STATE OF MAINE
COUNTY OF YORK                                               CITY OF SACO

I. CALL TO ORDER – On Monday, August 20, 2012 at 7:00 p.m. a Council Meeting was held in the City Hall Auditorium.

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

III. PLEDGE OF ALLEGIANCE
IV. GENERAL
VI. CONSENT AGENDA

Councilor Doucette moved, Councilor Smith seconded to approve consent agenda items #1 and #2. The City of Saco hereby:

1. Approves the minutes of August 6, 2012;
2. Ordains and approves the Second and Final Reading of the amendment to the Saco Code, Chapter 112, General Assistance Program, Appendix A – GA Overall Maximums, and the amendment to Article VI, Section 6.8(B) of the General Assistance Ordinance – City of Saco.

The motion passed with seven (7) yeas.

The complete item commentary for the consent agenda is located below.

2. 2012 GENERAL ASSISTANCE AMENDMENTS – (2ND & FINAL READING)

Due to action taken by the State of Maine during its last legislative session, The Overall Maximums of the General Assistance Ordinance of the City of Saco, which were accepted on March 19, 2012, must now be amended to Ninety Percent of their effective levels as of April 1, 2012.

The Amended Overall Maximums to take effect July 1, 2012. In addition, Article VI, Section 6.8 (B) of the General Assistance Ordinance of the City of Saco must be amended to limit the amount of housing assistance available to a maximum of nine months, beginning July 1, 2012.


Appendix A - GA Overall Maximums

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<th># IN HOUSEHOLD</th>
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Sample General Assistance Program Ordinance Amendment to Incorporate the FY 2013 “Temporary” Housing Assistance Limit

Amend Article VI, Section 6.8 (B) of the General Assistance Ordinance adopted by the municipal officers in the Town/City of ________________, to be effective on and after July 1, 2012, as follows:

B) **Housing.** The administrator will provide assistance with rent or mortgage payments that are reasonable and/or within the allowed maximum levels and in accordance with the housing assistance limits and exceptions provided in Title 22, section 4308, subsections 1-A and 1-B. See Appendix C of this ordinance for the current year’s housing maximums. It is the applicant’s responsibility to find suitable housing, although the administrator may help the applicant find housing when appropriate. The administrator will inform the applicant of the allowed housing maximums to assist the applicant in his or her search for housing. The allowed maximum for any applicant will be the categorical housing maximum representing the minimum dwelling unit space necessary to adequately shelter the applicant household. Applicants requesting assistance for housing that contains more bedrooms than are necessary for the number of household members will be provided assistance according to the maximum level of the number of rooms actually needed.

V. **AGENDA**

A. **DISPOSITION OF 12-14 THORNTON AVENUE**

The Council discussed this item at Workshop on August 6, 2012. Representatives from Housing Initiatives of New England and Ocean Heritage Builders, LLC presented their plans for the site as described in the Purchase and Sales agreements. The Housing Initiatives of New England plans to spend $1.2 million in improvements to the property, which will be taxable now and hereafter.

The Council also discussed the possibility of razing the buildings on the site as another option for disposition.

A demolition specification package, prepared in October of 2011 is located at www.sacomaine.org – city council agenda link for the meeting dated 08/20/2012.

On November 14, 2011, the Council tabled the vote to award a contract for the demolition of the buildings at 12-14 Thornton Avenue to CIA Salvage for $89,125.10.

**Chronology of Central Fire Station Actions**

*August 16, 2010* – Council accepted a report from the Historic Preservation Commission and the Planning Board with regard to disposition of 12-14 Thornton Avenue. By direction of the Council – a Committee was formed to further study options for the properties.

*October 4, 2010* – Council accepted a report on the disposition of the properties at 12-14 Thornton Avenue from the “Central Fire Station Committee”. As a result of the report, the City sent out 3 “Request for Proposals” (RFP Fire Station) (RFP Office Building); and (RFP Fire Station and Office Building). The RFP deadline for submissions was December 1, 2010. There were no submissions by December 1, but the city did receive a late submission by Saco Spirit and Nate Libby Masonry.

*December 20, 2010* – the Council held a Workshop and discussed the Fire Station; the consensus of the Council was to seek a commercial broker’s ‘opinion of value’; 2 were received.

*Since December 20, 2010* – the Maine Historic Preservation Commission has determined that the Fire Station located at 12 Thornton Avenue is eligible for listing on the Historic Preservation Register.

The City Attorney offered his opinion that the properties at 12 and 14 Thornton Avenue were joined by Deed and can’t be sold separately without proposing a contract zone.

*February 7, 2011* – the Council discussed this item in Workshop where it was agreed to give Nate Libby Masonry and Saco Spirit for Business a chance to put together a joint proposal for the site.
Since February 7, 2011 – The received another ‘letter of intent’ from Waterman Development LLC with regard to a plan for the site. The city has also received a recommendation letter on the site from Lyndal Joe Wishcamper, a large scale developer.

March 21, 2011 – Council listed the property at 12 and 14 Thornton Avenue with a Commercial Broker for a price of $474,000, for a 4 month period; and further excluded commission payments on a potential sale to Waterman Development LLC, Nate Libby Masonry, and Saco Biddeford Savings Bank. Tom Merrill offered $100,000 for the property.

May 6, 2011 – City executed a listing agreement with the Boulos Company for a term of 4 months.

May 2, 2011 – Council approved the Lease document by and between the City of Saco and Saco & Biddeford Savings Institution for the parking lot areas located at 12 and 14 Thornton Avenue, subject to planning board approval.

May 24, 2011 – the Lease by and between City of Saco and Saco & Biddeford Savings Institution was executed, for an indefinite term.

June 6, 2011 – Council discussed an offer on 12 and 14 Thornton from La Boca Corp.

September 6, 2011 – Council will discuss another offer on 12 and 14 Thornton in Executive Session. The 4 month listing agreement with the Boulos Company expired. Received new offer from La Boca Corp.

October 24, 2011 – Vote to solicit bids for demolition of fire station.


July 3, 2012 - Proposed Purchase and sale Agreement from Housing Initiatives of New England

July 17, 2012 – Proposed Purchase and Sale agreement from Ocean Heritage Builders, LLC.
REAL ESTATE PURCHASE AND SALE AGREEMENT

The undersigned HOUSING INITIATIVES OF NEW ENGLAND CORPORATION, a Maine corporation with a place of business in Portland, Maine ("Buyer") hereby offers to purchase from the CITY OF SACO, MAINE ("Seller"), the land and building(s) located at 12-14 Thornton Avenue, Saco, Maine, formerly used by Seller as a municipal fire station, and depicted as Lot 84 on the tax map attached hereto as Schedule A (the "Property"). This offer is subject to the following terms and conditions:

1. **Purchase Price.** The purchase price shall be FIFTY THOUSAND DOLLARS ($50,000), payable in full by certified check at the Closing (as hereinafter defined). As security for Buyer’s performance under this Agreement, Buyer is delivering to Seller an earnest money deposit in the amount of FIVE THOUSAND DOLLARS ($5,000), which shall be applied to payment of the purchase price at Closing.

2. **Closing.** The sale contemplated by this Agreement shall be closed and the Buyer shall pay the balance due and execute all papers necessary for the completion of the purchase at 10 o’clock a.m. on October 10, 2012 (the “Closing”), at the offices of Buyer’s counsel, Bernstein Shur, 100 Middle Street, Portland, ME 04104, or at another mutually agreeable location. At the Closing Seller shall deliver to Seller a Quit Claim Deed conveying the Property with good and marketable title, free of liens and encumbrances.

3. **Settlement Costs.** Seller shall pay for the preparation of the deed and declaration of value, together with the preparation and recording fees for the removal of any encumbrances against the Premises. All other expenses and costs of document preparation, title examination, title opinions, and title insurance shall be borne by Buyer. Transfer taxes shall be paid one half by each Buyer and Seller (except to the extent that Seller is exempt from transfer taxes) and real estate taxes (if any) shall be prorated between Seller and Buyer at Closing.

4. **Possession; Risk of Loss.** Possession of the Property shall be given to the Buyer at time of Closing, unless otherwise agreed by the parties. The Property shall be then in substantially the same condition as at present. The parties acknowledge that a Level 1 Site Assessment identifies lead based paint and asbestos in pipe insulation, flooring mastic and tiles and miscellaneous other solid waste. Until Closing, the risk of loss or damage to the Property is on the Seller.

5. **Default.** If the Buyer defaults in any of its obligations hereunder, this Agreement shall, at the option of the Seller, be terminated, and the Buyer shall forfeit the earnest money deposit which shall be retained by Seller as liquidated damages.

6. **Inspections.** Prior to Closing, Buyer has the right to have the Property inspected by qualified inspectors of Buyer’s choice.
The cost of any inspections shall be paid by Buyer. If the results of any inspection are not satisfactory to Buyer, Buyer may, at Buyer’s option, within (3) days of receipt of the inspection results, in writing, declare this Agreement null and void, except that Seller shall have a reasonable period of time, at Seller’s election, to remedy any deficiency that might be identified. Buyer’s rights to terminate under this paragraph shall be deemed to have been waived, unless all desired inspection(s) are performed within thirty (30) days from the date of this Agreement or within the time period of any extension signed by Seller.

7. **Use of Property.** Buyer agrees to use the Property for residential and commercial purposes including a public meeting space for seniors and civic uses. In recognition of Seller’s interest in having the original fire station remain a landmark, Buyer further agrees to maintain the historic integrity of the exterior of the original fire station building. If an elevator is added to the exterior to meet building codes, Buyer agrees to provide plans and elevations to City of Saco administrators to review.

8. **Mediation.** Disputes or claims arising out of or relating to this Agreement shall be submitted to mediation in accordance with the Maine Real Estate Rules of the American Arbitration Association. This paragraph shall survive the Closing.

9. **Offer Expiration.** Buyer’s offer shall remain outstanding until 5:00 o’clock p.m. on July 20, 2012, at which time it shall automatically expire if this Agreement has not been executed by Seller. Time is of the essence to this Agreement.

By their signatures, receipt of a copy of this Agreement is acknowledged by both parties.

Signed and agreed to this __ day of July, 2012.

**HOUSING INITIATIVES OF NEW ENGLAND CORPORATION,** Buyer

By: [Signature]
Name: [Name]
Its: [Title]

**CITY OF SACO, MAINE,** Seller

By: [Signature]
Name: [Name]
Its: [Title]
Mayor Johnston noted that allot of concerned citizens were here this evening, and some would like to address the Council before a vote is taken this evening. He opened the discussion to the public.

The following People addressed the Mayor and Council:
Cindy Taylor, President of the Housing Initiatives of New England – Ms Taylor would develop the property as a historic building with 1st floor mixed use community space, some commercial development, and the rest of the building would be turned into housing. This property will go back on the tax rolls. There is hazardous waste in the building, a huge boiler that will need to come out as well. The cost of demolition would be well over $100,000. It will cost her company $800,000 to $1 million to renovate and get it ready to open.

Mr. Mann representing Nate Libby – Mr. Mann stated that Nate Libby is a native of Saco who runs a masonry business in Saco and employs 25-30 employees. He is qualified to restore the building. He would like to relocate his business to this building, and to work with other organizations for use of the building. Mr. Libby will offer $50,000 for the building. Mr. Mann noted that Mr. Libby’s offer should have first precedent, because his bid was submitted on time when the city first looked into selling the building. He stated that full restoration would be before 2015.

Economic Development Director Peter Morelli stated that Ms. Taylor’s qualifications were very good and there are not many developers out there who would be willing to invest $1 million into the property. This is the right kind of plan for this building and would be a good fit for Saco.

James Audiffred, 5 Cherryfield Ave – Mr. Audiffred stated that the St. Augustine Church is interested in the small office building which is being sold with the Fire Station. They have been renting space at various places, and would like to have a permanent home. Mr. Audiffred would like to look at the building and to make an offer. The Mayor noted that the city is required to sell both properties together. The City Attorney stated that they could not be sold separately. Mr. Audiffred stated that we thought there might be a way to separate the properties and to sell each individually.

Steve Ryan, 13 Cross Street – Mr. Ryan noted that Saco is the only city between Portsmouth and Portland that has an intact and preserved historic downtown. Mr. Ryan feels that the Fire House needs to be restored. Saco is at a tipping point, MERC is going to close and that will change the city forever. People want to live and shop in downtown areas. If the building is destroyed, we have lost it forever. Please don’t tear the building down.

Catherine Glynn, 10 Locke St. - Ms. Glynn noted that the Fire Station is surrounded by parking lots. What are we going to be leaving for a legacy for our children? Please vote tonight to sell the Fire Station to Housing Initiatives of New England. Ms. Taylor has a good plan. Don’t use our tax dollars to tear down the building to use for a parking lot.

Colleen Sargent, 13 Middle St. – Ms. Sargent stated that it will cost the tax payers in excess of $264,000 if the building gets sold to the bank. She quoted verse from Psalm 139 (23-24). Give this some serious thought when voting tonight.

Karl Carrigan, 184 North St – Mr. Carrigan felt that the building needs to be saved, and it will eventually add money into the city coffers. This development project will employ lots of people and to bring more money into the community. We have enough parking lots in the city, and need people to invest in our buildings and city. Projects like this we need to promote. This is a very good plan that needs to be considered.

Erika Donneson, 93 Pleasant St. – Ms. Donneson moved to Saco because she wanted a home. The history of Saco gave her a feeling of roots. Local businesses depend on long term residency. It is bad for business to be knocking buildings down and making people edgy. Ms. Donneson likes familiar landmarks. Everyone can look up the history of historic buildings, but not parking lots. The building is a vintage building when people were into gardens and shrubs. When she lived in Portland, there was a Fire Station that was being used for social service offices.

Beth Johnston, 62 Pleasant St. – Ms. Johnston has been a downtown resident for 41 years. She noted that it is mind boggling that the group that spent a month celebrating the Sesquicentennial Anniversary and showing respect for that history with various events is the same group of people who would ever spend 5 minutes trying to take down the historic Fire Station which is a WPA building. How we could refute that the building is not historic is also
mind boggling, because the Maine Historic Preservation has agreed that this is. She hoped that tonight the city would vote to reuse the building and not to tear it down for a parking lot. We need to be mindful of the reuse of the building as well, because it is a residential neighborhood, with some retail use around it. The use that Ms. Taylor presented is a good use for the building and it will put it back on the tax rolls. There is a good option for the city to choose tonight, do the right thing.

Jason Scott, Ferry Road – Mr. Scott implored that the Council use common sense in voting tonight. Why should the city spend money to knock down a building that someone else wants to rehab it?

Nadeen DeSilva, Flag Pond Rd – Ms. DeSilva stated that the city has some good offers tonight to choose from. Cynthia Taylor’s proposal is a great offer for downtown. Ms. DeSilva’s focus is always the revitalization and redevelopment of downtown. She asked “Who is telling the city to take the building down?” No one here tonight has said that. Who are you representing?

Richard Petersen, 44 High St. – Mr. Petersen thanked his Councilor Eric Cote for changing his mind and deciding to support Ms. Taylor’s offer. Mr. Petersen asked all the councilors to take into consideration the opinions of the people who showed up here tonight.

Diane Huot, 123 Elm St – Ms. Huot noted that the Fire Station is a landmark for Saco. Cynthia Taylor’s proposal is a good one for Saco, and she has done several good renovations throughout the State.

Mayor Johnston read a letter from Johanna Hoffman, President of the Historic Preservation Comm. – Ms. Hoffman noted that in the past, the city has spoken to developer Mr. Wishcamper. He stated that he doubted that it would fetch as much as the city would have, especially to spend to get it ready for sale. If it were sold as is, a buyer would have to reduce his offer by the estimate, cost and repair. The outcome would be that the city would receive near to nothing for the property. It is always possible for someone to come along with a creative idea for reusing the building. That somebody has materialized this evening.

Councilor Cote moved, Councilor Smith seconded “Be it ordered that the City Council authorize the City Administrator to execute the attached Purchase and Sale Agreement for property located at 12-14 Thornton Avenue with Housing Initiatives of New England for $50,000, with the following changes and additions to the proposed sale agreement: (1) that the administrative building at 14 Thornton Avenue be razed; (2) that the property be fully taxable; (3) that the closing date of the sale be no later than March 31, 2013; (4) strike the provision in 1st part of paragraph #7 which says ‘Buyer agrees to use the property for residential and commercial purposes including a public meeting space for seniors civic uses’; (5) the property must be rehabbed by the purchaser within 5 years of the date of purchase.” The motion failed with three (3) yeas and four (4) nays – Councilors Lovell, Doucette, Tripp and Tardif.

Councilor Tripp called a point of order, and noted that there was a second suggested motion. Mayor Johnston noted that he and the City Administrator decided not to read the second suggested motion this evening. Mayor Johnston asked that a motion be made to see if the Councilors wanted to discuss the second suggested motion this evening, because the Chair ruled that it was not going to be discussed.

Councilor Tripp moved, Councilor Lovell seconded that the Council be polled to see if they wanted to discuss the second suggested motion. The motion passed with four (4) yeas and three (3) nays – Councilors Cote, Blood and Smith.

TABLED – SECOND SUGGESTED MOTION - Councilor Doucette moved, Councilor Tripp seconded to table the following motion for 30 days: “Be it Ordered that the City Council approve the document specifications titled, ‘Demolition of Buildings Located at 12-14 Thornton Avenue, Saco, Maine, dated October 2011’, and authorize the City Administrator to solicit sealed bids on the demolition project. Funding for this project will be determined after council workshop to examine likely sources.” Further move to approve the order. The motion passed with seven (7) yeas.
B. CODE AMENDMENT CHAPTER 64, ARTICLE II, §64-8 DOGS ON CITY BEACHES –
(PUBLIC HEARING)

City Code Chapter 64 – Animals, Article II, §64-8 – Running at Large, August 6, 2012

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

64-8 Running At Large

A. A dog, while on any public way or place, shall be under restraint, within the meaning of this article, if it is controlled by leash or at heel voice control beside a competent person and obedient to that person's commands or on or within a vehicle being driven or parked on the streets or within the property limits of its owner or keeper.

B. The following restrictions apply to dogs on beaches:

1. No dog shall be present on any beach at any time unless the dog is accompanied by its owner or keeper who has voice control over the dog and who is carrying a leash in the hand of the owner or keeper which can be used to restrain the dog.

2. Any owner or keeper of a dog using the beach must have with them a means of cleaning up and disposing of any dog feces left on the beach.

3. No dog shall be present on any beach between the hours of 9:00 a.m. and 5:00 p.m. from June 15th through September 15th.

4. When otherwise allowed to be present on a beach pursuant to this section, all dogs must be leashed at the following times:

At all times from June 15th through September 15th, except that a dog under the voice control of its owner or keeper shall be permitted to be unleashed between sunrise and 9:00 a.m. (The purpose of this exception is to allow individuals to walk, jog, run or engage in other physical exercise with their dogs in the early hours of the morning.)

Whenever the owner or keeper has been directed by a law enforcement officer to leash the dog.

-----------------------------------------End of Code Amendment------------------------------------

Councilor Blood moved, Councilor Doucette seconded to open the Public Hearing on the document titled, ‘City Code Chapter 64 – Animals, Article II, §64-8 – Running at Large, August 6, 2012’. The motion passed with unanimous consent.

Jonathan Gagnon, 21 Cottage Ave – For the past 4 years, they have spent allot of time walking their dogs. They have never witnessed an incident with dogs bothering people, only playing with other dogs. They have also not witnessed any dog feces left behind. In posing time restrictions, it with hinder the safety and fun for allot of people. The vast majority of pet owners are picking up after the pets, compared the beach visitors who don’t pick up after themselves.

Joe Pacella, President of Baywood Condo Association – Mr. Pacella stated that the Condo Board looked at the problem in Aug. 2011 and agreed a letter should be written to the city, in May the Board again reiterated to write the letter. The Board took another vote which was 7-0. He stated that the board supports the Ordinance being presented tonight. The proposed Ordinance mirrors Scarborough and is consistent with what is being done along the southern coast. Before he wrote the letter, he called dog friendly motels in Old Orchard Beach, and inquired about bringing his dogs on vacation. The motel owner stated that Old Orchard Beach has a dog Ordinance, no dogs allowed between 10 a.m. – 6 p.m., and that they could take their dogs down to Saco during Old Orchard Beach’s restricted hours. Mr. Pacella stated that there is a problem on the beach and handed out photos of a dog defecating on the beach and bagged up dog feces left behind on the beach. The compromise is fair and reasonable. Is the city better off with or without this ordinance?
Priscilla Farrell, Resident of Old Orchard Beach – Ms. Farrell noted that we use to have allot of activity that we were able to do on the beach, but it has been restricted. She was proud that Saco was able to still allow some activity on the beach. Fix the process, instead of making new laws. The laws we have are O.K., we do not need any more laws on the beach.

Susan Odell, 7 Elm St. – Ms. Odell’s daughter adopted a dog when she went off to college. When she comes to visit, she always brings the dogs down to the beach. She always brings bags and picks up after her dog.

Nancy Smith, 2 Curtis Ave, Kinney Shores – Ms. Smith walks her dog all the time on the beach. This is just one more liberty that is being taken away from us because a small group of people have complained. This small group of people is deciding want the majority of the people should do. Try enforcing the current law first.

Cliff Bolster, King Ave, Ferry Beach – Mr. Bolster does not own a dog, but walks families dogs allot. He is in favor of limited restriction on dogs in the summer months on Saco beaches. Find out what the experience has been in Scarborough, OOB and Biddeford. The beach is quite crowded with all the people and dogs right now.

John McKenzie, 311 Seaside Ave – Mr. McKenzie noted that beauty is in the eye of the beholder, because two people can come up and one can see beauty and the other sees a problem. He sees some problems with dogs on the beach. On the average summer day there are approximately 100 dogs on the beach. About 30-35% of the dogs are unleashed and running somewhere between 200-500 yards before their owners. Dogs running free does create a problem which needs to be fixed. Mr. McKenzie is in favor of the motion presented this evening.

Alexa Keenan, 29 Fenderson Road – Ms. Keenan opposes Code Amendment 64-8 which would restrict the times that dogs are allowed on city beaches. Allowing dogs on beaches presents a positive impression about our community. The fact that Saco allows dogs on beaches distinguishes us in a positive way from surrounding towns. It is a benefit to our residents, as well as local businesses such as hotels, restaurants and shop to attract dog owning tourists. With the right marketing this could boost our local economy. When Ms. Keenan visits the beach, the type of waste she sees is of human origin: coffee cups, beverage containers, chip bags, cigarette butts etc. She thinks the actions of responsible dog owners who clean up after their pets far out-weigh the littering that occurs constantly. The proposed time limits the freedom of shift working people who walk their dogs on the beach during the daytime.

Jason Scott, Ferry Rd – Mr. Scott doesn’t own a dog, but enjoys going to the beach and talking with others. You can always find examples of people who don’t follow the rules. This isn’t really a problem at all. We already have a solution for this. We don’t need another ordinance. Just enforce the current laws. Don’t take away another freedom from us. It is o.k. for Saco to be different from others. If we are going to ban dogs from the beach, we should also ban humans from the beach. This of course is an absurd proposal (banning people from the beach), so take this into consideration.

Laurie Ernst, 311 Seaside Ave Unit #6 – Ms. Ernst’s family enjoys bringing their small well behaved dog to the beach. They had no knowledge of the Baywood Association proposing banning dogs from the beach. The letter that Baywood sent to the city, misrepresents what some condo owners were told was going to be sent to the city. The major beaches healthy status report tested far below the allowed bacteria levels. Please know that there are many people at Baywood who oppose this ordinance, and appreciate the rights of others.

Michael Anton, Eagle Ave. – Mr. Anton has lived at Ferry Beach and Kinney Shores for over 60 years and he has never seen any problems with dogs on the beach and he has never seen 100 dogs on the beach. He suggested putting a few signs up to let people know what the rules are.

Susan Anton, Eagle Ave. – Mrs. Anton is a dog owner and animal lover. We don’t need to measure up with other communities. The other communities have beaches that you have to pay to go to. We should have an open community that welcomes tourists.
Shamus Daly, Sunset Ave. – Mr. Daly stated that we walk dogs occasionally on the beaches. He cleans up after the dog and carries spare dogs to give to others who may not have them. There is allot of human trash left on the beaches. There is always going to be someone who breaks the law. Enforce the current ordinance.

Jeanne Labonte, 8 New County Rd – Ms. Laabonte owns a dog daycare. She has approximately 240 dogs a week going through her business. She has heard allot of good things about people being able to take their dogs to the beach. The best time for dog owners to be on the beach is at low tide. This should not be restricted. Brochures on rules should be available for the public, as well as dog receptacles with available dog waste bags for people who forget to bring them and a place for people to put the picked up dog waste. Dogs are not the problem, the people are.

Althea Kingsley, Bayview Rd – Ms. Kingsley noted that the beach belongs to all of us. There is no evidence that dogs are posing a health risk on the beach. It is the old adage, “that if it isn’t broken, don’t fix it”. The majority of dog owners who go to the beach are responsible people. Going to the beach keeps dogs and owners healthy. Invest in installing a dog waste receptacle.

Sheila Chase-Hanrahan, Ferry Beach – Ms. Chase-Hanrahan stated that the majority of the people at Ferry Beach are responsible dog owners. She has had a scary experience on the beach, but didn’t blame the dog, but the owner. Limiting the hours that dogs can be on the beach will not fix the problem. The laws in place should be enforced. The public needs to be educated on the laws.

Ann Saunders, 420 Boom Rd. – Ms. Saunders noted that the major problem at the beach is parking. Make a request that the city set aside 2 of the 3 lots at Bayview, for Saco residents only. Other towns up and down the coast have set aside parking lots for their residents. Saco residents should be rewarded, since you just gave us an 18 % tax increase. This could be a revenue source as well.

Ellen McCauley-Gross – Oceanside Dr. – Mc. McCauley-Gross stated that dogs do bring some problems to the beach. There are environmental and safety issues. The ordinance presented tonight is a good compromise. This is an ordinance that allows dogs and owners to still enjoy the beach.

Karl Carrigan, 180 North St. – Mr. Carrigan noted that things are becoming an us against them attitude with several issues going on in the community right now. We should try to work together for solutions.

Dr. Rousselle  958 Portland Rd – Dr. Rousselle stated that the feces is a nuisance, but it is not a danger, unless someone touches it and puts their fingers in their mouth. There are no dispensers for the bags in the main area at Ferry Beach. The dogs she sees at the beach are very well behaved. She has yet to see aggressive dogs at the beach.

Sally C., Baywood Condo – Ms. C. is a member of the board that sent the letter to the city pertaining to the dogs issues. There is a 7 mile stretch of beach along the southern part of the State, and in the 7 mile stretch, only Saco allows dogs on beaches at all times. Bayview Beach has to cope with all of the dogs. There are signs at the beach which say that dog feces is dangerous to the health of humans, so it appears that the city does recognize health issues. This is an issue that only Bayview beach needs to deal with and other town beaches don’t need to deal with. The ordinance proposed tonight is a good compromise.

A gentleman from Baywood Condo – He noted that kids by the hundreds are being bused to the beach, and you can’t control kids putting their fingers in their mouth. If nothing is gained by having time restrictions, then why are other towns doing it? He sees infractions of laws every day he sits on the porch of his condo. There are thousands of people who don’t pick up after their dogs. The Council needs to consider everyone’s needs. Please come to a resolution that is acceptable to all. The limits on time are acceptable.

Jeanne Jackson, 22 Vines Rd – Ms. Jackson has never had any issues with dogs on the beaches. She has, been knocked down by someone playing football. You just cannot ban all activities on the beach. She doesn’t see the
same problems as the people who want time limits. There does need to be waste receptacles at the beach, in order

to help with better clean up.

Mike McCormack, Goosefare Lane – Mr. McCormack is not a dog owner. He has 6 grandchildren and 2 grand-
daughters. He has not seen any problems with dogs at the beaches. There is a reason dogs are man’s best friend,

man should be dogs best friend.

Note: The City Council will allow an open public dialog at the 2\textsuperscript{nd} and Final Reading on September 4, 2012.

Councilor Blood moved, Councilor Tripp seconded to close the Public Hearing and “Be it Ordered that the Council

set the Second and Final Reading of the document titled, ‘City Code Chapter 64 – Animals, Article II, §64-8 –

Running at Large, August 6, 2012’ for September 4, 2012 with an opportunity for public input.” Further move to

approve the Order. The motion passed with seven (7) yeas.

C. CODE AMENDMENT CHAPTER 82 – CONSUMER FIREWORKS – (PUBLIC HEARING)

Code Amendment Chapter 82 Consumer Fireworks, August 6, 2012

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

Chapter 82 Consumer Fireworks

82.1 Purpose.

The purpose of this Chapter is to assure the comfort, convenience, safety, health and welfare of the inhabitants of

the City of Saco, to protect and conserve its environment and resources by regulating the use and sale of consumer

fireworks.

82.2 Definitions.

As used in this Chapter, the following term shall have the meaning ascribed to it in this section:

\textit{Consumer Fireworks} has the same meaning as the term set forth in 27 Code of Federal Regulations, Section

555.11, as may be amended from time to time, but includes only products that are tested and certified by a third

party testing laboratory as conforming with United States Consumer Product Safety Commission standards, in

accordance with 15 United States Code, Chapter 47.

“Consumer fireworks” does not include the following products:

(a) Missle-type rockets, as defined by the State Fire Marshal by rule;

(b) Helicopters and aerial spinners, as defined by the State Fire Marshal by rule; and

(c) Sky rockets and bottle rockets. For purposes of this paragraph, ”sky rockets and bottle rockets”

means cylindrical tubes containing not more than 20 grams of chemical composition, as defined

by the State Fire Marshal by rule, with a wooden stick attached for guidance and stability that

rise into the air upon ignition and that may produce a burst of color or sound at or near the height

of flight.

82.3 Prohibition.

No person shall use, possess with the intent to use, sell, possess with the intent to

sell or offer for sale consumer fireworks in the City of Saco; provided, however, that this Chapter does not apply to
a person issued a fireworks display permit by the City and/or State of Maine pursuant to 8 M.R.S.A. § 227-A, as may be amended from time to time.

82.4  Penalties.

(a) Any person who uses consumer fireworks or possesses consumer fireworks with the intent to use them in the City shall be punished by a fine of not less than two hundred dollars ($200.00) and not more than four hundred dollars ($400.00) per violation plus attorney fees and costs. For second and subsequent offenses, a fine of not less than three hundred dollars ($300.00) and not more than six hundred dollars ($600.00) per violation plus attorney’s fees and costs shall be imposed.

(b) Any person who sells consumer fireworks or possesses consumer fireworks with the intent to sell them in the City shall be punished by a fine of not less than five hundred dollars ($500.00) plus attorney’s fees and costs. For second and subsequent offenses, a fine of not less than one thousand dollars ($1,000.00) per violation plus attorney’s fees and costs shall be imposed.

82.5  Seizure and Disposal.

The City may seize consumer fireworks that the City has probable cause to believe are used, possessed or sold in violation of this Chapter or in violation of State law and shall forfeit the seized consumer fireworks to the State of Maine for disposal.
Seizure and Disposal.

Councilor Cote moved, Councilor Lovell seconded to open the Public Hearing on the Code Amendment to Chapter 82 Consumer Fireworks. The motion passed with unanimous consent.

Susan Anton, Eagle Ave. – Mrs. Anton noted that the fireworks issue has gotten better, but there are still issues. The fireworks are really disruptive for her to be able to sleep and it also scares her dog.

Ellen McCaluey Gross, 311 Seaside Ave. – Ms. McCaluey-Gross stated that the fireworks situation has improved greatly with the emergency ordinance, but there are still some issues.

Ann Saunders, 420 Boom Rd – Ms Saunders felt that the fireworks should also be banned on the Westside of the Turnpike, because there is a great concern about forest fires being started by fireworks debris.

Karl Carrigan, 184 North St. – Mr. Carrigan stated that this is really a safety and noise issue. It needs to start with the town to stop it, and then the State will look at going back and banning them as well.

Jean Horton, 464 Buxton Rd – Ms. Horton noted that since the State started allowing fireworks, she hears them frequently in her neighborhood, and has great concerns with fires being started.

Councilor Cote moved, Councilor Lovell seconded to close the Public Hearing on the document titled, ‘Code Amendment Chapter 82 Consumer Fireworks, August 6, 2012’, and further move to set the Second and Final Reading of said document for September 4, 2012.” Further move to approve the Order. The motion passed with seven (7) yeas.

D. ZONING ORDINANCE AND MAP AMENDMENTS TO CREATE B2-D DISTRICT – (PUBLIC HEARING)

Proposed Amendments to the B-2c and B-2d Districts to Accommodate Their Use on a Portion of North Street and Related Amendments

July 10, 2012

Proposed additions to the ordinance are underlined; proposed deletions are struck through.

1. Amend Section 410-6 to read:

410-6C. B-2c and B-2d HIGHWAY BUSINESS DISTRICTS

PERMITTED USES
1. Single family dwellings
2. Two family dwellings
3. Tourist homes
4. Dwellings above the first floor in a mixed-use building
5. Home occupations
6. Retail businesses
7. Eating establishments (Amended 4/7/03)
8. Eating and drinking establishments (Amended 4/7/03)
9. Hotels and motels
10. Places of worship
11. Financial institutions
12. Personal services
13. Business services
14. Offices
15. Research and testing laboratories

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15. Wholesale trade and warehouses
16. Hospitals and clinics for humans
17. Animal hospitals and veterinarian offices
18. Quasi-municipal or public uses
19. Private and commercial schools
20. Private clubs
21. Municipal uses
22. Essential services
23. Public utility buildings
24. Nursing homes
26. Bed and breakfast establishments (Amended 9/5/85)
27. Accessory Uses (Amended 9/5/85)
28. Repair services (Reserved) (Amended 6/4/87)
29. Funeral homes (Amended 6/4/87)
30. Home babysitting service (Amended 8/1/88)
31. Day care home (Amended 8/1/88)
32. Day care center (Amended 8/1/88)
33. Adult day care center, Type 1 and 2 (Amended 7/1/91)
34. Nursery School (Amended 7/6/93; 1/3/95)
35. One accessory apartment in a single family dwelling (Amended 10/20/08)
36. Offices of contractors or tradesmen

CONDITIONAL USES

1. Multifamily dwellings
2. Health club (Reserved)
3. Boarding houses
4. Amusement centers
5. Commercial recreation
6. Masonry supply yards
7. Indoor recreation (Reserved)
8. Gas stations in B-2c only
9. Auto repair garages in B-2c only
10. Car washes in B-2c only
11. Small engine repair (Amended 4/7/03)
12. High Voltage Transmission Lines (Amended 12/15/08)
13. Registered dispensary (Amended 7/19/10)
14. Registered dispensary, grow only (Amended 7/19/10)
15. Registered dispensary, non-growing (Amended 7/19/10)

3. Revise Table 412-1 Minimum Lot and Yard Requirements as follows:

- Add footnote 22 to the Minimum Depth Front Yard in the B-2c and B-2d column to read:
  22. In the B-2d, the minimum front yard may be reduced to 25' for buildings that front on North Street west of the Industrial Park Road.

4. Amend Section 729. Design Standards by amending Subsection B. Applicability to read:

B. Applicability. These design standards shall apply to all building construction or remodeling projects requiring a conditional use permit or site plan review according to requirements found in this Ordinance that are not subject to covenants found in City industrial or business parks. These standards shall not apply to Section 901-12. Minor Conditional Uses, or to properties within the Historic Preservation District subject to
design review by the Historic Preservation Commission. In addition, the additional requirements for the MU-1, MU-2, and B-2d Districts shall apply to all projects that substantially alter the scale or massing of the building or that change the street façade even if site plan review is not otherwise required. Where a project subject to site plan or conditional use review is associated with an existing building, such as an addition or partial remodeling, these design standards shall apply only to the new construction or the part of the building being remodeled.

5. Amend Section 729. Design Standards by adding a new subsection J. Additional Standards for the B-2d District to read:

J. Additional Standards in the B-2d District. All buildings and structures subject to these additional standards shall comply with the following requirements unless the Planning Board finds that a deviation from one or more of these standards will still enable the project to meet the Intent and Purpose of these standards:

a. Location of the Building with Respect to the Front Lot Line. The front facing wall shall be designed so that it features enough windows and other architectural features such as porches, variation in the facade, varied roof lines, and other variation so that the front of the building addresses the public way as an important façade of the building.

b. Location of Parking and Service Areas. Parking and service areas should be located to the side or rear of buildings where feasible.

Proposed Saco Zoning Map Amendments to Create a B-2D district on North Street
July 10, 2012

[Map of Proposed Zoning Changes]
Councilor Tripp moved, Councilor Smith seconded to open the Public Hearing on the document and map titled ‘Proposed Amendments to the B-2c and B-2d Districts to Accommodate Their Use on a Portion of North Street and Related Amendments July 10, 2012’, and ‘Proposed Saco Zoning Map Amendments To Create a B-2d District on North Street, July 10, 2012’. The motion passed with unanimous consent.

There were no comments.

Councilor Tripp moved, Councilor Smith seconded to close the Public Hearing and “Be it Ordered that the Council set the Second and Final Reading for September 4, 2012.” Further move to approve the Order. The motion passed with seven (7) yeas.

E. ZONING ORDINANCE AMENDMENT – CREATION OF B-8 DISTRICT – (PUBLIC HEARING)

Proposed Amendments to the Zoning Ordinance
to Create a New B-8 Office Park District and Related Amendments
Recommended by the Planning Board, November 21, 2011
Revised July 10, 2012
1. Amend Section 403 in Article 4 District Regulations to read:

Section 403. Zoning Districts
The city is divided into the districts stated and described in this Ordinance and as shown by the district boundary lines on the Official Zoning Map. The district classifications are:

RESIDENTIAL DISTRICTS:
R-1 Low Density District
R-2 Medium Density District
R-3 High Density District
R-4 General Residential District
MHP Mobile Home Park Overlay District
MIXED-USE DISTRICTS
MU-1 Downtown Residential Mixed-Use District
MU-2 Elm Street Gateway District
BUSINESS DISTRICTS:
B-1 General Business District
B-2 Highway Business District
B-3 Downtown Business District
B-4 Planned Development District
B-5 Marine Business and Residential
B-6 Highway Business and Commercial District
B-7 Limited Business/Residential District
BP Business Park District
B-8 Front Street Waterfront District
B-8 Office Park District
INDUSTRIAL DISTRICTS:
I-1 Industrial Park District
I-2 Industrial Business District
I-3 Light Industrial-Business Park District
CONSERVATION DISTRICT:
C-1 Conservation District
NATURAL RESOURCE DISTRICTS:
RP Resource Protection District
SR Saco River Overlay District
SO Shoreland Overlay District

2. Amend Article 4 District Regulations by adding a new section 406-10 to create a purpose statement for the new office park district to read as follows:

406-10. B-8 OFFICE PARK DISTRICT
The B-8 classification is intended to provide attractive locations for high-quality economic growth in close proximity to the Maine Turnpike. These areas develop as attractive office parks that attract a range of business and professional offices, hotels and related services, and indoor recreation/entertainment uses. A limited amount of residential development is accommodated as part of mixed-use developments. The areas have attractive visual environments with well-designed buildings and attractive site design. The natural environment is protected and green space is provided as part of the development.

3. Amend Article 4 District Regulations by adding a new section 410 - 10B. B-8 OFFICE PARK DISTRICT to read:

**410 - 10B. B-8 OFFICE PARK DISTRICT**

**PERMITTED USES**

1. Dwelling units only as part of a mixed-use building or mixed-use development
2. Multifamily housing only as part of a mixed-use building or mixed-use development
3. Elderly congregate housing
4. Nursing homes
5. Home occupations
6. Eating establishments
7. Eating and drinking establishments
8. Hotels
9. Business offices
10. Professional offices
11. Financial institutions
12. Business services
13. Research and testing laboratories fully enclosed within a building
14. Personal services
15. Health clubs
16. Health care clinics for humans
17. Hospitals
18. Day care center
19. Adult care services
20. Places of worship
21. Municipal uses
22. Quasi-municipal or public uses
23. Private schools
24. Public utility buildings
25. Essential services
26. Accessory uses
27. Any use permitted in the Resource Protection District

**Condition Note 1:** The total floor area devoted to all residential uses shall not exceed thirty (30) percent of the total floor area of the mixed-use building or mixed-use development in which the residential use is located.

**CONDITIONAL USES**

1. Commercial schools
2. Light industry in which all activities occur within a fully enclosed building
3. Places of public assembly or entertainment as part of a mixed-use building or mixed-use development
4. Indoor Recreation
5. High voltage transmission lines
6. Convenience retail uses only within a mixed-use building and limited to a maximum of 1,000 square feet of floor area

4. Amend Table 412.1: Minimum Lot and Yard Requirements by adding a column for the B-8 District to read:

<table>
<thead>
<tr>
<th></th>
<th>B-8</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. MINIMUM LOT AREA (Sq. Ft.)</td>
<td>10,000</td>
</tr>
<tr>
<td></td>
<td>N/A</td>
</tr>
<tr>
<td>B. MINIMUM LOT AREA PER DWELLING UNIT (Sq. Ft.)</td>
<td>7, 13</td>
</tr>
<tr>
<td>B1. MINIMUM NET RESIDENTIAL ACREAGE PER DWELLING UNIT IN SUBDIVISIONS (SQ. Ft.)</td>
<td>(Amended 3/07/05)</td>
</tr>
<tr>
<td>(1) Single Family</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>N/A</td>
</tr>
<tr>
<td>(2) Two Family</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>N/A</td>
</tr>
<tr>
<td>(3) Multi-family</td>
<td>See Note 16</td>
</tr>
<tr>
<td></td>
<td>N/A</td>
</tr>
<tr>
<td>C. MINIMUM STREET FRONTAGE (Feet)</td>
<td>50</td>
</tr>
<tr>
<td></td>
<td>N/A</td>
</tr>
<tr>
<td>D. MINIMUM DEPTH FRONT YARD (Feet)</td>
<td>20</td>
</tr>
<tr>
<td>E. MINIMUM WIDTH SIDEYARD AND REARYARD (Feet)</td>
<td>15</td>
</tr>
<tr>
<td>F. MINIMUM WIDTH SIDEYARD AND REARYARD OF THE FOLLOWING NON-RESIDENTIAL USES ABUTTING LOTS IN RESIDENTIAL OR CONSERVATION DISTRICTS (Feet)</td>
<td>(Amended 11/7/05)</td>
</tr>
<tr>
<td>(1) Churches, day care centers, funeral homes, offices, quasi-public uses, religious conference centers, tourist homes</td>
<td>25</td>
</tr>
<tr>
<td>(2) Commercial greenhouses and nurseries, hospitals and clinics for humans, hotels and motels, non-profit recreational uses, nursing homes, private clubs, private and public schools</td>
<td>50</td>
</tr>
<tr>
<td>G. MINIMUM SETBACK FROM NORMAL HIGH WATER MARK OF FRESHWATER BODIES; MAXIMUM SPRING HIGH TIDE LEVEL OF TIDAL WATERS; UPLAND EDGE OF WETLANDS (Feet)</td>
<td>75</td>
</tr>
<tr>
<td>H. MAXIMUM LOT COVERAGE (%)</td>
<td>50</td>
</tr>
<tr>
<td>I. MAXIMUM HEIGHT (Feet)</td>
<td>60</td>
</tr>
</tbody>
</table>

16. The lot area per dwelling unit requirement varies with the size of the unit. For dwelling units with not more than 2 bedrooms and less than 800 SF of total floor area, the requirement is 1,400 SF of lot area per unit and for dwelling units with more than 2 bedrooms or more than 800 SF of total floor area regardless of the number of bedrooms, the requirement is 2,000 SF of lot area per unit.

5. Amend Section 729. Design Standards by amending Subsection B. Applicability to read:

B. Applicability. These design standards shall apply to all building construction or remodeling projects requiring a conditional use permit or site plan review according to requirements found in this Ordinance that are not subject to covenants found in City industrial or business parks. These standards shall not apply to Section 901-12. Minor Conditional Uses, or to properties within the Historic Preservation District subject to design review by the Historic Preservation Commission. In addition, the additional requirements for the MU-1, MU-2, B-2c, and B-8 Districts shall apply to all projects that substantially alter the scale or massing of the
building or that change the street façade even if site plan review is not otherwise required. Where a project subject to site plan or conditional use review is associated with an existing building, such as an addition or partial remodeling, these design standards shall apply only to the new construction or the part of the building being remodeled.

6. Amend Section 729. Design Standards by adding a new subsection K. Additional Standards for the B-8 District to read:

K. Additional Standards in the B-8 District. All buildings and structures subject to these additional standards shall comply with the following requirements unless the Planning Board finds that a deviation from the one or more of these standards will still enable the project to meet the Intent and Purpose of these standards:

a. Campus Environment. An objective of the B-8 District is to create a high quality visual environment in which the individual buildings are harmonious elements in a cohesive office park environment. Therefore it is desirable that buildings and sites have consistent design features such as signs, exterior lighting, and sidewalk furniture that create a common image throughout the district.

b. Open Space. An objective of the B-8 District is to create an attractive, green environment. At least 25% of the total area of the development shall be devoted to green space. This requirement can be met by green space provided as part of an overall development plan for the office park or by green space provided as part of the development of individual lots, or by a combination thereof. The subdivision plan for the overall development shall demonstrate how this requirement will be met. The application for subdivision approval must address the ownership and maintenance of the open space and include a plan addressing these issues together with appropriate legal documents. If some or all of the open space will be provided as part of a subdivision that includes a mix of business and residential lots, the requirements of this provision shall be coordinated with the requirements of Section 10.2 of the Subdivision Regulations pertaining to residential subdivisions and the open space shall be designed and used to meet both open space requirements. If the project involves the development of a lot that is not part of a subdivision that has provided for the set aside of open space, at least 25% of the lot shall be devoted to green space. The open space in a subdivision or on an individual lot shall protect areas that are identified as having significant natural resource value, provide for continuous networks of green space, create recreational opportunities for residents and users of the office park, and enhance the overall office park environment.

c. Storage and Service Areas. All storage and service areas (including dumpsters) that are not fully enclosed within a building shall be located to minimize their impact on the visual environment of the individual site and the overall park and shall be located within landscaped and fenced enclosures that are visually compatible with the overall park environment.

7. Amend Section 302. Meaning of Words by adding, in proper alphabetical order, definitions of “convenience retail use” and “place of public assembly or entertainment” to read as follows:

Convenience retail use: A business that sells pre-packaged food and beverages and/or food and beverages prepared on the premises for consumption on the premises or for take-out together with sundries, household goods, and other convenience goods primarily to residents or occupants of a specific area such as an employment center or residential neighborhood. All activity shall occur within a fully enclosed building with no provisions for drive-thru service and/or the sale of motor fuels.

Place of public assembly or entertainment: A commercial, non-profit, or governmental use that is fully enclosed within a building that provides a place for public gatherings and events such as theaters, concert halls, auditoriums, function halls, clubs, and similar venues. A place of public assembly or entertainment may include facilities for the provision or sale of food and beverages to people attending activities or events or the sale of related merchandise such as souvenirs, specialty apparel, or items related to the activities occurring at the site.
Councilor Smith moved, Councilor Tripp seconded to open the Public Hearing on the document titled, ‘Proposed Amendments to the Zoning Ordinance to Create a New B-8 Office Park District and Related Amendments Recommended by the Planning Board, November 21, 2011, Revised July 10, 2012;’ and the map titled, ‘Proposed Saco Zoning Map Amendments To Create a B-8 Office Park District, July 10, 2012’. The motion passed with unanimous consent.

There were no comments from the public.

Councilor Smith moved, Councilor Tripp seconded to close the Public Hearing and “Be it Ordered that the City Council set the Second and Final Reading for September 4, 2012.” Further move to approve the order. The motion passed with seven (7) yeas.

F. MAINE ENERGY RECOVERY COMPANY CLOSURE

On August 1, 2012, the Biddeford City Council authorized its City Manager to enter into a Purchase and Sale Agreement with Maine Energy Recovery Company (MERC) to purchase the MERC property located on Lincoln Street, Biddeford, Maine for the purchase price of $6,650,000.00 payable over 20 years without interest.

Severin Belleveau, attorney for the firm Preti Flaherty Beliveau & Pachios LLP is prepared to represent the cities of Biddeford and Saco to negotiate, in collaboration with the cities’ attorneys, with the Governor’s office, the Department of Environmental protection and other relevant State and federal agencies, and possibly other municipalities, a plan to achieve a solution acceptable to the cities in the decommissioning of the facility, the transfer of waste to the Cassella transfer station in Westbrook and payment of “normal” tipping fees.
The City will participate in 4 months of the engagement agreement with Preti, Flaherty, Beliveau & Pachios, LLP – September through December. The monthly retainer fee is half of $7,500.00 ($3,750 x 4 months) $15,000. Saco’s share of the cost of engagement is $15,000 plus expenses.

May 25, 2012

John D. Bubier, City Manager
City of Biddeford
205 Main Street
P.O. Box 586
Biddeford, ME 04005-0586

Richard Michaud, City Administrator
City of Saco
500 Main Street
Saco, ME 04072-1583

RE: Confirmation of Engagement

Dear John and Rick:

At my recent meeting in Biddeford with Mayors Cassavant and Johnston and you, we generally discussed ways in which the common objectives of the Cities to remove the MERC facility could be accomplished. You advised me that the City of Biddeford has signed a Memorandum of Understanding with MERC authorizing the City to negotiate a purchase and sales agreement with Cassela. The Agreement will contain provisions dealing with the decommissioning of the facility, a reduced purchase price for the plant, the transfer of waste to the Cassela transfer station in Westbrook and the payment of “normal” tipping fees.

In an attempt to consummate the MOU, legislation was introduced during the waning days of the past legislative session authorizing the State to transfer the ownership and licenses of the Juniper landfill in Old Town to Cassela. Unfortunately, this effort at a legislative solution failed and the City needs now to develop a strategy to implement the intent of the Memorandum of Understanding.

In order to place the issue in context, I will attempt to describe the status of Maine’s existing solid waste policy and physical infrastructure both of which originated in the late 1980’s. During this time a comprehensive solid waste disposal policy was created for Maine intended to minimize the use of landfills and to diminish as much as possible the disposal of waste from other states in Maine. New commercial landfills were banned and a sort of “gold rush” to establish commercial landfills was frozen in time by a grandfathering process. In addition, four solid waste disposal power plants were built in Maine, relying primarily on regional compacts and power contracts with Maine utilities subsidized by Maine ratepayers. In Biddeford, MERC executed a so-called “first decrement” contract with CMP at high rates lasting approximately fifteen years. Regional Waste Systems in Portland, now known as Eco-Maine took, over a third decrement contract from a Bath/Brunswick solid waste disposal project which failed to materialize; a facility in Auburn obtained a similar contract of lesser value, and Penobscot Energy Recovery Company ("PERC"), at that time affiliated with MERC was formed.
to burn the waste from more than one hundred municipalities in Central and Northern Maine, and obtained a long term power contract from Bangor Hydro. PERC is a waste-to-energy incinerator in Orrington which processes approximately 300,000 tons of waste annually. PERC is owned by the Municipal Review Committee, a large coalition of Maine towns, and outside investors. The Municipal Review Committee is composed of dozens of towns across the northern and central regions of the state. We serve as counsel to Municipal Review Committee and, if necessary, can obtain their consent for this representation.

Since these plants and certain landfills were constructed, a wide variety of changes have buffeted solid waste disposal in Maine. Recycling levels have increased, both culturally and by municipal initiative. Waste flows have become more seasonal, peaking in the summer with Maine's population variability and bottoming out in winter months. The highly favorable power contracts which subsidized tipping fees have expired and in some cases were replaced with contracts of far lower value and shorter periods and then eliminated entirely as projects were forced to sell into New England's new wholesale power markets. Most recently, the prices available in those power markets have been drastically reduced by the need to compete with natural gas-fired power plants, which set the marginal clearing price for power in New England. The three to five cents per kilowatt hour these plants now receive pales in comparison to the original contract prices. Additionally, the State of Maine became a direct participant by acquiring and then leasing to Cassela the Juniper Ridge Landfill in Old Town as part of an attempt to rescue the former Georgia Pacific Paper Mill. This development has provided Cassela, which also owns and operates MERC in Biddeford, with a Penobscot County waste disposal option. The venture also broke the ice for State of Maine involvement in landfills, leading in turn to the State of Maine's purchase of the Dolby landfill, formerly owned by Great Northern Paper Company in Millinocket. Finally, the recent legislature enacted provisions permitting the expansion of Waste Management's Norridgewock's landfill.

Several conclusions might be drawn from these developments. First, the cost of waste disposal is increasingly and significantly falling upon municipalities. Second, these additional costs occur at a time of growing intolerance for municipal tax increases. Third, no reasonable prospect exists for increased subsidies from power sales. Fourth, the power plants built to burn waste in the 1980's are fully depreciated and have reached ages in which their reliability and efficiency may become suspect, thus requiring additional owner-investment. Finally, with the State of Maine having purchased two landfills and Waste Management having succeeded in having expanded a privately owned commercial landfill, there are indications that some of the original principles on which Maine's solid waste policy was based have eroded over time.

The safe and economic disposal of waste is considered by many to be a public, or municipal, responsibility. The public health, safety and welfare, the classic invocation of the police power of government, is affected by several aspects of waste collection and disposal. While private enterprise will continue to play a significant role, it is not clear how private enterprise will play as significant a cost reduction role presently as it did by its investment in power plants and other infrastructure in the 1980's. Moreover, it is likely, as was
the case even in the 1980's, that significant public private partnerships will be required to find and develop societal optimal waste disposal solutions.

To find these solutions, Maine municipalities and other levels of government have common duties and powers. Because waste disposal is affected by the public interest, municipal government inevitably will play a significant role even if large parts of the solutions come from the private sector. Thus, for example, as power plants age and merit replacement, it is fitting and proper that municipalities across Maine should consider all reasonable options regarding any replacement infrastructure, including landfills. Since solutions to solid waste disposal in Maine are no longer local or even regional, as the private industry has consolidated and the State of Maine itself has acquired landfills, it may be wise for municipalities from disparate parts of Maine to work together to find solutions. For example, the incompatibility of certain waste separation, recycling and burning activities in more dense urban areas may not arise in less populated areas.

We therefore recommend that the Cities of Biddeford and Saco assess the feasibility of working with communities all across Maine on long term solutions to the solid waste challenges to the State and the respective municipalities to the extent they contribute to the removal of the MERC facility.

Preti Flaherty is prepared to represent the Cities of Biddeford and Saco to negotiate, in collaboration with the Cities’ attorneys, with the Governor’s office, the DEP and other relevant State and federal agencies, and possibly other municipalities a plan to achieve a solution acceptable to the Cities. If necessary, we will draft whatever legislation that may be required. As we discussed, both the Governor’s office and the DEP have been disengaged since the legislative session and their involvement and support are critical to any solution.

We propose that we be paid a monthly retainer of $7,500.00 plus expenses, for a 7 month period beginning June 1 and ending December 31. Since time is of the essence, we are prepared to undertake this assignment when our engagement agreement has been approved.

I will be primarily responsible for this representation and will be assisted, as necessary, by my colleagues Ann R. Robinson, who led Governor LePage’s government reorganization effort, and Anthony Buxton, Chair of our Energy Practice Group and one of Maine’s leading energy lawyers.

Interest on Overdue Invoices. We reserve the right to charge interest on unpaid invoices as set forth in Exhibit A.

General Terms and Conditions. Other material terms and conditions of this engagement are set forth in the General Terms and Conditions of Engagement attached hereto as Exhibit A and incorporated herein by this reference. Your acceptance of this engagement letter also constitutes your acceptance of and agreement to abide by the attached General Terms and Conditions of Engagement. If any of these are not acceptable to you, please advise us now so
that we may resolve any differences and proceed with this engagement with a clear understanding of the essential terms of our business relationship.

If you have any questions at all concerning this engagement letter, including the attachment, please contact me immediately. You should retain this engagement letter for your records.

Please understand that while we cannot guarantee the outcome or success of this professional undertaking, we will earnestly strive to represent and serve your interests in this engagement effectively, efficiently and responsibly while endeavoring to accomplish your goals and objectives.

As always, I would be pleased to discuss any or part of this matter with you or the Mayors.

Sincerely yours,

[Signature]

Severin M. Beliveau

Cc: Honorable Alan Casavant
    Honorable Mark D. Johnston

Please countersign and return this engagement letter as soon as possible.

[Signature]

CITY OF BIDDEFORD
By: [Name]
Its: City Manager

[Signature]

CITY OF SACO
By: [Name]
Its: City Administrator

Councilor Cote moved, Councilor Smith seconded “Be it ordered that the City Council authorize the City Administrator to execute the ‘Confirmation of Engagement’ agreement letter from Preti Flaherty Beliveau & Pachios LLP, dated May 25, 2012, effective from September through December 2012, providing half the cost of the monthly retainer fee plus expenses.”

Councilor Tardif moved that the Mayor was out of order for campaigning. There was no second.

AMENDMENT – Councilor Tripp moved, Councilor Lovell seconded to reduce the amount from $15,000 down to $5,000. The motion failed with seven (7) nays.

AMENDMENT – Councilor Smith moved, Councilor Lovell seconded to cap support to Biddeford at $15,000. The Mayor called for a vote on the main motion and the amendment. The motions passed with four (4) yeas and three (3) nays – Councilors Cote, Tardif and Tripp.

VII. ADJOURN THE MEETING

Councilor Tripp moved, Councilor Smith seconded to adjourn the meeting at 10:40 p.m. The motion passed with unanimous consent.

ATTEST:____________________________________

Michele L. Hughes, City Clerk