

STATE OF MAINE

COUNTY OF YORK

CITY OF SACO

I. CALL TO ORDER – On Monday, April 2, 2012 at 7:00 p.m. a Council Meeting was held in the City Hall Auditorium.

II. ROLL CALL OF MEMBERS – Mayor Mark Johnston conducted a roll call of the members and determined that the Councilors present constituted a quorum. Councilors present: David Tripp, Leslie Smith Jr., Philip Blood, Arthur Tardif, Eric Cote and Marston Lovell. City Administrator Rick Michaud was also present. Marie Doucette arrived at 7:05 p.m.

III. PLEDGE OF ALLEGIANCE

IV. GENERAL

V. AGENDA

VI. CONSENT AGENDA

Councilor Tripp, Councilor Blood seconded to adopt Items A, B and C. The City of Saco hereby:

- A. Approves the Minutes of: March 19, 2012;
- B. Approves the ‘Agreement between Saco and Buxton Police Departments to Provide Mutual Aid’ and authorize the City Administrator to execute the agreement;
- C. Grant the applications for a License to Operate Games of Chance: Daily Pool, 1 game from April to June 2012, Sealed Pull Tickets, 4 games from April to June 2012, as submitted by the Biddeford & Saco Elks #1597.

The motion passed with six (6) yeas.

Councilor Doucette arrived.

Below are the Consent Agenda Item Commentaries.

- A. **APPROVAL OF MINUTES: MARCH 19, 2012**
- B. **AGREEMENT BETWEEN SACO AND BUXTON POLICE DEPARTMENTS TO PROVIDE MUTUAL AID**

**AGREEMENT BETWEEN
SACO AND BUXTON POLICE DEPARTMENTS
TO PROVIDE MUTUAL AID**

AGREEMENT made this 7th day of March, 2012 by and between the undersigned municipalities.

WITNESSETH

WHEREAS, 30-A M.R.S.A. §2674 authorizes the assignment of police officers from one municipality to another to assist with police activities; and

WHEREAS, the undersigned municipalities wish to provide mutual aid to one another, on a short-term, emergency basis; and

WHEREAS, said municipalities agree to assign their police officers upon reasonable notice of the request from the Chief of Police or other designee of the municipality requesting aid;

NOW, THEREFORE, the parties do hereby agree as follows:

1. DEFINITIONS

REQUESTING MUNICIPALITY: The municipality which is asking another municipality to provide police assistance.

RESPONDING MUNICIPALITY: The municipality which is asked to provide another municipality with police assistance.

2. PURPOSE

The purpose of this agreement is to set forth the framework through which the law enforcement agencies of Saco and Buxton will work together by providing each other with easy access to police resources or specialties that may be needed in a police emergency and to provide emergency service resources in quantities or specialties beyond the means of any single department.

3. ASSIGNMENTS

3.1 The **RESPONDING MUNICIPALITY** agrees to assign its officers to provide police services on a temporary, short-term basis within the **REQUESTING MUNICIPALITY**. The specific individual(s) to be assigned are to be determined by the **RESPONDING MUNICIPALITY**. Such temporary assignments shall not exceed twenty-four (24) hours except by the specific written agreement of the Chiefs of Police or other designee of each municipality.

3.2 Assignments shall be made only if the Chief of Police of the **RESPONDING MUNICIPALITY** determines in his or her sole discretion that the **RESPONDING MUNICIPALITY** has adequate personnel available.

4. EMPLOYER-EMPLOYEE RELATIONSHIP RETAINED

4.1 The **RESPONDING MUNICIPALITY** shall be the sole and exclusive employer of persons assigned hereunder; persons assigned hereunder are not intended, nor shall they be deemed, to be employees of the **REQUESTING MUNICIPALITY** as a result of said assignment. In addition, nothing herein shall be construed to create a joint employer relationship between the **REQUESTING MUNICIPALITY** and the **RESPONDING MUNICIPALITY**. The **RESPONDING MUNICIPALITY** retains all of the legal responsibilities of the employer-employee relationship while its officer(s) are on assignment in the **REQUESTING MUNICIPALITY**.

4.2 Police officers assigned hereunder shall be paid by their employer their wages and fringe benefits and shall accrue benefits in the customary manner. No overtime work shall be permitted by officers while on assignment, unless approved by the **RESPONDING MUNICIPALITY**.

5. TRAINING

- 5.1 Each municipality shall be solely responsible for the training and equipment of its personnel.
- 5.2 The RESPONDING MUNICIPALITY shall not assign an employee to the REQUESTING MUNICIPALITY to perform a function that the employee is not trained or equipped to perform.
- 5.3 The REQUESTING MUNICIPALITY shall not ask or assign an employee of the RESPONDING MUNICIPALITY to perform a function that the employee is not trained or equipped to perform.

6. DEFENSE AND INDEMNIFICATION

- 6.1 To the fullest extent permitted by law, the REQUESTING MUNICIPALITY, at its own expense, shall defend or cause to be defended, the RESPONDING MUNICIPALITY, its officers and employees, from and against any and all claims, causes of action or suits, just or unjust, arising out of, or in any way connected with the act(s), omission(s) or negligence of any officer or employee of the RESPONDING MUNICIPALITY occurring while such officer or employee is working hereunder, including but not limited to a determination, under Paragraph 3.2 of this Agreement, not to assign officers or employees to the REQUESTING MUNICIPALITY.
- 6.2 In addition to, and without limiting the foregoing, the REQUESTING MUNICIPALITY shall indemnify and hold harmless the RESPONDING MUNICIPALITY, its officers and employees, from any and all liability, costs, damages, expenses or judgments resulting from or in any way connected with the act(s), omission(s) or negligence of any such officer or employee of the RESPONDING MUNICIPALITY occurring while such officer or employee is working hereunder, including, but not limited to a determination, under Paragraph 3.2 of this Agreement, not to assign officers or employees to the REQUESTING MUNICIPALITY, subject to the exclusions set forth in the attached and incorporated herein Exhibit A.
- 6.3 In the event that it is determined that the RESPONDING MUNICIPALITY, its officers or employees, require separate legal representation, the selection of such counsel shall be subject to the approval of the REQUESTING MUNICIPALITY. Reasonable requests for separate legal representation shall be subject to the approval of the REQUESTING MUNICIPALITY. Selection, approval and requests for legal representation shall be subject to the limitations and requirements, if any, of REQUESTING MUNICIPALITY'S liability coverage.

- 6.4 Any case or claim in which RESPONDING MUNICIPALITY, or its officers or employees, is a party shall not be settled without the approval of RESPONDING MUNICIPALITY, which approval as to the RESPONDING MUNICIPALITY and its officers and employees shall not be unreasonably withheld. In the event that the RESPONDING MUNICIPALITY does not approve a proposed settlement of RESPONDING MUNICIPALITY, or its officers or employees, which is otherwise acceptable to a claimant and to the REQUESTING MUNICIPALITY, the REQUESTING MUNICIPALITY shall be relieved of any further obligation which it may have to defend under Paragraph 6.1 and any obligation which it may have to indemnify or hold harmless under Paragraph 6.2, if said obligation is in excess of the proposed settlement offer. The settlement process will be subject to the limitation and requirements, if any, of the REQUESTING MUNICIPALITY'S liability coverage. An admission of liability on the part of the RESPONDING MUNICIPALITY, its officers or employees, shall be included in a settlement agreement only with the consent of the RESPONDING MUNICIPALITY.
- 6.5 The RESPONDING MUNICIPALITY shall be fully responsible for all workers' compensation coverage for its officers or employees hereunder and the RESPONDING MUNICIPALITY hereby waives any right of subrogation or lien pursuant to 39-A M.R.S.A. §107 against the REQUESTING MUNICIPALITY, its officers or employees, arising out of or resulting from said workers' compensation claims.
- 6.6 The REQUESTING MUNICIPALITY shall give the RESPONDING MUNICIPALITY immediate notice in writing of any notice of claim, legal action or suit filed related in any way to the incident which required mutual aid or which may affect the performance of this Agreement. The RESPONDING MUNICIPALITY shall give the REQUESTING MUNICIPALITY immediate notice in writing of any notice of claim, legal action or suit filed related in any way to the Agreement or which may affect the performance of duties under this Agreement.
- 6.7 Nothing herein waives or limits the sovereign or qualified immunity of the parties under Federal, State or constitutional law, including, but not limited to immunity pursuant to the Maine Tort Claims Act.

7. DESIGNATED REPRESENTATIVE

The municipal officers of each municipality shall designate the Chief of Police or other designee for implementation of this Agreement, except as otherwise provided by municipal charter or ordinance.

8. COMMAND

All persons assigned hereunder shall be subject to the direction and control of the command officers in the REQUESTING MUNICIPALITY for the duration of said assignment.

9. RECORDS & REPORTS

Records regarding performance of the obligations required by this agreement will be maintained by the respective parties. Each party will maintain the confidentiality of agency records as required by State and Federal law. Parties may seek access to the other party's records on an as needed basis and to the extent allowed by law.

10 MEDIA

The REQUESTING MUNICIPALITY is expressly authorized to release to the public / media the details of law enforcement actions within that community, as appropriate.

11. DURATION & TERMINATION

This agreement shall become effective upon proper execution and agreement of the parties. This agreement may be modified upon the mutual written consent of the parties. Said agreement shall remain in effect until termination by the municipality upon thirty days written notice to the other municipalities subject to this agreement. The decision of one municipality to terminate its participation in this agreement shall not affect the validity or operation the agreement as to the other municipalities. Any existing defense and indemnification obligations shall survive any such termination of this agreement.

IN WITNESS WHEREOF, the undersigned municipalities have caused this Agreement to be signed by their authorized representatives, as of the day and year above written and said signatures are attached hereto and incorporated by reference.

WITNESS

CITY OF SACO

By _____
City Administrator



WITNESS

TOWN OF BUXTON

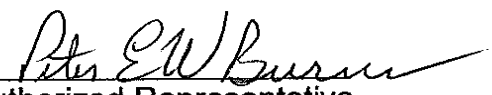
BY 
Authorized Representative
Selectman - Chair

EXHIBIT A

Exclusions

The REQUESTING MUNICIPALITY'S obligation to indemnify and hold harmless pursuant to Paragraph 6.2 shall not apply:

- (a) to any liability, cost, damage, expense or judgment to the extent that it is finally determined to be the intentional misconduct or gross negligence of the RESPONDING MUNICIPALITY, its officers or employees, other than those acts necessary to preserve life or property
- (b) to any liability arising out of the willful violation of any statute or ordinance if committed at the direction of the RESPONDING MUNICIPALITY or any of its officers or employees; or
- (c) to any liability arising from defamation if the defamatory statement was made by or at the direction of the RESPONDING MUNICIPALITY or any of its officers or employees with knowledge of its falsity or reckless disregard for the truth.

VII. ADJOURN THE MEETING

Mayor Johnston adjourned the meeting with the unanimous consent of the council at 7:05 p.m.

ATTEST: _____
Michele L. Hughes, City Clerk