

**MINUTES
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – DECEMBER 19, 2001
IMPACT FEE WORKSHOP – 5:30 P.M.
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 7:35 p.m.

Item 2. Pledge of Allegiance.

Item 3. Roll Call. Roll was called by Marcia McGinnis, Deputy Town Clerk.

Councillor Most	Councillor Ross
Councillor Maroon	Councillor O'Reilly
Councillor Foley-Ferguson	Councillor Downs
Chairman Messer	Ronald W. Owens, Town Manager

Item 4. Minutes: December 5, 2001. Motion by Councillor Downs, seconded by Councillor Maroon, to approve the minutes of the December 5, 2001, Town Council meeting.

Councillor Ross requested that his comments regarding Order No. 01-142 – accepting a parcel of land on Map R-59, Lot 21 -- (at the bottom of Page 3) be reflected in the minutes by adding his comment that there are junk tires on the property which should be removed.

Vote: 7 yeas.

Item 5. Items to be signed: a. Treasurer's Warrants. Chairman Messer stated he would be signing these warrants over the course of the meeting.

At this point Chairman Messer acknowledged the work of Councillor Mark Maroon as Chair of the Scarborough Town Council for the year 2001 and presented Councillor Maroon with a plaque in appreciation of his leadership as Chair.

Order No. 01-139, 7:30 p.m. Public hearing and schedule the second reading on the proposed change to Chapter 303. Personnel Ordinance, Section 502. Sick Leave. Chairman Messer opened the public hearing. As there were no public comments, Chairman Messer closed the public hearing at 7:40 p.m. The second reading will be scheduled for Wednesday, January 2, 2002.

Order No. 01-146, 7:30 p.m. Public hearing on the following renewal applications for Junkyards: (1) Meserve & Sons, 224 Black Point Road; (2) Speedway Auto, 343 Payne Road; (3) Goldstein Steel Company, Inc., 36 Running Hill Road; (4) A. Gagnon or E. Perry Iron & Metal, Rigby Road; (5) John B. Dickinson, 34 Running Hill Road; (6) Scarborough Auto Parts, 40 Holmes Road; (7) Regional Waste Systems, Off Running Hill Road & Green Roads. Ronald W. Owens, Town Manager, stated that all businesses were found to be in compliance with the Code Enforcement Officer except for Speedway Auto at 343 Payne Road and John B. Dickinson's property at 34 Running Hill Road.

Chairman Messer opened the public hearing.

John Dickinson, 34 Running Hill Road, asked that his renewal application be tabled, as he has met with the Planning Board and has been referred to the Zoning Board. His property is under a purchase-and-sale agreement and dumpsters have been placed on his property which Dave Grysk (Code Enforcement Officer) feels should not be there. He stated they would like to have the use changed so the new owner will be able to recycle cardboard on the property, further noting that no business is being conducted on the property presently.

There being no further comments Chairman Messer closed the public hearing at 7:44 p.m. Chairman Messer suggested dividing the question into three parts: (1) Approval of the businesses in compliance; (2) Approval of Speedway Auto subject to compliance issues to the satisfaction of the Code Enforcement Officer; (3) Motion to table the John B. Dickinson property.

Motion by Councillor Ross, seconded by Councillor Maroon, to divide the question.

Vote: 7 yeas.

Motion by Councillor Downs, seconded by Councillor Foley-Ferguson, to approve the renewal applications for the following junkyards: Meserve & Sons, Goldstein Steel Company, Inc., A. Gagnon or E. Perry Iron & Metal, Scarborough Auto Parts, and Regional Waste Systems.

Councillor Ross commented that the word “junkyard” does not appear in the Scarborough Ordinance or Zoning Ordinance and the word is used as a catch-all term. He wanted to make clear that the word “junkyard” used here is in no sense pejorative. Ronald W. Owens, Town Manager, stated it is a classification of vehicle auto parts and storage of those parts, and the definition derives more from state regulation than from town regulation. Councillor Downs asked some questions about the RWS site, and David Grysk, Code Enforcement Officer, explained the procedure for increasing use on any site in town.

Vote: 7 yeas.

Motion by Councillor Messer, seconded by Councillor Downs, to approve the license for Speedway Auto subject to compliance issues being resolved to the satisfaction of the Code Enforcement Officer.

Vote: 7 yeas.

Motion by Councillor Messer, seconded by Councillor Ross, to table the permit for John Dickinson’s property at 34 Running Hill Road to the next Town Council meeting on January 2, 2002.

Vote: 7 yeas.

Order No. 01-147, 7:30 p.m. Public hearing on the following renewal applications for Manufactured Housing Communities: (1) Crystal Springs Manufactured Housing Community, David & Donna Alexander, U.S. Route 22; (2) Pinecrest Manufactured Housing Community, Theresa Desfosses, 126 U.S. Route One; (3) Hillcrest Manufactured Housing, Theresa Desfosses, 126 U.S. Route One. Chairman Messer stated these are renewed yearly and the Town Manager in his memorandum to the Council stated that Code Enforcement recommends renewal of all manufactured housing community licenses since they are all in substantial compliance. Chairman Messer then opened the public hearing. As there were no public comments, Chairman Messer closed the public hearing at 7:50 p.m.

Motion by Councillor O’Reilly, seconded by Councillor Downs, to approve the following renewal applications for Manufactured Housing Communities: (1) Crystal Springs Manufactured Housing Community, David & Donna Alexander, U.S. Route 22; (2) Pinecrest Manufactured Housing Community, Theresa Desfosses, 126 U.S. Route One; (3) Hillcrest Manufactured Housing, Theresa Desfosses, 126 U.S. Route One.

Vote: 7 yeas.

OLD BUSINESS:

Order No. 01-133. Second reading on the proposed request from Brown Development Corporation to rezone a portion of their property located on Highland Avenue from an R-F Zone to R-2 Zone. Motion by Councillor Downs, seconded by Councillor Ross, to approve the second reading on the proposed request from Brown Development Corporation to rezone a portion of their property located on Highland Avenue from an R-F Zone to R-2 Zone.

Vote: 7 yeas.

Order No. 01-140. Second reading to amend the Police Budget for FY 2001/2002 by increasing revenues and expenditures in the following amounts: (a) A \$5,000 grant from the Department of Public Safety; (b) A \$500 donation from Kleen Master for the Explorer Program. Motion by Councillor Downs, seconded by Councillor O'Reilly, to approve the second reading to amend the Police Budget for FY 2001/2002 by increasing revenues and expenditures in the following amounts: (a) A \$5,000 grant from the Department of Public Safety; (b) A \$500 donation from Kleen Master for the Explorer Program.

In reply to a question from Councillor O'Reilly, Ronald W. Owens, Town Manager, stated that any type of donation made to the town must be formally accepted by the Council and the Council must approve any addition to the budget. Chairman Messer stated that the Council must approve all expenditures and revenues in compliance with the Town Charter, and, as per Council Rules, the Council must approve any expenditure beyond \$500 by roll call vote.

Roll Call Vote:	Councillor Most:	Yea	Councillor Ross:	Yea
	Councillor Maroon:	Yea	Councillor O'Reilly:	Yea
	Councillor Foley-Ferguson:	Yea	Councillor Downs:	Yea
	Chairman Messer: Yea			

NEW BUSINESS:

Order No. 01-148. Act to authorize the Treasurer to sign a release deed on property located at 68 Travelo Street, Map T1, Lot 68. (Real estate taxes are paid through June 30, 2002.) Motion by Councillor O'Reilly, seconded by Councillor Downs, to authorize the Treasurer to sign a release deed on property located at 68 Travelo Street, Map T1, Lot 68. (Real estate taxes are paid through June 30, 2002.)

Vote: 7 yeas.

Motion by Councillor Ross, seconded by Councillor Downs, to suspend the rules to add an item to the agenda.

Vote: 7 yeas.

Order No. 01-149. Act to consider an emergency ordinance on facilities for bulk storage and/or distribution of fuel in the B-2 Zoning District. Chairman Messer stated it has been brought to the Council's attention that a propane tank farm may be located in the Town of Scarborough and suggested the Council look into this in greater detail. Chairman Messer read the draft of the emergency ordinance into the record.

**TOWN OF SCARBOROUGH EMERGENCY ORDINANCE
ON FACILITIES FOR BULK STORAGE AND/OR DISTRIBUTION OF FUEL**

WHEREAS, the Scarborough Code Enforcement Officer has recently received an inquiry concerning the possibility of establishing a facility for bulk storage and distribution of propane in the B-2 Zoning District; and

WHEREAS, prior to 1994, the zoning district regulations for the B-2 Zoning District permitted warehousing and wholesale distribution only as an accessory use to a permitted retail use; and

WHEREAS, in 1994 in connection with certain zoning amendments relating to high-technology research facilities, light assembly and light manufacturing, the Town Council amended the B-2 Zoning District regulations to permit warehousing and wholesale distribution independent of a retail use; and

WHEREAS, the Town Council finds that bulk storage and wholesale distribution of fuels is a use with an industrial character and with potentially serious public health and safety impacts; and

WHEREAS, the Town Council concludes that it was not the intent of the 1994 amendments to allow an industrial use which presents unique public health and safety concerns in a predominantly retail zone; and

WHEREAS, the Town Council concludes that the Town's existing regulations do not provide adequate safeguards to prevent the possibility of serious public harm from the inappropriate siting of a bulk fuel storage and distribution facility; and

WHEREAS, the Town Council declares that the circumstances described above constitute an emergency under Section 213 of the Council-Manager Charter of the Town of Scarborough, requiring immediate action by the Council;

NOW, THEREFORE, be it hereby ordained by the Town Council of the Town of Scarborough, Maine, in Town Council assembled as follows:

1. Acceptance, processing and acting upon applications prohibited. During the time this Ordinance is in effect, no officer, official, employee, office, board or agency of the Town of Scarborough shall accept, process, approve, deny, or in any other way act upon any application to develop, construct or operate a facility for wholesale storage and/or wholesale distribution of fuel stored in bulk.
2. Effective date and duration. This Ordinance takes effect immediately upon enactment and shall remain in effect through March 19, 2002, unless extended, amended or repealed by the Town Council.

Motion by Chairman Messer, seconded by Councillor Downs, to approve the emergency ordinance on facilities for bulk storage and/or distribution of fuel in the B-2 Zoning District.

Chairman Messer stated that by the Town's rules an emergency ordinance is good for 90 days, and he expects the Ordinance Committee will review this matter.

Vote: 7 yeas.

Item 7. Non-Action Items: (a) Report regarding the status of the Wetland Mitigation Project. Ronald W. Owens, Town Manager, gave a brief overview of this report, noting that when the new Public Works Garage was constructed some wetlands were filled, and, as part of the approval process with the State, the Town agreed to undertake a wetlands mitigation project on the old landfill site on Holmes Road. Phase I – grading and excavation -- has been completed; Phase II will be initiated this spring and will include planting of vegetation. Councillor Ross made comments and asked some questions regarding this issue. He further requested that the record reflect that he feels perhaps the Council should consider where the town should be in “this whole mitigation business,” understanding mitigation sites occur because of a previous degradation of the site in question. Understanding there

will probably be more demand for mitigation in the future, he asked whether a cost-benefit analysis should be conducted on future sites. He further asked what authority the Town has to influence such projects. Councillor Foley-Ferguson stated that she has suggested in the past that the Town work on a mitigation policy, noting Scarborough gets many outside requests for mitigation sites because of the marsh. She would like the town to develop a policy to identify sites and suggested the participation of Friends of the Scarborough Marsh. Ronald W. Owens, Town Manager, stated that he believes the Conservation Commission is looking into some of this and that a wetlands bank has been discussed by the Commission.

Item 8. Standing Committee Reports:

(a) Appointments Committee: Councillor Ross stated this Committee will meet tomorrow, Thursday, December 20, 2001, at 5:30 p.m. at the Public Library and noted that at the last meeting it was noted that within the Firearms Ordinance there is mention of a Firing Range Committee and that it possibly be activated. He noted the makeup of the committee and stated that the Appointments Committee would be soliciting applications for this position from the public. In response to a question from Councillor Ross, Ronald W. Owens, Town Manager, stated that the responsibility of the Appointments Committee is to appoint an at-large member.

(b) Finance Committee: None at this time.

(c) Ordinance Committee: Councillor Maroon stated that the Committee would immediately take up the issue of the emergency ordinance enacted this evening. They will announce the regular meeting times once schedules are worked out.

(d) Rules & Policies Committee: None at this time.

Item 9. Special Committee Reports. None at this time.

Item 10. Liaison Reports.

- Chairman Messer stated that the first meeting of the Land Search Committee was held last Friday in the Superintendent's Office and noted committee members: Greg L'Heureux, Rocco Risbara, III, Bob Nadeau, Rick Shinay, Thimi Mina; Shawn Babine as the Board of Education representative, Chairman Messer as the Council representative, Paul Lesperance as the Town staff representative, and Norman Justice as the School Department staff representative. Mr. Shinay was selected chairman. This committee will look for potential sites within 4 miles of the town center that have 25 to 60 acres of available land and will work on a point system for each parcel. Should funding become available or a referendum question passed, the committee would like to have a site picked out beforehand.
- Chairman Messer stated he went to the first School Board meeting and David Beneman was selected chairman and Mark Violette vice chairman. At that meeting Chairman Messer stated he extended the hand of cooperation between the Council and the Board of Education and offered that an agenda item be on each respective agendas of the chairmen of the other boards to address pertinent issues. He stated that monthly meetings will continue with the Town Manager, the Council Chairman, the Superintendent of Schools, and the Board of Education Chairman. He stated joint meetings might be held in the future when there is an issue of common concern.

Item 11. Public Comments.

1. Larry Bruns, 39 Hanson Road, commented on the following issues: Paperless Council meetings, the growth control ordinance, impact fees, and business impact fees.
2. David Green, 137 Beech Ridge Road, made comments regarding the test pits by the Speedway and impact fees.

Prior to Council member comments, Ronald W. Owens, Town Manager, stated that at the January 16, 2002, Town Council meeting there will hopefully be a presentation by Bill Bray, the Town's traffic consultant. He further wished all town councillors and the public happy holidays.

Item 12. Council Member Comments.

1. Councillor Foley-Ferguson requested of the Town Manager some bookkeeping costs regarding impact fees. Mr. Owens stated he anticipates no additional costs based on discussions thus far.
2. Councillor Maroon referred to an e-mail from Steve McIlwain in which he stated that businesses in the San Francisco area are hanging posters in their windows entitled "America Open for Business." Because the organizers would like this to be a national campaign, Councillor Maroon has received 1,000 posters which will be available in the town hall lobby and at the Chamber of Commerce. He stated the importance of the campaign for this country.
3. Councillor Most asked that during the next discussion on impact fees the Town Manager address Mr. Bruns' question about what the savings would be to the taxpayer on his/her tax bill. Mr. Owens stated it would not be known until it is known what the school project would be; he then explained how it would be calculated. Chairman Messer explained his rough estimate calculations and determined that under the current budget numbers it would be approximately 20 to 25 cents on the tax rate (\$50 per year on a \$200,000 home). Councillor Most wished everyone happy holidays.
4. Councillor Ross stated the Fuller Farm and its 180 acres is now permanently protected as the Trust for Public Lands has turned the deed over to the Scarborough Land Conservation Trust.

Councillor Ross stated he feels a traffic study of the Dunstan area should be looked at sooner rather than later. He would also like exploration in the future of a composting facility and a transfer facility.

He further wished his colleagues and the citizens of Scarborough a relaxed and happy holiday season, and he looks forward to returning to town business in the new year with refreshed vigor.

5. Councillor O'Reilly wished all town councillors and residents happy holidays.

He referred to a thank-you letter from New York City's Assistant District Attorney in one of the local newspapers which was read into the record at the last meeting by Mr. Owens, Town Manager. Councillor O'Reilly corrected the name quoted in the newspaper – it should be Peter Hinckley and not Robert Morgenthau.

Councillor O'Reilly stated the high school winter sports season is under way and encouraged everyone to attend some of these games/meets.

Councillor O'Reilly referred to the wetlands mitigation issue, noting he agrees with Mr. Green's comments that Scarborough most likely has enough wetlands that breed mosquitoes in town, and he would like other types of green space mitigated into Scarborough. Referencing Mr. Green's comments concerning more houses must mean more money, he stated this is in fact the opposite, as residential homes are a net deficit to the municipal budget.

Councillor O'Reilly stated his interest in the issue of a transfer facility and related issues and would be very interested in reading the new Recycling Committee report. Councillor Foley-Ferguson noted that the report has not been issued yet. Mr. Owens, Town Manager, stated that the report does not cover the last three months' worth of working with communities south of Scarborough (Saco, Biddeford, Old Orchard Beach) to develop a regional recycling facility as it is still in the discussion and data-collection phases.

6. Councillor Downs stated that the Conservation Commission meets the second Monday of each month, and he will check with that commission regarding the status of the wetlands mitigation issue. He wished everyone happy and safe holidays.

7. Chairman Messer referred to laptops for Council meetings and noted that Mr. Owens, Town Manager, is a technology-orientated individual and is considering laptops for this Town Council. He stated this could be in budget deliberations. He stated that the Council is open to suggestions regarding communicating the agenda, noting it is now on the website, in the town library, available at the Town Clerk's Office, and is now broadcast on Channel 3.

Councillor Messer referenced the growth management ordinance and discussed the exemptions and the triggering of impact fees.

Councillor Messer stated that the ground-breaking for the Veterans Home expansion is scheduled for this Friday, December 21, 2001, at 1:00 p.m.

He recognized and congratulated Maureen McHugh, a Scarborough High School senior, daughter of Gina and Peter of Equestrian Way, who set the all-time career scoring record – 54 goals – noting the *Portland Press Herald* recently selected her as the State MVP for girls' soccer.

Councillor Messer stated a public forum regarding the firearms ordinance has been scheduled for Wednesday, January 23, 2002. He stated the first part of the meeting would be educational and then the public will be allowed to speak. He noted an ad hoc committee might then be formed.

He wished everyone happy and safe holidays and suggested that residents drive by the decorated home at the corner of Wedgewood and Eastern Roads.

Councillor Ross then recommended driving by a decorated home on Sawyer Road.

Item 13. Adjournment. Motion by Councillor Most, seconded by Councillor O'Reilly, to adjourn the regular meeting of the Scarborough Town Council.

Vote: 7 yeas.

Meeting adjourned at 8:40 p.m.

Respectfully submitted,

Marcia Foster McGinnis
Deputy Town Clerk