

MINUTES
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – FEBRUARY 3, 2010
REGULAR MEETING – 7:00 P.M.

Item 1. Call to Order. Council Chair Rancourt 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. Rolled was called by Yolande P. Justice, Town Clerk. Thomas J. Hall, Town Manager was also present.

Ronald D. Ahlquist	Karen A. D’Andrea
Jessica L. Holbrook	Michael J. Wood
Shawn A. Babine [Absent]	Judith L. Roy, Vice Chair
Carol S. Rancourt, Council Chair	

Item 4. General Public Comments.

- Douglas Lund-Yates of 26 Fowler Farm Road reflected on comments that had been made at the last Council meeting regarding Higgins Beach parking and surfers. He felt that the restriction was not comparable and looks forward to this item being brought back for discussion.
- Janice Fuentes of 345 Pleasant Hill Road and President of the local surfing group also spoke on the parking issues at Higgins Beach and the on-street parking issue and looked forward for to further discussions on this matter.
- Tom Bennett of 18 Chamberlain Road thanked the Ordinance Committee for bringing the Pawnbroker Ordinance Forward.
- Kerry Corthell of 1 Wedgewood Street – asked the Council to consider the quality of the Cabala’s complex and not approve gas stations in that area.

Item 5. Minutes: January 20, 2010 – Regular Meeting. Motion by Councillor D’Andrea, seconded by Councillor Wood, to move approval of the minutes of the January 20, 2010 – Regular Town Council meeting, as written.

Councillor Roy asked that those individuals who spoke on Order No. 10-03 have a sentence or two added to reflect their comments on the issue.

Vote: 6 Yeas

Item 6. Adjustment to the Agenda. Council Chair Rancourt stated that there would be a brief presentation after Old Business.

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

Order No. 10-06, 7:00 p.m. Public hearing on the request from the Town Clerk to change the location of Polling area, pursuant to M.R.S.A. Title 21-A, §631, from High School Plummer Gym to the Municipal Building [Council Chamber A] located at 259 U.S. Route One, for the School Validation Referendum only. Council Chair Rancourt opened the public hearing. As there were no comments either for or against the hearing was closed at 7:11 p.m.

Motion by Councillor Roy, seconded by Councillor D’Andrea, to move approval of the request from the Town Clerk to change the location of Polling area, pursuant to M.R.S.A. Title 21-A, §631, from High School Plummer Gym to the Municipal Building [Council Chamber A] located at 259 U.S. Route One, for the School Validation Referendum only.

Vote: 6 Yeas.

Order No. 10-07, 7:00 p.m. Public hearing on the application for a new request for a Food Handle Permit from Cang Thach, d/b/a Kim’s Seafood Trading, located at 19 Snow Canning Road. Council Chair Rancourt opened the public hearing. As there were no comments either for or against the hearing was closed at 7:15 p.m.

Motion by Councillor Roy, seconded by Councillor Wood, to move approval on the application for a new request for a Food Handle Permit from Cang Thach, d/b/a Kim’s Seafood Trading, located at 19 Snow Canning Road.

Vote: 6 Yeas.

OLD BUSINESS: None at this time.

Council Chair Rancourt presented Councillor Wood with a plaque recognizing his service to the Town Council as Council Chair from November 2008 to November 2009. Bud Hansen of Stoney Creek Drive congratulated Councillor Wood for his recognition and service to the Town as a member of the Planning Board and now as a member of the Town Council.

NEW BUSINESS:

Order No. 10-08. First reading and refer to the Planning Board the proposed fourth amendment to Contract Zoning Agreement IX [New England Expedition – Scarborough, LLC] of Chapter 405 – the Zoning Ordinance. Thomas J. Hall, Town Manager, gave a brief overview on this request from representatives of New England Expedition – Scarborough, LLC. Rick Shinay, attorney for New England Expedition – Scarborough, LLC, responded to questions from the Council.

Motion by Councillor Wood, seconded by Councillor Holbrook, to move approval of the first reading and refer to the Planning Board the proposed fourth amendment to Contract Zoning Agreement IX [New England Expedition – Scarborough, LLC] of Chapter 405 – the Zoning Ordinance and schedule a public hearing for the next regular meeting following the filing of the recommendations of the Planning Board, as follows:

January 26, 2010

Chairwoman Rancourt and Members of the
Scarborough Town Council
c/o Thomas J. Hall, Town Manager
Town of Scarborough
Scarborough Municipal Building
259 U.S. Route One
P.O. Box 360
Scarborough, Maine 04070-0360

Re: The New England Expedition – Scarborough, LLC and
The New England Expedition – Scarborough II, LLC/
Fourth Amendment to Contract Zoning Agreement for
The Gateway at Scarborough, Payne Road and Haigis
Parkway, Scarborough, Maine

Dear Chairwoman Rancourt and Members of the Scarborough Town Council:

On behalf of The New England Expedition – Scarborough, LLC (the “New
England Expedition”) and The New England Expedition – Scarborough II, LLC (the
“New England Expedition II”), and following up on our recent Workshop with the
Council and members of the Planning Board, I am enclosing a proposed Fourth
Amendment to the Contract Zoning Agreement for The Gateway at Scarborough (the
“Agreement”) that amends the Agreement in the following respects:

1. Extends the “substantial completion” deadline under Section 6 of the
Agreement as to The Gateway Square for an additional three (3) years to March 12, 2013;
and
2. Amends the definition of “substantially complete” as to The Gateway
Square to provide that it shall mean the completion of the clearing and rough grading of
the building sites and related improvement areas and the internal road system, the
installation of utilities, storm drains and sanitary sewer lines and the completion and
approval of the foundations for one or more buildings containing in the aggregate not less
than one hundred thousand (100,000.00) square feet of gross leaseable area.

All of the above-described work other than the foundation installations has, in fact,
now been completed.

Catherine D. Alexander*

Daniel Amory*

David J. Becker*

S. Campbell Badger*

Melissa L. Cilley*

Gerrol A. Crouter*

George T. Diwornth*

Jessica M. Emmons*

Peter C. Feinly*

Jonathan M. Goodman*

Sara S. Heistoad*

Eric R. Herlan**

Melissa A. Hewey**

Michael E. High*

David M. Kalin*

John S. Kaminski*

Edward J. Kelleher*

Jaanna M. Kincaid**

Benjamin E. Marcus*

Robert P. Nadeau*

Daina J. Nathanson*

Mark A. Paigo†

Jeffrey T. Piampiano*

William L. Plouffe*

Aaron M. Pratt**

Harry R. Pringle*

Daniel J. Rose**

Gregory W. Sample*

James C. Schwallenbach**

David S. Sherman, Jr.*

Richard A. Shinay*

Kaighn Smith, Jr.*

Bruce W. Smith*

Richard A. Spencer*

Christopher G. Stevenson*

E. William Steckmeyer*

Amy K. Tebao**

Joanna B. Tourangeau**

M. Thomas Trenholm*

Matthew H. Upton†

Amy J. Visentini*

Gary D. Vogel†

Ronald N. Ward*

Brian D. Willing*

Gerald M. Zelint†

Consultants

Ann S. Chapman

Policy & Labor Relations

Roger P. Kelley

Labor Relations &
Conflict Management

Christopher P. O’Neil

Governmental Affairs

Michael J. Opuda Ph.D.

Special Education

Of Counsel

Joseph L. Delefield III*

Robert L. Gips*

Donald A. Kopp*

Hugh G. E. MacMahon*

Harold E. Woodsum, Jr.*

* Admitted in Maine

† Admitted in New Hampshire

Chairwoman Rancourt and Members of the
Scarborough Town Council
January 26, 2010
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This proposed Fourth Amendment revises Section 6 of the Agreement in its entirety to incorporate the above-described changes and to eliminate inconsistent language.

The New England Expedition II is a party to this Amendment since The Gateway Square portion of the Project has been conveyed to the New England Expedition II by the New England Expedition as part of the ongoing development process for The Gateway Square. Feldco Scarborough, LLC continues to be the sole Member of the New England Expedition and the New England Expedition II and Messrs. Feldman and Beaudoin continue to be the Members of Feldco Scarborough, LLC.

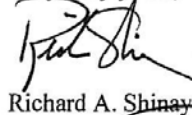
The New England Expedition and the New England Expedition II request that this proposed Fourth Amendment be placed on the Council's February 3, 2010 Agenda for First Reading and referral to the Planning Board for the Board's February 22, 2010, meeting.

Also enclosed is a check in the amount of \$250.00 payable to the Town and representing the required application fee for an amendment to a contract zoning agreement.

We look forward to discussing this Amendment with the Council.

With best regards.

Very truly yours,



Richard A. Shinay

RAS/nm
Enclosures

cc: Barry E. Feldman
Eugene Beaudoin

**FOURTH AMENDMENT
TO
CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND THE NEW ENGLAND
EXPEDITION – SCARBOROUGH, LLC

THE GATEWAY AT SCARBOROUGH**

This Fourth Amendment to Contract Zoning Agreement (hereinafter, this “Amendment”) is made as of the ____ day of _____, 2010 by and among the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter, the “Town”), THE NEW ENGLAND EXPEDITION – SCARBOROUGH, LLC, a Maine limited liability company with an office at 220 Elm Street, Suite 104, New Canaan, Connecticut 06840 (hereinafter, “New England Expedition”), and THE NEW ENGLAND EXPEDITION – SCARBOROUGH II, LLC, a Maine limited liability company with an office at 220 Elm Street, Suite 104, New Canaan, Connecticut 06840 (hereinafter, “New England Expedition II”), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Zoning Ordinance of the Town of Scarborough (hereinafter, the “Zoning Ordinance”).

WHEREAS, New England Expedition entered into a Contract Zoning Agreement with the Town dated as of the 3rd day of January, 2007 (hereinafter, the “Agreement”) creating Contract Zoning District Number 9 (hereinafter, the “District”) as described in Section XXIII of the Zoning Ordinance, said Agreement having been recorded in the Cumberland County Registry of Deeds in Book 24730, Page 25; and

WHEREAS, the Agreement was amended pursuant to the terms and provisions of a First Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 5th day of September, 2007, and recorded in said Registry of Deeds in Book 25482, Page 201 (the “First Amendment”); and

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Second Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 7th day of November, 2007, and recorded in said Registry of Deeds in Book 25610, Page 171 (the “Second Amendment”); and

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Third Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 30th day of April, 2008, and recorded in said Registry of Deeds in Book 26060, Page 162 (the “Third Amendment”); and

WHEREAS, Section 6 of the Agreement provided that certain improvements within that portion of the Property located on the southeasterly side of Payne Road and the southwesterly side of Haigis Parkway known as “The Gateway Square at Scarborough” be “substantially complete,” as that term is defined in said Section 6 of the Agreement, within two (2) years from the date that New England Expedition received Planning Board approval for the Project; and

WHEREAS, the Town Planner extended said "substantial completion" deadline to March 12, 2010, pursuant to authority granted the Town Planner under said Section 6 of the Agreement; and

WHEREAS that portion of the Property known as The Gateway Square at Scarborough was conveyed by New England Expedition to New England Expedition II by Quitclaim Deed With Covenant dated September 18, 2009, and recorded in said Registry of Deeds in Book 27269, Page 212; and

WHEREAS, the New England Expedition and the New England Expedition II have requested that the Town approve this Amendment to Section 6 of the Agreement (a) further extending said "substantial completion" deadline for an additional three (3) years to March 12, 2013, and (b) amending the definition of "substantially complete" as set forth therein.

NOW THEREFORE, in consideration of the mutual promises made by the parties to each other, the parties covenant and agree as follows:

1. Section 6 of the Agreement is hereby amended in its entirety to read as follows:

6. The Property shall be developed and used only in accordance with the site plan and subdivision plan as finally approved by the Scarborough Planning Board, and as said approved site plan and subdivision plan may be amended from time to time pursuant to the provisions of the Site Plan Review Ordinance of the Town of Scarborough (hereinafter, the "Site Plan Ordinance") and the Subdivision Ordinance of the Town of Scarborough (hereinafter, the "Subdivision Ordinance"), with construction anticipated to proceed in phases commencing with that portion of the Property comprising The Gateway Shoppes at Scarborough located on the northwesterly side of Payne Road and then progressing to that portion of the Property comprising The Gateway Square at Scarborough located on the southeasterly side of Payne Road and the southwesterly side of Haigis Parkway. The phasing of the construction as outlined above shall be subject to the additional requirement that construction of that portion of the Project comprising The Gateway Square at Scarborough shall be "substantially complete" no later than March 12, 2013. For purposes hereof, "substantially complete" shall mean the completion of the clearing and rough grading of the Project building sites and related improvement areas and the internal road system, the installation of utilities, storm drains and sanitary sewer lines and the completion and approval of the foundations for one or more buildings containing in the aggregate not less than one hundred thousand (100,000.00) square feet of gross leaseable area.

2. The Agreement, as amended by this Amendment and as previously amended by the First Amendment, the Second Amendment and the Third Amendment, remains consistent with the Comprehensive Plan.

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

4. This Amendment shall be recorded in the Cumberland County Registry of Deeds within thirty (30) days after its approval by the Scarborough Town Council.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first set forth above.

WITNESS:

TOWN OF SCARBOROUGH

By: _____
Thomas J. Hall, its Town Manager (duly
authorized by vote of the Scarborough
Town Council on _____,
2010)

STATE OF MAINE
COUNTY OF CUMBERLAND, ss.

_____, 2010

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

Before me,

Notary Public/Attorney at Law

Print name

WITNESS:

THE NEW ENGLAND EXPEDITION-
SCARBOROUGH, LLC

By FELDCO SCARBOROUGH, LLC, its
Manager

By: _____
Barry E. Feldman
Its Managing Member

STATE OF CONNECTICUT
COUNTY OF FAIRFIELD, ss.

_____, 2010

Personally appeared the above named Barry E. Feldman, in his capacity as the Managing Member of Feldco Scarborough, LLC, the Manager of The New England Expedition - Scarborough, LLC, and acknowledged the foregoing instrument to be his free act deed in his said capacity, the free act and deed of said Feldco Scarborough, LLC in its said capacity, and the free act and deed of said The New England Expedition - Scarborough, LLC.

Before me,

Notary Public

Print name

WITNESS:

THE NEW ENGLAND EXPEDITION-
SCARBOROUGH II, LLC

By FELDCO SCARBOROUGH, LLC, its
Manager

By: _____
Barry E. Feldman
Its Managing Member

STATE OF CONNECTICUT
COUNTY OF FAIRFIELD, ss.

_____, 2010

Personally appeared the above named Barry E. Feldman, in his capacity as the Managing Member of Feldco Scarborough, LLC, the Manager of The New England Expedition – Scarborough II, LLC, and acknowledged the foregoing instrument to be his free act deed in his said capacity, the free act and deed of said Feldco Scarborough, LLC in its said capacity, and the free act and deed of said The New England Expedition – Scarborough II, LLC.

Before me,

Notary Public

Print name

Vote: 6 Yeas.

Order No. 10-09. First reading and refer to the Planning Board the proposed amendments to Chapter 405 – the Zoning Ordinance, as follows: Section VI. Definitions. Pawn Broker; Section XIX. Regional Business District – Subsection C. Permitted Uses and Section XIXA. General Business District B-3. Permitted Uses. Councillor D’Andrea gave a brief overview on the proposed amendments. Dan Bacon, Town Planner, responded to questions from the Council.

Motion by Councillor D’Andrea, seconded by Councillor Ahlquist, to move approval of the first reading and refer to the Planning Board the proposed amendments to Chapter 405 – the Zoning Ordinance, as follows: Section VI. Definitions. Pawn Broker; Section XIX. Regional Business District – Subsection C. Permitted Uses and Section XIXA. General Business District B-3. Permitted Uses and schedule a public hearing for the next regular meeting following the filing of the recommendations of the Planning Board, as follows:

**Proposed Amendments to the Zoning Ordinance
to Amend Pawnbroker Regulations:**

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

1. Amend Section VI. DEFINITIONS to include the following definitions (additions are underlined):

Pawnbroker:

A person who engages in pawn transactions.

Pawnshop:

The place of business of a pawnbroker. A pawnshop is not considered a local retail store or retail sales and services under this Ordinance, but shall be subject to the same parking, signage, and space and bulk standards as retail sales establishments.

Pawn transaction:

The lending of money on the security of pledged tangible personal property that is delivered to a pawnbroker and held by the pawnbroker. The term also includes the purchase of tangible personal property on the condition that it may be repurchased by the seller for a fixed price within a fixed period of time.

2. Amend subsection C. PERMITTED USE of Section XIX. REGIONAL BUSINESS DISTRICT B-2 to read (additions are underlined):

Subsection C. PERMITTED USES

24. Pawnshop

3. Amend subsection C. PERMITTED USE of Section XIXA. GENERAL BUSINESS DISTRICT B-3 to read (additions are underlined):

Subsection C. PERMITTED USES- CONVENTIONAL AND PLANNED DEVELOPMENT NON-RESIDENTIAL USES:

19. Pawnshop

Vote: 6 Yeas.

Order No. 10-10. First reading and schedule a public hearing on the proposed new ordinance entitled Chapter 1017 – the Town of Scarborough Pawnbroker Ordinance. Councillor D’Andrea gave a brief overview on the proposed new ordinance. Captain Grover with the Scarborough Police Department gave his input on what the Police felt should be made part of the ordinance and responded to questions from the Council.

Motion by Councillor D’Andrea, seconded by Councillor Joy, to move approval of the first reading on the proposed new ordinance entitled Chapter 1017 - the Town of Scarborough Pawnbroker Ordinance and schedule a public hearing and second reading for Wednesday, February 10, 2010.

Motion by Councillor Wood, seconded by Councillor Roy, to move approval to amend the main motion to Section 204 – to change the wording from adult liquor identification to State Identification card.

Vote on Amendment: 6 Yeas.

Main Motion as Amended:

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following new ordinance entitled Chapter 1017 - the Pawnbroker Ordinance in the Town of Scarborough, Maine, be and hereby adopted, as follows

**CHAPTER 1017
TOWN OF SCARBOROUGH
PAWNBROKER ORDINANCE**

ARTICLE I - Title, Purpose & Definitions

Section 101. TITLE

This Ordinance shall be known and may be cited as the Pawnbroker Ordinance of the Town of Scarborough, Maine.

Section 102. PURPOSE

The purpose of this Ordinance is to ensure that any person who is issued a Pawnbroker License by the town follows all local and State requirements.

Section 103. DEFINITIONS

The following terms have the following meanings:

103.1 Pawn Transaction.

Means the lending of money on the security of pledged tangible personal property that is delivered to a pawnbroker and held by the pawnbroker. The term also includes the purchase of tangible personal property on the condition that it may be repurchased by the seller for a fixed price within a fixed period of time.

103.2 Pawnbroker.

Means a person who engages in pawn transactions.

103.3. Tangible Personal Property.

Includes motor vehicles, but does not include documents evidencing title to motor vehicles. The term also does not include checks, drafts or similar instruments or real estate.

ARTICLE II - General

Section 201. LICENSE REQUIRED

No person shall conduct business as a pawnbroker without first obtaining a license pursuant to the following provisions:

New Licenses

1. The Town Council may grant licenses to persons of good moral character to be pawnbrokers in the Town if such person demonstrates the following:
 - a. The person is 21 years of age or older
 - b. The person has no record of criminal convictions for crimes of moral turpitude
 - c. The person is not a convicted felon
2. A license shall be obtained by the owner or duly authorized agent of the owner of the business where the pawn transactions will occur by submitting a completed application to the Town Clerk's office upon forms provided for such purposes.
3. The fee for such license shall be as set forth in the Town of Scarborough Schedule of License, Permit and Application Fees.
4. A pawnbroker license issued under this Ordinance shall be valid for no more than one calendar year [January through December].

Applications for all pawnbroker licenses shall state the name of the applicant; residence address; name of the business to be conducted; business address; the nature of the business; the location to be used; whether the applicant has ever had a license to conduct the business therein described either denied or revoked and, if so, the applicant shall describe those circumstances specifically; whether the applicant, including all partners or corporate officers, has ever been convicted of a felony.

No pawnbroker license shall be issued unless the premises to be used for the pawnbroker business comply fully with all applicable ordinances and regulations of the Town of Scarborough.

A pawnbroker license may be issued by the Town Council only after conducting a public hearing. Notice of the hearing shall be advertised in a local daily newspaper, at least seven (7) days prior to the meeting at the expense of the applicant.

The Town Council shall not take final action on an application for a pawnbroker license until the Town Clerk has received and reviewed a criminal background check from the State Bureau of Investigation on the applicant and any persons working in the place of business and reported the results of that background check to the Town Council.

Renewals

An existing license may be renewed by the Town Clerk, provided that the holder of the existing license makes application for renewal on or before December 31st. If the holder applies for renewal on or before December 31st, the existing license shall remain in effect until final action on the renewal application. Otherwise, the existing license shall expire on

December 31st and an application for a new license must be filed. For renewal applications filed on or before December 31st, the Clerk shall process and issue renewal licenses in the same manner as the Town Council processes and issues new licenses, except that no public hearing is required for a renewal. The Clerk may renew a license only if the Clerk is satisfied that the application meets all the requirements of this ordinance. If the Clerk is not satisfied that the application meets all the requirements of this ordinance, the Clerk shall refer the application to the Town Council, which shall process the application in the same manner as an application for a new license.

Section 202. Display of License, Laws by Pawnbroker; Occupation Sign.

Every Pawnbroker shall post in a conspicuous location in his or her place of business a copy of the License, this Ordinance and the Statutes of the State of Maine governing pawnbrokers, as well as a business sign in the English language with his or her name and occupation legibly inscribed thereon in large letters.

Section 203. Account of Business Done and Disclosure to Consumer.

Account Kept. Every pawnbroker shall maintain records in which the pawnbroker shall enter:

1. The date, duration, amount, periodic rate of interest and annual percentage rate of every loan that is made;
2. The finance charge, due dates for payment and the total payment needed to redeem or repurchase the pawned property;
3. An accurate account and description of the property pawned;
4. The terms of redemption or repurchase, including any reduction in the finance charge for early redemption or repurchase and the right of the consumer to at least one extension of 31 days at the same rate of interest upon request in writing or in person; and,
5. The name and address of the consumer.

Inspection. The pawnbroker shall allow any police officer to inspect these records at any and all times.

Delivery to Consumer. At the time of the pawn transaction, the pawnbroker shall deliver to the consumer a signed, written disclosure complying with the truth-in-lending provisions of the Maine Consumer Credit Code, 9-A M.R.S.A. §8-101 et seq. containing the items required by subsection 1 above and the name and address of the pawnbroker.

Section 204. List of Transactions; Seller to furnish Proof of Identification.

Every person licensed as a pawnbroker shall make out, and have available for periodic collection, a legible and correct list, upon blanks furnished by the police chief, containing an accurate description of all articles taken in pawn, purchased or sold, the name, residence and date of birth of the buyer or seller other than the licensee, together with the correct and exact time when such articles were pawned, purchased or sold, and the amount the item was sold for. Before recording the information required by this section, a pawnbroker shall require reasonable written proof of the seller's identification in the form of a motor vehicle operator's license, military identification card, State identification card or similar item which confirms the person's identification by date of birth and by physical description. The routine reporting shall be submitted to the Chief of Police or his designee within 48 hours of the transaction.

Section 205. Receiving Articles from Minors, Thieves.

No one licensed pursuant to this article shall purchase or receive any article from any person under the age of 18 years without the written consent of such person’s parent or guardian, or from a person known or suspected to be a thief or a receiver of stolen property.

Section 206. Retention of Articles Purchased.

Articles purchased by anyone licensed in accordance with the provisions of this article, excepting pawnbrokers, shall be retained by such license in the same condition in which they were obtained and in an accessible place where such articles can be examined and inspected for at least 15 days before they are disposed of.

Section 207. State Law to Apply.

All provisions of the laws of the State of Maine governing pawnbrokers, including, without limitation, 30-A M.R.S.A. §§3960 – 3964-A, as such may be amended from time to time, shall apply in addition to the provisions of this ordinance.

Section 208. Suspension or Revocation of License.

The Town Council may, after a public hearing, preceded by notice to interested parties, suspend, or revoke any pawnbroker license on the grounds that the business is considered a detriment to the public health, safety, or welfare, or violates any municipal ordinances, articles, by-laws, or rules and regulations.

ARTICLE III - Penalty and Separability.

Section 301. PENALTY

Any person who engages in pawn transactions in the Town of Scarborough without the license required by this Ordinance commits a civil violation punishable by a civil penalty of not more than \$100. Any licensee who violates any provision of this Ordinance commits a civil violation punishable by a penalty of not more than \$500. All civil penalties under this Ordinance are recoverable on complaint, to the use of the Town of Scarborough.

Section 302. SEPARABILITY

The invalidity of any provision of this Ordinance shall not invalidate any other part.

Vote: 6 Yeas.

Order No. 10-11. First reading and schedule a second reading on the Bond Order for the Municipal Capital Improvements Projects for FY 2009-2010. Thomas J. Hall, Town Manager, gave a brief overview on this Order.

Motion by Councillor Wood, seconded by Councillor Roy, to move approval of the first reading on the Bond Order for the Municipal Capital Improvements Projects for FY 2009-2010 and schedule a second reading for Wednesday, February 10, 2010, as follows:

**BOND ORDER FOR
MUNICIPAL CAPITAL IMPROVEMENTS**

BE IT ORDERED, That under and pursuant to the provisions of Title 30-A, Sections 5721-5729 and 5772 of the Maine Revised Statutes, as amended, and the Charter of the Town of Scarborough, Maine, a the following Municipal Capital Items are hereby approved;

Auxiliary Vehicle Replacement Program	\$	27,000
Motorola Radio Computers & Software	\$	142,000
PW Sweeper #4200	\$	238,000
PW Plow Truck #4026	\$	160,600
Traffic Master System Equipment-Monitor/Control	\$	25,000
Traffic Signal Generator Connections @ Key Intersections	\$	15,000
Library Shelving/Fixtures/Computers	\$	12,000
Library Material Handling Hardware	\$	28,700
Total 2009-2010 Capital Equipment	\$	648,300

PUBLIC WORKS / TRANSPORTATION		
Dunstan Corner Transportation Improvement	\$	90,000
Running Hill Road Transportation Improvement	\$	50,000
Running Hill Sewer Extension Phase I	\$	1,450,000
FD Replace Asphalt Fire Station Roofs	\$	12,700
ADA/Energy Improvement at Dunstan/Black Point Stations	\$	85,000
Public Safety/Engine 7 Roof Repairs	\$	92,145
Mid-Level Road Rehabilitation (3 Miles p/yr)	\$	420,000
Pine Point Road Improvement (E Grand-King St]	\$	170,000
Running Hill Road Improvements	\$	591,000
Old Millbrook Drainage Study & Improvement	\$	35,000
Burnham Rod (Broadturn Road to Saco Line]	\$	421,000
Old County Road Drainage Study and Improvements	\$	1,350,000
Total 2009-2010 CIP	\$	4,766,845

GRAND TOTAL OF TOWN	\$	5,415,145
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BE IT FURTHER ORDERED, That a sum, not to exceed \$5,415,145, is hereby appropriated to provide for the costs of said projects; and,

BE IT FURTHER ORDERED, That to fund said appropriation, the Treasurer and the Chairman of the Town Council are hereby authorized to issue, at one time or from time to time, general obligation securities of the Town of Scarborough, Maine, including temporary notes in anticipation of the sale thereof, in an aggregate principal amount not to exceed \$5,415,145 and the discretion to fix the date(s), maturity(ies), denomination(s), interest rate(s), place(s) of payment, call(s) for redemption, form(s), and other details of said securities, including execution and delivery of said securities against payment therefore, and to provide for the sale thereof, is hereby delegated to the Treasurer and the Chairman of the Town Council.

Vote: 6 Yeas.

Order No. 10-12. First reading and schedule a second reading on the Bond Order for the School Capital Improvements Projects for FY 2009-2010. Thomas J. Hall, Town Manager, gave a brief overview on this Order.

Motion by Councillor Wood, seconded by Councillor Roy, to move approval of the first reading on the Bond Order for the School Capital Improvements Projects for FY 2009-2010 and schedule a second reading for Wednesday, February 10, 2010, as follows:

**BOND ORDER FOR
EDUCATION CAPITAL IMPROVEMENTS**

BE IT ORDERED, That under and pursuant to the provisions of Title 30-A, Sections 5721-5729 and 5772 of the Maine Revised Statutes, as amended, and the Charter of the Town of Scarborough, Maine, the following Education Capital Improvement Projects are hereby approved;

School CIP Projects	
IS Equipment Replacement	\$ 260,610
WWI Mechanical and Plumbing	\$ 235,000
DW Roofing	\$ 425,000
Security System Upgrade	\$ 35,000
MS HVAC	\$ 50,000
DW Flooring	\$ 150,000
DW Movable Equipment - Machinery	\$ 75,000
Building Envelope	\$ 65,000
New Technology - Equipment	\$ 18,500
WWI Fencing	\$ 9,000
DW Pavement Maintenance	\$ 29,000
HS Dumpster Pad	\$ 29,100
DW VVAC/Mechanical	\$ 90,000
Total 2009-2010 School CIP	\$ 1,471,210

BE IT FURTHER ORDERED, That a sum, not to exceed \$1,471,210, is hereby appropriated to provide for the costs of said projects; and

BE IT FURTHER ORDERED, That to fund said appropriation, the Treasurer and the Chairman of the Town Council are hereby authorized to issue, at one time or from time to time, general obligation securities of the Town of Scarborough, Maine, including temporary notes in anticipation of the sale thereof, in an aggregate principal amount not to exceed \$1,471,210 and the discretion to fix the date(s), maturity(ies), denomination(s), interest rate(s), place(s) of payment, call(s) for redemption, form(s), and other details of said securities, including execution and delivery of said securities against payment therefore, and to provide for the sale thereof, is hereby delegated to the Treasurer and the Chairman of the Town Council.

Vote: 6 Yeas.

Order No. 10-13. Act on the annual "Seasonal Road Posting" for weight restrictions, if necessary, from February 22nd to May 14th. Motion by Councillor D'Andrea, seconded by Councillor Roy, to move approval on the annual "Seasonal Road Posting" for weight restrictions, if necessary, from February 22nd to May 14th, as follows:

Town of Scarborough, ME

**POSTED ROADS
EFFECTIVE FEBRUARY 22, 2010**

The following roads will be posted through Friday, May 14, 2010 *or until posting is lifted by the Scarborough Public Works Department*. Postings are subject to change at the discretion of the Public Works Director.

Road conditions may change daily due to weather. Because road conditions are variable, we may allow access to posted roads (with limitations usually to morning hours).

Permissions are determined on a daily basis.

Issued after 6:00 a.m. Monday - Friday

Please call the Public Works Department at 730-4400 if you have any questions regarding access to the roads listed below:

STREET	SECTION
Ash Swamp Road	All
Bridges Drive	All
Burnham Road	All
Chamberlain Road	All
Commerce Drive	All
Dresser Road	All
Fogg Road	All
Hanson Road	All
Hearn Road	All
Hidden Creek Drive	All
Highland Avenue	Chamberlain Rd to So. Portland Line
Holmes Road	Beechridge Speedway to Saco Line
Landmark Road	All
Longmeadow Road	All
Milliken Mills Road	All
Mitchell Hill Road	All
Old Blue Point Road	All
Pineledge Road	All
Ross Road	All
Sawyer Road	All
Tapley Road	All
Two Road Road	Payne Rd to Holmes Rd
Ward Street	All
Woodfield Drive	All

Note: Other roads may be posted as deemed necessary by the Public Works Director

Vote: 6 Yeas.

Order No. 10-14. Act to authorize the Town Manager to sign release deeds on property located at 354 Payne Road Map 039 - Lot 235 and 358 Payne Road Map 038 - Lot 3. Thomas J. Hall, Town Manager, gave a brief overview on this Order.

Motion by Councillor Wood, seconded by Councillor D'Andrea, to move approval to authorize the Town Manager to sign release deeds on property located at 354 Payne Road Map 039 - Lot 235 and 358 Payne Road Map 038 – Lot 3.

Vote: 6 Yeas.

Order No. 10-15. Act to accept the 2010 Town Council Goals. Motion by Councillor D'Andrea, seconded by Councilor Roy, to move approval to accept the 2010 Town Council Goals, as follows:

2010 Scarborough Town Council Goals

- ***Develop a Comprehensive Energy Management Plan*** –
- ***Improve Access to Regional Transportation*** – Carry over from 2009; explore affiliation with existing transit systems
- ***Identify and Enhance Opportunities for Bike/Pedestrian Safety and Travel*** -
- ***Promote Open Government*** – community outreach projects; town hall meetings; communication tools to view public meetings
- ***Identify Areas for Public Access to Recreational Water Resources*** -
- ***Prepare a Reasonable Budget*** – maintain services – avoid layoffs – limit increase in mil rate – effective compensation of employees
- ***Develop Employee Incentive Program*** – reward cost savings ideas
- ***Promote Consolidation and Coordination of Services*** – Town/School Services – Town Operations - Regionalize Services
- ***Promote/Champion Green Business/Alternative Energy Technologies***-
- ***Review and Update Growth Management and Impact Fee Ordinances***-
- ***Prioritize Major Capital Building Needs*** – Establish building committees to assess needs and prioritize projects.

*Goals are listed in no order of priority

Vote: 5 Yeas [Councillor Ahlquist absent from Chamber].

Order No. 10-16. Act to authorize the Town Manager to sign the Maine Department of Transportation Three-Party Partnership Agreement - PIN 17343.00, “Scarborough, Dunstan Corner”. Thomas J. Hall, Town Manager, gave a brief overview on this Order.

Motion by Councillor Wood, seconded by Councillor Roy, to move approval to authorize the Town Manager to sign the Maine Department of Transportation Three-Party Partnership Agreement - PIN 17343.00, “Scarborough, Dunstan Corner”, as follows:

**MAINE DEPARTMENT OF TRANSPORTATION
THREE-PARTY PARTNERSHIP AGREEMENT
PIN 17343.00, “Scarborough, Dunstan Corner”**

This agreement (the “Agreement”) is entered into among the State of Maine Department of Transportation (the “MaineDOT”), the Portland Area Comprehensive Transportation System (“PACTS”) and the Town of Scarborough (the “Town”), collectively known as the “Parties.”

Whereas, The Dunstan Corner intersection located in Scarborough is in need of improvements that will facilitate local and regional travel, improve pedestrian movements, address safety issues in high crash locations, and allow for future growth and development. See Attachment A; and,

Whereas, PACTS programmed PIN 17343.00 for inclusion in the Maine Department of Transportation (“MaineDOT”) Biennial Capital Work Plan for FY 2010-2011, using federal and state capital improvement funding allocated through MaineDOT; and,

Whereas, the Town supports the PACTS decision to program PIN 17343.00 (the “Project”); and,

Whereas, the Parties have a mutual interest in ensuring that the Project is delivered on a reasonable schedule and within the budget programmed, using a process that maximizes communication and cooperation.

Now Therefore, the Parties agree that this document will cover the responsibilities of each during the design, permitting and right-of-way stages of the Project through completion of final Plans, Specifications and Estimate (“PS&E”), as follows:

- 1.) The total estimated cost of the Project is \$3,350,000, and the Parties agree to share costs – for the duration of the Project – as follows:
 - **PACTS** (federal share) – 65% of federally participating costs, capped at \$2,177,500. PACTS will program \$170,950 in FY 2010-2011 and \$2,006,550 in FY 2012-2013.
 - **MaineDOT** (state share) – 10%, of federally participating costs, capped at \$335,000. MaineDOT will program \$26,300 in FY 2010-2011 and \$308,700 in FY 2012-2013.
 - **Town** (local share) – 25% of federally participating costs, or \$837,500. The Town will program \$65,750 in FY 2010-2011 and \$771,750 in FY 2012-2013. Additionally, the town agrees to cover with local funds 100% of all Project costs exceeding \$3,350,000.
- 2.) MaineDOT will develop construction plans and specifications for PIN 17343.00 within the scope provided by PACTS, following MaineDOT’s standard project development process to ensure optimum federal participation and adherence to federal and state regulations.
- 3.) After the final PS&E package is prepared, MaineDOT and the Town will execute a formal Municipal/State Agreement covering the advertising, award, construction and construction engineering phases of the Project. The Municipal/State Agreement will include a schedule for collection of the Town’s share of Project costs.
- 4.) MaineDOT will share information about the status of the Project with staff from PACTS and the Town at significant milestones to make sure the Parties remain in agreement about the scope, schedule and budget. This “check-in” process shall include the following, at a minimum:
 - Project kickoff/initial team meeting;
 - Preliminary alignment complete;
 - Preliminary design report (PDR);

- Formal public meeting;
- Plans, specifications and estimate (PS&E) complete.
- Changes in the Project schedule or engineer's estimate.

- 5.) MaineDOT will consult with staff from PACTS and the Town before adjusting the Project scope. Additionally, PACTS and the Town will notify MaineDOT of any proposed changes in the Project limits or scope.
- 6.) The Parties will participate as partners in public meetings held to discuss the Project.
- 7.) If MaineDOT withdraws from the Project before it has been advertised for construction, and that action was not directed by the Town, MaineDOT will cover 100% of the Project costs incurred to date with state funds.
- 8.) If the Town withdraws its financial support for the Project as described in Section 1 above and MaineDOT, as a result, must cancel the Project before it has been advertised for construction, the Town will cover with local funds 100% of all preliminary engineering and right-of-way costs incurred by MaineDOT in reliance on the Town's commitment.

IN **WITNESS WHEREOF**, the parties hereto have executed this **AGREEMENT** effective on the date last signed.

_____ Date _____
 John Duncan, Director,
 Portland Area Comprehensive Transportation System

_____ Date _____
 Thomas Hall, Town Manager,
 Town of Scarborough

_____ Date _____
 Joyce Taylor, Acting Director, Bureau of Project Development
 Maine Department of Transportation

Attachment A

SCOPE OF WORK

MaineDOT PIN 17343.00, “Scarborough, Dunstan Corner.”

Dunstan Corner consists of two tightly spaced, major intersections on U.S. Route 1 in Scarborough. These two intersections are the crossroads of Route 1 and three major collector roadways – Broadturn Road, Payne Road and Pine Point Road. These intersections exhibit poor levels of service, congestion, high levels of crashes and a high critical rate factor.

The Dunstan Corner intersections require improvement to facilitate local and regional travel, pedestrian provisions and movement, to remedy the high crash locations, and to enable future growth and development in this area of Scarborough and the northern portion of the Route 1 corridor in Saco.

PIN 17343.00 is intended to improve the level of service at the Dunstan Corner intersection and emphasize the use of Route One and Haigis Parkway as the preferred commuter route over Payne Road by:

- Separating the two intersections that make up Dunstan Corner to add capacity and improve the level of service of all of the legs of the intersections; and

Designing the Dunstan Corner intersections in a way that maintains full access to Payne Road, but discourages the use of Payne Road as a commuter route.

Vote: 4 Yeas. 2 Nays [Councillors D’Andrea and Holbrook].

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

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

- Councillor Ahlquist gave an update on the ecomaine Board and noted that any one who would like a tour is encouraged to contact ecomaine for a tour.
- Councillor Holbrook noted that the Charter Review Committee will be held on Monday, February 8, 2010 at 7:00 p.m. – one item up for discussion will be a Recall Provision.
- Councillor D’Andrea noted that the Ordinance Committee meeting is scheduled for Tuesday, February 23, 2010, at 4:30 p.m. in Council Chamber A
- Councillor Roy commented on the Higgins Beach parking issue.
- Council Chair Rancourt noted that the Appointments Committee will be meeting prior to the Town Council meeting at 6:00 p.m. on Wednesday, February 17, 2010.

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

- Due to the cost of fees involved with credit cards, the Town of Scarborough will no longer accept credit cards as of February 15th. Debit cards will still be accepted and Community Services on-line registration will still accept credit cards.
- Update on the Higgins Beach parking lot and that negotiations were almost complete and he hoped that there would be an item on an upcoming agenda asking Council approval to purchase the lot.
- The elevator has been under repair and the approximate cost to complete the project is \$25,000.
- There will be a tax rate calculator page placed on the town’s website. Taxpayers will be able to enter in their property valuation and the calculator will show how your taxes are distributed.

Item 11. Council Member Comments.

- Councillor D’Andrea noted that she had an opportunity last year to participate with the Meals on Wheels Program delivering meals to seniors. She thanked two Scarborough residents for the service to this program: Al Cowie – 11 years and Lowell Pease – 14 years. She had an opportunity to ride along with Patrol Officer Savage of the Police Department and really appreciates what the Department does. The Police Department has available to gun owners trigger locks – free to those who are interested in obtaining one.
- Councillor Roy congratulated the boys/girls basketball teams; congratulation to Neal Pratt on being elected as Chairman of Board for the Cumberland County Civic Center and to Brad Libby on his promotion to general manager for Downeast Energy for the South Portland and Yarmouth Office.
- Councillor Holbrook noted that Channel 13 had a report on the evening news that Good Shepherd Food Bank has 36,800 people who seek donations of food every week. For those who are interested in donating can visit the Good Shepherd Food Bank’s website at www.gsfb.org or call 782-3554.
- Councillor Ahlquist thanked the Town Manager for the action taken on the credit card fees, noting that this had been discussed during the last budget and would be reviewed again during this budget cycle.
- Council Chair Rancourt stated the Wayside Kitchen received a grant to deliver 666 30 lb. boxes of dry food each month. These are for those individuals are 60 or over and Southern Maine Area on Aging will be the conduit for this area. She also noted that an individual had pointed out that the 350th Book did not have any information on senior activities and how they have changed over the years.

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

Vote: 6 Yeas.

Meeting adjourned at 8:55 p.m.

Respectfully submitted,

Yolande P. Justice
Town Clerk