

**MINUTES  
SCARBOROUGH TOWN COUNCIL  
WEDNESDAY – DECEMBER 18, 2002  
REGULAR MEETING – 7:30 P.M.**

**Item 1. Call to Order.** Chairman O'Reilly called the regular meeting of the Scarborough Town Council to order at 7:33 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 in attendance.

Jeffrey A. Messer	Steve N. Ross
Suzanne A. Foley-Ferguson, Vice Chair	Sylvia J. Most
Mark J. Maroon	Shawn A. Babine
Patrick J. O'Reilly, Chair	

**Item 4. Minutes: December 4, 2002.** Motion by Councillor Messer, seconded by Councillor Maroon, to approve the minutes of the December 4, 2002, Town Council meeting.

Vote: 7 yeas.

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

**Order No. 02-121, 7:30 p.m. Public hearing and schedule a second reading on amendments to Chapter 601, Traffic Ordinance, to implement a traffic pattern change on Maple Avenue.** Mr. Owens, Town Manager, gave a brief overview on this order. He referred to an aerial photo of the Maple Avenue area. Mr. Owens stated that in addition to the existing housing in this area there is a new subdivision of about fifty homes being proposed off Hunnewell Hill. He also pointed out that the School Land Search Committee had looked at property (Leighton Property) at the end of Elmwood Avenue for a new Intermediate School. Mr. Owens indicated that he wanted to give a perspective on Maple Avenue and the role that it plays in this area for traffic flow and access to the area from Gorham Road and US Route One.

In trying to address concerns that had been expressed at a meeting back in the spring, there was a committee formed to try to reach some sort of resolve on this issue. Unfortunately, the proposal that staff recommended did not appeal to area residents. Mr. Owens stated that staff revisited the proposal to see what could be done to be less disruptive to the neighborhood. After much discussion, staff realized that dividing Maple Avenue may cause more problems than it solves and would tend to inconvenience a majority of the residents while only benefiting a potential few. Therefore, staff recommended that the initial proposal be withdrawn and proposed that stop signs be installed at Maple and Elmwood and Maple and Hunnewell. Mr. Owens noted that the new proposal would not be before the Council until the first meeting in January. He further stated that staff does not recommend the proposed option being recommended in Order No. 02-143.

At this time Chairman O'Reilly opened the public hearing.

Judy Roy, 6 Second Avenue, presented a petition from residents of the Maple Avenue area which basically stated that they were not in favor of the proposed changes to the traffic flow but would prefer more increased patrolling of the area. She agreed with the new proposal that had been presented by the Town Manager.

Laura Ely, 93 Maple Avenue, stated that she lives on the corner where a barrier is being proposed. This would be an inconvenience to residents on the Gorham Road side of Maple Avenue. She agreed with the stop signs and asked that sidewalks be considered.

Shirley Gruber, 23 Elmwood Avenue, voiced her concerns regarding the traffic issue and asked the Council to consider adding one more stop sign right on the corner of Elmwood and Greenacres. With drivers having to stop, they may see the signs that point to U.S. Route One.

Frank Amoroso, 75 Maple Avenue, stated that he supports the new proposal pertaining to the stop signs. He thanked the Council for taking deliberative action and appreciated the Councillors' responses to his telephone calls. He stated that he opposes the next order, which proposes a barrier. Mr. Amoroso further thanked Officer Joe Giacomantonio for a great job working on this issue and asked that police enforcement be considered for the whole town.

Larry Bruns, 39 Hanson Road, stated that he does not live in the area under discussion but had been concerned with the proposal that had been brought forward and was glad to hear that it had been withdrawn and a more common-sense proposal had been brought forward. He too would like to see an increase in police patrols.

Rick Renault, 96 Maple Avenue, stated that he did not support a barrier but did support the new proposal pertaining to the stop signs. He went on to state that there are signs on either end of Maple Avenue that state "No Through Trucks" and he would like to see the enforcement of this, as he feels that this would help eliminate some of the traffic.

Lisa Bendetson, 21 Sequoia Lane, presented signed statements by individuals who were unable to attend this meeting who opposed Order No. 02-121 and Order No. 02-143. She went on to reference a letter that she had sent to the Council which offered her thoughts and concerns on the proposed changes to the traffic regulations in the Maple Avenue/Hunnewell Hill/Greenacres area of Town. Mrs. Bendetson supported the new proposal that had been presented by the Town Manager this evening.

Paul Bureau, 34 Hunnewell Road, stated it was great to see that the Council is listening the residents of the area. He pointed out that a new subdivision would be going before the Planning Board for approval and explained where this would be located. He noted that currently Cumberland Way is located off Route 114, which would run through this new proposed subdivision and would connect with Greenacres and help alleviate traffic on Maple Avenue and at Oak Hill.

Joseph LaVopa, Maple Avenue and Elmwood Avenue, stated that he does not support either Order No. 02-121 or Order 02-143 and favors speed bumps.

Will Turgeon, 123 Maple Avenue, stated that he does not support barriers being put in place but does support the stop signs. He did not feel that it was the volume of cars but the speed at which they travel and felt that there was a need for police enforcement.

Theodore Logan, Hunnewell Hill, spoke on the proposed development of Hunnewell Hill and supported Paul Bureau's comments regarding the extension of Cumberland Way through to Greenacres.

Jay D'Auteuil, 18 First Street, stated that he would like to see a stop sign at First and Hudson. He felt that this would also help deter the speed of traffic in this area.

Jeannine Uzzi, 13 Sunset Road, stated that she would have supported the proposal but also would support the proposal for stop signs.

Jerry Paradis, 63 Elmwood Avenue and the corner of Hunnewell, questioned if the stop signs would work or if the barrier would work.

Chairman O'Reilly stated that the Council would like to hear from anyone present who supports the proposal.

Carol Combes, 81 Maple Avenue, stated that she was encouraged the Council was taking some action regarding the traffic issue. She did not support the proposal for a barrier but did support the new proposal for stop signs.

There was a discussion between a resident of the Maple Avenue area and the Police Chief regarding Maine being an absolute speed state, which Maine is. If an individual is doing 26 miles an hour in a 25-mile-an-hour zone, they could be summonsed.

Joe Silva, 47 Asselyn Drive, stated that he uses Maple Avenue four days a week. He did not agree with having a barrier but did agree with the stop signs. He also suggested that the flashing sign, which records drivers' speeds, should be set up halfway down Maple Avenue and be hooked to a red light so that any driver going over the speed limit would have to stop for a red light and wait twenty seconds before continuing on. He also felt that the heavy trucks should be kept off Maple Avenue.

Philip Gage, 6 Third Avenue, stated that he does not support either proposal and would be in favor of having speed bumps. He then asked if traffic engineers had been involved with the development of the proposals.

Mr. Owens, Town Manager, stated, yes, that a traffic engineer did look at Maple Avenue approximately three years ago and some of the proposals are a result of recommendations or thoughts that the traffic engineer made. Mr. Owens continued by stating that staff is contemplating having a traffic study done with the new subdivision that is being processed through the Planning Board.

Mr. Gage stated that it would make sense to have a full-scale study done of the Maple Avenue area. He would support having stop signs and liked the idea of having a red light attached to some sort of radar.

Chairman O'Reilly encouraged anyone wishing to speak on this item to do so and those who wished to speak again could do so.

Gregg Allen, 104 Maple Avenue, stated that he had prepared a statement to read in support of Order No. 02-121. However, the neighborhood committee also recommended the stop signs which he could also support. He thanked the Council members, the Town Manager and the Community Resource Officer, Joe Giacomantonio, and all the residents present tonight.

Lester Wallace, 2 Abigail Way, thanked the members of the Council for their time and effort. He did not see any need for changes and recommended that there be more police enforcement.

Darlene Greenfield, 97 Maple Avenue, stated that she did not support having a barrier on Maple Avenue, but did support having stop signs if it would help slow the traffic down. She also asked the Council to look at having sidewalks along Maple Avenue.

Tammy Hodgdon, 95 Maple Avenue, stated that she supports having stop signs and would also like to see sidewalks along Maple Avenue.

There being no further comments, Chairman O'Reilly closed the public hearing at 8:32 p.m. Chairman O'Reilly stated that he had received a number of emails against this order. The second reading will be held on Wednesday, January 8, 2003.

**Order No. 02-143, 7:30 p.m. Public hearing on the proposed amendment to Chapter 601, Traffic Ordinance, to make Maple Avenue a dead-end street just north of the intersection of Hunnewell Road.** Councillor Messer gave a brief overview on this order. He then read a letter that had been sent to residents of the Maple Avenue area titled, "Are You Concerned About the Speed and Volume of Traffic on Maple Avenue?" He noted that during discussion about the Mercedes Benz Dealership the Council had stated that the traffic issue in the area would be looked into.

There was a public meeting held for the Maple Avenue area residents and from that meeting a Committee was formed. The first recommendation from the Maple Avenue Committee was to divide Maple Avenue in half. Councillor Messer's barrier proposal was based on the idea from the Committee and the first barrier proposal at Elmwood would not solve the issue with through traffic coming from Gorham. He and a number of Councillors felt that the one-way streets would be too confusing; therefore, he put his proposal forward. He further noted that stop signs had been recommended back in 1997.

At this time Chairman O'Reilly opened the public hearing.

Paula Kilby, 113 Maple Avenue, did not agree with the barrier proposal and felt that speed was a real issue. She felt that there should be more enforcement by the police and maybe doubling or tripling of fines. She suggested that if a barrier were to be put in this area then she suggested that it be put at the Route 114 end of Maple Avenue.

Artemas Pickard, 15 Abigail Way, stated he too did not agree with the proposal on adding a barrier. He and his wife purchased their home for the convenient location. He does not recommend anyone going out during heavy traffic hours and trying to make a left-hand turn off Maple Avenue onto Gorham Road or a left-hand turn off Maple Avenue onto Route One as the potential for accidents to occur is very high. He would support the use of stop signs.

Judy Roy, 6 Second Avenue, stated that she did not support the proposed order. She had requested information from the Community Resource Officer relating to how many accidents occurred at the sharp corner on Maple Avenue, and the response was none. Ms. Roy noted that continued communication did not happen with the residents in the Greenacres area.

Joe LaVopa, Maple Avenue and Elmwood Avenue, suggested that signs on either end of Maple Avenue stating “No Through Traffic” would help with the traffic problem.

Barbara Foley, 8 First Street and a member of the Traffic Calming Committee, supported this proposal. She would like to see this in place for the suggested six-month trial period. The neighborhood is changing and there is a need to change with it.

Will Turgeon, 123 Maple Avenue, does not support the barrier proposal. He felt that the main concern is safety. He felt that the intersection of 114 and Maple Avenue is unsafe. He was glad to hear of the possibility of another bypass road (Cumberland Way) being added. He suggested that the Council look at Route 114, between Maple Avenue and Route One, and the possibility of this section of road becoming three lanes.

Sonya White, 9 Asselyn Drive, does not support the barrier proposal. She thought that maybe the stop signs would help.

Larry Bruns, 39 Hanson Road, reiterated his comments opposing the use of barriers on Maple Avenue. He compared this to cutting off access to the beaches. He noted that every neighborhood in Scarborough suffers from this “ailment” and that probably the worst offenders are those who live in the neighborhood. He suggested that maybe making the speed limit signs a different color in residential neighborhoods would help. He suggested that a traffic study be done town-wide.

Theodore Logan, Hunnewell Hill, stated that the complaints heard this evening were the same complaints back in the eighties. He reiterated that an access road on the backside of Hunnewell Hill would help solve some of the problem. He further stated that the Town should not just fix current problems but be looking ahead and planning for the future.

Laura Ely, 93 Maple Avenue, stated that her family runs a U-Pick Raspberry business and by putting up this proposed barrier it would hurt their business.

Lisa Bendetson, 21 Sequoia Lane, wanted to go on record that she is opposed to Order No. 02-143 for the same reasons she expressed in the prior hearing and for the reasons set forth in her written comments. Her three primary concerns were the public safety issue, public safety issue for the residents on the Route 114 end of Maple Avenue by forcing them to make a left-hand turn onto Route 114, and discontinuing a road has legal ramifications and suggested that the Council seek legal advice.

Rick Renault, 96 Maple Avenue, wanted to go on record that he does not support this proposal. There is concern with the safety of residents in this area. He further stated that there is an ordinance that states no through traffic which does not seem to be enforced and wonders if the stop signs would be effective and would there be enforcement. If the enforcement problem is due to budget constraints, Mr. Renault suggested that the Council provide more budgetary consideration to allow the police department to enforce the ordinances that are implemented by the Council.

Councillor Maroon asked about the ordinance regarding no through trucks – he was not aware of such an ordinance. Councillor Foley-Ferguson was not aware of such an ordinance and suggested that the residents were talking of when roads are posted in the spring.

Ms. Bendetson, 21 Sequoia Lane, referred to Chapter 601, last page of Section 30, Subparagraph f, which lists 10 streets where there are no through trucks allowed over 12,000 pounds

and Maple Avenue is included on that list. There was discussion regarding what types of trucks would fit this criteria.

In response to a question from Councillor Maroon, Chief Moulton stated that his sense of the ordinance is that the police will have the authority to post no through traffic on those streets listed in that ordinance when the police deem it necessary. He noted that because there is a lack of space in Cumberland County for hearings this causes problems for enforcement within the Town of Scarborough. Another problem is that the District Attorney's Office does not handle municipal ordinance prosecution; therefore, it falls back to the town to prosecute by using municipal staff. He noted that the City of Portland uses its city attorney. The cost of prosecuting some of the ordinances would cost more to the taxpayer than the fines that would be levied. Chief Moulton noted that this traffic problem is not just in one area of town and the police do the best that they can.

In response to a question from Chairman O'Reilly, Chief Moulton stated that when a ticket is written the fines go to the State's General Fund and the town receives a small reimbursement for court costs. The officers are usually paid at time and a half when they have to go into court.

Ken Johnson, 60 Maple Avenue, felt that the issues are the volume of traffic and safety. He felt there was enough information on the books for the Council to do something in this area.

Gina Tutor, 16 Abigail Way, asked the Council to consider adding a sidewalk to Maple Avenue.

Paula Kilby, 113 Maple Avenue, asked if the Bus Department had been consulted with regards to making a 3-point turn with a barrier. She reiterated the safety issues and the additional minutes it might cost someone when the rescue is called. She also complained about the lack of communication within the neighborhood regarding this issue.

In response to a question from one of the residents, Chairman O'Reilly noted that these items would be voted on at the next Council meeting, Wednesday, January 8, 2003.

Councillor Messer read the following letter into the record:

Councillor Messer read the following letter into the record:

"April 23, 2001 -- Timothy N. Giancola, 91 Maple Avenue, Scarborough, ME 04074, RE: Maple Avenue, Raspberry Ridge Entrance/Exit Safety Concerns, To Whom It May Concern: I have safety issues concerning the entrance/exit to the proposed Raspberry Ridge development and Maple Avenue itself. There is 250 feet of road frontage on the outside sharp corner of Maple Avenue in front of 91 Maple Avenue (Lot No. 22 on Map R-57) and 93 Maple Avenue (Lot No. 21 on Map R-57). 150 feet of this road frontage belongs to 91 Maple Avenue, 50 feet belongs to Bernsteins' property on the left (Lot No. 23 on Map R-57) and 50 feet is 93 Maple Avenues' entrance soon to be known as Raspberry Ridge. The telephone pole at 93 maple Avenues' end of the 250 feet, the tree directly across from 91 Maple Avenues' drive entrance the telephone pole (hit twice and replaced) on the border of 91 Maple Avenue and Bernsteins' property and the ditch beside said telephone pole have all been hit by vehicles in accidents occurring within one year during the fall of 1999 thru the fall of 2000. That is five police, wrecker and ambulance covered automobile accidents in less than a year within a 250 foot area, which includes a sharp corner and the proposed Raspberry Ridge entrance/exit on that corner. Five accidents in front of my house in less than a year is five too many. One accident was near fatal leaving 300 feet of black rubber in front on my house. The 12 houses in Raspberry Ridge will spill 20-30 more homeowners vehicles as well as delivery vehicles, school buses, oil trucks, safety vehicles, contractors, etc. out into the 250 feet of dangerous road frontage daily. No more developments should be allowed to spill onto Maple Avenue until the speed and safety issues, created by commuters who bypass Oak Hill intersection using Maple Avenue to get from Route 1 to Route 114, are dealt with all the through to a solution. The elderly, mothers with children, walkers, joggers, bikers and people using their driveways are all in serious danger because of this conflict

between safety and quality of life vs. convenience of a shortcut for commuters (most of whom ignore the speed limit). Maple Avenue runs through the oldest development in Scarborough, Green Acres, with its houses set closer than normal to the road (some as close as 15') which is why the safe speed limit of 25 mph was set. Since the speed problem has not been able to be controlled I feel a more serious solution than speed control should be addressed.

The only two practical solutions would be number one, to cut Maple Avenue and Green Acres in half in the center, creating access to one side of Green Acres and Maple Avenue from Route 1 only and the other half of Green Acres and Maple Avenue from Route 114 only, and number two, block one end or the other of Maple Avenue. These are the only realistic solutions that will solve Maple Avenue's traffic safety problem, allowing safe development while creating and sustaining a safe neighborhood. Timothy N. Giancola, cc: Scarborough Planning Board, Scarborough Town Council members and the Scarborough Leader.”

Councillor Messer requested that the Police Chief submit a report on what transpires when police respond to accidents.

Rick Renault, 96 Maple Avenue, stated he felt that accidents are not reported because individuals leave before the police arrive. He went on to reiterate what he had stated earlier.

Gregg Allen, 104 Maple Avenue, stated that he had faxed a report to the Council earlier and when he asked for an accident report he had asked for Maple Avenue, not realizing that it would be just Maple Avenue, so the sixteen accidents listed in the report are just on Maple Avenue.

There being no further comments, Chairman O'Reilly closed the public hearing at 9:44 p.m. The second reading would be held on Wednesday, January 8, 2003. He then called for a short recess to clear the chambers. Meeting recessed at 9:45 p.m. Chairman O'Reilly reconvened the meeting at 9:52 p.m.

**Order No. 02-148, 7:30 p.m. Public hearing on the renewal requests for the following liquor licenses: Donald A. Thurlow, d/b/a the Clambake, Inc., located at 352 Pine Point Road, and Shogun Steak House, Inc., d/b/a Shogun Steak House, located at 238 Gorham Road.** Chairman O'Reilly opened the public hearing. As there were no comments either for or against, the hearing was closed at 9:53 p.m.

Motion by Councillor Messer, seconded by Councillor Maroon, to approve the requests for the following liquor licenses: Donald A. Thurlow, d/b/a the Clambake, Inc., located at 352 Pine Point Road, and Shogun Steak House, Inc., d/b/a Shogun Steak House, located at 238 Gorham Road.

Vote: 7 yeas.

**Order No. 02-149, 7:30 p.m. Public hearing on the following renewal applications for Junkyards: 1. Meserve & Sons, 224 Black Point Road; 2. Goldstein Steel Company, Inc., 36 Running Hill Road; 3. A. Gagnon or E. Perry Iron & Metal, Rigby Road; 4. John B. Dickinson, 4 Running Hill Road; 5. Scarborough Auto Parts, 40 Holmes Road; and 6. Regional Waste Systems, Off Running Hill Road & Green Roads.** Chairman O'Reilly opened the public hearing. As there were no comments either for or against, the hearing was closed at 9:55 p.m.

Motion by Councillor Messer, seconded by Councillor Babine, to approve the following renewal applications for Junkyards: 1. Meserve & Sons, 224 Black Point Road; 2. Goldstein Steel Company, Inc., 36 Running Hill Road; 3. A. Gagnon or E. Perry Iron & Metal, Rigby Road; 4. John B. Dickinson, 4 Running Hill Road; 5. Scarborough Auto Parts, 40 Holmes Road; and 6. Regional Waste Systems, Off Running Hill Road & Green Roads.

Mr. Owens, Town Manager, responded to questions from the Council regarding the status of Scarborough Auto Parts. The Council will be kept up to date on this establishment.

Vote: 7 yeas.

**Order No. 01-150, 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; and 3. Hillcrest Manufactured Housing, Theresa Desfosses, 126 U.S. Route One.** Chairman O'Reilly opened the public hearing. As there were no comments either for or against, the hearing was closed at 9:56 p.m.

Motion by Councillor Babine, seconded by Councillor Most, 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; and 3. Hillcrest Manufactured Housing, Theresa Desfosses, 126 U.S. Route One.

Vote: 7 yeas.

### **OLD BUSINESS:**

**Order No. 02-99. Second reading on the proposed amendments to Chapter 413, Growth Management Ordinance, Section 4.J, Definition of Multiplex.** Chairman O'Reilly gave a brief overview on this item.

Motion by Councillor Messer, seconded by Councillor Babine, to approve the proposed amendments to Chapter 413, Growth Management Ordinance, Section 4.J, Definition of Multiplex.

Motion by Councillor Messer, seconded by Councillor Maroon, to amend the main motion to strike the following: “and which was approved pursuant to a contract zoning agreement.”

Councillor Messer stated that throughout this process on Growth Management updates he had made it known that any changes made would benefit all builders in town and not just one.

Vote on amendment: 7 yeas.

Main motion as amended:

### **AMENDMENTS TO TOWN OF SCARBOROUGH GROWTH MANAGEMENT ORDINANCE**

Section 4.J (definition of Multiplex) is amended by adding the underscored words, as shown below:

- J. Multiplex: a multiplex dwelling as defined in Section VI of the Zoning Ordinance, except that, for purposes of this Ordinance only, the term multiplex includes two family dwellings in a subdivision which also contains multiplex buildings. ~~and which was approved pursuant to a contract zoning agreement.~~

Vote on main motion: 7 yeas.

**Order No. 02-137. Second reading on the proposed amendments to Chapter 413, Growth Management Ordinance, Section 7.A.2 and Section 7.C.3.** Chairman O'Reilly gave a brief overview on this order noting that this is the final action setting multiplex growth permits into a

separate category instead of being a part of subdivisions and allowing unused permits to roll over from year to year.

Motion by Councillor Messer, seconded by Councillor Ross, to move approval on the proposed amendments to Chapter 413, Growth Management Ordinance, Section 7.A.2 and Section 7.C.3.

**AMENDMENTS TO TOWN OF SCARBOROUGH  
GROWTH MANAGEMENT ORDINANCE  
RELATING TO MULTIPLEX DWELLINGS**

Be it hereby ordained, by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the Town of Scarborough Growth Management Ordinance is amended as follows:

*Section 7.A.2 is deleted and replaced in its entirety with the following:*

Until December 1<sup>st</sup> of 2002 and until October 1<sup>st</sup> of each subsequent year, no more than 35 growth permits shall be issued for lots within subdivisions, with 5 of those 35 growth permits allocated to multiplex buildings only, and no more than 25 growth permits shall be issued for lots not within subdivisions. Between December 1<sup>st</sup> and December 31<sup>st</sup> of 2002 and between October 1<sup>st</sup> and December 31<sup>st</sup> of each subsequent year, any growth permits not yet issued, up to the maximum number established by subparagraph 1 above, may be issued without regard to whether the lot for which application is made is within a subdivision or not within a subdivision; but those allocated to multiplex buildings may be issued for multiplex buildings only.

*Section 7.C.3 is amended by adding the underscored words as follows:*

At the end of each calendar year: (i) if the number of approved applications for growth permits exceeds the number of permits available for issuance, such approved applications shall remain pending into the next calendar year and shall retain their ranking according to the order in which they were approved as complete; (ii) if the number of available growth permits exceeds the number of growth permits issued, such unissued growth permits shall be added to the maximum number of growth permits available during the next calendar year. Any unissued growth permits for multiplex buildings shall be added to the number of growth permits allocated to multiplex buildings under section 7.A.2 above and shall be carried forward from year to year until issued.

*Be it further ordained, that these amendments apply retroactively to December 1, 2002.*

Councillor Babine stated that he would support the motion for continuity of the work that has been completed but is hesitant about the carry-over process.

Larry Bruns, 39 Hanson Road, stated that he would greatly appreciate it if there would be more supporting documentation for the public regarding agenda proposals. Councillor Most agreed and asked that this be reviewed. Councillor Messer noted that the Council Rules determines how the agenda is set and that the Rules and Policies Committee would have to revisit this item.

Vote: 7 yeas.

Motion by Councillor Messer, seconded by Councillor Foley-Ferguson, to suspend the rules to go past 10:00 p.m., as required by Council Rules.

Vote: 7 yeas.

## **NEW BUSINESS:**

**Order No. 02-151. First reading and schedule a second reading on the bond order to fund an access street from Gorham Road to Sawyer Road and for improvements to entrances to the municipal building and school campus.** Mr. Owens, Town Manager, gave a brief overview on this item. He noted that this item represents the Council's decision to fund all street and traffic improvements associated with the high school project as a municipally funded project. With the use of a plan provided by Harriman & Associates, Mr. Owens, along with Norm Justice, School Facilities Manager, showed where the access street and the improvements would be.

In response to a question from Councillor Maroon regarding storm water drainage and a retention pond located near Sawyer Road, Mr. Owens stated that at this time there would be no retention pond located in that area. Mr. Justice stated what is currently being done is to develop storm water retention enough to accommodate the current planned impervious surface.

Council discussion ensued regarding a retention pond near Sawyer Road. Mr. Justice noted that one of the difficulties with adding the retention pond at this time is not knowing what the impervious surface is going to be. Mr. Owens further stated that another factor is not knowing what the property will be used for and what the layout will be. Some of the Councillors felt that this item should be part of this project. A lengthy discussion ensued. Mr. Owens pointed out that if the Council wanted the retention pond to become part of this project then some engineering work would have to be done to determine cost.

Mr. Justice stated that one thing the Council might not be aware of is the phasing of this project. He went on to explain the process that was followed in order to have the DEP permit in the appropriate time frame. Mr. Owens reiterated that what the Council does with the drive-in property determines what is needed to be done with the retention pond. Council discussion ensued regarding wetland mitigation, "ditches" along the road, and the appropriate time frame of the entire project. There was discussion regarding the flow of traffic of cars and school buses and that Gorham Road entrances will be closed except for emergency vehicles only.

In response to a question from Councillor Most regarding Wentworth driveway as a part of the improvements, Mr. Owens stated that it was not part of the \$1.4 million dollars. Councillor Messer noted that this could be part of the budget process.

Councillor Messer agreed with Councillors Foley-Ferguson and Maroon that there be a retention pond added to this bond. He further stated that there was already an approved plan for use of the drive-in property and he felt that there should be no further discussion regarding this.

In response to a question from Chairman O'Reilly, Mr. Justice stated that the issue of impervious surfaces is addressed in his five-year CIP budget.

In response to a question from Councillor Foley-Ferguson, Mr. Justice stated that the existing school campus is already a DEP-permitted site; however, this permit does not include the expansion of the school campus or the connector roads. The school has to go back to DEP to amend the existing permit to include any further expansion of the school and improvements to surrounding areas. Further discussion ensued.

Motion by Councillor Foley-Ferguson, seconded by Councillor Babine, to move approval of the bond order to fund an access street from Gorham Road to Sawyer Road and for improvements to entrances to the municipal building and school campus.

Council discussion ensued regarding the concept of the drive-in property. There continued be discussion regarding wetland mitigation.

Councillor Most addressed the comment raised by Councillor Messer that the Council already has an approved plan for the drive-in site. She took issue that this was voted down by the residents

and, further, that the School Board still has shown an interest in use of the drive-in site. She would like the Council to consider these facts.

Mr. Owens reiterated that the only discussion should be regarding the road and the timing to coincide with the school so that these improvements can get under way. There continued to be discussion regarding the road on the drive-in property. It was noted that once the improvements are done on the proposed road and Sawyer Road these roads would become primary roads.

Motion by Councillor Ross, seconded by Councillor Babine, to move the question.

Vote to move question: 3 yeas. 4 nays (Councillors Foley-Ferguson, Maroon, Messer and Chairman O'Reilly).

Motion failed so further discussion ensued. In response to a question from Chairman Messer, Mr. Justice stated that the new parking at the high school was part of the referendum and there are sidewalks in this design. Further discussion ensued about the sidewalks. There was concern that there was no grass buffer between the sidewalk and the roadway and the Council asked that this be changed so that there is a grass buffer between the sidewalk and the roadway.

It was noted that, since all the properties are related and now the proposed road will connect all the properties together, the DEP is requiring that the entire campus (municipal/school) be under one permit. It is currently being called the municipal/school campus.

In response to a question from Councillor Messer, Mr. Owens stated that the skateboard park would not be part of this permit amendment. A total of 716/718 parking spaces would become available when this project is finished. Mr. Justice went through the timeline on the high school project, and the hope is to have the permits in hand by April so that the bids could go out next fall. Councillor Messer voiced his concern with regards to the storm water drainage on the drive-in property.

Motion by Councillor Messer, seconded by Councillor Maroon, to amend the main motion to increase the bond by \$100,000 to \$1.5 million dollars for the storm water drainage.

Council discussion ensued. In response to a question from Councillor Babine regarding the amendment and whether the figure would be enough, Mr. Owens stated that it would probably cover the cost of the design. Mr. Justice pointed out that typically a retention pond does not qualify in the creation of wetlands and mitigation. Further discussion ensued.

Vote on amendment: 5 yeas. 2 nays (Councillor Ross and Most).

Main motion as amended:

**ORDER AUTHORIZING ISSUANCE OF UP TO \$1,500,00 BONDS OF THE TOWN TO FUND MUNICIPAL/SCHOOL ACCESS STREET IMPROVEMENTS**

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

That under and pursuant to the provisions of Title 30-A, Sections 5721, 5723, 5726, 5728 and 5772, as amended, and the Charter of the Town of Scarborough, Maine, a public capital improvement project consisting of the design, construction and equipping of (a) an access street from Gorham Road to Sawyer Road connecting the school and municipal buildings, and (b) improvements to street entrances providing access to the municipal building and school campus is hereby approved; and,

That a sum not to exceed \$1,500,000 is hereby appropriated to provide for the cost of this project; and,

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 \$1,500,000 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.            1 nay (Councillor Ross).

**Order No. 02-152. Act on the request to include other utilities in the Haigis Parkway Sewer Project.** Mr. Owens, Town Manager, gave a brief overview on this order, noting that the decision on whether the electric service be overhead or underground is ultimately the Council's to make, even though the Haigis Parkway Committee recommended placing all utilities underground because of the cost consideration. He went on to state that if the utilities are to go underground then additional time would be needed for the design and, to avoid delaying the bidding of the sewer, water and gas contracts in January, it would be done in a separate contract.

Larry Bruns, 39 Hanson Road, supported this recommendation. He did question, however, whether there were a mechanism in place where the Town would be reimbursed for the funding of the utilities. Mr. Owens, Town Manager, responded that there are two things the town can do: (1) assess the property owners for a portion of the cost of all utilities or (2) provide this whole project in a TIF (or a portion of the project).

Motion by Councillor Most, seconded by Councillor Babine, to approve inclusion of other utilities in the Haigis Parkway Sewer Project.

Discussion ensued regarding this request.

Motion by Councillor Messer, seconded by Councillor Maroon, to amend the main motion to give the Manager direction that when the estimates are done to have utilities overhead.

Councillor Messer stated that based on the uncertainty of the economy it would be better for the Council to choose to put in overhead utilities. A lengthy discussion ensued. The Town Manager responded to questions from the Town Council. Chairman O'Reilly stated that the Haigis Parkway Committee supported underground utilities. There was further discussion on the cost difference between Option A and B. Further discussion ensued.

Motion by Chairman O'Reilly, seconded by Councillor Babine, to move the question.

Vote to move question:        6 yeas.            1 nay (Councillor Maroon).

Vote on amendment:        3 yeas.            4 nays (Councillors Foley-Ferguson, Most, Ross and  
Chairman O'Reilly).

Motion by Chairman O'Reilly, seconded by Councillor Most, to amend the main motion to direct the Town Manager to include Option B in the planning for underground power and communications.

As a point of order, Councillor Foley-Ferguson asked if discussion should be allowed and another amendment made once a question is moved. Chairman O'Reilly stated that the motion to move the question was only on the amendment and not the original motion.

Councillor Messer stated that he appreciated and respected all the work that the Haigis Parkway Committee did; however, the Town Council is tasked to consider financial impact and feasibility with current economic climate. If cost were not an object, he would not hesitate to have the utilities underground. Further discussion ensued. A number of the Councillors stated they would not second-guess the recommendations presented by the Haigis Parkway Committee and felt that the Committee went into depth regarding the issue of underground utilities. It was suggested that this item be tabled until further information could be gathered; not everyone agreed.

Councillor Most stated that the Council is not voting to do the underground utilities on the Haigis Parkway -- the Council is voting on the design work for it. She suggested that perhaps the Council needed another workshop because she feels strongly that this project is a crucial part of Scarborough's financial and economic future in terms of tax base support. The workshop could educate us all on whether it is cost-effective on having above-ground or underground utilities. She then made the following motion.

Motion by Councillor Most, seconded by Chairman O'Reilly, to move the question.

Vote to move the question: 6 yeas. 1 nay (Councillor Messer).

Councillor Messer stated that, if the Council moves forward on a workshop, he would request through the Manager that SEDCO gather a detailed list of any new businesses that have been constructed at 50,000 square feet or more in the Maine area (Portland area) in the last five years and whether the utilities were above-ground or underground.

Vote on amendment: 4 yeas. 3 nays (Councillors Babine, Maroon and Messer).

Further discussion ensued. There was discussion regarding the cost of the design. The Town Manager responded to questions from the Council. It was suggested that the Clerk's Office call the members of the Haigis Parkway Committee to attend the proposed workshop.

Vote on main motion as amended: 5 yeas. 2 nays (Councillors Messer and Babine).

**Order No. 02-153. Act on the request for a property tax abatement on property located at 124 Ash Swamp Road, Map R26, Lot 5.** Chairman O'Reilly gave a brief overview on this item, noting that these items have come before the Council in the past.

Motion by Councillor Messer, seconded by Councillor Maroon, to move approval on the request for a property tax abatement on property located at 124 Ash Swamp Road, Map R26, Lot 5.

Vote: 7 yeas.

**Order No. 02-154. Act on the request to extend the sewer on Ocean Avenue.** Mr. Owens, Town Manager, gave a brief overview on this request. What is being requested of the District is a private forced main sewer to serve five properties with the potential of adding nine houses on Ocean Avenue. The District is asking the Town Council for approval due to the fact it is service outside the District's sewer area. Mike Farmer, Superintendent of the Sanitary District, was present to answer questions from the Council. Mr. Owens noted that it has been town policy not to have private utilities in the public right-of-way because of the issue of repairs in the future. If this were a public sewer, the District would be responsible for any repairs.

Motion by Councillor Messer, seconded by Chairman O'Reilly, to approve extending the boundaries of the sewer district and that it be a public sewer as requested by the Town Manager.

In response to a question from Councillor Messer, Mr. Farmer explained where the sewer line would run. Basically, the sewers at Higgins Beach are on a gravity flow sewer, which flow toward

the north end of the beach. He went on to explain what it would entail if this were to be a private sewer system.

Councillor Foley-Ferguson stated that with the lateness of the hour she was having a hard time staying focused on this item and had a number of questions that she wanted to ask and suggested that this item be tabled.

Motion by Councillor Maroon, seconded by Councillor Babine, to table this order until Wednesday, January 8, 2003.

Vote: 5 yeas. 2 nays (Councillor Ross and Chairman O'Reilly).

**Order No. 02-155. Act to approve the Acquisition Evaluation Process to be presented by the Parks and Conservation Land Board.** Motion by Councillor Foley-Ferguson, seconded by Councillor Ross, to move approval of the acquisition evaluation process as presented by the Parks and Conservation Land Board.

Councillor Foley-Ferguson and Councillor Ross both made brief comments regarding the report that was to be presented to the Council; however, the Board has made several changes and it is recommended that the report be presented at another meeting.

Motion by Councillor Ross, seconded by Chairman O'Reilly, to table this order until the next meeting, which is Wednesday, January 8, 2003.

Vote to table: 7 yeas.

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

**Item 7. Standing Committee Reports:**

**a. Appointments Committee.** Councillor Messer stated that there would be an Appointments Committee meeting scheduled for Tuesday, January 7, 2003, at 7:00 p.m. in the Town Manager's Conference Room. Letters have been sent to individuals whose terms expire this year and they must notify the Clerk's Office by December 31<sup>st</sup> if they wish to continue on.

**b. Finance Committee.** Councillor Most gave a brief overview of the Finance Committee meeting that had been held. She further noted that the next meeting is scheduled for Wednesday, January 8, 2003, at 6:00 p.m. The only agenda item will relate to the Cumberland County Budget.

**c. Ordinance Committee.** Councillor Ross stated that there would be an Ordinance Committee meeting on Tuesday, January 21, 2003, at 7:00 p.m.

**d. Rules & Policies Committee.** Councillor Babine stated that the Rules & Policies Committee would hold their meetings the second Tuesday of every month at 7:00 p.m.

**Item 8. Special Committee Reports.** None at this time.

**Item 9. Liaison Reports.** Councillor Ross gave a brief overview on the Community Services Recreational Advisory Board. Councillor Maroon gave an update regarding the Chamber of Commerce. He then handed out an email that he had received from Godfrey Wood regarding "Reducing the Costs of Government vs Increasing Taxes." Mr. Wood would like input from everyone regarding this issue.

**Item 10. Public Comments.** None at this time.

**Item 11. Council Member Comments.**

1. Councillor Ross thanked the 60 or so residents of the Maple Avenue area for their comments. He went on to state that he would not mind being the Council Liaison to the Firing Range Committee.

2. Councillor Babine also thanked the residents of the Maple Avenue area. He went on to state that he had received a number of calls regarding the *Merry Christmas* sign.
3. Councillor Foley-Ferguson thanked the Knights of Pythias for their donation to the Oak Hill Grange Building Fund
4. Councillor Messer has also received comments regarding the *Merry Christmas* sign. In response to a letter that had been in the *Scarborough Leader* pertaining to him, Councillor Messer read the following letter into the minutes:

“To the Editor;

I would like to take a moment to address the concerns and questions posed by Peter Angis in a letter to the *Leader* last week. Let me begin by stating that I am not a spokesman for the Great American Neighborhood as Mr. Angis suggests. The purpose for the agenda item at the last Town Council meeting was to summarize all of the deliberations that have transpired over the previous 18 months. This was done at the request of many citizens that I spoke with concerning the project that felt that they didn't have all the facts.

Folks asked me to clarify the issues raised in the petition. A lot of time has been spent on the issue of traffic. The intersection is failing and will only get worse in the years ahead. This project presents a one-time opportunity to get federal and state assistance help to significantly improve the intersection. I have stated numerous times on the public record that a shovel doesn't go in the ground until the money is appropriated by federal and state government to fix the traffic problem.

The other issues rose were impact on schools and town services. The Town Council didn't approve any of the requested exemptions to the Growth Management Ordinance so there is no negative impact on schools. Town services are more efficiently provided to a dense development rather than over a broader geographic area. I would encourage any citizen to contact their elected representatives to discuss concerns on these or other issues.

Mr. Angis was very critical about the lack of public meetings and the opportunity to be heard. The developer had 5 neighborhood meetings and sent 500 notices out to the neighborhood for each meeting. At a minimum it made folks aware the project was being considered and input was requested.

There has been 10 Town Council meetings regarding various aspects of this proposal. Included among these was the June 19 meeting with a public hearing on the contract zone proposal. This by law is advertised in the newspaper for 7 days, but only 14 members of the public spoke and the majority was in favor. The Town Council acted on Order 02-70 (Act on Legislative Findings) at the August 21 meeting agenda is posted on the, public access channel and town web site. The four newspapers that cover Scarborough have had numerous articles to inform the public on these meetings. I have received considerable public input throughout this process concerning traffic and schools. I have acted upon this input as is detailed above. It's interesting to note that I have received input from Mr. Angis on two occasions and a voice mail message from Mary Angis on July 10. Just because I don't happen to agree with their position does not mean they didn't have the opportunity to be heard.

The Town Council has a public comment period every meeting for citizens to give their viewpoint on an issue that may not be on the agenda. We have had 32 meetings where this comment period has been available since our first meeting on the proposal on July 31, 2001. In addition, input can and has been given via voice mail, E-mail, phone calls, letters and direct conversation. I have a file full of correspondence on this issue and would go so far as to state that I have received more public input on this issue than any other issue since I was first elected in 1996. I look forward to further

input from the public as the process moves forward. There still are many more hurdles for the developer to clear before this project comes to a final vote.”

5. Chairman O’Reilly stated that he received calls regarding the *Merry Christmas* sign. He noted that December’s garbage pickup is usually one of the biggest trash pickups of the year and that wrapping paper is recyclable. He handed out pins to Council members and the Town Manager from the National League of Cities Conference and stated that he would have a report on the conference at the next meeting. He reminded everyone that he had handed out a homework assignment and went on to read the memo that he had given to everyone.
6. Councillor Most apologized to staff members who had sat through the whole meeting. She thanked the residents of the Maple Avenue area for their input. She went on to read a prepared statement regarding the *Season Greetings/Merry Christmas* sign. She wished all members of the Scarborough community the chance to enjoy a warm bright season with family and friends and wished a happy new year for 2003.

**Item 12. Adjournment.** Motion by Councillor Ross, seconded by Councillor Messer, to adjourn the regular meeting of the Scarborough Town Council.

Vote: 7 yeas.

Meeting adjourned at 12:43 a.m.

Respectfully submitted,

Yolande P. Justice, Town Clerk