

STATE OF MAINE

COUNTY OF YORK

CITY OF SACO

I. CALL TO ORDER – On Monday, November 5, 2012 at 7:03 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

RECOGNITIONS FOR WORK DURING HURRICANE SANDY

Emergency Management Director Steven Boucouvalas – Mayor Johnston thanked Mr. Boucouvalas for his hard work and diligence and keeping everyone in the loop during Hurricane Sandy.

City Staff - Thank you also to all the emergency personnel who responded to more than 65 storm related calls, which were dispatched professionally, calmly and quickly and to other personnel such as: Water Resource Recovery Division for monitoring the pump stations and generators and keeping the water flowing in the right direction; Public Works Dept for stacking the rocks at Camp Ellis before the storm to protect the shore, and clearing of trees and debris from the storm and keeping the streets clear afterward; City Clerk and Human Resource Director for staying open at City Hall after the decision was made to close early so the rest of the staff could go home; Parks and Recreation for being prepared with having the emergency shelter ready to go if need be, clearing and cutting down trees. The Saco City Employees function as a well oiled machine with the success and over-all mission of keeping citizens safe.

CITY EMPLOYEE RECOGNITION

Lead Operator of the Water Recovery Resource Division Stacy Thompson – Mayor Johnston congratulated Stacy on behalf of City Council, himself and all city employees for receiving a diploma for her participation in a 12 month Management Candidate School which she attended one day a month beginning last October and just finished September of this year. Stacy and 18 other water pollution professionals participated in Maine's third management curriculum designed to prepare mid level drinking water and waste water treatment plant personnel for career advancement in utility management.

City Planner Bob Hamblen – Mayor Johnston congratulated Mr. Hamblen on behalf of the City Council, himself and all the city employees for winning the Cabot Community Celebrity Cruise Award for September 14, 2012. Since 2010 the Cabot Community Celebrity Award honors the achievement and contributions of volunteers. They spotlight those who serve others with little thought of personal recognition by partnering with the AARP they create the good points of life, media and highly conscious companies, Cabot seeks to redefine what true celebrity means. Cabot celebrity is about those who make a difference in our community because of their contributions to others. For 2012 Bob Hamblen is one of the celebrities from the State of Maine who received a long cruise.

CITY EMPLOYEE 25 YEAR ACHIEVEMENT RECOGNITION

Water Resource Recovery Division employee John Boucher – John started as a Park Technician on June 29, 1987 then a few years later he moved over to the Public Works Dept. as a laborer. Through his hard work and dedication he quickly moved through the ranks to secure the position of a sewer foreman before ultimately finding

his true calling over at the Water Resource Recovery Division. John currently serves as a mechanic one at the plant providing exceptional value to the city. Mayor Johnston thanked John on behalf of the City Council, himself and the city tax payers for his long hard dedicated work to the city.

Saco Police Department Patrol Officer Steven Garrison – Steve Garrison is a patrol officer that proudly serves the Police Department and has since August 24, 1987. He is distinguished as an incredibly hard working officer who is deeply committed to keeping Saco streets safe. Many times of his 25 years, he has shown good judgment and initiative and this is evidenced by his personnel folder that includes letters of thanks from grateful citizens who he has helped. Mayor Johnston thanked Steve on behalf of the City Council and himself and noted that the city is grateful and fortunate to have someone of Steve’s caliber working for us.

Public Works Truck Driver Thomas Moulton – Thomas is a truck driver and is one of the most dependable members of the staff. Many residents recognize Tom as their snowplow driver and go to person in Camp Ellis area for many years.

Public Works Light Equipment Operator John Cote – John started working at Public Works on October 13, 1987. John is one of the most dependable and skilled employees on the Public Works staff. He is also a call volunteer fireman for the city.

CERTIFICATE OF ACHIEVEMENT FOR EXCELLENCE IN FINANCIAL REPORTING 2011

Cheryl Fournier – The Certificate of Achievement for excellence in financial reporting was presented to the City of Saco and Finance Director Cheryl Fournier for its comprehensive annual financial report for the fiscal year ending June 30, 2011. A certificate of achievement for excellence in financial reporting is presented by the Government Finance Officers Associated with the United States and Canada Government Units and public employee retirement systems. This comprehensive annual financial report achieved the highest standards in government accounting and financial reporting.

V. AGENDA

A. CHAPTER 219 VICTUALER’S LICENSES – (FIRST READING)

“Amendments to Chapter 219 VICTUALERS' LICENSES, dated September 17, 2012”

(Please note underline is new language, while ~~strikethrough~~ is deleted language)

GENERAL REFERENCES

License and registration — See Ch. [132](#).

§ 219-1. Purposes.

A. The City of Saco has historically regulated victualers doing business within the City by licensing pursuant to specific legislative authority found at 30-A M.R.A. § 3811 et seq. The State of Maine Legislature recently repealed that part of 30-A M.R.S.A. § 3811 concerning victualers. The City Council believes that given the necessity of protecting public health and safety, and assuring public confidence in the sale of food, food stuff and food products by local merchants, that it is prudent to enact a supplementary licensing ordinance to regulate victualers.

B. Therefore, pursuant to Saco's Home Rule authority (see also 30-A M.R.S.A § 3001), as well as the inherent police powers of the City to protect public health, safety and welfare of its citizens, Saco enacts the following ordinance provisions.

§ 219-2. License required; applicability.

A. Any person, business, entity, corporation or association who or which offers to sell, prepare, promote or otherwise provide to the public any food, food stuff, food product or other edible materials must first secure a license from the City Clerk to do so.

B. Undertaking the sale, promotion or providing of materials described above in Subsection **A** without a license is a violation of this chapter punishable by a fine of \$100 for each and every day such violation occurs. The City will treat each day as a separate violation, if additional and/or subsequent violations occur.

C. This chapter applies to any person, business, entity, corporation, etc., ~~whether for profit or nonprofit, which or who operates within the City of Saco and its boundaries unless exempted by 219-2 (D).~~ Full-time businesses, ~~such as franchises (McDonalds, Pizza Hut, etc.), seasonal businesses, (Fun Town, clam shacks, drive ins, etc.)~~ as well as short-term or one-time vendors (~~sidewalk Arts Festival, LaKermesse, etc.~~) must all secure victualer's licenses. The duration of operation is irrelevant to the obligation to secure a license.

D. Any public or private school; any booster group raising funds for school activities or sports programs; any non-profit organization selling food or drink to raise funds for charitable causes, educational activities or public agency programs; or any food sold only through vending machines shall be exempt from the provisions of this ordinance.

D.F. Every person, business, entity, corporation, etc., which meets the applicability of this chapter is herein deemed to require and need a license. The failure to secure a license and the City's failure to detect such violation shall not constitute permissive waiver of any obligation under this chapter by the City.

§ 219-3. Standards for issuance.

A. Review by clerk. The clerk shall review all applications for victualers' licenses. No license shall be granted by the clerk until the applicant has satisfied the following conditions:

(1) Completed all requests for information required by the Clerk.

(2) All personal property taxes are current and paid.

(3) All other City fees or charges such as sewer user fees, etc., are current and paid.

(4) The applicant is operating, or proposes to operate, in an area lawfully zoned for such activity

(5) Evidence that the victualer and/or facility will assure the public health as concerns fire safety.

~~**(a)** Pest and animal control;~~

~~**(b)** Proper garbage disposal;~~

~~**(c)** Fire safety;~~

~~**(d)** Appropriate refrigeration;~~

~~**(e)** Ventilation; and~~

~~**(f)** Lavatories.~~

(6) The application will comply with the State of Maine Rules for Eating and Lodging Relating to the Administration of Establishments Licensed by the Eating and Lodging Program 10-144 CMR 201 and the Maine Food Code, 10-144 CMR 200 and 01-CMR 331 as prepared and published by the Department of Health and Human Services and as amended from time to time, which rules are adopted herein by reference. Evidence of compliance shall be in the form of a license issued to the applicant pursuant to said rules.

B. Fee and license form. Only upon satisfaction of the above conditions and only upon payment of the license fee established by the City Council after a public hearing shall the Clerk issue a license to the applicant. The fee, if the applicant sells beer and wine, and if the applicant serves alcohol other than beer and wine shall be established by the City Council after a public hearing. The license shall state the legal name of the person, business or entity licensed; the address of their place of business; telephone number; term of license; and a license number. The form of the license shall be uniform among license holders and shall be determined by the Clerk.

[Amended 4-7-2003]

C. Standards for denial. If the Clerk finds substantial and credible evidence that one or more of the above conditions (Subsection **A** above) have not been met by the applicant, then the Clerk shall deny the applicant a license. However, the applicant may request a re-review ~~and inspection~~ after an initial denial of license. If the applicant subsequently corrects, abates, meets or otherwise satisfies the above conditions, the Clerk shall then issue the applicant a victualer's license. ~~If the City reinspects or reviews the applicant's facilities, an additional charge of \$25 shall be paid upon issuance of the license.~~ Under all circumstances, the Clerk shall provide to the applicant all material supporting the decision to deny a license.

D. Time for review. The Clerk shall make a determination under Subsection **A** of this section in a period of ~~21~~ **30** days.

§ 219-4. Revocation or suspension of license.

A. Grounds. A victualer's license may be suspended or revoked upon a determination of the existence of one or more of the following grounds, provided that there are serious and substantial incidents warranting suspension or revocation:

- (1)** Knowingly making an incorrect or false statement of a material nature on the application form or failure to supply any additional documentation required or reasonably necessary to determine whether such license is issuable or failure to pay any fee required hereunder.
- (2)** The license holder has caused or suffered more than one serious breach of the peace on the premises;
- (3)** The business or persons patronizing the business present a clear danger to the public;
- (4)** The license holder has willfully violated a provision of this chapter or other ordinance of the City of Saco;
- (5)** Personal property taxes or sewer user, access or hook-up fees are due and owing to the City and are determined to be in arrears as of the date of the license request;
- (6)** The license holder has repeatedly violated and/or failed to correct and comply with the standards set forth in the State of Maine ~~Rules on Eating and Lodging as incorporated herein~~ Food Code, 10-144 CMR 200 and 01-CMR 331;
- (7)** ~~The license holder has two or more violations of license conditions described in § 219-6 or such other acts or~~

~~conduct found to be detrimental to the citizens or community, such as, but not limited to, knowingly selling, promoting or providing adulterated, contaminated or illegal food or foodstuff; or~~

~~(8) The license holder fails to adequately and sufficiently control garbage or pests, has provided or maintained improper or insufficient ventilation or refrigeration, has not provided adequate lavatories or otherwise presents a health or safety risk to the public.~~

B. Complaints. Any citizen or public official of the City can file and/or initiate a complaint against a license holder. Complaints will be kept and maintained by the Clerk and may be considered when and if a license seeks a renewal of their license in a succeeding year.

C. Standards for suspension or revocation. If the Clerk finds substantial and credible evidence that one or more of the conditions described in § 219-4 A have been met, then the Clerk shall notice the license holder of the problem, and they shall have seven days to correct or abate the situation. ~~The City shall reinspect the premises at the end of seven days.~~ If the license holder has failed to correct or abate the problems cited by the City, then the Clerk shall suspend the license. The Clerk shall provide all materials supporting the decision to the aggrieved party.

§ 219-5. Term of of license.

A. Expiration. All licenses shall expire May 31 of each calendar year.

B. Renewals. License holders may renew their licenses each year but must reapply to the Clerk per § 219-3. The applicant seeking renewal must meet all of the qualifying conditions set forth in §§ 219-3 and 219-6. In processing applications, the Clerk shall give precedence to license renewals over the issuance of new licenses.

§ 219-6. License conditions.

A. A license holder ~~must abide by the State of Maine Rules Relating to the Administration of Establishments Licensed by the Eating and Lodging Program 10-144 CMR 201 and the Maine Food Code, 10-144 CMR 200 and 01-CMR 331~~ will not permit a person with a contagious or communicable disease from working in any area where food, food stuffs or food products are being cooked, assembled or prepared.

B. ~~A license holder shall provide adequate sanitation of all facilities, work areas, utensils, equipment and supplies and shall keep their premises neat, clean and free of litter and rubbish.~~

C. ~~Clean lavatories will be provided at all times on the premises and shall be accessible at all times the premises is open unless no lavatories are on site. All lavatories shall provide running water and soap or detergent for hand washing along with adequate drying supplies or equipment. Doors in such lavatories shall come equipped with locks, and the lavatories shall be well lighted and ventilated.~~

D. ~~All garbage or rubbish shall be stored in closed containers at all times in areas away from food preparation. Garbage shall be disposed of on a regular basis such to prevent a nuisance or unsanitary conditions.~~

E. ~~Adequate sewage disposal must be provided and maintained at all times.~~

F. ~~No license holder may refuse to serve a member of the public who has funds and is not disturbing the peace.~~

G. ~~An applicant requesting a license must permit inspections of the premises at random times determined by the City. Such permission to access all parts of the premises at the time of choosing by the City is a specific condition of the license.~~ *Editor's Note: Former Subsection H, pertaining to advertisement, which immediately followed this subsection, was repealed 8-5-1999.*

§ 219-7. Appeals.

- A.** Time period. An appeal to the City Council may be taken by any person aggrieved by the denial, suspension or revocation of a license by the Clerk by filing a notice of appeal within 30 days of the decision. Every appeal should be in writing and shall state the basis for the appeal. The City Council shall hear the appeal within two weeks after the filing of the appeal and may affirm, reverse or modify the decision appealed from.
- B.** Evidence. On appeal, the Council shall review the decision of the Clerk to determine whether the decision was based upon substantial evidence and compliance with the standards of the chapter. The Council may take additional evidence with respect to such decision or action and, if additional testimony or evidence is taken, shall determine the appeal upon all of the evidence presented.
- C.** Appeal from City Council. Any person aggrieved by the Council's decision on appeal may appeal to the Superior Court in accordance with the provisions of Maine Rule of Civil Procedure 80B.

§ 219-8. Assignment of licenses.

- A.** Assignment. A victualer's license may not be assigned, pledged, sold or otherwise transferred by the license holder to any other person, business or entity. The license belongs solely to the original applicant and shall remain in the applicant's name for the duration of the license.
- B.** If any person, business or entity transfers or attempts to transfer their license, such act shall result in immediate termination of the license. Any sale, promotion or providing of any materials described in § [219-2](#) thereafter will be a violation of this chapter punishable by a fine of \$100 per day.

§ 219-9. Display.

- A.** The license holder shall display at all times their license in a place and manner visible to the public for its review.
- B.** The failure to so display a victualer's license is a violation of this chapter punishable by a fine of \$100 per day for each violation.

§ 219-10. Enforcement.

- A.** The City shall enforce this ordinance by civil citation and summons deliverable by the Saco Police Department.
- B.** Any and all fines or penalties secured from violations of this ordinance shall be payable to the City's general fund.

§ 219-11. Registration.

Those persons, businesses, corporations or entities who or which require a victualer's license pursuant to this chapter need not secure a business registration as required under Chapter [132](#) of this chapter. A license issued pursuant to this chapter shall constitute registration as required by Chapter [132](#), and compliance with the terms of this chapter shall constitute compliance with the terms of Chapter [132](#).

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

Councilor Cote moved, Councilor Smith seconded “The City Council hereby Ordains and Approves the First Reading of the document titled, ‘Amendments to Chapter 219 Victualers’ Licenses, dated September 17, 2012’, and

further move to set the Public Hearing for November 19, 2012.” The motion passed with seven (7) yeas.

B. APPEAL COASTAL WATER COMMISSION MOORING PERMIT DENIAL

Pursuant to City Code Chapter 118, §118-5 Coastal Waters Commission, the procedure for appeals is

“(4) An appeal may be taken from any act or decision of the Coastal Waters Commission by appeal to the City Council.”

Peter Leon requested an appeal to the City Council with regard to the decision by Coastal Waters Commission to uphold the Harbor Master’s revocation of Mr. Leon’s permit to set his mooring in the Saco River.

According to the Chair of the Coastal Waters Commission, the harbormaster removed Mr. Leon’s mooring from the river in October of 2011 and removed him from the 2012 mooring list, and assigned Mr. Leon’s mooring to another person on the mooring list.

With reference to the Code Chapter 118, subsection A (1), establishing policy – Harbor master duties: the harbor master does not have the authority to revoke a mooring permit. Therefore, the Coastal Waters Commission does not have the authority to uphold the act of the harbor master to revoke Peter Leon’s mooring permit.

From: peter leon <pleontennis@yahoo.com>
To: Richard Michaud <RMichaud@sacomaine.org>
Sent: Wednesday, September 26, 2012 1:53 PM
Subject: Re: appeal of decision to revoke mooring privileges

Hello Rick,

This is for the Council to review due to the Coastal Harbor Commission's revocation of my mooring privileges.

I never received an explanation from the Coastal Harbor Commission's why my mooring privileges were revoked after they just restored it to me on June 5 (which I was notified in writing on June 27).

I complied with the harbor masters inspection of my mooring that was discussed with the public works on July 19th. I thought this was going to be forwarded to me. I was waiting for their inspection but it was not sent to me until my request via email at 10:00 pm on July 28th.

The inspection required a new stainless steel pendant, new shackles, stainless steel wire fasteners, flip the mooring on it's side, a different larger buoy, a dingy attached to the mooring chain, and a check was given to the contractor that the harbor master recommended who he uses to set Saco moorings for him. This was accomplished on July 30th. The contractor on the 30th of July assured me that there would be no problem setting it. He assured me he would contact the harbor master and have him check it out and ask him where he wants him to set my mooring so as to be in compliance with the ordinance.

I complied and corrected all the issues mentioned in the inspection of the harbor master and public works required on July 30th. I thought that because no one contacted me that I met all that was required of me and that my mooring was set on the 30th or early on the 31st; so as to be in compliance.

Thank you

Respectfully submitted

Peter Leon

-----End of Mr. Leon’s E-mail-----

*James M. Katz, Chairman
Saco Coastal Waters Commission
3 Abby Lane
Saco, ME 04072*

October 10, 2012

City of Saco Maine
Mr. Richard Michaud, City Administrator
300 Main Street
Saco, ME 04072

Dear Mr. Michaud:

Mr. Peter Leon had a mooring permit for the 2011 boating season. His mooring was at the Camp Ellis Pier area. The Saco Harbormaster, Daniel Chadbourne, found the mooring to be out of compliance with the Coastal Waters Regulations with regard to it's mechanical fitting and improper sized ball and chain length. In his judgement it had become a hazard because it was partially submerged and also violating federal regulations for moorings.

Mr. Leon was notified by the Harbormaster on several occasions by telephone, however his phone calls were not returned. (The Harbormaster's phone records substantiate these attempts to make contact.) The condition of the mooring was such that the Harbormaster removed the offending mooring in October 2011. Because the mooring was left in derelict condition and Mr. Leon had not responded, Mr. Chadbourne also removed Mr. Leon from the mooring renewal list for 2012 and assigned that mooring location to another individual on the waiting list.

Mr. Leon presented his objections to this action at the May 1, 2012 meeting of the Coastal Waters Commission. He was informed at that time to present his concerns in writing and the commission would respond to him within 30 days as required by regulation. He presented his request in writing on June 5.

The CWC reviewed Mr. Leon's request and discussed the regulations at the June 5, 2012 meeting. We determined that the regulations were not completely clear as to the method of notification the Harbormaster must use in these circumstances. In two sections, the regulation requires written notification of such action. In another section, the Harbormaster can just take action in the event of a hazard with notification to follow. This ambiguity led the commission to give Mr. Leon the benefit of the doubt and allow him to apply for a mooring for 2012. However, since his mooring had been pulled the previous year, and that location had been given to another wait-listed permit applicant, a new spot would be found for him in the area. He was further instructed that his mooring must be in place by July 30, must be properly sized and mechanically constructed, and inspected by the Harbormaster exactly as per regulation. The above determination and conditions were provided to him in a letter sent registered mail, and signed for by Mr. Leon on June 29th at the Kennebunkport Post Office. (This time frame was well within the required 30 days response required of the commission.)

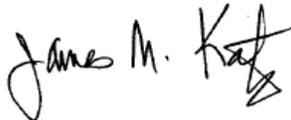
An attempt was made by Mr. Leon to arrange for the installation of a mooring for his vessel to meet the deadline of July 30 as required by regulation. However, he appeared to have waited until July 27 to start this and was not finished in time. Even if accomplished, the Harbormaster had documented with photos, the use of improper materials which would have caused the mooring to fail inspection. He notified Mr. Leon of such in an email on July 28. (The results can still be seen on the beach.) No action was taken by Leon after that and time had expired. Mr. Leon's permit to set the mooring was revoked by the Harbormaster, and Mr. Leon received written confirmation of this from Eric Gates of Saco DPW on August 7, 2012.

Mr. Leon then informed the CWC in writing that he wished to appeal this decision and his appeal was heard at the Sept. 4, 2012 meeting of the commission. He was allowed to present his case, and the Harbormaster rebutted Mr. Leon's testimony with photos and telephone records. A vote was taken by the commission and it was unanimously determined that the actions of the Harbormaster would be upheld.

Going forward, Mr. Leon has not been prevented from having a mooring in the future. He can apply for a mooring and he will be put on the waiting list. When a spot is available he can place a mooring subject to all of the requirements of any of the other 100 plus mooring users in the Saco River.

The above are the facts and circumstances of this matter as best as I can present. I will be pleased to provide any further information you may need.

Sincerely yours,



James M. Katz
Chairman, Saco Coastal Waters Commission
home: 207-283-4601
cell: 617-283-2203

-----End of C.W.C. letter-----

Mayor Johnston asked Mr. Leon to set forward and to present his case.

Mr. Leon stated that he did everything that he was asked to do in the time frame he was asked to do it in. He got all parts and players that they asked and had it all set, and all the permits were paid. He thought he was all set and then got notification and found out that he was revoked. He thought that he had complied with everything they had asked, but apparently didn't.

Councilor Tardif – Do you hold any other moorings in any other city of town? Mr. Leon stated that he did. Councilor Tardif inquired as to where he had them? Mr. Leon stated Kennebunk. Councilor Tardif asked Kennebunk or Kennebunkport? Mr. Leon said it is on the Kennebunk River, so it is Kennebunk. Councilor Tardif stated that he understood that Mr. Leon was having problems down there such as not cooperating with them also. Councilor Tardif asked Mr. Leon what is the reason for that? Mr. Leon stated that that was no true. Councilor Tardif said that comes from the Harbor Master. Mr. Leon stated that it didn't come from the Harbor Master in Kennebunk. Councilor Tardif said that there has to clear way here for you to start cooperating. You haven't cooperated with the Harbor Master all year. Councilor Tardif understood that the Harbor Master didn't have a right to take the permit for that year. However, they are asking here to have your credit fee paid for the 2013 year and he can't understand why we would want to do that if you do not want to at least cooperate and do what the Harbor Master asks you to do. Mayor Johnston asked Mr. Leon if he would like to respond. Mr. Leon stated that it was not worth a response.

City Administrator Rick Michaud – If the Council were indeed to deny the Coastal Waters Commission appeal and in effect grant your permit, “Would it be your intention to follow all the rules and procedures that exist in Camp Ellis?” Mr. Leon said that he had not broken one of their rules and to this day there has not been one of their rules I have broken. Every permit has been paid on time. Everything that has been asked to be done, I have done exactly as has been asked. When he didn't get notification he didn't know about it. The fact that they took the mooring away, I had no idea. They said I was in good standing last September on the paperwork I have here and it was to be

inspected Spring of 2012. He had no idea there was an issue, he had paid everything to date and thought for sure he was all set. He didn't get a letter from Michele (Clerk's Office) as he typically does to pay the mooring permit. He went to the office to inquire why, thinking that something must of happened and needed to find out what was the issue. He asked to be put on the Harbor Commission Agenda to appeal it. He said it wasn't worthy of a response because he had always followed their rules.

Councilor Tardif – His understanding in the Ordinance the Harbor Commission has is that the if you have any problems you are supposed to contact the Harbor Master instead of him trying to contact you all the time. Apparently he (Harbor Master) wasn't able too. You are supposed to contact him within so many days. Did you try to do that? Mr. Leon stated that he didn't know what that was in reference too. Councilor Tardif stated that it is in the Ordinance that we have. Mr. Leon said, "To call him for what?" Councilor Tardif stated for any questions you may have. When he tried to get in touch with you, he couldn't do it. You must have known he was trying to get in touch with you. Did you try to get in touch with him? Mr. Leon stated that he didn't know what this was in reference too. He didn't need to talk to him. Councilor Tardif stated in reference to anything. Mr. Leon said that he had had very little contact with the Harbor Master. Councilor Tardif said your mooring doesn't meet specifications by the Coast Guard. Mr. Leon said Mr. Tardif I have here a paper stating that when the end of the season came, I was in good understanding. That is what I got in the mail from the Harbor Master. He signed it Dan Chadbourne to be inspected Spring 2012. He felt he was in good standing. Why would I call him, I'm all set? Councilor Tardif said "You were never told your mooring didn't meet specifications?" Mr. Leon said "No" he did not get that notification.

Councilor Cote – You were aware of the rule that said that if you didn't have your mooring in place by July 30th then you couldn't set your mooring for the year, but no one ever told you that if you didn't have your mooring in place by July 30th that you would lose your mooring permit. Mr. Leon said that was right. But, he thought that that was done because he paid a fella that the Harbor Master had recommended to have it set. This person said the shackle needed to be replaced, and it was replaced. The pendant needed to be replaced, and that was replaced. It had to have stainless steel wiring to tie it all together, and that was replaced. An inflatable to placed there for it, and he paid the man \$100 to set it before the end of the month. He thought he was all set. The man said he would talk to the Harbor Master and set it. It should have taken care of. Councilor Cote said, that all done, here we are in November and the season is over anyway. Mr. Leon said that he pulled it out before the storm. No one contacted him that it didn't meet specifications to this day. Mr. Leon said he had to pull it before the storm, because he didn't want to lose it. Councilor Cote inquired as to when Mr. Leon usually pulls the mooring out? Mr. Leon stated that every other year they have to inspect it. Councilor Cote asked "In the fall?" Mr. Leon said that we pull it out and off to the side before the winter season and they don't get set again until the spring. Councilor Cote inquired as to what month they generally get set. Mr. Leon stated May. Councilor Cote said that what we are arguing about here is basically the mooring permit for the season that has gone by. So they took your mooring permit because you were not able to set the mooring by July 30th, no matter what the reason was. I don't see looking in the Ordinance that they had any authority to do that, and you said they never told you that they were going to do that and you weren't able to get your mooring in by July 30th. Mr. Leon stated that he thought he had done as he was supposed to. He spoke to Jim Katz about the fact that he needed to have the mooring in, and he did take care of it. Everything is there and it should be all set. Mr. Leon specifically spoke to Mr. Katz about that.

Councilor Blood – Is it true you have been through two hearing with the Coastal Waters Commission? Mr. Leon nodded "Yes". Councilor Blood said once when you appealed the decision that had been made and he believed the Commission had initially made a decision to approve an appeal and to give you a second chance. This was really around some of this miscommunication. Then the second time around, there were some timing issues and the

mooring didn't get in. You said you paid someone to do it and it would seem reasonable to me that if you had a problem the first time you would have been calling the person you hired to make sure he had done it and not to just say "Well I had paid him, he did it". That's why this is leading me to some confusion. Is that fair? Mr. Leon nodded "Yes". It got elongated this whole process because he had lost it the first time, and he wasn't notified in October that he had lost this mooring. He had no idea. I should have got notification that the Harbor Master hauled it at the expense of the city, and never got notification of that. If that had happened, then I would have paid the \$100 down to pay that and then if there was an issue with revoking it at that point. That is when the process would have started. That didn't happen it went into May and I was waiting for my permit and in good standing and didn't get it, so I went the next day and heard that that was when the appeal was and that was when I approached it. It took month after month with this thing, so I was hog-tied. Councilor Blood stated that it seems you haven't asked allot of questions or taken allot of responsibility to get it done. The Commission did give you a second chance. Mr. Leon said he took it for granted that the guy he paid to set the mooring by the deadline was going to do what he said.

Councilor Tardif – When you appeared before the Coastal Waters Commission, did you make a statement that you would get your mooring permit back because you knew people at City Hall and Councilor Cote and Mayor Johnston would straighten it out for you? Mr. Leon said "No", that is not what he said. He said to them that he had talked to different people in the city, and they said to present your argument to the parties that it needed to be. Mr. Leon said that he asked both of them, and they said that Mr. Leon needed to go through the process. They didn't say that they would get it back for me.

Councilor Cote – Asked how long he has had a mooring permit in Saco? Mr. Leon said that years ago, he had had one back in the 1970's and that he had been out of here for about 20 years. He came back and wanted to get it and went on the waiting list in 2004 and that he didn't think he got it until 2009. So he had to wait 5 years to get it. When he did get it, he paid the dues every year, and then had this thing happen. This shouldn't have happened, this whole process. He feels bad that it did happen, and he on top of things, but he does let things slide and he should have been a little more proactive to make sure it got set.

Coastal Waters Commission Chairman James Katz – The matter first came to the attention of the C.W.C. in May of 2012. Why? Obviously because someone told Mr. Leon that his mooring wasn't going into the water. So the concept that he wasn't notified, why didn't he contact the Coastal Waters Commission? He complained that the Harbormaster denied him placement of his mooring because it didn't meet the mooring requirements. His mooring had been removed the previous year. It wasn't removed for inspection. It was removed because there was a sunken mooring ball was inadequate in size and it was creating a hazard to navigation in the river. Those of us who serve on the Coastal Waters Commission take the stewardship of that river extremely seriously. Personally in the Coast Guard Auxiliary, I have assisted 26 boaters in distress and have saved 2 lives in that river because I know the hazards that face mariners that are going in and out of the tidal waterway. Mr. Leon's mooring was a danger to navigation and was pulled by the Harbormaster and piled on the shore. The Commission heard Mr. Leon's request and reviewed the regulation and determined there was some room for interpretation in the method that was used to notify Mr. Leon of his infraction. Eighteen phone calls documented by the Harbormaster to telephone numbers belonging to Mr. Leon. Messages left and none of them returned to him. How do you communicate to someone who doesn't want to communicate with you? However, Mr. Leon was not notified in writing, so the Commission determined that to give him the benefit of the doubt we would allow him to set a mooring and that hopefully this time, it would be done properly. So I sent him a letter on behalf of the Commission which was dated June 26, 2012. Wherein, I said that he could set a mooring and that it must be done by July 30th and that he was to contact the Harbormaster to make arrangements for the placement of his mooring because we were bending over

backwards to assist him in that goal. He did not contact the Harbormaster. Mr. Leon signed for the letter on June 29, 2012. So I know he had the letter in his possession, because I had the receipt for it. The whole month of July went by without a call to the Harbormaster or a request for an inspection until July 28, 2012. Two days before the deadline of July 30th. Basically Mr. Leon was given a chance to set the mooring properly and had 30 days to do it. He didn't deem it important enough to have it done properly and expeditiously. When we told him that he did not meet the requirement of having the mooring set by July 30th, he requested another hearing before the Coastal Waters Commission, and at that hearing we voted unanimously to uphold the action of the Harbormaster to not let him set a mooring. Over the past year this matter has been dealt with by our Harbormaster, Public Works Dept., all volunteer Coastal Waters Commission and now we are before the elected City Councilors of Saco. We have public officials in this city to deal with these types of issues, and at every step along the way Mr. Leon has been dealt with, with the greatest care to try to help him accomplish this very simple task that over 100 people do every year without any near the reams of paperwork that Councilor Lovell read off to you that were generated by this one man who somehow finds it impossible to set a mooring in the Saco River. At what point will Mr. Leon be held accountable for his inability to comply with the regulations? Now I understand Councilor Cote that you feel the regulation 118 does not give the Harbormaster permission to revoke a permit. I agree with you 100%. But, there is a mechanism in the regulation as it stands now to revoke his permit. That is because he did not set the mooring by July 30th. He had 30 days to set the mooring and that this seriously and he did not set a mooring by July 30th and therefore the regulations classify his mooring site as being abandoned and therefore eligible to be revoked and issued to the next person on the waiting list. This is section 118-6-C-2-d, which is also stated in the conditions of terms of use on the mooring application. Moorings that are not used for any consecutive 3 month period between May 1st and September 30th shall be presumed to be abandoned and removed at the owner's expense and the location shall be reallocated. The only individuals that have a right to a mooring in the Saco River are waterfront property owners. To everybody else owning a mooring, it is a privilege and you have to abide by the rules and regulations, and if that mooring is not in the water by July 30th, then it can't possibly comply with the regulation, because it will not have been used for a period of ninety days to prevent it from being revoked. So at this point, you have the power in the regulation that you see. Yes, the Harbormaster cannot revoke the permit. The regulation revokes it automatically if it is abandoned. The mooring has been abandoned for the last year and a half. It hasn't been used for any other purpose, and it is time to give that very valuable spot in that river that lets you keep a boat for \$125 a year, to someone who will use it and who will not be such an aggravation to our entire city administration for a simple task that others are capable of doing with no difficulty. I ask you to do what the ordinance says you can do, which is to revoke Mr. Leon's mooring permit.

Councilor Lovell – How many days after Sept 15th was the mooring ball found to be a hazard to navigation? Mr. Katz stated that the Harbormaster found the mooring to be a hazard to navigation in October 2011. Councilor Lovell asked how many after Sept. 15th? Mr. Katz stated that he wasn't sure and he would need to ask the Harbormaster. Ordinarily a mooring would be pulled out on November 1st. Councilor Lovell wondered why the mooring was sufficient on Sept. 15th but insufficient apparently just a few days later. Mr. Katz stated that he could not answer that because he didn't know, he would have to ask the Harbormaster. Councilor Lovell stated that but for some reason or another, just a few days after Sept 15th prior to finding it to be deficient, it was sufficient. This seems to be how this entire series of events began. Councilor Lovell was looking for some type of clarification. Mr. Katz noted that Mr. Leon was not properly using the mooring in 2011 and the Harbormaster let him skate by. Councilor Lovell asked if there was any statement to that effect, because he didn't read that. Mr. Katz said that there was no documentation in writing on this, but he had, had a conversation with the Harbormaster this afternoon. Mr. Katz felt this was immaterial to the current case which is 2012. Where Councilors, we clearly have an

abandoned mooring on our hands. Mr. Leon clearly had 30 days to set a mooring and make it ready to go. He didn't do that. The regulation says it is revoked and reassigned to the next person on the waiting list.

Councilor Cote – My point of view is that I don't read the rules as Mr. Katz does. Where it says mooring shall be set by July 30th of each year, it doesn't say that if you don't set your mooring by July 30th of each year you lose your mooring permit. It doesn't say that. You are depending on the section over here that says "Mooring that are not used for a consecutive 3 month period between May 1st and Sept 30th shall be presumed to be abandoned". This clearly wasn't abandoned Mr. Leon was trying to fix it. Mr. Katz stated that we gave him the benefit of the doubt, because we gave him 30 days to get it in the water. All Mr. Leon had to do was to have a mooring in the water by July 30th. Councilor Cote stated that he understood that, but he was just saying in that the rules here don't allow you in this situation to revoke his permit. I don't question that if he doesn't have his mooring in the water by July 30th, he can't put it in for the season, because he missed it. But this language in this section here says "If he doesn't the mooring is presumed abandoned", well in this situation here it was clearly not abandoned he just didn't meet the July 30th deadline by a couple of days. Mr. Katz inquired if there was a mooring there. Councilor Cote said no there wasn't. Mr. Katz stated then it was abandoned. Councilor Cote said no that is not what the ordinance says. You have to clearly state it in the ordinance, if that is how you want the ordinance to be, and it is not. Mr. Katz said that he had indicated to him previously that the Coastal Waters Commission will be working on methods and way to clarify the circumstances in which a mooring can be revoked. But, you are allocated a latitude and longitude for a mooring, and there was no mooring there, no ball, no chain, no rock. He abandoned his site. Councilor Cote said no, he didn't abandon it he was trying to fix it. Mr. Katz asked "Then how could he set a mooring that he could use for 90 days if all mooring have to be out by November 1st?" He has August, September and October to use the mooring. Councilor Cote said he understands if the city had an ordinance that said that, but we don't. Mr. Katz said that you have to have that mooring in the water by July 30th, because if you don't you cannot possibly comply with Article D which says "You have to use it for 3 months". You couldn't possibly use it for 3 months, because it has to be pulled out of the water. Councilor Cote stated that that is the difference of opinion we have exactly as far as the meaning, you are right. Mr. Katz said the regulation gives us the ability to revoke the mooring. Give it to someone who will use it and use it properly and not be a hazard to families who are going down the river in a motor boat and who are going to get snagged on it and pulled under the water. Councilor Cote said that there is no question that you have to do your job and make sure these mooring as safe. I would rather you be over aggressive than under aggressive.

Councilor Smith – I have looked this Ordinance over several times and I find it long and drawn out. You have to be here you got to be there. Someone goes on the list for 3 or 5 years, they make it to the top of the list, they pay their dues and if they set a mooring that becomes a hazard to navigation of course we want the Harbormaster to use it. Yes, it probably is a valuable resource, but he had paid for that resource. If he doesn't get the thing in on time well then he doesn't get to use it. If it doesn't meet specifications he doesn't get to use it and it gets removed. But if he paid for the privilege, who does he harm if he doesn't use it? From my vantage point, he paid for that longitude and latitude and the fact that he didn't set a mooring by a certain day is way over kill in this certain situation. When you stop paying for a mooring, it is abandoned and you give it to someone else. Mr. Katz stated that there is a 3-5 year wait to get a mooring. Councilor Smith said and he waited for that mooring and when he got to the top of the list he paid his dues. The fact that the mooring had problems causing it to be removed, fix your mooring and put it back in. The fact that he didn't get it in by a certain arbitrary date just meant that he doesn't get to use it.

Councilor Lovell – Chapter 118 is bereft of any clear procedure. We need to work on that with the Coastal Waters Commission so that we actually have a decent procedure. How was the fee paid on the 27th for the mooring? Who

is that paid to? Mr. Katz noted that it was paid to the Finance Dept. Councilor Lovell inquired whether there was any refund of that money. Mr. Katz said no, we hadn't gotten to that point. So that to me is something that clarifies whether there is some existence of permission to set a mooring.

-----End of Discussion-----

Councilor Lovell moved, Councilor Tripp seconded “Be it Ordered that the City Council grant Peter Leon’s appeal to the City Council with regard to the decision by the Coastal Waters Commission to uphold the Harbor Master’s revocation of Mr. Leon’s mooring permit, and further be it ordered that the City Council direct the Harbor Master to reinstate Mr. Leon’s mooring permit for 2012 and credit the fee paid in 2012 towards the permit for 2013.

AMENDMENT – Councilor Lovell moved, Councilor Tripp seconded to strike the language “fee paid in 2012 be credited to the 2013 permit”. The motion passed with six (6) yeas and one (1) nay – Councilor Cote.

Councilor Blood – He answered Councilor Lovell original question as follows: There was a letter that said the mooring was in good standing on Sept 15th, and it was Oct. 11th it was discovered that the mooring had become severely foul. This is found in correspondence from Eric Gates. The other thing is that I don't see this as a fishing license. Someone can get hurt, which is the next person on the list, because people wait a long time for these. Fishing licenses don't have a limit that they give. Also, having set with the Coastal Waters Commission on the first deliberation of this, and them bending over backwards to give Mr. Leon a second chance, I thought that was a very good thing and that I don't think he followed through and I would read the section in the ordinance to say that they do have the right to revoke the permit as they did. I think the ordinance could be strengthened and it could be changed a little bit but he didn't meet the qualifications therefore I see it as being abandoned.

City Administrator Rick Michaud – Asked Mr. Katz, in the time that you have been involved or knowledge that you have obtained from people talking around the Harbor, “How many times have people’s moorings been taken out of the river because they have been abandoned?” What is the practice? How often does this happen? Mr. Katz stated that they are abandoned very rarely, but on occasion a people may die, leave the area or fall on hard times and the Harbormaster has to take an action. But it is very rare. There are times when a mooring does become hazardous when the ball becomes submerged or fouled and because it is below the surface of the water boats passing over it could easily get snagged on it and flip over and dump its occupants into the river. It is not a everyday occurrence.

Councilor Tripp – Following up on the motivation for revoking a mooring permit. You just stated that an abandoned mooring would be considered if someone died or can't pay the mooring permit, and I can understand that. I've been around the water a long time, and have managed boat yards, so I understand what is going on. But I don't understand the motivation here. If I had a mooring here on the Saco River and I had someone pull it out for me and I paid my permit and did not set that mooring next year for whatever reason, according to what I'm being told here tonight, because I didn't set a mooring my mooring spot would be deemed abandoned. The way I'm looking at it is that I didn't abandon it, I paid the permit and I didn't get to use it and that's on me. Basically you are saying that if I have a mooring in the river, I had better go down and put a dinghy on it at least one day or I have abandoned that mooring, and I don't see it that way. Whether I put a mooring in or not, I paid my permit and I have a right to use it and if I don't use it then, that's on me. It shouldn't fall on the Harbor Commission or the Harbormaster. I understand the motivation for wanting him out of there, because there is a five year waiting list. That to me should not be a motivation to take and pull somebody's permit.

Councilor Lovell – The commission needs a nice procedure. When you get to a point of sending out a letter, send it certified. You got to a point later in the process of doing that apparently. If you pay your money, you got the

ticket, and you are saying that paying your money and getting your ticket are two separate matters. So I think the commission needs to review what your procedure is and have a procedure for declaring an abandonment and then provide written documentation associated with that. I think that this would be allot more clear in terms of your presentation. But because of that, I'm left with the feeling that the guy had his money taken and we said thanks and gave a receipt and then we said you didn't pass first base and I think that Councilor Tripp has pointed that out. Just because he didn't set the mooring in time and put a dinghy on there he is not permitted to have that mooring despite the fact that he paid for it. Mr. Katz noted that mooring are not for dinghies. He said that he did not write this regulation, but believes there is substantial wording in the regulation as it stands that says that if he did not put that mooring in by July 30th, that means he abandoned that mooring and therefore it is available to the next person on the list. Moorings are not for dinghies, they are for real boats for real people who are going to use the resource of our Saco River. We have the wording in the regulation to substantiate a vote to revoke his mooring permit.

The Mayor called for a vote on the main motion. The motion passed with four (4) yeas and three (3) nays – Councilors Tardif, Blood and Doucette.

C. CAPITAL PROGRAM DEFINITIONS

For ease in accounting and budgeting, an updated definition of capital improvement project is proposed herein. The current threshold to meet for a capital project is \$8,000 and the 8-year rule. Changing the threshold to \$10,000 and a 10-year rule along with adding 'assigned' (in place of reserves) as part of the definition, brings Saco in line with what other surrounding communities are using. Supporting making the change to \$10,000/10 year-rule is the increasing overall cost of goods in the past few years.

In order to avoid confusion with regard to what is a carryover or designated, we will use the Government Accounting Standards Board (GASB) term 'assigned' which is referenced in our city code Chapter 15, Article IV, §15-24 through §15-30 –

'...resources neither restricted nor committed for which a government has stated intended use as established by the City Council, or body or official to which the City Council has delegated the authority to assign amounts for specific purposes.' As well, capital projects that extend over one fiscal year with no external borrowings.

Starting in FY14, the City will be using 'assigned' during our budget process. As shown in the attached exhibit 'Current Listing of Capital for FY13' capital budget items are listed using the new 'assigned' definition and reflects the items that would fit with the definition and the ones that would not. Using this scenario, the capital appropriation for FY13 budget would be \$415,500 instead of \$1,500,000 and the operating budgets increased for the lines of 'repairs and maintenance' by \$1,084,500.

Using the new capital definition, at the end of each fiscal year, unexpended 'repair and maintenance' amounts will lapse to fund balance, and unexpended capital budget amounts will be designated and assigned for future year expenditures.

'Amendments to City of Capital Improvement Program June 2010, dated November 5, 2012'

(Note underline is new language while ~~strikethrough~~ represents language to be deleted).

What is a Capital Improvement Project?

As used in the Capital Improvement Program, a capital improvement project or capital expenditure is a major, nonrecurring expenditure that has a useful life of ~~8~~ 10 years or more and costs in excess of ~~\$8,000~~ \$10,000 that includes one or more of the following:

- Acquisition of land for a public purpose;
- Construction of a new facility (e.g. a public building, sewer lines, playfields etc.) or an addition to, or extension of, such a facility
- Purchase of major equipment or groups of major equipment (i.e. items with a cost – individually or in total – of ~~\$8,000~~ \$10,000 or more and, which have a useful life of ~~& 10~~ & 10 years or more)
- Any planning, feasibility, engineering, or design study related to an individual capital improvement project or to a program that is implemented through individual capital improvements.
- Prior year carryovers, reserves, or designations of fund balance for prior year projects, which for one reason or another were not completed prior to the end of the fiscal year.
- A nonrecurring rehabilitation (i.e. something which is infrequent and would not be considered annual or other recurrent maintenance) or repairs of all or part of a building, its grounds, or a facility, or of equipment, provided that the cost is ~~\$8,000~~ \$10,000 or more and the improvement will have a useful life of ~~& 10~~ & 10 years or more; (otherwise the project would be considered to be a recurring expenditure)

Current Listing of Capital for FY13

Overlay	710,955
Small Drainage Projects	50,000
Route 1 Drainage Channel Stabilization	30,000
Industrial Park RR Maintenance	10,000
Sidewalks	50,000
Beach Street Retaining Wall	65,000
PACTS Projects	168,045
PW Facility	150,000
PACTS/Interlocal Studies	65,500
Tricomunity Camera Reserve	6,000
No Saco Fire Station	16,000
City Hall Repairs	45,000
Brownfield Remediation Site Grant Match	25,000
Young Playground	48,500
Renovations to Community Center	30,000
Pepperell Park Water Tower re-roof	15,000
Pepperell Park Water Repointing	15,000
	<u>1,500,000</u>

Assigned Fund (Following fit the Capital Definition)

PW Facility	150,000
Beach Street Retaining Wall	65,000
Brownfield Remediation Site Grant Match	25,000
No Saco Fire Station	16,000
City Hall Repairs	45,000
Young Playground	48,500
Renovations to Community Center	30,000
Pepperell Park Water Tower re-roof	15,000
Pepperell Park Water Repointing	15,000
Tricomunity Camera Reserve	6,000
	<hr/>
	415,500

Unassigned Fund (Following does not fit definition and should be repairs & maintenance [Appropriation])

Overlay	710,955
Small Drainage Projects	50,000
Route 1 Drainage Channel Stabilization	30,000
Industrial Park RR Maintenance	10,000
Sidewalks	50,000
PACTS Projects	168,045
PACTS/Interlocal Studies	65,500
	<hr/>
	1,084,500

Unassigned Fund Balance Policy (§ 15-24 — § 15-30)

[Amended 10-3-2011]

Definition and classification.

A. "Fund balance" is a term used to describe the net assets of governmental funds. It is calculated as the difference between the assets and liabilities reported in a governmental fund.

B. Governmental fund balance is reported in five classifications that comprise a hierarchy based primarily on the extent to which the City is bound to honor constraints on the specific purposes for which amounts in those funds can be spent. The five classifications of fund balance for the general fund are defined as follows.

(1) Nonspendable: resources which cannot be spent because they are either a) not in spendable form or b) legally or contractually required to be maintained intact.

(2) Restricted: resources with constraints placed on the use of resources which are either a) externally imposed by creditors (such as through debt covenants), grantors, contributors, or laws or regulations of other governments; or b) imposed by law through constitutional provisions or enabling legislation.

(3) Committed: resources which are subject to limitations the government imposes upon itself at its highest level of decision-making, and that remain binding unless removed in the same manner.

(4) Assigned: resources neither restricted nor committed for which a government has a stated intended use as established by the City Council, or body or official to which the City Council has delegated the authority to assign amounts for specific purposes.

(5) Unassigned: resources which cannot be properly classified in one of the other four categories. The general fund should be the only fund that reports a positive unassigned fund balance amount.

C. The committed, assigned, and unassigned classifications are often referred to, in the aggregate, as the unrestricted fund balance.

CHART OF ACCOUNTS – REPAIRS AND MAINENANCE DEFINITIONS

Administration, Finance, Assessing - Office equipment and furniture

Information Technology - Repairs of hardware not under service contracts

Clerks – Typewriter, Maintenance agreement for our Optical Scanners (voting machines and ballot boxes)

Building - City Hall and Annex building repairs/maintenance

Police Department - Boiler furnace, HVAC, flooring replacement, and all building repair, all motor vehicle repairs for the police department fleet, all service contracts for facility, custodial, HVAC systems, etc., all electronic repairs to radios, power supplies, cruiser wiring, etc.

Fire Department - small equipment repair, blades, parts, radio and electronic repairs

Public Works -Upkeep of building, cleaning of building, repairs, Building repairs, front gate, replaceable mats, Repairs for fleet, maintenance cost for traffic signals

Parks and Recreation - Tires, all repair Parts, mower blades, belts, filters, Maine EPA boiler and tank, electrical work, plumbing work, masonry work, window repair, garage door work, elevator inspections.

-----End of Definitions-----

Councilor Tripp moved, Councilor Smith seconded “Be it ordered that the City Council approve the document titled, ‘Amendments to City of Capital Improvement Program June 2010, dated November 5, 2012’”. Further move to approve the order. The motion passed with seven (7) yeas.

VI. CONSENT AGENDA

Councilor Smith moved, Councilor Blood seconded to approve Consent Agenda Items #1, 2, 3, 4 and 5 as follows:

1. Approve the Council Minutes of October 15, 2012;
2. Confirm the Mayor’s appointment of David Bedell to the Zoning Board of Appeals, for a 5-year term to expire on November 5, 2017;

3. Ordain and approve the Second and Final Reading of the document titled, ‘Amendment to Add Car Washes to the I-2 Use List, Dated September 11, 2012;
4. Approve with reference to York County Superior Court Docket #CR-12-1432-Criminal Forfeiture, of the transfer of funds to the City of Saco, pursuant to 15 M.R.S.A. §5824(3) and/or §5826(6);
5. Grant the applications for a License to Operate Games of Chance: Daily Pool & Playing Cards Socially During Business Hours from January 1, 2013 to January 1, 2014 as submitted by the Fraternal Order of Eagles – Saco Aerie #3792.

The motion passed with seven (7) yeas.

Note: The complete item commentaries are listed below.

2. CONFIRM THE MAYOR’S REAPPOINTMENT OF DAVID BEDELL TO ZONING BOARD OF APPEALS

The Zoning Board of Appeals consists of seven (7) members appointed by the Mayor and confirmed by the City Council for a term of 5 years.

Primarily, the Board, after public hearing and majority vote of its members, will decide administrative appeals, planning board appeals, variances, historic preservation commission appeals, shore-land variances, and denials of building permits.

Mayor Johnston has appointed David Bedell of Lincoln Street, to a 5-year term on the Zoning Board of Appeals.

3. ZONING ORDINANCE AMENDMENT: CARWASH IN THE I-2 DISTRICT – (2ND & FINAL READING)

‘Amendment to Add Car Washes to the I-2 Use List, Dated September 11, 2012’

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

410-12. I-2 INDUSTRIAL BUSINESS DISTRICT (ed. note: includes I-2b district at former Maine Turnpike Exit 5) (Amended 8/1/88, 9/19/88, 3/2/92, 3/16/92, 4/1/91, 6/4/91, 7/6/93, 7/6/93, 2/28/94, 2/19/02, 5/21/12)

PERMITTED USES

1. Hotels and motels
2. Retail uses (I-2b only)
3. Accessory uses, including eating establishments associated with hotels and motels
4. Teen Center
5. Financial institutions
6. Business offices
7. Business services
8. Hospitals and clinics for humans
9. Research and testing labs
10. Light Industry
11. Any use permitted in the Resource Protection District
12. Essential services
13. Municipal Uses
14. Recycling center
15. Nursery School

16. Adult day care center, Type 1 and 2
17. Municipal animal incinerator
18. Enclosed Sports Arena
19. High Voltage Transmission Lines (Amended 12/15/08)
20. Commercial School
21. Elder/Disability Housing Facility-Limited Service (5/21/12)
22. Elder/Disability Care Facility – Full Service (5/21/12)
23. Elder/Disability Housing Facility (in conjunction with uses 21 or 22) (5/21/12)
24. Places of Worship (Amended 7/16/12)

CONDITIONAL USES

1. Self-service storage units (Amended 10/2/86)
2. Distribution (including not more than 10% of gross floor space for retail purposes)
3. Public and private schools
4. Day Care Centers
5. Registered dispensary, grow-only (Amended 7/19/10)
6. Addiction Treatment Facility (Amended 12/6/10)
7. Car washes in I-2 only (not to include I-2b)

4. ASSET FORFEITURE ACCEPTANCE – DAVIS

The Office of the Attorney General requires the legislative body of the municipality involved in any asset forfeiture to publicly vote to approve the acceptance of the assets each and every time the courts make them available for disposal.

This matter, State v. Ruanita Davis, involves the potential forfeiture of up to \$1,390.50 to the City for its participation in the investigation of the drug case.

5. APPLICATIONS FOR A LICENSE TO OPERATE GAMES OF CHANCE: DAILY POOL AND CARDS

Fraternal Order of Eagles – Saco Aerie #3792 has applied for two Licenses to Operate Games of Chance: Daily Pool & Playing Cards socially during business hours from January 1, 2013 to January 1, 2014.

The applicant submitted their applications in accordance with the provisions of Title 17 M.R.S.A. Chapter 13-A, and in accordance with the Rules and Regulations promulgated by the Chief of the State Police governing the operation of Beano/Bingo or Games of Chance.

VII. ADJOURN THE MEETING

Councilor Tripp moved, Councilor Tardif seconded to adjourn the meeting. The motion passed with unanimous consent. TIME: 8:25 p.m.

Attest: _____
Michele L. Hughes, City Clerk