

STATE OF MAINE

COUNTY OF YORK

CITY OF SACO

The following are minutes of the March 5, 2007 Council Meeting.

- I. **CALL TO ORDER** – On Monday, March 05, 2007 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 Councilor 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

III. APPROVAL OF MINUTES:

Minutes were not presented this evening for approval.

V. GENERAL:

VI. AGENDA ITEMS:

A. Fee Adjustment: Recreation Programs

The Parks and Recreation Department annually reviews the programs and services offered to the community to determine which programs to offer in the coming year. This review includes a cost analysis as well as an evaluation of program popularity. Based on this review, changes in programs and fees are recommended and requested on the following spreadsheet. Some programs have been changed, removed and/or consolidated

Councilor Smith moved, Councilor Morton seconded, that it Be Ordered that the City Council approve the document titled, ‘City of Saco Parks and Recreation Fee Schedule, dated February 20, 2000’. The motion passed with seven (7) yeas.

City of Saco Parks & Recreation Fee Schedule, dated February 20, 2007

(Strikethrough represents wording to be deleted, while highlight represents a change in fee)

Recreation Dept. Revenue	Current	Proposed Changes 07-08		
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Location in Code			Registered Before Program Begins	Registering After Program Begins			
10230-300708	Registration fee to become part of program						
	Fall Soccer	\$35					
	Field Hockey	\$35					
	Basketball	\$35					
	Travel Basketball (5&6)	\$95					
	Travel Basketball (7&8)	\$55					
	Indoor Soccer	\$30					
	Indoor Field Hockey	\$30					
	Adult Indoor Field Hockey	\$20					
	Summer Day Camp (Resident)	\$575	\$625	\$675			
	Summer Day Camp (Non Resident)	\$775	\$825	\$875			
	Weekly Rate (Resident)	\$85	\$95	\$100			
	Weekly Rate (Non Resident)	\$105	\$115	\$120			
	Daily Rate (Resident)	\$25	\$35	\$40			
	Daily Rate (Non Resident)	\$30	\$45	\$50			
	Summer Teen Companion Camp (full week)	\$50	\$75	\$80			
	Summer Teen Companion Camp (partial week)	\$35	\$50	\$55			
	Summer Pre-School Program (entire summer)	\$75					
	Summer Pre-School Program (daily)	\$5					
	Mini Camp per week (Summer)	\$75	\$95	\$100			
	Mini Camp per day (Summer)	\$20	\$35	\$40			
	Gymnastics						
	(Pre-School – Grade 2)	\$30					
	Gymnastics						
	(Grade 3 – 8)	\$30					
	Cheer Gymnastics	\$6					
	Cheerleading	\$30					
	Open Cheer Gym	\$3					
	Infant Toddler Program	\$20					
	After School Intramurals	\$20	\$25				
	Men's Basketball Session (Resident)	\$35					
	Men's Basketball Nightly (Resident)		\$3				
	Men's Basketball Session (Non Resident)		\$40				
	Men's Basketball Nightly (Non Resident)		\$5				
	Walk/Jog Fitness	\$30	\$25				
	Open Walk	\$1					
	Aerobics	\$30					
	Cheer Aerobics	\$6					
	Co-Ed Volleyball Session (Resident)	\$25					
	Co-Ed Volleyball Nightly (Resident)		\$3				
	Co-Ed Volleyball Session (Non Resident)		\$30				
	Co-Ed Volleyball Session (Non Resident)		\$5				
	Tennis	\$30					
	Summer Gymnastics	\$30					
	Pre-School Program	\$113					
	Pre-School Session (winter)		\$25				

	Pre-School Daily (winter)	\$3				
	T-Ball	\$35				
	Fish Derby	no charge				
	Baseball Clinic	no charge				
	Facility Rental (See Tab for Schedule)					
	Saco Jets	\$10	\$5			
	After School Care Program	\$55				
	After School Daily	\$20				
	Vacation Camp	\$75				
	Vacation Daily	\$20				
	Snow Day		\$25			
	Adult softball league	\$20				
	Team Fee	\$450				
	Adult volleyball league	\$20				
	Women's Team Fee	\$145	\$165			
	Pre-School Fun & Games Session II	\$3				
	Adding Late Fee for registrations after		\$5			
	Program Deadlines First Week					
	Adding Late Fee for registrations after		\$10			
	Program Deadlines Second Week					
	Adding Late Fee for registrations after		\$15			
	Program Deadlines Third Week					

**B. (Second & Final Reading) Code Amendment Personnel
§34**

The Personnel Ordinance is being revised, and the following amendments are recommended:

- new revised federal and state language that addresses the Family Medical Leave;
- a new section addressing Non-Discrimination and Anti-Harassment in the workplace,
- inserting the new Maine law that addresses Leave for Victims of Domestic Violence,
- amending the payment in lieu of health insurance to \$1950 to have it the identical to the unions,
- eliminating the section on Tool Allowance since we no longer have a Garage Foreman,
- and finally the remaining amendments are housekeeping improvements to the ordinance.

The Personnel Committee as well as the Department Heads have reviewed these proposed amendments and have no quardary with the changes.

Councilor Morton moved, Councilor Smith seconded, that the City of Saco hereby approves the Second and Final Reading of the document titled, 'Code Amendments to Chapter 34 Personnel Ordinance, dated January 22, 2007'. The motion passed with seven (7) yeas.

**CODE AMENDMENTS TO CHAPTER 34 PERSONNEL ORDINANCE, DATED
January 22, 2007**

(~~Strikethrough~~ indicates language to be deleted, while underline represents new language)

§ 34-9. Compensation.

It is the intent of the City that employees shall be paid on a basis that is commensurate with salaries and wages for comparable public and private work in the area and that will attract and retain well-qualified employees. For this purpose, a position classification and pay plan (hereinafter referred to as the "plan") is adopted which specifies a salary range for each position in the service. ~~The plan is attached as Appendix A.~~

~~§ 34-14. Harassment policy. [Amended 3-4-2002]~~

- ~~A. The City of Saco prohibits all forms of discrimination and harassment, including harassment based upon race, color, religion, national origin, age, gender, sexual orientation, and disability. In addition, this policy prohibits sexual harassment.~~
- ~~B. Sexual harassment is a form of misconduct that undermines the integrity of the employment relationship. "Sexual harassment" can be defined as the attempt to control, influence, or affect the career, salary, or job of an individual in exchange for sexual favors or the creation of an intimidating, hostile, or offensive working environment based on unsolicited and unwelcome sexual overtures or conduct, either verbal or physical.~~
- ~~C. The definition of sexual harassment under the Regulations of the Maine Human Rights Commission is:
 - ~~(1) Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:
 - ~~(a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;~~
 - ~~(b) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual;~~~~~~

~~(e) Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.~~

~~D. Sexual harassment does not refer to occasional compliments of a socially acceptable nature. It refers to behavior which is unwelcome.~~

~~(1) Examples of sexual harassment include, but are not limited to:~~

~~(a) Repeated unwelcome sexual flirtations, advances, or propositions;~~

~~(b) Continued or repeated verbal abuse of a sexual nature;~~

~~(c) Graphic or degrading comments about an individual or his or her appearance;~~

~~(d) The display of sexually suggestive objects or pictures;~~

~~(e) Any offensive physical contact; and~~

~~(f) Any retaliation or threat of retaliation against one who has made a complaint of harassment.~~

~~(2) In addition, no one should suggest, imply, or threaten that an applicant or employee's cooperation of a sexual nature (or refusal thereof) will have any effect on the individual's employment, assignment, compensation, advancement, career development, or any other condition of employment.~~

~~E. All supervisory or managerial personnel at City of Saco are responsible for enforcing this policy. Failure to do so will be considered a failure to fulfill all the responsibilities and duties of the position.~~

~~F. Employees shall report, in writing, all instances of sexual harassment directly to the City Administrator. The incident report must include any witnessed harassment or harassment directed at the employee. Female employees may report an incident to a Personnel Secretary, female supervisor or department head and then report an incident to the City Administrator. The City Administrator or his/her designated representative shall investigate thoroughly and respond to the appropriate parties as soon as possible, not to exceed 15 working days. The response to the party (employee) shall be general and will not divulge the contents of the investigations. There will no retaliation measures taken against any employee who makes a complaint of harassment. If you become aware that any employee is being harassed, it is your responsibility to bring this to the attention of the City of Saco management or immediately.~~

~~G. If the harassment allegations are found to be true, the City Administrator or his/her designated representative shall take the appropriate corrective action, including the suspension or discharge of the offending employee(s). Any repeated conduct with regard to harassment shall be grounds for immediate termination of employment. If the investigation leads the Mayor and City Council to the conclusion that the City Administrator is the offending employee, the Mayor and City Council shall appoint a~~

~~Personnel Board to review the facts of the investigation and shall recommend the appropriate corrective action to the Mayor and City Council.~~

- ~~H. Employees may file a complaint of sexual harassment with the Maine Human Rights Commission at State House Station 51, Augusta, Maine 04333, (207) 289-2326. Employees are protected by law from retaliation for filing a complaint of harassment with the Commission.~~
- ~~I. Employees who have suffered harassment in the workplace may be eligible for recovery of civil penal damages and other monetary damages, through the courts, the Commission, or the Workers Compensation Commission.~~

§34-14. Non-Discrimination and Anti-Harassment Policy

A. The City is committed to providing a workplace that is free from discrimination and discriminatory harassment. It is a violation of City policy and/or state and federal law for any employee to discriminate against or harass another employee based on race, color, religion, national origin, ancestry, age, sex, sexual orientation (including gender identity and expression), physical or mental disability, veteran status, or status as a whistleblower, and for any supervisory employee to permit any such act of harassment in the workplace by anyone, whether or not an employee.

B. Any employee of the City who believes that he or she has been discriminated against in employment on the basis of race, color, religion, national origin, ancestry, age, sex, sexual orientation, physical or mental disability, veteran status, or status as a whistleblower, or has been harassed on that basis, must report the behavior to the Personnel Officer or to the City Administrator. The City takes allegations of discriminatory treatment very seriously. The City will investigate every allegation of discrimination promptly and take whatever action is necessary to stop discrimination and remedy any effects of discrimination. Any employee who believes that he or she has been harassed or discriminated against in any way should follow the "Internal Complaint Procedure" set forth below.

C. Definition of Sexual Harassment

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- (2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- (3) Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

D. Description of Sexual Harassment

The following type of conduct is considered sexual harassment and is not permitted:

(1) Physical assaults of a sexual nature such as:

(a) rape, sexual battery, molestation or attempts to commit these assaults;
and

(b) intentional physical conduct which is sexual in nature, such as touching,
pinching, patting, grabbing, brushing against another employee's body,
or poking another employee's body.

E. Unwanted sexual advances, propositions or other sexual comments, such as:

(1) sexually-oriented gestures, noises, remarks, jokes, or comments about a
person's sexuality or sexual experience directed at or made in the presence of
any employee who indicates or has indicated in any way that such conduct in
his or her presence is unwelcome;

(2) preferential treatment or promise of preferential treatment to an employee for
submitting to sexual conduct, including soliciting or attempting to solicit any
employee to engage in sexual activity for compensation or reward; and

(3) subjecting, or threats of subjecting, an employee to unwelcome sexual
attention or conduct or intentionally making performance of that employee's
job more difficult because of that employee's sex.

F. Sexual or discriminatory displays or publications anywhere in the workplace by
employees, such as:

(1) displaying pictures, posters, calendars, graffiti, objects, promotional
materials, reading materials, or other materials that are sexually suggestive,
sexually demeaning, or pornographic, or bringing into the work environment
or possessing any such material to read, display or view at work.

A picture will be presumed to be sexually suggestive if it depicts a person of
either sex who is not fully clothed or in clothes that are not suited to or
ordinarily accepted for the accomplishment of routine work in and around
the Town and who is posed for the obvious purpose of displaying or drawing
attention to private portions of his or her body.

(2) reading or otherwise publicizing in the work environment materials that are
in any way sexually revealing, sexually suggestive, sexually demeaning or
pornographic; and

- (3) displaying signs or other materials purporting to segregate an employee by sex in any area of the workplace (other than restrooms and similar semi-private lockers/changing rooms).

G. Internal Complaint Procedure

(1) Any employee who believes he or she has been the subject of discriminatory harassment should report the incident or act immediately to their Department Head or to the Personnel Officer or to the City Administrator. The City will promptly investigate all complaints. Each employee alleging discriminatory harassment will be requested, but not required, to put the specifics in writing. All information will be held in confidence to the extent possible and will be discussed only with those who have a need to know in order to either investigate or resolve the complaint. Any employee who the City determines has engaged in discriminatory harassment will be promptly disciplined. Disciplinary measures may consist of suspension or termination depending upon the severity of the offense.

(2) No employee will be punished or penalized in any way for reporting, complaining about or filing a claim concerning discriminatory harassment, or for participating in any investigation of a discriminatory harassment complaint.

F. Disability Accommodation

(1) The City of Saco is committed to complying fully with the Americans with Disabilities Act (ADA) and the Maine Human Rights Act, and ensuring equal opportunity in employment for qualified persons with disabilities. All employment practices and activities are conducted on a non-discriminatory basis.

(2) Hiring procedures have been reviewed and provide persons with disabilities meaningful employment opportunities. Pre-employment inquiries are made only regarding an applicant's ability to perform the essential duties of the position.

(3) Reasonable accommodation is available to all disabled employees where their disability affects the performance of job functions. Employees who believe they may require an accommodation should consult with their supervisor. All employment decisions are based on the merits of the situation in accordance with defined criteria, not the disability of the individual.

(4) Qualified individuals with disabilities are entitled to equal pay and other forms of compensation (or changes in compensation) as well as in job assignments, classification, organizational structures, position descriptions, lines of progression and seniority lists. Leave of all types will be available to all employees on an equal basis.

(5) The City will not discriminate against any qualified employees or applicants because they are related to or associated with a person with a disability.

Furthermore, the City is committed to taking all other actions necessary to ensure equal employment opportunity for persons with disabilities in accordance with the ADA and the Maine Human Rights Act.

§ 34-19. (Reserved) ^{EN} Leave for Victims of Domestic Violence

A. In accordance with Maine Law, the City will grant you a reasonable and necessary amount of time off from work without pay if you are a victim of domestic violence, domestic assault, sexual assault or stalking, and you need the time to:

- (1) Prepare for or attend court proceedings,
- (2) Receive medical treatment, or
- (3) Obtain necessary services to remedy a crisis caused by domestic violence, sexual assault or stalking.

B. You must request the leave as soon as circumstances make it clear that time off is necessary. Approval of leave will be dependent upon:

- (1) whether your absence will create an undue hardship for the City,
- (2) whether you requested leave within a reasonable time, and
- (3) whether the requested leave is impractical, unreasonable or unnecessary given the facts made available to the City at the time of your request.

C. If your leave is approved, you will be required to first use any accrued paid vacation or sick time before taking unpaid leave. Vacation and sick days do not accrue during your leave and holidays are not paid while you are on leave. You will not be discriminated against for taking or asking for leave.

§ 34-22. Personnel records. [Amended 3-4-2002]

A record of ~~each~~ **all permanent** full-time and **permanent part-time** employees shall be kept in the office of the Administration Personnel Office. The record shall contain all vital statistics and other pertinent data of the employee. The Personnel Officer shall develop a system and appropriate forms to record attendance and periods of leave for each employee.

- A. The Personnel Officer shall ensure that each new employee completes the necessary administrative forms to commence employment. The Personnel Officer shall annually review and update the record of each employee.
- B. Every employee has the right to inspect his/her record at any time during normal working hours.
- B. If one of the above-named holidays falls on a Saturday, the Christmas Day preceding Friday will be observed as the holiday. If one of the above-named holidays falls on a Sunday, the succeeding Monday will be the observed holiday.

- C. Due to the nature of some positions, certain employees may be required to work during a holiday. These employees will receive holiday pay, in addition to regular wages, for time worked. Unless on an approved leave, in order to collect holiday pay, an employee must work the day before and the day after a holiday.

§ 34-26. Group insurance plan.

- A. The City will provide a Maine Municipal Association (MMA) group insurance plan, which provides Maine Municipal Employees' Health Trust medical coverage and, in addition, major medical coverage. The City's MMA Employees' Health Trust coverage and level of service shall be established by the City Council.
- B. Full-time employees and their families are eligible to participate. An employee must apply for coverage and is not automatically covered. A new employee becomes eligible after a thirty-day waiting period.
- C. The Maine Municipal Employees' Health Trust coverage shall be determined by the City Council. Any difference will be paid by the employee.
- D. Any employee who does not elect to receive health insurance benefits, and can demonstrate that he/she has insurance coverage, shall be eligible to receive ~~\$1,500~~ **\$1950** of the savings realized by the City each year. [Added 6-5-2000]
- E. The City shall pay the cost of the life insurance benefit at one time the annual salary for employees who utilize Subsection D above. [Added 11-20-2000]

§ 34-28. Life insurance.

- A. All full-time employees of the City are eligible for basic life insurance, as provided by state statute and accepted by the City Council. Such coverage will be automatic, unless specifically refused, in writing, by the employee.
- B. In the event of the death of a full-time nonunion employee, life insurance benefits shall be equal to the employee's annual salary, and it shall be the responsibility of the Personnel ~~Secretary~~ **Officer** to make new employees aware of all options available to them. [Amended 3-4-2002]

§ 34-30. Other benefits. [Amended 5-15-2000; 3-4-2002]

The City Administrator shall establish and review annually a policy providing reimbursement to employees for clothing or uniforms required for the job, mileage and overnight lodging and meal expense reimbursement associated with conferences and meetings authorized by the City Administrator. The employee reimbursement for out-of-pocket expenses is set forth below:

- A. Clothing or uniform allowance. Full-time employees who are required to wear uniforms as a condition of employment shall be reimbursed at the same or equivalent rate as union members of the same department. Full-time City employees who are required to wear protective clothing, or any type of protective device as a condition of employment shall be eligible to receive a clothing allowance of \$350 for replacement of articles damaged under normal working conditions and up to \$125 for appropriate work boots as needed. Purchase of clothing shall be limited to footwear and outer clothing and shall receive prior approval from the department head and/or the City Administrator.
- ~~B. Tool allowance. The City agrees to provide an annual tool allowance to the Garage Foreman for the purchase and replacement of tools to be used to repair Street Department vehicles. The rate shall be established by the City Council after a public hearing. To receive reimbursement for or payment of bills resulting from the purchase of tools, the Garage Foreman must present an itemized receipt to the Director of Public Works for said payment or reimbursement.~~

§ 34-31. Sick leave.

- A. **Permanent full-time** employees who have been employed for 30 days are entitled to sick leave at ~~the~~ **an accrual** rate of ~~one day~~ 3.4615 hours per pay period for employees who work a 7.5 hour work day and 3.6923 hours per pay period for employees who work an 8 hour day for each ~~full calendar month of~~ bi-weekly pay period worked ~~service worked~~, and sick leave may be accumulated not to exceed ~~120 days~~ **900 hours for employees who work a 7.5 hour day and 960 hours for employees who work an 8 hour day**. If the employee is on sick leave, credit will still accrue. Cumulative sick leave ~~days~~ **hours** shall be computed from the original date of employment after completing a thirty-day probationary period.
- B. Illness for which sick leave may be granted is defined as actual personal illness or bodily injury. Sick leave may be granted, limited to ~~five days~~ **37.5 hours <for and employee who works a 7.5 hour day> and 40 hours<for an employee who works an 8 hour day>** per year, to an employee due to an illness of a member of the employee's immediate family (parent, spouse or children), at the discretion of the employee's immediate supervisor. Additional use of sick leave due to an illness of a member of the employee's immediate family may be granted at the discretion of both the employee's immediate supervisor and the City Administrator. [Amended 3-4-2002]
- C. The City shall pay a bonus of one day's pay or **one day off with pay** to any employee who used two or fewer days of sick leave in any six-month period ~~beginning July 1 of each year~~ **according to the employee's anniversary date**. Sick ~~days~~ **hours** used for workers compensation shall not be counted as sick days for the purpose of honoring this bonus day. [Amended 3-4-2002]
- D. Any absence (except as covered elsewhere in the regulations) of three days or longer for illness shall, at the discretion of the City Administrator, require a doctor's certificate before returning to work. At the discretion of the City, another

examination, by a doctor of the City's choosing, at the City's expense, may be required.

- E. The City Administrator may at any time, as a condition precedent to the continuance of sick pay, require a certificate of a qualified physician designated by the City, certifying the condition of the employee to be such as to justify the continued absence from employment.
- F. When an employee is absent due to any injury compensable under the Workers Compensation Act, payment to the employee under any insured disability plan of the City or insured medical payment plans of the City shall comply with 39 M.R.S.A. § 111-A.ⁱⁱEN An employee so injured is entitled to use up to a maximum of 22 earned and accumulated sick days, when no payments are available under any insured disability plan, prior to receiving his/her first check for incapacity payments under 39 M.R.S.A. § 51.ⁱⁱⁱEN
- G. When an employee is absent due to any injury not compensable under the Workers Compensation Act, the employee is entitled to use accumulated sick days and vacation time prior to receiving payments under the long-term disability plan. While receiving payments from the disability plan, the employee shall continue to earn and accumulate sick leave and other leave benefits until that employee is separated from employment with the City.
- H. Upon separation in good standing from the City, an employee will receive, as separation pay, 35% of his/her accumulated sick leave, provided that the employee has completed 10 years of consecutive full-time employment. At retirement or separation after 20 years of consecutive full-time employment, an employee in good standing shall receive 50% of his/her accumulated sick leave. At retirement or separation after 30 years of consecutive, full-time employment with the City of Saco, an employee in good standing will be paid in an amount equal to wages for 70% of the accrued sick leave on the date of separation. When an employee dies, the widow or guardian of minors, if no widow, is entitled to wages in an amount equal to 100% of the accumulated unused sick days of the deceased employee.
- I. In addition to the above, an employee may elect to utilize ~~two~~ **15 hours <for 7.5 hour employee> and 16 hours <for 8 hour employee> of accrued sick time** days per year as personal days. In the event that an employee utilizes more than **15 hours <for 7.5 hour employee> and 16 hours <for 8 hour employee> of accrued sick time** ~~two sick days~~ or any combination of sick or personal leave in a six-month period, the employee shall forfeit his/her bonus pay or earned day off. [Added 3-4-2002]

§ 34-32. Medical examinations.

The City Administrator shall have the right to authorize, upon the recommendation of the department head, a physical examination for any employee. This physical shall be administered by a practicing physician designated by the City to certify to the physical

fitness of such employee to perform the duties of the position. The cost of said physical examination shall be paid by the City. The City shall determine the type of physical to be administered.

~~§ 34-33. Family medical leave.~~

- ~~A. Eligibility. A permanent employee who has been employed by the City for 12 consecutive months is entitled to one unpaid family medical leave of up to 12 consecutive workweeks in any twelve-month period following the birth of a child, adoption of a child 16 years of age or less or serious illness of the employee, child, spouse or parent. "Serious illness" means an accident, disease or condition that:~~
- ~~(1) Poses imminent danger of death;~~
 - ~~(2) Requires hospitalization involving an organ transplant, limb amputation or other procedure of similar severity; or~~
 - ~~(3) Any mental or physical condition that requires constant in-home care.~~
- ~~B. Required notice. To be eligible for a family medical leave, the employee must give at least 30 days' notice to the City Administrator of the intended date upon which family medical leave will commence and terminate, unless the employee is prevented from giving notice because of medical emergency. [Amended 3-4-2002]~~
- ~~C. Certification of illness. The City may require certification from a physician to verify the amount of leave requested by an employee.~~
- ~~D. Terms of leave. Family medical leave is without pay and benefits, with the exception of health insurance. An employee out on family medical leave does not accrue sick time or vacation benefits and is not eligible for holiday pay or bereavement leave. The City will maintain health insurance coverage at the same level and conditions that coverage would have been provided if the employee had continued working and not taken a leave. If the employee fails to return from leave, the City shall recover the health insurance premium coverage for the employee during the unpaid leave.~~
- ~~E. Return to service.~~
- ~~(1) Upon the end of the family medical leave, an employee will be restored to the position he/she occupied immediately prior to the commencement of the leave or to an equivalent position with the same employee benefits and pay as existed immediately prior to commencing the leave, except in the event of financial or budgetary conditions unrelated to the employee's taking of a leave which prevent the restoration of the same or equivalent position.~~
 - ~~(2) An employee shall return to work from a family medical leave no later than the first working day following the expiration of the leave. Failure on the part of the employee to return to work after the expiration of an approved leave is deemed a resignation from City service.~~

§ 34-34. Paternity leave.

~~Paternity leave for a male employee whose spouse is pregnant shall be granted for a period of one week without pay. This week shall commence on the date of birth and run for five consecutive workdays.~~

§34-33. Family Medical Leave of Absence

A. Purpose

To define the policy and procedure of the City with regard to family leave required by the Family and Medical Leave Act of 1993 (FMLA).

B. Policy

(1) Employees who have worked for the City for at least twelve (12) months and at least 1,250 hours during the prior twelve (12) months may take up to twelve (12) weeks of unpaid leave (FMLA leave) for the following reasons:

(a) Birth and/or care of a child of the employee;

(b) Placement of a child into the employee's family by adoption or by a foster care arrangement;

(c) Care of the employee's spouse, child or parent who has a serious health condition; or

(d) Inability of the employee to perform the functions of the employee's position due to a serious health condition.

(2) Employees who have worked for the City for 12 months but for less than 1,250 hours during the past year and are not eligible for Federal Family Medical Leave may be eligible for a 10-week Family Medical Leave under Maine law pursuant to the Maine Family Leave of Absence law as described in Sec. 34-34, and should follow the procedures set forth below to apply for a leave.

(3) The twelve (12)-month period during which the twelve weeks of FMLA leave may be taken is measured forward from the date an employee's first FMLA leave begins, and the next 12-month period would begin the first time FMLA leave is taken after completion of any previous 12-month period. For example, if an employee's first FMLA leave begins on June 1, 2006, the first twelve-month period would be from June 1, 2006 through May 31, 2007. Any subsequent twelve (12)-month period could commence anytime after May 31, 2007.

(4) The right to family leave for the birth and/or placement of a child into an employee's family may only be taken within the twelve (12) months after the date of the birth or placement of the child. In the case of unpaid leave for the birth or

placement of a child, intermittent leave or working a reduced number of hours is not permitted, unless both the employee and the City agree. If both parents are employed by the City the combined leave shall not exceed twelve (12) weeks.

- (5) For purposes of this policy, a serious health condition means an illness, injury, impairment or physical or mental condition that involves:
- (a) any period of incapacity or treatment in connection with or consequent to in-patient care in a hospital, hospice or residential medical care facility;
 - (b) any period of incapacity requiring absence from work or other regular daily activities for more than three (3) calendar days that also involves continuous treatment by or under the supervision of a healthcare provider; or
 - (c) continuous treatment by or under the supervision of a healthcare provider for a chronic long-term health condition that is incurable or so serious that if not treated would result in a period of incapacity of more than three (3) calendar days; or
 - (d) prenatal care.
- (6) In the case of unpaid leave for serious health conditions, the leave may be taken intermittently or on a reduced hours basis only if such leave is medically necessary. Where an employee requests intermittent leave or leave on a reduced hours basis due to a family member's or the employee's own serious health condition, the City has the option, in its sole discretion, to require the employee to transfer to a temporary alternative job for which the employee is qualified and which better accommodates the intermittent leave or reduced hours leave than the employee's regular job. The temporary position will have equivalent pay and benefits as the employee's regular job.
- (7) Employees are required to use their available vacation time during the twelve (12) week family leave period, and available sick time is required to be used when family leave is taken because of the employee's serious health condition or to care for a child, spouse or parent who has a serious health condition. The remainder of the leave will be unpaid leave.
- (8) When the necessity of leave is foreseeable due to the expected birth or placement of a child, the employee must provide the City at least thirty (30) days' notice of the employee's intention to take leave. If the date of birth or placement of a child requires the employee's leave to begin in less than thirty (30) days from the date of notice to the City, the employee must provide such notice as soon as practical. Where the necessity for leave is due to a family member's or an employee's own serious health condition and is foreseeable based on planned medical treatment, the employee must:

(a) give at least thirty (30) days' notice, or as soon as practical if treatment starts in less than thirty (30) days; and

(b) make a reasonable effort to schedule the treatment so as not to unduly disrupt the operation of the City, subject to the approval of the healthcare provider.

(9) Where the need for leave is unforeseeable, the employee must give notice as soon as practical. Any leave request based on a family member's or employee's own serious health condition must be supported by certification from a healthcare provider. The employee must provide a copy of the certification to the Personnel Officer in a timely manner. (Fifteen calendar days will be allowed to provide the certification.) Certification from the healthcare provider must contain:

(a) the date the serious health condition began;

(b) the possible duration of the condition;

(c) the appropriate medical facts regarding the condition;

(d) if the leave is based on the care of a spouse, child or parent, a statement that the employee is needed to provide the care and an estimate of the amount of time that need will continue;

(e) if the leave is based on the employee's own serious health condition, a statement that the employee is unable to perform the functions of his/her job; and

(f) in the case of intermittent leave or leave on a reduced hours basis for planned medical treatment, the date the treatment is expected to be given and the duration of the treatment.

(10) During family leaves of absence, the City will continue to pay its portion of the health insurance premiums and the employee must continue to pay his/her share of the premium. Failure of the employee to pay his/her share of the health insurance premium may result in loss of coverage. If the employee does not return to work after the expiration of the leave, the employee will be required to reimburse the City for payment of health insurance premiums during the family leave, unless the employee does not return because of the presence of a serious health condition which prevents the employee from performing his/her job or circumstances beyond the control of the employee.

(11) During unpaid leave, the employee shall not accrue employment benefits, such as vacation pay, sick pay, pension, etc. Employment benefits accrued by the employee up to the day on which the family leave of absence begins will not be lost.

(12) The City may require an employee on FMLA leave to report periodically on his/her status and the intention of the employee to return to work, and also periodic recertification of the medical condition. An employee taking leave due to the employee's serious health condition is required to obtain certification that the employee is able to resume work prior to the return from any FMLA leave.

(13) Employees who return to work from family leave of absence within or on the business day following the expiration of the twelve (12) weeks are entitled to return to their job or an equivalent position without loss of benefits or pay, unless (a) their employment with the City would have terminated if no leave had been taken; (b) they have given notice of their intent to terminate their employment; or (c) they cannot, with or without reasonable accommodations, safely perform the essential functions of the job to which they may be restored. Certain key employees may not enjoy these reinstatement rights.

C. Procedure

Applications for family leave of absence must be submitted to the Personnel Officer in writing and signed by the employee's immediate supervisor. Applications should be submitted at least thirty (30) days before the leave is to commence or as soon as possible if thirty (30) days notice is not possible. Appropriate forms must be submitted to the Personnel Officer to initiate a family leave and to return the employee to active status. All necessary forms are available from the Personnel Officer.

Each employee taking leave which meets the requirements for FMLA leave will be provided the "Response to Your Request for Leave" form.

§ 34-34 Maine Family Medical Leave

A. In accordance with the Maine Family Medical Leave Law, The City provides family leaves of absence without pay to eligible employees who wish to take time off from work duties to fulfill certain family obligations. Employees who have been employed by the City for at least one year are entitled to take up to 10 consecutive weeks of unpaid leave during any 2-year period for:

(1) their own serious health condition;

(2) the birth of their child;

(3) adoption of a child 16 years of age or younger); or

- (4) to care for the employee's child, spouse, or parent who has a serious health condition.
- B. A serious health condition means an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical care facility, or continuing treatment by a health care provider.
- C. Employees must make a request for family leave in writing to the Personnel Officer at least 30 days in advance of their intended leave, unless prevented by medical emergency. Certification from a physician, other health care provider, or accredited practitioner of the healing methods of a recognized church or religious denomination, must accompany the request for leave, to verify the need for the leave and the amount of leave time requested.
- D. If an employee is granted family leave, he/she may elect to use any accrued vacation time, and if the leave is taken because of the employee's serious health condition or the serious health condition of the employee's spouse, child or parent, the employee may utilize any accrued sick leave before taking unpaid leave. Employees will be allowed to continue fringe benefits, such as health insurance, on the same basis as before their leave. Vacation and sick leave do not accrue during unpaid leave.
- E. During leave, employees are expected to keep their supervisor informed of their status and intentions, and to submit additional medical certification if necessary. So that return to work can be properly scheduled and planned for, employees should provide their supervisor with at least two weeks advance notice of their intended return to work date. Upon expiration of leave, employee will be reinstated to the same position or an equivalent position unless:
- (1) they have given notice of their intent to terminate their employment;
 - (2) they fail to return to work on the agreed-upon return date;
 - (3) they are unable, with or without reasonable accommodation, to safely perform the essential functions of their job; or
 - (4) their position no longer exists for reasons unrelated to their taking of family leave.
- F. Additional information regarding family leave, as well as all necessary forms for requesting and certifying family leave, are available from the Personnel Officer.

§ 34-38. Retirement. [Amended 7-3-2000]

- A. All full-time employees are able to participate in the Maine State Retirement System or the City's own retirement programs; the Great West 457 Deferred Compensation

Program, the ICMA 457 Deferred Compensation Retirement Plan or the ICMA 401(a) Retirement Plan, as provided by state statute and State Retirement and/or adopted by the City Council. The City shall contribute to only one of the above at a level commensurate with union contracts and equal to 5% of the employee's gross wages ("gross wages" are defined by Internal Revenue Service Publication 525 as follows: "Gross wages is everything received in payment for services including wages, salaries, commissions, fees and other forms of compensation such as overtime, bonuses and fringe benefits."), with the exception of Maine State Retirement where the City shall contribute the applicable percentage established by the Maine State Retirement System on an annual basis. Employees are able to select from the following:

- (1) Maine State Retirement. ~~Effective July 1, 2000, current~~ Participants of Maine State Retirement and future new enrollees may ~~also~~ contribute to the 457 plans noted below but not to the 401(a) plan. However, no employer contributions are to be made to this additional retirement plan.
- (2) International City Manager's Association - Retirement Corporation (ICMA). ~~Beginning July 1, 2000, the City will offer to all its eligible full-time employees the~~ **All full-time eligible employees are offered** the option of participating in the 401(a) Qualified Retirement Plan with ICMA. If an employee chooses to participate in this plan, the City's contribution of 5% shall be contributed to this plan. The employee shall make a mandatory contribution of 5% of his/her gross wages.
- (3) Great West Deferred Compensation Plan. All full-time eligible employees are offered the option of participating in the 457 Deferred Compensation Plan with Great West. If an employee chooses to participate in said plan, the City shall contribute 5% of the employee's gross wages and the employee can also contribute an additional amount as allowed by federal regulation.
- (4) International City Manager's Association - Retirement Corporation (ICMA) 457 Plan. ~~Beginning July 1, 2000, the City will offer to all its eligible full-time employees~~ **All full-time eligible employees are offered** the option of participating in the 457 Retirement Plan. The employee has the option to have the City contribute its 5% of his/her gross wages and/or the employee can also contribute an additional amount as allowed by federal regulation.

**C. (Public Hearing) Liquor License Renewal/Special
Entertainment Permit: Howard Sports, Inc.**

Saco Dayton, Inc. d/b/a Howard Sports, Inc. has applied for their Liquor License and Special Entertainment Permit to be renewed for a term of one year.

The applicant has paid all applicable permit fees and the clerk has properly advertised the public hearing in accordance with M.R.S.A., Title 28-A, Subsection 653 and in accordance with Saco City Code, Chapter 93, Entertainment sub-section 93-2.

Councilor Tripp moved, Councilor Smith seconded, to open the Public Hearing on the renewal of Howard Sports, Inc. Liquor License and Special Entertainment Permit. The motion passed with seven (7) yeas.

There being no comments from the public Councilor Tripp moved, Councilor Smith seconded, to close the Public Hearing and Be it Ordered that the City Council grant the renewal of Howard Sports, Inc. Liquor License and Special Entertainment permit for a term of one year. Further move to approve the Order. The motion passed with seven (7) yeas.

VII. CONSENT AGENDA:

A. (First Reading) Code Amendment Wastewater Service Connection

The City of Saco hereby approves the First Reading of the document entitled, ‘**Code Amendment: § 176-27. Use of Old Building Sewers and § 176-30a. Repairs within the City Right of Way, dated February 20, 2007**’, and sets the Public Hearing for May 21, 2007.

Code Amendment: § 176-27. Use of Old Building Sewers and § 176-30a. Repairs within the City Right of Way, dated February 20, 2007

(Strikethrough represents wording to be deleted, while underline represents new language)

ARTICLE V Building Sewers and Connections

§ 176-27. Use of old building sewers.

Old building sewers ~~shall not may~~ be used in connection with new buildings only when they are found on examination and test by the Superintendent to meet all requirements of this article.

§ 176-28. Construction standards.

The size, slope, alignment and materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, joining, testing and regulations of the City. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society for Testing and Materials (ASTM) and Water Pollution Control Federation (WPCF) Manual of Practice No. 9 shall apply.

§ 176-29. Use of gravity flow.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

§ 176-30. Prohibited connections.

No person shall make connections of roof downspouts, exterior foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

connected directly or indirectly to a public sanitary sewer.

§ 176-30a. Repairs within the City Right of Way

The City shall assume responsibility for the repair and/or replacement of the failed residential house connections within the City Right of Way provided that the failure was not a result of negligence on the part of the owner, owner's agent, or tenant. The City shall not be responsible for private pressure sewers (forcemains) residing within the right-of-way or for negligent use of the sewer system. The cost of initial installation shall be borne by the resident as provided in § 176-25.

B. (First Reading) Zoning Ordinance Amendment - Compensation Fee Utilization Plan: Stormwater

Be it Ordered that the City Council accept the document titled, 'City of Saco, Stormwater Compensation Fee Utilization Plan For Goosefare Brook Urban Impaired Watershed – Dated February 20, 2007', and further that The City of Saco approve the First Reading of the document titled, 'Amendment to Zoning Ordinance Article 11, Section 1102.10, Stormwater Permits, dated February 20, 2007', and move to schedule a Public Hearing for March 19, 2007.

Amendment to Zoning Ordinance Article 11, Section 1102.10, Stormwater Permits, dated February 20, 2007

The underlined passage is proposed as new language for addition to the existing.

Section 1102. Applicability

10. Site Developments requiring stormwater permits pursuant to Title 38 MRSA Section 420-D shall, to the extent permitted under 38 MRSA Section 489-A, be reviewed under the procedures of Article XI of this Ordinance; and, they shall meet and comply with those Rules promulgated by the Bureau of Environmental Protection pursuant to Section 420-D, specifically Rules 500 and 502, adopted September 22, 2005, said Rules taking effect November 16, 2005, as enacted

by by Legislative Resolve, Chapter 87, Public Laws of 2005 (LD 625/HP 458)
Site developments in the Goosefare Brook Urban Impaired Watershed subject to a
Site Location of Development permit may be eligible to pay a compensation fee
utilizing the City of Saco Stormwater Compensation Fee Utilization Plan, as
referenced in Chapter 500, Sections 4.C(2) and 6. (Amended 3/20/06)

City of Saco

Stormwater Compensation Fee Utilization Plan

For

Goosefare Brook Urban Impaired Watershed – Dated February 20, 2007

The Saco Compensation Fee Utilization Plan (CFUP) is intended to:

- Specify how funds received as a compensation fee payment will be allocated to reduce the impact of stormwater pollution to Goosefare Brook, classified by the Maine DEP as an Urban Impaired Stream.
- Identify actions that can be taken to reduce the degradation of water quality in the Goosefare Brook watershed.
- Identify specific sites for which compensation work is proposed, including a list of Best Management Practices (BMPs) to be installed or constructed with a cost estimate for each.
- Plan for how BMPs will be maintained, including the parties responsible for maintenance.

Limits of Area: Figure 1 shows the boundaries of the Goosefare Brook watershed that is subject to the Urban Impaired Stream Standard and the locations of proposed compensation sites.

Proposed BMPs

The ‘Maine Stormwater Best Management Practices Manual’ will be the source of recommended strategies for addressing each proposed compensation site. Costs will be determined as BMPs best suited to address conditions at individual sites are identified.

Maintenance Plan for BMPs

It is anticipated that a variety of BMPs would be implemented in response to differing conditions at the compensation sites, including but not limited to detention basins, wet ponds, vegetated buffers, and infiltration and filtration BMPs. Standard considerations given to each BMP that is installed would include, 1) sediment removal schedule, 2) design that will result in visibly apparent maintenance needs, 3) permanent maintenance easements where needed, and, 4) an operation and maintenance plan. The ‘Maine Stormwater Best Management Practices Manual’ will be the source of recommended strategies for long-term maintenance at each compensation site.

Calculation of Compensation Fees

Compensation fee amounts will be determined in consultation with staff members of the Maine DEP based on fees and mitigation credit found in Ch. 500, Subsection 6.

Compensation fees and mitigation credit. Any new development or redevelopment project in the Goosefare Brook watershed that is subject to Chapter 500 regulations, including those projects subject to Site Location of Development review, is subject to either City review per the authority delegated by the Maine DEP, or subject to Maine DEP review. If it is determined that water quality will be adversely impacted, the number of mitigation credits or amount of compensation fee will be determined based on Subsection 6. The developer may then decide on either off-site mitigation or the payment of the compensation fee.

Process for Receiving Compensation Fees

Developers that elect to pay a compensation fee as set forth herein and in Chapter 500: Stormwater Management shall notify the Saco Department of Public Works and Planning Office in writing. A check to the City of Saco shall be submitted to the Planning Office at City Hall. Upon receipt of a compensation fee, the City will provide the developer with a receipt confirming payment. The developer must then submit this receipt to the DEP before he/she may receive a permit for the proposed project.

The City will deposit CFUP funds to a dedicated account. The account and any interest earned shall be used only for implementation of projects identified by this CFUP.

Proposed Compensation Sites

- The City-owned parcel at 58 Industrial Park Road (Tax Map 70, Lot 11) is used primarily for short-term parking and storage. The majority of the 3.1 acre parcel is paved. Stormwater sheetflows to the edges of the parcel. There are no functioning provisions for stormwater treatment. Proposal would be to:
 - a. identify on and off site improvement measures and their respective estimated improvement costs.
 - b. design and retrofit the parcel with measures that may include but are not limited to: installation of subgrade material, underdrains, sand filter layer, and porous pavement.
- Existing detention ponds within the Industrial Park Road right of way are likely non-functioning. Ponds are in the vicinity of the City-owned parcel identified in the previous item. Proposal would be to:
 - a. identify on and off site improvement measures and their respective estimated improvement costs.
 - b. utilize best management practices such as channel protection, measures that would assist with temperature control, and/or improved filtering of stormwater.
- Bear Brook watershed: a subwatershed to the Goosefare Brook watershed, Bear Brook lies east of Main Street, running from a point just north of King Street in an

easterly direction for roughly one mile to its confluence with the Goosefare (fig. 3). Proposal would be to:

- a. identify on and off site improvement measures and their respective estimated improvement costs. This will necessitate contact with property owners, identification of stormwater discharges and/or riparian encroachment to the Bear Brook channel, and the design of effective mitigation measures.
- b. utilize best management practices such as channel protection, measures that would assist with temperature control, and/or improved filtering of stormwater.

C. Application to Operate a Game of Chance: BPOE #1597

Be it Ordered that the City Council grant the application for a License to Operate a Game of Chance: Sealed Tickets, from April 1, 2007 to April 1, 2008, as submitted by BPOE #1597.

Councilor Tardif moved, Councilor Morton seconded, to approve the Consent Agenda. Further move to approve the order. The motion passed with seven (7) yeas.

VIII. 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) (F) move to enter into Executive Session to discuss:

- A. Poverty Property Tax Abatement
- B.

The motion passed with seven (7) yeas. TIME: 7:09 p.m.

Report from Executive Session:

Councilor Tardif moved, Councilor Morton seconded, to come out of executive session. The motion passed with yeas. TIME: 7:54 p.m.

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

Tax Abatement for Reasons of Poverty and Infirmity

CITY OF SACO

Notice of Decision

At a meeting held on March 5, 2007, the City of Saco Council Members met to consider your application for a poverty tax abatement of the Sept 05 & March 06 and Sept 06 & March 07 taxes assessed on your property which you own. After reviewing the information that you provided, the Council made the following findings and conclusions.

FINDINGS: Based on current income and assets the applicant has demonstrated lack of capacity to pay outstanding taxes, interest and fees.

CONCLUSIONS: The applicant does not have adequate income or assets to pay the taxes.

DECISION: Move to grant an abatement in the amount of \$1,798.75 + Interest and Fees, and \$941.49 + Interest and Fees pursuant to Title 36, M.R.S.A. §841(2). By the agreement of both parties, this is subject to the condition that if the property is sold within the next 2 years, the taxes, interest and fees would be repaid.

APPEAL: If you are dissatisfied with this decision, you have a right to appeal the decision to the City's Board of Assessment Review within 60 days of receiving this decision. If you fail to appeal, the decision of the Council is final.

IX. ADJOURNMENT

Councilor Tardif moved, Councilor Michaud seconded, to adjourn. The motion passed with yeas. TIME: 7:56 p.m.

ATTEST: _____
Lucette S. Pellerin, City Clerk

ansfer their license, such act shall result in immediate termination of the license. Any
saleay.

§ 219-9. Displan