

STATE OF MAINE

COUNTY OF YORK

CITY OF SACO

The following are minutes of the June 5, 2006 Council Meeting.

- I. CALL TO ORDER – On Monday, June 5, 2006 at 7:00 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 and Eric Cote. Councilors Arthur Tardif and Jesse McDougal were excused this evening.

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

- III. PLEGE OF ALLEGIANCE
- IV. APPROVAL OF MINUTES: 5/01/2006 AND 5/15/2006

Minutes of May 1st and May 15, 2006 were approved as written.

- V. GENERAL
- VI. AGENDA ITEMS:
 - A. DYER LIBRARY/SACO MUSEUM PRESENTATION:
PROCLAMATION - YEAR OF THE MUSEUM

Founded in 1866 as the York Institute, the Saco Museum is one of the oldest museums in Maine. The exhibition The Best & The Bizarre: Saco Museum Jubilee - 140 years of history, curiosities & decorative arts at the Saco Museum

Ms. Andrea Strassner, Director of the Dyer Library, presented the Mayor and Council with a print of the City of Saco in honor of the 140th anniversary of the library founding.

- B. Paul Janson Award Presentation

The Paul Janson Award is named in memory of a former Councilman and Mayor of Saco who was environmentally conscious of what can happen if we do not protect our surroundings in a world that is beginning to think that asphalt is better than natural wetland and marshes. His favorite place to lend a hand with the environment was on our beaches. He actively participated in all of the Beach Clean-up Programs.

The recipient of the Paul Janson Award for 2006 was on the Planning Board when they walked the Heath before there was a boardwalk, and was on the Planning Board when the

approval came for the Super Fund site on Flag Pond Road. She was also a member of the Beach Profile team who measured the ebb and flow of the beach sand from the end of the jetty to Goosefare Brook.

As a member of the Conservation Commission, she has attended many of the Planning Board meetings over the years to represent Conservation interests. The Commission feels that for all the years devoted to its Mission Statement: "That the goal of the Conservation Commission is to educate and inform the Saco Community concerning the importance of preserving, protecting and improving Saco's natural resources", this recipient is deserving of the Paul Janson Award.

It is with great pleasure that I present the Paul Janson Award for 2006 to Elizabeth 'Sandy' Shaw with our sincere appreciation for the commitment and dedication you have shown to our community and its many endeavors.

C. Conservation Scholarship Awards Presentation

Maine Conservation School Scholarships Recipients of this year's Bryant Pond Maine Conservation School Scholarship Awards are:

- Christian Letourneau
- Michelle Henaire

The school, for almost 50 years has introduced children and adults to programs that blend fun, environment and outdoor skills. The programs help the individuals become knowledgeable of our natural resources and how important they are and to teach them the best conservation practices. This happens while enjoying canoeing, swimming, archery, hiking, hands-on woodcraft and survival skills among other things.

D. (First Reading) Contract Zone Amendment Acapello Salon

Acapello Salons was granted a contract zone on January 17, 2006, in order to establish a "high-end, full service salon" in the existing residential building at 401 Main Street; the corner of Main and Summer Streets. June Juliano, president and her husband d David Stanley, represent the salon. They operate salons in Scarborough and Falmouth, and have a sister company location in Portland. They find the Main Street location attractive due to its visibility, the high volume of traffic on Main Street, and the large side and rear yard that can be converted to parking.

A contract zone was requested due to the existing zoning of the parcel: R-1b. This primarily residential zone does not allow a Personal Services use as defined by the Zoning Ordinance.

On May 19, 2006, the Historic Preservation Commission issued a "denial of a certificate of appropriateness" to build a parking lot in the backyard of the property at 401 Main Street. Therefore, an amendment to the Contract Zone is being proposed to the City Council. The Planning Board has not reviewed the proposed contract zone amendment.

Councilor Cote moved, Councilor Smith seconded, that the City of Saco hereby ordains and approves the First Reading of the contract zone document entitled “**Contract Zone Agreement by and Between Acapello Salons, Inc., and the City of Saco,**” dated **November 1, 2005, amended July 3, 2006**”; and further moves to set the Public Hearing for June 19, 2006, for the property at 401 Main Street, as authorized by Section 1403 of the Zoning Ordinance, pursuant to 30A M.R.S.A. Section 4352(8). The motion passed with four (4) yeas and one (1) nay. Councilor Michaud voted in the negative.

Councilor Michaud moved to table the matter. The motion failed due to a lack of a second.

Contract Zone Agreement By and Between
Acapello Salons Inc. and the City of Saco

November 1, 2005

(Amended July 3, 2006)

THE CITY OF SACO HEREBY ORDAINS:

I. That the zoning ordinance of the City of Saco, dated January 2, 1985, and amended through June 20, 2005 is hereby amended by adopting this contract by and between the City of Saco and Acapello Salons Inc. (Applicants).

1. The Applicants propose to establish a Full Service Salon and Spa business in the existing building at 401 Main St.
2. The City of Saco Zoning Officer has determined that a Salon and Spa business shall be categorized as a “Personal Service,” a use and defined term in the Zoning Ordinance, as follows: “Establishments engaged in providing services involving the care of the person or personal apparel including but not limited to barber shops, beauty shops and manicurists, tailors, laundromats, shoe repair shops, tattoo parlors, massage therapists, and photographic portrait studios.”
3. Said property is identified as Tax Map 32, Lot 132 on City of Saco tax maps.
4. Said property is in the R-1B zoning district. The property is also located in the Saco Historic Preservation District, ~~and as such subject to review by the Historic Review Commission.~~
5. Personal Services are not an allowed use in the R-1B zoning district.
6. Said property is currently improved in the form of a building that is residential in use and appearance.
7. The Applicants propose to utilize the first and second floors of the existing building for the business. Approximately 2,800 square feet of floor area would be devoted to the salon and spa.

8. Recognizing the limitations of the parcel, and the requirements of the Zoning Ordinance, the Applicants hereby make application for a Contract Zone that would allow the proposed Personal Services business to be established and operate at 401 Main Street.

II. This contract amends the Saco Zoning Ordinance as follows:

This Contract Zone, specifically and exclusively for the parcel at 401 Main Street, would allow the Applicants to operate a Personal Services business as proposed on the subject parcel, subject to the following conditions and restrictions, as provided for in Section 1403 of the Saco Zoning Ordinance:

- a. A Personal Services business as proposed and described by the Applicants shall be allowed to operate as a permitted use only on the parcel identified herein: Tax Map 32, Lot 132, also referenced as 401 Main Street.
- b. Section 707-4 of the Zoning Ordinance limits a sign in a residential district to four square feet if one-sided, or two square feet per side if two-sided. Section 707-4 is amended to allow the applicant to install one (1) freestanding two-sided, four (4) square foot per side sign. Said sign is otherwise subject to all permitting requirements ordinarily administered by the Code Enforcement Office.
- c. Hours of operation are proposed as 9:00 a.m.-9:00 p.m. Monday through Friday, 9:00 a.m.-4:30 p.m. on Saturday. The Applicants have stated that these are the maximum hours intended for operation, and that earlier closing times or additional days not open for business are possible. Hours of operation shall not extend beyond the stated times, but may be less as the Applicants choose.
- d. The Applicants will restrict the employees in the day spa business to no more than nine (9) full time equivalents. The Applicants will also limit the number of customers at the day spa to no more than nine (9) customers per two (2) hour period.
- e. The Applicants agree to enter into a Parking Agreement with the Trinity Episcopal Church located at 15 Cleveland Street, Saco. Said Parking Agreement shall, without fee or charge, provide church members with parking privileges during those hours of Sunday services, meaning 7:00 a.m. to 12:00 p.m. each Sunday and Christmas, and 4:00 p.m. to Midnight on Christmas Eve day.
- f. Utilization of the existing Main Street entrance shall be limited to the Applicants. All employees and all customers shall park on-site in the proposed parking lot. Off site parking along Main Street and Summer Street is expressly prohibited.
- g. The Applicants shall adhere to all other applicable provisions of the R-B1

zoning district and of the City of Saco Zoning Ordinance and Subdivision Regulations except where otherwise noted in this Agreement.

- h. All details as shown on the submitted plans and included in the submitted application are hereby incorporated into this contract by reference. The proposed use shall be operated 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.
- i. ~~Upon~~ After the January 17, 2006 approval of this contract by the City Council, the Planning Board granted site plan approval on May 2, 2006. The Planning Board review is adequate to ensure compliance with design standards of the Ordinance including those of Section 413. Historic Preservation. No further Historic Preservation review is required.
~~the Applicants shall submit materials required for site plan review to the Planning Office in order that the project may be reviewed by the Planning Board.~~
~~Failure of the Applicants to secure site plan approval from the Planning Board within one year of the approval of this Contract by the Saco City Council shall render this Contract null and void. In the event that permits or approvals are delayed due to circumstances beyond the control of the Applicants, this one year~~
~~deadline may be extended by one year upon written request to the City Council.~~
- j. This contract and its provisions shall specifically and exclusively apply to the Contract Zone request submitted by the Applicants. Approval of this Contract Zone is in part based on the financial and technical qualifications of the Applicants as submitted to the City.
- k. Failure of the Applicants to open the proposed Personal Services business as described in application materials for this Contract Zone within one (1) year from the date of approval shall render this approval and Contract null and void.
- l. 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 shall constitute a zoning violation, subject to enforcement action.

III. Pursuant to authority found in 30A M.R.S.A. Section 4352 (8), and the City of Saco Zoning Ordinance, Section 1403, and by vote of the Saco Planning Board on November 1, 2005, and the Saco City Council on January 17, 2006, the following findings are hereby adopted:

- A. City Tax Map 32, Lot 132 is a parcel of an unusual nature and location, for the following reasons:
1. The residence at 401 Main Street is a historically significant structure located in the R-1b zoning district and the City's Historic Preservation District.
 2. The residence was identified as the John Gilpatrick house as part of the City's historic resources survey in 1995. The Greek Revival-style structure was built in 1861, and the exterior retains much of its historic character.
 3. The property is unusual in the R-1b zoning district in which it is located in that the parcel is adequately sized at .75 acre to provide parking for a commercial use along the Main Street corridor, and, via the proposed parking agreement, to provide parking for the neighboring Trinity Episcopal Church during the salon's non-business hours.
 4. The parcel's location on the corner of Main and Summer Streets will allow the Applicants, as proposed, to establish a new entrance/exit from Summer Street for employee and customer use, thereby limiting use of the existing driveway off Main Street.

- B. The proposed rezoning is consistent with the Saco Comprehensive Plan, based on the following goals:

Chapter 17, Section B. Local Economy.

Local Goals: To increase the number of jobs available in Saco.

To increase Saco's role in the Southern Maine tourist economy and expand the range of activities available in Saco to meet the needs of travelers and tourists.

Maintaining Downtown Saco as a prosperous core of the community will require that the City play an active role in revitalizing this area...

Chapter 17, Section F. Land Use

General Pattern of Development – To facilitate (the historical pattern of a built-up urban center) the city should plan an active role in encouraging and supporting the redevelopment, reuse, and revitalization of the built-up areas of the City.

Chapter 17, Section K. Cultural Facilities

Local Goal: to provide cultural facilities to meet the needs of the community and reinforce Saco's role as a core community within the region.

The City should support private and public efforts to expand the range of cultural activities that are offered in the City and encourage the use of existing facilities.

- C. The proposed use is consistent with the existing uses and permitted uses within the original zone. The original zone is the Residential-1b (R-1b) zone, a low density residential district “. . . designated for areas which are predominately single-family residential in character...New land uses in this district are restricted

to low-density residential and associated uses.” (Zoning Ordinance, Section 405-1.) Among the permitted and conditional uses allowed in the R-1b zone are single and two-family housing, churches, daycare centers, elderly congregate housing, offices within converted residential structures, and bed and breakfast establishments.

Examples of uses in the vicinity of the subject property include the Celtic Inn (398 Main St.), Saco Museum (375 Main St.), Home Companions, Inc., (378 Main St.), and the Monarch Center (392 Main St.), as well as single-family and multi-family dwellings. The building is approximately 1,200 ft from the B-2d zone to the north, and 1,000 feet from the B-7 zone to the south.

- D. The conditions proposed are sufficient to meet the intent of Section 1403. Contract Zoning, of the Saco Zoning Ordinance.

IV. Based on the above findings, conditions and restrictions, 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 the conditions and restrictions contained herein.

Adopted by the Saco City Council on January 17, 2006.

by _____ by _____

Richard Michaud
City Administrator

June Juliano, President
Acapello Salons, Inc.
Applicant

E. (First Reading) Contract Zone J. W. Group, 439 Main St.

Josh Waterhouse d/b/a the J.W. Group requests consideration of a contract zone for a portion of the property at 439 Main Street, the site of Great American Realty. The plan calls for splitting the parcel in two, leaving the existing building on its own lot with frontage on Main Street, and creating a separate 1.89 acre parcel to the rear. A 13-unit condominium for those 55 years of age and older is proposed on the rear lot, with access only from Smith Lane.

A contract zone is requested due to the existing zoning of the parcel, R-1b, which does not allow multi-family dwellings. A second issue addressed with the contract zone is that of frontage: if split off from the Main Street frontage, the rear parcel is landlocked, but does have an access and utility easement to Smith Lane across the abutting Volunteers of America parcel. The contract zone proposes to recognize this 50-foot easement as adequate frontage for the purpose of this proposal.

The Planning Board reviewed this issue at the May 16, 2006 meeting. The Board voted to make a positive finding on each of the four standards required for a contract zone, and has forwarded a positive recommendation to the Council. If the contract zone is

approved, the project would be subject to site plan review and subdivision review by the Planning Board prior to development of the site.

Councilor Morton moved, Councilor Smith seconded, that the City of Saco hereby approves the First Reading and adopts the findings in the contract zone document entitled “**Contract Zone Agreement By and Between J.W. Group and the City of Saco,**” dated May 16, 2006; and further moves to schedule a Public Hearing for June 19, 2006, for a portion of the property at 439 Main Street, as authorized by Section 1403 of the Zoning Ordinance, pursuant to 30A M.R.S.A. Section 4352(8). The motion passed with five (5) yeas.

**Contract Zone Agreement By and Between
J.W. Group and the City of Saco**

May 16, 2006

THE CITY OF SACO HEREBY ORDAINS:

I. That the zoning ordinance of the City of Saco, dated January 2, 1985, and amended through March 20, 2006 is hereby amended by adopting this contract by and between the City of Saco and the JW Group.

9. The J.W. Group (Applicant) has submitted an application for a contract zone for a portion of the parcel (Subject Property) at 439 Main Street.
10. The property at 439 Main Street is owned by Great American Realty, and is subject to a Purchase and Sale Agreement with the Applicant dated Nov. 30, 2005, submitted as part of said application.
11. The Subject Property is identified as a 1.89 acre portion of Tax Map 33, Lot 25-1 on City of Saco tax maps. As proposed on a sketch plan dated Dec. 2005, Lot 25-1 would be split into two parcels. One of the resulting parcels, currently developed with an office condominium building and a building utilized as a real estate office, would exist as a conforming lot, with approximately 250 feet of frontage on Main Street, and an area of approximately 0.80 acre. The Subject Property, having been split from the larger parcel, would result in a nonconforming parcel due to lack of frontage on a City or private way.
4. The Subject Property is in the R-1b zoning district.
5. The Applicant proposes a Multi-Family Dwelling of 13 units for buyers 55 years of age and older. Multi-Family Dwellings are not an allowed use in the R-1b zoning district.
6. Recognizing the lack of frontage for the proposed Subject Property, and the requirements of the Zoning Ordinance, the Applicants hereby make application for a Contract Zone that would allow the proposed Multi-Family Dwelling to be

proposed, approved and constructed on the Subject Property as a legally conforming use.

II. This contract amends the Saco Zoning Ordinance as follows:

This Contract Zone, specifically and exclusively for the Subject Property as identified above, would allow the Applicants to propose and construct a Multi-Family Dwelling, subject to the following conditions and restrictions, as provided for in Section 1403 of the Saco Zoning Ordinance:

- f. A Multi-Family Dwelling of no more than thirteen (13) units, with no building greater than two (2) stories in height, specifically for buyers fifty-five (55) years of age and older, shall be allowed as a permitted use on the Subject Property.
- b. Section 410-1 of the Zoning Ordinance does not identify Multi-Family Dwellings as either a permitted or a conditional use in the R-1b zoning district. Sec. 410-1 is hereby amended so that Multi-Family Dwellings shall be considered a permitted use on the Subject Property.
- c. Table 412-1 of the Zoning Ordinance requires one hundred (100) feet as minimum street frontage in the R-1b zoning district. Table 412-1 is hereby amended to allow the fifty (50) foot wide "Utility and Access Easement" as labeled on the Sketch Plan drafted by BH2M, dated Dec. 2005, to meet the requirement for minimum street frontage. Said easement provides access to Smith Lane, an existing City Street, for a private driveway to the proposed Multi-Family Dwelling.
- d. Table 412-1 of the Zoning Ordinance states that the front yard setback in the R-1b zone is twenty-five (25) feet, and that the side and rear yard setback in the R-1b zone is fifteen (15) feet. Table 412-1 is hereby amended so that the building setback from all property lines on the Subject Property is twenty (20) feet, except that those property lines on the easterly and southerly sides of the Subject Property that abut lots with frontage on King Street and on Charles Street shall have a building setback of thirty (30) feet.
- e. The Minimum Lot Area per Dwelling Unit for the Subject Property shall be 5,000 square feet.
- f. No single building shall contain more than four (4) dwelling units.
- g. The Applicants shall adhere to all other applicable provisions of the R-1b zoning district and of the City of Saco Zoning Ordinance and Subdivision Regulations.
- h. City and Applicant recognize that the sketch plan submitted for contract zone review is a general representation of site layout, but is subject to change as a result of site plan review conducted by the Planning Board. 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.

- i. These amendments affect only the portion of the parcel of land (Subject Property) identified as Tax Map 33, Lot 25-1 on City of Saco tax maps that is approved with this Agreement.
- j. Upon approval of this contract by the City Council, the Applicants shall submit materials required for site plan and subdivision review to the Planning Office in order that the project may be reviewed by the Planning Board. Failure of the Applicants to secure site plan approval from the Planning Board within one year of the approval of this Contract by the Saco City Council shall render this Contract null and void. In the event that permits or approvals are delayed due to circumstances beyond the control of the Applicants, this one year deadline may be extended by one year upon written request to the City Council.
- k. This contract and its provisions shall specifically and exclusively apply to the Contract Zone request submitted by the Applicants. Approval of this Contract Zone is in part based on the financial and technical qualifications of the Applicants as submitted to the City. Accordingly, this contract and the contract zone it creates shall not be transferable.
- l. 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 shall constitute a zoning violation, subject to enforcement action.

III. Pursuant to authority found in 30A M.R.S.A. Section 4352 (8), and the City of Saco Zoning Ordinance, Section 1403, and by vote of the Saco Planning Board on May 16, 2006, and the Saco City Council on _____, 2006, the following findings are hereby adopted:

- A. A portion of City Tax Map 33, Lot 25-1 comprises the Subject Property, a parcel of an unusual nature and location for the following reasons:
 1. The Subject Property and the remainder of the existing parcel are the site of a Special Exception permit granted by the Zoning Board of Appeals on May 17, 1984, for Professional Offices in what was the R-4 district. That approval remains in effect, though only Phase 1 of that project has been constructed. With existing residential uses to the side and rear of the Subject Property, what was an exception to zoning in 1984 can be changed to residential at this time with the approval of this Agreement.
 2. The Subject Property does not meet minimum road frontage requirements under the existing zoning when separated from the remainder of the existing parcel. There is no alternative solution to this issue save for contract zoning.

- B. The proposed rezoning is consistent with the Saco Comprehensive Plan, based on the following goals:

Chapter 17, Section A. Population

Local Goal: to accommodate growth in a manner that maintains the character of the City.

1. The City should assure that residential growth is accommodated in appropriate locations that are property zoned and able to be provided with public services.
2. The City should continue to provide for the construction of a wide range of types of housing at a variety of densities to assure that a diversity of people can continue to live in the City.

F. Land Use

General Pattern of Development – To facilitate (the historical pattern of a built-up urban center) the city should plan an active role in encouraging and supporting the redevelopment, reuse, and revitalization of the built-up areas of the City.

3. The City should allow reasonable infill residential development within the built-up area to accommodate some of the demand for residential growth within these areas of the City. The City’s land use regulations should allow new development at a density and scale similar to established neighborhood patterns.

- C. The proposed use is consistent with the existing uses and permitted uses within the original zone. The original (existing) zone is the R-1b Low Density District, designated for areas which are predominately single-family residential in character. It includes both sewerred and unsewerred land, with appropriate lot size requirements for each situation. New land uses in this district are restricted to low-density residential and associated uses.” Among the permitted and conditional uses allowed in the R-1b zone are single and two-family dwellings, public and private schools, churches, daycare centers, nursing homes, kennels, and community living uses.

Examples of uses in the vicinity of the subject property include single and two-family dwellings along King Street and Charles Street, multi-family dwellings at the Sunfield condominium off King Street, Elderly Congregate Housing under the terms of a contract zone at the Paul Hazelton House off Smith Lane, retail at the Rite-Aid abutting the Subject Property (461 Main Street), and office uses at 439 and 445 Main Street (Great American Realty, Prudential Realty and others).

- D. The conditions proposed are sufficient to meet the intent of Section 1403. Contract Zoning, of the Saco Zoning Ordinance.

IV. Based on the above findings, conditions and restrictions, 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 the conditions and restrictions contained herein.

Adopted by the Saco City Council on _____, 2006.

by _____
Richard Michaud

by _____
Josh Waterhouse, President

F. (Public Hearing) Franklin Street Community Center Elevator Project Completion

Three years ago the City was a successful applicant for a \$100,000 CDBG (Community Development Block Grant) for an elevator in the Open Door. The City purchased the Franklin Street Armory for the Parks and Recreation Department and the state permitted the grant to be used for the new facility rather than the old. The elevator is now complete and helps make the building ADA compliant, allowing full use of the second floor and the lower level. The work included a new stair to the lower level.

Mainland Structures Corporation in Gorham, Maine performed the work. Regulations for the CDBG program require a final hearing on the project.

Councilor Tripp moved, Councilor Morton seconded, to open the Public Hearing on the Franklin Street Community Center Elevator Project Completion, which was in part funded by the Community Development Block Grant Program. The motion passed with five (5) yeas.

There being no comments from the public Councilor Tripp moved, Councilor Morton seconded, to close the Public Hearing. The motion passed with five (5) yeas.

G. Council Order – Eli Baking Co.

**CITY OF SACO, MAINE
COUNCIL ORDER**

TO: Stephanie Weaver, Tax Collector
Timothy S. Murphy, City Attorney

FROM: Mayor and City Council

RE: Personal Property Tax for Property at 84 Industrial Park Road
Tax Year 2004/2005
Tax Year 2005/2006
Elie Baking Corporation and
TD Banknorth, successor in interest to Banknorth, N.A.

DATE: June 5, 2006

You are hereby ordered to file a claim pursuant to 36 M.R.S.A. Section 1032, and any other applicable Maine law, against the above referenced Corporations for personal property taxes owed against certain personal property found at 84 Industrial Park Road, Saco, Maine, said personal property assessed as of April 1, 2004 and April 1, 2005.

You will file this action in the Superior Court of York County, Maine at the earliest opportunity, but not later than June 9, 2006. Said suit shall be brought in the name of the City of Saco, and all funds recovered shall be delivered to the City of Saco Tax Collector at the earliest opportunity.

Date: June 5, 2006

/s/ Mark D. Johnston
Mark D. Johnston, Mayor

Date: June 5, 2006

/s/ Richard R. Michaud
Richard Michaud, City Administrator

CITY COUNCILORS:

Date: _____

Arthur Tardif

Date: June 5, 2006

/s/ Leslie Smith, Jr.
Leslie Smith, Jr.

Date: June 5, 2006

/s/ Roland L. Michaud
Roland L. Michaud

Date: June 5, 2006

/s/ Ronald Morton
Ronald Morton

Date: _____

Jesse McDougal

Date: June 5, 2006

/s/ David Tripp
David Tripp

Date: June 5, 2006

/s/ Eric B. Cote
Eric B. Cote

Date: _____

Jesse McDougal

Councilor Michaud moved, Councilor Smith seconded to Adopt the Order. The motion passed with five (5) yeas.

H. Acceptance of Buckthorn Circle – Wild Oats Subdivision

The Wild Oats subdivision is complete and ready for street and infrastructure to be considered for acceptance. The Planning Board approved the subdivision Jan. 14, 2003. Buckthorn Circle provides access to the 16-lot subdivision, roughly 1,300 feet in length, with sidewalk, public sewer and water, a drainage system, street trees and streetlights. All has been constructed or installed to City standards, and subject to inspection while under development.

The City Attorney and Department of public works have reviewed the Quitclaim deed and an easement deed. Record drawings have been reviewed and found acceptable by

Deluca Hoffman Associates. The Planning Board reviewed this request at its April 18, 2006 meeting, and recommends that the street and infrastructure be accepted and that applicant Elliott Chamberlain provide \$500 for future work on a manhole that was inadvertently paved over.

Councilor Tripp moved, Councilor Smith seconded that it be Ordered that the City Council pursuant to 23 MRSA § 3025, **accept** the dedication made by Poland Spring Properties of title in fee simple of the Buckthorn Circle right of way as bounded and described and titled in Exhibit A in a Quitclaim from Poland Spring Properties, LLC, to the City of Saco, dated March, 2006; and further moves pursuant to 23 MRSA § 3025, to **accept** the Easement Deed offered by Cynthia D. Cox and James B. Cox to the City of Saco, allowing access for installation and maintenance of utilities over a portion of their property as bounded and described and titled in the Easement Deed dated April, 2006. Further moved to approve the Order. The motion passed with five (5) yeas.

QUITCLAIM DEED

KNOW ALL MEN BY THESE PRESENTS, that **POLAND SPRING PROPERTIES, LLC**, a Maine limited liability company with a place of business at 1022 Portland Road, Saco, Maine 04072, for and in consideration of one dollar and other valuable consideration paid, releases to **THE CITY OF SACO**, a municipal corporation with a mailing address of 300 Main Street, Saco, Maine 04072, a certain lot or parcel of land in Saco, County of York and State of Maine, all of the grantor’s right, title and interest in and to “Buckthorn Circle” as shown on a plan entitled “Amended Subdivision Plan, Final Subdivision Plan of Wild Oats, Shadagee Road, Saco, Maine” prepared by Oak Point Associates, revised to October 5, 2004 and recorded in the York County Registry of Deeds in Plan Book 309, Page 11 (the “Plan”) and in and to a certain Detention Pond parcel also shown on said Plan which parcels are more particularly described on **Exhibit A** attached hereto. This conveyance is made subject to and with the benefit of the pertinent conditions, exceptions, easements and other matters set forth on the Plan

IN WITNESS WHEREOF, the said Poland Spring Properties, LLC, has caused this instrument to be signed and sealed this ____ day of March 2006.

LLC
Witness

POLAND SPRING PROPERTIES,
By: _____
R. Elliott Chamberlain
Sole Member

STATE OF MAINE
Cumberland, ss.

March ____, 2006

Personally appeared the above-named R. Elliott Chamberlain, Sole Member of Poland Spring Properties, LLC and acknowledged the foregoing instrument to be his free act and deed in said capacity and the free act and deed of Poland Spring Properties, LLC.

Before me,

Notary Public/ Attorney-at-Law

Printed Name

EXHIBIT A

Buckthorn Circle

A certain right-of-way situated southerly of Shadagee Road in the City of Saco, County of York and State of Maine and shown as Buckthorn Circle on the Plan, being further bounded and described as follows:

Beginning at a granite monument on the southerly sideline of Shadagee Road at the northwesterly corner land now or formerly of Conrad L. and Joan P. Lamirande as shown on said plan; Said point being the northeasterly most corner of the right-of-way herein described;

Thence S 49°-45'-37" W, by and along land of Lamirande, a distance of 206.85 feet to a granite monument;

Thence S 40°-14'-23" E, continuing by and along land of Lamirande, a distance of 138.00 feet to a granite monument at the westerly corner of Lot 10 of said plan;

Thence continuing S 40°-14'-23" E, a distance of 108.40 feet to a granite monument at a point of curvature;

Thence along a curve to the right with a radius of 145.00 feet, a length of 243.84 feet, having a chord of S 07°-56'-11" W, a distance of 216.11 feet to 5/8" rebar set at the northeasterly corner of lot 6 of said plan;

Thence along a curve to the right with a radius of 138.53 feet, a length of 184.77 feet, having a chord of N 87°-39'-52" W, a distance of 171.37 feet to a 5/8" rebar set at the northwesterly corner of lot 5 of said plan;

Thence along a curve to the right with a radius of 145.00 feet, a length of 28.35 feet, having a chord of N 45°-50'-26" W, a distance of 28.30 feet to a granite monument at a point of tangency;

Thence N 40°-14'-23" W, a distance of 151.40 feet to a granite monument at a point of curvature;

Thence along a curve to the right with a radius of 145.00 feet, a length of 227.77 feet, having a chord of N 04°-45'-37" E, a distance of 205.06 feet to a granite monument at a point of tangency;

Thence N 49°-45'-37" E, a distance of 230.46 feet to a granite monument;

Thence N 19°-21'-07" E, a distance of 79.38 feet to a granite monument at the southerly sideline of Shadagee Road;

Thence S 70°-38'-53" E, by and along the southerly sideline of Shadagee Road, a distance of 104.56 feet to the point of beginning;

Excepting and reserving a portion of the above described parcel of land, more particularly bounded and described as follows:

Commencing at a granite monument on the southerly sideline of Shadagee Road at the northwesterly corner land now or formerly of Conrad L. and Joan P. Lamirande as shown on said plan; said point being the northeasterly most corner of the parcel herein conveyed;

Thence S 49°-45'-37" W, by and along land of Lamirande, a distance of 206.85 feet to a granite monument;

Thence S 49°-45'-37" W, a distance of 50.00 feet to a granite monument at the northerly corner of Lot 11 being the true Point Of Beginning;

Thence S 40°-14'-23" E, a distance of 246.40 feet to a granite monument at a point of curvature;

Thence along a curve to the right with a radius of 95.00 feet, a length of 149.23 feet, having a chord of S 04°-45'-37" W, a distance of 134.35 feet to a granite monument;

Thence continuing along a curve to the right with a radius of 95.00 feet, a length of 11.40 feet, having a chord of S 53°-11'-56" W, a distance of 11.40 feet to a granite monument;

Thence along a curve to the right with a radius of 88.53 feet, a length of 119.80 feet, having a chord of N 87°-39'-53" W, a distance of 110.87 feet to a granite monument;

Thence along a curve to the right with a radius of 95.00 feet, a length of 19.44 feet, having a chord of N 46°-06'-12" W, a distance of 19.41 feet to a granite monument at a point of tangency;

Thence N 40°-14'-23" W, a distance of 151.40 feet to a granite monument at a point of curvature;

Thence along a curve to the right with a radius of 95.00 feet, a length of 149.23 feet, having a chord of N 04°-45'-37" E, a distance of 134.35 feet to a granite monument at a point of tangency;

Thence N 49°-45'-37" E, a distance of 95.00 feet to the point of beginning;

Meaning and intending to describe Buckthorn Circle as shown on said plan, containing approximately 66,943 S.F., 1.54 acres.

All bearings and distances were taken from the above referenced plan.

Detention Pond Parcel.

A certain parcel of land located on the southerly side of Buckthorn Circle in the City of Saco, County of York and State of Maine, being further bounded and described as follows:

Beginning at a 5/8" rebar set on the southerly side of Buckthorn Circle at the easterly corner of Lot 5 and as shown on said plan;

Thence easterly by the southerly side of said Buckthorn Circle along a curve to the left with a radius of 138.53 feet, a length of 100.25 feet, having a chord of S 70°- 11'- 14" E, a distance of 98.08 feet to a rebar at the westerly corner of Lot 6 as shown on said plan;

Thence S 07°- 13'- 52" E, by and along Lot 6 a distance of 109.09 feet to a 5/8" rebar set;

Thence S 40°- 14'- 23" E, continuing along Lot 6 a distance of 30.74 feet to a 5/8" rebar set at land now or formerly of Lynn and Janet Johnson;

Thence S 49°- 37'- 20" W, by and along land of said Johnson a distance of 20.00 feet to a pipe at the northerly corner of land now or formerly of James and Marguerite Audiffred;

Thence continuing S 49°- 37'- 20" W, by and along said Audiffred a distance of 74.54 feet to an iron pipe at the easterly corner of land now or formerly of Cynthia Clyatt and James Cox;

Thence N 39°- 43'- 10" W, by and along said Clyatt and Cox, passing a 5/8" rebar, and along land now or formerly of Carol Basford a distance of 190.91 feet to 5/8" rebar at the southerly corner of Lot 5 of said plan;

Thence N 40°- 40'- 04" E, by and along Lot 5 a distance of 104.59 feet to the POINT OF BEGINNING.

All bearings and distances were taken from the above referenced plan.

EASEMENT DEED

KNOW ALL MEN BY THESE PRESENTS, that **CYNTHIA D. COX** and **JAMES B. COX** whose mailing address is 9 Cherryfield Avenue, Saco, Maine 04072 ("Grantor") in consideration of one dollar (\$1.00) and other valuable consideration paid by **THE CITY OF SACO**, a municipal corporation with a mailing address of 300 Main Street, Saco, Maine 04072 the receipt whereof is hereby acknowledged, does hereby grant unto the said Grantee, its successors and assigns forever, an easement for the installation, maintenance, repair and replacement of a storm water drainage system, water and sewer lines, telephone and electrical lines and all other utilities and systems, together with the right to enter upon and improve the said premises, including laying utility lines, installing a storm water system, and/or installing sewer and water lines, all at Grantee's expense, in the C:\Program Files (x86)\PDFConverter\temp\NVDC\D7C79028-A0DA-4972-9E08-8F8B9866AE7E\20d2a4e6-15e3-47e9-b65d-f920982cbcf9file.doc 7/25/2016 Page 17 of 20

manner deemed necessary or advisable by Grantee to carry out the purposes of this Easement. The easement conveyed hereby shall extend over, under and across the following described parcel of land:

A lot or parcel of land at all times 20 feet in width commencing at the intersection of the southwesterly corner of property conveyed to Poland Spring Properties, LLC by Deed dated January 10, 2003 and recorded in the York County Registry of Deeds in Book 12391, Page 193 and the easterly sideline of Grantor’s Property as described in a Deed dated January 16, 1990 and recorded in the York County Registry of Deeds in Book 5301, Page 52; thence extending along the easterly sideline of said property of Grantor to the intersection of Cherryfield Avenue. The easement conveyed hereby is shown as the “proposed Utility Easement from Clyatt/Cox to Wild Oats Subdivision” on the Final Subdivision Plan, Wild Oats, Shadagee Road, Saco, Maine” prepared by Oak Point Associates, dated August 6, 2002 and recorded in the York County Registry of Deeds in Plan Book 279, Page 34 (the “Plan”).

IN WITNESS WHEREOF, Cindy Cox and James Cox have caused this instrument to be signed and sealed this ____ day of April 2006.

_____	_____
Witness	Cynthia D. Cox
_____	_____
Witness	James B. Cox

State of Maine
York, ss.

April ____, 2006

Personally appeared the above-named Cynthia D. Cox and James B. Cox and acknowledged the foregoing instrument to be their free act and deed.

Before me,

Notary Public/Attorney at Law

Printed Name

I. Order for Discontinuance – Old Cascade Road Right of Way

Councilor Morton moved, Councilor Tripp seconded that it be ordered that the City Council approve the Discontinuance of a portion of the Cascade Road right of way, prior to the abandonment of that portion of the Cascade Road right of way described in the document titled, ‘Order of Discontinuance of a City Way being the former location of the State Highway 9 (old Route 98/Cascade Road) Dated June 5, 2006’ as contemplated by 23 M.R.S.A. §3026(1). Further move to approve the Order. The motion passed with five (5) yeas.

Order of Discontinuance of a City Way being the former location of the State Highway 9 (old Route 98/Cascade Road)

Dated June 5, 2006

To: Residents of City of Saco, Maine and other interested persons.

From: City Council of Saco, Maine

While **not** excepting and preserving a public easement, the City Council of the City of Saco, Maine hereby orders the discontinuance of that section of the way as shown on a Maine Department of Transportation Right of Way Map entitled, State Highway "9", Saco, York County, Federal Aid Project No. F 09-1 (3), dated October, 1958, on file in the Office of the Maine Department of Transportation, at its Office in Augusta, File No. 16-126, and lies between the following described limits:

NORTHWESTERLY LIMIT

The present northeasterly line of State Highway "9" (Cascade Road) as established by a Notice of Layout and Taking recorded November 10, 1958 at the York County Registry of Deeds in Book 1387, Page 77, and lies between P.C. Sta. 2+23.82 and Sta. 6+90.

SOUTHWESTERLY LIMIT

The present northeasterly line of State Highway "9" (Cascade Road) as established by said Notice of Layout and Taking and lies between Sta. 11 +45 and Sta. 12+96.

Note to Municipal Officers: Upon completion of the procedure of discontinuance please forward to the Maine Department of Transportation, Property Office, in Augusta, a copy of the Order of Discontinuance filed by the Municipal Clerk.

VII. RECESS OF MEETING

Mayor Johnston called for a recess at 7:28 p.m.

VIII. RECONVENE THE MEETING

At 9:18 p.m. the Mayor and Council returned to the Council Meeting.

Be it Ordered that the City Council, Pursuant to M.R.S.A. Chapter 13, Subchapter 1, § 405(6)© move to enter into Executive Session to discuss:

A. Real Estate Matters.

The motion passed by unanimous consent.

The Mayor and Council came out of executive session at 9:36 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 and Eric Cote. Councilors Arthur Tardif and Jesse McDougal were excused this evening.

Report from Executive Session

Councilor Michaud moved, Councilor Smith seconded, to authorize the City Administrator to sell the Map 31, Lot 204. The motion passed with five (5) yeas.
Councilor Michaud moved, Councilor Smith seconded, to purchase land. The motion passed with five (5) yeas.

IX. ADJOURNMENT

Councilor Smith moved to adjourn. The motion passed with five (5) yeas. TIME: 9:40 p.m.

ATTEST: _____
Lucette S. Pellerin, City Clerk