

STATE OF MAINE

COUNTY OF YORK

CITY OF SACO

I. CALL TO ORDER – On Monday, August 31, 2009 at 7:00 p.m., a Council Meeting was held in the City Hall Auditorium.

I. 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. Peter Morelli, Acting City Administrator and Lucette S. Pellerin, City Clerk were also in attendance this evening.

III. PLEDGE OF ALLEGIANCE

IV. GENERAL:

V APPROVAL OF MINUTES: August 17, 2009

Minutes of the August 17, 2009 City Council Meeting were approved as printed.

VI. AGENDA ITEMS:

A. Proclamation – Pain Awareness Month

CITY OF SACO
PROCLAMATION: September - Pain Awareness
Month

WHEREAS: pain is one of our nation’s most serious health problems and an estimated one in three Americans or 75 to 150 million people suffer from some type of chronic pain and is the number one cause of adult disability in the United States; and

WHEREAS: there is no cure for chronic pain and can be a source of frustration for the health care professionals who seek to provide care and assistance; and

WHEREAS: chronic pain can touch nearly every part of a person’s daily life, has an impact on the entire family, and, because of its economic and social consequences, affects us all; and

WHEREAS: Partners of Understanding Pain is a consortium of organizations that touch the lives of people with chronic, acute, and cancer pain, and

WHEREAS: the Maine Pain Initiative, a committee of the Maine Hospice Council, is a multidisciplinary group of health care professionals, consumers, and other interested people, serving as an advocate for people experiencing pain, and .

WHEREAS: the Chronic Pain Support Group of Southern Maine has since 1993 offered a safe, welcoming place where people with chronic pain can support one another, develop friendships, and learn coping skills from others who understand and care; and

WHEREAS: these groups seek to increase awareness of chronic pain in the State of Maine, to inspire people to work toward reducing barriers and increasing access to appropriate pain Management, and to improve the quality of life of those suffering from pain.

NOW, THEREFORE, the City Council and the Mayor of the City of Saco, on this 31st day of August 2009, do hereby proclaim the month of September, 2009 as **PAIN AWARENESS MONTH** in Saco, and urge all citizens to recognize this observance.

Signed this 31st day of August, 2009

*SACO CITY COUNCIL &
Mayor Roland Michaud*

Official City Seal Affixed Here

B. Resolution In Opposition to the Initiated Bill LD 974 “An Act to Decrease the Automobile Excise Tax and Promote Energy Efficiency”

C. Resolution – Indicating the City of Saco’s Opposition to the November Ballot Questions Seeking to Modify Current State Law on Tax and Expenditure Limitations on State and Local Government



CITY OF SACO

Resolve, Indicating the City of Saco's Opposition to the November Ballot Question Seeking to Modify Current State Law on Tax and Expenditure Limitations on State and Local Government.

WHEREAS, since 2005, local governments in Maine have operated under a state law that limits the extent to which the property tax may increase in any given year and that requires the local governing body to vote on a separate article to exceed that limit; and

WHEREAS, this law also imposes expenditure limitations on State Government; and

WHEREAS, the purpose of this legislation was to limit state spending and the municipal property tax levy in an effort to reduce the tax burden on our citizens and reduce Maine's national ranking on tax burden; and

WHEREAS, since it was adopted, it has achieved its stated purpose, with current State spending and municipal property taxes both below targeted levels; and

WHEREAS, the City of Saco's municipal tax commitment for Fiscal Year 2010 is over \$448 thousand below the state established limit; and

WHEREAS, this citizen initiative, also known as TABOR II, will make changes to the current spending and property taxation limits that apply to all levels of government in Maine; and

WHEREAS, it will impose growth limits on all state spending, including the State's Highway Fund, where the current law places limits only on the State's General Fund; and

WHEREAS, TABOR II will establish Fiscal Year 2010 as the baseline year for all future growth in State spending, a year where both the State General Fund and Highway Fund will experience significant revenue declines; thus, this proposal will lock in State spending at current depressed levels reflecting the impact of the current recession on State revenues; and

WHEREAS, current State spending limits are calculated on a cumulative basis allowing the amount spending is below the limit to be carried forward to future years thus allowing some flexibility in State spending and providing an incentive to spend below statutory levels; TABOR II will base the following year's spending level on that of the current year, thus creating a "use it or lose it incentive;" and

WHEREAS, TABOR II will require statewide voter approval for virtually all tax increases and expenditure increases above the growth limit, a requirement that entails significant additional state and local election expenditures and additional costs associated with its requirement that certain notices and financial information be mailed to every

registered voter in the State at an estimated cost of \$800,000 for each mandated referendum; and

WHEREAS, at the municipal and county level, TABOR II also mandates referendum voting to approve any budget that exceeds the municipal or county property tax limit; and

WHEREAS, it also requires municipalities and counties to adopt a uniform budget format as developed by the State Planning Office; and

WHEREAS, both of these requirements will add costs that must be borne by local government and its citizens; and

WHEREAS, TABOR II, if approved, will dramatically move state and local government in Maine in the direction of budgeting by referendum, the results of which have become apparent in those States where this has already happened; and

WHEREAS, it will limit the flexibility of both the State and its local governments to react to changing conditions, community needs, and economic conditions and undermine the authority of elected officials to make budgetary and service decisions based on information and a depth of analysis unlikely to be undertaken by the average voter; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SACO THAT For the following reasons, the City Council opposes the so-called TABOR II question that will appear on the November ballot and which would significantly modify current limits on State spending and on the municipal property tax levy:

- The spending and levy limits established in current state law have been achieving their stated goal of reducing the tax burden on Maine citizens;
- The requirement that state spending above the spending limit and most tax increases be subject to approval at a statewide referendum will increase both state and local expenses and move toward a system of budgeting by referendum which, as shown by experience elsewhere, is an ineffective way to make budgetary and service level decisions;
- By establishing the current year as the basis from which future state spending increases are to be calculated, state spending, particularly for the highway fund, will be starting from a depressed level reflecting the impact of the current recession;
- Tax policy, budgets, and service levels are best decided through the core processes of representative government where the people elect individuals and charge them with the responsibility of making decisions based on data, analysis, debate, and public opinion while balancing the need for services and expenditures that address the common good with the ability of citizens to pay for such services.

BE IT FURTHER RESOLVED THAT

November We urge all citizens to become fully informed on this proposal prior to the
reviewing election by becoming familiar with the language of the proposal and
materials provided by those supporting and opposing this measure.

Councilor Cote moved, Councilor Mills seconded, to adopt the Resolution. The motion passed with seven (7) yeas.

D. (Public Hearing) Authorize Bond Question for Paving and Road Improvements

The City has capital improvement needs that will not be addressed through the conventional budget process. The current approach will require that these projects be deferred many years into the future, which in the end will likely cost more money to complete.

The Council is being asked to place a bond question before the voters to seek approval to borrow funds for these improvements.

The attached exhibit details the 2009 paving needs throughout the city. The paving projects are vital to insuring the safety of our citizens, and protecting our investment in our road network.

In the next 8 years we will be retiring \$2,747,840 of indebtedness, principal and interest and the proposed bond would add new indebtedness, principal and interest of approximately \$2,610,500.

The Council discussed this item at Workshop on July 20, 2009; and the First Reading was held on August 3, 2009.

Question # ____

Shall the Order of the City Council of the City of Saco entitled "Order Authorizing the City of Saco to Borrow an Amount Not to Exceed \$2,300,000 for Paving and Improvement of Public Streets It is estimated \$2,300,000 will cover most of the cost of paving of the Street List attached, as Exhibit A and other streets, as the need may arise", be ratified and approved?"

Yes _____

No _____

Councilor Cote moved, Councilor B Bastille seconded, to open the Public Hearing on the **Order Authorizing the City of Saco to Borrow an Amount not to Exceed \$2,300,000 for Paving and Improvements of Public Streets.** The motion passed with seven (7) yeas.

There being no comments from the public Councilor Cote moved, Councilor Mills seconded, to close the Public Hearing and Be it Ordered that the City of Saco City Council hereby approves the Order entitled, '**Order Authorizing the City of Saco to Borrow an Amount not to Exceed \$2,300,000 for Paving and Improvements of Public Streets. It is Estimated \$2,300,000 Will Cover Most of the Cost of Paving of the Street List Attached as Exhibit A and Other Streets as the Need May Arise**', and hereby adopts said Order and directs that a copy of said Order be included in the minutes of this meeting. I move to approve the Order. The motion passed with seven (7) yeas.

Councilor Tardif stated that he was opposed to the Bond Question but felt the residents should have the right to vote on the matter.

Mayor Michaud stated that a second and final reading will be held on September 8, 2009.

**ORDER AUTHORIZING THE CITY OF SACO
TO BORROW AN AMOUNT NOT TO EXCEED \$2,300,000
FOR PAVING AND IMPROVEMENT OF PUBLIC STREETS. IT IS ESTIMATED \$2,300,000 WILL
COVER MOST OF THE COST OF PAVING OF THE STREET LIST ATTACHED AS EXHIBIT A
AND OTHER STREETS AS THE NEED MAY ARISE.**

BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF SACO, MAINE IN CITY COUNCIL ASSEMBLED:

1. Bonds Authorized. Pursuant to Maine law, including 30-A M.R.S.A. 5772 and Section 6.15 of the Charter of the City of Saco and all other authority thereto enabling, there is hereby authorized and approved the issuance of general obligation bonds (the "Bonds") of the City, and temporary notes in anticipation thereof (the "Notes), in an aggregate principal amount not to exceed \$2,300,000. The Bonds shall be designated "City of Saco, Maine, General Obligation Bonds" and any notes in anticipation thereof shall be designated "City of Saco General Obligation Bond Anticipation Notes." The proceeds of the Bonds and any Notes shall be used to finance the costs of paving and improvements of public streets in the City of Saco (the "Project") and reasonably related costs, including site work, appurtenances and other facilities reasonably related to the Project, including drainage facilities and manholes, the cost of planning, preparation of specifications, surveys, engineering, legal and other professional services associated with the Project, costs of issuance of the Bonds and any Notes, and capitalized interest prior to and during construction and for a period not to exceed three (3) years from the issue date of the Bonds or Notes. The City Council shall determine which streets or portions thereof are to be paved and improved.
2. Period of Utility. The estimated period of utility of the Project is twelve (12) years.
3. Tax Levy. Pursuant to Section 6.15 of the Charter of the City of Saco, an amount necessary to meet the annual payments of principal and interest on the Bonds (and any Notes not paid from the proceeds of Bonds issued hereunder) shall be included in the tax levy of the City each year until the debt represented by said Bonds and Notes is extinguished.
4. Details of Bonds. To the extent not inconsistent with this Order and the Charter of the City, the discretion to fix the date(s), maturity(ies) of the Bonds and/or Notes, denomination(s), interest rate(s), place(s) of payment, form(s) and other details of said Bonds and Notes, and to provide for the sale thereof, including execution of said Bonds and Notes on behalf of the City of Saco and delivery against payment therefore, is hereby delegated to the Treasurer and Mayor of the City of Saco. The Bonds shall be payable within a fixed term of years to be determined by the Mayor and Treasurer, not to exceed eight (8) years and thirty (30) days, and Notes in anticipation of Bonds shall not exceed a term of three (3) years from the date of the initial issuance of any Notes. Bonds shall be made payable as pertains to interest semi-annually and as pertains to principal in equal, annual serial installments, except that: (1) each year's installments may be adjusted to the nearest multiple of \$5,000; and (2) the amount of each year's installment may vary provided that it is equal to or greater than the installment due and payable in any succeeding year. The Bonds and any Notes shall contain such terms and provisions, not inconsistent herewith, as the Treasurer and Mayor may hereafter determine. All determinations by the Mayor and Treasurer shall be conclusively evidenced by their execution of the Bonds or Notes. The Treasurer and Mayor are authorized to provide that any of the Bonds and Notes be made callable, with or without premium, prior to their maturity. Each Bond or Note issued hereunder shall be signed by the Treasurer and countersigned by the Mayor. The Mayor and Treasurer are authorized to select a financial advisor and/or an

underwriter for the Bonds and Notes, and the Mayor and Treasurer are authorized and empowered to execute and deliver such contracts or agreements as may be necessary or appropriate in connection therewith.

5. Sale of Bonds. The Treasurer is authorized to prepare, or cause to be prepared, a Notice of Sale and/or a Preliminary Official Statement and an Official Statement for use in the offering and sale of the Bonds and/or Notes, such Notice of Sale, Preliminary Official Statement and Official Statement to be in such form and contain such information as may be approved by the Treasurer. Distribution of the Notice of Sale and/or Preliminary Official Statement and the Official Statement in the name of and on behalf of the City in connection with offering the Bonds and/or Notes is hereby authorized and approved. The Treasurer is authorized to covenant, certify and agree, on behalf of the City, for the benefit of the holders of the Notes or Bonds, that the City will file any required reports, make any annual financial or material event disclosure, and take any other action that may be necessary to insure that the disclosure requirements imposed by Rule 15c2-12 of the Securities and Exchange Commission, if applicable, are met.

6. Alternate Method of Sale. In lieu or as an alternative to the method of offering of the Bonds described in section 5 above, the Treasurer is authorized to file an application for sale of the Bonds to the Maine Municipal Bond Bank (the "Bank"), and the Treasurer and Mayor are hereby authorized and empowered in the name and on behalf of the City to borrow up to \$2,300,000 from the Bank pursuant to a Loan Agreement between the City and the Bank providing for a loan from the Bank in the principal amount not in excess of \$2,300,000, and the Treasurer is authorized and empowered, in the name and on behalf of the City, to execute and deliver, under the seal of the City, attested by its Clerk, a Loan Agreement to be in the usual and ordinary form utilized by the Bank, which is hereby approved, and to contain such other terms and provisions, not contrary to the general tenor hereof, as the Treasurer may approve, with her approval to be conclusively evidenced by her execution thereof; the Treasurer and Mayor are further authorized to issue, sell and deliver to the Bank as evidence of the aforesaid loan of up to \$2,300,000 and against payment therefore, Bonds in a principal amount not to exceed \$2,300,000, such Bonds to mature and be payable on such dates and in such amounts as approved by the Treasurer and Mayor; to bear interest at the rates specified by the Bank, which rates shall be subject to approval by the Treasurer and Mayor, such approval to be conclusively evidenced by their execution and delivery of such Bonds, payable semi-annually; to be issued as a single, fully registered Bond in the an amount not to exceed \$2,300,000 maturing and payable in installments as aforesaid; to be signed by the Treasurer and countersigned by the Mayor, and sealed with the seal of the City, attested to by its Clerk; and the Treasurer, Mayor and other proper officials of the City be, and hereby are, authorized and empowered in its name and on its behalf, to do or cause to be done all such acts and things as may be deemed necessary or desirable in order to effect the borrowing from said Bank of up to \$2,300,000 and the issue and delivery to said Bank as evidence thereof of a corresponding principal amount of the Bonds of the City as authorized in this Order.

7. Tax Exempt Bonds. The Treasurer is authorized to covenant and certify on behalf of the City that: (a) no part of the proceeds of the issue and sale of the Notes or the Bonds authorized to be issued hereunder shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause such Notes or Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), (b) no part of the proceeds of the issue and sale of such Notes or Bonds (including any notes and bonds in renewal thereof) shall be used, directly or indirectly, in such manner which would cause the Notes or Bonds to be "private activity bonds" within the meaning of Section 141 of the Code, (c) all required information reports shall be filed and any rebate due to the United States in connection with the issuance of said Bonds and Notes shall be paid, and (d) the City shall take all other lawful actions necessary to insure the interest on the Bonds and Notes will be excluded from the gross income of the owners thereof for purposes of federal income taxation and to refrain from taking any action which would cause interest on the Bonds or Notes to become includable in the gross income of the owners thereof. The Treasurer is also authorized and empowered to designate the Bonds and/or Notes as qualified tax-exempt obligations for purposes of Section 265(b) of the Code, to the extent the election may be available and advisable as determined by the Treasurer.

8. Build America Bonds. Notwithstanding any contrary provisions in this Order, the City is authorized to issue all or any portion of any of the Bonds or Notes as taxable governmental bonds, in accordance with the applicable requirements for Build America Bonds, if the Mayor and Treasurer determine, in consultation with the financial advisor of the City, that issuing such Bonds and/or Notes as taxable Build America Bonds will result in a lower cost of funds to the City, such determination to be conclusively evidenced by the execution of Bonds or Notes by the Mayor and Treasurer, designating the same as "Build America Bonds." "Build America Bonds" mean Bonds or Notes issued as taxable governmental bonds or notes with Federal subsidies in the form of either tax credits to holders or refundable tax credits paid to the City as issuer, authorized under the American Recovery and Reinvestment Act of 2009, and Section 54AA of the Code, and any amendments of or successor provision to the foregoing. The terms for any redemption of such Build America Bonds prior to maturity shall be determined by the Mayor and Treasurer. The Treasurer and Mayor are authorized to take such actions as may be required under applicable Federal law to cause such Bonds or Note to qualify for treatment as Build America Bonds and to obtain refundable tax credit payments, including designation of all or a portion of the Bonds and/or Notes as Build America Bonds, election to have Section 54AA of the Code apply to such Bonds and/or Notes, and election irrevocably to have Section 54AA(g) of the Code apply to such Bonds and/or Notes, with the result that the City shall be entitled to the credit provided in Section 6431 of the Code.

9. Documents and Certificates. The Mayor, Treasurer, City Clerk and other appropriate officials of the City of Saco are authorized to execute and deliver on behalf of the City such other documents and certificates as may be required in connection with such Bonds and Notes, and to do or cause to be done all acts and things, not inconsistent herewith, as may be necessary or appropriate in order to effect the issuance, execution, sale and delivery of the Bonds and any Notes, and to carry out the provisions of this Order in connection with the Project.

10. Appropriation. The sum of \$2,300,000 is hereby appropriated to finance the Project costs, such amount to be raised by the issuance of the Bonds and/or Notes of the City. In addition, the investment earnings on the proceeds of the Bonds and Notes, if any, and the excess proceeds of the Bonds and Notes, if any, are hereby appropriated for the following purposes, such proceeds to be held and applied in the following order of priority: (a) to any Project costs in excess of the principal amount of the Bonds or Notes; and (b) in accordance with applicable terms and provisions of the Arbitrage and the Use of Proceeds Certificate delivered in connection with the sale of the Bonds or Notes.

11. Reimbursement. This Bond Order shall constitute the City's declaration of official intent within the meaning of Treasury Regulation 1.150-2 to pay, on an interim basis, costs of the Project in an amount up to the principal amount of the Bonds to be issued, which costs the City reasonably expects to reimburse with proceeds of the Bonds or Notes.

12. Referendum Vote. Pursuant to Section 6.15 of the Charter of the City, the following question shall be submitted to the voters of the City of Saco for ratification or rejection at a referendum vote to be held on November 3, 2009: "Shall the Order of the City Council of the City of Saco entitled 'Order Authorizing the City of Saco to Borrow an Amount Not to Exceed \$2,300,000 for Paving and Improvement of Public Streets' be ratified and approved?"

13. City Clerk. A copy of this order shall be filed with the City Clerk.

City of Saco, Maine
 Debt Service Summary
 As of June 30, 2009

	City General Fund **				<i>change from prior year</i>	<i>change from FY2010</i>
	Principal	Interest	Agent Fees	Total		
2010	\$ 963,566	\$ 332,993	\$ 5,840	\$ 1,302,400		
2011	\$ 806,066	\$ 301,004	\$ 5,751	\$ 1,112,821	\$ 189,579	\$ 189,579
2012	\$ 806,066	\$ 274,441	\$ 5,662	\$ 1,086,169	\$ 26,652	\$ 216,231
2013	\$ 803,566	\$ 247,790	\$ 5,573	\$ 1,056,929	\$ 29,240	\$ 245,471
2014	\$ 801,066	\$ 221,142	\$ 5,484	\$ 1,027,692	\$ 29,237	\$ 274,708
2015	\$ 801,066	\$ 194,307	\$ 5,394	\$ 1,000,768	\$ 26,924	\$ 301,632
2016	\$ 726,066	\$ 168,969	\$ 5,155	\$ 900,190	\$ 100,577	\$ 402,209
2017	\$ 726,066	\$ 145,293	\$ 5,066	\$ 876,425	\$ 23,765	\$ 425,974
2018	\$ 481,066	\$ 126,466	\$ 2,833	\$ 610,364	\$ 266,061	\$ 692,036
2019	\$ 481,066	\$ 112,486	\$ 2,805	\$ 596,357	\$ 14,007	\$ 706,043
2020	\$ 290,000	\$ 99,535		\$ 389,535	\$ 206,822	\$ 912,865
2021	\$ 290,000	\$ 87,425		\$ 377,425	\$ 12,110	\$ 924,975
2022	\$ 290,000	\$ 75,315		\$ 365,315	\$ 12,110	\$ 937,085
2023	\$ 290,000	\$ 63,111		\$ 353,111	\$ 12,204	\$ 949,289
2024	\$ 290,000	\$ 50,760		\$ 340,760	\$ 12,351	\$ 961,640
2025	\$ 290,000	\$ 38,355		\$ 328,355	\$ 12,405	\$ 974,045
2026	\$ 290,000	\$ 25,950		\$ 315,950	\$ 12,405	\$ 986,450
2027	\$ 215,000	\$ 13,545		\$ 228,545	\$ 87,405	\$ 1,073,855
2028	\$ 215,000	\$ 4,515		\$ 219,515	\$ 9,030	\$ 1,082,885
Total	\$ 9,855,661	\$ 2,583,403	\$ 49,563	\$ 12,488,627		

** excludes School and WWTP debt

C. (First Reading) Code Amendment Chapter 15, Funds

There are several trust funds held by the city as trustee. Each has its own ordinance providing governing use, administration, etc.

City code Chapter 15, Funds, Article I, and II, Trust Funds provides the structure for the care of these trusts and the charge of the Board of Trustees. Chapter 15 is being updated to reflect current practice; the changes in the Code are housekeeping in nature and refer to: Article I, appointment and term, meeting requirements, and vacancies; and Article II, membership and term.

There will be a Public Hearing to set compensation for board members, and to appoint members to the Board of Trustees in Article I on September 21, 2009.

Councilor Lovell moved, Councilor Bastille seconded, The City of Saco hereby ordains and approves the First Reading of the document titled, ‘Amendments to Chapter 15, Funds, dated August 3, 2009’, and further moves to set the public hearing for September 21, 2009. The motion passed with seven (7) yeas.

Amendments to Chapter 15, Funds, dated August 3, 2009

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

Chapter 15, Funds

Article I, City of Saco Trust Funds

§ 15-1. Scope; Board of Trustees.

The several trust funds known as the "Sweetser Provident Fund," "Sweetser Baxter Sabbath School Fund," "Sweetser School Fund," "Sweetser School Library Fund," "Sweetser Missionary Fund" and "Sweetser Park Fund" and all trust funds for the benefit of Wardwell Home, now held by the City of Saco as trustee, together with all legacies, devises and gifts of funds or property which the City of Saco may hereafter receive into its custody as trustee, excepting such legacies, devises or gifts of funds or property which the City may receive for the benefit of the Lucia Kimball Deering Hospital Fund, are hereby placed in the care, custody and administration of the citizens of the city, who shall constitute a Board of Trustees for the care and administration of these funds and other property and the income thereof and so be designated as the Board of Trustees for the care, custody and administration of trust funds held by the City of Saco as trustee.

§ 15-2. Election; terms of office. Membership and Term

The Board of Trustees shall consist of three members, all being citizens of the city of Saco. Members shall be appointed by the Mayor with City Council confirmation, for a term of six years, beginning initially with (1) one member being appointed for six years, (1) one member being appointed for four years, and (1) one member being appointed for two years. be elected by the City Council by majority vote, by written or printed ballots, at the next regular monthly meeting of the City Council. Each trustee shall serve a term of six years, except that, starting January 1, 1962, the trustee who has served the longest term shall retire on January 1, 1964, the next longest term trustee shall retire on January 1, 1966, and the newest trustee appointee shall retire on January 1, 1968. No trustee shall be eligible for reappointment until a period of two years has elapsed after his/her retirement.

§ 15-3. Qualifications; bond.

Before assuming the duties of office, each member of the Board of Trustees shall be qualified by taking an oath before the City Clerk that he/she will faithfully perform the duties of this office and shall file a bond with a surety company authorized to do business in the State of Maine as surety in the sum of \$10,000, conditioned for the faithful performance of such duties. The premium to be paid to the surety company for the bond shall be paid by the city.

§ 15-4. Meetings; compensation. [Amended 5-15-2000]

The Board of Trustees shall hold regular meetings of the Board on a semi annual basis on a date of the Board's choosing, or meetings can occur on an as needed basis. the last Saturday of each month. The Trustees shall receive a compensation that shall be established by the Council after a public hearing and shall be entitled to be paid actual and necessary expenditures incurred in behalf of the Board.

§ 15-5. Vacancies.

Vacancies on the Board of Trustees, however occurring, shall be filled by mayoral appointment and confirmation of the City Council, ~~holding an election, using written or printed ballot, and by a majority vote of the City Council at the regular monthly meeting of the City Council held after such vacancy occurs or at an adjourned session thereof.~~ A member ~~elected~~ appointed to fill a vacancy on the Board of Trustees shall hold office for the unexpired term of the retiring member.

§ 15-6. Officers; rules.

The Board of Trustees may organize by the election of such officers as it may deem proper and shall determine such rules as it may deem wise for the conduct of its business and which are not inconsistent with law.

§ 15-7. Records and reports; audit.

The Board of Trustees shall keep a record of its proceedings, including its financial transactions, and at the end of the City fiscal year shall prepare a statement of the trust funds and other property held by the City of Saco as trustee as enumerated in § 15-1, the income thereof and the entire financial transaction, which shall be delivered to the Finance Director and also shall be published in each annual report of the City of Saco. The City shall pay for and have conducted an audit of the Board's records. The audit shall be included as part of the city's annual audit.

§ 15-8. Investments.

The Board of Trustees shall invest all trust funds held by the City of Saco as trustee, as enumerated in § 15-1, in such securities as the savings banks of Maine are authorized to invest in, excepting that the Board is authorized to receive and hold such securities and other property as the representatives of any estate or any donor may deliver to the City as trustee, other than legacies, devises or gifts of funds or property for the benefit of Kimball Hospital or for hospital purposes, and to reinvest the whole or part thereof as the Board may deem wise.

§ 15-9. Additional powers and duties.

- A. Notwithstanding the provisions of any of the preceding sections, the Board of Trustees is authorized to:
- (1) Treat any two or more of the trust funds as a single fund, solely for the purpose of investment.
 - (2) After deduction of management expenses, prorate any interest earned or capital gains realized among the various trust funds.
 - (3) Designate, in writing, a trust company or ~~national bank~~ agency having its principal office within the state, for the purpose of investment, and the Board of Trustees may consent to the investment of such funds in a common trust fund maintained by that trust company or bank for investment, as directed by the Board of Trustees, in accordance with the provision of 9 M.R.S.A. § 51, the law governing savings banks investments.
- B. The Board of Trustees may enter into a custodian and agency agreement with a trust company, ~~or~~ bank, or agency as provided in Subsection A(3) above, and contract for investment advice for the

standard fee for this service. The City Council shall establish a rate, after a public hearing, for the cost of the services of the bank as custodian and investment adviser. Any other expenses resulting from these services or other expenses incurred for transfer, sale, exchange or handling of these funds will be deducted from the income as management expenses. [Amended 5-15-2000]

ARTICLE II, Lucia Kimball Deering Hospital Fund

§ 15-10. Board of Trustees.

The City of Saco, by special election held on the second Monday of September 1917, as authorized by Chapter 95 of the Private and Special Laws of the State of Maine of the year 1917, having voted to accept the legacies and bequests of Lucia Kimball Deering as provided in the last will and testament of said Lucia Kimball Deering, dated November 19, 1915, said legacies and bequests, devises and gifts, which the City of Saco, Maine, is or may be authorized to accept, under the provisions of said Chapter 95 of the Private and Special Laws of the State of Maine of the year 1917, are hereby placed in the care, custody and under the administration of seven citizens of the City of Saco, who shall constitute a Board of Trustees for the care, custody and administration of these funds and the income thereof and to be designated as the "Board of Trustees for the care, custody and administration of the legacies and bequests provided for under the terms of the will of Lucia Kimball Deering" and all other legacies, bequests, devises or gifts to the said City of Saco for hospital purposes.

§ 15-11. Election; vacancies. Membership and Term.

The Board of Trustees shall consist of seven members, all being citizens of the city of Saco. Members shall be appointed by the Mayor, with City Council confirmation, for a term of six years, beginning as each current member in 2009, on file with the City Clerk, concludes their lifetime term - initially with (2) two members being appointed for six years, (2) two members being appointed for four years, and (3) three members being appointed for two years. ~~be elected by the City Council collectively, by a majority vote of all members of the City Council, by written or printed ballot, at the next regular meeting of the City Council or at an adjourned session thereof held subsequent to the approval of this article.~~ Vacancies that occur in the Board of Trustees by death, resignation or removal from the City of Saco or by failure to qualify as provided in § 15-12 shall be filled in the same manner.

§ 15-12. Qualifications; bond.

Each member of the Board of Trustees, before assuming the duties of this office, shall be qualified by taking an oath before the City Clerk of the City of Saco that he/she will faithfully perform the duties of this office. The Board shall file a joint bond with such sureties and in such sums as the City Council may deem just and proper.

§ 15-13. Compensation. [Amended 5-15-2000]

Each member of the Board shall serve with compensation that shall be established by the City Council, after a public hearing, from income from the fund. If the income does not equal the amount necessary to pay such members, then the pay will be proportioned according to the income, and, in addition, each member shall be entitled to be paid for his/her actual cash expenditures incurred in behalf of the Board.

§ 15-14. Meetings; officers; compensation and bond of Treasurer.

The Board of Trustees shall hold **monthly** meetings at such times and place as the Board shall determine and, at the first meeting thereof after the election and qualification of the entire Board of Trustees, shall elect a President, Secretary and Treasurer from its own members. The Treasurer shall give to the Board a bond as Treasurer, in such sum and with such sureties as the Board shall deem just and proper. The compensation of the Treasurer shall be 1/8 of 1% of the gross amount of the fund and of the income thereof, annually, to be paid from the fund.

§ 15-15. Rules and orders.

The Board of Trustees shall make such rules and orders as it may deem wise for the conduct of its official business and which are not inconsistent with law or this article.

§ 15-16. Records.

The Board shall keep a true and perfect record of its proceedings, including its financial statements and operations, which at all times shall be open to the inspection of the Committee on Finance of the City Council.

§ 15-17. Investments.

The Board shall invest all funds in its custody and the income thereof only in such securities as the savings banks of Maine are authorized to invest in, and is authorized to receive into its custody and hold such securities and other property as the representatives of any other estate or any donor may hereafter deliver to said City of Saco for hospital purposes and to reinvest such parts of the same as the Board shall deem wise in like manner.

§ 15-18. Yearly statement.

The Board shall prepare, at the end of each calendar year, a true and perfect statement of the funds and other property in its custody and the income thereof and its entire financial doings and transactions, the same to be included and published in the annual report of the City of Saco next published after the filing of the report with the City Council. Upon the filing of the statement or report of the Board of Trustees to the City Council, it shall be the duty of the Committee on Finance of the City Council to immediately examine and check up the securities and other property in the care and custody of the Board of Trustees, subject, however, to all the provisions of this article.

D. Wilson Lane Property – Map 116, Lot 18-4

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 turned over to the city in February 2005. The Planning Board held a public hearing on this parcel and forwards to the council a recommendation 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 sealed bid process. According to process, the parcel was advertised 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 Bastille seconded, that it be ordered that the City Council reject the bids received for 5 Wilson Lane, identified on Map 116, Lot 18-4, and further to authorize the parcel be rebid pursuant to the city's sealed bid process in May 2010 with the stipulation that the minimum bid be \$50,000. Further move to approve the order.

Councilor Cote moved, Councilor Bastille seconded, to table the matter. The motion passed with five (5) yeas and two (2) nays. Councilors Smith and Tardif voted in the negative.

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

E. Purchase Property Map 96, Lot 9, 105 New County Road

In keeping with the mission of Land for Saco's Future, the City of Saco has the opportunity to purchase a tract of land identified on the tax assessor's map 96, as lot 9, which is a 20 +/- acre parcel located at 105 New County Road and being a portion of the Lawrence "Tate" Patterson and Carol Patterson property.

Councilor Mills moved, Councilor Bastille seconded, that it be Ordered that the City Council approves the purchase of a portion of the property located at 105 New County Road identified on tax map 96, as lot 9, and terms of which are further described in the Purchase and Sale Agreement by and between the City of Saco and Carol and Lawrence Patterson for the sum of \$149,999.00. Further move to approve the Order. The motion passed with seven (7) yeas.

DRAFT

PURCHASE AND SALE AGREEMENT

NOW COME the parties, the **CITY OF SACO** (hereinafter the "City" or "Buyer") a municipal corporation, 300 Main Street, Saco, Maine and, **CAROL AND LAWRENCE PATTERSON** of 105 County Road, Saco, Maine (hereinafter "Sellers") who state and agree as follows:

WITNESSETH:

1. **Agreement.** Sellers own a parcel of land found at 105 New County Road in the City of Saco (See Tax Map 96, Lot 9), all as further described in a deed recorded at the York County Registry of Deeds in Book 2172, Page 147. The Sellers agree to sell a portion of the premises (See Exhibit 1, area in hatch marks, an area of approx. 20 acres, more or less), and Buyer agrees to buy said portion of the premises all as noted herein below.

2. **Financial Terms.** The City agrees to pay the sum of \$150,000.00 for the parcel, payment due as follows:

- A. \$1.00 due at execution of this purchase and sale.
- B. \$149,999.00 due at closing.

3. **Personal Property/Fixtures.** This property is sold, as is, without any improvements thereon.

4. **Earnest Money.** \$1.00

5. **Deed.** The Sellers shall deliver the property by Warranty Deed. The Buyer may conduct a title search. The Sellers shall have sixty (60) days from receipt of written notice of any title defect to remedy said defect in title. In the event that the defect cannot be remedied within said time period or if the Sellers elect not to remedy same, the Buyer may, at its option, elect to close notwithstanding said defect. If the Buyer does not elect to close due to such title defect, then this agreement shall terminate. The City shall prepare the deed required for closing. The property shall be delivered free and clear of encumbrances except conditions, easements and restrictions of record which do not adversely affect title.

6. **Possession/Occupancy.**

- A. Closing shall occur on or before September 25, 2009. Upon closing, Buyer shall be entitled to immediate occupancy of the property.
- B. Sellers covenant that the property is free and clear of all tenancies, occupants, lessees, and/or holders; and, that it shall be free and clear of any and all tenants, lessees, holders, third parties, etc at closing.
- C. Sellers warrant neither they, nor any agent, employee, contractor or assignee shall place, store or deposit any dangerous, toxic, hazardous, flammable, or noxious materials or other forms of waste or debris upon the premises in anticipation of closing.

7. **Risk of Loss.** All risk of loss will be upon the Sellers upon the execution of this Purchase and Sales Agreement and until closing.

8. **Inspections.**

A. The Buyer shall have 30 days following the execution of this Purchase and Sale Agreement to conduct any inspections it desires, including a so-called Phase I Environmental Study. If upon review, Buyer determines there is a material condition, including but not limited to environmental contamination, which condition reasonably impairs or limits the value of the premises and/or the City's intended use of said premises, then Buyer may at its option: 1) terminate this Agreement, or 2) notice Sellers of the defect or deficiency and request remediation, or 3) may conduct further review and analysis including but not limited to a so-called Phase II Environmental Study. In the event Buyer opts for options 2 or 3, the Parties may mutually modify the time frame for closing. Buyer has a good faith obligation to share its findings with Sellers if material, adverse conditions are found.

B. Buyer may conduct a visual inspection the day of closing. Buyer may terminate this agreement if third parties, holders or lessees are found to be occupying the premises, or if the premises have been materially altered, since the execution of this Agreement.

9. **Real Estate Brokers.** The parties represent and acknowledge that no realtors or other agents have been retained or procured for this transaction, and that no fees or commissions are owed any party.

10. **Survival of Terms.** All of the terms and conditions of this Purchase and Sale shall survive the closing.

11. **Heirs, Successors and Assigns.** This agreement shall extend to and bind successors and assigns of the parties.

12. **Governing Law.** This Purchase and Sale is a Maine contract, and shall be governed by the laws of the State of Maine. Any dispute involving or arising out of this contract shall be settled by binding mediation in Saco, Maine, all costs of mediation to be split, and no party being entitled to attorneys' fees.

13. **Pro-Ration of Taxes, etc.** The Buyer and the Sellers shall pro-rate all real estate taxes.

14. **Default.** In the event of default by the Buyer, the Sellers may retain the earnest money of \$1.00 as their sole damages. In the event of default by the Sellers, the Buyer may employ all legal and equitable remedies including specific performance.

15. **Time.** This offer is valid through August 28, 2009.

16. **Environmental Covenants and Indemnification.**

A. Covenants. Sellers covenant neither they, nor any agent, employee, contractor or assigns, have spilled, buried, stored, deposited or left in, on or under the premises any toxic or hazardous materials or waste.

B. Indemnification. Sellers shall defend, indemnify and hold Buyer harmless from and with respect to any and all contamination (meaning toxic or hazardous materials or waste) found on the premises, and from any and all claims, suits, actions, demands, fines or fees, including reasonable Attorney's fees and remediation cost related thereto.

17. **Special Conditions:** The following conditions shall apply:

A. Buyer shall not be obligated to close unless and until the Saco City Council approves this purchase and sale.

B. Buyer, and its agents and employees, may enter the premises, upon reasonable notice, for the purposes of any and all inspections contemplated hereunder.

CITY OF SACO (BUYER):

Peter F. Morelli (Peter F. Morelli) Date: August 25, 2009
Richard Michaud Acting City Administrator
Its City Administrator
Federal ID # 01-6000035

SELLERS:

Carol A. Patterson Date: August 26, 2009
Carol Patterson
Social Security Number [REDACTED]

Lawrence C. Patterson Date: August 26, 2009
Lawrence Patterson
Social Security Number [REDACTED]

F. Zoning Ordinance Amendment – B3 Zone

The Mayor has requested that the B3 zone district be amended to limit the construction of commercial buildings to no more than 5000 square feet.

Councilor Lovell moved, Councilor Smith seconded, that it be t ordered that the City Council refer the request to amend the B3 zone section of the Zoning Ordinance to the Planning Board for consideration and recommendation. Further move to approve the order.

Councilor Tardif moved, Councilor Bastille seconded, to refer this matter to workshop prior to Planning Board Action. The motion passed with five (5) yeas and two (2) nays. Councilors Lovell and Mills voted in the negative.

Zoning Ordinance Amendment:

(underline represents new language, strikethrough is language to be deleted)

406-3. B-3 DOWNTOWN BUSINESS DISTRICT

The B-3 classification permits high value business and services of the type needed within walking distance of high density residential dwelling, and which may also serve a regional financial, service, or retail role. The intent of this district is to concentrate urban businesses and residences in a core area so that each will complement the other. Urban businesses in this district will limit construction of commercial buildings to no more than 5,000 square feet.

- VII. Executive Session - “Be it Ordered that the City Council, Pursuant to [1 M.R.S.A. Chapter 18, Subchapter 1, §405 (6) (E)(C)] move to enter into Executive Session for Legal Counsel Saco Bay Issues TIME 7:50 p.m.**

Upon return from executive session 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. Peter Morelli, Acting City Administrator was also in attendance this evening.

a. Report from Executive Session

A report, from the executive session, was not given this evening.

VIII. ADJOURNMENT

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

ATTEST: _____
Lucette S. Pellerin, City Clerk