STATE OF MAINE
COUNTY OF YORK  CITY OF SACO

The following are minutes of the Sept. 2, 2008 City Council Meeting.

I. CALL TO ORDER – On Tuesday, September 2, 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 Councilor present constituted a quorum. Councilors present: Margaret Mills, Leslie Smith, Jr., Ronald Morton, Sandra Bastille, Arthur Tardif, Eric Cote and Lovell Marston.

III. PLEDGE OF ALLEGIANCE

IV. GENERAL :

V. APPROVAL OF MINUTES: August 4, 2008

Minutes of the August 4, 2008 Council Meeting were approved as printed.

VI. AGENDA ITEMS:

A. Proclamation Presentation: Journey for Hope

CITY OF SACO PROCLAMATION

Bicycle Trek - Journey for Hope
August 24, 2008

WHEREAS: Located in North Carolina, Elon University’s Chapter of Pi Kappa Phi raises money and awareness for Push America, the fraternity’s national philanthropy; and

WHEREAS: the ‘Journey for Hope’ is a cross-country bicycle trek beginning in San Francisco, California and Seattle, Washington and ending together with all teams in Washington, D.C.; and

WHEREAS: the event raises funds and awareness for people with disabilities; and
WHEREAS: there are about 100 young men involved in the ‘Journey for Hope’ this year, including riders and support crew; and

WHEREAS: Sam Christenbury, class of 2010 student, and former Thornton Academy graduate, is a teammate on this ‘Journey for Hope’; whose efforts combined with one of his teammates raised over $5000 for Push America prior to the trek; and

WHEREAS: the Journey of Hope concluded at the United States Capital Building on Saturday, August 16, 2008.

NOW, THEREFORE, I, Roland Michaud, Mayor of the City of Saco, on behalf of the City Council, and the citizens of Saco, do hereby recognize Sam Christenbury, Elon University class of 2010, a Saco native, and teammate on the ‘Journey for Hope’ bicycle trek across the country, for being a young man who, by his actions, exemplifies a noble character, and personifies a great commitment to the cause of disability awareness, all the while promoting good will.

Signed this 24th Day of August, 2008.

_____________________________________
Mayor Roland Michaud

B. Going Green Exposition – Presentation by Wayne King to Council

Mr. Wayne King addressed the Council regarding the Going Green Exposition, to be held on September 13, 2008. Mr. King commended the community on its commitment to energy conservation.
C. Resolution: 21st Century Transportation for America

WHEREAS: The nation's transportation system is in trouble. America's dependence on cars for transportation is the number one cause of our addiction to oil and a major contributor to global warming and air pollution; and

WHEREAS: Americans waste millions of hours each year on congested roads – many of which are in increasingly poor repair; and

WHEREAS: At the same time, we spend billions of taxpayer dollars each year on wasteful projects that should go to basic maintenance, modernization and investments in better transportation choices; and

NOW, THEREFORE, Be it Resolved by the City Council and the Mayor of the City of Saco, on this 2nd day of September, 2008, that we hereby express our support to a new federal transportation policy that does the following:

Expands clean, efficient transportation choices for Americans by prioritizing investment of new capital funds for light rail, commuter rail, rapid bus service, high-speed intercity rail and other forms of modern public transportation. At the same time, federal policy should encourage transportation investments that build dynamic and accessible communities, where more Americans can walk, bike or take transit to get where they need to go; and

Fixes our crumbling roads and bridges by investing more federal highway money in maintenance, not massive new highway projects. It’s time for the federal government to embrace an approach to highway spending that prioritizes maintaining and modernizing our existing highways over building more; and

Spends taxpayers’ money more wisely by focusing transportation dollars on solving our nation’s biggest problems. For decades, the federal government has spent billions of dollars on highway projects with little evaluation and no accountability. That must change. Federal transportation money should be spent only on projects that produce real results over the long haul – for example, by reducing our dependence on oil, curbing global warming pollution, alleviating congestion, improving safety, and supporting healthy, sustainable communities.

Signed this 2nd day of September 2008

____________________________________  _____________________________

____________________________________  SACO CITY COUNCIL &

_______________________________  Mayor Roland Michaud

Councilor Cote moved, Councilor Mills, seconded to approve the resolution. The motion passed with six (6) yeas and one (1) nay. Councilor Smith voted in the negative.
D. (Public Hearing) Contract Zone: Cell Tower McKenney Road

The Public Hearing scheduled for the above entitled matter was removed from the Agenda.

E. Proposed Amendments to Spartan Bay Marina Agreement

The above entitled matter was pulled from this evening’s Agenda.

F. Proposed Amendments to the School Facilities Agreement

The School Facilities Agreement was approved by the City Council on October 6, 2003. Since then, amendments have been made on an as needed basis. The Agreement is meant to memorialize the rights and responsibilities of the School Department and the City with regard to the needs and expectations pertaining to several facilities within the City. Setting forth each parties interest has promoted better cooperation and more efficient and full use of said facilities for the betterment of our community.

This amendment relates to clarification of capital improvement responsibilities, and general housekeeping items such as removing the Annex from the agreement, moving the Adult Ed program to a different facility, use of garage space, and moving the servers from the Annex to the Police Department.

**AMENDED MAIN MOTION:** Councilor Cote moved, Councilor Lovell seconded, that it be Ordered that the City Council approve the document titled, ‘FACILITIES AGREEMENT By and Between City of Saco, a Municipal Corporation and Saco School Department, acting through its Superintendent, dated September 2, 2008, as amended.’ I move to approve the Order. The motion passed with seven (7) yeas.

**AMENDMENT TO MAIN MOTION:** Councilor Morton moved, Councilor Bastille seconded, to strike the following language from General Conditions: #3:

> The City shall be responsible for capital improvements outside of school buildings.

The motion passed with seven (7) yeas.

The proposed changes are noted by strikethrough for deletions and underline for new wording. The changes are:

A. **Page 3** General Condition. Who is responsible for capital improvements?

B. **Page 9.** Annex Building is deleted from the agreement.

C. **Page 10.** Adult Education is moved to 80 Common Street from the Open Door at 25 School Street. School Department may use 1 bay in the storage building.

D. **Page 11.** Computer servers are moved from Annex to PD
FACILITIES AGREEMENT

By and Between

City of Saco, a Municipal Corporation

And

Saco School Department, acting through its Superintendent.

October 6, 2003
(Amended April 26, 2004)
(Amended January 1, 2005)
(Amended January 22, 2007)
(Amendment March 17, 2008)
(Amendment September 2, 2008)

TABLE OF CONTENTS
Contents

INTRODUCTION: ............................................................................................................... 7
GENERAL CONDITIONS: ............................................................................................... 7
SACO MIDDLE SCHOOL: 40 Buxton Road ................................................................. 9
GOV. JOHN FAIRFIELD SCHOOL: 75 Beach Street .................................................. 10
YOUNG SCHOOL: 36 Tasker Street ........................................................................... 10
C. K. BURNS SCHOOL: 135 Middle Street ............................................................... 11
CENTRAL ADMINISTRATIVE OFFICE: 90 Beach Street ........................................ 12
CITY HALL ANNEX: 11 Cutts Avenue ...................................................................... 12
SACO ADULT LEARNING CENTER: 52 School Street ............................................ 12
SACO COMMUNITY CENTER: 75 Franklin Street .................................................... 13
PUBLIC WORKS FACILITY: 351 North Street ....................................................... 14
CITY HALL AUDITORIUM: 300 Main Street .......................................................... 14
POLICE DEPARTMENT: 20 Storer Street .................................................................. 14
INTRODUCTION:

1. The purpose of this Agreement is to memorialize the rights and responsibilities of each party (the “City” and the “School Department”) as regards the herein set forth municipal facilities. Each party has unique needs and expectations as concerns these several facilities, and it is intended that setting forth each parties interests will promote better cooperation and more efficient and full use of said facilities, all for the betterment of the community.

2. The City Council and the Board of Education propose that the Facilities Agreement shall be the preferred outcome for addressing both city and Regional School Unit (RSU) rights and responsibilities.

GENERAL CONDITIONS:

1. The City and School Department agree that the Director of Parks and Recreation will be the primary contact for the City except for matters involving infrastructure such as parking lots, sewers and drains, etc. in which case the primary contact shall be the Director of Public Works. The School Department contact shall be the Superintendent of Schools or their designee.

2. For all facilities set forth below, the City shall be fully responsible for the costs of maintaining, plowing, sanding, sweeping, paving, signage, striping of the appropriate parking lots as part of a regularly scheduled city maintenance program and tree selection, planting and maintenance In accordance with Chapter 204 of the Saco City Code. When additional services involving the above are requested by the School Department, determination of priority will be at the discretion of the Director of Public Works encompassing the scheduling of other commitments.

3. For all facilities set forth below, with the exception of shared facilities, the School Department shall be fully responsible for any capital improvements. The City shall be responsible for capital improvements outside of school buildings. Prior to any capital improvements on the shared buildings: City Hall Annex and Public Works Facility, both the School Department and the City will meet to discuss any improvements.

4. All school specific special events such as book fairs, concerts, and plays, etcetera held inside buildings or on outside fields which, as a result will require the City program to relocate, will require the School Department to notify the City prior to the event.

5. A protocol for scheduling all school sanctioned “makeup games” will include contacting a Saco Parks and Recreation Department representative for confirmation of site and location.
6. In addition, for all the facilities set forth below, the City shall be fully responsible for the costs of repairing, replacing and maintaining all sewers, drains and laterals for all such facilities up the exterior wall of each applicable building.

7. For all matters where the School Department has financial responsibility, said School Department shall make best efforts to use and employ City personnel before outsourcing to any private concerns or companies.

8. For all fields described hereunder, the City shall determine the adequacy and safety of such facilities, and may disallow use anytime it determines a field is not suitable for use. The City will also determine which uses shall be permitted upon each field.

9. Coordination of Facility Use.

   A. A common scheduling program will be used by the Parks and Recreation Department and the School Department to alleviate scheduling conflicts;
   B. At the beginning of each program year – by August 1st – all “groups” intending to use any school facility whether it be inside or outside for a program, event, practice or sport will identify themselves by schedule or other means agreed upon by both parties;
   C. Group Definition: (1) school or school sponsored, supervised or funded; (2) city parks and recreation department.
   D. Others requesting to hold events at a school facility, not sponsored by a school or parks and recreation group as defined, will need to verify that the school department and the parks and recreation department have not scheduled a use for the facility prior to holding the event.

10. Both parties recognize and agree that the City has a legal obligation to conduct general municipal, state and federal elections, special elections, primary elections and referendums at various times year to year; and that the safe, proper and efficient conduct of such elections requires use of various municipal facilities set forth herein. It is agreed in all circumstances that the conduct of all such elections shall have priority of use at all such facilities as required by the City Clerk, Chief of Police and Municipal Officers from time to time.

11. The Clerk, in consultation with the City Administrator, Director of Public Works, Chief of Police and School Superintendent/designee, will choose those spaces within such facilities to conduct elections; will set the times within such areas shall be occupied and used exclusively by the City for the set up and carrying out of elections, and will report to the Superintendent when all such election activities have ceased and such areas made re-available for other use or purpose.

12. The Essential Programs and Services (EPS) formula allocates funding for grounds. Those allocated funds used for grounds will be transferred to the city to reimburse costs for maintaining the grounds.

13. School Resource Officer – The city will provide a School Resource Officer for the RSU for grades K – 8th, if the position is funded by the RSU.
14. There remains continued access to school busses for use for community programs.

SACO MIDDLE SCHOOL: 40 Buxton Road

1. The Agreement regarding facilities at 40 Buxton Road is intended to cover the actual school building, parking lots, walkways, and fields on premises.

2. During winter months the City receives use of the gymnasium and cafeteria from 7:00pm until 9:00pm unless there is prior agreement by both parties. Janitorial maintenance of the building will be performed by custodial staff during normal business hours. or for groups with larger than normal participation. Janitorial maintenance performed outside of normal business hours, custodial staff time may be required and compensated for by the City.

3. As for the building it shall be used and maintained by the School Department subject to the General Conditions for elections above. The City shall have and enjoy priority of use at all other times that the School Department is not using the building.

4. All school team sports using outside field areas should refrain from scheduling practices on field areas after 5:00pm and must receive permission prior to any scheduling of after hours practices. A weekly e-mailed listing of all games, including make-up games will be submitted to Saco Parks and Recreation to ensure that field preparation and maintenance occurs. All teams must use assigned fields for scheduled games and practices.

5. The walkway from Buxton Road to the corner of building closest to Buxton Road, the driveway and the parking lot shall be the responsibility of the City. All other walkways on premises will be the School Department’s responsibility.

6. The public fields on the premises shall be managed cooperatively with the following allocation of interests. School department shall enjoy priority of use of all outdoor fields.

7. To assist with scheduling and to avoid conflicting events, game and practice schedules will be provided to the City one month prior to the start of a sport season. Schedule changes and make-ups will be forwarded to the City at the earliest opportunity. The City shall enjoy at all other times of non-school use a priority over all other parties.

8. This facility will be available for use by the City during the summer months for the specific purpose of Summer Day Camp programming. Areas needed by the City for summer programming include the gym, cafeteria and one storage/ staff area.

9. Consumption of electricity within the building and exterior security lighting shall be paid by the School Department.
10. Sheltering. This facility will be provided for shelter protection, emergency lodging and feeding for evacuees displaced as a result of emergency conditions or disaster situations.

11. The City will be responsible for completing the site improvements as provided in the November 7, 2006 Bond.

12. The License Agreement in effect and dated August 28, 1997, between the City of Saco and Saco Little League shall be honored (see appendix)

GOV. JOHN FAIRFIELD SCHOOL: 75 Beach Street

1. The School Department shall maintain the school building at the premises, and shall also maintain all facilities within three feet of the building footprint. The remainder of the premises open space is a public park, and shall be maintained by the City. The School Department, however, shares use of the park with the public during school hours.

2. During winter months the City will use the gymnasium and cafeteria from 5:00pm until 9:00pm unless there is prior agreement by both parties. Janitorial maintenance of the building will be performed by custodial staff during normal business hours. Janitorial maintenance performed outside of normal business hours, or for groups with larger than normal participation custodial staff time may be required and compensated for by the City.

3. The City’s afterschool camp and summer day camp requires use of the gymnasium/cafeteria, the stage and one area for storage of program equipment and staff equipment.

4. Walkways around the building and entryways shall be maintained by the School Department. The City shall maintain the driveways and the parking lot.

5. The School Department shall have priority of use to the building with the exception of the General Conditions above. Scheduling priority for the building and other parts of the premises shall be with the School Department. The City shall enjoy at all other times of non-school use a priority over all other parties.

6. The storage building directly across from the Unitarian Church, known as the Parks Maintenance Building located on the premises shall remain for the City’s use.

YOUNG SCHOOL: 36 Tasker Street

1. This Agreement regarding the facilities at 36 Tasker Street is intended to cover the actual school building, parking lots, walkways and fields on premises.
2. The school building shall be used and maintained by the School Department subject to the General Conditions above. The City shall enjoy at all other times of non-school use a priority over all other parties.

3. Walkways and entryways shall be maintained by the School Department, except the City will assume responsibility for the walkway from Tasker to Franklin Street. The parking lot is the responsibility of the City as noted in the General Conditions.

4. Outdoor fields and play areas shall be maintained and managed by the City. The School Department may freely use the open space during school hours, but the lighted field may only be used pursuant to permission from City.

5. A modular school may be located on this property. The school will be located in the 220 feet by 220 feet area known as the practice field. The playground equipment, tennis courts and ball field will not be disturbed as a result of the location of the modular school at this site. The Practice field will be returned to its current condition when the modular school is removed from the site.

C. K. BURNS SCHOOL: 135 Middle Street

1. The Agreement regarding facilities at 135 Middle Street is intended to cover the actual school building, parking lots, walkways and fields on the premises.

2. During winter months the City will use the gymnasium and cafeteria from 5:00pm until 9:00pm unless there is prior agreement by both parties. Janitorial maintenance of the building will be performed by custodial staff during normal business hours. Janitorial maintenance performed outside of normal business hours, or for groups with larger than normal participation custodial staff time may be required and compensated for by the City.

3. The City’s afterschool camp and summer day camp require the use of the gymnasium, cafeteria, multi-purpose room, the stage and one area for storage of program equipment and staff equipment.

4. The School Department shall use and maintain the building on the premises, and shall enjoy priority of use to such building subject to the General Conditions above. The City shall enjoy at all other times of non-school use a priority over all other parties.

5. The School Department shall maintain the walkways and entryways to the building, except the City shall maintain the sidewalk running along Middle Street and the driveways and parking lots.

6. That portion of open space easterly of the school building is also known as Memorial Field, and by agreement with the U.S. Department of the Interior, must remain available for public use at all times, although the School Department will have priority of use to the baseball diamond subject to scheduling by the Director of Parks and Recreation. The City shall maintain Memorial Field. City will also receive advance notice of any special activities or events requiring use of the field.
7. Any or all agreement(s) with the City relating to Saco Little League or use of the Tennis Courts shall be honored according to the terms of said agreement(s).

8. The School Department shall have priority of use to the remainder of open space lying generally northerly of the building and abutting Summer Street. The City, however, shall maintain this open space.

9. Sheltering. This facility will be provided for shelter protection, emergency lodging and feeding for evacuees displaced as a result of emergency conditions or disaster situations.

CENTRAL ADMINISTRATIVE OFFICE: 90 Beach Street

1. This Agreement regarding the facility at 90 Beach Street is intended to supplement a prior Agreement between the City and School Department dated March 21, 2002 and attached to this document.

2. The parties acknowledge that the premises provide necessary and important parking for those including the School Department, the City and the public, intending to use Memorial Field. After business hours, all spaces will be available for the public.

CITY HALL ANNEX: 11 Cutts Avenue

1. This Agreement regarding the facilities at 11 Cutts Avenue is intended to cover the building (also known as the “City Hall Annex”), the parking lot, walkways and entryways on the site.

2. The City shall be responsible for the parking lot, grounds and all utilities servicing the building. The City shall also pay for all electricity at the premises.

3. School Department Information Technology will be relocated by July 1, 2008.

SACO ADULT LEARNING CENTER: 52 School Street

1. This Agreement is intended to cover the parking lot, entryways and fields around the facilities at 52 School Street, also known as the Saco Adult Learning Center.

2. This facility shall be for the use of the School Department for Saco/Old Orchard Beach Adult Education program.

3. The School Department shall have priority of use to these facilities. The operation, maintenance and upkeep of the building, shall be the responsibility of the School Department. The School Department shall also be responsible for maintenance of the walkways and entryways servicing the building.
4. For those times when the School Department is not using the building, the City may make use of the facilities but the City shall secure prior approval of the School Department.

SACO COMMUNITY CENTER: 75 Franklin Street

1. This Agreement is intended to cover the building, parking lots and entryways around the facilities at 75 Franklin Street, also known as the “Saco Community Center”.

2. The City will have priority of use and occupancy for the building and shall maintain it for all times. The City shall also maintain the parking lots and entryways, and shall pay all electrical costs for the building.

3. The School Department may, upon advance request and City permission, use the facilities but such use will only be allowed at times when it will not conflict with City needs and programs. All requests must be in writing.

80 COMMON STREET

1. This agreement is intended to cover the building, parking lots and entryways around the facilities at 80 Common Street.

2. The City will have priority use and occupancy for the building and shall maintain it for all times. The City shall also maintain the parking lots and entryways, and shall pay all electrical costs for the building.

The School Department may, upon advance request and city permission, use the facilities provided there is not a scheduling conflict with a city program.

1. This Agreement is intended to cover the parking lot, entryways and fields around the facilities at 80 Common Street, also known as the Saco Adult Learning Center.

2. This facility shall be for the use of the School Department for Saco/Old Orchard Beach Adult Education program.

3. The School Department shall have priority of use to these facilities. The operation, maintenance and up keeping of the building, shall be the responsibility of the School Department. The School Department shall also be responsible for maintenance of the walkways and entryways servicing the building.

4. For those times when the School Department is not using the building, the City may make use of the facilities but the City shall secure prior approval of the School Department.

5. School Department may use one bay in the storage building.

HIGH SCHOOL TRANSITION PROGRAM: 80 A COMMON STREET

1. This Agreement is intended to cover the building located at 80-A Common Street, which facilities are known as the “Transition Program”.

Friday, September 12, 2008   Page | 13
2. The School Department shall have priority of use to these facilities. The maintenance and upkeep of the building, and all electrical usage, shall be the responsibility of the School Department.

3. For those times when the School Department is not using the building, the City may make use of the facilities but the City shall secure prior approval of the School Department.

4. The School Department shall also be responsible for maintenance of the stairs and ramps while the City shall maintain the walkway from School Street to Common Street.

5. As parking is shared between the uses at 80-a Common Street and 80 Common Street, and accessed via a common drive, the City shall maintain, plow and sand the parking lot for the building. Ten (10) parking spaces shall be dedicated for School Department use.

PUBLIC WORKS FACILITY: 351 North Street

1. All upkeep and utilities associated with the School-owned modular office building is the responsibility of the School (including school owned dumpster costs). Utility boxes for bus plug-ins are the School’s responsibility; including the cost of electricity.

2. The City will be responsible for the yard and grounds.

3. Maintenance of School Buses by Public Works: The School Department will reimburse the City for the cost of labor, parts and overhead for the maintenance of school buses.

CITY HALL AUDITORIUM: 300 Main Street

1. The use of City Hall Auditorium is encouraged for all Board of Education meetings to encourage cable casting of meetings. There will be no charge for the use of the facility or service.

POLICE DEPARTMENT: 20 Storer Street

1. The School Department’s servers may be housed at the location.

Dated at Saco, Maine this _______ day of ____________, 2008.

By:

_____________________________  _______________________

Friday, September 12, 2008    Page | 14
VII. CONSENT AGENDA:
   a. (First Reading) Code Amendment Chapter 34 Personnel Ordinance

In January 2008, President Bush signed into law the first expansion of the Family Medical Leave Act ("FMLA") since its enactment in 1993, the National Defense Authorization Act. The amendments focus on leave for caretakers of injured members of the armed forces and provide certain leave for military families.

Three new situations were added (1) family member request for military leave (2) donation of an organ of the employee for a human organ transplant (3) death or serious illness of an employee’s family member while the member was member of the United States Armed Forces.

Also, definitions were added to the Family Medical Leave Act for further clarification, along with explanation of usage of any paid leave. Incorporated as well is new definition from the Maine Family Medical Leave Act.

The City of Saco hereby Ordains and approves the First Reading of the document titled, ‘Amendments to Chapter 34 Personnel Ordinance §34-33, §34-34 - Family Medical Leave, dated August 18, 2008’, and further moves to schedule the Public Hearing for September 15, 2008.

Amendments to Chapter 34 Personnel Ordinance §34-33 and §34-34- Family Medical Leave Dated August 18, 2008

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

§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. Definitions

(1) Eligible Employees:  An employee who has been employed for at least 12 months and for at least 1250 hours of service during the previous 12 months.

(2) Employment Benefits:  All the benefits provided or made available to the employee by the City, including group life insurance, health insurance, disability insurance, sick leave, vacation leave and retirement.

(3) Health Care Provider:

   (a) a doctor of medical or osteopathy who is authorized to practice medicine or surgery (appropriate) by the State of Maine or
(b) any other person determined by the Secretary of Labor to be capable of providing health care services.

(4) Parent: The biological parent of an employee or an individual who stood in local parentis to an employee when the employee was a son or daughter.

(5) Serious Health Condition: An illness, injury or impairment, physical or mental condition that involves (a) inpatient care in a hospital, hospice, or residential care facility or (2) continuing treatment by a health care provider.

(6) Son or Daughter: A biological, adopted, or foster child, stepchild, or legal ward, or a child of a person stand in loco parentis who is (1) under 18 years of age or (2) 18 years of age or older an incapable of self-care because of mental or physical disability.

(7) Spouse: A husband or wife, as the case may be.

(8) Active Duty: Duty under a call or order to active duty under a provision of law.

(9) Covered Service Member: A member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient, or is otherwise on the temporary disability retired list for a serious injury or illness.

(10) Next of Kin: An individual that is the nearest blood relative of that individual.

(11) Family Member: Legal spouse, daughter, son, parent, or step-parent, domestic partner, children of domestic partners and siblings (if the employee and the sibling are jointly responsible for each other’s common welfare – evidence by joint financial arrangements.

C. 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 family member 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.

(e) Because of any qualifying exigency (as the Secretary of Labor shall, by regulation or determine) arising out of the fact the spouse, son or daughter,
or parent of the employee is on active duty (or has been notified of an impending call or order to active duty in the Armed Forces in support of a contingency operation).

(f) The donation of an organ of the employee for a human organ transplant.

(g) The death or serious illness of an employee’s family member while the member was member of the United States Armed Forces.

D. Procedure

(1) 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.

(2) Substitution of Paid Leave: FMLA leave is generally unpaid; however, the City requires all employees to substitute any accrued vacation leave, personal leave, floating holidays and employee sick leave and family sick leave for requested FMLA leave. Only when the employee is covered under by the disability plan provided by the City shall the City not require the employee to substitute paid vacation and sick leave.

E. Recovering Service Member

(1) The National Defense Authorization Act provides up to 26 weeks of unpaid leave during a single 12-month period for an employee who is the spouse, son, daughter, parent, or next of kin of a recovering service member for whom the employee is caring. A recovering service member is a member of the Armed Forces, including the National Guard or Reserves, who is undergoing medical treatment or is otherwise in need of care due to a serious illness or injury incurred during active duty.

§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 Effective September 20, 2007, the Legislature added “domestic partners” to the entitlement to leave, and added a new entitlement to leave for
military deaths/injuries. Effective July 18, 2008, the Maine Family Medical Leave Law includes a right to leave for the purpose of caring for a sibling.

(1) their own serious health condition; the birth of the employee’s child or the employee’s domestic partner’s child;

(2) the birth of their child; placement of a child 16 years of age or less with the employee or with the employee’s domestic partner in connection with the adoption of the child by the employee or the employee’s domestic partner;

(3) adoption of a child 16 years of age or younger; a child, a domestic partner’s child, parent, domestic partner, sibling or spouse with a serious health condition; or

(4) the employees own serious health condition; to care for the employee’s child, spouse, or parent who has a serious health condition.

(5) the donation of an organ of that employee for a human organ transplant;

(6) the death or serious health condition of the employee’s spouse, domestic partner, parent, sibling or child if the spouse, domestic partner, parent, sibling or child as a member of the state military forces, as defined in 37-B M.R.S.A. §102, or the U.S. Armed Forces, including the National Guard and Reserves, dies or incurs a serious health condition while on active duty.

G. Domestic Partner Definition:
The partner of an employee who: is a mentally competent adult as is the employee; has been legally domiciled with the employee for at least 12 months; is not legally married to or legally separated from another individual; is the sole partner of the employee and expects to remain so; is not a sibling of the employee; and is jointly responsible with the employee for each other’s common welfare as evidenced by joint living arrangements, joint financial arrangements or joint ownership of real or personal property.
Family & Medical Leave Act (FMLA)

This information is intended for general information purposes only and is not meant as legal advice. This information should not take the place of a thorough review of pertinent statutes, consultation with legal counsel, or other specific guidance on the subject.

Family & Medical Leave Act (Federal and State)

Updated by Legal Services Department 8/05/08

The Family & Medical Leave Act (29 U.S.C. § 2601 et seq.) is a federal law guaranteeing unpaid time off for employees to deal with family and personal matters. The law requires covered employers to grant up to 12 workweeks of unpaid leave in a 12-month period to eligible employees for the following reasons:

1. the birth and care of the employee’s newborn child;
2. placement of a child with the employee for adoption or foster care;
3. care for the employee’s spouse, son, daughter or parent, (but not parent-in-law) with a serious health condition; or
4. for the employee’s own serious health condition that makes him/her unable to perform the functions of his/her position.

“Serious health condition” is defined in detail in Department of Labor (DOL) regulations. See 29 C.F.R. § 825.114.

“Son or daughter” means a biological, adopted, or foster child, stepchild, legal ward or in a loco parentis relationship who is either under age 18, or over 18 and incapable of self care due to a physical or mental disability.

Employee Eligibility:

In order to be eligible for FMLA leave, an employee must work for a covered employer and meet the following criteria:

- The employee must have worked for the employer for at least 12 months (in total, and not necessarily consecutively);
- The employee must have worked at least 1,250 hours over the 12-month period immediately preceding the commencement of the leave;
- The employee must work at a job site at which there are at least 50 employees or at least 50 employees must work within 75 miles of the work site.

All “public agencies” are covered employers under the federal FMLA. 29 C.F.R. § 825.108(d). This includes federal and state governments, municipalities or government agencies. Id. However, even though a municipality is a “covered employer” under the FMLA, it is not necessarily required to provide FMLA leave to its employees because the municipality may have no “eligible” employees. As noted above, in order to be eligible for FMLA leave, an employee must work at a worksite where there are at least 50 employees, or at least 50 employees must work within 75 miles of the employee’s worksite. Thus, in practice, a municipality must have at least 50 employees (within a 75 mile area) before it will be required to grant leave under the federal FMLA. See 29 C.F.R. § 825.108(d).

Determining number of employees employed: Before deciding if the 50-employee threshold has been met, one must determine what entity is the “public agency” or municipal employer. Generally, a state or a municipality is considered a single employer for purposes of determining employee eligibility. 6(c). 25 C.F.R. § 825.108(c)(1). Often questions arise as to whether the “municipality” includes schools, sewer, water or other municipal functions, or whether these are separate employers for purposes of the FMLA. DOL regulations indicate that the U.S. Bureau of Census, Census of Governments should be used to guide most determinations on this issue. See 29 C.F.R. § 825.108(c). Once the bounds of the municipal employer are determined, one must then determine how many “employees” that employer employs. The FMLA uses the same definition of “employee” used in the Fair Labor Standards Act. (29 U.S.C. § 203).

Because there are numerous exceptions and qualifications applicable to the determination of the municipal employer and number of employees, municipalities are strongly encouraged to seek legal advice in determining if the 50-employee threshold has been met.

http://www.menum.org/members/personnel/HRToolkit/topics/FMLA.htm 8/15/2008
New 2008 FMLA Amendments:

Effective January 28, 2008, the FMLA was amended by the National Defense Authorization Act of 2008 (PL 110-181), to provide two new categories of leave:

(1) Eligible employees may take a one-time unpaid leave of up to 26 weeks within a 12-month period for the purpose of caring for a "covered service member." The employee must meet the 12-month employment and 1,250 hour eligibility requirements discussed above and must also be the "spouse, son, daughter, parent or next of kin" of a covered service member. Unlike other FMLA leave, this is a one-time leave entitlement that does not renew itself every 12 months.

- "Next of kin" is defined as the nearest blood relative of that individual.
- "Covered service member" means a member of the Armed Forces who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness. The term "serious injury or illness" is defined (for the purpose of deciding who is a "covered service member"), as an injury or illness incurred by the member in the line of duty on active duty in the Armed Forces that may render the member medically unfit to perform his/her military duties.
- This Servicemember Family Leave entitlement became effective immediately upon passage on January 28, 2008.

(2) Eligible employees may take up to 12 weeks of unpaid leave in a 12-month period because of a "qualifying exigency" arising out of the fact that the employee's spouse, son, daughter or parent is on active duty or has been notified of an impending call or order to active duty in the Armed Forces in support of a contingency operation.

- Employers are not yet required to grant this "exigency" leave. The leave requirement will not become effective until the DOL issues regulations defining the leave.

(3) Additional notes on the new amendments:

- On February 11, 2008, the DOL published a Notice of Proposed Rulemaking (73 F.R. 7875). The DOL is accepting comments on the proposed rule through April 11, 2008, and final regulations are expected later this year. The proposed rules may be accessed on the DOL website.

- For more information on the new FMLA amendments, the DOL has created a webpage with links to information, and a Q & A Sheet on the new amendments.

- The DOL has also issued a new FMLA Poster insert that employers should post. The poster insert is available online.

Counting the 12-month leave period:

The law requires employers to provide 12 workweeks of leave within a "12-month period." Employers may choose among 4 methods to calculate the 12-month leave period provided the method chosen is applied consistently and uniformly to all employees, 29 C.F.R. § 825.200. These are:

1. a calendar year;
2. any fixed 12-month year, such as a fiscal year, or a year beginning on the employee's anniversary date;
3. a 12-month period measured forward from the date any employee's first FMLA leave begins; or
4. a rolling 12-month period measured backward from the date an employee uses FMLA leave.

Municipal employers that have eligible employees (i.e., over 50 employees within a 75-mile radius) are encouraged to adopt a policy that notifies employees of the method the employer has chosen to measure the 12-month period. If the

http://www.memun.org/members/personnel/HRToolkit/topics/FMLA.htm 8/15/2008
Family & Medical Leave Act (FMLA)

Employer does not designate a method of calculating the leave year in advance, the employer must allow employees to use whatever method would be most beneficial to the employee. 29 C.F.R. § 825.200. When implementing (or changing) a method of calculating the leave year, the employer must give at least 60 days notice to all employees, and the transition must take place in such a way that the employees retain the full benefit of 12 weeks of leave under whichever method affords the greatest benefit to the employee. Id.

Medical Certification:

Employers may require medical certification of the need for leave when leave is requested to care for the employee’s family member or for the employee’s own serious health condition. Generally, the employee must be allowed at least 15 days to obtain the certification. The DOL has published a sample form that may be used to obtain medical certification (Form WH-380). Second or third opinions are potentially available at employer expense. See the DOL’s Compliance Guide for more information concerning medical certification.

Pursuant to a uniformly applied policy, an employer may ask for medical certification of fitness to return to work upon completion of approved leave for the employee’s own serious health condition. Any such inquiries must be consistently applied, and must be sought only in regard to the particular health condition that caused the need for leave. Consistent with the Americans with Disabilities Act the inquiry must also be job-related and consistent with business necessity. A simple statement that the employee is able to return to work (with or without limitations) is sufficient. 29 CFR § 825.310. See DOL regulations and DOL’s Compliance Guide for more information.

Intermittent Leave:

If medically necessary, intermittent leave or a reduced work schedule must be allowed under the federal FMLA to care for a child, parent, or spouse or for the employee’s own serious health condition. In addition, only the amount of leave actually used while on an intermittent/reduced leave schedule may be charged against the employee’s leave entitlement. Employers may not require an employee to use more time than necessary and must account for the intermittent leave, using the smallest time segments available in their timekeeping system (which must be an hour or less). Intermittent leave for the birth or placement of a child is only available with consent of the employer.

Employer Notice Requirements:

- All covered employers must post the DOL’s FMLA poster (scroll down and select FMLA poster to download a copy of the Federal poster)
- Employers with eligible employees must provide information on FMLA leave in any handbooks, written policy materials and/or collective bargaining agreements. If written materials do not exist, the employer must provide general information on FMLA rights to employees asking for leave. See 29 C.F.R. § 825.301. The DOL’s Fact Sheet No. 28 satisfies this notice requirement.
- After a leave request is received, the employer must give the employee written notice indicating whether the leave qualifies as FMLA leave, and designating the leave as FMLA leave. The response should be issued within 1 or 2 business days of the leave request. The notice must also contain specific expectations and rights concerning the leave, including return to work, medical certification, benefit carryover, accrued leave, fitness for duty certification, and reemployment. See 29 C.F.R. § 825.301. The DOL has created a sample form entitled, “Employer Response to Employee Request for Family or Medical Leave” (WH-381) which satisfies this employer obligation. The DOL has also created a form employers may use to request medical certification of the need for leave: “Certification of Health Care Provider (WH-380).”

Preservation of Benefits:

During an approved leave, the employer must maintain the employee’s group health insurance on the same terms as if the employee continued to work.

The employer is not required to maintain other non-health insurance benefits (such as life insurance) during the leave. However, the FMLA does require employers to restore an employee returning from approved leave to the same benefits he/she had prior to the leave, with no penalty or waiting periods. Thus, if an employee fails to pay his/her benefit premiums during the leave, an employer may decide to continue such benefits at its own expense during the leave or should make sure that applicable benefit plans allow immediate resumption of benefits.

Reinstatement:

http://www.memun.org/members/personnel/HRToolkit/topics/FMLA.htm 8/15/2008
Family & Medical Leave Act (FMLA)

Upon return from an approved leave, the employee must be reinstated to the same or an equivalent position, with the same pay, benefits, and other terms and conditions. Certain exceptions apply for "key employees." See DOL Compliance Guide for more information on key employees.

Education employees:

Special rules apply to some employees of local educational agencies, including public elementary and secondary schools. "Instructional employees" are subject to special rules when taking leave (a) more than 5 weeks prior to the end of a term; (b) less than 5 weeks prior to the end of a term; and (c) less than 3 weeks from the end of a term. For more information see: 29 C.F.R. § 825.602.

Discrimination:

An employer may not interfere with, restrain or deny the exercise of FMLA rights. Employees may not be discharged or discriminated against for taking leave. Nor may the use of FMLA leave be used as a negative factor in a "no fault" attendance policy or in any employment action, including hiring, promotion or disciplinary actions.

Additional details concerning the requirements of the FMLA can be accessed on the DOL’s internet site. Due to the ever-changing nature of laws in this area, we also recommend the DOL’s "FMLA Advisor," provided by the Wage and Hour Division, Employment Standards Administration.

Maine Family Medical Leave Law:

Maine has enacted its own Family Medical Leave Law (MFMLA) entitling eligible employees of certain employers to 10 workweeks of leave in any two-year period. (26 M.R.S.A. § 843 at sqq.; PL 2007 c. 233) The MFMLA is modeled after the federal FMLA, but has some important differences. It is very possible that some employees could be covered under either the state or federal FMLA laws, or both. Thus, when presented with a leave request, an employer should analyze the eligibility requirements of each law.

Covered Employers:

Maine’s FMLA applies to city, town and municipal agency employers with 25 or more employees. See 26 M.R.S.A. § 843(3). The law defines "employee" quite broadly, to include any person "permitted, required or directed by an employer in consideration of direct or indirect gain or profit to engage in any employment." Employee does not include an independent contractor. 26 M.R.S.A. § 843(1).

Employee Eligibility:

Employee eligibility under the MFMLA differs from the federal FMLA in three important ways:

- In order to be eligible for MFMLA leave, an employee must have worked for the same employer for at least 12 consecutive months (under federal law, the 12 month work requirement need not be consecutive).
- An employee must work at a permanent worksite with at least 15 employees.
- Under the MFMLA there is no 1,250 hour work requirement.

Thus, in some situations, an employee may not qualify for federal FMLA leave because the individual has not worked 1,250 hours in the previous year, but the individual may qualify for Maine FMLA leave because he/she has been employed for 12 consecutive months.

Leave Entitlement:

Under the MFMLA, an eligible employee is entitled to up to 10 workweeks of leave in a two-year period for the following reasons. Effective September 20, 2007, the Legislature added "domestic partners" to the entitlement to leave, and added a new entitlement to leave for military deaths/injuries. Effective July 18, 2008, the MFMLA includes a right to leave for the purpose of caring for a sibling. (PL 2007 c. 519).

1. the birth of the employee's child or the employee's domestic partner's child;
2. placement of a child 16 years of age or less with the employee or with the employee's domestic partner in connection with the adoption of the child by the employee or the employee's domestic partner;

http://www.memun.org/members/personnel/HR Toolkit/topics/FMLA.htm

8/15/2008
Family & Medical Leave Act (FMLA)

(3) A child, a domestic partner’s child, parent, domestic partner, sibling or spouse with a serious health condition;
(4) The employee’s own serious health condition;
(5) The donation of an organ of that employee for a human organ transplant;
(6) The death or serious health condition of the employee’s spouse, domestic partner, parent, sibling, or child if the spouse, domestic partner, parent, sibling, or child as a member of the state military forces, as defined in 37-B M.R.S.A. §102, or of the U.S. Armed Forces, including the National Guard and Reserves, dies or incurs a serious health condition while on active duty. PL 2001 c. 398; PL 2007 c. 261.

Serious health condition is defined in the law as an illness, injury, impairment or physical or mental condition that involves: (a) inpatient care in a hospital, hospice or residential medical care facility; or (b) continuing treatment by a health care provider. 26 M.R.S.A. § 843(6).

Domestic partner is defined as: the partner of an employee who:

  o is a mentally competent adult as is the employee;
  o has been legally domiciled with the employee for at least 12 months;
  o is not legally married to or legally separated from another individual;
  o is the sole partner of the employee and expects to remain so;
  o is not a sibling of the employee; and
  o is jointly responsible with the employee for each other’s common welfare as evidenced by joint living arrangements, joint financial arrangements or joint ownership of real or personal property. PL 2007 c. 375.

Sibling is defined as “a sibling of an employee who is jointly responsible with the employee for each other’s common welfare as evidenced by joint living arrangements and joint financial arrangements.”

Interruption Leave:

In response to a 2006 court decision that held that the FMLA contained no requirement for intermittent leave, the Maine Legislature amended the law to allow intermittent leave in circumstances similar to the federal law. See Brown v. Eastern Maine Medical Center, 2006 U.S. Dist. LEXIS 80593 (D.Me. 2006); PL 2006 c. 233.

Effective September 20, 2007, the FMLA requires covered employers to provide intermittent leave or a reduced work schedule, if medically necessary, for the employee’s serious health condition, a parent, child, domestic partner or spouse with a serious health condition, or for organ donation. Intermittent leave for the birth, adoption or foster care placement of a child is available only by agreement of the employer and employee. PL 2006 c.233.

If intermittent leave is taken, the employer may temporarily transfer the employee to an available alternative position for which the employee is qualified and (1) which has equivalent pay and benefits and (2) better accommodates the intermittent leave schedule. PL 2006 c. 233.

Employee Notice/Certification:

An employee needing leave is required to give at least 30 days prior notice of the intended start and end of leave, unless prevented from giving notice by a medical emergency.

The employee may be required to provide medical certification from a physician to verify the amount of leave needed. Note that the law allows an employee that has “in good faith” relied on treatment by prayer or spiritual means, pursuant to the tenets of a recognized church or religious denomination, to submit certification from an accredited practitioner of those healing methods. 26 M.R.S.A. § 844(1)(B).

Employers must post a poster concerning FMLA, available from the Maine DOL.

Preservation of Benefits:

An employer must allow an employee on leave to maintain employee benefits at his/her expense. The parties may negotiate to maintain benefits at employer expense.

Restoration:

At the conclusion of an approved FMLA leave, the employer must restore the employee to the same or an equivalent

http://www.memun.org/members/personnel/HRToolkit/topics/FMLA.htm 8/15/2008
Family & Medical Leave Act (FMLA)

Position with same seniority status, benefits, pay and other terms and conditions of employment. There is a limited exception to the employee's right to job restoration, if the employer can prove that the employee was not restored to the same or equivalent position due to conditions unrelated to the employee's exercise of leave rights. 26 M.R.S.A. § 845.

Discrimination:

The use of leave may not result in the loss of any employee benefits accrued before the leave was taken. Nor may the leave result in loss of seniority or contract rights. In addition, an employer may not interfere with, restrain or deny the exercise of or the attempt to exercise any right provided under the MFMLA. Nor may an employer discharge, fire, suspend, expel, discipline or in any other manner discriminate against any employee for exercising any right under the Maine FMLA or for opposing any practice made illegal by the MFMLA. 26 M.R.S.A. § 846-7.

Interaction of state and federal laws:

FMLA Applicability:

For municipal employers employing between 25 and 49 employees – only the Maine FMLA will apply.

For municipal employers with more than 50 employees – both the state and federal FMLA laws may apply. The federal FMLA specifically states that it does not preempt state leave laws where they provide greater leave benefits. 29 C.F.R. § 825.701. Thus, to the extent that the MFMLA provides greater rights than the FMLA, it will apply. Because the MFMLA has no 1,250 hour work requirement, and because the MFMLA provides slightly different reasons for leave and includes domestic partners, there may be situations where an employee is eligible for leave under the MFMLA and not the FMLA. Thus, employers should analyze a leave request under both MFMLA and federal FMLA. If both leaves apply, the time on leave will count toward leave limits under both laws if the employer designates the leave as FMLA leave. 29 C.F.R. § 825.701. Nevertheless, the employer may want to specifically designate leave as running concurrently under both leave laws.

Other leave entitlements:

Employers should be aware that other leave entitlements may apply at the same time as the FMLA leave and may be designated as running concurrently with the FMLA leave, if notice is provided to the employee. In addition, at the end of an FMLA leave taken for the employee’s own serious health condition, if the employee is not able to return to work at the end of the FMLA leave period, the employer should examine whether other leaves may be applicable that would extend the term. For example, some employers have generous medical leave of absence policies that provide leave for several months. In addition, workers compensation laws may apply to extend the leave. Finally, if the employee’s condition qualifies as a disability under the Maine Human Rights Act or the Americans with Disabilities Act, extending the leave period temporarily may be necessary as a reasonable accommodation under those laws. Due to the complexity of issues involved, legal counsel should be consulted if an employee notifies the employer that he/she will be unable to return to work at the end of an approved leave.

http://www.memun.org/members/personnel/HRToolkit/topics/FMLA.htm 8/15/2008
Chapter 34, PERSONNEL

[HISTORY: Adopted by the City Council of the City of Saco 11-18-1996. Amendments noted where applicable.]

GENERAL REFERENCES
Administrative Code -- See Ch. 4.
Purchasing -- See Ch. 38.

ARTICLE I, General Provisions

§ 34-1. Purpose and scope.
This chapter is intended to guide the City Administrator and department heads in the daily administration of nonunion personnel activity. Distribution of the information contained in this chapter to all full-time and part-time City employees will also serve to instruct them of their rights as well as their responsibilities while employed by the City of Saco. The specific policies and benefits outlined in this chapter shall not replace provisions established in the labor union contracts.

§ 34-2. Authority.
The rules and regulations governing the conduct of all nonunion personnel of the City are authorized under Section 1.02 of the Saco City Charter. More specifically, Article V, Section 5.04 and Section 5.05 of the City Charter direct the City Council to adopt an Administrative Code defining the organization of City departments and, further, direct the City Council to adopt a personnel ordinance. Section 5.05 of the City Charter calls for a personnel ordinance that establishes procedures that address employee promotion, suspension and discharge.

§ 34-3. Administration; applicability.
A. The personnel policies and procedures established by this chapter shall be administered by the City Administrator and/or his/her designated representative. The City Administrator and/or his/her designated representative shall, from time to time, recommend to the City Council appropriate amendments in order to maintain a fair and equitable system of personnel rules and regulations for all nonunion City employees. [Amended 3-4-2002]
B. The rules and regulations set forth in this chapter shall be applicable to all full-time and part-time employees of the City, unless they are covered by a labor contract.
ARTICLE II, Conditions of Employment

§ 34-4. Employment opportunities.

A. The City shall employ, without discrimination as to age, sex, race, creed, political affiliation, national origin, religion or physical or mental handicap, the best qualified persons who are available at the salary levels established for City employment. Within the limits of time during which a position must be filled, there shall be as wide a search for qualified candidates as is practical. It shall be the duty of the City Administrator to seek out the most desirable employees for the City, and he/she shall determine the means of recruitment.

B. The City will avoid favoritism, prejudices and discrimination during the recruitment process. Politics, religion, sex, race, age, union affiliation, creed, color, national origin and physical or mental handicap will not be a factor in considering persons for City employment. All employment opportunities with the City of Saco shall be based on the basis of merit and upon a person's ability to perform the job duties and responsibilities of the particular position.

§ 34-5. Recruitment; selection process. [Amended 3-4-2002]

In order to fill a non-department-head vacancy, the department head must first submit a request to the City Administrator for approval prior to any formal announcement that an employment opportunity exists within the City. Recruitment for vacant department head positions shall be conducted by the City Administrator and/or his/her designated representative.

A. Before filling the position, the City Administrator and/or his/her designated representative or the department head shall distribute and post an internal job announcement for at least five working days. City employees within the department having the vacancy shall be given first consideration. Preference will also be given to other qualified City employees before the vacant position becomes available to the general public. Any City employee under consideration for filling the vacancy shall meet all of the requirements of the position and shall be subject to the same probationary provisions as an external applicant.

B. When a classified position remains open after completing the internal announcement, the City Administrator and/or his/her designated representative or the department head shall proceed with external notices by advertising in local news media or other publications deemed appropriate by the City Administrator or his/her designated representative. All external applications for a particular vacancy shall be submitted to the City Administrator or his/her designated representative. Each applicant for a vacant position shall be subject to a formal interview and, if required for the particular job opening, competitive examination.

C. As part of the selection process, applicants for all full-time vacancies may be required to successfully complete the preemployment physical fitness examination at the City's expense. The City of Saco shall be responsible for selecting the physician and making the examination appointment. Applicants failing to pass the physical fitness exam shall not be considered for employment by the City.
D. Nepotism.

(1) "Nepotism" is defined as the City Administrator or his/her designee appointing others to positions by reason of blood or marital relationship to the appointing authority.

(2) The City's policy is to hire the most qualified candidate. Should a full-time applicant be related by reason of blood or marital relationship, the hiring authority shall remove him/herself from the hiring process and the City Administrator shall have the final decision.

§ 34-6. Rehiring of former employees.

Any City employee resigning from the City in good standing may make application for employment as positions within the City become available. Each former employee, however, must meet all of the qualifications set forth for the particular vacancy prior to filing an application. A rehired employee shall not be entitled to any benefits or accruals from his or her previous service and shall be subject to a stipulated probationary period of six months.

§ 34-6.1. Definition of types of employment. [Added 3-4-2002]

A. Full-time employment is an appointment to an annually budgeted position to work a standard workweek of not less than 37.5 hours on a continuing basis, i.e., with no preset termination date. Such employees receive all benefits provided herein upon completion of said probation, unless otherwise noted.

B. Part-time employment is an appointment to an annually budgeted position to work less than 37.5 hours on average, but on a continuing and indefinite basis. Such employees are not eligible for all benefits. Such employees are eligible for the following benefits on a pro rata schedule: holidays, bereavement, optical and dental, vacation, sick leave and health insurance.

C. Full-time temporary employment is an appointment to fill a temporary position of less than one year and works a standard workweek of not less than 37.5 hours. Such employees are not eligible for any benefits.

D. Part-time temporary employment is an appointment to fill a temporary position of less than one year and works a standard workweek of less than 37.5 hours. Such employees are not eligible for any benefits.


In certain cases where the City Administrator deems it advisable and in the best interest of the City, benefits and conditions of employment established by this chapter may be modified so that the City may attract the most qualified candidate for a position.

§ 34-8. Probation.

Upon employment, all employees shall be subject to a period of probation. This period shall be six months, unless otherwise specified. During the probationary period, the City Administrator or his/her designee shall periodically evaluate any probationer and may remove the probationer at any time if his/her work and/or conduct are found to be unsatisfactory.

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.

A. New employees shall be hired at the minimum rate for each position, except that under exceptional circumstances, the City Administrator may authorize appointment at a rate higher than the minimum if it is necessary in order to secure the most qualified employee. Such action by the City Administrator shall be reported to the City Council.

B. The City Administrator shall periodically review pay scales and recommend necessary adjustments for consideration by the City Council.

C. In establishing or amending the plan, consideration shall be given to union contracts of employees within the respective departments, so that, as a matter of policy, no department head is paid less than any of his/her employees.

D. Employee performance evaluation and merit compensation. In order to encourage and reward its workforce, the City has a merit compensation system based on performance evaluation of employees. For additional information refer to the Employee Evaluation Policy attainment of stated performance standards. [Amended 1-12-2000]

E. Productivity awards. Subject to the availability of funds, the City has a competitive monetary award system to reward employees for constructive suggestions regarding work productivity and efficiency of operations that would result in savings or increased productivity to the City. Funds appropriated for the competition are awarded according to rules and regulations promulgated by the City Administrator. [Amended 1-12-2000]

§ 34-10. Hours of work; rest periods.

A. City departments. There shall be variations in the hours worked each week by positions of the same class in different departments. The regular hours of work for any department shall be established by the department head, with the approval of the City Administrator.

B. All employees are entitled to two fifteen-minute rest periods (coffee breaks) at approximately the midpoint of each half (four hours) of their daily work schedule. Breaks shall not exceed 15 minutes, including time taken to travel from and back to the employee's work station. Employees are encouraged to take breaks away from the public work spaces and to use the rest areas provided by the City.

§ 34-11. Attendance. [Amended 3-4-2002]

Employees shall be at their respective places of work in accordance with the general or departmental regulations pertaining to the hours of work. All departments shall keep daily attendance records and furnish the City Administrator or his/her designated representative with such periodic reports as he/she requests. In the event of necessary absence due to illness or any other cause, it is the responsibility of the employee to see that his/her immediate supervisor is advised of the reason for absence within one hour after the time that the employee was expected to report to work.

Friday, September 12, 2008   Page | 29
§ 34-12. Compensatory time.

A. Salaried personnel are required to perform the duties of their positions without reference to hours worked. Employees who are paid by the hour, when required to work more than the established workweek, will be paid time and a half.

B. An employee may be granted personal (compensatory time) time off as compensation for extra hours worked. Compensatory time shall be computed as equal to the extra hours worked and must be taken within 30 days. Salaried personnel may be eligible for compensatory time when asked by the City Administrator to support activities or projects outside the standard job requirements of the individual position.

C. All compensatory time shall have prior written approval of the City Administrator, as set forth in a policy determined by the City Administrator.

ARTICLE III, Work Rules and Disciplinary Procedures


A. Each employee is expected to support, obey and defend the Constitution of the United States, the Constitution and laws of the State of Maine and the municipal laws and ordinances of the City of Saco.

B. Employees have a responsibility as public servants to maintain and uphold the principles of responsive, open municipal government, both on and off duty.

C. All full-time and part-time employees covered by the provisions of the nonunion personnel policy shall follow the general standard of conduct prescribed below:

   (1) Personal appearance. Each employee is expected to dress appropriately and maintain personal grooming techniques required by the particular position. Emphasis must be placed on presenting a neat, clean appearance to the general public.

   (2) Proper conduct and behavior. Employees shall refrain from any conduct or behavior that limits the effectiveness of the municipality to deliver public services. The following are examples of unacceptable behavior by City employees: fighting, uncooperative action with fellow employees, rudeness to the general public and profanity. Said list shall not be construed to be all-inclusive of unacceptable behaviors. Employees are required to report any incident of gross misconduct to the appropriate department head or the City Administrator.

   (3) Citizen complaint. Each employee shall give prompt, courteous attention to all citizens who call or appear personally with a question or complaint. Employees should make every attempt to provide the citizen with accurate information, without asking the person to call another department. If the phone call cannot be transferred immediately, the employee should take a written message, so that the appropriate department can respond to the citizen's inquiry.

   (4) Outside employment. Employees of the City may be self-employed or may take temporary part-time jobs if there is no conflict with the interests of the City. However,
employees may not engage in any business activity that requires contact or communication while on duty for the City. Any violation of the provisions of the City Charter or municipal ordinances of the City shall be enforced through disciplinary procedures outlined in § 34-17.

(5) Community activities. Employees are encouraged to become acquainted with the many community activities and services available in the City. Participation in any wholesome organization that promotes or reflects favorably upon the City is supported. Employees must obtain prior written approval from the City Administrator for any participation that may require time away from the City.

(6) Personal financial responsibilities. Employees shall refrain from neglecting personal financial responsibilities to the extent that said neglect negatively affects their job performance and/or hinders the effectiveness of conducting City business.

§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.

§ 34-15. Political activity.
A. No employee shall orally, by letter or otherwise solicit or assist in soliciting any assessment, subscription or contributions for any local political party or political purpose whatever from any person holding any compensated appointed City position.

B. All City of Saco employees shall refrain from seeking or accepting nomination for election to any office in the City of Saco government. City employees shall not circulate petitions or campaign literature for elective City of Saco officials or in any way be concerned with soliciting or receiving subscriptions, contributions or political service from any person or for any political purpose pertaining to the government of the City.

C. Any employee who violates this section is subject to enforcement through the progressive disciplinary process set forth in § 34-17 of this policy.

§ 34-16. Evaluation system.

A. The City Administrator and/or his/her designated representative shall be responsible for the development and implementation of an employee evaluation system. The employee evaluation shall apply to all nonunion employees. [Amended 3-4-2002]

B. The City Administrator shall conduct an annual employee evaluation of each department head. Each department head shall, in conjunction with the City Administrator, conduct annual employee evaluations of each nonunion employee in his/her department. Once completed, the evaluation form shall be signed by the evaluated employee and shall be filed in the employee's personnel record as a permanent document.

§ 34-17. Disciplinary action.

A. Disciplinary action may be imposed upon a City employee for failing to fulfill his/her responsibilities as an employee. Violation of work rules and instances of unacceptable behavior, misconduct or continued unsatisfactory performance will subject an employee to progressive discipline.

B. Progressive disciplinary action shall include oral reprimand, written reprimand, suspension and discharge upon a work rule violation or other employee misconduct. Generally, the four steps will consist of the following actions:

(1) Oral reprimand. An oral warning to erring employees that their conduct or behavior is unacceptable and that further infractions will lead to more severe penalties. An oral reprimand shall be documented by the supervisor who gives the reprimand, and said documentation shall become a part of the employee's personnel file for one year.

(2) Written reprimand. A written reprimand, usually after a previous oral reprimand, regarding work rules, conduct or performance. The report will become a part of the employee's personnel file for two years.

(3) Disciplinary suspensions. An ordered absence from duty, without pay, for a full workweek or some multiple of a workweek due to repeated violations of minor misconduct or for a single serious incident or offense, or an ordered absence from duty without pay of less than a full workweek for a violation of safety rules of major significance. A record of the suspension will be signed by the employee and retained permanently in the employee's personnel file.
(4) Dismissal. A last resort action for an employee who fails to improve his/her conduct or performance after imposition of progressive disciplinary actions or for single unlawful acts which result in termination of employment.

§ 34-18. Work rule violations and prohibited acts. [Amended 3-4-2002]

Whenever work habits, attitude, production or personal conduct falls below a desirable standard, the City Administrator or his/her designated representative shall begin the proper disciplinary steps to correct the individual behavior of the employee. The corrective action set forth in § 34-17 shall be administered in the following manner:

A. Prohibited acts are actions which may occur separately from any other work rule violation, are deemed to be serious in nature and are subject to progressive discipline. Examples illustrative in nature and not limited to such prohibited acts are:

(1) Gross neglect of duties.

(2) Insubordination.

(3) Arrest or conviction of a felony.

(4) Working under the influence of drugs or intoxicants/alcohol (drinking on the job).

(5) Endangering the safety of employees.

(6) Inducing others to commit unlawful acts.

(7) Falsifying City records.

(8) Receiving payments for unauthorized work.

(9) Stealing City equipment or property.

(10) Acting as a contributing factor to the cause of an accident involving City vehicles, major equipment or other property damage.

(11) Acting as a contributing factor to causing negligent injury to coworkers.

B. This list is not meant to be all-inclusive, but is designed to provide employees with examples of behavior that may result in disciplinary procedures leading to the termination of employment.

§ 34-19. 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.


A reduction in force or layoff policy involves a decision to discontinue employment for a certain number of employees due to a loss of municipal revenues, due to reorganization of a City department or during slow work cycles. Any contemplated reduction in force program shall take into account job performance and seniority of service in the current position.

A. A full-time employee shall not be laid off if there is a vacant position in another department for which the employee is fully qualified. Each full-time employee subject to layoff shall be given as much advance notice as circumstances permit.

B. Temporary employees may be laid off at any time by the department head, without consideration of job performance or seniority.

§ 34-21. Grievance procedure. [Amended 3-4-2002]

Any employee aggrieved due to some condition of his/her employment may appeal within seven days, giving written notice of the grievance to his/her immediate supervisor. The employee's immediate supervisor shall rule on the grievance within seven days after the presentation and shall notify the employee of his/her ruling in writing. He/she then shall send a copy of the grievance and his/her ruling to the City Administrator or his/her designated representative, who shall require the grievance to be submitted in writing. The City Administrator or his/her designated representative shall give written reply within two weeks. The decision of the Administrator or his/her designated representative shall be final, unless the grievance involves a policy matter which must be determined by the City Council.

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

A record of 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.

ARTICLE IV, Fringe Benefits

§ 34-23. Vacation. [Amended 5-10-1997]

A.

<table>
<thead>
<tr>
<th>Years of Continuance Service (begin accruing)</th>
<th>Maximum Annual Vacation Hours Accumulation</th>
<th>Maximum Annual Vacation Days Accumulation</th>
<th>Hours of Vacation Accrued Per Biweekly Pay Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date of hire to 5 yrs</td>
<td>75 hrs</td>
<td>10 days</td>
<td>2.8446 hrs per pay period</td>
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<tr>
<td></td>
<td>3.0769 hrs per pay period</td>
<td></td>
<td>80 hrs 10 days</td>
</tr>
<tr>
<td>Beginning 5th – 10th Yr</td>
<td>112.50 hrs</td>
<td>15 days</td>
<td>4.3269 hrs per pay period</td>
</tr>
<tr>
<td></td>
<td>120 hrs</td>
<td>15 days</td>
<td>4.6143 hrs per pay period</td>
</tr>
<tr>
<td>Beginning 10th Yr to Retirement</td>
<td>150 hrs</td>
<td>20 days</td>
<td>5.7692 hrs per pay period</td>
</tr>
<tr>
<td></td>
<td>160 hrs</td>
<td>20 days</td>
<td>6.1528 hrs per pay period</td>
</tr>
</tbody>
</table>

B. Vacation time shall accrue biweekly at the rate established in the table. [Amended 3-4-2002]

C. Vacation time may be taken as accrued with approval from the department head and the City Administrator or his/her designated representative. The City Administrator or his/her designated representative shall approve vacation time for department heads. Employees under probation shall not be granted vacation leave during the six-month probationary period nor paid if termination occurs within the probationary period. [Amended 3-4-2002]

D. If a holiday falls within an employee’s vacation period, he/she shall not have that day charged against his/her accumulated vacation days.

E. Any absence from duty from which sick leave is paid or for official leaves of absence, of 90 days or less, shall not constitute a break in service record for vacation accrual purposes.

F. No employee shall be entitled to work his vacation with pay, except in cases of extreme emergency conditions and with the expressed permission of the City Administrator.

G. The employee shall not have more vacation time on the books than what is specified on the schedule above on his/her anniversary date. [Amended 3-4-2002]

H. Employees who have completed 25 years of service will receive an additional one-week vacation in recognition to their service to the City of Saco. This additional week will apply only during their 25th year.

I. Accrued vacation leave shall be paid to an employee in good standing upon his/her separation from the service or to his/her beneficiary or estate upon his/her death.
§ 34-24. Holidays.

A. Paid holidays, for employees who have been employed for 30 days prior to the holiday, shall be as follows:

- New Year's Day
- Martin Luther King Day
- Washington's Birthday
- Patriots Day
- Memorial Day
- Independence Day
- Labor Day
- Columbus Day
- Veterans Day
- Thanksgiving Day
- Day after Thanksgiving
- 1/2 day Christmas Eve

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.

§ 34-25. (Reserved) EN


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 $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]

§ 34-27. Dental and optical fund. [Amended 3-4-2002]

The City agrees to provide a dental and optical fund from which employees covered under this policy and their families may draw in an amount no less than the dental/optical benefit delineated in the City's most favorable bargaining unit contract. Employees are required to complete a six-month probationary period before being eligible for reimbursement of expenses. Expenses incurred during the first six months of probation shall not be considered for reimbursement.
§ 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 Officer to make new employees aware of all options available to them. [Amended 3-4-2002]

§ 34-29. (Reserved) iiEN

§ 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.

§ 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 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 bi-weekly pay period worked, and sick leave may be accumulated not to exceed 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 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 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 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.iiiEN 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.ivEN

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 15 hours <for 7.5 hour employee> and 16 hours <for 8 hour employee> of accrued sick time 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 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 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.

§ 34-35. Bereavement leave. [Amended 3-4-2002]

A. Family death. In the event of the death of an employee's spouse, legally recognized partner, children, mother and father, he/she shall be granted five days leave of absence, with full pay, to make household arrangements.

B. In the event of the death of an employee's sister, brother, stepparents, stepchildren, grandmother, grandfather, spouse's grandparents, grandchildren, father-in-law, mother-in-law, sister-in-law or brother-in-law, he/she shall be granted up to three days leave of absence, with full pay, to make household adjustments and arrange for or attend the funeral services. This provision shall also apply to out-of-town deaths. The employee may be required to furnish his/her immediate supervisor with proof of death.

C. For relatives other than those mentioned above, such as aunt, uncle, niece, nephew or first cousin, one day's leave, with pay, to attend the funeral will be granted. The City Administrator may grant additional leave under this subsection in unusual or exceptional circumstances.

§ 34-36. Leave of absence.

A. A leave of absence for personal reasons may be granted to full-time employees for a period of time not to exceed one year, provided that the employee submits a written request for such leave to his/her department head, setting forth in such request the reason why such leave is required. A copy of such written report must, at the same time, be submitted to the City Administrator.

B. Permission for a leave of absence must be obtained from the employee's department head and the City Administrator. Full consideration will be given to the reason for the request, the effect of such absence on the department, including the availability of a replacement, the length of service of the employee and the precedent which might be established by granting the request. Permission for such leave of absence will not be unreasonably withheld. No such leave of absence will be granted for the purpose of permitting an employee to accept employment elsewhere. An employee will not continue to accumulate longevity or fringe benefits after 30 days of a leave of absence.

C. A leave of absence for personal reasons shall be without compensation. Upon return from such leave of absence within the period of time granted for such leave, the employee will be entitled to a resumption of fringe benefits, compensation and accumulation of seniority. Failure of the employee to return to active employment on or before the termination date of such leave will be considered as a resignation of employment by the employee.

D. In cases of leaves of absence, the City shall not be required to reemploy the person if other employees of equal length of service and status in the same or similar position have been laid off due to economic conditions or other changes in operating conditions affecting employees.

§ 34-37. Military service.
Employees who have completed probation and who are members of the organized military and who are required to perform field duty will be granted service leave, in addition to vacation leave, but not to exceed two weeks in any calendar year. For any such period of service leave, the City will pay the employee the balance between service pay and the employee's regular compensation, the total equaling the regular pay of the employee had he/she been in the service of the City during the period of leave, provided that the employee on service leave furnishes his/her department head an official statement by military authorities giving his/her rank, pay and allowances.

A. Upon approval by the City Administrator, an employee may be granted time off, with pay, if required to appear before a draft board or at the direction of such board.

B. The City Administrator may grant a leave, without pay, to an employee called to military duty for purposes other than annual routine training.

C. As used in this section, "organized military" means the United States Air Force, the United States Army, the United States Navy, the United States Marine Corps, the United States Coast Guard, the Maine National Guard, the Maine Air National Guard and any and all components thereof.

§ 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. Participants of Maine State Retirement and future new enrollees may 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). 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. 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.

B. Enrollment requirements, mandatory employee contribution [for the Maine State Retirement System and the ICMA 401(a) Retirement Plan]. City contribution and benefit provisions shall be determined by state statute and/or City Council action.

b. Tri Community Fuel Bid

Saco has grouped with Biddeford and Old Orchard Beach for several years to purchase fuel oil (#2, diesel and gasoline) for all City and School operations. Bulk purchasing is a means for receiving better pricing on these types of commodity products. The City went through this process again recently and received the attached Fuel Bid Results.

Be it Ordered that the City Council confirm Saco’s commitment to participate in the Tri-Community cooperative fuel purchase for the Fiscal Year 2008/2009.

c. Approval of Transfer of Assets

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 Saco’s involvement.

The matter before the Council at this time involves the seizure of approximately $1,657 in the matter “State v. Ronald Jeanty”.

Be it Ordered that the City Council does hereby approve with reference to Superior Court Docket #07-922, of the transfer of the Defendant(s) in Rem, namely $1,657, or any portion thereof, pursuant to 15 M.R.S.A. §5824(3) & §5826(6).

d. Confirm the Mayor’s Appointment to the Board of Assessment Review and Parks and Recreation Advisory Board

The Parks and Recreation Advisory Board were established for the purpose of planning a City-wide Parks and Recreation Program and to advise and assist the Parks and Recreation Director in initiating and maintaining this Program. The Board consists of 11 members. The responsibility of the Parks and Recreation Advisory Board includes: (1) Over-all responsibility to promote, enhance and protect recreational opportunities in Saco in order to maintain and further develop the quality of life. (2) Serve as an Advisor to the Parks and Recreation Director, and as a forum
for the discussion of new and creative programs including needs and requirements of present and future activities, programs, and projects.

The Board of Assessment Review consists of five members appointed by the Mayor and confirmed by the City Council, for a 5 year term. Primarily the Board shall review tax appeals duly filed in writing by taxpayers regarding any tax assessment made by the Tax Assessor within 60 days from the date appeal is filed.

The Mayor has appointed Cuong Do of Smutty Lane, to serve on the Parks & Recreation Advisory Board and the Board of Assessment Review.

Be it ordered that the City Council confirm the Mayor’s appointment of Cuong Do to the Parks & Recreation Advisory Board for a 3 year term to expire on September 1, 2011, and to the Board of Assessment Review with a term to expire on September 1, 2013.

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

VIII. RECESS THE MEETING & Convene - COUNCIL WORKSHOP
Councilor Mills moved, Councilor Smith seconded to recess. The motion passed with seven (7) yeas. TIME: 7:25 p.m.

Mayor Michaud reconvened the meeting at 8:40 p.m.

IX. Reconvene the Council Meeting:

A. City Hall Hours of Operation

Changing City Hall hours of operation is being presented for two main reasons. First, the change will provide more convenient access to City Hall for citizens to conduct business, before 8:30 am and after 5:00 pm. For many this is a convenient change. Second, with the increasing energy costs, our “green” city is always evaluating ways to conserve, and moving City Hall to a 4 day work schedule provides a 5th day of energy savings.

The proposed new hours of operation, moving from a 5 day to a 4 day work week is not a new concept; in fact, many other states, counties, and municipalities are currently doing so for the very same reasons. Presently, the State of Maine is evaluating a 4 day schedule as are 9 other municipalities.

The annual savings in heating fuel for City Hall is estimated at $2000, and does not include the savings on electricity and air conditioning in the warmer months. The fuel cost for City Hall has gone from an annual cost of $12,697.00 in FY05 to $21,658 in FY07; an increase of almost $9,000. These are significant energy savings, and are an important part of our collective efforts to reduce our carbon footprint.

Councilor Morton moved, Councilor Cote seconded, that it be Ordered that the City Council approve changing City Hall hours of operation from Monday through Thursday 8:30 am to 5:00 pm, and Friday 7:30 am to 4:00 pm, to the following - closed on Monday and open from 7:30 am to 6:00 pm, Tuesday through Thursday, and open on Friday from 7:30 am to 3:30 pm; and
further move that the effective date for the new hours of operation be September 28, 2008. I move to approve the Order. The motion failed with one (1) yea and six (6) nays. Councilors Mills, Smith, Morton, Bastille, Tardif and Lovell voted in the negative.

Councilor Cote moved, Councilor Morton seconded, to explore a five (5) day week with flex time opportunities and extended hours. The motion passed with six (6) yeas and one (1) nay. Councilor Bastille voted in the negative.

**Questions & Answers – Proposed Change in Hours of Operation at City Hall**

1. How will the change in City Hall hours effect or apply to other city departments which will not be on the same schedule? And for those in the Clerical Union whose hours will not be changing?

   The changes would affect the payroll as follows:
   - Employee hours would have to be reported on Tuesday instead of Monday.
   - Direct deposit of payroll would have to be done on Thursday instead of Friday.
   - The postal carrier would either have to deliver mail to each physical location of the departments or deliver the mail to city hall on Tuesday.

2. Why close early on Friday? For consistency, why not be open the same hours for the 4 days? What hours will work to be open the same times for all 4 days?

   - Due to the Clerical Unit Contract the hours the employees work is 37.5. In order to comply with the negotiated hours, in the current contract, the city hall employees would work three (3) ten hour days and one (1) 7.5 hour day. In order to make the lunch schedule consistent the employees would take an unpaid half hour lunch break. This is the reason that city hall would close a half hour earlier on Fridays than the current schedule.

3. What is the cost involved in making the change in hours?

   - Signage is the cost associated with the change. A quote of $75.00 to $100.00 has been given by Screentech of Biddeford.

4. How will the bonus day be handled? 7.5 hours or 10.0 hours? Does changing to a 10 hours day create problems for figuring accruals, sick, vacation, or bonus days?

   - Holidays will be credit 7.5 hours into the employee’s vacation time at the same rate currently credit (7.5 or 8 hours depending on the employee’s scheduled time).
   - On holidays that fall on a ten hour day the employee would be credited 7.5 hours for holiday pay along with 2.5 hours of vacation or 8 hours holiday and 2 hours vacation depending on the employee scheduled time.
• All accruals processes would remain the same as outline in the personnel ordinance and the Teamster Union Contracts.

5. How many employees does the city have? How are employees in other departments effected by the change?
   • There are twenty one employees at city hall that would be affected.

6. Are all on board – will other departments follow city hall hours?
   • Parks and Recreation secretarial staffs are the only individuals that would change their schedule to a four day schedule. However, this change would allow Parks and Recreation to have longer coverage at their reception area. The other departments have stated that their staff would remain on their current schedule.

7. Will the City Council meeting stay on Monday night? What are the options?

8. What are the Charter requirements for Council Meetings?
   • Reference has been made to Section 2.08. Procedure of the Charter.

Section 2.08 a
   a. Meetings. The City Council shall meet regularly at least once in every month at such times and places as the City Council may prescribe by rule. Special meetings shall be held on the call of the Mayor or the four City Councilors upon not less than twenty-four (24) hours notice to each City Councilor to be given in hand or left at the usual dwelling place of each City Councilor. Only those matters set forth in the call for a special meeting may be acted upon at the special meeting. All meetings shall be public.

The Procedures Manual for Council Members makes reference in Chapter 8 City Council Meetings & Workshops to the Council Meeting Schedule.

Council Meeting Schedule
Meetings times and dates are established bi-annually by the City Council. (Consistent with Charter section 2.08 (a), The Council shall meet regularly at least once in every month). Regular meetings are held the 1st and 3rd Monday in the City Hall Auditorium, 300 Main Street, Saco, Maine. The public sessions of meetings begin at 7:00 p.m. with executive sessions generally being convened earlier, as needed, or at the end of the meeting at the conclusion of public business. In the event that a regular meeting of the Council falls on a legal holiday or the day prior to a holiday, the meeting is usually held the day following observance of the holiday. Council members should inform the Mayor or City Administrator as soon as possible if they intend to be out of town on a set meeting date.

Council Workshop Schedule
Workshops will be held on the 1st and 3rd Monday in the Council Chambers, 300 Main Street, Saco, Maine. Formal items will be reviewed at workshops prior to the Council meeting. No
action may be taken during a workshop. The public is allowed to speak at the Mayor’s discretion.

9. What is the Unions position on the proposed hours of operation for City Hall? The following – side bar letter has been agreed upon.

**Summary of Agreement**

This Agreement between the City of Saco and the Teamsters Local 340 Clerical Unit will allow the City to modify the following positions work week and modify the contract in accordance with the following conditions.

**Positions:**

- Administrative Assistants (Tax Assessor, Building Inspection, Planning Department, Parks and Recreation)
- Deputy City Clerk/Welfare Director
- Customer Service Representatives
- Accounting Assistant
- Data Processing Entry & Records Technician
- Custodian (This position will continue to work 7.5 hours a day five days a week.)

- **Article 17 – Workweek** – For the above positions the workweek shall consist of Tuesday through Thursday working 7:30 a.m. through 6:00 p.m. with a half hour unpaid lunch and working Friday 7:30 a.m. through 3:30 p.m. with a half hour unpaid lunch.

- **Article 18 – Overtime (C)** – Delete the first sentence and replace with the following. Overtime shall be paid when an employee is required to attend meetings of boards (i.e. Planning Board, Zoning Board) and commissions outside the required regularly scheduled hours.

- **Article 20 – Holidays** – Add the following sentence to section A. Holidays that fall on a Monday shall be credited in a holiday bank at a rate of 7.5 hours per holiday and used to offset the shortage when holiday falls on a scheduled 10 hour work day. Any additional holiday hours above 7.5 hours must be used by February 1st of each year. During the transition phase of October 2008 through February 1, 2009 employees shall be allowed to carry a negative amount of 4.5 hours until February 1, 2009. On the ½ day before Christmas and the ½ day before New Years employees’ will be paid 4 hours holiday pay. If the ½ day before Christmas or New Years falls on a 10 hour work day the employee shall work 5 hours and utilize 1 hour from their holiday bank.

- **Article 22 – Sick Leave (D) Bonus** – (1) Delete first sentence and replace with the following: Any person covered by this Agreement who does not utilize more than 15 hours of sick leave in each 6 month period shall be awarded an additional 7.5 hours as time off or 7.5 hours of pay with pay to be computed on his/her anniversary date.
(2) Delete first and second sentences and replace with the following: In addition to the above, an employee may elect to utilize 15 hours of sick leave per year as personal days. In the event that an employee utilizes more than 15 hours of any combination of sick and personal leave in a 6 month period, the employee shall forfeit his/her bonus pay or earned time off.

- **Article 23 Paid Leave – NEW section D - Definition.** A day is defined as the normal schedule work day for that day. (i.e. Tuesday-Thursday is 10 hours and Friday is 7.5 hours)

**City of Saco**

Date:

_____________________________________________
Richard Michaud, City Administrator

**Teamsters Local 340**

Date:

_____________________________________________
James Carson, President

_____________________________________________
Carl Guignard, Secretary Treasurer

_____________________________________________
Sylvia Hebert, Business Agent

**B. Energy Coordinator – New Position**

The proposed role of the energy coordinator will be to develop and implement energy initiatives that reduce energy demand, increase energy efficiency and advance the use of renewable resources within the local community. The energy coordinator will also serve as the chief contact between the city and community members regarding energy related issues.

Cote moved, Councilor Lovell seconded, that it be Ordered that the City Council approve a supplemental appropriation of $59,268 to the Public Works budget, an increase to $4,404,635 from $4,345,366 and further, and further to decrease the Fund Balance Account from year ending June 30, 2008 in the amount of $59,268. Further move to approve the Order. The motion failed with two (2) yeas and five (5) nays. Councilors Mills, Smith, Morton Bastille and Tardif voted in the negative.
Energy Coordinator

**General**

The role of the energy coordinator is to develop and implement initiatives that improve the efficiency and reduce the environmental impact of city operations. These operations include, but are not limited to asset management and renewable energy. This is a multidisciplinary position that will require collaboration with other city departments, government officials and community members. The energy coordinator also serves as a contact between the city and community members regarding sustainability issues.

**Essential Duties & Responsibilities**

1. Collaborates with city departments, committees and officials to develop a long-term sustainability plan for the city with metrics to track the progress of the program.
2. Researches and presents options for capital improvement projects and develops cost/benefit analyses and life-cycle analysis of alternatives.
3. Assists city committees and departments in the development of an asset management plan designed to maximize the life-cycle and cost effective use of municipal assets.
4. Works with various city departments to implement energy saving features and tracks the performance of these features to quantify cost savings and reductions in greenhouse gas (GHG) emissions.
5. Organizes public outreach efforts and develops public outreach programs designed to empower citizens to improve the efficiency of their homes.
6. Work with businesses and residents to decrease use of electricity by demand side management and conservation measures.
7. Pursue grants and other sources of funding applicable to implementing the sustainability plan.
8. Ability to maintain spreadsheets, write reports and give presentations when necessary.
9. Ability to maintain, and work within a budget.
10. Meets regularly with city committees to provide updates and brainstorm new projects.
11. Be able to conduct energy audits and have familiarity with green building materials and techniques.
12. When necessary, works with contractors and city employees to ensure that energy goals are met during new construction and improvement of existing city buildings and infrastructure.
13. Work with the city information technology (IT) division to produce a webpage detailing and keeping current the goals and progress of the energy program.
Education:

Bachelor’s degree or an equivalent combination of education and experience in energy and resource management, environmental science, environmental engineering or related field providing knowledge necessary to perform the essential functions of the position.

Desired Minimum Qualifications

1. Excellent communication and interpersonal skills. Ability to maintain effective working relationships with city employees, citizens and various outside organizations.

2. Familiarity with computers and applicable software. Ability to type reports and generate spreadsheets as needed.

3. Knowledge of green building techniques and sources of renewable energy. Must understand geospatial limitations of various technologies and make recommendations accordingly.

4. Experience writing grants and pursuing sources of funding needed to achieve goals detailed in the energy plan.

TOOLS & EQUIPMENT USED

Personal computer, including word processing applications, telephone, adding machine, fax machine, and a photocopy machine.

PHYSICAL DEMANDS

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee is frequently required to sit and talk or hear, use hands to finger, handle, or feel objects, tool or controls, and reach with hands and arms.

The employee must occasionally lift and/or move up to 25 pounds. Specific vision abilities required by this job include close vision and the ability to adjust focus.

WORK ENVIRONMENT

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

The noise level in the work environment ranges from very quiet in the office to extremely loud at public works job sites or in the maintenance garage. This position also encounters and must endure significant inclement weather.
SELECTION GUIDELINES

Formal application, rating of education and experience; oral interview and reference check; job related tests may be required.

The duties listed above are intended only as illustrations of the various types of work that may be performed. The omission of specific statements of duties does not exclude them form the position if the work is similar, related or a logical assignment to the position.

The job description does not constitute an employment agreement between the employer and employee and is subject to change by the employer as the needs of the employer and requirements of the job change.

ADJOURNMENT

Mayor Michaud called for adjournment. The motion passed by unanimous consent. TIME: 8:50 p.m.

ATTEST: ______________________
Lucette S. Pellerin, City Clerk
, promotion or providing of any materials described in § 219-2 thereafter will be a violation of this chapter punishable by a fine of $100 per day.


A. The license holder shall display at all times their license in a place and manner visible to the public for its review.

B. The failure to so display a victualer's license is a violation of this chapter