

MINUTES
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – DECEMBER 21, 2011
REGULAR MEETING – 7:00 P.M.

Item 1. Call to Order. Chairman Ahlquist called the regular meeting of the Scarborough Town Council to order at 7:00 p.m.

Item 2. Pledge of Allegiance.

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

Judith l Roy, Vice-Chair	James E. Benedict
Jessica L. Holbrook	Carol S. Rancourt
Richard J. Sullivan, Jr. [Absent]	Karen A. D’Andrea [Absent]
Ronald D. Ahlquist, Council Chair	

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

Item 5. Minutes: December 7, 2011 – Regular Meeting. Motion by Councilor Roy, seconded by Councilor Holbrook, to move approval of the minutes of the December 7, 2011, regular Town Council meeting.

Vote: 5 Yeas.

Item 6. Adjustment to the Agenda. None at this time.

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

Order No. 11-105, 7:00 p.m. Public hearing and second reading on the proposed amendment to the Town Center Municipal Development and Tax Increment Financing District Development Program. Thomas J. Hall, Town Manager, gave a brief overview on the proposed amendment to the Town Center Municipal Development and Tax Increment Financing District Development Program. Chairman Ahlquist opened the public hearing on Order No. 11-105. As there were no comments either for or against, the hearing was closed at 7:04 p.m.

Motion by Councilor Roy, seconded by Councilor Holbrook, to move approval of the second reading on the proposed amendment to the Town Center Municipal Development and Tax Increment Financing District Development Program, as follows:

EXHIBIT D
TOWN COUNCIL ORDER NO. 11-105
ADOPTION OF SECOND AMENDMENT TO
THE TOWN CENTER MUNICIPAL DEVELOPMENT AND
TAX INCREMENT FINANCING DISTRICT DEVELOPMENT PROGRAM

WHEREAS, the Town of Scarborough, Maine (the “Town”) is authorized pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, to amend previously established tax increment financing districts and development programs within the Town; and,

WHEREAS, the State Development Office approved the Town Center Tax Increment Financing District (the “District”) on January 24, 1986, which included the adoption of a Development Program for the District; and,

WHEREAS, the original Development Program provided for the mechanism to fund the construction projects associated with the Town Center Complex and road improvements at the intersection of Route 1 and Route 114; and,

WHEREAS, the original Development Program contemplated funding these approved projects at least partially with bonded indebtedness; and,

WHEREAS, the Maine Department of Economic and Community Development approved an amendment to the Town Center Tax Increment Financing District and the Development Program for the District on March 27, 1998 (the “First Amendment”), which amendment increased the amount of the maximum captured assessed value with the District from \$4,403,600 to \$6,900,000; and,

WHEREAS, the District was set to terminate when the approved projects were fully paid for; though the assumption was that the debt service would be fully covered by the property tax revenues generated by the increased assessed value of property inside the District (the “TIF Revenues”) in each year and this was not the case; and,

WHEREAS, in prior years when the TIF Revenues have not fully covered the outstanding debt service payments, other Town funds have supported the debt service payments; and,

WHEREAS, the State statute governing TIFs provides for a maximum TIF district term of thirty (30) years and this District will have completed twenty-seven (27) years when the debt service for the approved projects is retired; and,

WHEREAS, extending the District’s term of years to the maximum thirty (30) years will allow the Town to reimburse itself for the portion of the project’s costs that were not previously covered by TIF Revenues; and

WHEREAS, implementation of the Second Amendment will help continue the pursuit of the goals as originally contemplated by the Town’s designation of the District and adoption of the original Development Program; and,

WHEREAS, the Town desires to adopt the Second Amendment and it is expected that approval will be obtained from the State of Maine Department of Economic and Community Development (the “Department”) for the Second Amendment; and,

BE IT ORDERED BY THE SCARBOROUGH TOWN COUNCIL AS FOLLOWS:

Section 1. The Town of Scarborough hereby adopts the Second Amendment to the Town Center Tax Increment Financing District Development Program (the “Second Amendment”) such adoption to be pursuant to the following findings, terms, and provisions:

Section 2. The Town Council hereby finds and determines that:

- a. Pursuant to Title 30-A M.R.S.A. Section 5226(5) pertaining to TIF district and development program amendments, this Second Amendment does not result in the District being out of compliance with any of the conditions of 30-A M.R.S.A. Section 5223(3) which pertains to the percentage of area within each of the Districts that is suitable for commercial use, the TIF acreage caps for single TIF districts and for all TIF districts in the

Town, the total TIF district valuation cap, and the cap on the aggregate value of municipal indebtedness financed by TIF proceeds in Cumberland County.

- b. The adoption of the Second Amendment will make a contribution to the economic growth and well-being of the Town of Scarborough and the surrounding region, and will contribute to the betterment of the health, welfare and safety of the inhabitants of the Town, including a broadened and improved tax base and economic stimulus, and therefore constitutes a good and valid public purpose. The Town Council has considered all evidence, if any, presented to it with regard to any adverse economic effect on or detriment to any existing business and has found and determined that such adverse economic effect on or detriment to any existing business, if any, is outweighed by the contribution expected to be made through the District and the Second Amendment.

Section 3. To the extent the Second Amendment conflicts with anything contained within the original Development Program, the Second Amendment shall govern. All other provisions of the original Development Program shall remain in effect.

Section 4. The Town Manager, or his duly appointed representative, is hereby authorized, empowered and directed to submit the proposed Second Amendment to the State of Maine Department of Economic and Community Development for review and approval pursuant to the requirements of 30-A M.R.S.A. §5226.

Section 5. The foregoing adoption of the Second Amendment shall automatically become final and shall take full force and effect upon receipt by the Town of approval by the Department of Economic and Community Development, without requirements of further action by the Town, the Town Council, or any other party.

Section 6. The Town Council, or its duly appointed representative, is hereby authorized and empowered, at his/her discretion, from time to time, to make such revisions to the Development Program as amended for the District as the Town Council, or its duly appointed representative, deem reasonably necessary or convenient in order to facilitate the process for review and approval by the Department of Economic and Community Development, or for any other reason, so long as such revisions are not inconsistent with these resolutions or the basic structure and intent of the Development Program as amended.

Approved December 21, 2011, by the Town Council, at a meeting duly convened and conducted at Scarborough, Maine.

IN THE TOWN COUNCIL.

Ronald D. Ahlquist, Council Chair

Vote: 5 Yeas.

Order No. 11-106, 7:00 p.m. Public hearing and second reading on the proposed amendments to Chapter 305 – the Town of Scarborough Sprinkler Ordinance. B. Michael Thurlow, Fire Chief, gave a brief overview on the proposed amendments to Chapter 305 – the Sprinkler Ordinance and responded to questions from the Town Council. Chairman Ahlquist opened the public hearing on Order No. 11-106. There being no comments either for or against, the hearing was closed at 7:06 p.m.

Motion by Councilor Roy, seconded by Councilor Holbrook, to move approval of the second reading on the proposed amendments to Chapter 305 – the Town of Scarborough Sprinkler Ordinance, as follows:

**Proposed Amendments to Chapter 305 – the Town of Scarborough
Sprinkler System Ordinance**

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the Sprinkler System Ordinance adopted January 2, 1985 and amended April 2, 1986 and July 17, 1991 is hereby repealed and replaced with the following:

Sprinkler System Ordinance

1. New Building Construction.

Except as provided in Section 8, an Approved Automatic Sprinkler System shall be installed in all areas of all new buildings described in whole or in part by any of the following criteria:

- a. Three or more stories in height; or
- b. Forty or more feet in height; or
- c. Either 100,000 cubic feet or more in total volume or 7,500 square feet or more in floor area, ~~which ever is greater~~; or
- d. Multiple family or multiple occupant dwelling and/or lodging units which are attached to one another, whether vertically or horizontally, in a configuration of three or more units. Examples include, but are not limited to, multiplex housing, condominium units, garden apartments, town houses, attached dwellings, semi-detached dwellings, apartment houses, hotels, motels, boarding homes and lodging houses; or
- e. Non-residential Units of Occupancy which are attached to one another, whether vertically or horizontally, in a configuration of three or more units; or
- f. Any building, regardless of size, that is part of a retail sales operation and that involves the storage and/or sale of consumer fireworks^[i1] or fireworks; or^[i2]
- g. Any health care and/or educational occupancy as defined in the NFPA 101 Life Safety Code.

2. Building Additions Existing Buildings and Requirements of Other Codes.

Except as provided in Section 8, an Approved Automatic Sprinkler System shall also be installed in any of the following circumstances:

- ~~a. When a building is enlarged, altered or renovated, an Approved Automatic Sprinkler System must be installed in the enlarged, altered or renovated portion if, as a result of the enlargement, alteration or renovations, the building as a whole will meet any of the criteria listed in Section 1, Subsections (a), (b), (c) or (d). When the area and/or volume of such enlarged, altered or renovated portion, together with the area and/or volume of any other enlargements, alterations or renovations occurring since the effective date of this Ordinance, exceeds 25% of the area and/or volume of the building existing on the effective date of this Ordinance, then an Approved Automatic Sprinkler System must be installed in the entire building.~~
- b.a. When an existing building ~~containing 3 or more units of occupancy~~ is enlarged, altered or renovated and the enlarged, altered or renovated portion, together with the area and/or volume of any other enlargements, alterations or renovations occurring since the effective date of this Ordinance, does not exceed 25% of the area and/or volume of the

building existing on the effective date of this Ordinance, then an Approved Automatic Sprinkler System is not required. When the area and/or volume of such enlarged, altered or renovated portion, together with the area and/or volume of any other enlargements, alternations or renovations occurring since the effective date of this Ordinance, exceeds 25% of the area and/or volume of the building existing on the effective date of this Ordinance, and if as a result of the enlargement, alteration or renovations, the building as a whole will meet any of the criteria listed in Section 1, then an Approved Automatic Sprinkler System must be installed in the entire building.

- e b. When a new dwelling or lodging unit is created in or added to an existing building, an Approved Automatic Sprinkler System must be installed in the entire building if, as a result of the creation of the new unit, the building as a whole will meet the criteria of Section 1(d).
- d c. When any other applicable ordinance, code, regulation, rule or statute so requires, then an Approved Automatic Sprinkler System ~~must~~ shall be installed accordingly.

3. **Definitions.**

- a. “An Approved Automatic Sprinkler System” means a system either voluntarily installed or required under this ordinance or other codes and standards. All systems must be installed in accordance with National Fire Protection Association Standards, a system approved and permitted by the Maine State Fire Marshall’s Office and the Scarborough Fire Department.
- b. “Alteration” means any construction or renovation to an existing structure other than repair or addition.
- b c. “Approved Supervisory Alarm System” means a system which complies with the requirements of the Town of Scarborough Ordinance Regulating Fire Detection, Suppression and Supervisory Alarm Systems adopted July 17, 1991, as such ordinance may be amended from time-to-time.
- e d. “Building” means any structure having a roof supported by columns or walls. For purposes of determining when an Approved Automatic Sprinkler System is required by this Ordinance, portions of buildings separated from other portions by a fire wall shall not be considered separate buildings.
- ~~d. “Unit of Occupancy” Means any interior space with defined boundaries described in a deed, lease, license or agreement in which a discreet business, commercial, office, service, professional, institutional or industrial activity is conducted and which is separated from any other business, commercial, office, service, professional, institutional or industrial activity by interior or exterior walls.~~
- d e. “Consumer fireworks” has the same meaning as provided for in 8 M.R.S. § 221-A(1-A).
- f. “Fireworks” has the same meaning as provided for in 8 M.R.S.A § 221-A(4).
- g. “Unit of Occupancy” means any interior space with defined boundaries described in a deed, lease, license or agreement in which a discreet business, commercial, office, service, professional, institutional or industrial activity is conducted and which is separated from any other business, commercial, office, service, professional, institutional or industrial activity by interior or exterior walls.

4. Additional Requirements of Sprinkler Systems.

- a. An Approved Automatic Sprinkler System shall be equipped with an Approved Supervisory Alarm System which will transmit to an approved receiver or municipal fire alarm system. The determination of what systems and receivers are “approved” shall be made by the Scarborough Fire Department in order to ensure that only compatible systems are connected to the municipal fire alarm cable. The Scarborough Fire Department Electrician or designee is the only person authorized to ~~will~~ make the connection to the municipal fire alarm system.
- b. An Approved Automatic Sprinkler System shall include an ~~4-inch Stortz Fire Department Connection~~ approved Fire Department Connection with cap. The style and location of the Fire Department sprinkler and standpipe Connections shall be approved by the Scarborough Fire Department.
- c. An Approved Automatic Sprinkler System shall include an evacuation alarm which will provide audible and visual warning sound and be audible throughout the entire building when the sprinkler system is activated. ~~An internal fire alarm system may be utilized to meet this requirement, proved it is interconnected to activation of the sprinkler system.~~
- d. Notwithstanding anything to the contrary in any other regulation, code or rule, an Approved Automatic Sprinkler System shall provide sprinkler heads both above and below ceilings in all building spaces, including, without limitation, closets, stairwells, storage rooms, mechanical rooms and equipment rooms (unless an alternative method is acceptable to the Scarborough Fire Chief and the Maine State Fire Marshal’s Office).
[amended 08/16/95]
- e. Tamper switches shall be installed and monitored on all sprinkler systems to indicate a condition that would impair the satisfactory operation of the sprinkler system. System components and parameters that shall be monitored include, but are not limited to, control valves, water tank levels, tank pressure, and air pressure on dry-pipe systems.
- f. When required, fire suppression hood systems shall be installed and monitored. Upon activation of the fire alarm system, the alarm system shall automatically disconnect the fuel or energy supply to the protected appliances and the power to any ventilation and/or make-up air fans.

5. Maintenance of System Required.

Occupied or unoccupied buildings or portions thereof having a sprinkler system in place, whether or not such system is required by this Ordinance, shall maintain all sprinklers and standpipe systems and all component parts in workable condition at all times, and it shall be unlawful for any owner or occupant or agent of either to reduce the effectiveness of the protection those systems provide. This Section does not prevent the owner or occupant of a building from temporarily reducing or discontinuing the protection when necessary in order to conduct testing, repairs, alterations or additions to the system, provided that the testing, repairs, alterations or additions are done in such a way to avoid the creation of a safety hazard, and provided that the Fire Department has been notified that the work will be done, informed of the time the system will be shut down and then notified when the system is put back on line.

6. Enforcement.

A person, firm or corporation who is the owner or has control or use of any building and who violates or permits or causes a violation of any of the provisions of this Ordinance in such

building commits a civil violation punishable pursuant to 30-A M.R.S.A. § 4452. The provisions of this Ordinance shall be enforced by the Scarborough Fire Chief or members of the Fire Department expressly designated by the Chief.

7. Authority and Purpose.

This Ordinance is enacted pursuant to 30-A M.R.S.A. § 3001 and 30 M.R.S.A. § 3007(2) as a local ~~building code~~ life safety code and for the purpose of fulfilling the municipality's enforcement responsibilities pursuant to Title 25, Chapter 313 of the Maine Revised Statutes.

8. Exemption.

This Ordinance shall not apply to single family dwellings, two family dwellings and barns or greenhouses used for agriculture or horticulture.

Vote: 5 Yeas.

Order No. 11-110, 7:00 p.m. Public Hearing and action on the following renewal requests for a Mobile Home/Manufactured Housing Community Permit:

<u>Business</u>	<u>Location</u>
1. Crystal Springs Mobile Home Park LeeAlex, LLC	Route 22
2. Pinecrest Manufactured Housing Community Theresa Desfosses	126 U.S. Route One
3. Hillcrest Manufactured Housing Community Theresa Desfosses	126 U.S. Route One

Chairman Ahlquist opened the public hearing on Order No. 11-110. As there were no comments either for or against, the hearing was closed at 7:09 p.m.

Motion by Councilor Roy, seconded by Councilor Holbrook, to move approval on the following renewal requests for a Mobile Home/Manufactured Housing Community Permit, as noted in above in Order No. 11-110.

Vote: 4 Yeas. 1 Nay [Councilor Benedict].

Order No. 11-111, 7:00 p.m. Public hearing and action on the new request for a Massage Therapist License from Brianna Hamilton doing business at Scarborough Massage & Wellness Center located at 183 US Route One, Suite E. Chairman Ahlquist opened the public hearing on Order No. 11-111. As there were no comments either for or against, the hearing was closed at 7:12 p.m.

Motion by Councilor Rancourt, seconded by Councilor Benedict, to move approval on the new request for a Massage Therapist License from Brianna Hamilton doing business at Scarborough Massage & Wellness Center located at 183 US Route One, Suite E.

Vote: 5 Yeas.

OLD BUSINESS: None at this time.

NEW BUSINESS:

Order No. 11-112. Act on the request 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: Fengler Road and Freedom Road located in the Mitchell Hill Heights Subdivision. Motion by Councilor Rancourt, seconded by Councilor Benedict, 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: Fengler Road and Freedom Road located in the Mitchell Hill Heights Subdivision.

Vote: 5 Yeas.

Order No. 11-113. Act to accept open space parcels, easements and license on properties located in the Mitchell Hill Heights Subdivision and authorize the Town Manager to sign all necessary documents. Motion by Councilor Roy, seconded by Councilor Holbrook, to move approval to accept open space parcels, easements and license on properties located in the Mitchell Hill Heights Subdivision and authorize the Town Manager to sign all necessary documents.

Vote: 5 Yeas.

Order No. 11-114. Act on the request from the Shellfish Committee to approve the allocation of Shellfish Licenses for 2012. David Corbeau, Marine Resource Officer, gave a brief overview on the proposed recommendations and responded to questions from the Town Council.

The following individual spoke on this order:

- Chuck Maynard, non resident commercial license holder agreed with the comments with regards to leaving the resident recreational number as is.
- Robert Willette, Chair of the Shellfish Committee, agreed with the comments made by the Marine Resource Officer and responded to questions from the Council.

Motion by Councilor Rancourt, seconded by Councilor Roy, to move approval on the request from the Shellfish Committee to approve the allocation of Shellfish Licenses for 2012.

Motion by Council Roy, seconded by Councilor Rancourt, to move approval to amend the main motion to leave the resident recreational at 200, the non-resident recreational at 20; increase the resident commercial license to 2 and the over 60 by 1 and leave all other licenses as is.

Vote on Amendment: 5 yeas.

Main motion as amended:

	<u>2012</u> <u>Proposed Allocations</u>	<u>2011</u> <u>Allocations</u>
• Resident Commercial License:	27	25
• Non – Resident Commercial Licenses:	4	4
• Over 60 Commercial Bushel Licenses:	3	2
• Resident Student Commercial License:	10	10
• Non- Resident Student Commercial License:	1	1
• Resident Recreational Licenses:	180 200	200
• Non- Resident Recreational License:	18 20	20
• Day Permits:	10 per day	10 per day

Vote: 5 Yeas.

Order No. 11-115. Act to approve the Resolve to accept donations for the Fuel Assistance Program. Motion by Councilor Rancourt, seconded by Councilor Roy, to move approval to accept donations for the Fuel Assistance Program, as follows:

TOWN OF SCARBOROUGH

IN TOWN COUNCIL ASSEMBLED

December 21, 2011

RESOLVE Accepting Donations for the Fuel Assistance Program

BE IT HEREBY RESOLVED BY THE TOWN COUNCIL AS FOLLOWS:

THAT THE Town of Scarborough gratefully accepts the pledges and donations from the following businesses and/or persons, that have been collected to date, to be used for the Fuel Assistance Program:

Richard Sullivan, Jr.
Paul & Johnna Dionne
Bruce Gullifer

Scarborough Physical Therapy Associates
Michael & Malvina Thurlow
Anonymous Donation

AND, be it further Resolved that each business, organization and/or person be recognized for their generous donations as a token of the Town's appreciation.

Sponsor: Town Council
Originator: Town Council

Vote: 5 Yeas.

Order No. 11-116. Act on the Council Committee/Liaison Appointments, as recommended by the Town Council Chair. Motion by Councilor Roy, seconded Councilor Holbrook, to move approval on the on the Council Committee/Liaison Appointments, as recommended by the Town Council Chair, as follows: **2012 Council Appointments**

Council Standing Committee

Finance Committee:	Councilor Roy - Chair Council Chair Ahlquist Councilor Holbrook
Ordinance Committee:	Councilor Rancourt - Chair Councilor Sullivan Councilor Benedict
Appointments Committee	Councilor Holbrook – Chair Councilor Benedict Councilor D’Andrea
Fair Hearing:	Councilor D’Andrea – Chair Council Chair Ahlquist Councilor Sullivan

Rules & Policies: Council Chair Ahlquist – Chair
Councilor Roy
Councilor Sullivan

Council Liaison Appointments

ADA Advisory: Councilor D’Andrea
Board of Education: Councilor Rancourt
Chamber of Commerce: Councilor Roy
Coastal Harbor Committee: Councilor Benedict
COG - Executive Council: HR Director Ellen Blair
COG - General Assembly: Councilor Roy [Alternate: Council Chair Ahlquist]
Conservation Commission: Councilor D’Andrea
Eastern Trail: Councilor D’Andrea
ecomaine: Council Chair Ahlquist – Term expires 2013
Mike Shaw – Public Works Director – Term expires 2013
Energy Committee: Councilor Roy
Fire Commission: Councilor Sullivan
Firing Range Committee: Councilor Holbrook
Historical Society: Councilor Rancourt
Housing Alliance: Councilor Holbrook
Library Board: Councilor Rancourt
Long Range Planning: Councilor Roy
Planning Board: Councilor Benedict
SEDCO: Councilor Roy
Senior WOW Group: Councilor Rancourt
Shellfish Conservation: Councilor Sullivan

Vote: 5 Yeas.

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

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

- Councilor Roy update on the Energy Committee. The next meeting will be the third Thursday of January.

Item 10. Town Manager Report. Thomas J. Hall, Town Manager, gave an update on the following:

- It was suggested that the Town Council meet hour before the January 4th for goal setting. He would prepare information for the Council prior to this meeting.
- Looks forward to working with the committees – especially the Finance Committee and the Ordinance Committee.
- There is interest in having another concert at Scarborough Downs in the coming year and he would like to know whether there would be any potential changes to the Mass Gathering Ordinance and would like to know what, if any, issues there might be. There could be as many as three or four concerts.
- He gave an Elsa update in that the lumber would be sent for milling soon. He added that the Libby Mitchell Post would be interested in a fundraiser by making baseball bats with the lumber.
- There is a Scarborough Education Foundation which has been formed by the School Department. There will be an information meeting on January 23rd at the Middle School at 7:00 p.m.

Item 11. Council Member Comments.

- Councilor Benedict wished everyone a Merry Christmas, Happy Holidays and a Happy New Year.
- Councilor Rancourt wished everyone a Merry Christmas, Happy Hanukkah and Happy New Year. She sent condolences to the family of Bill Stroud and the family Phil Ahlquist.
- Councilor Roy condolences to the family of Bill Stroud. She would like to schedule a Finance Committee meeting during the week of January 9th an early morning meeting 7:00 a.m. maybe that Monday. She then wished everyone a Happy Holiday.
- Councilor Holbrook wished everyone a Happy Holiday.
- Chairman Ahlquist noted that Councilor D'Andrea was not present due to illness and Councilor Sullivan had to work. He sent condolences to the family of Bill Stroud. He further stated that he would like to have a member of the Council step forward to volunteer for the MMA and the Nation League of Cities.

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

Vote:

Meeting adjourned at 8:07 p.m.

Respectfully,

Yolande P. Justice
Town Clerk