

State of Maine

County of York

City of Saco

I. CALL TO ORDER - On Monday, September 16, 2013 at 7:00 p.m. a Council Meeting was held in the City Hall Auditorium.

II. ROLL CALL OF MEMBERS AND PLEDGE OF ALLEGIANCE - Mayor Mark Johnston introduced the members and determined that the Councilors present constituted a quorum. Councilors present: David Tripp, Leslie Smith Jr., Philip Blood, Arthur Tardif, Eric Cote, and Marston Lovell. Councilor Marie Doucette was absent.

III. GENERAL: On Behalf of the City of Saco, Mayor Johnston and the City Council recognized the Saco Eleven and Twelve Year Old All Star State Little League Champions.

The Mayor and City Council also presented the Government Finance Officers Association Comprehensive Annual Financial Report Award to the City Finance Director, Cheryl Fournier.

IV. AGENDA

A. (Public Hearing) Zoning Ordinance & Map Amendment: Bradley Street

Among the many recommendations found in the Land Use section of the 2011 Comprehensive Plan is this: “Revise the Zoning Ordinance to implement the land use designations set out in the Future Land Use Plan including creating/revising zoning districts as necessary. This includes revisions to and/or the creation of new mixed-use and non-residential districts as needed.”

The current proposal addresses an area between Boom Road and Bradley Street east of the Turnpike, one of the “...areas of the City that are suitable for residential development and are served or potentially can be served by public water and/or public sewerage.” It is currently zoned R-1d, and would be rezoned to R-2, thereby reducing the minimum lot size for a single-family home from 15,000 s.f. to 7,500 s.f., and allowing multi-family dwellings as a conditional use, where they are not currently allowed.

The proposed changes were reviewed by the Planning Board on June 11, July 9 and July 23, and are forwarded to the Council with a positive recommendation.

The Council discussed this item in Workshop on August 5, 2013; the First Reading was on September 3, 2013.

Councilor Tardif moved and Councilor Smith seconded and “moved to open the Public Hearing on the Zoning Ordinance and Map Amendment to Rezone an area off Bradley Street.”

Councilor Lovell stated that many items on this evening’s agenda deal with this certain area of Saco. Saco currently doesn’t have a good comprehensive plan in regard to the zoning issues of this area. It appears that the City is “hopscotching” its way through the emerging zoning issues of this area, and that he is concerned by this.

Mayor Johnston said that there is currently one applicant requesting a change to the

Comprehensive Plan.

Councilor Lovell reiterated that he is troubled by this current approach.

The Mayor then polled the Council for a vote to open the Public Hearing. The Public Hearing was opened by unanimous consent.

Mike Eon asked to speak to Councilor Lovell's comments. He said that this issue had been debated for some time, and his point was that the Planning Board is behind this change, and he would ask the Council not to table the issue now.

Councilor Lovell said that it was not his intention to move to table, but to deal with this issue in piecemeal fashion troubled him. It doesn't look as if the City has a Comprehensive Plan to look at the big picture in this area.

Mr. Eon said that the Comprehensive Plan had clearly addressed the issue of the turnpike affecting the end of water, sewer and sidewalks for that area.

Mr. Eon said that he understood Mr. Giovanis was proposing some commercial development, and that he was not against that. He said that he believes the densities need to be looked at in that area. Perhaps something similar to what is across the street in the R-2 Zone, or the M-3 or M-4 that was created along the Northern section along Route 1.

George Giovanis said that he has no issue with what Mr. Eon had said. He said that he believes there are two separate issues here. The first is the residential development occurring along Bradley Street, and the second is the development along the Maine Turnpike corridor. The City seems to be working on developing a greater economic corridor along the length of the turnpike. Mr. Giovanis said his proposal was a sort of test to see how things go. If this works for him and for Mr. Douville, then the City could take a good look to see what they would like to do with the rest of that area.

Mr. Giovanis said that he would not like to see houses abutting the turnpike, with giant walls up against the turnpike. He said that he felt the highest and best use for the city would be commercial development along the turnpike, that would integrate into the residential neighborhoods. He said that he believes that mixed use makes the most sense right along the corridor, but what Mr. Eon is proposing, where he is proposing it, makes the most sense.

Councilor Tardif then said that this had come up for consideration three times since he had been on the Council. He asked Mr. Eon if 7500' would be too small for this area. Mr. Eon replied that he did not think so, and that it was in keeping with the basic intention of the Comprehensive Plan for this area.

Councilor Tardif said he was also concerned about the land behind the Kimball Health Center. Mr. Eon said that he believed that had already been addressed, that rezoning had already occurred in that area, as well as along Route One in the Northerly part of the city. Mr. Eon said that he believes this is a proven commodity that works well. He said that he would not be in favor of 1500 to 2000 square feet per unit.

Jason Labonte spoke, saying that he is interested in developing land across the turnpike from the area currently in question, and that he understood that the Council might be looking at extending this zone across the turnpike to that area as well. He said that he had looked at this in multiple ways, where he had a contract zone that he had been attempting to get approved currently. He said that he had listened to several of the Council members over the last several weeks, saying that they did not want high density zoning in this area, and yet that is exactly what is being proposed here.

He said that he was not opposed to what Mr. Giovanis was proposing for his property, but he knows that there will be some controversy with his contract zone on the other side of the turnpike. "I would like a higher density than what we have currently, but I agree with Mike. This is opening up a can of worms." He said that he understands that the Council wants to look at the commercial aspects of this, but that they have also said that they did not want to create another Storer Street, and that is exactly what is they would be creating.

Mr. Labonte said that if that is what the Council wanted to do with Mr. Giovanis, and if he is doing a contract zone, and that is what he wants to do with his property, then he has no objections. As for Mr. Labonte's land on the other side of the turnpike, he doesn't see any need, and would rather not see it at all on their parcel. He said that he knows the Council is looking at broadening the spectrum, but that he is not interested.

Mayor Johnston then asked if anyone else wished to speak. There were no further requests to speak.

Councilor Tardif moved, seconded by Councilor Tripp, to close the Public Hearing and be it ordered that the City Council set the Second and Final Reading for the Zoning Ordinance and Map Amendment to Rezone an Area off Bradley Street for October 7, 2013.

The Motion passed with six (6) yeas.

B. (Second & Final Reading) Code Amendment 34-31 (G) Sick Leave Usage Prior to Disability Coverage.

The City Code in Personnel Section 34-31 (G) Sick Leave refers to an employee's use of sick and vacation time due to a non work related injury prior to receiving any payments under the *long-term* disability plan. That reference should be updated, as employees are now covered by a short-term disability program with the optional long term disability program.

The Council discussed this item at Workshop on July 1, 2013 at which time the Council voted to table for discussion on August 5, 2013. The First Reading was held on August 5, 2013, and the Public Hearing on September 3, 2013.

**"Code Amendment Chapter 34, Personnel - §34-31 Sick Leave (G),
Dated July 1, 2013"**

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

Chapter 34, Personnel §34- 31 Sick Leave

(G)

When an employee is absent due to any injury not compensable under the Workers Compensation Act, the employee is entitled to use accumulated sick days and vacation time prior to receiving payments under the ~~long-term~~ disability plan. While receiving payments from the disability plan, the employee shall continue to earn and accumulate sick leave and other leave benefits until that employee is separated from employment with the City.

Councilor Blood moved and Councilor Lovell seconded and “Be it ordered that the City Council ordain and approve the Second and Final Reading of the document titled, ‘Code Amendment Chapter 34, Personnel - 34-31 Sick Leave (G), Dated July 1, 2013’ ”.

There was no discussion. The Motion passed with six (6) yeas.

C. (Second & Final Reading) Code Amendment 34-6.1 Definition of Types of Employment-Affordable Care Act 2014.

In order to comply with the Affordable Care Act (ACA) the Council needs to address either the definition of Full Time and Part Time employee and/or the health insurance contributions of employees. There are several options that would address this issue, which are briefly described in Exhibit A.

The Council discussed this item at Workshop on July 1 and tabled for discussion on August 5, 2013. The First Reading was held on August 5, 2013; and the Public Hearing on September 3, 2013.

“Code Amendment §34-6.1. Definition of Types of Employment (A) (B) dated July 1, 2013”

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

§34-6.1.

- A. Full-time employment is the appointment of an employee to work 30 hours or more per week on average annually in appointment to a n annually budgeted position to work a standard workweek of not less than 37.5 hours on a continuing and indefinite basis, i.e., with no present termination date. Such employees receive all benefits provided herein upon completion of said probation, unless otherwise noted.
- B. Part-time employment is ~~an~~ the appointment of an employee to work less than 30 hours per week on average annually in a single ~~to an~~ annually budgeted position ~~to work less than 37.5 hours on average, but~~ on a continuing and indefinite basis. Such employees are not eligible for all benefits. Such employees are eligible for the following benefits on a pro rata schedule: holidays, bereavement, optical and dental, vacation, sick leave and health insurance.

EXHIBIT A: PROPOSED SOLUTIONS

(1) Use a sliding scale based on wages to determine employee contributions to health insurance. This would allow lower paid employees’ healthcare contributions to be adjusted to meet the affordability requirement of ACA. However, this would be in direct contradiction to the Council objective to have all employees equitably contribute 20% to their health insurance cost. As well, it would have to be negotiated across all contracts, with some employees advantaged over others.

(2) Set a standard employee contribution amount. This would mean all employees would pay a lesser amount in health care contributions so that lower paid employees’ healthcare contributions meet the affordability requirement of ACA. However, this would be in direct contradiction to the Council objective to have all employees equitably contribute 20% to their health insurance

costs. As well, it would have to be negotiated across all contracts (but as highly favorable to employees, it likely would be well received).

(3) Provide prorated benefits for Part Time employees at a higher level.

This would mean Part Time employees would pay a lesser amount in their health care contributions to meet the affordability requirement of ACA. However, this would be in effect a contradiction to the Council objective to have all employees equitably contribute 20% to their health insurance cost. It would have to be negotiated in one contract, and it would result in these employees being advantaged over Full Time employees.

(4) Provide prorated benefits for Part Time employees based on actual hours worked.

This would mean Part Time employees would pay a prorated amount in their health care contributions based on the actual hours worked, measured in a given period, instead of using the current practice for calculating pro rate benefits, in order to meet the affordability requirement of ACA. The measurement period would likely be the prior twelve months to align with other provisions of ACA, and the contribution rate would be fixed for the year per ACA provisions. Using actual hours worked to calculate the employee contribution would comply with the Code provision's current wording, however it contradicts the current practice, which has been to provide the benefit at 75% to an employee who works over 30 but less than 40 hours. This scenario might have to be negotiated in one contract. The outcome of implementing this approach would mean as any one of the three factors involved in the calculation changed: insurance premiums, wage rates, and/or hours worked, the contribution rate would have to be recalculated annually to ensure the affordability requirement of ACA was being met. If the affordability requirement was not being met, then one of those three factors would have to be adjusted, or the city would face potential penalties.

(5) **Change the Code definition of Full Time employment to match the federal definition of full time:** an employee working 30 hours or more per week on average annually, and change the City Code definition of Part Time employment accordingly to an employee working less than 30 hours per week on average in a single position.

This would mean that the two currently Part Time employees who work over 30 hours per week would become Full time employees and so qualify for all benefits. As the two already must be provided with health insurance that meets the affordability requirement per ACA, the major impact on the city is from providing other benefits; the additional cost would be approximately \$1500/year per person (for dental, retirement, and disability). No other employees would be impacted by this definition change; as noted earlier, there are very few Part time benefit eligible employees currently, and they would not be impacted by this change because of their weekly average hours worked is less than 30. No other employees would qualify as Full Time in FY14; as well, departments are on notice about the weekly hours maximum, so there should be no further employees qualifying by default in the coming years.

Councilor Blood moved and Councilor Tripp seconded and "The City of Saco hereby Ordains and Approves the Second & Final Reading of the document titled, 'Code Amendment 34-6.1 Definition of Types of Employment (A) (B) dated July 1, 2013.'"

Councilor Lovell said that he was bothered by the wording of the document, that recognizing the Affordable Care Act was appropriate, but that the City was now adding additional benefits and additional costs for employees which had previously been considered part time. "There is an additional expense beyond that which is required of us by the Federal Government. It's a nice thought, but on the other hand, it is an additional expense into the budget."

Councilor Tripp asked the City Administrator Rick Michaud if the Council had

any say in this matter.

The City Administrator responded that the Federal Law dictates this definition. Federal law does not dictate how many employees are in each category. The Council could say that any employee that fell within this category could have their hours reduced, so as to not be eligible for this benefit. Councilor Doucette raised this issue a couple of meetings ago, and the Administrator had spoken about this regarding Parks and Rec. employees, many of whom are long term and highly productive people who would be effected by this. While those employees do bring cost, they also bring a great deal of productivity that would be in jeopardy if they left. So, part of the answer is “yes”, and part of the answer is “no”.

Councilor Tripp said that in doing this, it would decrease the hours to twenty-nine hours, facing the probability of losing good people, requiring us to replace one person with two.

The City Administrator answered: “Yes”.

With no further discussion, The Mayor polled the Council. The Motion was passed by a vote of four (4) to two (2), with Councilors Tardif and Lovell voting in the minority.

D. (Second and Final Reading) Contract Zone - 6 & 8 New County Road

Applicants Robert and Jeanne Labonte propose a contract zone for their two parcels at 6 and 8 New Country Road. In order to make the project feasible – costs include extending the public sewer across the Turnpike – they ask that the minimum lot size requirement be reduced from 15,000 s.f. to 10,000 s.f. so that more lots would be possible than otherwise allowed in the R-1d zone.

The Planning Board reviewed this request originally as a proposed zoning map amendment, but felt that the applicant would be served in a timelier manner via a contract zone application. The Board made a positive finding on each of the four standards for a contract zone; and forwards a positive recommendation for the contract zone as proposed.

The Council held a First Reading on August 5, 2013, and the Public Hearing on September 3, 2013.

**Contract Zone Agreement
by and between
Robert and Jeanne Labonte and the City of Saco**

March 5, 2013

THE CITY OF SACO HEREBY ORDAINS:

I. That the Zoning Ordinance of the City of Saco, dated January 2, 1985 and amended through Nov. 5, 2012, be amended as further described in this Contract by and between the City of Saco and Robert and Jeanne Labonte (Applicants).

1. The Applicant proposes to develop a residential subdivision on a portion of the parcels at 6 and 8 New County Road (Subject Property). The Subject Property is identified as Tax Map 87, Lots 1 and 1-1 on City of Saco tax maps.

2. The Subject Property is the site of one single-family dwelling, owned and resided in by the Applicants, and outbuildings.
3. A copy of a Warranty Deed, recorded June 29, 1981, is submitted by Mr. and Mrs. Labonte as evidence of right, title and interest. Said deed is recorded in Book 2811, Page 268 at the York County Registry of Deeds.
4. The Subject Property is in the R-1d zoning district.
5. The Subject Property has an area of 23.5+/- acres. The minimum lot area requirement in the R-1d zoning district is 15,000 square feet. The Subject Property includes two parcels that are each conforming with respect to minimum lot area.
6. The Subject Property has 150 feet of frontage on New County Road: Lot 1 has 150 feet of frontage on New County Road, while Lot 1-1 has no direct frontage on a public way, but benefits from a 20 foot wide right of way across a portion of Lot 1. Each of the parcels are existing lots of record. The minimum frontage requirement for a parcel in the R-1d zoning district is one hundred (100) feet for a lot serviced by public sewer.
7. The Applicant proposes to develop a residential subdivision, and requests that certain lot and yard requirements found in Article 4 of the Zoning Ordinance be amended:
 - a. That the 15,000 s.f. minimum lot area in the R-1d zone be reduced to 10,000 s.f. minimum lot area.
8. The Zoning Ordinance provides no authority for either the Planning Board or City staff to deviate from the stated lot and yard requirements.
9. Occasionally, competing and incompatible land uses conflict; and traditional zoning methods and procedures such as variances, conditional use permits, and alterations to the zone boundaries are inadequate to promote desirable growth. In these special situations, more flexible and adaptable zoning methods are needed to permit differing land uses in both developed and undeveloped areas, and at the same time recognize the effects of change. Accordingly, this Contract Zone Agreement is proposed by the Applicants.

II. This contract amends the Saco Zoning Ordinance as follows:

1. Table 412-1 is amended to establish a minimum lot size of 10,000 square feet for individual building lots on the Subject Property.
2. Sections 10.12 and 11.14 of the Subdivision Regulations are amended in order to allow the implementation of a Low Impact Design stormwater management system that shall comply with existing City and state water quality and quantity standards.

III. This Contract Zone is subject to the following conditions and restrictions, as provided for in Section 1403 of the Saco Zoning Ordinance:

1. The provisions of this Contract Zone shall become effective only in the case of a subdivision plan application being submitted by the Applicants, or an agent thereof on behalf of the Applicants. Should no subdivision plan application be submitted to the Planning Office of the City of Saco within two (2) years of

the date of approval of this Agreement, then the provisions herein shall become null and void.

2. Minimum lot and yard requirements established in Table 412-1 of the Zoning Ordinance shall be reduced in accordance with Section II.1-3 above.
3. The subdivision shall be serviced by public sewer and public water.
4. As addressed in Section 10.11.5.11 of the Subdivision Regulations, the proposed subdivision shall include sidewalks along all future City streets.
5. Provision shall be made for pedestrian and bicycle access to and from the subdivision. If the Turnpike Bridge on New County Road is found to be too narrow or otherwise inadequate for the construction of a sidewalk connection to the existing City sidewalk that ends at the corner of Bradley Street and Shadagee Road, then other measures creating a pedestrian and bicycle friendly connection to downtown Saco including signage, trail connections, and/or contributions to future sidewalk construction shall be proposed by the applicants and found acceptable by the Planning Board during subdivision review.
6. Except as addressed in this Contract Zone document, the project shall adhere to all other applicable provisions of the City of Saco Zoning Ordinance and Subdivision Regulations.
7. The letter submitted by the Applicant dated June 19, 2013, and the memorandum from Howard Carter, Director of the Saco Water Resources Recovery Division dated June 12, 2013 shall be incorporated into this Agreement, and shall be regarded as binding upon the Applicant.
8. This Document and Contract Zone affects only the Subject Property: the parcels of land identified as Tax Map 87, Lots 1 and 1-1 on City of Saco tax maps.
9. This contract and its provisions shall specifically and exclusively apply to the Contract Zone request submitted by the Applicant.
10. This Document and the Contract Zone it creates shall not be transferable prior to development as proposed by the Applicant unless said transfer is approved by the City Council.
11. Failure of the Applicant to submit application for a residential subdivision as proposed to the Planning Office for review and approval by the Planning Board within two (2) years of the approval of this Contract Zone shall render this Agreement null and void. In the event that permits or approvals are delayed due to circumstances beyond the control of the Applicant, this deadline may be extended by one (1) year upon written request submitted by the Applicant.
12. Breach of these conditions, restrictions and/or Agreement by the developer shall constitute a breach of the contract. Said breach of contract shall constitute a zoning violation, subject to enforcement action by the City of Saco.

IV. Pursuant to authority found in 30A M.R.S.A. Section 4352 (8), and the City of Saco Zoning Ordinance, Section 1403, and by vote of the Saco Planning Board on March 19, 2013, and the Saco City Council on _____, 2013, the following findings are hereby adopted:

- A. City Tax Map 87, Lots 1 and 1-1 are parcels of an unusual nature and location, for the following reasons:
 - i. Lot 1-1 includes a 10,500 s.f. former poultry barn and two silos. The applicants do not propose to return to raising poultry, and hope to instead pursue the highest and best use of the property.

- ii. The parcels abut the Maine Turnpike, are serviced by public water, are within several hundred feet of existing public sewer service, and are owned by a party interested in pursuing development possibilities.
- iii. The parcels are bisected by a 30 foot wide easement, within which exists a 24 inch water main owned by Maine Water Company. Development within the easement will be limited by the agreement between the applicants and the Water Company, recorded in 1947.

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

General Pattern of Development

1. The guiding principle of the City's effort to manage the use of land should be to encourage a development pattern which maintains the historical pattern of a built-up urban center surrounded by a rural outlying area. To facilitate this pattern, the City should focus on directing development to vacant or underutilized areas within the built-up area or to designated development areas on the fringe of the built-up area where public water and sewer service is or can be provided and on directing development away from areas with natural constraints for development or in which public services are not available.

4. New development should be accommodated in designated growth areas where the City can provide municipal services and where development can occur in an environmentally sensitive manner. As a general principle, these areas should be served or should be able to be reasonably served by public water and public sewer service.

Population and Demographics

- 1. The City should assure that residential growth is accommodated in appropriate locations that are properly zoned and able to be provided with public services.
- 2. The City should continue to provide for the construction of a wide range of types of housing at a variety of densities and types to assure that a diversity of people can continue to live in the City including younger households.

Sewer Service

- 3. The City should allow residential development at higher densities in those areas where sewer (and water) service is available than in those areas where service is not available.
- 4. The City should establish a mechanism to facilitate the extension of sewer service in areas that are designated for residential growth at the fringe of the existing service area. This program should allow a developer who finances extensions or capacity improvements to recover some of those costs from other users as building or development occurs.

C. The proposed use is consistent with the existing uses and permitted uses within the original zone. The original zone is the R-1d zone, here described in the Zoning Ordinance, Section 405-1. R-1 LOW DENSITY DISTRICT (includes R-1a, R-1b, R -1c and R-1d designations) "The R-1 classification is designated for areas which are predominately single-family residential in character. It includes both sewered and unsewered land, with appropriate lot size requirements for each situation. New land uses in this district are restricted to low-density residential and associated uses."

Allowed uses in the R-1 districts include single family dwellings, public parks and playgrounds, public and private schools, places of worship, two-family dwellings, day care centers, kennels, and stables.

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

V. Based on the above findings, conditions and restrictions, the City Council hereby incorporates this Contract Zone agreement into the Saco Zoning Ordinance by reference.

By signing this contract, both parties agree to abide by the conditions and restrictions contained herein.

Adopted by the Saco City Council on _____, 2013.

City of Saco

Robert and Jeanne Labonte

by _____

by _____

Richard Michaud
City Administrator

Robert and Jeanne Labonte
Owners and Applicant

Councilor Cote moved, Councilor Lovell seconded, and “The City of Saco hereby Ordains and Approves the Second and Final Reading of the document titled, **Contract Zone Agreement By and between Robert and Jeanne Labonte and the City of Saco, dated March 5, 2013.**”

Councilor Lovell restates his concern that the Council needs to be looking at the big picture.

Councilor Tardif is concerned that there is too much contract zoning taking place.

Councilor Cote states that the contract zone is a useful tool. Many communities do not have it, and Saco has used it well. Before contract zoning, The Council was amending the zoning ordinance frequently, making the ordinance extremely complex. Contract zoning was used to establish Atlantic Heights, off the Ferry Ferry Road, which includes some beautiful buildings, provides some wonderful service, and is one of the City’s largest employers. The City couldn’t have done that, and some of the other successful housing projects, without contract zoning.

Councilor Cote said that in regard to this project, while he understood the objection, this land is along the turnpike and sewer access would have to cross the turnpike to service it. It makes sense to reduce the lot size on this unique piece of land between the turnpike and the golf course. If anyone thinks that the lot size is too small, then they don’t have to buy a house there.

Councilor Cote said that he likes some of the proposals that have been made, such as the streetlights will all be LED streetlights, and ten of the houses having only two bedrooms, in response to the City’s concern about the number of people in that area.

Councilor Tripp asked The City Administrator in regard to Section 3, Paragraph 1, “Does this paragraph limit this development to this one developer”. The City responded: “Yes.”

Councilor Smith said that despite the concerns expressed about The Comprehensive Plan, that it contains provisions that allow for adjustments to be made as necessary.

Councilor Blood said that he agreed with Councilor Lovell that there is a danger of piecing things together and finding out later that it might have have been a mistake. In regard to this project, Councilor Blood said that he always has been, and still is, concerned about the density in that area,

and this motion is something that he will not support.

There was no further discussion.

The Motion was passed by a vote of four (4) to two (2), with Councilors Blood and Tardif voting in the minority.

E. Retirement Health Savings Program

To establish a retirement health savings (RHS) plan was discussed in Workshop sessions on July 1, 2013, and again on September 3, 2013. The RHS plan allows compensation to be set aside tax free for both employer and employee and held in a Trust for future use by participants upon separation of service for medical expenses; there is no cost to the employer to establish such a plan. The RHS plan was approved by the City Council on September 3, 2013, to proceed. The next steps are to:

- (1) Authorize the adoption of a resolution to establish the plan. The draft Suggested Resolution for Adoption form supplied by the vendor for the city's use is attached for review.
- (2) Authorize the execution of the RHS Plan Adoption Agreement. A draft Adoption Agreement is attached for review. The initial plan to be implemented is identified in this document; it will cover non-union employees, and the compensation to be included in the plan is a) one hundred percent (100%) of the accrued sick leave eligible to be paid per City Code to a separating employee, and b) any sick leave bonus day paid to an employee per City Code. This initial plan will serve as a model for any subsequent plans incorporated upon completed negotiations with other eligible participant groups.
- (3) Authorize the execution of an Administrative Services Agreement (ASA). A draft ASA is attached for review. This document allows ICMA to administer the RHS plan for the city. There is no cost to the city to establish the RHS plan, or the Trust that holds the funds. A copy of the Trust Declaration document is also attached for the record.

Councilor Cote moved, seconded by Councilor Lovell, and "Be it ordered that the City Council adopt the document titled, '**Suggested Resolution for the Adoption of the Vantagecare Retirement Health Savings (RHS) Plan;** and further to execute the following documents:

Employer Vantagecare Retirement Health Savings (RHS) Plan Adoption Agreement';

Administrative Services Agreement between the ICMA Retirement Corporation and the City of Saco'

ICMA RC Declaration of Trust of the City of Saco - Integral Part Trust."

Councilor Cote states that this is a good plan, allowing both the employees and The City to save money.

Councilor Smith asks if The City is setting up this fund to allow the employees to set aside money: like "a medical 401K"?

Personnel Officer Stephanie Weaver responds that it is a medical flexible spending account, allowing pre-tax money to be set aside and withdrawn for only those items that are IRS allowable, which happens to be a long list. The funds are still available after separation

from service to be used for those same medical related expenses such as medicare co-pays, and the employee's beneficiaries may inherit the funds to be used only in the same manner.

Furthermore, Councilor Cote is correct: 7.45% is the amount The City will save.

Mayor Johnston then polled the Council. The Motion passed with six (6) yeas.

F. (Public Hearing) Downtown Plan Amendments Re: Community Revitalization

The City Council has a chance to help bring \$2 million in housing rehabilitation money to Downtown Saco and to help improve the neighborhood on Water Street simply by amending the Downtown Plan.

The Riverview Apartments on Water Street began life as a 19th century industrial complex, and saw new life 30 years ago as a community revitalization project. This 61 unit rental project is located in the former Garland Manufacturing buildings along Water Street and the Saco River. Originally developed in the early 1980's via the MSHA 60/40 Rental Program, this project was the centerpiece of the revitalization of Water Street, which accomplished the following goals through a UDAG grant awarded to the City;

-Relocation of Garland Manufacturing to the newly created Saco Industrial Park.

-Re-use and rehabilitation of the former Garland Manufacturing facility (an historic mill) into 61 market rate rental apartments and 6000 SF of commercial office space.

-Street, sidewalk and landscaping improvements in the public R.O.W. along Water Street.

The project significantly changed the former industrial section of Water Street into an integrated mixed use portion of the downtown.

After 30 years, however, these buildings now need some attention. Owners Fall Development Associates (David Bateman and sons Nathan and Aaron) have the opportunity to apply for financing of a major rehab with the Maine State House Authority. The company applied last year and missed being successful by very few points in the application process. This year's application is due on September 26.

Maine Housing has a scoring system which gives significant points for a city's Community Revitalization Plan. We submitted the Downtown Plan (adopted by the Council in 2007) in support of last year's application but they did not find that it met their standards for a Community Revitalization Plan.

However, the Council in 2009 adopted a Housing Strategy and in 2011 adopted a Comprehensive Plan, both of which contain revitalization strategies and other language which are helpful. The staff has assembled these and related language as a new Chapter 7 of the Downtown Plan. The Council held a workshop on the proposed Chapter 7 on September 3. A map and an introductory page have since been added.

Councilor Lovell moved, seconded by Councilor Tripp to open the Public Hearing on the 'Amendments to the Saco Downtown Plan' dated September 16, 2013.

There was no comment from the public.

Councilor Lovell moved and Councilor Smith seconded to close the Public Hearing and Be ordered that the City Council adopt the 'Amendments to the Saco Downtown Plan', dated September 16, 2013.'

The Motion passed with six (6) yeas.

V. CONSENT AGENDA

Councilor Lovell moved, Councilor Blood seconded to approve consent agenda items # 2, 3, 4, 5. Councilor Tripp asks to have #5 removed from consideration. The Mayor pulled agenda item #5.

#2. “Be it ordered that the City Council make an exception to Chapter 4, Article VIII of the Administrative Code - Policies and Procedures - 4-40 Loaning or Selling City Property or Equipment to declare as surplus property the List titled, “**Surplus Personal Property August 27, 2013**” and authorize the city Administrator to dispose of the property in the most advantageous way.”

The City has 6 vehicles or pieces of equipment to consider declaring as surplus. The equipment includes:

- One Ford Crown Victoria (6 years old with over 146,000 miles);
- One Ford Taurus sedan (12 years old with nearly 79,000 miles);
- One LeRoi air compressor(20 years old with only 742 operating hours); and
- Assorted equipment the City no longer uses or needs.

These items have been reviewed by all City Departments and no other department has a need for the equipment. The City Council discussed this item at Workshop on September 3, 2013.

SURPLUS PERSONAL PROPERTY, AUGUST 27, 2013

Description	Make	Model	Year	Condition
Sedan (VIN - 2FAFP71W8 7X134337)	Ford	Crown Victoria	2007	Condition: Fair. 146,600 miles. (Last ME State Safety Inspection July 2013) KBB Approx Value: \$3,200
Towed Compressor (S/N - 3217X280)	LeRoi	Q185Dj	1993	Condition: Fair. 742 operating hours. Excess to need -- Infrequently used; stored outside year round.
Manually Operated Boat Black Water pump	Edison	Unknown	Unknown	Condition: Unknown (suspect there are missing parts)
Portable Welding Vent	Car-Mon Products, Inc.	Unknown	Unknown	Condition: Unknown. Has a Blador 0.75 HP motor (S/N W4-96) and a Dayton blower (S/N 2C973)
Walk Behind Sweeper (S/N 9503025)	Sweepster	C-36	1995	Condition: Poor. Briggs & Stratton engine. Excess to need -- infrequently used (two still on-hand that are 7 and 13 years younger).
Sedan (VIN - 1FAFP53U31A126825)	Ford	Taurus	2001	Condition: Poor. 78,920 miles. (Failed ME State Safety Inspection March 2013 due to extensive corrosion both rear wheel wells and must replace corroded brake lines; headlight lenses are clouded). KBB Approx Value: \$1,500.

#3. “Be it ordered that the City Council authorize payment to the York County Budget Committee c/o Southern Maine Regional Planning Commission in the amount of \$1,190, from **account number 10430/500428 Legal Service** for assistance with legal fees.”

The York County Budget Committee (Budget Committee) has requested funds from the counties 29 communities to create a legal fund for the Committee’s pursuit of a Declaratory Judgment from the Court.

The legal issue stems from the York County Commissioners (Commissioners) censure of the 14 members of the Budget Committee in response to the Committees refusal to sign a *“County Code of Ethics”* which includes a clause that would give the Commissioners authority to review, modify or reverse a vote of the Budget Committee.

Saco’s portion of the legal fund contribution is \$1,190.

The Council discussed this item in Workshop on September 3, 2013

York County Budget Committee
c/o John Sylvester, Chairman
PO Box 667
Alfred ME 04002-0667
Cell: 432-1457

MEMORANDUM

Date: July 25, 2013
To: 29 York County Cities and Towns: Selectboards, Councils and Managers
From: Members of the York County Budget Committee
Subject: Request for assistance to create a legal fund.

We wrote to you on June 25, 2013 regarding the continuing difficulties between the Budget Committee and the York County Commissioners.

At that time we explained to you that it was likely that the Commissioners would censure the fourteen members of the Committee for refusal to sign a County Code of Ethics which the Committee's Attorney has advised is illegal and recommended that we not sign.

On July 10, 2013 at a 6:00 P.M. meeting of the Commissioner, by a vote of 4 to 1, the Commissioners voted to censure the Budget Committee for its refusal to sign its Code of Ethics.

When we wrote to you in June we explained that we could write and adopt our own Code of Ethics. We have done so. It mirrors most of the Commissioner's policy except for those parts that would give the Commissioners authority to review, modify or reverse a vote of the Budget Committee. The Commissioners insist on keeping this provision, which illegally circumvents the budget process established by the Legislature. As you know, the statute gives the Budget Committee (representing the municipalities) the final say on the County Budget. Rather than attempting to reach a compromise on this issue, the Commissioners voted for the censure resolution. This has real consequences for your municipality because the County is taking the position that votes by the Budget Committee are now "voidable" due to the censure vote.

We reconvened our July 10, 2013 meeting after we were censured by the Commissioners. At that time, the twelve of us present voted unanimously to appeal the Commission's action in Superior Court.

It appears that costs associated with that action and an outstanding invoice for legal services for June, 2013 will total as much as \$15,000.00

When we wrote to you in June, we asked, "Why should the cities and towns care? Ninety percent of the County's bills are paid for by the assessment of taxes by the Commissioners to

the 29 municipalities. The only check and balance on the wants of the County is the York County Budget Committee. A budget committee whose statutory authority is compromised by a censure based on an illegal Code of Ethics is a less effective check and balance on the County." We expect that the Commissioner's code of ethics, with its provision allowing them to "review" or "reverse" a vote of the Budget Committee, will be used by the Commission to challenge the Committee's integrity and independence on a regular basis.

The twelve members present at our meeting on July 10th have also pledged to provide their own financial resources to the York County Budget Committee legal account.

We have developed a spread sheet that mirrors the model of the way funds from the 29 cities and towns are raised to support the York County Advocacy Group. The funds will be placed in an account administered by the SMRPC. Funds received will be used to pay attorney's fees associated with the work done in June and all other legal costs associated with the appeal to Superior Court. Funds not used will be returned to the Cities and Towns.

If you wish to participate, an invoice for your municipality's share is enclosed. We would deeply appreciate your early attention to this request.

If you have questions or would like further information, please contact Budget Committee Chairman John Sylvester at (207) 432-1457 or by email at alfselectmen@roadrunner.com.

Sincerely,

Dwight Venell, Public
Member Acton

Dean P LePage, Elected
Member Limerick

Jim Emerson, Elected
Member Biddeford

David James, Public
Member Kennebunkport

David Spofford, Elected
Member Kennebunk

Paul Fecteau, Public
Elected
Member Lyman

Arthur J. Tardif, Elected
Member Saco

Tammy Jo Girard,
Member Waterboro

John Sylvester, Elected
Public
Member Alfred

Joseph Hanslip, Elected
Member Sanford

William Bartosch,
Member Shapleigh

Jo-Ann Putnam, Public
Member York

Richard Clark, Elected
Member Wells

David Barton, Elected
Member Ogunquit

cc: Attorney Bradley Morin, Bourque & Clegg LLC

Enclosure

Invoice

**York County Budget Committee
c/o SMRPC**

21 Bradeen Street Suite 304
Springvale ME 04083-1901

207-324-2952

Town of Saco 300 Main St Saco, ME 04072	July 25, 2013
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YCBC requested amount to assist with legal fees \$1,190.00

TOTAL AMOUNT	\$1,190.00
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Thank You!

Make check payable to:

York County Budget Committee
c/o SMRPC
21 Bradeen Street Suite 304
Springvale ME 04083-1901

4. "Be it ordered that the City Council grant the application for a License to Operate Games of Chance as follows: Queen of Hearts, Pull Tickets and Daily Attendance from October 1, 2013 to December 31, 2012 as submitted by the Biddeford and Saco Elks #1597.

Biddeford & Saco Elks #1597 has applied for a License to Operate Games of Chance as follows: Queen of Hearts, Pull Tickets and Daily Attendance from October 1, 2013 to December 31, 2013. The applicant has submitted their application 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

The motion passed with six (6) yeas.

#5 (First Reading) Code Amendment: Chapter 82 Fireworks

Last year the Council passed an ordinance banning consumer fireworks use in the Saco. The ordinance is being enforced by the police department. Because of the nature of the violation, police often find clear evidence that fireworks have been used at a particular property, but have no one who will acknowledge responsibility. This ordinance change makes the property owner, resident or tenant—whoever controls the property-responsible to

ensure compliance with the consumer fireworks ordinance. The police department visits some properties repeatedly, and it is very frustrating for neighbors whose peace is disturbed to have to tolerate this disruptive behavior on a regular basis.

The City Council discussed this item at Workshop on September 3, 2013

**“Saco City Code
Chapter 82 Consumer Fireworks, Dated September 3, 2013”**

(Please note the underline is new language while ~~strikethrough~~ is language to be deleted)

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

A. The same meaning as the term set forth in 27 CFR 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 U.S.C. Chapter 47.

B. Does not include the following products:

- (1) Missile-type rockets, as defined by the State Fire Marshal by rule;
- (2) Helicopters and aerial spinners, as defined by the State Fire Marshal by rule; and
- (3) Sky rockets and bottle rockets. For purposes of this subsection, "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 Violations and 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 \$200 and not more than \$400 per violation plus attorney fees and costs. For second and subsequent offenses, a fine of not less than \$300 and not more than \$600 per violation plus attorney 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 \$500 plus attorney fees and costs. For second and subsequent offenses, a fine of not less than \$1,000 per violation plus attorney fees and costs shall be imposed.

C. Any person or party who suffers, authorizes, or permits the property they own, lease or control to be used for the use or display of consumer fireworks shall be punished by a fine of not less than \$200 and not more than \$400 plus attorney's fees and costs. For second and subsequent offenses, a fine of not less than \$400 and not more than \$600 per violation plus attorney 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.

In regard to Item #5., Councilor Tripp asked if the City had legal right to proceed with this item.

Police Chief Brad Paul responded that after a previous meeting where this question had been raised, the city attorney had been asked to review the document. After his review, he suggested some minor changes which are now reflected in the current document as presented.

Councilor Tripp moved, seconded by Councilor Lovell and “The City of Saco hereby Ordains and Approves the First Reading of the document titled, ‘Saco City Code Chapter 82 Consumer Fireworks, Dated September 3, 2013’, and further moves to set the Public Hearing for October 7, 2013.

Mayor Johnston polled the Council. Motion passed with six (6) votes

VI. ADJOURN MEETING AND MOVE TO WORKSHOP

Councilor Tripp moved, Councilor Blood seconded to adjourn the meeting and move to workshop. Motion to adjourn and move to workshop passed with six (6) yeas. Meeting adjourned at 7:58 p.m.

Attest: _____
William T. Rankin, Deputy City Clerk