

STATE OF MAINE

COUNTY OF YORK

CITY OF SACO

The following are minutes of the November 1, 2010 Council Meeting.

I. CALL TO ORDER - On Monday November 1, 2010 at 7:22 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., Marie Doucette, Jeffrey Christenbury, Arthur Tardif, Eric Cote and Marston Lovell. City Administrator Rick Michaud and Lucette S. Pellerin, City Clerk were also present.

III. PLEDGE OF ALLEGIANCE

IV. GENERAL:

V. APPROVAL OF MINUTES:
Minutes were not presented this evening.

VI. CONSENT AGENDA

a. (First Reading) Contract Zone Amendment – 319 Main Street, Restaurant

Applicants Don and Jan McGarva request consideration of a contract zone that would allow them to produce and sell ice cream and baked goods for both on- and off-site consumption at their 319 Main Street home. If the McGarvas are going to open such an operation, the contract zone is needed in that the Zoning Ordinance views on-site consumption of food as an “Eating Establishment,” which is not an allowed use in the existing B-7 zone.

The Planning Board reviewed this item on September 15, 2010, and voted to make a positive finding on each of the four standards required for a contract zone, and forwards a positive recommendation to the Council. The Historic Preservation Commission reviewed the proposed sign for said business, on June 9, 2010, and granted a Certificate of Appropriateness. If the contract zone is approved, the project would be subject to site plan review by the Planning Board prior to opening.

Councilor Tardif moved, Councilor Lovell seconded that the City Council hereby ordains and approves the First Reading of the contract zone document entitled “**Contract Zone Agreement By and Between Don and Janet McGarva and the City of Saco,**” dated September 15, 2010; and to schedule a Public Hearing for **November 15, 2010**, for the property at 319 Main Street, as authorized by Section 1403 of the Zoning Ordinance, pursuant to 30A M.R.S.A. Section 4352(8). The motion passed with eight (8) yeas.

b. (First Reading) Zoning Ordinance Amendment – Articles 3 & 4, by defining “Addition Treatment Facilities” and adding it as a conditional use in the B-6, I-1 and I-2 zones.

In early April the State Legislature passed a law outlining how eight marijuana dispensaries should be created in the state. The City Council responded July 19, 2010, approving amendments to the Zoning Ordinance that define dispensaries, and specify locations where they are allowed. A similar use, methadone clinics, was discussed at that time; this proposal would treat such facilities in a similar manner: they are defined as Addiction Treatment Facilities, and are proposed to be allowed in the B-6, I-1 and I-2 zoning districts.

The Planning Board considered the proposed amendments and held a public hearing on Sept. 15, and forwards a positive recommendation for both proposed use and locations.

Councilor Cote moved, Councilor Mills seconded, that the Council hereby ordains and approves First Reading of amendments to the Saco Zoning Ordinance included in the document: ‘Proposed Amendments to the Saco Zoning Ordinance Recommended by the Saco Planning Board, September 15, 2010,’ with the following amendment discussed by the Council at the October 18, 2010 workshop: The B-6 zone is deleted from the list of zoning districts for which the proposed use of “Addiction Treatment Facility” would be allowed as a Conditional Use, as follows:

~~**410-9-A. B-6 HIGHWAY BUSINESS AND COMMERCIAL
CONDITIONAL USES
15. Addiction Treatment Facility,**~~

and further move to schedule a Public Hearing for November 15, 2010. The motion passed with six (6) yeas and one (1) nay. Councilor Smith voted in the negative.

**“Proposed Amendments to the Saco Zoning Ordinance
Recommended by the Saco Planning Board, September 15, 2010”**

Amend Article 3, Definitions, by adopting the following definition, and inserting in alphabetical order.

Addiction Treatment Facility: a facility for the outpatient treatment of chemically- or narcotic-dependent persons which administers or dispenses narcotic drugs under the direction of a physician in a rehabilitative context in order to alleviate, suppress, or eliminate adverse psychological or physiological effects associated with the continuous or sustained use of chemical substances and/or a narcotic drug.

Amend the permitted and conditional use lists of Article 4 by inserting the following use in the places indicated: Addiction Treatment Facility

**410-9-A. B-6 HIGHWAY BUSINESS AND COMMERCIAL
CONDITIONAL USES**

15. Addiction Treatment Facility

**410-11. I-1 INDUSTRIAL PARK DISTRICT
CONDITIONAL USES**

7. Addiction Treatment Facility

**410-12. I-2 INDUSTRIAL BUSINESS DISTRICT
CONDITIONAL USES**

6. Addiction Treatment Facility

**c. (First Reading) Zoning Ordinance Amendment - §707-5(9) pertaining to sandwich
board signs in the B-3 and B-7 zoning districts.**

The Saco Spirit Design Committee has proposed changes to Section 707-5(9) of the Zoning Ordinance regarding sandwich board signs that would allow downtown merchants to promote their businesses throughout the year, rather than being limited to April 1-November 1 as is currently the case. The proposal would allow such signs in front of any business in the B-3 and B-7 districts, would remove the need for an annual permit, and specifies the removal of such signs prior to and after snow storms.

The Planning Board met on October 6, 2010 and considered the proposed amendments – held a public hearing, and forwards a positive recommendation to the Council.

Councilor Lovell moved, Councilor Smith seconded, that the City Council hereby ordains and approves the First Reading of the amendments to the Saco Zoning Ordinance included in the document: ‘**Proposed Amendments to the Saco Zoning Ordinance, Section 707-5(9), Recommended by the Saco Planning Board, October 6, 2010,**’ and further moves to schedule a Public Hearing for November 15, 2010. The motion passed with seven (7) yeas.

**d. Accepting Credit/Debit Cards as Payment for Transactions Conducted in Person
at Customer Service Windows**

State law allows municipalities to accept credit card payments for *non* face to face transactions (such as online or by phone) and to pass the bank processing fees on to the customer, which the city has been doing through the website since 2004.

Since 2004, the city has been approved by the Council to accept debit cards for payments at the Customer Service windows. Because of state law, the bank processing fees associated with that service had to be absorbed by the city in order to allow such transactions to take place; the debit bank processing fees were initially approximately \$.10/per transactions and cost the city on average \$175/per month. However, two recent changes have had a major impact on this process.

Since March 2009, the bank processing fees associated with debit card transactions have risen significantly as the fees are now treated like a credit card transaction to be a percent of the “sale,”

and are no longer based on a per transaction flat fee. The city is now averaging \$930/per month in expense for debit card transaction processing.

In September 2009, state law changed to allow municipalities to accept debit and credit card payments as payment for transactions, and to pass the bank processing fees on to the customer as a separate fee for transactions, conducted in person.

The Council is being asked to allow the city staff to process payments made by credit and debit cards for transactions conducted in person at the Customer Service windows, such as for vehicle registrations, tax payments, marriage certificates, building permits, etc., and to pass the bank processing fee associated with such payment methods on to the card user. The recommended service provider is InforME, which currently provides the city with other services such as Rapid Renewal and Online Boat Registration services.

Councilor Lovell moved, Councilor Christenbury seconded, that it be ordered that the City Council approve processing payments made by credit and debit cards for transactions conducted in person at the Customer Service windows utilizing InforME as the service provider. Further move to approve the order. The motion passed with seven (7) yeas.

VII. AGENDA:

A. Economic Development Plan

Among the Council's objectives this year is to do an economic development plan for the city. Mayor Ron Michaud charged the committee to:

- Compile a report on the economy in region;
- Compile a report on city, regional, state, and federal economic development efforts;
- Review reports and city policies developed in the Comprehensive Plan, Downtown Plan, Housing Plan and other policies, budget practices, and ordinances;
- Conduct a local economic development strength, weakness, opportunity, and threats (SWOT) analysis;
- Evaluate possible city approaches in key sectors: industrial, office, hospitality, downtown, and others
- Develop a final report and recommendations to the City Council.

Mayor Michaud appointed the following committee: Bill Johnson, Chairman, Lori Irving, Roger Johnson, Will Armitage, Don Lauzier, Ed Hodgdon, Glenn Baker, Craig Pendleton and himself. The Committee is staffed by City Administrator Rick Michaud and Development Director Peter Morelli.

The Committee met seven times from July to October 2010, and reviewed materials on the regional economy; on local, regional, state, and federal economic development practices; tourism; and education and training, from many sources including:

- Charting Maine's Future: An action plan for promoting sustainable prosperity and quality places; The Brookings Institution.
- Introduction to Maine's Investment Imperative II: Unleashing the Potential; Maine Development Foundation.

- Report of the Consensus Economic Forecasting Commission (February 2010)
- Comprehensive Economic Development Strategy; SMRPC (June 2010)
- Saco Downtown Plan (November 2007)
- Saco Comprehensive Land Use Plan Update, Draft Economy Chapter (2010)
- Maine’s Economic Outlook: Implications for Real Estate, MEREDA (January 2010) (PowerPoint only)
- Saco Industrial Development 1967-1980 (Huot)

The committee voted on October 20, 2010 to forward a 60 page report with its recommendations to the City Council for adoption. Members of the committee plan to attend the Council meeting.

Councilor Cote moved, Councilor Lovell seconded, that it be ordered that the City Council adopt the “City of Saco - Economic Development Plan – November 2010”; and further moves to request that the Economic Development Commission work toward its implementation. Further move to approve the Order. The motion passed with seven (7) yeas.

B. Buy Local Campaign Presentation – Will Armitage, Executive Director of Biddeford Saco Area Economic Development Commission

Mr. Will Armitage addressed the Mayor and Council regarding the Buy Local Campaign for our community. Local merchants are preparing for the holiday season and look forward to serving our residents.

C. Business Park Lot Pricing

The Economic Development Commission has proposed revised pricing for the remaining nine lots in the Mill Brook Business Park and the remaining two lots in the Spring Hill Section of the Saco Industrial Park.

The Commission thinks that revised pricing might provide the commission and staff with a tool that could help with sales. The Commission suggests a 10 percent reduction on lots in the Mill Brook Park. The Commission proposes a price of \$99,000 Lot 11 and a price of \$275,000 on Lot 14 in the Spring Hill section. Industrial park lots are sold by the Economic Development Commission based on lot prices set by the City Council.

A table and maps provide a more detailed outline of the proposal. The Council reviewed the proposal in workshop on October 18, 2010.

Councilor Christenbury moved, Councilor Cote seconded, that it be ordered that the City Council approve the set prices for the Mill Brook and Spring Hill business in the document titled, ‘**Mill Brook and Spring Hill Business Park Pricing, dated November 1, 2010**’, and further move to authorize lot sales by the Economic Development Commission as favorably negotiated. The motion passed with seven (7) yeas.

“Mill Brook and Spring Hill Business Park Pricing, dated November 1, 2010”

Mill Brook

| | |
|---|-----------|
| 1 | \$161,500 |
| 2 | \$175,500 |
| 3 | \$170,000 |
| 4 | \$106,000 |
| 5 | \$125,500 |
| 6 | \$211,500 |
| 7 | \$359,000 |
| 8 | \$386,000 |
| 9 | \$422,000 |

Spring Hill

| | |
|----|-----------|
| 11 | \$ 99,000 |
| 14 | \$275,000 |

D. (First Reading) Property Assessed Clean Energy (PACE) Ordinance

The essence of the Property Assessed Clean Energy (PACE) Program is for citizens to secure low interest loans up to \$15,000 from the State to perform necessary energy saving improvements to their home.

In April, 2010, the State of Maine received approximately \$30 million dollars to create an energy efficiency loan fund. The Legislature in turn enacted a law to structure this loan fund. The Efficiency Maine Trust is administering the program and municipal participation in this fund is important to its success. For any building owner to be eligible for a loan under the program a municipality must agree to participate by enacting an ordinance.

According to Efficiency Maine, traditional PACE legislation involves direct administration by municipalities, and even though the Maine version of PACE provides for Efficiency Maine to administer the program for municipalities, the state law continues to require the passage of a PACE ordinance on a town by town basis. In the case of a property sale, PACE loans are transferable to the new owner, or can be paid off at no penalty.

A recent update from Efficiency Maine states that towns and cities representing over 20% of the Maine population have already adopted the PACE ordinance.

Councilor Lovell moved, Councilor Mills seconded, that the City of Saco hereby ordains and approves the First Reading of the ordinance titled, ‘Chapter 161 - City of Saco Property Assessed Clean Energy (PACE) Ordinance’, and further move to schedule a Public Hearing for November 15, 2010. Further move to approve the order. The motion passed with seven (7) yeas.

**Chapter 161 - CITY OF SACO
PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE**

PREAMBLE

WHEREAS, the 124th Maine Legislature has enacted Public Law 2009, Chapter 591, “An Act to Increase the Affordability of Clean Energy for Homeowners and Businesses,” also known as “the Property Assessed Clean Energy Act” or “the PACE Act”; and

WHEREAS, that Act authorizes a municipality that has adopted a Property Assessed Clean Energy (“PACE”) Ordinance to establish a PACE program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the City/Town, financed by funds awarded to the Efficiency Maine Trust under the Federal Energy Efficiency and Conservation Block Grant (EECBG) Program and by other funds available for this purpose, and to enter into a contract with the Trust to administer functions of its PACE program; and

WHEREAS, the City of Saco wishes to establish and to administer the functions of a PACE program;

NOW THEREFORE, the City of Saco hereby enacts the following Ordinance:

§161.1 Purpose.

A. By and through this Ordinance, the City of Saco declares as its public purpose the establishment of a municipal program to enable its citizens to participate in a Property Assessed Clean Energy (“PACE”) program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the City The City declares its purpose and the provisions of this Ordinance to be in conformity with federal and State laws.

B. Enabling Legislation.

The City enacts this Ordinance pursuant to 35-A M.R.S.A. § 10151, *et seq.*

§161.2 TITLE AND DEFINITIONS

A. This Ordinance shall be known and may be cited as “the City of Saco Property Assessed Clean Energy (PACE) Ordinance” (the “Ordinance”).”

B. Definitions.

Except as specifically defined below, words and phrases used in this Ordinance shall have their customary meanings; as used in this Ordinance, the following words and phrases shall have the meanings indicated:

(1) Energy saving improvement. “Energy saving improvement” means an improvement to qualifying property that is new and permanently affixed to qualifying property and that:

- a. Will result in increased energy efficiency and substantially reduced energy use and:
 - (i) Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy, Energy Star program or similar energy efficiency standards established or approved by the Trust; or
 - (ii) Involves air sealing, insulating, and other energy efficiency improvements of residential, commercial or industrial property in a manner approved by the Trust;
- or

b. Involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the trust.

(2) Municipality. “Municipality” shall mean the City of Saco

(3) PACE agreement. “Pace agreement” means an agreement between the owner of qualifying property and the Municipality that authorizes the creation of a PACE mortgage on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement, other than mortgage holders.

(4) PACE assessment. “PACE assessment” means an assessment made against qualifying property to repay a PACE loan.

(5) PACE district. “Pace district” means the area within which the Municipality establishes a PACE program hereunder, which is all that area within the Municipality’s boundaries.

(6) PACE loan. “PACE loan” means a loan, secured by a PACE mortgage, made to the owner(s) of a qualifying property pursuant to a PACE program to fund energy saving improvements.

(7) PACE mortgage. “PACE mortgage” means a mortgage securing a loan made pursuant to a PACE program to fund energy saving improvements on qualifying property.

(8) PACE program. “PACE program” means a program established under State statute by the Trust or a municipality under which property owners can finance energy savings improvements on qualifying property.

(9) Qualifying property. “Qualifying property” means real property located in the PACE district of the Municipality.

(10) Renewable energy installation. “Renewable energy installation” means a fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including, but not limited to, photovoltaic systems, solar thermal systems, biomass systems, landfill gas to energy systems, geothermal systems, wind systems, wood pellet systems and any other systems eligible for funding under federal Qualified Energy Conservation Bonds or federal Clean Renewable Energy Bonds.

(11) Trust. “Trust” means the Efficiency Maine Trust established in 35-A M.R.S.A. § 10103 and/or its agent(s), if any.

§161.3 PACE PROGRAM

A. Establishment; funding.

The City of Saco hereby establishes a PACE program allowing owners of qualifying property located in the PACE district who so choose to access financing for energy saving improvements to their property through PACE loans. PACE loan funds may come from a variety of sources. To the extent that PACE loan funds are made available from the Trust, these are made available in municipalities that: 1) adopt a PACE Ordinance; 2) adopt and implement a local public outreach and education plan; 3) administer the functions of a PACE program including, but not limited to, entering into PACE agreements with owners of qualifying property and collecting PACE assessments, all in accordance with the PACE Act and the Trust's rules and regulations; and 4) require that participants in the PACE program comply with requirements for the Home Energy Savings Program administered by the Trust.

B. Amendment to PACE program.

In addition, the City of Saco may from time to time amend this Ordinance to use any other funding sources made available to it or appropriated by it for the express purpose of its PACE program, and the Municipality shall be responsible for administration of loans made from those other funding sources.

§161.4 CONFORMITY WITH THE REQUIREMENTS OF THE TRUST

A. Standards adopted; Rules promulgated; model documents.

If the Trust or other State or federal agency adopts standards, promulgates rules, or establishes model documents subsequent to the City's adoption of this Ordinance and those standards, rules or model documents substantially conflict with this Ordinance and/or with the City's manner of participation in the PACE program, the City shall take necessary steps to conform this Ordinance and/or its manner of participation in the PACE program to those standards, rules, or model documents.

§161.5 PROGRAM ADMINISTRATION; MUNICIPAL LIABILITY

A. Program Administration.

(1) PACE Administration. The Municipality will administer its PACE program pursuant to and consistent with the PACE Act, 35-A M.R.S.A. §10151, *et seq.* The City's administration of its PACE program shall include the following:

- a. the City will enter into PACE agreements with owners of qualifying property in the City's PACE district;
- b. the City, or its agent, will create and record a Notice of the PACE agreement in the appropriate County Registry of Deeds to create a PACE mortgage;
- c. the City, or its agent, will disburse the PACE loan to the property owner;
- d. the City, or its agent, will send PACE assessment statements with payment deadlines to the property owner;
- e. the City, or its agent, will be responsible for collection of the PACE assessments;
- f. the City, or its agent, will record any lien, if needed, due to nonpayment of the PACE assessment;

- g. the City, or its agent on behalf of the City, promptly shall record the discharges of PACE mortgages upon full payment of the PACE loan.

(2) PACE Program.

a. The City's PACE program shall be consistent with any terms and conditions the Trust may establish by rule under 35-A M.R.S.A. § 10154(4).

b. As required by 35-A M.R.S.A. §10155(3), federal laws and regulations regarding the privacy of consumer information apply to all consumer financial information obtained by the Trust or Municipality in implementing its PACE program.

(3) PACE Agreement

a. As required by 35-A M.R.S.A. §10155(1), a PACE agreement entered into by the Municipality pursuant to its PACE program must comply with underwriting requirements established by rule by the Trust.

b. As required by 35-A M.R.S.A. §10155(2), a PACE agreement entered into by the Municipality pursuant to its PACE program must provide consumer disclosure consistent with the principles of truth in lending as specified in rules adopted by the Trust.

c. As required by 35-A M.R.S.A. §10157(2), a PACE agreement entered into by the Municipality pursuant to its PACE program shall provide that all rights related to carbon emissions reductions resulting from those improvements are deemed to be assigned by the property owner to the Trust and are held by the Trust.

(4) Adoption of Education and Outreach Program. In conjunction with adopting this Ordinance, the Municipality shall adopt and implement an education and outreach program so that citizens of the Municipality are made aware of home energy saving opportunities, including the opportunity to finance energy saving improvements with a PACE loan.

(5) Assessments Not a Tax. PACE assessments do not constitute a tax but may be assessed and collected by the Municipality in any manner allowed under the PACE program and consistent with applicable law.

(6) PACE mortgages and PACE Assessments. PACE mortgages shall be recorded and PACE Assessments shall be assessed and collected as provided in 35-A M.R.S.A. §10156.

B. Liability of Municipal Officials; Liability of Municipality.

(1) Notwithstanding any other provision of law to the contrary, municipal officers and municipal officials, including, without limitation, tax assessors and tax collectors, are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under or related to a PACE program, including, without limitation, claims for or related to uncollected PACE assessments.

(2) Other than the fulfillment of its obligations specified in a PACE administration contract with the Trust entered into under Article VI, §1(A) above, a municipality has no liability to a property owner for or related to energy savings improvements financed under a PACE program. Model PACE Ordinance 1 (Mun. Admin3) 8-4-2010

E. Award Bid for Electric Car Zenn – 2.22

At the Council Meeting on September 7, 2010, the council declared the city's 2007 Zenn Electric car surplus and voted to sell the electric car by bid process. A bid package for the electric car was sent to over 30 large businesses and university/college campuses throughout Maine. An ad was placed in the Sun Chronicle and on the city's website. The bid opening for the car was held on Tuesday October 12, 2010. The city received (2) bids for the car; (1) \$1500.00, and (2) A bid for \$452.50.

Councilor Cote moved, Councilor Christenbury seconded, that it be ordered that the City Council accept the bid for \$1,500.00 from Benjamin Construction for the city's 2007 Zenn 2.22 electric car. Further move to approve the order. The motion passed with seven (7) yeas.

IX. ADJOURNMENT

Councilor Lovell moved, Councilor Tardif seconded to adjourn. The motion passed with seven (7) yeas. TIME 8:02 p.m.

ATTEST: _____
Lucette S. Pellerin, City Clerk