

STATE OF MAINE

COUNTY OF YORK

CITY OF SACO

The following are minutes of the February 27, 2006 Council Meeting.

- I. **CALL TO ORDER** – On Monday, February 27, 2006 at 7:00 p.m. a Council Meeting was held in the City Hall Conference Room.
- 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, Arthur Tardif, Eric Cote and Jess McDougal. Councilor Roland Michaud was absent.

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

- III. **PLEDGE OF ALLEGIANCE**
- IV. **APPROVAL OF MINUTES: February 6, 2006**  
Minutes of the February 6, 2006 Council Meeting were approved as written.
- V. **GENERAL**
- VI. **AGENDA ITEMS:**

Councilor Michaud arrived at 7:03 p.m.

**B. Parking Lot Agreement – 199 Main Street**

On August 19, 2005, the City Council approved a parking agreement for Sam Marcisso, who was to purchase 199 Main Street, where Smith-Elliot's offices are located. Marcisso had a partner in the deal, Robert Gaudreau, of Hardy Pond Construction. Marcisso has now abandoned the project and Gaudreau is taking it over. Gaudreau has done business in the area for many years, and was the builder of the Holiday Inn Express. Gaudreau is doing business as 199 Main Street, LLC, of 55 Hardy Road, Falmouth.

The parking agreement now before the Council is the same as that previously approved by the Council, with the exception of the new owner and the weekend parking. The earlier draft prohibited all weekend parking. Mayor Johnston had suggested the night and weekend limitation, but has now indicated that the night parking was the major concern, and that weekend parking would make sense with the retail development in the works.

The lawyers are now on the first and second floor, with dead storage on the third floor. Gaudreau would renovate the third floor and the second floor for the law firm, which would lease the two floors. The first floor would be renovated into three storefronts. An elevator would be added at the rear and the façade would be rehabilitated to a more appropriate appearance.

The city development office and downtown merchants are very pleased with the proposed rehabilitation of the building. The three new storefronts and the facade rehab will be a major boost to Main Street.

The City purchased the Storer Street police station site from Smith Elliot 10 years ago and agreed to provide 20 parking spaces for 20 years, if Smith Elliott is located at 199 Main Street. Those spaces include the 10 fixed spaces at the police station and the 10 spaces, which have no definite location. The proposal previously approved by the Council would allow Smith Elliot and the buyer to apportion the Smith-Elliott spaces for 199 Main Street for the next 10 years.

The second 10 years of the agreement would require:

- That the City have the right to reassign the spaces anywhere within 1000 feet of 199 Main Street;
- That the spaces cannot be sublet or used overnight

While we do not now anticipate moving the spaces, the agreement allows flexibility in using the police department lot. The distance for relocating the spaces would include spaces on Free Street, at the Amtrak Station at the top of York Hill, and at the police department.

MAIN MOTION: Councilor McDougal moved, Councilor Tripp seconded, that it be Ordered that the City Council authorize the City Administrator to enter into the "Parking and Release Agreement" with 199 Main Street, LLC, of 55 Hardy Road, Falmouth". Further move to approve the Order. The motion as amended passed with seven (7) yeas.

AMENDMENT: Councilor Tardif moved, Councilor McDougal seconded, that 199 Main Street, LLC, of 55 Hardy Road, Falmouth is prohibited from using the Free Street parking lot. The motion passed with four (4) yeas and three (3) nays. Councilors Tripp, Morton and Michaud voted in the negative.

## **PARKING AND RELEASE AGREEMENT**

NOW COME the Parties, **CITY OF SACO**, a municipal corporation located at 300 Main Street, Saco, Maine ("City") and **199 MAIN STREET, LLC**, of 55 Hardy Road, Falmouth, Maine, ("the LLC") who state as follows:

WHEREAS, the LLC has an interest in purchasing certain real property at 199 Main Street ("the Premises") in Saco, Maine, and in re-developing said parcel and the building thereon; and

WHEREAS, the City and the current owner of the premises, Smith, Elliott, Smith & Garmey ("Attorneys") have an existing Parking Agreement ("Attorneys' Parking Agreement") wherein the City has assured Attorneys the availability and reservation of a fixed number of municipal parking spaces for a fixed term of years, and which Parking Agreement has not yet expired; and

WHEREAS, the assignment by the Attorneys to the LLC of the above referenced Attorneys' parking rights and the provision of sufficient parking are critical for the rehabilitation of 199 Main Street; and

WHEREAS, it is in both Parties' interests to define and assure the LLC's interests in municipal parking on a going forward basis so that the rehabilitation of 199 Main Street can move forward;

NOW THEREFORE, the Parties agree as follows:

1. The City hereby consents that the Attorneys may, at the LLC's request, assign their rights under the current Parking Agreement between City and Attorneys. Notice must be provided to City.
2. Upon confirmation of said assignment, the LLC shall enjoy all the same rights and benefits as Attorneys hereunder without further fee or charge. It may not assign these rights to any other person or entity without written consent from the City, which consent the City shall not unreasonably, condition, withhold or delay.
3. Upon expiration of the term of Attorneys' Parking Agreement (June 26, 2015), the City will, for an additional ten (10) years, provide the LLC with a fixed number of reserved municipally owned and maintained parking spaces per the terms set forth below, all provided that the LLC is and remains the owner of the 199 Main Street parcel.
4. Upon expiration of Attorneys' Parking Agreement, City will reserve to the LLC, or its assignee, solely for the use of tenants at 199 Main Street, up to 20 public parking spaces not more than 1,000 feet from the front door entrance of 199 Main Street. Free Street will not be considered as a location for additional reserved public parking spaces.
5. The exact locations of said spaces will be solely set and determined by the City, who shall assign them in good faith, and they may be relocated upon 60 days notice, as City needs dictate.
6. The fee for said spaces shall be \$30.00 per month/per space for the first ten (10) spaces reserved by the LLC. The fee for each additional spot, up to the remaining ten (10) allowable spaces shall be \$20.00 per month/per space, all as permitted herein. All fees set forth in this paragraph shall be subject to cost of living adjustment based upon the Department of Labor, Bureau of Labor Statistics, CPI "all urban Consumers" (Boston Average 1982-1984= 100), commencing June 26, 2016.
7. Each January for the term of this Agreement, the LLC, or its assignee, will advise the City Administrator or designee of the number of 20 reserved spaces he desires and intends to use for that year, and the fees set forth above shall be assessed, and paid in advance in the form of one (1) payment for all said spaces.

Those spaces herein reserved, but not otherwise requested by the LLC in January, may thereafter for the balance of that year be used or leased as the City deems, subject always to the LLC's rights each subsequent year to reserve and occupy up to the total of 20 spaces.

8. This Agreement shall become effective upon signing, but the LLC's independent rights to parking shall not become effective until termination of the assignment referenced in paragraphs 1, 2 and 3 above, and will then commence to run for ten (10) years from the termination date referenced in Paragraph 3.

9. The LLC's rights to use or occupy any and all spaces described herein shall begin at 8:00 a.m. each morning and end at 6:00 p.m. each evening Monday through Sunday. Neither the LLC nor its assignee will permit, authorize or offer overnight parking in any such reserved spaces, any such overnight parking to constitute a breach of this Agreement. Between 6:00 p.m. each evening and 8:00 a.m. each morning, such spaces shall be non-reserved. Neither the LLC nor its assignees shall be considered in default in the event that such overnight parking takes place without his or its consent.

10. Parking herein is solely for the benefit of the 199 Main Street parcel and its tenants, and there shall be no selling, loaning, leasing or sub-leasing of the spaces by the LLC or his assignee, to any party that is not a tenant of 199 Main Street.

11. City shall perform occasional repairs, striping, plowing, and otherwise maintain said delegated spaces as it needs and finances permit, but shall have no contractual obligation to the LLC arising hereunder as to such repairs and plowing. Notwithstanding the preceding, the LLC's parking spaces shall receive the same care and attention as all other City owned/maintained parking spaces.

12. The LLC and its assignees herein release and hold the City harmless from any and all injuries, claims, suits, damages and causes of action related to or arising from his use and occupancy of said parking spaces, except for the gross negligence of City as regards its obligations under Section 9 above.

Dated at Saco, Maine this \_\_\_\_\_ day of February 2006.

WITNESS:

**199 MAIN STREET, LLC**

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

By: \_\_\_\_\_  
(Print Name)

Its: \_\_\_\_\_  
(Title)

STATE OF MAINE  
YORK COUNTY, SS.

February \_\_\_\_, 2006

Then personally appeared the above named \_\_\_\_\_ who gave oath and acknowledged the foregoing instrument to be the free act and deed of 199 MAIN STREET, LLC, and of his authority to act on its behalf.

Before me,

My Notary commission  
Expires on: \_\_\_\_\_

\_\_\_\_\_  
Notary Public/Attorney-at-Law  
\_\_\_\_\_  
(Print Name)

**CITY OF SACO**

Witness \_\_\_\_\_  
(Signature)  
\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
RICHARD MICHAUD  
City Administrator

STATE OF MAINE  
COUNTY OF YORK, SS.

February \_\_\_\_, 2006

Then personally appeared before me RICHARD MICHAUD, who gave oath and acknowledged the foregoing to be his free act and deed, and the free act and deed of the City of Saco, and of his authority herein to act on its behalf.

Before me,

My Notary commission  
Expires on: \_\_\_\_\_

\_\_\_\_\_  
Notary Public/Attorney-at-Law  
\_\_\_\_\_  
(Print Name)

**A. Municipal Solid Waste Transfer & Disposal Request for Proposals**

The Solid Waste Task Group has prepared a Request for Proposals (RFP) for the consolidation, transportation, and disposal of the City’s municipal solid waste (MSW). The respondent is requested to provide this service for the City from the end of our contract with MERC in June of 2007 through December of 2009. At that time, it would be the City’s intention to pursue a long-term solution to the collection and disposal of our MSW and recycling beginning in 2010.

Councilor Cote moved, Councilor Morton seconded, that it be ordered that the City Council approve the document titled, ‘Municipal Solid Waste Transfer and Disposal Services – Request for Proposals (RFP), February 2006’ and further move to authorize the City Administrator to solicit proposals on said document. Further move to approve the order. The motion passed with seven (7) yeas.

**MUNICIPAL SOLID WASTE TRANSFER AND DISPOSAL SERVICES  
REQUEST FOR PROPOSALS (RFP)  
February 2006**

**INFORMATION TO PROPOSERS’:**

The City of Saco (hereinafter referred to as “the City”) is soliciting Proposals from qualified firms able to provide the following municipal solid waste (MSW) disposal services for the City

All Proposals must be prepared, signed and submitted in a sealed envelope marked “**SEALED PROPOSAL FOR SACO MUNICIPAL SOLID WASTE DISPOSAL SERVICES**”. Proposals will be accepted until **2:00 pm on Monday, April 17, 2006** at the Finance Office, Saco City Hall, 300 Main Street, Saco, Maine 04072. A public proposal opening will be held on **Monday, April 17, 2006 at 2:00 pm**. Any questions regarding the Request for Proposal (RFP) should be directed to **Mike Bolduc, Public Works Director at the above address or by phone at 207-284-6641**.

The City of Saco Council will award the contract. All Proposals shall become the property of the City of Saco.

**AN INFORMATIONAL proposal meeting will be held in the City Hall  
Conference Room at 10 a.m., March 14, 2006.**

**VII. CONSENT AGENDA:**

**A. (First Reading) Amendment to KFC Contract Zone**

The Council approved a contract zone encompassing three abutting Main Street parcels at 477, 485 and 491 Main Street on October 17, 2005. The properties include those owned by Linron Inc., doing business as KFC; the York County Federal Credit Union; and two parcels between KFC and the credit union that are under contract to Saco Realty Limited Partnership, possibly to be developed as a CVS pharmacy. The motion voted to “authorize the City Administrator to enter into the proposed contract with the applicants after final site plan approvals by the Planning Board”. Discussion between the applicants’ attorney and the City Attorney has led to recognition that, in order to preserve the City’s interests in the future rear access drive serving each of the parcels, signing of the contract zone agreement should not be delayed until site plan approvals are completed. Therefore, the purpose of this reconsideration is to amend the motion.

The City of Saco hereby Ordains and Approves the First Reading of the findings in the contract zone document entitled ‘**Contract Zone Agreement by and Between Linron, Inc., Saco Realty Limited Partnership, York County Federal Credit Union and the City of Saco**’, dated August 16, 2005, and schedules a Public Hearing for March 6, 2006, for the properties at 477, 485 and 491 Main Street, as authorized by Section 1403 of the Zoning Ordinance, pursuant to 30A M.R.S.A. Section 4352(8), and to authorize the City Administrator to enter into the proposed contract with the applicants.

**B. (First Reading) Zoning Ordinance Amendment Re: Historic District**

Erika Donneson of 93 Pleasant Street would like her house to be protected under Saco's historic preservation provisions, which are contained in Article 4 of the zoning ordinance, and mapped as part of the official zoning map.

The Historic Preservation Commission recommends approval of the amendment based on standard 413-4-4 "Architecture", which encourage the inclusion of "Structures or structural remains and sites embodying examples of architectural types or specimens valuable for study of a period, style or method of building construction..."

The Commission adopted the following statement in support of the amendment: "The exterior of the Donneson House is an example of a mid-nineteenth century dwelling with Greek Revival detailing on the exterior and interior. The Greek Revival style first became popular in the 1820s, after the Greek Civil War, and it was the predominant architectural style in pre-Civil War Maine. Some of the houses constructed in this style feature pediments and columns that recall Greek temples, while others apply Grecian inspired details, (for example, the wide pilaster-style corner boards on the Donneson House) to traditional timber-frame structures. Although some research seems to indicate that portions of the house may pre-date the mid-nineteenth century, the extant building is best understood as an example of a Greek Revival dwelling."

Ms. Donneson would have preferred that the Commission focus on evidence of an older history of the house, but the Commission and a representative of the State Historic Preservation Commission felt that the house clearly has a 19<sup>th</sup> century appearance today. Regardless, the protections under the ordinance are the same.

The City of Saco hereby Ordains and Approves the First Reading of the document titled, 'Saco Zoning Ordinance § 413-6. Historic Districts, Historic Sites and Historic Landmarks Designated (1) Districts, dated February 27, 2006', and moves to schedule a Public Hearing for March 6, 2006.

**C. (First Reading) Zoning Ordinance Amendment § 1102.10**

The Maine Department of Environmental Protection (MEDEP) has recently updated its Stormwater Management Rules, based on Maine's Stormwater Management Law, 38 MRSA Sec. 420-D. The City has review authority delegated by the MEDEP for conducting Stormwater Permit reviews. The City has been advised by the DEP that the reference to Stormwater Permits found in the Zoning Ordinance must be revised to recognize the updated rules. Section 1102.10 of the Zoning Ordinance has been revised by the City Attorney, reviewed by the DEP, and adequately references the new rules.

**The Planning Board considered these proposals at its Feb. 7, 2006 meeting, and made a positive recommendation for passage.**

The City of Saco hereby approves the First Reading of the document titled, 'Amendment to Zoning Ordinance Article 11, Section 1102.10, Stormwater Permits, dated February 27, 2006,' and further moves to schedule a Public Hearing for March 6, 2006.

Councilor Michaud moved, Councilor Smith seconded, to approve the Consent Agenda. The motion passed with seven (7) yeas.

**VIII. ENTER EXECUTIVE SESSION –**

Mayor Johnston requested a motion to move to executive session.

Councilor Smith moved, Councilor Morton seconded that it be ordered that the City Council, Pursuant to M.R.S.A. Chapter 13; Subchapter 1, § 405(6)(C) go into executive session to consider the disposition of property. The motion passed with seven (7) yeas.

TIME: 7:17 p.m.

**IX. REPORT FROM EXECUTIVE SESSION**

Councilor Smith moved, Councilor Tardif seconded, to move out of executive session at 8:36 p.m.

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 Jess McDougal.

Councilor Michaud moved, Councilor Cote seconded, to re-locate the alternative education building from Common Street to Franklin Street. The motion passed with seven (7) yeas.

Councilor McDougal moved, Councilor Morton seconded, to have the City Administration instruct the Assessor to provide a disposition list of property for the City of Saco. Said property to be advertised as “for sale”. The motion passed with seven (7) yeas.

Map 125, Lot 9	No restrictions
Map 100, Lot 36-2	No restrictions
Map 22, Lot 19	With restrictions
Map 24, Lot 2	With restrictions
Map 31, Lot 204	With restrictions
Map 31, Lot 209	Remove buildings
Map 55, Lot 165	With restrictions
Map 4, Lot 1-2	Without restrictions
Map 2, Lot 15-1	With restrictions
Map 89, Lot 26	Keep turn around

**X. ADJOURNMENT**

Councilor Tripp moved, Councilor Smith seconded, to adjourn. The motion passed with seven (7) yeas. TIME: 8:41 p.m.

ATTEST: \_\_\_\_\_  
Lucette S. Pellerin, City Clerk