

STATE OF MAINE

COUNTY OF YORK

CITY OF SACO

I. CALL TO ORDER – On Monday, September 17, 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

Paving Projects on Bradley Street & Main Street –The Maine Department of Transportation (MDOT) is performing paving treatments on North St., Bradley St. and Main Street. The cities involvement in these projects is to raise the sewer manhole covers prior to the paving, just like other utility companies must do. MDOT determines the requirements and oversees all the contracted paving activities for these State numbered roads. It was the MDOT Engineers that determined that the new Bradley Street pavement did not meet State specifications, and therefore required the contractor Lane Construction, to remove and replace the deficient pavement. The city was informed that this work would be taking place after the determination had been made by the State. The work that has been taking place on Friday, Saturday and today was not performed by the city and the city incurred no financial liability for this work. Workers who were on sight Saturday were not city employees. The Main Street paving project scope was determined by the State and again the cities only financial responsibility was to adjust some sewer manholes prior to final paving. Some limited sections within the current work zone have received paving over the past 8 years as part of traffic changes and widening projects. The second as a whole has not received paving treatment in over 12 years. The section of Route One paved 2 years ago was from Ocean Park Road to the Cascade Road. This round of State paving will be done between North Street and Ocean Park Road.

V. AGENDA

A. ZONING ORDINANCE AMENDMENT: SECTION 707-1.9 OFFICIAL BUSINESS DIRECTIONAL SIGNS (OBDS) – (FIRST READING)

**“Proposed Amendments to Section 707-1.9 of the Saco Zoning Ordinance,
August 14, 2012”**

Amend Section 707-1.9 as follows. Language proposed for deletion is ~~struckthrough~~, while proposed new language is underlined.

Section 1111. 707-1.9. Official Business Directional Signs: Official Business Directional Signs, as otherwise regulated ~~under~~ by 23 M.R.S.A. § 1901-1925, as amended, are permitted for any businesses located in Saco and for businesses within abutting communities that have or are eligible to have guide signs on the Maine Turnpike that display business identification and directional information for services and eligible attractions. Official Business Directional Signs for businesses within abutting communities shall only be permitted when a guide sign for the applicant’s business on the Maine Turnpike either exists, or has been approved and then installed. When permitted by this section, Official Business Directional Signs may be erected only within ~~on~~ the following zones: B-1, B-2, B-5, B-6, BP, I-1 and I-2, subject to all restrictions and conditions of 23 M.R.S.A. § 1901-1925, as amended.

(END: ‘Proposed Amendments to the Saco Zoning Ordinance Concerning Section 707-1.9. Official Business Directional Signs, August 14, 2012.’)

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Councilor Cote moved, Councilor Lovell seconded “The City of Saco hereby Ordains and Approves the First Reading of amendments to the Saco Zoning Ordinance included in the document: ‘Proposed Amendments to Section 707-1.9 of the Saco Zoning Ordinance, August 14, 2012.’, and schedules a Public Hearing for October 1, 2012.” The motion passed with seven (7) yeas.

B. REGIONAL SCHOOL UNIT 23 WITHDRAWAL EXPENSE – LEGAL

The council is asked to include the employment of the City Attorney in this withdrawal endeavor and that any work done by the city attorney, or any other legal fees-to this end, be paid, using the \$30,000 authorized expenditure of the withdrawal committee.

Councilor Smith moved “Be it ordered that the City Council employ the City Attorney to collaborate in the preparation of a ‘draft education budget alternatives for the City of Saco’; and further that he is paid out of the \$30,000 from the City of Saco’s undesignated fund as well as any other legal fees related to this purpose authorized by the voters of Saco on July 31, 2012”. The motion died due to a lack of a second.

C. DISPOSITION OF 12-14 THORNTON AVENUE

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 buildings located at 12-14 Thornton Avenue, Saco, Maine, formerly used by Seller as a municipal fire station, and office building and more particularly described on Schedule A attached hereto (the "Property"). This purchase is subject to the following terms and conditions:

1. **Purchase Price.** The purchase price shall be ONE HUNDRED THOUSAND DOLLARS (\$100,000), payable in full by certified check at the closing. 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 May 10, 2013 (the "Closing"), at the offices of Buyer's counsel, Bernstein Shur, 100 Middle Street, Portland, ME 04104, or at another mutually agreeable location unless the buyer has not received all permits for a mixed use residential/retail/office use. 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 except those noted on Schedule A.

3. **Settlement Costs.** Seller shall pay for the preparation of the deed, 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 [and real estate taxes 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. Buyer shall have the option to inspect the Property prior to Closing. The parties acknowledge that a Level I 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.

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 the Agreement null and void, except that the Seller shall have a reasonable time (at Seller's election) to remedy any deficiency that might be identified. Buyer's rights to terminate under this paragraph are waived, unless all desired inspection(s) are performed within 90 days from the date of this Agreement or within any extension signed by the Seller.

7. **Contingencies.** This Agreement is contingent upon the following:

- a.) Buyer agrees to use the Property for residential and commercial purposes including a public meeting space for seniors and civic uses.
- b.) Buyer agrees to maintain the historic integrity of the exterior of the original fire station. If an elevator is added to the exterior to meet building codes buyer agrees to provide plans and elevations for the City Administrators to review.

8. **Mediation.** Disputes of 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 clause shall survive the Closing.

9. **Offer Expiration and Penalty.** This offer shall remain in force until 5:00 o'clock p.m. on October 1, 2012. Time is of the essence to this Agreement.

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

Signed and agreed to this ___ day of _____, 2012.

HOUSING INITIATIVES OF NEW ENGLAND CORPORATION, Buyer

By: Cynthia J. Milliken Taylor
Name: Cynthia J. Milliken Taylor
Its President

CITY OF SACO, MAINE, Seller

By: _____
Name: _____
Its _____

-----End of Agreement-----

Councilor Cote moved, Councilor Lovell seconded "Be it ordered that the City Council authorize the City Administrator to execute the Purchase and Sale Agreement for property located at 12-14 Thornton Avenue with Housing Initiatives of New England for \$100,000, with the following three changes to the agreement:

- The administrative building at 14 Thornton Avenue shall be demolished;
- The property will be fully taxable for property tax purposes;
- Strike paragraph #7-A.

Further move to approve the order. The motion passed with seven (7) yeas.

D. REGIONAL SCHOOL UNIT 23 WITHDRAWAL COMMITTEE – CITY OF SACO CONTRACT FOR SERVICES AMENDMENT – PLANNING DECISIONS

**Revisions to Contract for Services
September 4, 2012**

To Work with the City of Saco and its RSU Withdrawal Committee on Preparation of a Withdrawal Agreement Between the City and RSU 23 and Related Materials that May be Required for Completion of the Withdrawal Process

This is a contract for services between Planning Decisions, Inc., referred to below as PDI and The City of Saco referred to below as City.

PDI agrees to do the following:

1. assist the City's Withdrawal Committee prepare a Withdrawal Agreement consistent with applicable Maine law; this work is expected to include:

- attendance at meetings of the Withdrawal Committee;
- review of Withdrawal Agreements already approved by the Maine Department of Education;
- communicating with City and RSU 23 officials and their representatives and appropriate staff at the Maine Department of Education regarding the required elements of a Withdrawal Agreement;
- working with City and RSU 23 officials to assemble the materials required for a Withdrawal Agreement;
- advising the Withdrawal Committee regarding questions that may arise during the course of preparing the Withdrawal Agreement.

2. assist the Withdrawal Committee prepare for and conduct the Public Hearing required by state withdrawal legislation, as any other public meetings the Committee may choose to hold regarding the withdrawal process.

City agrees to do the following:

1. provide PDI with information regarding City's school enrollment, municipal and school budget, school facilities, the process leading to creation of RSU 23, and municipal assessing data and answer questions PDI may have about this information;

2. assist PDI in contacting and working with officials of RSU 23 knowledgeable about the educational services now provided to Saco and their costs; and

3. pay PDI \$1,000 upon execution of this contract and amounts billed monthly by PDI at the rate of \$150 per hour up to a total not to exceed \$30,000.

Both parties agree that:

--the City's Finance Director, Cheryl Fournier will provide staff support for the Withdrawal Committee;

--the expense of any formal legal opinions regarding the withdrawal process, the withdrawal plan or any report submitted as part of this contract will not be included as part of the cost of this contract; and

--the City may terminate this contract at any time by giving 10-day notice and agreeing to pay PDI for work completed prior to termination less payment of the \$1,000 retainer noted in City agreement C above;

Signed this day by:

Charles Lawton
Chief Economist, Planning Decisions Inc.

Richard Michaud, City Administrator
City of Saco

(date)_____

(date)_____

-----End of Contract Revisions -----

Councilor Lovell moved, Councilor Smith seconded “Be it ordered that the City Council approve the amendment titled, ‘Revisions to Contract for Services, September 4, 2012’ to the document titles ‘Project Proposal for Preparation of Draft Education Budget Alternatives for the City of Saco’.”

Councilor Lovell noted that it is too early in the process, and that the committee is working through the points. In discussions with Dr. Lawton at the first meeting, it was determined that he was not one of the involved parties in the withdrawal committee, and that his work was separate and associated with the public hearing after the withdrawal agreement was prepared, negotiations were completed and after the work had been done with the Commissioner.

City Administrator Rick Michaud noted that on August 6, 2012 the City Council voted to engage “Planning Decisions”. The action before the Council this evening would represent a change in scope of services of that agreement. This would mean that the initial agreement would be terminated, and that no amendments would be adopted this evening.

Councilor Lovell stated that the City Administrator’s understanding was correct, and that when the Withdrawal Committee was at a point of needing some external support, a recommendation for a Contract of Services would come before the Council for a vote.

The motion failed with seven (7) yeas.

VI. CONSENT AGENDA

Councilor Doucette moved, Councilor Smith seconded “Be it Ordered that the City Council approve the Council minutes of July 16, 2012”. Further move to approve the consent agenda. The motion passed with unanimous consent.

RECESS THE MEETING

Councilor Tripp moved, Councilor Smith seconded to recess the meeting at 7:30 p.m. The motion passed with unanimous consent.

RECONVENE THE MEETING

Mayor Johnston reconvened the meeting with the unanimous consent of the Council at 7:43 p.m.

E. CODE AMENDMENT CHAPTER 82 CONSUMER FIREWORKS – (2ND & FINAL READING)

“Code Amendment Chapter 82 Consumer Fireworks, August 6, 2012”

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:

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) Missile-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.

-----End of Code Amendments-----

Councilor Blood moved, Councilor Lovell seconded “The City of Saco hereby Ordains and Approves the Second and Final Reading of the document titled, ‘Code Amendment Chapter 82 Consumer Fireworks, August 6, 2012’.” The motion passed with six (6) yeas and one (1) nay – Councilor Tardif.

IX. EXECUTIVE SESSION

Councilor Lovell moved, Councilor Blood seconded “Be it Ordered that the City Council, Pursuant to [M.R.S.A. Chapter 18, Subchapter 1, §405 (6) (D)] move to enter into Executive Session to discuss: Acquisition of Property-Industrial Park Property and Labor Contract Negotiations – IAFF Local Firefighters Unit”. The motion passed with unanimous consent. TIME: 7:52 p.m.

A. REPORT FROM EXECUTIVE SESSION

Mayor Johnston moved from Executive Session with the unanimous consent of the Council at 8:45 p.m.

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.

There was no report.

IX. ADJOURNMENT

Mayor Johnston adjourned the meeting with the unanimous consent of the Council at 8:46 p.m.

ATTEST: _____
Michele L. Hughes, City Clerk