

STATE OF MAINE

COUNTY OF YORK

CITY OF SACO

The following are minutes of the August 20, 2007 Council Meeting.

- I. **CALL TO ORDER** – On Monday, August 20, 2007 at 7:07 p.m., a Council Meeting was held in the City Hall Auditorium.
- II. **ROLL CALL OF MEMBERS** – Mayor Johnston conducted a roll call of the members and determined that the Councilors present constituted a quorum. Councilors present: David Tripp, Leslie Smith, Jr., Ronald Morton, Roland Michaud, Arthur Tardif, Eric Cote and Christopher Jacques.

Mr. Richard R. Michaud, City Administrator and Lucette S. Pellerin, City Clerk were also present this evening.

III. **PLEDGE OF ALLEGIANCE**

IV. **APPROVAL OF MINUTES:** Minutes were not presented this evening.

VI. **CONSENT AGENDA:**

A. **(First Reading) Code Amendment Chapter 118-6(C59(a))**

City Code requires that mooring buoys meet U. S. Coast Guard (USCG) Regulations. The current ordinance contains language requiring that mooring buoys be “a white ball with a blue stripe”. The USCG has revised the regulations and recommend, but do not require a blue stripe. The USCG revision ought to be reflected in the City Ordinance.

Additionally the Coastal Waters Commission and Harbor Master would like to have the mooring number and registration number of the assigned vessel displayed on the mooring buoy.

The Coastal Waters Commission met on June 6, 2007 and unanimously voted to support the following amendment to §118-6 (C5(a)) "All mooring floats shall meet US Coast Guard regulations: A white ball with a blue stripe (strike "a blue stripe") (add "mooring numbers and boat registration numbers. It is also recommended to carry a blue stripe".)

The City of Saco hereby ordains and approves the First Reading of the document titled, ‘Code Amendment Chapter 118 -6 Harbor Master; Duties C. Moorings, (5) Manner/Condition of Moorings, (a), Dated August 6, 2007’, and further move to set the Public Hearing for September 4, 2007”.

Code Amendment Chapter 118 -6 Harbor Master; Duties C. Moorings, (5) Manner/Condition of Moorings, (a), Dated August 6, 2007

(~~strikethrough~~ represents language to be deleted while underline is language to be added)

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§ 118-6 (C) Moorings

(5) Manner/Condition of Moorings,

(a) All mooring floats shall meet United States Coast Guard regulations: a white ball with mooring number and boat registration numbers. It is also recommended to carry a blue stripe.

Please refer to the Council Meeting of August 20, 2007 for Saco Coastal Waters Commission minutes.

B. Tax Increment Financing – Industrial Park Road, Peoples Choice Credit Union

The Council approved on January 2 and the state approved in March the Industrial Park Road TIF district. The proceeds from the district go entirely to the City to address traffic improvements in the Industrial Park Road/North Street area.

In reviewing the TIF application, the Council considered that the City has been unsuccessful in obtaining funds from PACTS and MDOT for needed North Street and Industrial Park Road improvements. In addition, Maine Department of Transportation has been aggressive in requiring traffic improvements in this area as part of permitting. For example, the Peoples Choice Credit Union is building a 27,000 sq. ft. headquarters adjacent to the railroad on Industrial Park Road. The MDOT permit requires extensive reconstruction nearly a half mile away at the North Street intersection, at a cost of \$170,000 to \$200,000, which is a somewhat disproportional burden on the credit union when the traffic improvement project will have significant general benefit.

Several other projects are on the drawing boards for this area. Using the TIF as a funding mechanism for the projects' traffic mitigation will encourage commercial and office development in this area.

The People's Choice Credit Union is nearly complete, as is the lane widening MDOT required it to make at the corner of Industrial Park Road and North Street. The Council indicated in workshop that it would consider reimbursing 50 percent of the cost of the project, or \$85,000 to \$100,000, from the TIF.

The credit union will be valued at over \$3 million next year, and is valued at 45% of that (partial) this tax year. At full value next year the project alone will generate about \$40,000 in taxes. A credit enhancement agreement has been prepared which would reimburse 50 percent of the credit unions incremental new taxes over approximately five years.

Be it Ordered that the City Council authorize the City Administrator to enter into a Credit Enhancement Agreement with People's Choice Credit Union substantially in the form of the credit enhancement entitled "Credit Enhancement Agreement People's Choice Credit Union and City of Saco Draft, August 9, 2007, except that the \$85,000 in the prepared agreement may be changed to reflect 50% of actual costs, not to exceed \$100,000 without further Council authorization. Further move to approve the Order.

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CREDIT ENHANCEMENT AGREEMENT

PEOPLE'S CHOICE CREDIT UNION AND CITY OF SACO

Draft August 9, 2007

This Credit Enhancement Agreement dated as of _____, 2007, between the City of Saco, Maine (the "City"), a municipal body corporate and politic and a political subdivision of the State of Maine, and Peoples Choice Credit Union, a Maine banking corporation (the "Company").

WITNESSETH THAT

WHEREAS, the City designated the City of Saco Municipal Development and Tax Increment Financing District (Industrial Park Road Improvements Project) (the "District") pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, by vote at a City Council meeting held on January 2, 2007 and pursuant to the same City Council meeting action adopted a development program and financial plan for the District (the "Development Program"), and the Maine Department of Economic and Community Development has reviewed and approved the District and the Development Program, and

WHEREAS, the Development Program contemplates the execution and delivery of a credit enhancement agreement between the City and the Company, and the City approved the execution and delivery of a credit enhancement agreement as described in the Development Program pursuant to such City Council meeting approval, and the City and the Company desire and intend that this Credit Enhancement Agreement be and constitute the Credit Enhancement Agreement contemplated by and described in the Development Program;

NOW, THEREFORE, in consideration of the foregoing and in consideration of the mutual promises and covenants set forth herein, the parties hereby agree as follows:

ARTICLE I: DEFINITIONS; INTERPRETATIONS

Section 1.1. Definitions. The terms defined in this Article I shall, for all purposes of this Agreement, have the meanings herein specified, unless the context clearly requires otherwise:

"Agreement" means this Credit Enhancement Agreement between the City and the Company.

"Calculation Date" means the later of: (a) April 1, or (b) 45 days after the last Tax Payment Date, of each year during the term of this Agreement.

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"Company's Project Cost Account" means the Company TIF Sub-account established and maintained pursuant to Article II hereof.

"Company's Property" means the real estate owned by the Company which is located in the District and which is shown as Lot ___ on Tax Map ___ of the City.

"Current Assessed Value" means the assessed value of the Company's Property, as certified by the municipal assessor as of April 1st of each year of the term of this Agreement.

"Development Program" means the City of Saco Municipal Development and Tax Increment Financing District Development Program (Industrial Park Road Improvements Project), which is the development program for the District, as adopted by the City of Saco at a City Council meeting held on January 2, 2007.

"Development Program Fund" means the development program fund described in Section 2.1 of this Agreement.

"District" means the City of Saco, Municipal Development and Tax Increment Financing District (Industrial Park Road Improvements Project) approved by the City on January 2, 2007 pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended.

"Fiscal Year" means July 1 to June 30 of each year or such other fiscal year as the City may from time to time establish; for purposes of this Agreement, the first Fiscal Year.

"Increased Assessed Value" means the valuation amount by which the Current Assessed Value of the Company's Property exceeds the Original Assessed Value of the Company's Property. If the Current Assessed Value is equal to or less than the Original Assessed Value, there is no Increased Assessed Value.

"Original Assessed Value" means the original assessed value of the Company's Property, which amount is \$____, as the same may be adjusted from time to time in accordance with Section 3.7 hereof.

"Project" means the Development Program within the District as described in the Development Program, and for purposes of this Agreement shall be limited to 50% of the costs incurred by the Company for improvements required by the Maine Department of Transportation to Industrial Park Road and/or other nearby roads and intersections in connection with permits for the proposed development by the Company of the Company's Property within the District.

"Project Costs" means any expenditures or monetary obligations incurred that are authorized by section 5225, subsection 1 of Title 30-A of the Maine Revised Statutes and described in the Development Program, and for purposes of this Agreement shall be limited to 50% of the actual costs incurred by the Company for improvements required by the Maine Department of Transportation to Industrial Park Road and/or other nearby roads and intersections in connection with permits for the proposed development by the Company of the Company's Property within the District.

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"Property Taxes" means any and all ad valorem real property taxes levied, charged or assessed against the Company's Property by the City, or on its behalf.

"Qualified Investments" shall mean any and all securities, obligations or accounts in which municipalities may invest their funds under applicable Maine law.

"Tax Increment" means the Property Taxes assessed by the City and paid by the Company within the meaning of Section 3.1 of this Agreement, in excess of any state, county or special district tax, upon the Increased Assessed Value of the Company's Property.

"Tax Increment (Company's Share)" means that portion of the Tax Increment, for each year during the term of this Agreement, with respect to the Company's Property located in the District, which is to be deposited by the City in the Company's Project Cost Account, to the extent provided in Article III of this Agreement.

"Tax Payment Date" means the date(s) on which Property Taxes levied by the City are due and payable.

Section 1.2. Interpretation and Construction. In this Agreement, unless the context otherwise requires: (a) the terms "hereby," "hereof," "hereto," "herein," "hereunder" and any similar terms, as used in this Agreement, refer to this Agreement, and the term "hereafter" means after, and the term "heretofore" means before, the date of delivery of this Agreement; (b) words importing a particular gender mean and include correlative words of every other gender and words importing the singular number mean and include the plural number and vice versa; (c) words importing persons mean and include firms, associations, partnerships (including limited partnerships), trusts, corporations and other legal entities, including public or governmental bodies, as well as any natural persons; (d) any headings preceding the texts of the several Articles and Sections of this Agreement, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect; and (e) all notices to be given hereunder shall be given in writing and, unless a certain number of days is specified, within a reasonable time.

ARTICLE II: COMPANY'S PROJECT COST ACCOUNT AND FUNDING REQUIREMENTS

Section 2.1. Creation of Development Program Fund. The City hereby confirms the creation and establishment of a segregated fund in the name of the City designated as the Municipal Development Tax Increment Financing District (Industrial Park Road Improvements Project) Program Fund (the "Development Program Fund") pursuant to, and in accordance with the terms and conditions of, the Development Program. The Development Program Fund shall consist of a Project Cost Account. The Development Program Fund Project Cost Account shall consist of and be separated into separate sub-accounts or funds consisting of the Company's Project Cost Account, the City's Project Cost Account and such other sub-accounts as the City may establish from time to time. All funds in the City's Project Cost Account, in such other sub-

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accounts as the City may establish from time to time, and in any Sinking Fund that the City may hereafter establish shall be the sole and exclusive property of the City and shall not be subject in any way to the terms or provisions of this Agreement.

Section 2.2. Liens. The City shall not create, except as otherwise provided in this Agreement, any liens, security interests or encumbrances of any nature whatsoever with respect to the Company's Project Cost Account, other than the interest of the Company granted under this Agreement in and to the amounts on deposit in the Company's Project Cost Account, provided, however, nothing herein shall prohibit creation of real and personal property tax liens on the Company's property in accordance with, and entitled to the priority provided under, Maine law and any trustee process, attachment and judgment liens and other liens obtained in accordance with applicable law.

Section 2.3. Deposits into Project Cost Account. During the term of this Agreement, and except as otherwise provided in Section 3.1 hereof, the City shall deposit into the Company's Project Cost Account, within 30 days after each Calculation Date an amount equal to that portion of each payment of Property Tax actually received by the City, as determined under Section 3.1(b) hereof, since the last Calculation Date, thereof constituting the Tax Increment (Company's Share) for the period to which the payment relates. All interest and earnings on amounts in the Company's Project Cost Account shall be the sole property of the City and shall transferred to the General Fund of the City free and clear of any interest of the Company under this Agreement.

Section 2.4. Monies Held in Trust. Subject to the terms of this Agreement, all monies required to be deposited into the Company's Project Cost Account to fund payments to Company under the provisions hereof and the provisions of the Development Program (excluding all interest and investment earnings thereon), shall be held by the City, in trust, for the benefit of the Company in accordance with the provisions of this Agreement.

Section 2.5. Investments. Monies in the Company's Project Cost Account may be invested and reinvested in Qualified Investments as determined by the City. The City shall have discretion regarding the investment of such monies, provided such monies are invested in Qualified Investments. As and when any amounts so invested are needed for disbursements, the City shall cause a sufficient amount of such investments to be sold or otherwise converted into cash to the credit of such account. The City shall have the sole and exclusive right to designate the investments to be sold and to direct the sale or conversion to cash of investments made with monies in the Company's Project Cost Account.

ARTICLE III: PAYMENT OBLIGATIONS

Section 3.1. Credit Enhancement Payments. (a) The term of this Agreement shall commence on the date of the first Fiscal Year and shall end on the earlier of (i) June 30, 2018, or (ii) any earlier expiration or termination of this Agreement in accordance with the terms of this Agreement. Commencing with the first Fiscal Year and continuing until the expiration or termination of this Agreement, the City agrees to pay to the Company within 45 days following each Calculation Date, payments equal to the Tax Increment (Company's Share) actually

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received by the City as of the most recent Calculation Date, subject to the limitations set forth in this Agreement, for each such Fiscal Year of the City during the term of this Agreement, provided that such payments by the City shall not be due and payable unless the Company, on or before the date on which such payment is due from the City to the Company or simultaneously therewith, has paid to the City the amounts due under Section 3.1(b) and under Section 3.8 of this Agreement. The Tax Increment (Company's Share) for each year of the term of this Agreement shall be calculated as follows: First, the amount of the Tax Increment shall be determined by subtracting the real Property Tax for such year on the Original Assessed Value from the total real Property Tax for such year on the Current Assessed Value for such year; Second, 0.50 shall be multiplied by the Tax Increment, and the product thereof shall constitute the Tax Increment (Company's Share) for such year.

Notwithstanding any other provision of this Agreement, at such time that the total payments to the Company by the City under this Agreement equal the lesser of (a) \$85,000, or (b) 50% of the costs incurred by the Company for improvements required by the Maine Department of Transportation to Industrial Park Road and/or other nearby roads and intersections in connection with permits for the proposed development by the Company of the Company's Property within the District, then the term of this Agreement shall terminate and the City shall not be required to make any further deposits to the Company's Project Cost Account and shall not be required to make any further payments to the Company under this Agreement, and all funds then on deposit in the Company's Project Cost Account shall be transferred to the general fund of the City or such other account designated by the City and such funds shall be owned by the City free and clear of any interest of the Company under this Agreement.

(b) Notwithstanding Section 3.1(a), the amounts payable thereunder shall be due and payable only if: (i) all real property taxes and assessments and all personal property taxes that are due and payable with respect to all of the property owned or leased by the Company and located in the District have been paid in full, and (ii) all real property taxes and assessments and all personal property taxes that are due and payable with respect to any other real and personal property owned by the Company, its successors and assigns, in the City have been paid in full, and (iii) all amounts due and payable under Section 3.8 of this Agreement have been paid in full. If any of such property taxes or other amounts due under this Agreement are not paid when due, the property taxes actually paid by Company, its successors and assigns shall, first, be applied to taxes due on account of Original Assessed Value, second to any personal property taxes with respect to any personal property of the Company located in the District, third to all amounts due under Section 3.8 of this Agreement, fourth, to any real property taxes and personal property taxes with respect to property of the Company, its successors and assigns located outside of the District and, fifth, to the Property Taxes with respect to the Company's Property in the District, and the portion thereof constituting the Tax Increment (Company's Share) of the amounts allocated under this clause "fifth" shall be applied to make the deposits to the Company's Project Cost Account. If such property taxes and assessments and other amounts are not paid when due, the City may withhold and suspend all payments under this Agreement until such property taxes and assessments and other amounts due hereunder are paid in full. In addition, if the Company institutes any tax abatement proceeding with respect to the Company's Property or any other property owned or leased by the Company in the District, the City may withhold and suspend all payments of the Tax Increment (Company's Share) with respect to the amount of value of the

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items of property subject to the abatement proceeding, and upon final action and completion of such abatement proceeding, the proper amount (based on the results of the abatement proceedings) shall be deposited in the proper accounts and the appropriate amount, as required hereunder, disbursed to the Company.

(c) The Company agrees that all payments made by the City to the Company pursuant to this Agreement will be used and applied, subject to the limitations set forth in Sections 3.1(a) and 3.1(b), only to either pay debt service on indebtedness incurred to finance "Project Costs" as that term is defined in this Agreement or used to pay directly, amortize or reimburse Company for payment of qualified Project Costs. The City shall be required to make payments under this Agreement only upon receipt of satisfactory documentation that the amounts are being paid for Project Costs, which documentation shall be in the form of properly completed certificates, executed by the Company, in the form attached hereto as Schedule A.

Section 3.2. Failure to Make Payment. In the event the City should fail to, or be unable to, make any of the payments required under the foregoing provisions of this Article III, the item or installment so unpaid shall continue as a limited obligation of the City, under the terms and conditions hereinafter set forth, until the amount unpaid shall have been fully paid.

Section 3.3. Manner of Payments. The payments provided for in this Article III shall be paid directly to the Company in the manner provided hereinabove for the Company's own use and benefit by check drawn on the City.

Section 3.4. Obligations Unconditional. Except as otherwise provided in this Agreement or as required by applicable law, the obligations of the City to make the payments described in this Agreement shall be absolute and unconditional, and the City shall not suspend or discontinue any payment hereunder or terminate this Agreement for any cause, irrespective of any defense or any rights of setoff (except as otherwise provided in this Agreement), recoupment or counterclaim it might otherwise have against the Company, other than by reason of and to the extent provided in a final judgment by a court of competent jurisdiction or by reason of an order of trustee process or attachment. The City hereby acknowledges that the Company has the right to enforce the contractual obligations of the City under this Agreement and that the governmental immunity of the City does not apply to actions to enforce its contractual obligations; provided however, that nothing herein shall constitute a waiver of the City's tort immunity or any other governmental immunities.

Notwithstanding the foregoing, the City reserves the right to terminate this Agreement upon receipt of a final judgment by a court of competent jurisdiction to the effect that this Agreement or the Development Program (or the designation of the District) adopted in connection herewith or any payment made thereunder or hereunder is or would be illegal or invalid or not properly authorized. Such termination shall not, however, affect the Company's obligation to defend and indemnify the City, which obligations shall survive any such termination. In addition, the City may setoff any amount found by the court of competent jurisdiction to be due to the City from the Company or from the owner of the property in the District. Except as provided in this Agreement, including subsections 3.1(a), 3.1(b), Section 3.8

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and Article VIII of this Agreement, the obligations of the City to make payments hereunder shall be absolute and irrevocable, irrespective of any rights of set-off, recoupment or counterclaim.

Section 3.5. Limited Obligation. The City's obligations under this Agreement, including the City's obligations of payment hereunder shall be limited obligations of the City payable solely from the Tax Increment (Company's Share) actually paid by the Company with respect to the Company's Property in the District and actually received by the City and required to be deposited in the Company's Project Cost Account in accordance with the terms of this Agreement and pledged therefor under this Agreement. The City's obligations hereunder shall not constitute a general debt or a general obligation or charge against or pledge of the faith and credit or taxing power of the City, the State of Maine, or of any municipality or political subdivision thereof, but shall be payable solely from such Tax Increment (Company's Share) actually paid by the Company with respect to the Company's Property located in the District and actually received by the City. This Agreement shall not directly or indirectly or contingently obligate the City, the State of Maine, or any other municipality or political subdivision to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment, except to the extent of the pledge of the Company's Project Cost Account established under this Agreement.

Section 3.6. Calculation. The City and the Company shall maintain records which are adequate to calculate the Tax Increment (Company's Share) and the amounts payable to the Company under this Agreement, and the Company shall cooperate with the City's requests for any information needed in order for the City to make such calculations. Such amounts shall be calculated by the City annually as of each Calculation Date. If the Company does not object to such calculations within 120 days of receipt thereof or of any payment of Tax Increment (Company's Share) for such year, the calculations shall be final and binding on Company.

Section 3.7. Revaluation. In the event there is a City-wide revaluation of taxable property within the City, the Original Assessed Value shall be increased in proportion to the City-wide increase in property values resulting from such revaluation.

Section 3.8. Company's Obligations. The Company shall perform the following obligations and shall pay to the City the following amounts:

(a) The Company shall pay or reimburse the City for all reasonable out-of-pocket fees, expenses and other charges of the City and its outside consultants, including the City's attorneys and other consultants, in connection with the preparation, review, negotiation, approval, execution, administration, enforcement and carrying out of this Agreement and the preparation, review and approval of the Development Program. The City shall not charge any administration fees for the routine calculation of the tax increment and cutting of checks. All fees incurred prior to the date hereof shall be paid on or before the date hereof.

(b) The Company agrees to defend, indemnify, pay, reimburse and hold the City, its City Councilors, officers, agents and employees, harmless from any and all claims, suits, liabilities, actions, proceedings and expenses, including, without limitation, attorneys fees and expenses and accountant's fees and expenses, arising out of this Agreement, the Development Program or any

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claim of illegality or invalidity of this Agreement or the Development Program or the City's approval of the District, this Agreement or the Development Program or out of the City's preparation and participation in this Agreement or the Development Program.

(c) The Company covenants and agrees that in the event that title to any of the Company's Property in the District is hereafter transferred to any entity exempt from the payment of Property Taxes, including, without limitation, any charitable corporation or the State of Maine or any agency or authority thereof, then the owner of the such property in the District, as a covenant running with the land, shall be obligated to pay to the City each year during and after the expiration or termination of this Agreement, an amount equal to 100% of the Property Taxes and 100% of all other property taxes (including personal property taxes) that would be assessed by the City on the Company's Property in the District, as if and under the assumption that the property in the District were fully taxable and owned in fee by Company and not exempt from Property Taxes or other property taxes. The Company agrees to record a memorandum of this paragraph in the York County Registry of Deeds within 15 days from the date of this Agreement and also immediately after each deed to the Company of the Company's Property.

(d) The Company shall not cease business operations in the District, and shall operate its business in the District substantially as represented by the Company to the City.

The amounts due under this Section 3.8 may be set off or deducted from any amount due to the Company under this Agreement, and if not so deducted, shall be due and payable within 30 days of written notice from the City to the Company. Notwithstanding any other provision of this Agreement, the provisions of this Section 3.8 shall survive any expiration or termination of this Agreement.

ARTICLE IV: PLEDGE AND SECURITY INTEREST

Section 4.1. Pledge of Company's Project Cost Account. In consideration of this Agreement and for the purpose of securing payment of the amounts provided for hereunder to the Company by the City, according to the terms and conditions contained herein, and in order to secure the performance and observance of all of the City's covenants and agreements contained herein, the City does hereby grant a security interest in and pledge to the Company the Company's Project Cost Account and all sums of money and other securities and investments therein, subject, however, to the set off rights of the City under this Agreement. This pledge and the provisions of Section 2.4 hereof shall not apply to any interest and investment earnings on the Company's Project Cost Account, all of which shall be the absolute property of the City, free and clear of any interest of the Company.

Section 4.2. No Disposition of Company's Project Cost Account. Except as permitted hereunder, the City shall not sell, lease, pledge, assign or otherwise dispose, encumber or hypothecate any interest in the Company's Project Cost Account and will promptly pay or cause to be discharged or make adequate provision to discharge any lien, charge or encumbrance on any part thereof not permitted hereby.

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Section 4.3. Access to Books and Records. All books, records and documents in the possession of the City relating to the District, the Development Program, this Agreement and the monies, revenues and receipts on deposit or required to be deposited into the Development Program Fund and the Company's Project Cost Account shall at all reasonable times be open to inspection by the Company and its agents. All books, records and documents of the Company reasonably necessary to the verification of Project Costs shall at all reasonable times be open to inspection by the City, and its agents.

ARTICLE V: DEFAULTS AND REMEDIES

Section 5.1. Events of Default. Each of the following events shall constitute and be referred to in this Agreement as an "Event of Default": (a) any failure by the City or the Company to pay any amounts due hereunder (including any failure of Company to pay any amounts due under this Agreement) when the same shall become due and payable except as provided in subsection (d) below; (b) any failure by the City to make deposits into the Company's Project Cost Account as and when due; or (c) any failure by the City or the Company to observe and perform in all material respects any covenant, condition, agreement or provision contained herein on the part of the City or Company to be observed or performed, which failure is not cured within thirty (30) days following written notice thereof; provided, however, that this subsection (c) shall not be construed to include Company's failure to pay Property Taxes for any reason as an Event of Default hereunder.

Section 5.2. Remedies on Default. Whenever any Event of Default described in Section 5.1 hereof shall have occurred and be continuing, the non-defaulting party may take whatever action at law or at equity as may appear necessary or desirable to collect the amount then due and thereafter to become due, to specifically enforce the performance or observance of any obligations, agreements or covenants of the non-defaulting party under this Agreement and any documents, instruments and agreements contemplated hereby or to terminate this Agreement or to enforce any rights or remedies available hereunder or under applicable law.

Section 5.3. Remedies Cumulative. No remedy herein conferred upon or reserved to any shall be exclusive of any other available remedy or remedies but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law, in equity or by statute. Delay or omission to exercise any right or power accruing upon any Event of Default to insist upon the strict performance of any of the covenants and agreements herein set forth or to exercise any rights or remedies upon the occurrence of an Event of Default shall not impair any such right or power or be considered or taken as a waiver or relinquishment for the future of the right to insist upon and to enforce, from time to time and as often as may be deemed expedient, by injunction or other appropriate legal or equitable remedy, strict compliance by the parties hereto with all of the covenants and conditions hereof, or of the rights to exercise any such rights or remedies, if such Event of Default be continued or repeated.

Section 5.4. Tax Laws. The parties acknowledge that all laws of the State now in effect or hereafter enacted with respect to taxation of property shall be applicable and that the City, by entering into this Agreement, is not excusing any non-payment of property taxes by Company.

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Without limiting the foregoing, the City and the Company shall always be entitled to exercise all rights and remedies regarding assessment, collection and payment of property taxes assessed on Company's Property and on property in the District.

ARTICLE VI: TERM AND TERMINATION

Section 6.1. Term. This Agreement shall become effective upon its execution and delivery by the parties hereto and shall remain in full force from the date hereof and shall expire upon the performance of all obligations on the part of the City and the Company hereunder or upon any earlier termination as provided in this Agreement. Notwithstanding any other provision of this Agreement, if Company fails to pay to the City any amount due under Section 3.8 of this Agreement or fails to perform any other obligation under this Agreement and such failure continues for a period of thirty (30) days, the City may terminate this Agreement, in which event this Agreement shall be of no further force or effect, except that the Company shall remain obligated to pay such other amounts due under this Agreement.

Section 6.2. Cancellation and Expiration of Term. At the termination or other expiration of this Agreement in accordance with the provisions of this Agreement, the City and the Company shall each execute and deliver such documents and take or cause to be taken such actions as may be necessary to evidence the termination of this Agreement.

ARTICLE VII: ASSIGNMENT

Section 7.1 No Assignment. Except as may be approved in writing by the City, which approval the City may withhold in its discretion, the Company shall not assign or transfer this Agreement or any interest herein or in any of its rights hereunder. In the event that such written consent is not given, upon any assignment of this Agreement or upon any transfer of title to the property of the Company located in the District, this Agreement and all rights of Company, its successors and assigns under this Agreement shall terminate.

ARTICLE VIII: MISCELLANEOUS

Section 8.1. Miscellaneous. In the event of the dissolution of the City or the Company, the covenants, stipulations, promises and agreements set forth herein, by or on behalf of or for the benefit of such party shall bind or inure to the benefit of the successors and assigns thereof time to time and any entity, officer, board, commission, agency or instrumentality to whom or to which any power or duty of such party shall be transferred. Except as herein otherwise specifically provided, nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any person, firm or corporation other than the City and the Company any right, remedy or claim under or by the reason of this Agreement, it being intended that this Agreement shall be for the sole and exclusive benefit of the City and the Company.

In case any one or more of the provisions of this Agreement shall, for any reason, be held to be illegal and invalid, such illegality or invalidity shall not affect any other provision of this Agreement and this Agreement shall be construed and enforced as if such illegal or invalid

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provision had not been contained herein. This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same Agreement. The laws of the State of Maine shall govern the construction and enforcement of this Agreement. This Agreement completely and fully supersedes all other prior or contemporaneous understandings or agreements, both written and oral, between the City and the Company relating to the specific subject matter of this Agreement and the transactions contemplated hereby.

Section 8.2. No Personal Liability of Officials of the City. No covenant, stipulation, obligation or agreement of the City contained herein shall be deemed to be a covenant, stipulation or obligation of any present or future elected or appointed official, officer, agent, servant or employee of the City in his individual capacity and neither the members of the City Council of the City nor any official, officer, employee or agent of the City shall be liable personally with respect to this Agreement or be subject to any personal liability or accountability by reason hereof.

Section 8.3. Notices. All notices, certificates, requests, requisitions or other communication by the City or the Company pursuant to this Agreement shall be in writing and shall be sufficiently given and shall be deemed given when mailed by first class mail, postage prepaid, addressed as follows:

If to the City: City of Saco
 300 Main Street
 Saco, ME. 04072

If to the Company: **PeoplesChoice Credit Union**
 23 Industrial Park Road
 Saco, Maine 04072

Either of the parties may, by notice given to the other, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent hereunder.

Section 8.4. Amendments. This Agreement may be amended only with the written consent of the parties hereto.

Section 8.5. Disputes and Valuation Agreement. The City and the Company hereby covenant and agree that the assumptions, estimates, analysis and results set forth in the Development Program and any other assumptions and estimates regarding valuation, depreciation of assets, tax rates, estimated amounts of the Increased Assessed Value and the Tax Increment (Company's Share), estimated amounts of the Tax Increment (Company's Share), estimated development costs and other estimates shall in no way: (a) prejudice the rights of any party to be used, in any way, by any party in either presenting evidence or making argument in any dispute which may arise with respect to Company's Property for purposes of ad valorem property taxation or any tax abatement proceeding, or (b) modify or change in any way the terms

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of this Agreement even if the actual results differ substantially from the estimates, assumptions or analysis.

IN WITNESS WHEREOF, the City and the Company have caused this Agreement to be executed in their respective corporate names and their respective corporate seals to be hereunto affixed and attested by the duly authorized officers, all as of the date first above written.

WITNESS:

City of Saco

By: _____

Its

PeoplesChoice Credit Union

By: _____

Its

Schedule A

Request for Payment

The undersigned with a place of business in Saco, Maine (the "Company") does hereby request payment in the amount of \$_____ from the City of Saco out of the Company Cost Account established under the Development Program of the City of Saco Municipal Development and Tax Increment Financing District Development Program (Industrial Park Road Improvements Project) and does hereby certify to the City of Saco that the amount requested will be used to pay Project Costs as that term is defined in the Credit Enhancement Agreement between the City and the Company, as follows: [check applicable provisions]

Direct payment of Project Costs in the amount of \$_____; and/or

Reimbursement to the Company for Project Costs previously incurred, in the amount of \$_____

There are attached hereto invoices showing the incurring by the undersigned of Project Costs in the amount of \$_____. None of these invoices have been the subject of a previous request for payment from the Company Project Cost Account.

The Company further certifies that all of such Project Costs constitute Project Costs as defined in the Credit Enhancement Agreement, dated as of _____, 2007 between the City of Saco and the undersigned, and that the Company has complied with all terms, conditions and covenants of such Agreement and that no default or event of default exists under said Agreement.

Dated: _____

PeoplesChoice Credit Union

[Type text]

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By: _____
Its

C. Sewer User Fee Waiver – 64 Harrison Avenue

On October 31st 2005 Mr. David Boutet purchased a duplex at 64 Harrison Avenue from Donald L. Oldakowski and Lisa J. Oldakowski. At the time of the closing the Oldakowski's had a balance of unpaid sewer bills on the property of \$682.43

Unpaid taxes and sewer user fees are required to be settled and paid in full at the time of the closing. A copy of the settlement statement is provided and does not make a reference to the sewer user fees due at the time of closing. Any remaining fees will be the responsibility of the new home owner if they are not resolved at the time of the closing. It is the responsibility of the purchaser or the title attorney to identify and include any outstanding fees in the closing documents

Be it Ordered that the City Council authorize the City Administrator to waive sewer user fees for the property at 64 Harrison Avenue in the amount of \$ 682.43. Further move to approve the Order.

Councilor Tripp moved, Councilor Michaud seconded, to approve items A, B, and C of the Consent Agenda. The motion passed with seven (7) yeas.

D. Engineering Modeling Study for Stackpole Creek Bridge

Andrew deGruchy of deGruchy Masonry, conducted a site visit of the Stackpole Creek Bridge, and maintains that restoration of the existing Bridge is a possible alternative to consider. He proposes to stabilize and consolidate the existing stone arch bridge for under \$500,000, giving it another 50 years of service at the 6 ton weight limit. He intends to support this assumption by creating an engineering modeling of how the bridge stands up and an estimate of its stability, durability and loading capacity. The cost to provide the engineering modeling and summary report is \$10,000.

The work he intends to provide in the "engineering modeling" will include a report that will set out the level of necessary repairs and upgrading of stability of certain areas to meet the assess shortfalls in these parameters, and will produce survey plans with details of structural characteristics and a preliminary plan for construction purposes. In summary, deGruchy Masonry will deliver a line survey plan, constructional survey plan, condition survey plan, preservation plan, stability upgrading plan, masonry approach/method, methodology and materials, specification, special services, estimated cost and maintenance strategy.

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Councilor Tripp moved, Councilor Michaud seconded, that it be ordered that the City Council authorize the City Administrator to sign an Agreement with deGruchy Masonry, for \$10,000, to create an 'Engineering Modeling' of how the Stackpole Creek Bridge stands up and an estimate of its stability, durability and loading capacity. Further move to approve the order. The motion passed with five (5) yeas and two nays. Councilors Tardif and Morton voted in the negative.

Email from Andrew deGruchy, dated July 17, 2007

From: Andrew deGruchy [mailto:andydegruchy@comcast.net]

Sent: Tuesday, July 17, 2007 7:37 PM

To: slittlefield@maine.rr.com; thinman56@hotmail.com

Cc: Ron Kiene

Subject: Preliminary engineering for Stackpole Bridge

Dear Saco residents and city officials,

Here are some answers to your questions that some expressed were needed to have answered before the July City Council meeting. The question was what is the next step and what is the cost. As I mentioned, I believe I can do this project, meaning stabilizing and consolidating the existing stone arch bridge for under \$500,000 and it will give another 50 years of service at the 6 ton weight limit. I intend to support this assumption with engineering work that John Addison will do on a second week-long visit to the site.

To prove that what we intend to do is 'doable' John suggests the following work he would do during this week long visit to the site:

Create an "Engineering modelling" of how the bridge stands up and an estimate of its stability, durability and loading capacity.

Produce a report that will set out the level of necessary repairs and upgrading of stability of certain areas to meet the assessed shortfalls in these parameters.

This first work will also produce survey plans with details of structural characteristics and a preliminary plan for construction purposes.

It will also be the basis for discussions with the City Engineer to give them the confidence that a preservation based route is possible.

To summarize therefore, this first "deliverable", after a week spent on site, will therefore contain:-

- * Line survey plan
- * Constructional survey plan
- * Condition survey plan
- * Preservation plan
- * Stability Upgrading plan

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- * Masonry Approach/ Method
- * Methodology and Materials
- * Specification
- * Special Services (stitching)
- * Estimated Cost
- * Maintenance strategy

(* Calculations and Structural Philosophy/ Rationale, Flood Risk in Appendices)

It will not contain absolutely final detailed working drawings but it will set the scene for more intensive discussions with the City that what deGruchy Masonry intends to do will be suitable to keep the bridge in service.

It is also hoped that the City Engineer would oblige us with the survey data obtained by others to assist progress with the work.

The cost for this week and the reports that it will generate will cost \$10,000. This is a fixed cost to whomever pays for it. I will absorb this cost into the project if we get an OK at the point of final delivery of these reports and agree to have me carry out my plan at an agreed upon price.

If the city wants more detailed engineering work and drawings, John feels that 10% of the construction cost would represent the value of all the engineering work that would or could further satisfy the city and its engineers if our initial plan is not detailed enough.

So, in short, the people who are supporting saving the bridge and/or the city should expect a minimum of \$10,000 to be paid out even if in the end the final decision that Saco makes is not to retain the bridge.

However, if the city wants to have Mott MacDonald, the firm that John works for, produce more detailed drawing and reports other than what I will submit with my price to carry out the work as we first describe it, then basically you are all back to putting out \$50,000+ to re-do an engineering endeavor similar to the degree of work that was already done by the folks that the city previously hired.

It is still possible, that after 'going back to the drawing board' and creating this new and expensive engineering work that the city and its people decide not to save the structure for some unknown reason that I can think of right now. It is also possible that John's study could shoot down my assumption that I can carry out the work for under \$500,000. Since I visited the bridge and did discuss with John what it is that I would be doing I do feel confident that I can do this within budget. So, the final word is that what you would be sure of if you spend for the engineering and don't actually go through with saving the bridge is that you tried every angle to study what remains and what can be done to save it before scraping the whole thing.

I hope this answers the questions of what to do next if you were to pursue working with us.

Sincerely,

Andrew deGruchy, President
deGruchy Masonry Restoration, Inc.

[Type text]

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266 Rockhill Road, Quakertown, PA 18951
www.degruchymasonry.com
ph 215-536-4482 fax 215-536-2281

The information that is supplied is by way of advice only and does not constitute a specification. Specifications are job specific and generally require a site visit and formal agreement. The information contained in this communication is not for general distribution.

-----Original Message-----

From: Andrew deGruchy [mailto:andydegruchy@comcast.net]
Sent: Thursday, July 12, 2007 10:55 AM
To: Scott Winchester
Subject: RE: Preliminary engineering for Stackpole Bridge

Dear Scott,

I have been discussing this over the past weeks via e-mail with John and he just wrote me back a few minutes ago to tell me that he will have to get back to me next week since a close friend of his just passed away and he is really in the dumps.

I haven't forgotten and will be back to you as soon as I have definitive numbers.

Thanks for your patience

Andy

-----Original Message-----

From: Scott Winchester [mailto:thinman56@hotmail.com]
Sent: Thursday, July 12, 2007 10:42 AM
To: andydegruchy@comcast.net
Subject: Preliminary engineering for Stackpole Bridge

Andy - we spoke a couple weeks ago about a ball-park number for the preliminary engineering to repair/restore the bridge. I understand your obligation is to the town, the neighbors wanted an idea of what the fees would be in case there were available funds from other sources (historical or otherwise) that might help sway the town into proceeding with the first phase (at least). The neighbors obviously have time and interest in helping the process forward! Any info you can provide within the confines of ethical proceedings would be appreciated.

Regards,
Scott

VII. AGENDA ITEMS:

A. Firefighter Recognition Presentation

Mayor Johnston requested that the following Firefighters, please come forward: Eric Hutchings, Brian Langerman, Jerry Beaulieu and Captain Robert Martin.

The Mayor read, to the Council and audience, the following letter.

STEPHEN AND DEBORAH CAMPBELL

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138 BUXTON ROAD
SACO, ME 04072

July 7, 2007

Dear Mayor Johnson:

Please accept this letter as a heartfelt thank you to the Saco Fire Department.

I have live in Saco all of my life. Twenty eight years ago, when my now husband, Stephen proposed we decided to get married, build a house and some day bring up or family in Saco. We now have two grown children who both graduated from Thornton Academy and live with us on the Buxton Road.

On Fathers Day, June 17, 2007, Stephen started having chest pain. At around 3:00 a.m. I dialed 911. The operator was wonderful. She worked to keep me calm so that I could give her the information she needed about what was wrong with Steve. She stayed with me on the telephone until the ambulance showed up at our home.

An ambulance with two paramedics came in our home. I later found out their names are Eric Hutchings and Brian Langerman. When they first arrived, my husband was sitting up on the floor in the living room and was not experiencing any pain at all. It was strange, one minute he was gasping at his chest and the next he was not in any pain at all. The two paramedics started to evaluate Steve and gave him oxygen. They were asking him all kinds of medical question and then told Steve that they wanted him to go in the ambulance with them. They asked him if he wanted to be carried or if he wished to walk. Steve said he would like to walk to the ambulance. I proceeded to get his shoes when all of a sudden Steve's neck went back and he seemed like he passed out but was still a bit conscious. The two Paramedics went right into action. They lad him on the floor and I think put an IV in his arm. I'm not sure, it all happened so quickly. One of the men ran out to the ambulance, I didn't know why and the other man continued working on Steve.

What happened after that I will never forget as long as I live. The paramedic that went out to the ambulance came back with a piece of equipment. Steve is a very large man, he stands over six foot three and weighs around 296 pounds. All the while this was going on, the paramedics kept their voices law as not to excite me any more than they had to. All of a sudden Steve's heart stopped. One of the paramedics looked at me and said, your going to see him jump up a bit and continued working on him. Using the defibrillator, they got Steve's hart going again. One of the Paramedics looked at me and said, his heart stopped, but we got it going again, we have to move him now.

Next an engine arrived at our house and on board was Captain Robert Martin and Jerry Beaulieu who is a paramedic.

They said they had to use our front steps to get him out. We built our home 13 years ago and I never realized that our front steps that have never been used were in really bad condition. The

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paramedics had to take Steve out on those bad steps. The four men did carry Steve out of our home and onto an awaiting stretcher. Once on the stretcher, we have no path or walk in the front of our home, so wheeling him to the ambulance was very hard for these men. But they did it.

Eric Hutchings and Brian Langerman took Steve to SMMC. When we got to SMMC we were met by a doctor, I wish I knew his name. He told us that Steve had to be taken to MMC and that he was in contact with MMC and getting everyone set up there for Steve's arrival. One of the Paramedics asked me to write down two cell phone numbers and they would call me if they needed to. Eric Hutchings and Brian Langerman drove Steve from SMMC to MMC and Steve was taken immediately into the Cardiac Cath Lab where he has a stent inserted into his heart. On my arrival to MMC, I had my son, daughter and my parents had followed us in their car. We were asked to sit and wait. I looked up and standing there was Eric Hutchings and Brian Langerman. They made it a point to come and see me and to tell me that he was doing great. Until that point, I didn't know anything. I didn't even know if he was alive. I was so relieved that I went up and hugged both of these men. They were more than professional. They were angels that morning.

All this being said.. we were told that Steve had a heart blockage of 100 percent in the biggest of the three arteries of the heart. They expected a lot of permanent heart damage, however, due to everyone moving so fast and knowing exactly what to do, we have just been told by Steve's Cardiologist that Steve has minimal heart damage and that he is very lucky man to be here today. A very lucky man. The Paramedics saved his life! I still have my husband, who is only 50 years old and my children, Adam and Sarah still have their Dad.

If any men deserve recognition for doing a wonderful job it is Eric Hutchings, Brian Langerman, Robert Martin and Jerry Beaulieu. If there is a plaque that I can buy and have you give to them. Please let me know. We have spoken with the Fire Chief and will be giving the four men a basket filled with a few gifts to share if they want to with all of the men/women at the Saco Fire Department. We are also contributing a small donation to be put towards the Fireman/s Gym Fund. I wish we could do more to show our appreciation. If there is, please let me know. It just doesn't seem like we are doing enough for them.

Again, God bless all of you at the Fire Department for what you do and the caring way in which you do it.

Sincerely,

Debby, Adam, Sarah and especially, Steve Campbell

Congratulations to the employees for doing a great job.

B. Purchase of Land 951-955 Portland Road

The Council reviewed on May 29 a plan for a public sewer and a public road between Cascade Road and outer Portland Road. The alignment of the sewer was selected by the Public Works

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Department and the city's consulting engineers in order to serve the largest area with a single pump station. The sewer and road would cross two properties, one owned by Robert Stevenson and one owned by Gary Stevenson.

An offer of \$37,000 to owner Gary Stevenson was based on the value of \$34,000, determined by a June 27 appraisal by Amidon Appraisal Company. The property is 1.32 acres, at 951-955 Portland Road. Map 62, Lot 21.

Councilor Morton moved, Councilor Jacques seconded, that it be Ordered that the City Council authorize the purchase of 1.32 acres, a portion of the land at 951-955 Portland Road, Map 62, Lot 21 from Gary Stevenson for a cost of \$37,000. Further I move to approve the Order. The motion passed with seven (7) yeas.

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SUMMARY OF CONCLUSIONS — EMINENT DOMAIN TAKING

In valuing the taking consisting of 1.32± AC from the parent parcel identified as 951-955 Portland Road and the 0.61± AC from the parent parcel identified as 965 Portland Road, the following values have been determined.

Item	Description	951-955 Portland Rd	965 Portland Rd
A	Value of the whole, before acquisition	\$806,000 (\$26,000/AC times 31.0± AC)	\$690,000 (\$30,000/AC times 23.0± AC)
B	Value of the part acquired, as part of the whole	\$34,000 (\$26,000/AC times 1.32± AC as rounded)	\$18,000 (\$30,000/AC times 0.61± AC as rounded)
C	Value of the Remainder, as part of the whole (A-B)	\$772,000	\$672,000
D	Value of the remainder, after the acquisition, disregarding special benefits	\$772,000	\$672,000
E	Diminution (C-D)	\$0	\$0
F	Value of the remainder, after the acquisition, and considering special benefits.	\$1,632,000 (\$55,000/AC times 29.68± AC as rounded)	\$1,343,000 (\$60,000/AC times 22.39± AC as rounded)
G	Special Benefits (F-D)	\$860,000	\$671,000
H	Net Diminution or Net Special Benefits (E-G)	-\$860,000	-\$671,000
I	Total Just Compensation (B+H) Note: Cannot be less than B	\$34,000	\$18,000

In the valuation of the parent parcels, only the Sales Comparison Approach was used. The Cost Approach was unsuitable because the parent parcels are considered to be unimproved. The Income Approach was unsuitable because the land only is not considered to be income producing. The major strength of this approach is that it directly reflects the actions of buyers and sellers in the market for similar properties. Therefore, the Sales Comparison Approach is considered reliable in determining a value indication for the subject.

Based on the Sales Comparison Approach, the takings have values of \$34,000 for taking from the property identified as 951-955 Portland Road and \$18,000 for the taking from the property identified as 965 Portland Road. These market value conclusions are of the taking as of June 27, 2007, the date of the inspection and are stated in terms of cash and/or in terms of financing equivalent to cash as determined by the conventional mortgage market as of the date of valuation.

AMIDON APPRAISAL COMPANY

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C. Purchase of Land 965 Portland Road

The Council reviewed on May 29 a plan for a public sewer and a public road between Cascade Road and outer Portland Road. The alignment of the sewer was selected by the Public Works Department and the city's consulting engineers in order to serve the largest area with a single pump station. The sewer and road would cross back land of two properties, one owned by Gary Stevenson and one owned by Robert Stevenson.

An offer of \$20,000 to owner Robert Stevenson was based on the value of \$18,000, determined by a June 27 appraisal by Amidon Appraisal Company. The property is .61 acres, at 965 Portland Road. (Map 63, Lot 11) Mr. Stevenson has now said that he will accept the offer.

Councilor Morton moved, Councilor Smith seconded, that it be Ordered that the City Council authorize the purchase of .61 acres of land, a portion of 965 Portland Road, Map 63, Lot 11, for a cost of \$20,000. Further move to approve the Order. The motion passed with seven (7) yeas.

[Type text]

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SUMMARY OF CONCLUSIONS — EMINENT DOMAIN TAKING

In valuing the taking consisting of 1.32± AC from the parent parcel identified as 951-955 Portland Road and the 0.61± AC from the parent parcel identified as 965 Portland Road, the following values have been determined.

Item	Description	951-955 Portland Rd	965 Portland Rd
A	Value of the whole, before acquisition	\$806,000 (\$26,000/AC times 31.0± AC)	\$690,000 (\$30,000/AC times 23.0± AC)
B	Value of the part acquired, as part of the whole	\$34,000 (\$26,000/AC times 1.32± AC as rounded)	\$18,000 (\$30,000/AC times 0.61± AC as rounded)
C	Value of the Remainder, as part of the whole (A-B)	\$772,000	\$672,000
D	Value of the remainder, after the acquisition, disregarding special benefits	\$772,000	\$672,000
E	Diminution (C-D)	\$0	\$0
F	Value of the remainder, after the acquisition, and considering special benefits.	\$1,632,000 (\$55,000/AC times 29.68± AC as rounded)	\$1,343,000 (\$60,000/AC times 22.39± AC as rounded)
G	Special Benefits (F-D)	\$860,000	\$671,000
H	Net Diminution or Net Special Benefits (E-G)	-\$860,000	-\$671,000
I	Total Just Compensation (B+H) Note: Cannot be less than B	\$34,000	\$18,000

In the valuation of the parent parcels, only the Sales Comparison Approach was used. The Cost Approach was unsuitable because the parent parcels are considered to be unimproved. The Income Approach was unsuitable because the land only is not considered to be income producing. The major strength of this approach is that it directly reflects the actions of buyers and sellers in the market for similar properties. Therefore, the Sales Comparison Approach is considered reliable in determining a value indication for the subject.

Based on the Sales Comparison Approach, the takings have values of \$34,000 for taking from the property identified as 951-955 Portland Road and \$18,000 for the taking from the property identified as 965 Portland Road. These market value conclusions are of the taking as of June 27, 2007, the date of the inspection and are stated in terms of cash and/or in terms of financing equivalent to cash as determined by the conventional mortgage market as of the date of valuation.

AMIDON APPRAISAL COMPANY

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D. **(Public Hearing and Order)** – Eminent Domain Proceeding for 951-955
Portland Road

NO ACTION WAS TAKEN ON THIS MATTER THIS EVENING

The Council reviewed on May 29 a plan for a public sewer and a public road between Cascade Road and outer Portland Road. The alignment of the sewer was selected by the Public Works Department and the city's consulting engineers in order to serve the largest area with a single pump station. Other alignments considered would have served smaller areas.

The City Council on July 23 approved an Order entitled "NOTICE OF PUBLIC HEARING ON THE TAKING OF CERTAIN REAL PROPERTY BY EMINENT DOMAIN," that began the eminent domain process for this property by setting the hearing date and ordering the notice procedure which the City Clerk and staff have followed with assistance from legal counsel.

An offer of \$37,000 to owner Gary Stevenson was based on the value of \$34,000 determined by a June 27 appraisal by Amidon Appraisal Company. The property is 1.32 acres, at 951-955 Portland Road. Map 62, Lot 21.

The appraiser has also determined that the value of the remainder of the 30+- acre property would increase \$860,000 as a result of the sewer and road construction across the back half of the land.

**ORDER TO TAKE CERTAIN PROPERTY LOCATED
AT OR ABOUT 951-955 PORTLAND ROAD BY EMINENT DOMAIN**

WHEREAS the City of Saco for purposes of public health plans to construct a sewer to serve the Route 1/Portland Road, corridor which may eventually serve additional areas west of the Maine Turnpike;

WHEREAS the City has determined that a sewer alignment east of the Portland Road would serve the largest area most economically by optimizing the location of a single pump station;

WHEREAS the City has determined the a road in essentially the same alignment would serve the public as a road connection between the Cascade Road and the Portland Road;

WHEREAS, after first providing notice to all of the affected property owners and after providing such additional notice as required by law, the City Council conducted a public hearing on August 20 at Saco City Hall Auditorium, and then and there, after hearing such persons as chose to speak thereon, the City Council determined that a sewer line extension benefitting the public health, the lack of a safe and appropriate public road access to the property, and the need for additional economic development in the city of Saco create a public exigency within the meaning of 23 M.R.S.A. § 3023, 30-A M.R.S.A. § 3101 and 30A M.R.S.A. § 3402 ; and

WHEREAS, the lot or parcel of land to be taken is that certain lot or parcel of land with any improvements thereon located on the generally easterly side of Portland Road in Saco, County of York, State of Maine, being more particularly described on Appendix A;

[Type text]

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NOW, THEREFORE, PURSUANT TO 23 M.R.S.A. Section 3023, 30-A M.R.S.A. Section 3101, and 30A M.R.S.A. § 3402, it is ordered that there is a public exigency requiring the immediate taking of the lot or parcel of land located at 965Portland Road, described in the attached Appendix A, for highway and economic development purposes; that the outstanding real estate interests in the same held by the individuals named on Appendix A be, and hereby are, taken by eminent domain; and that damages in the total amount of \$34,000. be awarded as shown on Appendix A; and

BE IT FURTHER Ordered, that a true copy of this Order and Appendix A be filed with the City Clerk; that an attested copy of the same be served by a Deputy Sheriff on each of the persons listed as Condemnees on Appendix A, and that notice of the same be published in a newspaper of general circulation in Saco for three (3) successive weeks with regard to the persons listed on Appendix A, together with their respective shares of said total \$34,000. damage award; and that an attested copy of the same, along with the Clerk's return, be filed in the York County Registry of Deeds.

E. (Public Hearing and Order0 – Eminent Domain Proceeding for 965 Portland Road

NO ACTION WAS TAKEN ON THIS MATTER THIS EVENING.

The Council reviewed on May 29 a plan for a public sewer and a public road between Cascade Road and outer Portland Road. The alignment of the sewer was selected by the Public Works Department and the city's consulting engineers in order to serve the largest area with a single pump station. Other alignments considered would have served smaller areas.

The City Council on July 23 approved an Order entitled "NOTICE OF PUBLIC HEARING ON THE TAKING OF CERTAIN REAL PROPERTY BY EMINENT DOMAIN," that began the eminent domain process for this property by setting the hearing date and ordering the notice procedure which the City Clerk and staff have followed with assistance from legal counsel.

An offer of \$20,000 to owner Robert Stevenson was based on the value of \$18,000 determined by a June 27 appraisal by Amidon Appraisal Company. The property is .61 acres, at 965 Portland Road. (Map 63, Lot 11) The appraiser has also determined that the value of the remainder of the 22+- acre property would increase \$671,000 as a result of the sewer and road construction across the back half of the land.

The eminent domain taking will require the payment of \$18,000 to Robert Stevenson.

**ORDER TO TAKE CERTAIN PROPERTY LOCATED
AT OR ABOUT 965 PORTLAND ROAD BY EMINENT DOMAIN**

WHEREAS the City of Saco for purposes of public health plans to construct a sewer to serve the Route 1/Portland Road, corridor which may eventually serve additional areas west of the Maine Turnpike;

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WHEREAS the City has determined that a sewer alignment east of the Portland Road would serve the largest area most economically by optimizing the location of a single pump station;

WHEREAS the City has determined the a road in essentially the same alignment would serve the public as a road connection between the Cascade Road and the Portland Road;

WHEREAS, after first providing notice to all of the affected property owners and after providing such additional notice as required by law, the City Council conducted a public hearing on August 20 at Saco City Hall Auditorium, and then and there, after hearing such persons as chose to speak thereon, the City Council determined that a sewer line extension benefitting the public health, the lack of a safe and appropriate public road access to the property, and the need for additional economic development in the city of Saco create a public exigency within the meaning of 23 M.R.S.A. § 3023, 30-A M.R.S.A. § 3101 and 30A M.R.S.A. § 3402 ; and

WHEREAS, the lot or parcel of land to be taken is that certain lot or parcel of land with any improvements thereon located on the generally easterly side of Portland Road in Saco, County of York, State of Maine, being more particularly described on Appendix A;

NOW, THEREFORE, PURSUANT TO 23 M.R.S.A. Section 3023, 30-A M.R.S.A. Section 3101, and 30A M.R.S.A. § 3402, it is ordered that there is a public exigency requiring the immediate taking of the lot or parcel of land located at 965Portland Road, described in the attached Appendix A, for highway and economic development purposes; that the outstanding real estate interests in the same held by the individuals named on Appendix A be, and hereby are, taken by eminent domain; and that damages in the total amount of \$18,000. be awarded as shown on Appendix A; and

BE IT FURTHER Ordered, that a true copy of this Order and Appendix A be filed with the City Clerk; that an attested copy of the same be served by a Deputy Sheriff on each of the persons listed as Condemnees on Appendix A, and that notice of the same be published in a newspaper of general circulation in Saco for three (3) successive weeks with regard to the persons listed on Appendix A, together with their respective shares of said total \$18,000 damage award; and that an attested copy of the same, along with the Clerk's return, be filed in the York County Registry of Deeds.

F. (Public Hearing) Contract Zone German Auto Service, 201 North Street

The German Auto Services properties at 201 North Street became subject to a contract zone through Council action on March 3, 1997. The contract zone applies to two parcels, identified as Tax Map 53, Lot 170 and Map 40, Lot 21. The auto repair and sales take place on the latter. The proposed amendment focuses solely on Map 53, Lot 170, the request being that this parcel be removed from the 1997 contract zone. If approved, this parcel would revert to the underlying R-2 zone.

On June 26, 20007, the Planning Board review this item, and the Board voted to make a positive recommendation on the proposed amendment, with a single addition to the contract zone: that

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adequate screening be required for the business if the rezoned parcel becomes used for residential purposes as allowed in the R-2 zone.

Councilor Jacques moved, Councilor Tripp seconded, to open the Public Hearing on the contract zone document entitled “**Contract Zone Agreement By and Between German Auto Services and the City of Saco,**” dated June 26, 2007. The motion passed with seven (7) yeas.

William Kany, Esq., counsel for German Auto Service requested that this matter be tabled.

Councilor Michaud moved, Councilor Jacques seconded, to table the matter to a time unspecified. The motion passed with seven (7) yeas.

Contract Zone Agreement

By and Between German Auto Services and the City of Saco

THE CITY OF SACO HEREBY ORDAINS:

That the Zoning Ordinance of the City of Saco, dated January 2, 1985 and amended through January 2, 2007, is hereby amended by adopting the change in use as further described in the following contract by and between the City of Saco and German Auto Services.

These amendments to the Saco Zoning Ordinance shall be subject to the following conditions and restrictions, as provided for in Section 1403 of the Zoning Ordinance:

1. German Auto will be allowed to sell vehicles from its site at 201 North Street, and to expand its existing repair facility by the addition of a building 60' x 32'. German Auto will be allowed to sell cars to compliment its existing repair business;
2. German Auto will cause to be planted shade street trees every 50' along its frontage with North Street. Specifically, Turkish Filbert (may be substituted with Dawn Redwood, or if not available, pin oaks) trees, of 2 ½” to 3” caliper shall be planted along the Right of Way line no later than six months following the completion of the current sewer project and the regarding the of the mobilization area;
3. All details as shown on the approved plans are hereby incorporated into this contract by reference, and the site shall be developed substantially in conformance with those plans. Minor changes may be approved by the staff of the City of Saco. Any changes determined by the staff to be “major” shall be submitted to the Planning Board for review. If it is determined that the changes constitute a change in the contract, then the developer shall also be required to obtain City Council approval of the changes:
4. As part of the site plan, the applicant shall install a 6' high stockade fence around the area presently used to store “parts” cars. This is area is approximately bounded the southerly property line, the easterly property line to the rear corner of the existing garage, then from the front of the garage back to the southerly property line;

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5. The amendments in this contract affect only the following parcel(s) of land:
Map 40, lot 21
~~Map 53, lot 170~~
6. Breach of these conditions and restrictions by the developer shall constitute a breach of the contract, and the developer shall be required to apply for a contract modification. Failure to apply for, or to obtain a modification and shall constitute a zoning violation, subject to enforcement action.
7. Cars for sale may only be displayed in the area shown on plan as “3 spaces for sale of used cars”.
8. This contract is between the City of Saco and Larry Hancock, dba German Auto. At such time as Larry Hancock sells the property or the business, this contract is null and void.
9. The existing business on the parcel identified as Map 40, Lot 21 is a non-residential use in a residential district. If a residential use is established on the abutting parcel identified as Map 53, Lot 170, a visual screen for buffering purposes as required in the Zoning Ordinance shall be established, and all vehicles currently stored on said parcel shall be removed, subject to review and approval by the Code Enforcement and Planning Offices.

By vote of the Saco Planning Board on January 14, 1997, and the Saco City Council on March 3, 1997, the following findings are hereby adopted.

- A. The site covered by this contract is unusual in nature in that it is located adjacent to a railroad track, with and abandoned station, has been used in the past as a borrow source, as well as for industrial/commercial use, all the while being located in a residential area. It contains a pre-existing non-conforming use (auto repair).
- B. The proposed use is consistent with the comprehensive plan’s Centralization Policy, which encourages infill development rather than development out of town: the Visual Impact policy, which encourages new development to maintain existing neighborhood characteristics; and the Arterial Roads Buffer Policy, which encourages large setbacks from road right of ways for disturbances.
- C. The property is currently located in an R-2 zoning district, which does not allow retail sales. However, the zone currently contains several sandwich shop retail businesses, at least one automotive towing business, a catering business, and numerous small businesses. The site in question is directly across the street from a sandwich shop. The addition of retail sales of vehicles from this site, with the pre-existence of a repair facility, is consistent with uses presently existing in the district.

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D. This approval is conditioned on the following items:

Landscaping be completed as outlined above;
Fencing installed as outlined above;
No business material may be stored behind the building toward the Fortney or Hutcherson properties;
No lighting may be installed or used that shines onto adjacent properties;
No car parts, tires, scrap metal or other debris may be stored outside, unless inside a closed container;
Any future uses for this site shall be reviewed as per the provisions of the Contract Zoning section of the Saco Zoning Ordinance.

Based on the above findings, and the conditions and restrictions listed above, the City Council hereby incorporates this contract zoning agreement into the Saco Zoning Ordinance by reference. By signing this contract, both parties agree to abide by all the conditions and restrictions as contained herein.

Adopted by the Saco City Council on March 3, 1997.

Amended by the Saco City Council on _____, 2007.

City of Saco

By _____

Date

German Auto Services

By _____

Date

G. (Public Hearing) Fee Increase ‘Mooring Renewal Waiting List Fee’

City Code Chapter 118-27 (F) requires that “User Fees, mooring fees and parking fees are to be established annually by the City Council, by resolution, after a Public Hearing, as recommended by the Coastal Waters Commission.”

The Coastal Water Commission recommends increasing the “mooring renewal waiting list fee” (20120-400108) from \$5.00 to \$10.00. There are currently 24 people on the mooring renewal wait list.

Councilor Michaud moved, Councilor Morton seconded, to open the Public Hearing on the fee increase of the ‘mooring renewal waiting list fee. The motion passed with seven (7) yeas.

There being no comments from the public, Councilor Michaud moved, Councilor Morton seconded, to close the Public Hearing and Be it Ordered that the City Council approve the fee increase of the ‘mooring renewal waiting list fee’ from \$5.00 to \$10.00. Further move to approve the order. The motion passed with six (6) yeas and one (1) nay. Councilor Smith voted in the negative.

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PLEASE SEE MINUTES OF AUGUST 6, 2007 FOR ADDITIONAL INFORMATION REGARDING THE MATTER.

VII. Councilor Michaud moved, Councilor Tripp seconded, that it be Ordered that the City Council, Pursuant to M.R.S.A. Chapter 13, Subchapter 1, §405 (6) (E) move to enter into Executive Session to discuss:

- A. 32-34 Storer Street
- B. Lease

The motion passed with seven (7) yeas. TIME: 8:45 p.m.

Councilor Michaud moved, Councilor Tripp seconded, to move out of executive session. The motion passed with seven (7) yeas. TIME 10:03 p.m.

Upon return from the executive session Mayor Johnston conducted a roll call of the members and determined that the Councilors present constituted a quorum. Councilors present: David Tripp, Leslie Smith, Jr., Ronald Morton, Roland Michaud, Arthur Tardif, Eric Cote and Christopher Jacques.

Report from Executive Session:

- A. 32-34 Storer Street
- B. Lease

Councilor Michaud moved, Councilor Tripp seconded, to authorize an appraisal of the property located at 32-34 Storer Street. The motion passed with four (4) yeas and three (3) nays. Councilors Morton, Michaud and Tardif voted in the negative.

No report from the executive session on item B.

ADJOURNMENT

Councilor Michaud moved, Councilor Smith seconded to adjourn. The motion passed with seven (7) yeas. TIME:

ATTEST: _____

Lucette S. Pellerin, City Clerk

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