

STATE OF MAINE

COUNTY OF YORK

CITY OF SACO

The following are minutes of the City Council Meeting held on May 19, 2008.

- I. CALL TO ORDER** – On Monday, May 19, 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** – *Eagle Scout Presentation*

Mayor Michaud recognized Dillon Moulton, Eagle Scout – Troop 371, for achieving the highest honor in Scouting.

- V. APPROVAL OF MINUTES:**

Minutes were not presented this evening.

- VI. AGENDA ITEMS:**

- A. (Public Hearing) Liquor License Kerry men Pub**

Kerry men Pub applied for their liquor license 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, and Entertainment sub-section 93-2.

Councilor Morton moved, Councilor Smith seconded, to open the Public Hearing on the Liquor License application and Entertainment Permit for Kerry men Pub. The motion passed with seven (7) yeas.

There being no comments from the public Councilor Morton moved, Councilor Smith seconded, to close the Public Hearing and Be it Ordered that the City Council approve the application for Kerry men Pub Liquor License/Entertainment Permit for a term of one year. These permits will expire May 2009. “Further move to approve the order. The motion passed with seven (7) yeas.

B. (Public Hearing) Zoning Ordinance Amendment – Regulation of Marinas

This proposed Zoning Ordinance amendment would create minimum requirements for the siting, design and operation of marinas both on the Saco River and in Saco Bay. Any new marina or marina expansion proposal would be subject to site plan review as well as existing permit requirements with the Maine Department of Environmental Protection and U.S. Army Corps of Engineers. Marinas are currently allowed uses in the B-1, B-3 and B-5 zones; this proposal would add marinas as a permitted use to the B-4 zone.

The Planning Board considered the proposed Ordinance amendment on April 15, 2008 and made a positive recommendation for passage.

Councilor Bastille moved, Councilor Mills seconded, to open the Public Hearing on ‘Amendments for the Regulation of Marinas’. The motion passed with seven (7) yeas.

There being no comments from the public Councilor Bastille moved, Councilor Mills seconded, to close the Public Hearing and Be it Ordered that the Second and Final Reading be scheduled for June 2, 2008. I move to approve the Order. The motion passed with seven (7) yeas.

Amendments to Zoning Ordinance, Section 731. Marinas, Article 3, Section 1102. Applicability, and Table 708-2, dated April 28, 2008

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

Section 731. Marinas

731-1. Purpose. The purpose of this section is to establish minimum requirements for the siting, design, construction and operation of marinas to serve the needs of boaters, to protect the natural resources affected by marinas, and to protect the health, safety and welfare of the citizens of Saco. In order to meet these purposes, a marina proposal shall be subject to this section and to all applicable standards within this Zoning Ordinance.

731-2. Applicability. This section shall apply to:

- a. Any commercial, public, or private marina that is proposed as a new use, or a proposed expansion of an existing marina, that is on or adjacent to the water and contains five or more slips or moorings, and/or provides berthing for commercial vessels that can accommodate more than twenty people.
- b. Any vessel maintenance or repair yard that is on or adjacent to the water.
- c. All public or commercial boat ramps.

731-3. Exemptions. This section shall not apply to:

- a. Private slips or ramps that serve a single residence and are constructed exclusively for the personal use of the occupants of that residence. See Sec. 7.1-6.

731-4. Submission Requirements. A Marina shall be subject to Site Plan Review, and as such is subject to submission requirements found in Article 11. In addition, written responses and any additional evidence or exhibits requested by City staff or the Planning Board shall be submitted in order to adequately respond to the items in Sections 731-5 and 731-6. To the extent that an application is subject to shoreland zoning review, all provisions and requirements set forth in Article 7.1 shall also be applicable.

731-5. Planning and Design Requirements.

- a. Marinas shall only be located in areas which offer safe and convenient access to waters of navigable depth. Safe and convenient access shall be determined by factors such as existing water depths, the size and draft of vessels for which the marina is proposed and tidal and wave action.
- b. Marinas shall be designed to minimize adverse impacts on the existing use and enjoyment of immediate and nearby waters.
- c. Marinas shall be sited and designed to afford adequate protection against wakes caused by vessel traffic to the maximum extent practicable.
- d. Adequate restroom facilities for the use of marina patrons shall be provided so as to encourage the use of shoreside facilities, to discourage the overboard discharge of untreated or inadequately treated sewage from vessels, and to protect water quality.
- e. Vessel maintenance areas shall be sited as far from the water as is practicable, and shall be designed so that all maintenance activities that are potential sources of air or waterborne contaminants shall be accomplished over dry land or indoors. A management plan for the control and disposal of hazardous materials, by-products, debris, residues, spills and stormwater runoff from maintenance areas shall be submitted. All drains from maintenance areas shall lead to a sump, holding tank, or pump-out facility from which the wastes can be removed for treatment and/or disposal.
- f. Fuel storage and delivery facilities shall be in accordance with local and state fire codes and/or with NFPA 303, 'Fire Protection Standards for Marinas and Boatyards.' All vessel fueling operations shall be undertaken at the fueling station or other specifically designated remote location in accordance with NFPA 302, 'Fire Protection Standards for Pleasure and Commercial Motor Crafts.'
- g. Life safety equipment – flotation devices shall be provided at regular intervals throughout the marina to ensure the safety of marina users.
- h. Lighting shall be in accordance with U.S. Coast Guard and/or U.S. Army Corps of Engineers requirements, and is subject to Section 804 of the Zoning Ordinance. In general, lighting shall be designed to ensure public safety while minimizing visual impacts.
- i. The owner or operator of a proposed marina shall maintain, at a minimum, insurance policies for comprehensive general liability, marina operators legal liability, pollution coverage/endorsement/riders, and any other policies as may be mandated by any State or Federal agency as part of any permitting, approvals, license conditions or otherwise. Verification of said policies shall be submitted to the City prior to the issuance of a Certificate of Occupancy by the Code Enforcement Office.

- j. Marina structures in, on or over submerged lands shall be designed to comply with applicable requirements of the State of Maine, and with the following:
1. They shall be designed to minimize adverse impacts on navigation, public use of waters, and natural resources.
 2. They shall not significantly restrict water flows.
 3. The width and length of all structures shall be limited to what is reasonable for the intended use, and shall minimize the shading of marine vegetation.
 4. Barrier-free access for the handicapped that complies with the Americans with Disabilities Act and the Architectural Barriers Act Accessibility Guidelines shall be provided for all marina structures.
 5. They shall have sufficient strength to resist all anticipated loading required of buildings in the City of Saco, including but not limited to dead, live, wind, earthquake, snow, and impact loading.
 6. They shall not be constructed using creosote treated timber.
 7. No structure shall exceed thirty-five (35) feet in height as measured either from the mean original grade at the downhill side of the structure, or from the surface of the water.

731-6. Standards. In addition to criteria found in Article 11, the Planning Board shall consider the following factors in reaching a decision:

- a. Potential impacts to water quality and to visual and aesthetic enjoyment of the waters of the Saco River and of Saco Bay will be minimized to the maximum extent practicable.
- b. Unavoidable impacts to aquatic and terrestrial resources have been or can be compensated for to a practicable and appropriate extent.
- c. The potential effect on the public with respect to commerce, navigation, recreation, aesthetic enjoyment and natural resources has been minimized to the greatest practicable extent.
- d. The extent to which structures that extend beyond the Normal High Water Mark of Coastal or Tidal Waters are dependent upon water access for their primary purpose. Restaurants, decks, dwellings, and other non-water dependent structures that extend beyond the Normal High Water Mark of Coastal or Tidal Waters shall not be authorized by this section.
- e. The proposed location does not unreasonably interfere with access to existing marine structures or points of public access, or with existing developed or natural beach areas.

VII. CONSENT AGENDA

A. Nomination Election Clerks – Democrat

The Democrat Municipal Caucus Report for Nomination of Election Clerks has been submitted for Council approval.

The municipal officers must appoint election clerks by May 1, 2008, pursuant to Title 21-A, section 503. The individuals appointed by the municipal officers serve as election clerks until new appointments are made on or before May 1, 2010.

Be it Ordered that the City Council approve the nomination of election clerks as presented by the Democrat political party.

B. Approval of Transfer of Assets – Anthony Cardoza

The Office of the Attorney General requires the legislative body of the municipality involved in any asset forfeiture to publicly vote to approve the acceptance of the assets each and every time the courts make them available for disposal.

Note in the accompanying documents the caution that forfeiture is not guaranteed, but this is a necessary step in the process prior to the court making its final decision. The final award is typically a percentage (10% to 40%) of the amount forfeited, depending upon the extent of our involvement. In this particular case the Attorney General is recommending that the Saco Police Department receive \$1,041.60. This amount will ultimately be decided by the courts.

Does hereby approve with reference to Superior Court Docket #07-2808, of the transfer of the Defendant(s) in Rem, namely \$1,041.60, or any portion thereof, pursuant to 15 M.R.S.A. §5824(3);

C. Approval of Transfer of Assets – Fernelis Ferreras-Segura

The Office of the Attorney General requires the legislative body of the municipality involved in any asset forfeiture to publicly vote to approve the acceptance of the assets each and every time the courts make them available for disposal.

Note in the accompanying documents the caution that forfeiture is not guaranteed, but this is a necessary step in the process prior to the court making its final decision. The final award is typically a percentage (10% to 40%) of the amount forfeited, depending upon the extent of our involvement. In this particular case the Attorney General is recommending that the Saco Police Department receive \$25,000. This amount will ultimately be decided by the courts.

Be it Ordered that the City Council does hereby approve with reference to Superior Court Docket #06-2530, of the transfer of the Defendant(s) in Rem, namely \$54,000, or any portion thereof, pursuant to 15 M.R.S.A. §5824(3)

D. License Application for Massage Therapist – Stacy Chenard

Stacy Marie Chenard, whose business is located at 35 Storer St., Apt. 1, has applied for a Combined Massage Establishment/Therapist License.

The applicant has paid all applicable permit fees and has provided a license issued by the State of Maine in compliance with Chapter 138 § 138-9 Basic proficiency.

Be it Ordered that the City Council grant Stacy Marie Chenard, a Combined Establishment/Massage Therapist License, in accordance to the Codes of the City of Saco, Chapter 138.”

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

At this time Mayor Michaud stated that he would call for a motion to adjourn. An executive session was not to be held this evening.

VIII. Council Recess the Meeting and Move to Conference Room

IX. Reconvene the Council Meeting

“Be it Ordered that the City Council, Pursuant to [1 M.R.S.A. Chapter 18, Subchapter 1, §405 (6) (C) (E)] move to enter into Executive Session to discuss: Use of property and discussion of legal rights and responsibilities of municipality related to Real Property

a. Report from Executive Session

X. ADJOURNMENT

Councilor Mills moved, Councilor Morton seconded, that the meeting be adjourned. The motion passed with seven (7) yeas. TIME: 7:13 p.m.

ATTEST: _____
Lucette S. Pellerin, City Clerk