

STATE OF MAINE

COUNTY OF YORK

CITY OF SACO

I. CALL TO ORDER – On Monday, June 4, 2012 at 7:00 p.m. a Council Meeting was held in the City Hall Auditorium.

II. ROLL CALL OF MEMBERS – Mayor Mark Johnston introduced the members and determined that the Councilors present constituted a quorum. Councilors present: David Tripp, Leslie Smith Jr., Marie Doucette, Philip Blood, Arthur Tardif, and Marston Lovell. Councilor Cote was excused this evening. City Administrator Rick Michaud was also present.

III. PLEDGE OF ALLEGIANCE

IV. GENERAL:

Mayor Johnston thanked Councilor Doucette and Councilor Lovell for all the work they did on the cities 250th Celebration.

CONSERVATION COMMISSION – UNIVERSITY OF MAINE 4H CAMBERSHIP AWARDS

Conservation Chairman Donna Goulding introduced David Shaw, who is a science teacher at Saco Middle School. Mr. Shaw will be presenting the 4-H Campership Awards from the University of Maine.

One of the goals of the Conservation Commission is to emphasize the importance of good stewardship of our natural resources. Each of the students will be able to attend a week- long camp at Bryant Pond, to learn more about conservation.

These awards have been given for the past 14 years in the name of former City Councilman and Chairman Horace Wood. The recipients tonight are: Gabby Miller, Crosby Adlard and Elizabeth Bell.

V. AGENDA:

A. SPECIAL ENTERTAINMENT PERMIT – BIDDEFORD SACO ELKS NO 1597 – (PUBLIC HEARING)

B. SPECIAL ENTERTAINMENT PERMIT – THE RUN OF THE MILL – (PUBLIC HEARING)

Councilor Tripp moved, Councilor Smith seconded to open the public hearing. The motion passed with unanimous consent.

There were no comments from the public.

Councilor Doucette moved, Councilor Lovell seconded to approve the renewal applications submitted by the Biddeford-Saco Elks Lodge No. 1597 and The Run of the Mill for a Special Entertainment Permit to be concurrent with the establishments current liquor license. The motion passed with six (6) yeas.

C. TAX ANTICIPATION NOTE 2012/2013

On May 21, 2012, the Council approved to complete the Tax Anticipation Note. After bond counsel reviewed the previous approved order, it was determined that due to State of Maine regulations that we need to amend the Tax Anticipation Note. The State of Maine says that the City must repay their Tax Anticipation Note within 30 days of fiscal year end. To do this we are completing two Tax Anticipation Notes.

The City Treasurer and City Administrator recommend proceeding with issuance of two “lump sum” tax anticipation notes:

1. The first note in the amount of \$1,500,000 (one million five hundred thousand dollars) to be issued on or about June 11, 2012 and mature on or before July 27, 2012 to ensure adequate cash flow until tax payments are received.
2. The second note in the amount of \$1,000,000 (one million dollars) to be issued on or about July 2, 2012 and mature on or before August 20, 2012 to ensure adequate cash flow until tax

payments are received.

Councilor Lovell moved, Councilor Blood seconded “Be it ordered that the City Council approve the Order entitled, ‘ORDER AUTHORIZING CITY OF SACO TO ISSUE TAX ANTICIPATION NOTE FOR 2011-2012 FISCAL YEAR and 2012-2013 FISCAL YEAR’. Further move to approve the Order. The motion passed with four (4) yeas and two (2) nays – Councilors Tardif and Doucette.

**ORDER AUTHORIZING CITY OF SACO TO ISSUE TAX ANTICIPATION NOTE FOR
2011-2012 FISCAL YEAR**

- 1) That under and pursuant to 30-A M.R.S.A. §5771 and Section 6.14 of the Charter of the City of Saco, the City borrow in anticipation of the receipt of taxes the sum of not more than \$1,500,000.00 to be issued on or about June 11, 2012 and mature on or before July 27, 2012, at an interest rate of not more than 0.99% per annum, which sum shall be borrowed on a “lump-sum” basis;
- 2) That the loan be evidenced by a general obligation note issued in the name of the City, payable within the current fiscal year out of receipts from taxes levied for the current fiscal year (the “Note”);
- 3) That the offer of Bangor Savings Bank, to purchase the Note, be approved, and that the sale of the Note be awarded to Bangor Savings Bank;
- 4) That to the extent not inconsistent with this Order, the Treasurer be authorized to select the issue date, maturity, denomination, interest rate, place of payment, form and other details of the Note, as the Treasurer determines to be in the interest of the City;
- 5) That the Note may be made redeemable or callable, with or without premium, prior to its maturity;
- 6) That the Note be executed in the name of the City by the Treasurer and Mayor, under the official seal of the City attested by the City Clerk, and that any signature thereon may be by facsimile to the extent permitted by law;
- 7) That the Treasurer be authorized and directed to covenant and certify on behalf of the City that no part of the proceeds of the Note shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause the Note to be an “arbitrage bond” within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended;
- 8) That the Treasurer be authorized to covenant on behalf of the City to file any information report and pay any rebate due to the United States in connection with the issuance of the Note, to take all other lawful actions necessary to insure that interest on the Note will be excluded from the gross income on the owners thereof for purposes of federal income taxation, and to refrain from taking any action which would cause interest on the Note to become includable in the gross income of the owners thereof;
- 9) That the Treasurer be authorized to designate the Note as a qualified tax exempt obligation for purposes of Section 265(b) of the Internal Revenue Code of 1986;
- 10) That the Treasurer be authorized to execute and deliver such tax certificates, arbitrage and use of proceeds certificates and other documents and certificates as may, in the Treasurer’s opinion, be necessary or convenient to effect the transactions hereinbefore authorized, to be in such form not inconsistent with this Order as the Treasurer, with the advice of the City’s bond counsel, may approve;
- 11) That the Treasurer and other proper officials of the City be authorized and empowered in its name and on its behalf to do or cause to be done all such other acts and things as may be necessary or desirable in order to effect the issuance, sale and delivery of the Note in accordance herewith and any such prior action by them be hereby ratified and confirmed;
- 12) That if the Treasurer, Mayor, Clerk or any other City officer or official is for any reason unavailable to approve, execute or attest the Note or any related financing documents, the person or persons acting in any such capacity, whether as an assistant, a deputy, or otherwise, be authorized to act for such official with the same force and effect

as if such official had herself/himself performed such act; and inconsistent with this Order as the Treasurer, with the advice of the City's bond counsel, may approve;

11) That the Treasurer and other proper officials of the City be authorized and empowered in its name and on its behalf to do or cause to be done all such other acts and things as may be necessary or desirable in order to effect the issuance, sale and delivery of the Note in accordance herewith and any such prior action by them be hereby ratified and confirmed;

12) That if the Treasurer, Mayor, Clerk or any other City officer or official is for any reason unavailable to approve, execute or attest the Note or any related financing documents, the person or persons acting in any such capacity, whether as an assistant, a deputy, or otherwise, be authorized to act for such official with the same force and effect as if such official had herself/himself performed such act; and

13) That a copy of this Order be filed with the City Clerk.

**ORDER AUTHORIZING CITY OF SACO TO ISSUE TAX ANTICIPATION NOTE FOR
2012-2013 FISCAL YEAR**

1) That under and pursuant to 30-A M.R.S.A. §5771 and Section 6.14 of the Charter of the City of Saco, the City borrow in anticipation of the receipt of taxes the sum of not more than \$1,000,000.00 to be issued on or about July 2, 2012 and mature on or before August 20, 2012, at an interest rate of not more than 0.99% per annum, which sum shall be borrowed on a "lump-sum" basis;

2) That the loan be evidenced by a general obligation note issued in the name of the City, payable within the current fiscal year out of receipts from taxes levied for the current fiscal year (the "Note");

3) That the offer of Bangor Savings Bank, to purchase the Note, be approved, and that the sale of the Note be awarded to Bangor Savings Bank;

4) That to the extent not inconsistent with this Order, the Treasurer be authorized to select the issue date, maturity, denomination, interest rate, place of payment, form and other details of the Note, as the Treasurer determines to be in the interest of the City;

5) That the Note may be made redeemable or callable, with or without premium, prior to its maturity;

6) That the Note be executed in the name of the City by the Treasurer and Mayor, under the official seal of the City attested by the City Clerk, and that any signature thereon may be by facsimile to the extent permitted by law;

7) That the Treasurer be authorized and directed to covenant and certify on behalf of the City that no part of the proceeds of the Note shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause the Note to be an "arbitrage bond" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended;

8) That the Treasurer be authorized to covenant on behalf of the City to file any information report and pay any rebate due to the United States in connection with the issuance of the Note, to take all other lawful actions necessary to insure that interest on the Note will be excluded from the gross income on the owners thereof for purposes of federal income taxation, and to refrain from taking any action which would cause interest on the Note to become includable in the gross income of the owners thereof;

9) That the Treasurer be authorized to designate the Note as a qualified tax exempt obligation for purposes of Section 265(b) of the Internal Revenue Code of 1986;

10) That the Treasurer be authorized to execute and deliver such tax certificates, arbitrage and use of proceeds certificates and other documents and certificates as may, in the Treasurer's opinion, be necessary or convenient to effect the transactions hereinbefore authorized, to be in such form not inconsistent with this Order as the Treasurer, with the advice of the City's bond counsel, may approve;

11) That the Treasurer and other proper officials of the City be authorized and empowered in its name and on its behalf to do or cause to be done all such other acts and things as may be necessary or desirable in order to effect the issuance, sale and delivery of the Note in accordance herewith and any such prior action by them be hereby ratified and confirmed;

12) That if the Treasurer, Mayor, Clerk or any other City officer or official is for any reason unavailable to approve, execute or attest the Note or any related financing documents, the person or persons acting in any such capacity, whether as an assistant, a deputy, or otherwise, be authorized to act for such official with the same force and effect as if such official had herself/himself performed such act; and

13) That this Order amends and restates in its entirety the Order adopted on June 4, 2012 authorizing issuance of tax anticipation notes.

14) That a copy of this Order be filed with the City Clerk.

City of Saco Cash Flow FY13 - Semi-Annual													
	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	
FY12	1	2	3	4	5	6	7	8	9	10	11	12	
Beginning	377,852	777,525	918,506	1,491,945	1,843,531	586,717	108,857	2,489,275	550,987	3,021,812	2,794,521	1,596,045	
CRP	4,517,695	11,597,255	1,368,252	1,027,715	1,220,379	999,352	4,569,930	10,533,286	1,392,885	1,157,143	1,101,741	1,100,000	40,585,633
AP	(2,967,189)	(4,236,949)	(3,854,727)	(2,663,407)	(2,823,690)	(2,382,579)	(3,135,033)	(4,601,662)	(3,448,439)	(2,129,595)	(2,681,198)	(3,851,266)	(38,775,733)
Other	(1,150,833)	(7,219,325)	3,059,914	1,987,278	346,498	905,367	945,521	(7,869,912)	4,526,378	745,161	380,981	(81,987)	(3,424,959)
Ending	777,525	918,506	1,491,945	1,843,531	586,717	108,857	2,489,275	550,987	3,021,812	2,794,521	1,596,045	(1,237,208)	
CRP	11.1%	28.6%	3.4%	2.5%	3.0%	2.5%	11.3%	26.0%	3.4%	2.9%	2.7%	2.7%	100.0%
AP	7.7%	10.9%	9.9%	6.9%	7.3%	6.1%	8.1%	11.9%	8.9%	5.5%	6.9%	9.9%	100.0%
Other	33.6%	210.8%	-89.3%	-58.0%	-10.1%	-26.4%	-27.6%	229.8%	-132.2%	-21.8%	-11.1%	2.4%	100.0%
Mutual Account Balance			4,073,790	1,574,314	300,315	315	900,316	6,925,979	1,802,412	502,651	-	-	
FY13	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	
	1	2	3	4	5	6	7	8	9	10	11	12	
Beginning	(1,237,208)	(453,629)	6,500,133	3,791,985	1,955,236	662,381	(688,965)	497,106	6,304,832	3,778,604	2,534,665	719,562	
CRP	4,659,538	11,961,377	1,411,211	1,059,982	1,258,695	1,030,728	4,713,414	10,864,002	1,436,618	1,193,475	1,136,333	1,134,537	41,859,911
AP	(3,101,547)	(4,428,803)	(4,029,274)	(2,784,009)	(2,951,551)	(2,490,465)	(3,276,991)	(4,810,031)	(3,604,589)	(2,226,025)	(2,802,606)	(4,025,656)	(40,531,547)
Other	(774,412)	(578,812)	(90,086)	(112,722)	400,000	108,391	(250,352)	(246,245)	(358,257)	(211,388)	(148,830)	(101,054)	(2,363,768)
Ending	(453,629)	6,500,133	3,791,985	1,955,236	662,381	(688,965)	497,106	6,304,832	3,778,604	2,534,665	719,562	(2,272,612)	
CRP	11.1%	28.6%	3.4%	2.5%	3.0%	2.5%	11.3%	26.0%	3.4%	2.9%	2.7%	2.7%	100.0%
AP	7.7%	10.9%	9.9%	6.9%	7.3%	6.1%	8.1%	11.9%	8.9%	5.5%	6.9%	9.9%	100.0%
Other	32.8%	24.5%	3.8%	4.8%	-16.9%	-4.6%	10.6%	10.4%	15.2%	8.9%	6.3%	4.3%	100.0%
Mutual Account Balance	-	-	-	-	-	-	-	-	-	-	-	-	

* Other is mostly Mutual Account transfers & payroll along with a few other items that come in and out of the bank accounts. In the estimated area I have removed MMA Transfers.

City of Saco Interest Rate/Borrowing Analysis	
Assumptions	
Interest Rate	1.0%
Number of Days	60
Borrowed Amount	\$ 2,500,000
Epstein Costs maximum amount *	\$ 1,500
Can Pay Off Early	
Worst Case Senerio	
Borrowed Amount	\$ 2,500,000
60 days of interest	\$ 4,125
Epstein Cost	\$ 1,500
Total Cost	\$ 5,625
Best Case Senerio	
Borrowed Amount	\$ 2,500,000
30 days of interest	\$ 2,063
Epstein Cost	\$ 750
Total Cost	\$ 2,813
*Note: Epstein feels his costs will be approximately \$1,000, but might be less if a local institution.	

VI. CONSENT AGENDA

Councilor Smith, Councilor Lovell seconded to adopt Items A, and B. The City of Saco hereby:

- A. Approves the Minutes of: May 21, 2012;
- B. Ordains and Approves the First Reading of the amendment to the document titled, "Contract Zone Agreement By and between Bear Brook Estates, LLC and the City of Saco," dated April 7, 2009"; and set the Public Hearing for June 18, 2012."

The motion passed with six (6) yeas.

Below are the Consent Agenda Item Commentaries.

1. APPROVAL OF MINUTES – MAY 21, 2012
2. CONTRACT ZONE EXTENSION REQUEST – BEAR BROOK ESTATES LLC MOBILE HOME PARK, OCEAN PARK ROAD

Amendment to Contract Zone Agreement By and Between Bear Brook Estates, LLC and the City of Saco, dated April 7, 2009"

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

Contract Zone Agreement by and between Bear Brook Estates, LLC and the City of Saco: Subsection h, p. 3 :

- h. Upon approval of this contract by the City Council, the Applicant shall submit materials required for site plan and subdivision review to the Planning Office in order that the project may be reviewed by the Planning Board. Failure of the Applicant to secure site plan approval from the Planning Board within two years of the approval of this Contract by the City Council shall render this Contract null and void. In that permits or approvals have been delayed again due to circumstances beyond the control of the Applicants, the two-year deadline is hereby extended by one year to June 1, ~~2012~~ 2013.

VII. RECESS THE MEETING AND CONVENE THE WORKSHOP

Mayor Johnston recessed the City Council meeting and Convened the Workshop, with the unanimous consent of the City Council at 7:23 p.m.

VIII. RECONVENE THE MEETING

Mayor Johnston reconvened the City Council meeting, with the unanimous consent of the City Council at 8:15 p.m.

A. CONTRACT ZONE – STEEPLE DRIVE DANCE STUDIO – (FIRST READING)

Councilor Smith moved, Councilor Lovell seconded “The City Council hereby ordains and approves the First Reading of the document titled, “Contract Zone Agreement By and between Jennifer Bourgeault and Kurt Brown and the City of Saco,” dated June 4, 2012”; and further to schedule a Public Hearing for June 18, 2012.” The motion passed with six (6) yeas.

**Contract Zone Agreement by and Between
Jennifer A. Bourgeault and Kurt N. Brown, and the City of Saco
June 4, 2012**

THE CITY OF SACO HEREBY ORDAINS:

I. That the Zoning Ordinance of the City of Saco, dated January 2, 1985, and amended through November 16, 2011 is hereby further amended by adopting this Contract Zone Agreement by and between the City of Saco and Jennifer A. Bourgeault and Kurt N. Brown (Applicants).

1. The Applicants propose to establish a Dance Studio at 18 Steeple Drive (Subject Property).
2. Subject Property is identified as Tax Map 89, Lot 11-3 on City of Saco tax maps, and is in the R-1d zoning district.
3. Said property has been utilized in the past as a church, and includes both a church building and a single family dwelling. Each is an allowed use in the R-1d zoning district. The church is no longer in service.
4. Right, title and interest is demonstrated with the Applicants’ submission of a Purchase and Sale Agreement identifying Kurt Brown and Jennifer A. Bourgeault as the Buyer and the Saco and Biddeford Church of Nazarene as the Seller. The Agreement is subject to the Buyer receiving municipal approval for a contract zone to operate “a performing arts center and instructional school.”
5. The City’s Zoning Officer has determined that the proposed Dance Studio shall be viewed as a “Commercial School,” which is not an allowed use in the R-1d zone.
6. As stated in Section 1403-1 of the Zoning Ordinance, “Occasionally, competing and incompatible land uses conflict; and traditional zoning methods and procedures such as variances, conditional use permits, and alterations to the zone boundaries are inadequate to promote desirable growth. In these special situations, more flexible and adaptable

zoning methods are needed to permit differing land uses in both developed and undeveloped areas, and at the same time recognize the effects of change.”

7. Recognizing the use restrictions imposed by the Zoning Ordinance, the Applicants hereby

II. This Contract Zone, specifically and exclusively for the parcel at 18 Steeple Drive, would allow the Applicants to establish and operate a Commercial School as proposed on the Subject Property, subject to the following conditions and restrictions, as provided for in Section 1403 of the Saco Zoning Ordinance:

1. A Commercial School (Dance Studio) as proposed and described by the Applicants shall be allowed to operate as a permitted use on the parcel identified herein as the Subject Property: Tax Map 89, Lot 11-3.
2. The Applicant shall adhere to all other applicable provisions of the R-1d zoning district and of the City of Saco Zoning Ordinance.
3. All details as shown on the submitted plans and application are hereby incorporated into this contract by reference. The proposed use shall be operated substantially in conformance with those plans. Minor changes may be approved by the staff of the City of Saco. Any changes determined by the staff to be "major" shall be submitted to the Planning Board for review. 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.
4. 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.
5. Failure of the Applicants to open the proposed Commercial School (Dance Studio) for business within one (1) year from the date of approval shall render this approval and Contract null and void.
6. 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.
7. As specified in Section 1403-9 of the Zoning Ordinance, all applications for contract zoning are subject to site plan review.

III. Pursuant to authority found in 30-A 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 _____, 2012 and the Saco City Council on _____, 2012, the following findings are hereby adopted:

A. City Tax Map 89, Lot 11-3 is a parcel of an unusual nature and location, for the following reasons:

1. The property is developed with a 2,688 square foot building previously used as a church, with a 49 space parking lot. The intent of the original developers was to establish

a building for use by multiple members of the public at one time, which includes a 100 seat sanctuary, a fellowship room, and restroom facilities for men and women.

2. The Applicants propose a use that is able to co-exist adjacent to residential neighborhood. The level of activity – large gatherings on Sundays and perhaps other days of the week -- has been found to be appropriate for the neighborhood.

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

Chapter 6, Residential Growth Areas

Allowed Uses: Uses in the Low Density Residential Development Area should be limited to single and two-family residential uses and low intensity community and service uses that primarily support the residential neighborhoods. The following types of uses are generally appropriate in this area as a permitted or conditional use:

- single and two family dwellings
- accessory apartments in single-family dwellings
- home occupations
- child and adult day care facilities
- municipal and educational uses
- places of worship and community uses

C. The proposed use is consistent with the existing uses and permitted uses within the original zone. The original zone is the Residential Low Density District (R-1d) zone, the purpose of which is “predominantly single-family residential in character... New land uses in this district are restricted to low density residential and associated uses.” (Zoning Ordinance, Section 405-1.) Among the permitted and conditional uses allowed in the R-1d zone are single and two-family housing, community living uses, day care centers, kennels, commercial greenhouses and nurseries, and adult day care centers.

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

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 _____, 2012.

by _____
Richard Michaud
City Administrator

by _____
Jennifer A. Bourgeault

by _____
Kurt N. Brown
Applicants

IX. ADJOURNMENT

Councilor Tardif moved, Councilor Smith seconded to adjourn the meeting at 8:21 p.m. The motion passed with unanimous consent.

ATTEST: _____
Michele L. Hughes, City Clerk