

STATE OF MAINE

COUNTY OF YORK

CITY OF SACO

The following are minutes of the Council Meeting held on June 29, 2009.

I. CALL TO ORDER – On Monday, June 29, 2009 at 7:00 p.m. a Council Meeting was held in the City Hall Auditorium.

II. ROLL CALL OF MEMBERS - Mayor Roland Michaud conducted a roll call of the members and determined that the Councilors present constituted a quorum. Councilors present: Margaret Mills, Leslie Smith Jr., Ronald E. Morton, Sandra Bastille, Arthur Tardif, Eric Cote and Marston Lovell. Mr. Richard R. Michaud, City Administrator and Lucette S. Pellerin, City Clerk were also in attendance this evening.

III. PLEDGE OF ALLEGIANCE

IV. GENERAL:

V. APPROVAL OF MINUTES: June 15, 2009

Minutes were approved as presented.

VI. AGENDA ITEMS:

A. Audit Report Presentation

Runyen, Kersten, Ouellette, the audit firm for the City of Saco, presented a review of the Comprehensive Annual Financial Report to the Mayor and Council. The report, as in the past, was favorable with minor recommendations from the firm.

B. *Resolve* – Customer Service Bill of Rights

CITY OF SACO, Maine

**City Council Resolution
Customer Service Bill of Rights**

WHEREAS: We, the City Council, administration and staff of the City of Saco are committed to making Saco the leading city in Maine in providing an excellent and sustainable quality of life; and

WHEREAS: We pledge to deliver the highest quality, most cost-effective, highly responsive and reliable services possible with integrity and friendliness; and

WHEREAS: Our goal is to provide excellent service at all times by determining the needs of our citizens and customers and satisfying those needs beyond their expectations; and

WHEREAS: We will continue to strive to improve our customer service. Customer service is our way of life, and;

WHEREAS: Each customer has the right to receive a friendly, warm welcome, and to be treated with respect and courtesy. They have the right to receive prompt service, our complete and undivided attention and to know what services we provide and what service standards to expect from us. They have the right to receive high quality, knowledgeable service using our best efforts and accuracy regarding all business dealings. They have the right to easy access to the most thorough information we have available and to safe, clean and accessible city facilities. They have the right to give us comments and suggestions. They have the right to have us work in a cooperative spirit when problems or disputes arise.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of the City of Saco endorse the ‘Customer Service Bill of Rights’.

Adopted June 29, 2009

Councilor Peg Mills, Ward One

Councilor Les Smith, Ward Two

Councilor Ron Morton, Ward Three

Councilor Sandy Bastille, Ward Four

Councilor Art Tardif, Ward Five

Councilor Eric Cote, Ward Six

Councilor Marston Lovell, Ward Seven

Mayor Ron Michaud

Councilor Bastille moved, Councilor Smith seconded, to accept the Bill of Rights. The motion passed with seven (7) yeas.

**C. Resolution for Acceptance of the Riverfront Community Development
Bond Funds**

The Department of Economic and Community Development has awarded the City of Saco \$675,000 from the Riverfront Community Development Bond (RCDB) program. The expenditure of these funds will be done in conjunction with Mattson Development, and will result in the construction of a Riverfront Park and seawall repairs on Saco Island, and the completion of the River Walk Trail initiated by Saco Spirit in 2007. Among the requirements of the bond is approval by the City Council via a formal vote to accept RCDB funds. A Public Hearing on the bond program was held on June 15, 2009.

Councilor Lovell moved, Councilor Smith seconded, that it be resolved that, the Mayor and City Council of the City of Saco approve the acceptance and expenditure of \$675,000 in funding provided by the Riverfront Community Development Bond program as administered by the State of Maine Department of Economic and Community Development. Further move to approve the Resolution. The motion passed with seven (7) yeas.

CITY OF SACO, Maine
City Council Resolution Supporting Acceptance of Funding – Riverfront Community Development Bond Program

WHEREAS: The City of Saco has been invited into the Project Development Phase of the Riverfront Community Development Bond (RCDB) program, and

WHEREAS: the Department of Economic and Community Development has reserved \$675,000 for the City of Saco via the RCDB program, with said funds to be utilized for projects on the Saco River waterfront, and:

WHEREAS: said funds will provide for repairs to the existing timber crib retaining wall along the southeastern edge of the Island Point East parcel; and

WHEREAS: said funds will provide for the existing surface parking area on the West parcel to be reconstructed in order to stabilize soil adjacent to the River; and

WHEREAS: said funds will provide for a public park to be constructed adjacent to Mill Building 3, including seating, landscaping, a display area for local artists, a fenced walkway along the River's edge, and the removal of an abandoned steam conduit, and;

WHEREAS: said funds will provide for improvements to 800 linear feet of the Saco River Walk Trail, and;

WHEREAS: the cumulative effect of these improvements represents a welcome and necessary investment in the Saco River waterfront;

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of the City of Saco approve the acceptance and expenditure of \$675,000 in funding provided by the Riverfront Community Development Bond program as administered by the State of Maine Department of Economic and Community Development.

Adopted June 29, 2009

Councilor Peg Mills, Ward One

Councilor Les Smith, Ward Two

Councilor Ron Morton, Ward Three

Councilor Sandy Bastille, Ward Four

Councilor Art Tardif, Ward Five

Councilor Eric Cote, Ward Six

Councilor Marston Lovell, Ward Seven

Mayor Ron Michaud

D. (Public Hearing) Zoning Ordinance Amendment – Domestic Chickens

The proposed amendment to §701 and Article 3 of the Zoning Ordinance would allow up to six chickens to be kept in a backyard henhouse and pen, with certain restrictions that would limit impacts on neighboring properties. A permit would be required from the Code Enforcement Office, renewed annually. Eggs would be for the homeowner's use only, no roosters allowed, and clean, dry conditions must be maintained.

The Planning Board considered the proposed amendment on March 4, 2008, and made a positive recommendation for passage, with this added recommendation: that a 50 foot setback from all property lines be required. If not possible, then a minimum lot size of 1 acre is recommended.

Councilor Cote moved, Councilor Lovell seconded, to open the Public Hearing on the document titled, 'Amendment to Zoning Ordinance Articles 3 and 7, §701-4, Domestic Chickens, dated June 2, 2009'. The motion passed with seven (7) yeas.

Ms. Kerry Green, 38 Pepperell St., spoke in favor of the Ordinance but felt that a 25 or 35 foot setback would be more appropriate. She felt that if the setback rules were changed more individuals could take advantage of the Ordinance.

Councilor Cote moved, Councilor Bastille seconded to close the Public Hearing and be it Ordered that the City Council refer the matter to the July 6, 2009 Council Workshop and set the Second and Final Reading of the document for July 20, 2009. The motion passed with seven (7) yeas.

Amendment to Zoning Ordinance Articles 3 and 7, §701-4, Domestic Chickens, dated June 2, 2009,"

Article 3. Definitions

Chicken Pen: a wire enclosure connected to a henhouse for the purpose of allowing chickens to leave the henhouse while remaining in an enclosed, predator-safe environment.

Henhouse: a structure for the sheltering of female chickens. An existing shed or garage can be used for this purpose if it is a conforming structure.

701-4. Domestic Chickens

The keeping or raising of a small number of domestic chickens shall be allowed on a non-commercial basis. The City recognizes that adverse neighborhood impacts may result from the keeping of domesticated chickens as a result of noise, odor, unsanitary animal living conditions, unsanitary waste storage and removal, the attraction of predators, rodents, insects, or parasites, and loose animals leaving the owner's property. This section is intended to create standards and requirements that ensure that domestic chickens do not adversely impact the neighborhood surrounding the property on which the chickens are kept.

- 1) A permit is required from the Code Enforcement Office for the keeping of domesticated chickens. Additionally, a building permit is required for the construction of a henhouse and chicken pen, or the conversion of any existing structure or portion of structure. The permit is specific to the permittee, may not be assigned and shall be renewed annually. In the event that the keeping of chickens is discontinued for longer than six (6) months, the permit shall become void.
- 2) The maximum number of chickens allowed is six (6) per lot regardless of the number of dwelling units on the lot.
- 3) Only female chickens are allowed. There is no restriction on chicken species.
- 4) Chickens must be kept in a clean, dry and odor-free enclosure or fenced area at all times. During daylight hours, chickens may be allowed outside of the chicken pen in a securely fenced yard in a manner that will not disturb the use or enjoyment of neighboring lots due to noise, odor or other adverse impact. Chickens shall be secured within the henhouse during non-daylight hours.
- 5) Henhouses and chicken pens shall only be located in rear yards, and are subject to a fifty (50) foot setback from all property lines. For a corner lot or other property where no rear yard exists, a side yard may be used as long as the 50 foot setback is met. If a property is configured such that the 50 foot setback cannot be met, a henhouse and chicken pen may still be allowed only for parcels one (1) acre or larger in area. A henhouse shall not be placed in a front yard.
- 6) Provision must be made for the storage and removal of chicken manure to the satisfaction

of the Animal Control Officer. All stored manure shall be covered by a fully enclosed structure with a roof or lid over the entire structure. No more than three (3) cubic feet of manure shall be stored at one time. In addition, the henhouse, chicken pen and surrounding area must be kept free from trash and accumulated droppings.

- 7) Odors from chickens or chicken manure shall not be perceptible at the property boundaries.

Prohibited activities: no person shall sell eggs or engage in chicken breeding or fertilizer production for commercial purposes. The slaughtering of chickens is prohibited.

E. Map 116, Lot 18-4, Surplus Real Property Bid Results

The City owns a parcel of land identified on Tax Map 116, as Lot 18-4; this parcel is a 1.75 acre lot located at 5 Wilson Lane. Ownership of the lot was one turned over to the city in February 2005. The Planning Board held a public hearing on this parcel and forwards a recommendation to the Council that the parcel be declared surplus and sold if the Council so chooses.

The Council, on April 27, 2009, authorized the City Administrator to advertise the parcel for sale by process of sealed bid. According to process, the parcel was advertised for sealed bid in the local paper, as well as notification sent to all abutters and property owners in the general vicinity. Local realtors were also notified. Two bids were received and opened on June 10, 2009.

Councilor Mills moved, Councilor Lovell seconded that it be ordered that the City Council award the bid for the parcel located at 5 Wilson Lane, identified on Tax Map 116 – as Lot 18-4, be awarded to Diane Lord for a bid price of \$50,000, and that the land be transferred by Quitclaim Deed. Further move to approve the order. The motion passed with seven (7) yeas.

Bid Opening for Map 116 Lot 18-4 – Dated June 10, 2009

Saco City Hall Tax Collector Office – 2:10 pm

Present: Kate Kern, Executive Assistant; Stephanie Weaver Tax Collector

1. Diane Lord
6 Wilson Lane
Saco, Maine 04072 \$50,000.00

Mike & Karen Dineen
7 Wilson Lane
Saco, Maine 04072 \$40,330.24

F. (Second & Final Reading) Zoning Ordinance Amendment – Shoreland Zoning, Article 3

These proposed Zoning Ordinance amendments would update the City's approach to Shoreland Zoning, consistent with the July 1, 2009 deadline imposed by the *State of Maine Guidelines for Municipal Shoreland Zoning Ordinance* that was amended May 1, 2006 by the DEP. DEP staff has reviewed the proposed changes and found them acceptable. Formal acceptance of the changes by the DEP Commissioner will occur after Council action.

The Planning Board considered the proposed Ordinance and Map amendments at its April 14 meeting and made a positive recommendation for passage. The Board held a second public hearing on May 19 after notice was mailed to certain property owners, and made a negative recommendation for passage, with the added recommendation that options be explored for reducing the impacts of the proposed rezoning of all or parts of 31 parcels to Resource Protection (RP).

Councilor Lovell moved, Councilor the City of Saco hereby ordains and approves the Second and Final Reading of the document titled 'Amendments to Zoning Ordinance Section 7-1, Article 3, Section 504, Section 902-4 and Zoning Map, dated April 27, 2009'. The first motion, to bring forward this matter failed, due to a lack of second.

MOTION IS THE SAME LANGUAGE AS THE FIRST MOTION AS AMENDED. Councilor Lovell moved, Councilor Morton seconded, The City of Saco hereby ordains and approves the Second and Final Reading of the document titled 'Amendments to Zoning Ordinance Section 7-1, Article 3, Section 504, Section 902-4 and Zoning Map, dated April 27, 2009'. The motion passed with three (3) yeas and two (2) nays and one (1) abstention.

Councilors Tardif and Bastille voted in the negative. Councilor Cote abstained due to the fact that one of the individuals impacted by the Ordinance was a client. Councilor Morton was acting as Deputy Mayor at this time.

Ms. Priscille Doyon was allowed to address the Council and stated that she was concerned that there would be repercussion from the State regarding this matter.

Note: Mayor Michaud has stepped down, at 8:16 p.m., in order to speak on the matter and Deputy Mayor Ron Morton was conducting the meeting.

Mayor Michaud was concerned about the many restrictions imposed by the DEP and felt that the Council should bring this forward since it was the responsible thing to do.

Mr. Robert Hebert, Boom Road, stated that he was the property owner who would be most impacted with this Zoning Ordinance. Mr. Hebert stated that 1800 by 250 feet would be impacted without compensation.

The vote on the first motion was taken by Deputy Mayor Morton after the above comments were made.

Councilor Lovell moved, Councilor Mills seconded, that it be ordered that the City Council approve the amendment to Zoning Ordinance **Article 7.1, p. 2.**"

(underlined language represents new language while ~~strikethrough~~ represent language to be deleted).

Resource Protection

The RP District shall include the areas shown as RP on the Official Zoning Map and the following areas when they occur within the limits of the shoreland zone as mandated by the State of Maine Mandatory Shoreland Zoning Act 38 M.R.S.A. § 435 et. seq., except that areas which are currently developed, or lots that appear on a recorded subdivision plan which has obtained municipal approval, and Site Location of Development approval or an Natural Resource Protection Act (NRPA) permit, prior to the effective date of this amendment need not be included within the Resource Protection District ~~whether or not such areas are shown on the zoning map:~~

Further move to approve the Order. The motion passed with three (3) yeas and two (2) nays. Councilors Bastille and Tardif voted in the negative. Councilor Cote abstained and Deputy Mayor Morton was conducting the meeting at this time.

Councilor Lovell moved, Councilor Mills seconded, that it be ordered that the City Council approve the amendment to **Art. 7.1, p. 2.**

(underlined language represents new language while ~~strikethrough~~ represent language to be deleted).

11. Areas designated by federal, state or municipal government as natural areas of significance to be protected from development, including ~~but not limited to:~~

Ferry Beach State Park
Rachel Carson Wildlife Preserve

Further move to approve the Order. The motion passed with three (3) yeas and two (2) nays. Councilors Tardif and Bastille voted in the negative. Councilor Cote abstained and Deputy Mayor Morton was conducting the meeting at this time.

Please see minutes of June 15, 2009 for the Zoning Ordinance Amendment – Shoreland Zoning, Article 3.

VII. CONSENT AGENDA:

A. **(First Reading)** Contract Zone Amendment, Congregate Care Facility, Smith Lane, Map 33, Lot 25-1

Applicant Volunteers of America Northern New England (VOANNE) requests consideration of a contract zone that would allow Elderly Congregate Housing (ECH) on a portion of the property at 439 Main Street, the site of Great American Realty. The plan calls for splitting the parcel in two, leaving the existing realty building on its own lot with frontage on Main Street, and creating

a separate 1.8 acre parcel to the rear for the VOANNE. A 40+/- unit ECH facility for those 55 years of age and older is proposed on the rear lot, with access only from Smith Lane.

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

This item was reviewed by the Planning Board on June 2, 2009. The Board voted to make a positive finding on each of the four standards required for a contract zone, and has forwarded a positive recommendation to the Council. If the contract zone is approved, the project would be subject to site plan review by the Planning Board prior to development of the site.

Councilor Tardif moved, Councilor Mills seconded that the City of Saco hereby ordains and approves the First Reading of the contract zone document entitled “**Contract Zone Agreement By and Between Volunteers of America Northern New England and the City of Saco,**” dated June 2, 2009, further moves to schedule a Public Hearing for July 6, 2009. The motion passed with five (5) yeas and two (2) nays. Councilors Bastille and Tardif voted in the negative.

Contract Zone Agreement By and Between Volunteers of America Northern New England and the City of Saco

June 2, 2009

THE CITY OF SACO HEREBY ORDAINS:

I. That the zoning ordinance of the City of Saco, dated January 2, 1985, and amended through December 15, 2009 is hereby further amended by adopting this contract by and between the City of Saco and the Volunteers of America Northern New England.

1. The Volunteers of America Northern New England, Inc., (Applicant) has submitted an application for a contract zone for a portion of the parcel (Subject Property) at 439 Main Street.
2. The property at 439 Main Street is owned by Great American Realty, and identified as Tax Map 33, Lot 25-1 on City of Saco tax maps. The Subject Property is subject to a Purchase and Sale Agreement between Great American Realty and the Applicant dated April 2, 2009, submitted as proof of right, title and interest.
3. The Subject Property is identified as a 1.8+/- acre portion of Tax Map 33, Lot 25-1. As proposed on a sketch plan dated April 7, 2009, Lot 25-1 would be split into two parcels. The Main Street parcel, currently developed with an office condominium building, would exist as a conforming lot, with approximately 127 feet of frontage on Main Street, and an area of approximately 0.80 acre. The Subject Property, having been split from the larger parcel, would have an area of approximately 1.8 acres, but would result in a nonconforming parcel due to lack of frontage on a City or private way.

4. The Subject Property is in the R-1b zoning district.
5. The Applicant proposes an Elderly Congregate Housing facility of up to forty (40) dwelling units intended for elderly congregate care. Elderly Congregate Housing is not an allowed use in the R-1b zoning district.
6. Recognizing the lack of frontage for the proposed Subject Property, and that the proposed use is not allowed by the Zoning Ordinance, the Applicants hereby petition for a Contract Zone that would allow the Elderly Congregate Housing facility to be proposed, approved and constructed and to operate on the Subject Property as a legally conforming use.

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

This Contract Zone, specifically and exclusively for the Subject Property as identified above, would allow the Applicants to propose and construct an Elderly Congregate Housing facility, subject to the following conditions and restrictions, as provided for in Section 1403 of the Saco Zoning Ordinance:

- a. An Elderly Congregate Housing facility of no more than forty (40) units, in a building no greater than two (2) stories in height, specifically for buyers fifty-five (55) years of age and older, shall be allowed as a permitted use on the Subject Property.
- b. Section 410-1 of the Zoning Ordinance does not identify Elderly Congregate Housing as either a permitted or a conditional use in the R-1b zoning district. Sec. 410-1 is hereby amended so that Elderly Congregate Housing shall be considered a permitted use on the Subject Property.
- c. Table 412-1 of the Zoning Ordinance requires one hundred (100) feet as minimum street frontage in the R-1b zoning district. Table 412-1 is hereby amended to allow the fifty (50) foot wide "Utility and Access Easement" as labeled on the Sketch Plan to meet the requirement for minimum street frontage. Said easement provides access to Smith Lane, an existing City Street, for a private driveway to the proposed Multi-Family Dwelling.
- d. The Minimum Lot Area per Dwelling Unit for the Subject Property shall be 2,000 square feet.
- e. The Applicants shall adhere to all other applicable provisions of the R-1b zoning district and of the City of Saco Zoning Ordinance and Subdivision Regulations.
- f. City and Applicant recognize that the sketch plan submitted for contract zone review is a general representation of site layout, but is subject to change as a result of site plan review conducted by the Planning Board. If it is determined that the changes constitute a change in the contract, then the developer shall also be required to obtain City Council approval of the changes.

- g. These amendments affect only the portion of the parcel of land (Subject Property) identified as Tax Map 33, Lot 25-1 on City of Saco tax maps that is approved with this Agreement.
- h. Upon approval of this contract by the City Council, the Applicants shall submit materials required for site plan review to the Planning Office in order that the project may be reviewed by the Planning Board. Failure of the Applicants to secure site plan approval from the Planning Board within one year of the approval of this Contract by the Saco City Council shall render this Contract null and void. In the event that permits or approvals are delayed due to circumstances beyond the control of the Applicants, this one year deadline may be extended by one year upon written request to the City Council.
- i. This contract and its provisions shall specifically and exclusively apply to the Contract Zone request submitted by the Applicants. Approval of this Contract Zone is in part based on the financial and technical qualifications of the Applicants as submitted to the City. Accordingly, this contract and the contract zone it creates shall not be transferable without approval of the City Council.
- j. Breach of these conditions and restrictions by the developer shall constitute a breach of the contract, and the developer shall be required to apply for a contract modification. Failure to apply for or to obtain a modification shall constitute a zoning violation, subject to enforcement action.

III. Pursuant to authority found in 30A M.R.S.A. Section 4352 (8), and the City of Saco Zoning Ordinance, Section 1403, and by vote of the Saco Planning Board on June 2, 2009, and the Saco City Council on _____, 2009, the following findings are hereby adopted:

A. A portion of City Tax Map 33, Lot 25-1 comprises the Subject Property, a parcel of an unusual nature and location for the following reasons:

1. The Subject Property and the remainder of the existing parcel is the site of a Special Exception permit granted by the Zoning Board of Appeals on May 17, 1984, for Professional Offices in what was the R-4 district. That approval remains in effect, though only Phase 1 of that project has been constructed. With existing residential uses to the side and rear of the Subject Property, what was an exception to zoning in 1984 can be changed to residential at this time with the approval of this Agreement.

2. The Subject Property does not meet minimum road frontage requirements under the existing zoning when separated from the remainder of the existing parcel. There is no alternative solution to this issue save for contract zoning.

3. The project parcel's unique location allows for a continuation of an adjacent similar use which was previously permitted under contract zoning. The existing elderly housing facility at 7 Smith Lane (the VOA-owned Paul Hazelton House, a senior care facility approved as a contract zone on Jan. 20, 1998) provides a unique opportunity to locate an abutting facility which is substantially similar with regard to appearance, character, access, utilities, traffic, and demand on City services. The proposed contract zone would allow for access and utility service to the project parcel from the

existing infrastructure on Lot 24-1 and consequently not require addition or alteration of such features located within City rights of way. It is also noted that there are no unusual natural resources remaining on the site due to previous clearing efforts associated with the commercial subdivision. The quality of the existing vegetation is low due to the previous removal of native vegetation and presence of invasive plant species.

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

Chapter 17, Section A. Population

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

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

F. Land Use

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

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

Residential Development – In its role as a regional service center, Saco is a desirable location for housing to meet the needs of many segments of the population including the elderly and disabled. The City should allow the construction of housing to meet the needs of these groups in designated residential areas of the City at densities that are compatible with the intensity of other development.

- C. The proposed contract zone is compatible with permitted and existing uses within the original zone. This application represents the lowest potential impact to surrounding properties by expanding a similar existing use to an abutting lot without introducing a substantially different use or character. An elderly congregate care facility will appear nearly identical to the existing elderly housing facility in appearance and use to surrounding properties. The primary use would be multi-family residential which is a permitted use in the R-1b District and inclusion of integral medical services at the elderly congregate care facility would not represent traffic, noise, light, or other impact to abutters. It is also anticipated that the proposed contract zone would act as an appropriate buffer between the residential uses along Charles and King Streets and the commercial uses along Main Street. In lieu of a potential commercial abutting use, the presence of a primarily residential use that includes medical services represents a more appropriate abutting use to existing residential uses.

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

American Realty, Prudential Realty and others).

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

IV. Based on the above findings, conditions and restrictions, the City Council hereby incorporates this Contract Zoning agreement into the Saco Zoning Ordinance by reference. By signing this contract, both parties agree to abide by the conditions and restrictions contained herein.

Adopted by the Saco City Council on _____, 2009.

by _____

Richard Michaud
City Administrator

by _____

June Koegl, President
Volunteers of America Northern New
England, Inc.
Applicant

B. Authorization to Write Off Personal Property and Real Estate Taxes

The attached exhibit shows a listing of the personal property tax accounts and one real estate tax bill for a mobile home that are unpaid as of today and are recommended for write off, with narrative per item. Each business is no longer in business, and the mobile home to be written off is scheduled to be destroyed pending the city's approval. An additional mobile home is scheduled to be destroyed pending the city's waiving of its rights to take ownership, but the taxes on that item are being paid.

Exhibits:

June 11, 2009 Personal Property and Real Estate Write Off Recommendations:

1) \$912.20* Personal Property tax Renaissance A Salon FY1999-2004

Background is as follows:

The account is out of business (since 2003), and the owners filed for Chapter 7 Bankruptcy in 2004. There was a UCC lien on file from 2003, but the business equipment was sold or repossessed regardless. Fiscal Year 05 taxes already were abated, likely as the city realized that the business was closed. When information on this account was last presented to the City Council, the charge was to try further to collect the taxes as the owners were still in Saco. The owners were contacted, and their bankruptcy attorney replied, stating that in this particular bankruptcy case, the taxes were discharged. This assessment was verified by the City Attorney as the bankruptcy court's decision.

2) \$344.14* Personal Property tax JEB Construction Services FY2003-2005.

Background is as follows:

This account is out of business as of Dec 2004 and the owner does not reside in Saco. The city filed an action in Small Claims Court, which yielded a judgment in favor of Saco (as the

defendant – business owner - did not appear). However, I have been unable to locate any assets against which to file the judgment. To pursue a Disclosure Hearing is the court's next step in the Small Claims process, in the case of nonpayment. This would be done in order to potentially determine if the owner has any assets the city can attach or to obtain cash in payment; it will cost an additional \$65-75 and may take up to one half year (the court lead-time is now about 6 months to get a Small Claims court date and the service on the defendant for the original court action took 3 months, which must be done again for the Disclosure Hearing). The owner was located originally through his daughter in Scarborough, where he was living, however I have no certainty I will find him again. If the defendant then does not show for the Disclosure Hearing, then the city can pursue a civil arrest, but there is no guarantee the defendant has any assets. The conclusion I reach in this situation is that the city would likely be spending time and financial resources with little chance of recovering the \$344, and it would be more sensible at this point to write off the account.

3) \$46.62* Personal Property tax Shirley Linderman FY 2008
Background is as follows:

Mrs. and Mr. Linderman have both died in the last year. The daughter in Yarmouth appears to be the remaining contact on the property the Linderman's owned in Saco, which is past due for its real estate taxes and appears likely to have a lien placed on it by the city in July. I have been unable to collect from the daughter on this Personal Property tax bill, as well.

4) \$672.83* Real Estate property taxes FY 2008-2009 mobile home -26
Pine Haven St.
Background is as follows:

Per city policy, a lien was filed against this property for past due Fiscal Year 2008 real estate property taxes and a lien is pending the notice process for Fiscal Year 2009 real estate property taxes. Earlier this spring, the mobile home park operator called to report the unit was abandoned and that they were planning to destroy it in June as it was uninhabitable, provided the city had no interest in it. As the unit has no value (as verified by Codes) and the city could incur expenses if it prevents the park from acting, the recommendation is to write off these taxes and let the park owner know ASAP.

5) Agreement to waive any ownership rights the city may have acquired through tax liens filed in prior years for a mobile home that is at **27 Pheasant Rd.**

Background is as follows:

Earlier this spring, the mobile home park operator called to report the unit was abandoned and that they were planning to destroy it in June as it was uninhabitable, provided the city had no interest in it. As the unit has no value (as verified by Codes) and the city could incur expenses if it prevents the park from acting, the recommendation is to waive any rights the city may have acquired and let the park owner know ASAP. The taxes are being paid on a payment plan by the prior owner.

*each is original billed amount, not including interest

Councilor Mills moved, Councilor Smith seconded, that it be Ordered that the City Council authorize writing off the personal property and real estate taxes which total \$1975.79*, as identified on the document titled, '**Personal Property and Real Estate Write Off Recommendations,**' dated June 11, 2009, to remove the receivable from the tax collector's records. I move to approve the Order. The motion passed with seven (7) yeas.

VIII. ADJOURNMENT

Councilor Tardif moved, Councilor Mills seconded, to adjourn. The motion passed with seven (7) yeas. TIME: 8:31 p.m.

ATTEST: _____
Lucette S. Pellerin, City Clerk