrative Code, Article XIII, Conservation Commission.

Motion by Councillor Roy, seconded by Chairman Messer, to move approval to amend the main motion as follows:

1305.2. The Conservation Commission shall ~~not have the right to~~ review subdivision plans, site plans or other Planning Board reviews or studies ~~unless specifically~~ upon the requested by either the Town Council or the Planning Board.

Vote on amendment: 6 yeas.

Motion by Councillor Most, seconded by Chairman Messer, to move approval to amend the main motion as amended, as follows:

The Conservation Commission may:

1304.1. Advertise, prepare, print and distribute books, maps, charts, plans, and pamphlets, which it considers necessary;

1304.2. Receive gifts in the name of the Town of Scarborough for any of the Commission's purposes with the approval of the Town of Scarborough and the Commission shall administer such gifts for those purposes subject to the terms of the gifts.

1304.3. Act as an advisory board to the Scarborough Town Council on types and sources of coastal pollution within the Town of Scarborough and to conduct research and develop data on the sources of pollutants within the coastal areas of the Town.

1304.4. Act as an advisory board to the Scarborough Town Council and applicable Town Departments on the acquisition of land for open space purposes, the implementation of land management plans on Town owned property, and the expansion of a town-wide trail system.

~~Section 1305. Limits on Powers and Duties.~~

1305.1. The Conservation Commission shall not have the care and superintendence of the public parks, nor the care or control of public shade trees.

~~1305.2.4.5~~ The Conservation Commission shall not have the right to review subdivision plans, site plans or other Planning Board reviews or studies unless specifically requested by either the Town Council or the Planning Board.

Section 1306-5. Notice of Planning Operations.

Any body politic or public agency of the State conducting planning operations with respect to open areas within the Town of Scarborough shall notify the Conservation Commission of all plans and planning operations at least 30 days before implementing any action under that plan

Vote on amendment: 6 yeas.

Main motion as amended:

ARTICLE XIII CONSERVATION COMMISSION Adopted August 2, 2000, Amended July 18, 2001 and August 20, 2008

Section 1301.1 Conservation Commission Established.

Pursuant to the provisions of the Town Charter and Title 30-A M.R.S.A. §3261 and 30-A M.R.S.A. §3001, Conservation Commissions, and Title 30-A M.R.S.A. §3001, Ordinance Power, there is hereby established the Conservation Commission of the Town of Scarborough. (Amended July 18, 2001)

Section 1302. Number and Terms of Members.

The Conservation Commission shall consist of seven members appointed by the Town Council for three-year terms.

The Commission may recommend to the Town Council that associate members be appointed to assist the commission, as the commission requires. Associate members are nonvoting members. Their terms of office shall be for one, two or three years.

Section 1303. Duties of Commission.

The Conservation Commission shall:

1303.1 Keep minutes of meetings including those attending; adopt procedures for conducting business; file minutes and procedures with the Town Clerk and submit an annual report to the Town Council;

1303.2 Coordinate activities and programming with other conservation groups within the community;

1303.3 Keep an index of all open areas within the Town of Scarborough, whether publicly or privately owned, including open marshlands, swamps and other wetlands, for the purpose of obtaining information relating to the proper protection, development of use of those open areas. The Conservation Commission may recommend to the Town Council or any municipal body or board, or any body politic or public agency of the State with prior knowledge of the Town Council, a program for the better protection, development or use of those areas, which may include the acquisition of conservation easements;

1303.4 Assist various town agencies with Open Space Land Planning and with establishing Acquisition Priorities for Open Space purposes;

1303.5 Publicize the Development Transfer Program and work with Rural Landowners to both educate and encourage their use of the program in accordance with the Comprehensive Plan and the Town of Scarborough Zoning Ordinance;

1303.6 Encourage Trail Planning and promote Connectivity of a town-wide trail system;

1303.7 Collaborate with other Town Council appointed committees on Environmental/Conservation Related Regulations and Standards;

1303.8 Promote and encourage local environmental initiatives, such as education and encouraging the public with respect to environmentally sensitive lawn products, native

landscaping, residential buffers to natural resources, water conservation and similar measures;
1303.9 Initiate critical environmental studies and projects; and,
1303.10 Develop Land Management Plans for Town Conservation Land in collaboration with the Scarborough Conservation Land Trust and applicable Town Departments.

Section 1304. Powers of Commission.

The Conservation Commission may:

1304.1 Advertise, prepare, print and distribute books, maps, charts, plans, and pamphlets, which it considers necessary;

1304.2 Receive gifts in the name of the Town of Scarborough for any of the Commission's purposes with the approval of the Town of Scarborough and the Commission shall administer such gifts for those purposes subject to the terms of the gifts.

1304.3 Act as an advisory board to the Scarborough Town Council on types and sources of coastal pollution within the Town of Scarborough and to conduct research and develop data on the sources of pollutants within the coastal areas of the Town.

1304.4 Act as an advisory board to the Scarborough Town Council and applicable Town Departments on the acquisition of land for open space purposes, the implementation of land management plans of Town owned property, and the expansion of a town-wide trail system.

1304.5 The Conservation Commission shall review subdivision plans, site plans or other Planning Board reviews or studies upon the requested by either the Town Council or the Planning Board.

Section 1305. Notice of Planning Operations.

Any body politic or public agency of the State conducting planning operations with respect to open areas within the Town of Scarborough shall notify the Conservation Commission of all plans and planning operations at least 30 days before implementing any action under that plan.

Vote: 5 yeas. 1 nay [Councillor Rancourt].

Order No. 08-118, 7:30 p.m. Public Hearing renewal request for a liquor license from Davric Maine Corporation, d/b/a Scarborough Downs at the Clubhouse and the Winners Circle Dining Area, located at 90 Payne Road. Chairman Messer opened the public hearing. As there were no comments either for or against, the hearing was closed at

Motion by Chairman Messer, seconded by Councillor Rancourt, to move approval on the renewal request for a liquor license from Davric Maine Corporation, d/b/a Scarborough Downs at the Clubhouse and the Winners Circle Dining Area, located at 90 Payne Road.

Vote: 6 yeas.

Order No. 08-119, 7:30 p.m. Public Hearing new request for a Food Handlers License from M. Hogleund Meats, d/b/a Country Side Butchers, located at 89 County Road. Chairman Messer opened the public hearing. As there were no comments either for or against, the hearing was closed at

Motion by Chairman Messer, seconded by Councillor Roy, to move approval of the new request for a Food Handlers License from M. Hogleund Meats, d/b/a Country Side Butchers, located at 89 County Road.

Vote: 6 yeas.

OLD BUSINESS: None at this time.

NEW BUSINESS:

Order No. 08-119. First reading and refer to the Planning Board the proposed amendments to the Chapter 405, the Scarborough Zoning Ordinance, Section XVIA.B.1 - to change the acreage threshold for applying for a TND Overlay from 25 acres to 20 acres. Mark O'Leary – applicant and Stephen J. Bradstreet of Oak Engineers, gave a brief overview on this Order.

Motion by Chairman Messer, seconded by Councillor Sullivan, to move approval Move approval of the first reading and refer to the Planning Board the proposed amendments to the Chapter 405, the Scarborough Zoning Ordinance, Section XVIA.B.1 - to change the acreage threshold for applying for a TND [Traditional Neighborhood District] Overlay from 25 acres to 20 acres and schedule a public hearing for the next regular meeting following the filing of the recommendations of the Planning Board, as follows:

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following amendment to the Zoning Ordinance of the Town of Scarborough, Maine, be and hereby are adopted:

Amend Sub-section B. 1. of Section XVI.A. Traditional Neighborhood Option Overlay District, TND as follows (additions are underlined, deletions are struck through):

Section XVI.A. Traditional Neighborhood Development Option Overlay District, TND [adopted 11/03/2004]

A. PURPOSE

To provide residential areas within the Town of Scarborough of a higher density to a manner which will promote a wholesome living environment. To this end, residential development pursuant to this Section XVI.A shall not exceed 5 dwelling units per net residential acre. Traditional neighborhood development standards are intended to promote innovative design solutions that incorporate a mix of residential unit types accommodating a mix of income levels, provide for shared open space and civic areas, and promote a development pattern with an interconnected network of landscaped streets, blocks, and pedestrian ways.

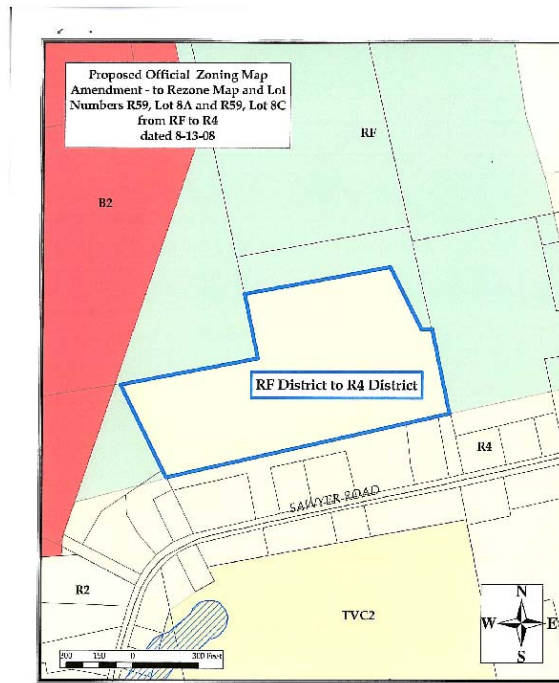
B. DEVELOPMENT STANDARDS (TND)

Conceptual – Traditional Neighborhood Street Cross-Section at end of XVI.A

Eligible parcels must be served by public utilities (sewer and water), contain at least **-20** acres and be located within an R-4 Residential District.

Vote: 6 yeas.

Order No. 08-120. First reading and refer to the Planning Board the proposed amendments to the Town of Scarborough GIS Zoning Map to rezone the balance of properties located at 98 and 108 Sawyer Road from an RF District to an R4 District. Motion by Chairman Messer, seconded by Councillor Most, to move approval of the first reading and refer to the Planning Board the proposed amendments to the Town of Scarborough GIS Zoning Map to rezone the balance of properties located at 98 and 108 Sawyer Road from an RF District to an R4 District and schedule a public hearing for the next regular meeting following the filing of the recommendations of the Planning Board, as follows:



Vote: 6 yeas.

Order No. 08-121. First reading and schedule a public hearing regarding the Repeal of Town of Scarborough Sewer Assessment Ordinance (Town Center and Eight Corners Development Districts). Ron Owens, Town Manager, gave a brief over view on this order.

Motion by Chairman Messer, seconded by Councillor Rancourt, to move approval of the first reading on the Repeal of Town of Scarborough Sewer Assessment Ordinance (Town Center and Eight Corners Development Districts), as follows:

**REPEAL OF TOWN OF SCARBOROUGH
SEWER ASSESSMENT ORDINANCE**

BE IT HEREBY ordained by the Town Council of the Town of Scarborough, Maine in Town Council assembled, as follows:

1. The Town of Scarborough Sewer Assessment Ordinance (Town Center and Eight Corners Development Districts) as adopted on February 1, 1989, ratified on March 8, 1989 and amended on November 7, 1990, is hereby repealed.
2. Notwithstanding Title 1, Section 302, this repeal shall apply to any actions or proceedings pending at the time of the repeal vote.
3. This repeal takes effect at 12:01 A.M. on _____, _____, 2008.
4. This repeal has no effect on any fees, rates or charges imposed by the Scarborough Sanitary District.

Vote: 5 yeas. (Councillor Sullivan absent from chamber.)

Order No. 08-122. First reading and schedule a second reading on the Bond Order for the Municipal Capital Improvements Projects for FY 2009. Motion by Chairman Messer, seconded by Councillor Rancourt, to move approval of the first reading on the Bond Order for the Municipal Capital Improvements Projects for FY 2009 and schedule the second reading for Wednesday, September 17, 2008, as follows:

**BOND ORDER FOR
MUNICIPAL 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, a the following Municipal Capital Items are hereby approved;

OTHER	
Clean & Repair Brick Walls	\$ 45,000
Restroom Renovations	\$ 20,000
Street Side Sign Replacement	\$ 40,000
PUBLIC SAFETY	
Site Study for New Public Safety Building	\$ 100,000
F.D. Pumper Truck E1, (replacement schedule)	\$ 398,500
PUBLIC WORKS / TRANSPORTATION	
Mid-Level Road Rehabilitation (3 miles per year)	\$ 400,000
Hillside Drainage Improvements	\$ 1,358,000
West Beech Ridge Road	\$ 120,600
Holmes Road Paving (Turnpike Overpass - Beech Ridge Rd)	\$ 710,000
Broadturn Road (Supplemental to FY08)	\$ 61,700
Seawall at Higgins Beach	\$ 400,000
TOTAL ALL MUNICIPAL CAPITAL IMPROVEMENTS	\$ 3,653,800

BE IT FURTHER ORDERED, That a sum, not to exceed \$3,653,800 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 \$3,653,800 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.

Vote: 6 yeas.

Order No. 08-123. First reading and schedule a second reading on the Bond Order for the School Capital Improvement Projects for FY 2009. Motion by Chairman Messer, seconded by Councillor Rancourt, to move approval of the first reading on the Bond Order for the School Capital Improvements Projects for FY 2009 and schedule the second reading for Wednesday, September 17, 2008, as follows:

**BOND ORDER FOR
EDUCATION 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 Education Capital Improvement Projects are hereby approved;

TECHNOLOGY	
Replacement of Equipment & Applications	\$ 210,460
New Equipment & Applications	\$ 39,500
WENTWORTH	
WI Asbestos Abatement & Flooring	\$ 25,000
WI Electrical	\$ 50,000
WI Mechanical & Plumbing	\$ 80,000
WI Interior Finishes	\$ 50,000
SCHOOL FACILITIES	
Security & Access Management Systems	\$ 35,000
District-wide Flooring & HS Gym Floor Covering	\$ 170,000
District-wide Movable Equipment	\$ 75,000
District-wide Building Envelope & WI Building Envelope	\$ 65,000
Middle School HVAC	\$ 50,000
Gym Renovation: Telescopic Bleacher Safety Rails/MS Gym	\$ 45,000
Auditorium wall & stage support equipment	\$ 25,000
HS Café Air Conditioning	\$ 125,000
MS and WI Program Support & Building Modifications	\$ 100,000
TOTAL ALL MUNICIPAL CAPITAL IMPROVEMENTS	\$ 1,144,960

BE IT FURTHER ORDERED, That a sum, not to exceed \$1,144,960, 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 \$1,144,960 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.

Vote: 6 yeas.

Order No. 08-124. Act on the request to correct the minutes of December 19, 2007, Town Council meeting regarding street acceptances. Motion by Chairman Messer, seconded by Councillor Rancourt, to move approval on the request to correct the minutes of December 19, 2007, Town Council meeting regarding street acceptances, as follows:

Be it ordered: The Town Clerk is directed to correct the minutes of the December 19, 2007 Town Council meeting, Order No. 07-171, by adding Tiger Lily Lane to the list of accepted streets. As amended, the minutes on Order No. 07-171 shall read as follows:

Order No 07-171. Act to accept the following streets, pursuant to Title 23, M.R.S.A. §3025 and the requirements of Section 4, of the Scarborough Street Acceptance Ordinance: Hunter Point Drive and Laughton Circle, located in Hunter Point Subdivision; Foxwell Drive, Ryefield Drive and Alger Drive, located in Blue Point Woods Subdivision – all phases; Magnolia Lane, Honeysuckle Lane, Lilac Lane, Tiger Lily Lane and Coralburst Lane, located in Magnolia Place 1 & Magnolia Place II; Juneberry Lane and Mulberry Lane, located in Juneberry Place and Millbrook Road Hammerhead. Motion by Councillor Most, seconded by Councillor Rancourt, to move approval to accept the following streets, pursuant to Title 23, M.R.S.A. §3025 and the requirements of Section 4, of the Scarborough Street Acceptance Ordinance: Hunter Point Drive and Laughton Circle, located in Hunter Point Subdivision; Foxwell Drive, Ryefield Drive and Alger Drive, located in Blue Point Woods Subdivision – all phases; Magnolia Lane, Honeysuckle Lane, Lilac Lane, Tiger Lily Lane and Coralburst Lane, located in Magnolia Place 1 & Magnolia Place II; Juneberry Lane and Mulberry Lane, located in Juneberry Place and Millbrook Road Hammerhead.

Vote: 6 yeas.

Vote: 6 yeas.

Item 6. Non-Action Items. None at this time.

Item 7. Committee Reports: Standing Committee Reports and Other Committee Reports.

- Councillor Roy – Gave an update on the Greater Portland Council of Governments.
- Councillor Most – Noted that Ordinance Workshop with Planning Board regarding alternate wind power had been held on Monday, August 25th and that the next ordinance committee has yet to be determined. The next CPIC Committee meeting has been scheduled for Friday, September 5th, the public is welcomed to attend.

Item 8. Public Comments.

- Sue Perrino and Judy Shirk of Pine Point presented a statement to the Town Council with regards to an article in the Scarborough Current.

Item 9. Town Manager Report. Mr. Owens noted that those Councillors who were interested in attending the MMA Conference should notify the Manager's Office as soon as possible. He also noted that those Councillors who do not use their town voice mail or town email should let the Clerk's Office know so that they can leave the appropriate message for the public.

Item 10. Council Member Comments. Closing comments were made by Council members.

Item 11. Adjournment. Motion by Councillor Rancourt, seconded by Councillor Roy, to move approval to adjourn the regular meeting of the Scarborough Town Council.

Vote: 6 yeas.

Meeting adjourned at 10:13 p.m.

Respectfully submitted,

Yolande P. Justice
Town Clerk