The following are minutes of the April 7, 2008 City Council Meeting.

I. CALL TO ORDER – On Monday, April 07, 2008, at 7:00 p.m. a Council Meeting was held in the City Hall Auditorium.

II. ROLL CALL OF MEMBERS – Mayor Roland Michaud conducted a roll call of the members and determined that the Councilors present constituted a quorum.

Councilors present: Margaret Mills, Leslie Smith, Jr., Ronald Morton, Sandra Bastille, Arthur Tardif, Eric Cote and Marston Lovell.

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

III. PLEDGE OF ALLEGIANCE

IV. GENERAL - Proclamation:

CITY OF SACO PROCLAMATION:
National Telecommunicators’ Week
April 13-19, 2008

WHEREAS: Emergencies can occur at anytime that require police, fire or emergency medical services; and when an emergency occurs, the prompt response of police officers, firefighters and paramedics is critical to the protection of life and preservation of property; and

WHEREAS: The safety of our police officers and firefighters is dependent upon the quality and accuracy of information obtained from citizens who telephone the Saco public safety communications center; and

WHEREAS: Public Safety Dispatchers are the first and most critical contact our citizens have with emergency services; and

WHEREAS: Public Safety Dispatchers are the single vital link for our police officers and firefighters by monitoring their activities by radio, providing them information and insuring their safety; and

WHEREAS: Public Safety Dispatchers of the Saco Police Department have contributed substantially to the apprehension of criminals, suppression of fires and treatment of patients;
WHEREAS: Each dispatcher has exhibited compassion, understanding and professionalism during the performance of their job in the past year;

NOW, THEREFORE, I, Roland Michaud, Mayor of the City of Saco, on behalf of the City Council, do hereby proclaim April 13-19, 2008, as National Telecommunicators’ Week in Saco, in honor of the men and women whose diligence and professionalism keep our city and citizens safe.

Signed this 7th Day of April, 2008

____________________________________  __________________________________
City Councilor – Ward One                City Councilor – Ward Two

____________________________________  __________________________________
City Councilor – Ward Three              City Councilor – Ward Four

____________________________________  __________________________________
City Councilor – Ward Five               City Councilor – Ward Six

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City Councilor – Ward Seven              Mayor Roland Michaud
HEREAS: Paul Andrew Mayewski, Ph.D. is an explorer, scientist, professor and director of the Climate Change Institute at the University of Maine; and
HEREAS: the University of Maine and its faculty have long been recognized for civic leadership; and
HEREAS: Dr. Mayewski has organized and participated in over 35 Antarctic expeditions; and
HEREAS: by gathering and analyzing ice cores as long as 200 feet Dr. Mayewski is assembling critical evidence of the history of climate change in the Antarctic region; and
HEREAS: Dr. Mayewski is the author of many academic papers and a more general book about climate change entitled “The Ice Chronicles”; and
HEREAS: sustainable development, alternative energy use, and protecting against climate change are important to preserve the environment of the State of Maine and the City of Saco; and
HEREAS: The City of Saco has begun a program of alternative energy use and green development and recognizes its value;

NOW, THEREFORE, BE IT RESOLVED, that I, Roland Michaud, Mayor of Saco, and the City Council, in recognition of the groundbreaking achievements of Dr. Paul Andrew Mayewski in the field of climate change and Antarctic exploration, hereby welcome Dr. Mayewski as an Earth Day speaker in Saco on April 22, 2008, and thank him for his ongoing efforts to address Climate Change.

Signed this 7th day of April, 2008

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Councilor – Ward One

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Councilor – Ward Two

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Councilor – Ward Three

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Councilor – Ward Four

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Councilor – Ward Five

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Councilor – Ward Six

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Councilor – Ward Seven

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Mayor Roland Michaud
WHEREAS: the Health and well-being of children is our responsibility; and
WHEREAS: the safety of our children is a significant concern for parents, community leaders, and health care givers; and
WHEREAS: the environmental welfare is of universal concern and deserves the utmost attention; and
WHEREAS: started in childhood, proper health, safety, and environmental habits can be maintained for a lifetime, producing a valued member of society, and enhancing our community; and

NOW, THEREFORE, I, Roland Michaud, Mayor of the City of Saco, on behalf of the City Council, do hereby proclaim May 17, 2008, as “Kids Day America/International” in Saco and urge that this day be dedicated to the efforts of Doctors of Chiropractic in helping educate all citizens on the importance of health, safety, and environmental issues affecting our community.

Signed this 7th Day of April, 2008

City Councilor – Ward One
City Councilor – Ward Two
City Councilor – Ward Three
City Councilor – Ward Four
City Councilor – Ward Five
City Councilor – Ward Six
City Councilor – Ward Seven
Mayor Roland Michaud

Building Safety Week
V. APPROVAL OF MINUTES

Minutes were not presented this evening.

VI. Agenda Items:

A. Liquor License Renewal – Howard Sports

Saco Dayton, Inc. d/b/a Howard Sports, Inc. had applied to renew their Special Entertainment Permit for a term of one year. On February 21, 2006 a permit was granted with the stipulation that the authorities be the same as those authorized in 2005.

Upon review of previous approval of Howard’s Sport Entertainment Permits the following restriction had been imposed:

- **July 3, 2000** – A non-binding voted taken June 19, 2000 – Council asks for load, size, which on the second floor Lounge would be allowed 70 person during the times of live entertainment and 100 persons at all other times, and this Special Entertainment permit would be concurrent with his liquor license. The motion passed with four (4) yeas and three (3) nays. Councilors Smith, Michaud and Cote voted in the negative.

- **February 18, 2003** - 1) Limiting the period to 6 p.m. – 1 a.m., 2) Limited entertainment permitting to the mezzanine and lounge area, and 3) Restricted to no live shows without a Special Permit. Said amended motion passed with seven (7) yeas.

- **May 5, 2003** - Special Permit For Off Premises Permit – Howard Sports, Inc. – Curit Fund Raiser - Grant a Special Permit for Catering Privileges Off Premises to Howard Sports, Inc., for May 17, 2003 from 6:00 p.m. to 1:00 a.m. May 18, 2003 and amend the Liquor License granted on February 3, 2003.

On March 3, 2008, Councilor Mills moved to close the Public Hearing and Be it Ordered that the City Council does not grant the renewal of Howard Sports, Inc. Liquor License and Special Entertainment permit for a term of one year. There was no second. Motion failed.

Tabled - Councilor Cote moved, Councilor Smith seconded to move to table the application with the agreement of the applicant to the beginning of April with the understanding that between now and April the applicant and the City Staff or Planning Board involve whichever is appropriate to meet with the applicant and address the issues that have been raised this evening. The motion passed with five (5) yeas, and one (1) nay – Councilor Mills.

For the record, Mr. Lenny Holmes agreed to the tabling action.

The Planning Board reviewed and discussed the “Howard Arena” at the March 18, 2008 meeting. At that meeting the Planning Board agreed “that the 19999 approval was limited, and that the use sought by Mr. Howard – enclosed sports arena, a permitted use in the I-2 zone –
has not been approved by the Board. Mr. Holmes was agreeable to addressing the situation as follows:

- Completion of a traffic impact analysis. Mr. Holmes has agreed to this, and there has been communication between him, Gorrill-Palmer Engineers and myself.
- Submit a list of uses exiting or proposed in the Arena, with floor area occupied by each. This will allow determination of parking space needs. If off-site parking is proposed for certain events, details will be submitted. The 2002 parking lot expansion is incomplete: bituminous pavement has not been installed; striping of spaces, lighting and landscaping are not done. The applicant should submit a proposal as to how this will be completed, and/or request a waiver that could be considered by the Board.
- The 1999 plan called for extensive landscaping of the property, the majority of which has not been completed. The Board will consider this as well.

Councilor Mills moved, Councilor Smith seconded, to remove from being tabled, the item Liquor License and Special Entertainment Permit renewal for Howard Sports, Inc. The motion passed with seven (7) yeas.

Mr. Lenny Holmes stated that 13 deficiencies had been satisfied. Pertaining to the electrical deficiencies needing attention, Mr. Holmes stated, that seventy-five (75%) of the work had been completed and that the remainder of the work would be completed within the week.

Councilor Mills moved, Councilor Smith seconded, to close the Public Hearing. The motion passed with seven (7) yeas.

MAIN MOTION AS AMENDED: Councilor Mills moved, Councilor Tardif seconded, that it be Ordered that the City Council grant the renewal of Howard Sports, Inc. Liquor License and Special Entertainment permit for a term of six months with the following stipulations: 1) Limiting the period to 6 p.m. – 1 a.m., 2) Limited entertainment permitting to the mezzanine and lounge area, and 3) Restricted to no live shows without a Special Permit. Further move to approve the Order. The motion as amended passed with five (5) yeas and two (2) nays. Councilors Tardif and Smith voted in the negative.

Councilor Lovell moved, to table the action for further discussion. The motion failed due to a lack of second.

AMENDMENT: Councilor Mills moved, to permit the liquor license on May 7, 2008. The motion failed due to a lack of second.

AMENDMENT: Councilor Bastille moved, Councilor Cote seconded, to grant the license for six (6) months with restrictions. The motion passed with five (5) yeas and two (2) nays. Councilors Tardif and Smith voted in the negative.

§1054. Special permit for music, dancing or entertainment

1. Activities and entertainment prohibited. Without the permit described in subsection 2, no licensee for sale of liquor to be consumed on the premises may allow on the premises the following:
   A. Any music, except radio or other mechanical device; [1987, c. 45, Pt. A, §4 (NEW).]
   B. Any dancing; or [1987, c. 45, Pt. A, §4 (NEW).]
   [1987, c. 45, Pt. A, §4 (NEW).]

2. Special amusement permit required. If a licensee for sale of liquor to be consumed on the premises provides activities or entertainment listed in subsection 1, the licensee must first obtain a special amusement permit from the municipality in which the licensed premises are located.
   [1987, c. 45, Pt. A, §4 (NEW).]

3. Term of permit. A permit is valid only for the license year of the existing license.
   [1987, c. 45, Pt. A, §4 (NEW).]

4. Public hearing on permit application. Before granting a permit and after reasonable notice to the municipality and the applicant, the municipal officers shall hold a public hearing at which the municipal officers shall take testimony of the applicant and any interested members of the public.
   [1987, c. 45, Pt. A, §4 (NEW).]

5. Permit requirements. The municipal officers shall grant a permit unless they find that issuance of the permit would be detrimental to the public health, safety or welfare, or would violate municipal ordinances or rules and regulations.
   [1987, c. 45, Pt. A, §4 (NEW).]

6. Issuance or denial of permit. Within 15 days of receiving the permit application, the municipal officers shall give the applicant written notice of their decision.
   A. If the municipal officers deny a licensee a permit, they shall provide the licensee with the reasons for the denial in writing. [1987, c. 45, Pt. A, §4 (NEW).]
   B. The licensee may not reapply for a permit within 30 days after denial of an application for a permit.
   [1987, c. 45, Pt. A, §4 (NEW).]
   [1987, c. 45, Pt. A, §4 (NEW).]

7. Municipal suspension or revocation of a permit. After a public hearing preceded by notice to interested parties, the municipal officers may suspend or revoke any permits which they have issued under this section on the grounds that the music, dancing or entertainment permitted constitutes a detriment to the public health, safety or welfare, or violates municipal ordinances or regulations.
   [1987, c. 45, Pt. A, §4 (NEW).]

8. Appeal procedure. Any licensee who has applied for a permit and has been denied, or whose permit has been revoked or suspended, may appeal the decision to the municipal board of appeals, as defined in Title 30-A, section 2691, within 30 days of the denial, suspension or revocation. The municipal board of appeals, if the municipality has such a board, may grant or reinstate the permit if it finds that:
   A. The permitted activities would not constitute a detriment to the public health, safety or welfare, or violate municipal ordinances or regulations; or [1987, c. 45, Pt. A, §4 (NEW).]
   B. The denial, revocation or suspension was arbitrary and capricious. [1987, c. 45, Pt. A, §4 (NEW).]
   [1991, c. 377, §16 (AMD).]
9. Admission. A licensee who has been issued an amusement permit may charge admission in designated areas approved by the special amusement permit. 
[1987, c. 342, §80 (AMD).]

10. Definition of entertainment. For the purposes of this section, "entertainment" includes any amusement, performance, exhibition or diversion for patrons or customers of the licensed premises, whether provided by professional entertainers or by full-time or part-time employees of the licensee whose incidental duties include activities with an entertainment value. 
[1987, c. 45, Pt. A, §4 (NEW).]

11. Municipal ordinances or regulations. A municipality shall adopt ordinances or authorize the municipal officers to establish written regulations governing the following aspects of the permits.

A. These ordinances or regulations shall govern:
1) The issuance, suspension and revocation of these permits;
2) The classes of permits and fees for the issuance of these permits;
3) The music, dancing or entertainment permitted under each class; and
4) Other limitations on these activities required to protect the public health, safety and welfare. [1987, c. 45, Pt. A, §4 (NEW).]

B. These ordinances or regulations may specifically determine:
1) The location and size of premises to which the permits may apply;
2) The facilities that may be required for the permitted activities on those premises;
3) The hours during which the permitted activities may take place; and
4) The lighting level required, which may be lowered when the entertainment is provided. [1987, c. 342, §81 (AMD).]

12. Unincorporated place. If a licensed premise is located in an unincorporated place, the county commissioners of the county in which the unincorporated place is located shall grant, suspend or revoke permits in the same manner and with the same authority as municipal officers. The county commissioners shall adopt regulations in the same manner as municipal officers. 
[1987, c. 45, Pt. A, §4 (NEW).]

SECTION HISTORY

The Revisor's Office cannot provide legal advice or interpretation of Maine law to the public. If you need legal advice, please consult a qualified attorney.
Office of the Revisor of Statutes
7 State House Station
State House Room 108
Augusta, Maine 04333-0007

B. (Public Hearing) New Liquor License – Run of the Mill Brewery

Island Brewing, LLC d/b/a The Run of the Mill Public House & Brewery has applied for a new Liquor License/Special Entertainment Permit 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, and Entertainment sub-section 93-2.
Councilor Lovell I moved, Councilor Smith seconded, to open the public hearing on the new liquor license/special entertainment permit application for ‘The Run of the Mill Public House & Brewery”’. The motion passed with seven (7) yeas.

Councilor Lovell moved, Councilor Bastille seconded, to close the public hearing and Be it Ordered that the City Council grant The Run of the Mill Public House & Brewery a Liquor License and Special Entertainment permit for the period of one year; said permit to be granted upon issuance of an Occupancy Permit by the Building Inspector. Further move to approve the Order. The motion passed with seven (7) yeas.

**C. (Public Hearing) Code Amendment Chapter 118 Harbor & Waterfront – Abandoned Moorings**

The Coastal Water Commission is proposing new language to provide a process for dealing with abandoned moorings, which will provide written notice to abandoned mooring owners.

The Council discussed this item at Workshop on March 17, 2008. The First Reading of this item was held on March 31, 2008.

Councilor Bastille moved, Councilor Mills seconded, to open the Public Hearing on the document titled, ‘Code Amendment Chapter 118: Harbor and Waterfront §118-6 C (2) (d) and §118-6C (8) – dated March 17, 2008”. The motion passed with seven (7) yeas.

Councilor Bastille moved, Councilor Smith seconded, to close the Public Hearing on the Code Amendment to Chapter 118: Harbor and Waterfront §118-6 C(2)(d) and §118-6C(8), and Be it Ordered that the City Council set the Second and Final Reading for April 28, 2008. Further move to approve the order. The motion passed with seven (7) yeas.

Code Amendment Chapter 118: Harbor and Waterfront §118-6 C (2) (d) and §118-6 C (8) - dated March 17, 2008

(Please note that underline represents new language while strikethrough represents language to be deleted)

§ 118-6. Harbor Master; Duties.

**C. Moorings**

(2) Application for Mooring permits.

(a) Applications for mooring permits for any one-year period must be filed with the City Clerk by March 15 of the current year, on forms prescribed by the Saco Coastal Waters Commission.
(b) Mooring permits shall specify the name, address and telephone number of the owner; whether the mooring has been inspected and when, and the name, draft, size, year built, horsepower and kind of the vessel to be moored.

(c) Permits shall be good for one year (March 15 to March 15).

(d) Moorings that are not used for any consecutive three-month period between May 1 and September 30 shall be presumed to be abandoned and be removed at the owner's expense, and the location shall be reallocated. Upon determination of a mooring being abandoned, the Harbormaster will provide written notice to the mooring permit holder of such abandonment and the proper appeals process through the Commission. The mooring permit holder will have 45 days from receipt of the letter to file an appeal & will have that same 45 days to remove their mooring without incurring a fee. Moorings deemed abandoned and not removed or appealed within 45 days, will be considered the property of the City of Saco.

(e) The annual application fee for the waiting list shall be established by the City Council after a public hearing. [Amended 4-7-2003]

C. Moorings:

(8) Removal. A mooring shall be removed after September 30, unless it is still in use by its owner. If not removed by its owner, the Harbor Master shall see to its removal at the expense of the mooring owner. The mooring and ground tackle shall not be returned to its owner until such bill is paid.

A. (Public Hearing) Contract Zone Amendment First Atlantic

A Contract Zone was approved by the Council on 10/21/02 at the request of First Atlantic Healthcare (FAHC) for a 26-acre tract off Ferry Road. FAHC proposed and has constructed a significant portion of a 224 unit/bed “continuing care retirement community.” FAHC now plans to finance the assisted/congregate care facility with the federal Department of Housing and Urban Development. Federal regulations require that HUD financing be secured by only the parcel of land upon which construction occurs. This necessitates separating a fourth parcel from the existing three lots. While the fourth lot is required to satisfy HUD regulations, the applicant proposes to site and develop structures as though this were a single lot.

The Planning Board is reviewing the proposed amendments to site plan and subdivision plans at its March 18 meeting.

_Councilor Bastille moved, Councilor Smith seconded, to open the Public Hearing on the document titled, ‘Contract Zone Agreement By and Between First Atlantic Healthcare and the City of Saco, Amended April ____, 2008”’. The motion passed with seven (7) yeas._
Councilor Bastille moved, Councilor Smith seconded, to close the Public Hearing and Be it Ordered that the City Council set the Second and Final Reading for April 28, 2008. Further move to approve the Order. The motion passed with seven (7) yeas.

Contract Zone Agreement By and Between
First Atlantic Healthcare and the City of Saco

October 21, 2002

Amended April 21, 2003

Amended January 22, 2007
Amended April ___, 2008

(Please not new language is underlined, while strikethrough represents language to be deleted).
Contract Zone Agreement By and Between  
First Atlantic Healthcare and the City of Saco  

October 21, 2002  
April 21, 2003  
Amended January 22, 2007  
Amended April __, 2008

THE CITY OF SACO HEREBY ORDAINS:

That the zoning ordinance of the City of Saco, dated January 2, 1985 and amended through May, 2002, is hereby amended by adopting the proposed contract zone as further described in the following contract by and between the City of Saco and First Atlantic Healthcare.

1. First Atlantic Healthcare (FAHC) is the assumed name of First Atlantic Corporation, is a Maine-owned and operated health care management firm based in Portland, Maine. It has operated in the health care industry since 1963, today owning or operating nineteen facilities in the state of Maine.

2. FAHC received approval from the City Council for this contract zone on October 21, 2002. FAHC subsequently sought approval for an amendment to the contract zone agreement, which was approved by the City Council on April 21, 2003. FAHC once again sought approval for an amendment to the contract zone agreement, which was approved as a minor change on January 22, 2007. FAHC now seeks approval for an amendment to the contract zone agreement, namely to change the existing three lots to four. The fourth parcel is proposed as the site of the assisted living or congregate care facility, for which financing rules require that the loan be secured by the parcel of land upon which construction occurs and the building is located, hence the proposed fourth lot.

32. FAHC obtained approval for a two-sentence (26) acre parcel with frontage on Ferry Road. Phase One of the project would be a one hundred five (105) bed nursing health care facility. Phase One has been completed and is owned by Ferry Road Associates I, LLC (“Ferry Road I”). Ferry Road I, a Maine limited liability company, is owned by the same principals that own First Atlantic Healthcare, and is managed by First Atlantic Healthcare. Phase Two would be an assisted or congregate care facility with eighty (80) units. Phase Two would be owned and developed by Ferry Road Associates IV, LLC (“Ferry Road IV”). Ferry Road IV, a Maine limited liability
company, is owned by the same principals that own First Atlantic Healthcare, and is managed by First Atlantic Healthcare. Phases One and Two could occur in one or two buildings, either joined or separate. Phase Three would be a total of forty-six (46) individual cottage-style residential units, forty (40) unit-townhouse (22) individual cottage-style residences, twenty (20) of which are proposed as twenty (20) duplexes, and two six (6) of which are proposed as single-unit residences.

4. Said the parcels is are identified as a portion of Tax Map 22, Lot 40, and Tax Map 23, Lot 22 on the City of Saco tax maps.

45. At the time of application for a this contract zone, said parcel was owned by the Biddeford and Saco Country Club. The twenty-six (26) acre portion for which a contract zone is sought is subject to an "Option/Purchase and Sale Agreement" dated January 11, 2002 between the Country Club and First Atlantic Healthcare, Inc. Said agreement is presented as evidence of right, title or interest in the property. A portion of said parcel was conveyed by the Biddeford and Saco Country Club to Ferry Road Associates I, LLC on December 12, 2003, as evidenced by a quitclaim deed without covenant recorded in Book 13787, Page 25, at the York County Registry of Deeds. The other portion of said parcel was conveyed by the Biddeford and Saco Country Club to Ferry Road Associates II, LLC on December 12, 2003, as evidenced by a quitclaim deed without covenant recorded in Book 13787, Page 17, at the York County Registry of Deeds. By deed dated February 28, 2005 but notarized on November 22, 2005, Ferry Road Associates II, LLC conveyed its parcel to Ferry Road Associates III, LLC, as evidenced by a warranty deed recorded in Book 14688, Page 492, at the York County Registry of Deeds. The deeds to Ferry Road Associates I, LLC and Ferry Road Associates III, LLC are presented as evidence of right, title and interest in the property.

This contract amends the Saco Zoning Ordinance as follows:

FAHC, on behalf of itself and its future affiliates to which parcels of real estate have and may later be conveyed or operated ("FAHC"), seeks the right to develop a "Continuing Care Retirement Community" on the above referenced parcel. The City's Zoning Officer has found that such a use shall be defined as Elderly Congregate Housing (ECH), a defined term in the Saco Zoning Ordinance. An ECH is not an allowed use in the R-1a district. FAHC has reviewed the requirements for a Contract Zone found in Section 1403 of the Zoning Ordinance, and submitted an application accordingly, requesting that the above referenced parcel be reviewed and approved by the City of Saco as a Contract Zone, thereby allowing the proposed use to be developed.
This Contract is subject to the following conditions and restrictions, as provided for in Section 1403 of the Saco Zoning Ordinance:

1. The subject parcel is in the R-la zoning district. This Contract shall modify the uses allowed in the R-la district to include "Continuing Care Retirement Community" for the subject parcel only.

2. The applicant proposes various financing sources for separate phases of this project. In order to obtain federal Department of Housing and Urban Development financing for the nursing care building and for the assisted/congregate care building, the debt must be secured by separating those portions of the overall parcel from the remainder of the parcel and single purpose entities, to be affiliated with FAHC, must be formed to serve as borrower. Accordingly, the subject parcel is proposed to be split into three four parcels. This Contract shall modify minimum lot and yard requirements for the subject parcel(s) as follows:

   * Interior lot line setbacks shall be reduced to zero, thereby allowing buildings and parking facilities to be constructed with no side or rear yard setback requirements. Setback requirements for the perimeter of the parcel as it exists on March 10, 2003 shall be consistent with Zoning Ordinance standards for the R-la district.

   * Existing street frontage for the parcel upon which the nursing home facility is constructed is one hundred forty seven and nine-eighths feet (147.9). This is deemed adequate frontage for the project as a whole, recognizing that for financing purposes the portion of the lot containing the congregate care facility and the cottages, front and rear, will be split from the nursing home portion of the parcel, resulting in four lots: Map 22, Lot 40 - cottages; Map 22, Lot 40-1 - nursing facility; Map 22, Lot 40-3 - assisted living/congregate care; and Map 23, Lot 22 - cottages.

   * Minimum street frontage required for the parcel upon which the assisted/congregate care building will be constructed shall be reduced to zero (0) feet.

   * The maximum height of buildings on the subject parcel shall not exceed forty (40) feet.

The Applicant shall adhere to all other applicable provisions of the R-la zoning district and of the City of Saco Zoning Ordinance and Subdivision Regulations.

3. All details as shown on the submitted plans, as well as any plans amended in accordance with this Contract Zoning Agreement later amended plans, are hereby
incorporated into this contract by reference. The site shall be developed substantially in conformance with those plans. Minor changes may be approved by the staff of the City of Saco. Any changes determined by the staff to be "major" shall be submitted to the Planning Board for review. If it is determined that the changes constitute a change in the contract, then the developer shall also be required to obtain City Council approval of the changes.

4. These amendments affect only the parcel of land identified as Tax Map 22, Lot 40, Map 22, Lot 40-1, Map 22, Lot 40-3; and Map 23, Lot 22 on City of Saco tax maps.

5. This contract and its provisions shall specifically and exclusively apply to the contract zone request submitted by FAHC. Approval of this contract zone is in part based on the technical qualifications of FAHC as submitted to the City. Accordingly, this contract and the contract zone it creates shall not be transferable prior to issuance of a Certificate of Occupancy for the development as proposed by FAHC, without the consent of the City Council, which consent shall not unreasonably be withheld. The City Council hereby consents to conveyance of (a) a portion of the real estate to Ferry Road I; (b) a portion of the real estate to Ferry Road II and then to Ferry Road III; and (c) a portion of the real estate of Ferry Road I and Ferry Road III to Ferry Road IV as the proposed new fourth lot.

6. Site plan, preliminary and final subdivision approval, and Site Location of Development approval were granted by the Planning Board on August 19, 2003 and August 26, 2003. Failure of FAHC to secure site plan and subdivision approval from the Planning Board, and any and all other permits or approvals that may be required by the City or other regulatory agencies including but not limited to the Maine Department of Environmental Protection and/or Department of Transportation within one year of the approval of this Contract Zone 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 FAHC, this one year deadline may be extended by one year upon written request submitted by the City Council submitted by FAHC.

7. Substantial construction of utilities, roadways and the nursing home facility was initiated within two (2) years of the initial October 21, 2002 approval. Failure of FAHC and its contractors to initiate substantial construction of the proposed ECH that is the subject of this Contract Zone within two (2) years from the date of approval of this Contract Zone shall render this Contract null and void. In the event that permits or approvals are delayed due to circumstances beyond the control of FAHC, this two year deadline may be extended by one year upon written request submitted by FAHC.

8. Breach of these conditions and restrictions by FAHC shall constitute a breach of the contract. Should FAHC seek to modify these conditions or restrictions, FAHC shall be required to apply for a contract modification. Failure
to apply for and to obtain a modification shall constitute a zoning violation, subject to enforcement action.

9. A fifty (50) foot vegetated buffer shall be maintained along the westerly, easterly and southerly lot lines of the subject parcel. Said buffer shall consist of either, 1) existing tree vegetation where adequate to visually screen the proposed development from abutting properties, or, 2) shade and dense medium height shrubs.

10. A one hundred (100) foot buffer shall be maintained from the stream at the rear of the property, as requested by the Maine Department of Inland Fisheries and Wildlife.

11. A crosswalk crossing Ferry Road shall be provided in order to connect the existing sidewalk on Ferry Road to proposed sidewalks and walking trails on the site. Plans for sidewalks and walking trails on the site shall be submitted for review by the City Council prior to final action being taken by the Planning Board.

12. No less than a fifty (50) foot wide right of way shall be reserved and shown on the site/subdivision plan providing the possibility of access from the subject parcel to adjacent parcels. Said parcels shall include at least, but not be limited to, the abutting parcels identified as Tax Map 22, Lot 41.

13. The entrance/exit from Ferry Road shall be designed and constructed as two lanes separated by a median strip for the distance necessary for the two lanes to intersect with the looped interior road system as represented on the Preliminary Site Sketch Plan revised through 9/3/02.

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 July 23, 2002, and the Saco City Council on October 21, 2002, and April 21, 2003 and April __, 2008, the following findings are hereby adopted:

A. City Tax Map 22, Lot 40 is a parcel of an unusual nature and location, for the following reasons: The subject parcel is unusual in that it is an undeveloped parcel of approximately twenty-six (26) acres in area in a fairly densely developed area. The parcel is in the R-la zoning district, which is characterized primarily by low density residential uses. The parcel is immediately adjacent to the R-2 zoning district, a medium density district characterized by single family and multi-family development. Few parcels of this size within walking distance of downtown services remain undeveloped or available for development as a continuing care retirement community.

B. The proposed rezoning is consistent with the Saco Comprehensive Plan, based on the following goals:
Chapter 17, Section A. Population. "To accommodate growth in a manner that maintains the character of the City." Further, "...the policies of the City of Scars are:

1. The City should assure that residential growth is accommodated in appropriate locations that are properly 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."

Chapter 17, Section E. Water and Sewer Service. "To minimize the amount of residential development that occurs in those areas of the City where water and sewer service is not available." Further, "...the City's policies with respect to water and sewer service are:

3. The City should allow residential development at higher densities in those areas where water (and sewer) service is available than in those areas where service is not available.

Chapter 17, Section F. Land Use. Local Goals:

* To foster a pattern of land use that respects and builds upon the established settlement pattern of an urban core surrounded by an outlying rural area.
* To discourage suburban sprawl.
* To encourage a pattern of land use that can be served efficiently and that does not impose an undue burden on the Town's financial resources.

Chapter 17, Section H. Housing. Local Goals:

* To provide a diversity of housing to meet the needs of a wide range of residents ...the City's policies with respect to housing are:

2. The City should continue to allow housing for the elderly to be built at higher densities than other types of housing in recognition of the lower impact that this type of housing has on the community.

C. The proposed use is consistent with, but not limited to, existing uses and permitted uses within the original zone. The R-1a zoning district is characterized as a low density residential district, much of which is serviced by public water and sewer facilities. Among the permitted and conditional uses allowed in the R-1a zone are single and two family dwellings, public and private schools, nursery schools, day care centers, nursing homes, kennels and community living uses.
D. The conditions proposed are sufficient to meet the intent of Section 1403, Contract Zoning, of the Saco Zoning Ordinance.

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 April 21, 2003, and amended (p. 2, subsection 2) January 22, 2007, and further amended (p. ) ________________________________, 2008.

City of Saco

by ____________________________________________

Richard Michaud
City Administrator

First Atlantic Corporation
d/b/a First Atlantic Healthcare

by ________________________________

Craig Coffin
Vice President

Ferry Road I, Ferry Road III and Ferry Road IV hereby join in this Contract, as amended, and agree to be bound to the same terms and conditions as are applicable to First Atlantic Healthcare to the extent of each such affiliate’s ownership of real estate in the contract zone.

FERRY ROAD ASSOCIATES I, LLC
By: First Atlantic Corporation

By: ________________________________

Craig Coffin
Vice President

FERRY ROAD ASSOCIATES III, LLC
By: First Atlantic Corporation

By: ________________________________

Craig Coffin
Vice President
FERRY ROAD ASSOCIATES IV, LLC
By: First Atlantic Corporation

By:

Craig Coffin
Vice President
B. (Public Hearing) Zoning Ordinance Amendment – Multi Family Housing in R-2 District

Multi-family dwellings in the R-2 district are limited to eight units and are a conditional use. Recently a non-profit developer expressed an interest in converting a portion of the Kimball Health Center to 11 units of housing for veterans, which is an excellent reuse of a portion of this largely idle building. The Veterans Administration has now approved the project.

The Planning Board recommended the amendment in a unanimous vote for an amendment very similar to that before the Council, which would permit conversion of existing buildings, but allow minor modifications.

_Councilor Cote moved, Councilor Smith seconded, to open the Public Hearing on the document titled, ‘Saco Zoning Ordinance – Amendments to Section 410-2, R-2, conditional use, March 17, 2008‘. The motion passed with seven (7) yeas._

_Councilor Cote moved, Councilor Smith seconded, to close the Public Hearing and Be it Ordered that the City Council set the Second and Final Reading for April 28, 2008”. Further move to approve the Order. The motion passed with seven (7) yeas._

_Saco Zoning Ordinance – Amendments to Section 410-2. R-2, Conditional Use – March 17, 2008_

(Underline represents new language, while strikethrough represents language to be deleted)

1. Multi-family dwellings in structures containing no more than eight units each and substituting the language

1. Multi-family dwellings limited to no more than eight units in each building, unless a conversion of an existing building, within the existing structure, except for minor additions such as stair towers, entrances, dormers, and similar minor building features
Date: March 6, 2008  
To: Mayor Michaud and city councilors  
From: Peter Morelli  
Re: Apartment building size limitation in R-2 – zoning ordinance amendment

Multi-family dwellings in the R-2 district are limited to eight units and are a conditional use. I do not know the history of this provision. Perhaps it was an effort to avoid the construction of large apartment and condominium buildings in inner suburban areas. It has seldom been an issue and the Council may wish to reconsider it at some point.

Recently Volunteers of America, a non-profit developer which developed the Paul Hazelton Center off Shannon Lane, asked if they could convert a wing to the Kimball Health Center off Lincoln Street to eleven units of housing for veterans. We had to say no, because of the eight-unit limitation. Yet it seems like a great project and a good reuse of a portion of this largely idle building. The Veteran’s Administration has now approved the project and we would like to pursue the necessary change.

The following draft would accomplish the change:

2. Multi-family dwellings in structures containing no more than eight units each
   1. Multi-family dwellings limited to no more than eight units in each building, unless a conversion of an existing building, within the existing structure

   The Planning Board recommended the amendment in a unanimous vote. The Board recommended the addition of the last four words “within the existing structure,” which were not in our original draft. The board indicated that they understood that dormers or other small structures might need to be added and they did not object, so the wording needs to be changed a bit to capture that idea. I suggest that the Council move forward with the following language:

   2. Multi-family dwellings limited to no more than eight units in each building, unless a conversion of an existing building, within the existing structure, except for minor additions such as stair towers, entrances, dormers, and similar minor building features

The amendment would have little impact elsewhere in the district. A list of all buildings over 5000 sq. ft. is attached. A map showing the location of the R-2 zone is attached. The entire use list with the proposed amendment:

410-2. R-2 MEDIUM DENSITY DISTRICT

PERMITTED USES
   1. Single family dwellings
   2. Two family dwellings
   3. Churches
   4. Essential services
   5. Public parks and playgrounds
   6. Public and private schools, excluding commercial schools
   7. Agriculture, excluding livestock
   8. Accessory uses
   9. Any use permitted in the resource protection district
10. Home babysitting service (Amended 8/1/88)
11. Adult day care center, Type 1 (7/1/91)

CONDITIONAL USES

1. Multi-family dwellings in structures containing no more than eight units each
   1. Multi-family dwellings limited to no more than eight units in each building, unless a conversion
      of an existing building within the existing structure
2. Elderly congregate housing
3. Hospitals and clinics
4. Boarding houses
5. Home occupations
6. Parking lots (Amended 1/3/95)
7. Funeral homes
8. Cemeteries
9. Nursing homes
10. Municipal uses not listed under permitted uses
11. Nursery schools
12. Day care centers
13. Nonprofit recreational uses
14. Public utility buildings
15. Commercial greenhouses and nurseries
16. Water recreation including piers, docks, and boathouses related thereto
17. Private clubs
18. Offices which comply with the standards of Section 713 of this Ordinance
19. Kennels
20. Quasi-public uses
21. Community living uses
22. Day care home (Amended 8/1/88)
23. Adult day care center, Type 2 (Amended 7/1/91) (Amended 8/1/88; 7/1/91)
VII. CONSENT AGENDA

A. Municipal Warrant for Prosecution of Unlicensed Dog Owners – Keepers

The State of Maine requires owners of dog(s) to License their pet(s) on or about January 1\textsuperscript{st} of each year.

Per Title 7 M.R.S.A. Section 3943 as amended, the Municipal Officers notify the Animal Control Officer for the municipality of Saco, to serve notice on the owners/keepers of unlicensed dog(s).

Be it Ordered that the City Council direct the Animal Control Officer, for the City of Saco, to make demand on owner(s)/keeper(s) of unlicensed dogs to obtain licensing for their pet(s) in compliance with Title 7 MRSA Chapter 721.

B. Solid Waste Permit – Der Tex

Der-Tex Corp. has applied for their Solid Waste Permit renewal for a period of one year. The applicant has paid all applicable permit fees as required by Chapter 181 – Solid Waste, Article II, Disposal Facilities § 181-21

Be it Ordered that the City Council grant the renewal of the Solid Waster Permit for Der-Tex Corp.”

C. Solid Waste Permit – Troiano Waste

Troiano Waste Services, Inc. has applied for their Solid Waste Permit renewal for a period of one year.

The applicant has paid all applicable permit fees as required by Chapter 181 – Solid Waste, Article II, Disposal Facilities § 181-21

Be it Ordered that the City Council grant the renewal of the Solid Waster Permit for Troiano Waste Services, Inc. “

D. Solid Waste Permit – Pine Tree Waste

Pine Tree Waste has applied for their Solid Waste Permit renewal for a period of one year.

The applicant has paid all applicable permit fees as required by Chapter 181 – Solid Waste, Article II, Disposal Facilities § 181-21

Be it Ordered that the City Council grant the renewal of the Solid Waster Permit for Pine Tree Waste.”
E. Solid Waste Permit – BBI Waste

BBI Waste has applied for their Solid Waste Permit renewal for a period of one year.

The applicant has paid all applicable permit fees as required by Chapter 181 – Solid Waste, Article II, Disposal Facilities § 181-21

Be it Ordered that the City Council grant the renewal of the Solid Waste Permit for BBI Waste.

F. Solid Waste Permit – Waste Management of Maine

Waste Management of Maine has applied for their Solid Waste Permit renewal for a period of one year.

The applicant has paid all applicable permit fees as required by Chapter 181 – Solid Waste, Article II, Disposal Facilities § 181-21

Be it Ordered that the City Council grant the renewal of the Solid Waste Permit for Waste Management of Maine.

G. Confirm the Mayor’s Planning Board Re-appointment

Mayor Michaud would like to reappoint Planning Board member Stephen Dupuis, 26 Winding Brook Road, to a three year term.

Be it Ordered that the City Council confirm Mayor Michaud’s reappointment of Stephen Dupuis, 26 Winding Brook Road, to the Planning Board, for a term to expire on January 2, 2011.

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

VIII. ADJOURNMENT

Councilor Smith moved, Councilor Morton seconded, to adjourn. The motion passed with seven (7) yeas. TIME: 8:20 p.m.

ATTEST: _______________________
Lucette S. Pellerin, City Clerk