STATE OF MAINE  
COUNTY OF YORK  
CITY OF SACO

I. CALL TO ORDER – On Monday, October 8, 2013 at 7:02 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

V. CONSENT AGENDA:

Councilor Blood moved, Councilor Lovell seconded to approve consent agenda items #1, 2, 3, 4 and 5 as follows:

1. Be it Ordered that the City Council approve the minutes for September 3, 2013. Further move to approve the Order;
2. Be it Ordered that the City Council grant the applications for a License to Operate Games of Chance as follows: Turkey Shoot on November 16, 2013 and Ham Shoot on December 8, 2013, as submitted by the Fraternal Order of Eagles #3792. Further move to approve the Order;
3. Be it Ordered that the City Council authorize the purchase and outfitting of one police cruiser with the city’s accident insurance settlement. Further move to approve the Order;
4. The City Council hereby ordains and approves the First Reading of amendments to the Personnel Code §34-34 Family Medical Leave Policy; §34-34 MeFMLA; and §34-30 (A) other benefits; and further moves to set the Public Hearing on these amendments for October 21, 2013;
5. Be it ordered that the City Council ordain and approve the First Reading of the document titled, ‘Code Amendment §195-12 Maintenance of taxicabs; required equipment, dated September 16, 2013’, and further move to set the Public Hearing for October 21, 2013.

The motion passed with seven (7) yeas.

Note: The complete item commentaries are listed below.

2. APPLICATION FOR A LICENSE TO OPERATE GAMES OF CHANCE: FRATERNAL ORDER OF EAGLES #3792

Fraternal Order of Eagles #3792 has applied for Licenses to Operate Games of Chance as follows: Turkey Shoot on November 16, 2013 and Ham Shoot on December 8, 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.

3. APPROVE POLICE CRUISER PURCHASE

On July 22, 2013 in the early morning hours a well-publicized event occurred during which a 43 year old Massachusetts woman intentionally rammed three Saco police cruisers. Insurance adjusters have totaled all three of those vehicles due to extensive damage. Insurance money received is sufficient to replace one of those vehicles.

4. CODE AMENDMENT §34-34 FMLA; §34-33 Me FMLA; §34-30 SUBSECTION A: OTHER BENEFIT – (FIRST READING)

(1) Several changes to the Federal Law, as well as the need to update language of the city’s current policy to best practices, have led to a need to revise the existing FMLA policy, which in turn means the City Code S34-33 must be updated. The major FMLA policy changes are summarized as:
• To incorporate federal law changes for military personnel and families regarding the leave allowed in certain circumstances.
• To update defined terms in the policy.
• To provide clarifications on use of intermittent leave under FMLA to best practices.
• To start to clarify accrual of benefits during unpaid leaves to align across all employee groups.
• To incorporate language into the Code that clarifies an injury sustained under Worker’s Compensation that would otherwise qualify for FMLA will be treated as FMLA, as a best practice.
• To remove the city’s FMLA application form and replace with the correct federal form, thereby improving the process by providing employees with complete information once they alert the city of their medical situation.

(2) As a result of the changes to the Federal Family Medical Leave Act, the associated Maine FMLA language in the Code (Section 34-34) will need to be revised accordingly.

(3) The City Code section 34-30 Other Benefits, Subsection A, provides for non-union employees who must wear uniforms, protective clothing, or any type of protective devices, with an annual reimbursement allowance. The current language then lists rates, which are inaccurate, and the language also refers to union contracts, which creates ambiguity as to reimbursement amounts. This language should be revised in order to eliminate the need for the Council to amend the Code for any minor changes over time and to clarify the approving authority for allowable amounts per the approved budget.

“Code Amendment Chapter 34, Personnel - §34-33 Family Medical Leave of Absence, dated 10-07-2013”

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

Family Medical Leave Policy

I. Purpose

The City of Saco provides Family Medical Leave to eligible employees as mandated under the terms of the Family and Medical Leave Act of 1993 (FMLA) as well as under the Maine Family and Medical Leave Act (MFMLA).

II. Definitions

A. For purposes of this policy, the following definitions apply:

1. Eligible Employee: An employee who has been employed by the City for at least 12 months and for has worked at least 1,250 hours of service during the previous 12-month period immediately preceding the commencement of the requested leave.

2. Employment Benefits: All benefits provided or made available to the employee by the City, including group life insurance, health insurance, disability insurance, sick leave, vacation leave, and retirement.

3. Year: A rolling 12-month period measured backward from the date an employee uses FMLA leave.

Health Care Provider:

1. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State of Maine or

4. Any other person determined by the Secretary of Labor to be capable of providing health care services.

1 This policy applies to the terms of the Federal FMLA. In the event that an employee is not eligible for Federal FMLA but is eligible for MFMLA the terms of the MFMLA will apply.
5. Parent: The biological, step, adoptive, or foster parent of an employee or an individual who stood in loco parentis to an employee when the employee was a son or daughter.

6. Serious Health Condition: An illness, injury or impairment, or physical or mental condition that involves (1) either inpatient care or continuing treatment by a health care provider.

7. Inpatient Care: An overnight stay in a hospital, hospice, or residential medical care facility or, including a period of incapacity or any subsequent treatment in connection with the inpatient care.

8. Continuing Treatment: Any one or more of the following:
   a. A period of incapacity of more than three (3) consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:
      i. Treatment by a health care provider two (2) continuing treatment by a health care provider, or more times within 30 days of the first day of incapacity; or
      ii. Treatment by a health care provider on at least one occasion, which results in a regimen of continuing treatment under the supervision of a health care provider;
   b. A period of incapacity due to pregnancy or prenatal care;
   c. A period of incapacity or treatment for such incapacity due to a chronic serious health condition;
   d. A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective; or
   e. Any period of absence to receive multiple treatments by a health care provider.

9. Son or Daughter: A biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco
parentis who is (1) under 18 years of age or (2) 18 years of age or older and incapable of self-care because of mental or physical disability.

**F.** 10. Spouse: _Aa_ husband or wife, as the case may be defined by Maine law.

G. Active Duty: Duty under a call or order to active duty under a provision of law.

**H.** 11. Family member: an employee’s spouse, parent or child if they are an active service member or have an impending call to active duty in support of a contingency operation, or for the care of an injured service member if the service member is the employee’s spouse, child, parent, or "next of kin".

12. Next of Kin: the nearest blood relative to the employee.

**I.** 13. Covered Service Member: A member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness.

14. Next of Kin: An individual that is the nearest blood relative of that individual.

**Family.** 14. Covered Military Member: Legal the employee’s spouse, son, daughter, son, or parent, or step parent, domestic partner, children of domestic partners, and siblings (if the employee and the sibling are jointly responsible for each other’s common welfare evidence by joint on active duty or financial call to active duty status.

15. Active duty or call to active duty: duty under a call or order to active duty (or notification of an impending call or order to active duty) in support of a contingency operation as either a member of the reserve components, or a retired member of the Armed Forces or Reserve.

16. Serious Injury or Illness, in the case of a member of the Armed Forces, including a member of the National Guard or Reserves: an injury or illness incurred by the member in line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member’s office, grade, rank, or rating.
17. Qualifying Exigency: one or more of the following circumstances:
   a. Short-notice deployment – to address any issues that may arise due to the fact that Covered Military Member received notice of the deployment seven (7) or less calendar days prior to the date of deployment;
   b. Military events and related activities – to attend any official ceremony, program, or event sponsored by the military that is related to the Covered Military Member’s active duty; or to attend family support or assistance programs and informational briefings sponsored by the military;
   c. Child care and school activities – to arrange for alternative childcare; to provide childcare on an urgent or immediate basis; to enroll or transfer a child to a new school; and to attend meetings with school staff that are made necessary by the Covered Military Member’s active duty or call to active duty;
   d. Financial and legal arrangements – to make or update financial or legal arrangements related the Covered Military Member’s absence while on active duty; and to act as the Covered Military Member’s representative with regard to obtaining, arranging or appealing military benefits;
   e. Counseling – to attend counseling sessions related to the Covered Military Member’s deployment or active duty status;
   f. Rest and recuperation – to spend up to five (5) days with a Covered Military Member who is on short-term, temporary rest and recuperation leave;
   g. Post-deployment activities – to attend ceremonies and reintegration briefings for a period of 90 days following the termination of the Covered Military Member’s active duty status; and to address issues arising from the death of a Covered Military Member; and/or
   h. Other activities that the City and employee agree are an exigency.

K. 18. Domestic Partner: The partner of an employee who:
   (1) is a mentally competent adult;
   (2) has been legally domiciled with employee for at least 12 months;
   (3) is not legally married to or legally separated from another individual;
   (4) is not a sibling of the employee;
   (5) is the sole partner of the employee and;
   (6) is jointly responsible with employee for each other’s common welfare as evidenced by joint living arrangements, joint financial arrangements, or joint ownership of real or personal property; and
f. Is not a sibling of the employee.

III. Reasons for Leave

A. The City of Saco shall provide an eligible employee a total of 12 workweeks of leave during a 12-month period for one or more of the following:

1. The birth of a son or daughter, and child, in order to care for that newborn child.
2. The placement of a child under the age of 18 with the employee for adoption or foster care, and to care for that child.
3. To care for a family member of the employee, if that person has a serious health condition.
4. An employee's own serious health condition that makes the employee unable to perform the essential functions of his or her job.

5. Because of any "qualifying exigency" (as that term is defined by the Secretary of Labor), by regulation or determine arising out of the fact the spouse, son or daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty in the Armed Forces in support of a contingency operation).
6. The donation of an organ of the employee for a human organ transplant.
7. The death or serious illness of an employee’s family member while the member was if the person is a member of the United States Armed Services and dies or incurs a serious health condition while on active duty.

B. Service Member Family Leave

An eligible employee who is the legal spouse, son, daughter, parent, or next of kin of a covered service member shall be entitled to a total of 26 workweeks of leave during a 12-month period to care for the service member. The leave described in this paragraph shall only be during a single 12-month period.

IV. Eligibility

A. Minimum Service Requirement. The employee must have worked for the City for at least 12 months. The minimum service requirement is calculated as of the date leave begins, not the date leave is requested. If the employee requests leave before the eligibility criteria have been met, the City may have to project to when the date of eligibility begins to determine whether the employee will be eligible by the proposed leave date. The twelve (12) month service requirement does not require consecutive months of service.

1. The 12-month service includes periods of paid or unpaid leave (sick and/or vacation) during which other benefits or compensation are provided by the City (workers' compensation, group health insurance benefit, etc.).

2. To determine whether intermittent, occasional, or casual employment qualifies as at least 12 months, 52 weeks is deemed to be equal to 12 months.
B. Minimum Hours Required— The employee must meet the minimum hours requirement of at least 1,250 working hours during the previous 12 month period before the leave begins.

V. Notice of Eligibility—The “Two-Day Rule”

A. According to the Department of Labor, if an employee requests a leave and the City determines the employee has not satisfied the eligibility requirements for the FMLA and/or MFMLA, the City must give the employee notice of his or her ineligibility for FMLA and/or MFMLA leave within 2 business days of the leave request. If the City fails to timely advise the employee of his/her eligibility status, the employee shall automatically be presumed to be eligible. Once the City deems the employee eligible for leave, it may not subsequently challenge eligibility.

VI. Covered Health Conditions

A. A serious illness covered by this policy means an accident, injury, impairment, or physical or mental condition that involves either:
   (1) inpatient care in a hospital, hospice or residential medical care facility, or
   (2) continuing treatment by health care provider coupled with incapacity for more than 3 days.

B. In dealing with the illness, serious health condition of an employee or family member, leave under the Family and Medical Leave Act and FMLA or the Maine Family Leave Act MFMLA does not apply to brief illnesses, such as absences of fewer than 3 calendar days and/or absences, where ongoing treatment by a physician or health care provider is not involved.

CB. Some conditions are specifically not covered for FMLA leave. These include:

1. Short-term conditions requiring only brief treatment and recovery, such as the common cold, upset stomach, and headaches, (other than migraines), routine dental or orthodontia problems, and periodontal disease.

2. Intermittent care of a child for such commonplace illnesses as colds, flu, and earaches.

3. Voluntary or cosmetic treatments not considered medically necessary, unless inpatient hospital care is required or complications develop.

4. Absence because of substance abuse. However, treatment for substance abuse is a legitimate reason to take FMLA leave.

5. To care for a legal spouse, parent, child, or next of kin who was seriously injured while on active duty.

6. Due to an “qualifying exigency” arising out of the fact that a spouse, parent, or child(ren) is on active duty or has been notified of an impending call to active status.

VII. Notice & Medical Certification Requirement

A. Employees must provide the City with at least 30 days’ advance notice before FMLA is to begin when the need for leave is foreseeable, e.g. the expected birth or adoption of a child. This requirement also applies to planned medical treatment for a serious health condition of the employee or a family member.
B. When the need for leave is not foreseeable or it is not practical to provide at least 30 days’ notice, employees are required to provide notice as much notice as is “practical”.

C. Once the City has received an employee’s request for leave, the City will provide the employee with Notice of Eligibility and Rights and Responsibilities under the FMLA.

D. Employees who request a leave because of their own or a family member’s serious health condition may be required to submit proof to their immediate department head of the existence of the medical condition and the need for the leave. Such proof shall be presented in the form provided by a medical provider. All information received from the employee shall be forwarded to the City’s Personnel Office within 15 calendar days from the date the certification form is provided to the employee.

D. You, An employee, may be required to provide medical recertification during the leave, along with period updates on your status and intent to return to work. If your leave was requested because of your own serious health condition, you the employee will be required to provide medical fitness for duty certification of your ability to resume work.

VII. Substitution of Paid Leave

FMLA and MFMLA leave is generally unpaid; however, the City requires all employees to substitute any accrued vacation leave, personal leave, floating holidays, and sick leave for during FMLA or MFMLA leave. Only when the employee is covered by the FMLA leave taken after employees’ accrued vacation, sick and personal time is exhausted is unpaid.

Employees’ short-term disability plan shall the City not require the employee to substitute leave or workers’ compensation leave may be counted as FMLA leave. However, an employee is not required to exhaust paid vacation time for leave when the circumstances for the leave also trigger eligibility for workers’ compensation benefits or leave and/or sick time short-term disability benefits. Employees may use accrued paid leave to supplement short-term disability benefits or workers’ compensation benefits but they must discuss and agree with the City to use this option.

IX. Reduced Schedule or Intermittent Leave

A. Employees may request to take intermittent leave or work a reduced schedule in case of a serious health condition, whether an employee’s own or family member, when medically necessary. Appropriate medical certification will be required.

B. The City of Saco may, in its discretion, allow an employee to take intermittent leave or work a reduced schedule because of birth, adoption, or placement of child. The City of Saco will review the individual circumstances involved, taking into account the needs of the City, the employee’s length of service, number of requests, duties, workload; and the employee’s job performance.

C. When an employee requests intermittent leave or leave on a reduced hours basis, the City has the option in its sole discretion to require the employee
to transfer to a temporary alternative job for which the employee is qualified and which better accommodates the intermittent leave or reduced hours leave than the employee’s regular job. The temporary position will have equivalent pay and benefits as the employee’s regular job.

D. Every employee is obligated to make a reasonable effort to schedule medical treatment so as not to unduly interrupt City operations. Prior to the commencement of any intermittent or reduced schedule leave the employee and the City shall attempt to work out a schedule for such leave that meets the employee’s needs without disrupting City operations.

IX. Employee Benefits

A. Employees retain all accrued benefits while on leave. However, if and as consistent with applicable policy and/or collective bargaining agreement, holidays that occur during FMLA leave will not be paid and employees will not accrue additional vacation, sick and personal time during FMLA leave. Employees requesting leave are responsible for paying their portion of the health insurance premium that they paid before requesting leave. In the event that an employee fails to return from leave, consistent with the terms of this policy, the employee will be liable for the premiums paid by the City to maintain insurance coverage unless:

1. The employee’s failure to return to work stems from the continuation, reoccurrence, or onset of a serious health condition that would entitle the employee to leave; or

2. The failure to return to work stems from circumstances beyond the control of the employee.

XIX. Moonlighting

A. The City generally prohibits outside employment or supplemental employment while on FMLA and/or MFLA leave. Exceptions may be granted by with the specific approval of the City Administrator on a case by case basis.

XXIII. Reinstatement

A. An employee who returns from FMLA and/or MFMLA leave will be restored to the same or an equivalent position, unless (a) your employment with the City of Saco would have terminated if no leave had been taken, (b) you have given notice of your intent to terminate your employment with the City during your FMLA and/or MFMLA leave, or (c) you cannot safely perform the essential functions of the job to which you may be restored.

XXIII. Benefits on Return

A. Employees who have taken leave do not lose any benefits that were earned or vested before the leave began.

B. Employees shall be provided the same level of benefits as before the leave.

C. Benefits are subject to any changes that occur during the 12 week leave, whether positive or negative.

D. The employee’s FMLA and/or MFMLA leave time is considered continued service for purposes of vesting and eligibility to participate in the City’s retirement plans.

E. Taking FMLA and/or MFMLA leave is not a qualifying event under the Federal Consolidated Omnibus Budget Reconciliation Act (COBRA); this means that an employee on leave is not eligible for COBRA coverage. However, an employee who does not return to work at the expiration of leave may at that point become COBRA eligible.

F. Upon return from an FMLA and/or MFMLA leave an employee is entitled to any “unconditional” pay increases, such as cost of living increases, that would have been provided to the employee during the leave.
XIII. Reason to Deny Reinstatement

A. Until or unless an employee provides a fitness-for-duty medical certification, when the City has requested this certification prior to the commencement of the leave and when the leave was taken for the employee’s own serious health condition.

B. If the City can show that the employee would not have been employed on the date of reinstatement if leave had not been taken.

C. If an employee unequivocally advises the City of his or her intent not to return to work.

D. If an employee fraudulently obtains leave.

E. If an employee violates the City’s uniformly applied policy governing outside or supplemental employment while the employee is on leave.

XIV. Administration

A. FMLA and/or MFMLA leave requests should be directed to the Personnel Office. The Personnel Officer shall be responsible for making and administering all FMLA and/or MFMLA leave decisions.

B. The City will comply with applicable state or local law to the extent that such law provides greater family leave rights than those of the FMLA and MFMLA.

C. This policy applies to all non-union and union personnel.

CITY OF SACO

Family and Medical Leave Request Form

Employee: __________________________________________

Date: ____________________________________________

Job Title: __________________________ Department: __________

Supervisor: ______________________________________

Social Security Number: ____________________________

Eligible employees are entitled under the Family and Medical Leave Act (FMLA) up to 12 weeks of unpaid, job protected leave for certain family and medical reasons. Submit this request form to your supervisor at least thirty (30) days before the leave is to commence, when practicable. When submission of the request thirty (30) days in advance is not practicable, submit the request as early as is practicable. The employer reserves the right to deny or postpone leave for failure to give appropriate notice when such denial/postponing would be permitted under federal or state law.
ELIGIBILITY

1. Counting any periods of time that you worked for the city (whether they were consecutive or not), have you worked for the city for a total of 12 months or more?  
   _____ Yes  _____ No

2. During the past 12 months, have you worked at least 1,250 hours? (approximately eight (8) months of 40-hour weeks or one year of 25-hour week)?  
   _____ Yes  _____ No

3. Have you previously received medical or family leave?  
   _____ Yes  _____ No
   If yes, provide information below:
   Date of leave: ________________  
   From ________________ to ________________  
   _____ Purpose of leave: ________________  

4. Have you taken any intermittent leave?  
   _____ Yes  _____ No
   Have you taken time off from scheduled hours?  
   _____ Yes  _____ No
   If “yes,” provide details:

REASON FOR REQUESTING LEAVE

Leave must be granted for any of the following reasons:
• For a serious health condition that makes it unable for you to perform your job;
• To care for your child, spouse, or parent who has a serious health condition; or
• To care for your child after birth, or for placement after adoption or foster care.

I am requesting leave for the following reason:

_____ Personal serious health condition

_____ Serious health condition of:
   Spouse  Name: ____________________________
   Child  Name: ____________________________
   Parent Name: ____________________________
   Birth of Child: Expected delivery date is: ____________________________
   Adoption or placement of a child for foster care
   Child’s name: ____________________________
   Scheduled date of adoption or placement: ____________________________

DATES OF LEAVE REQUESTED

I request leave from ________________ to ________________

I request intermittent leave according to the following schedule:

I request a reduced schedule leave according to the following schedule:

EMPLOYEE STATEMENT

I agree to return to work on ______________________. If circumstances change such that I will not be able to return to work on that date, I agree to inform my Department Head as soon as possible. I understand that my benefits will continue during my leave and that I will arrange to pay my share of applicable premiums.

Signature: ____________________________ Date: ______________________
§ 34-34 Maine Family Medical Leave

A. In accordance with the Maine Family Medical Leave Law, the City provides family leaves of absence without pay to eligible employees who wish to take time off from work duties to fulfill certain family obligations. Employees who have been employed by the City for at least one year are entitled to take up to 10 consecutive weeks of unpaid leave during any 2-year period for:

Certain employees who do not qualify for federal Family Medical Leave may qualify for family medical leave under the Maine Family Medical Leave Act (MFMLA). An employee who has been employed by the City for 12 consecutive months is entitled to up to 10 work weeks of family medical leave in any 2 years under the MFMLA. The MFMLA provides a right to leave for the following reasons:

1. the birth of the employee’s child or the employee’s domestic partner’s child;

2. placement of a child 16 years of age or less with the employee or with the employee’s domestic partner in connection with the adoption of the child by the employee or the employee’s domestic partner;

3. a child, a domestic partner’s child, parent, domestic partner, sibling or spouse with a serious health condition;

4. the employee’s own serious health condition;

5. the donation of an organ of that employee for human organ transplant;

6. the death or serious health condition of the employee’s spouse, domestic partner, parent, sibling or child if the spouse, domestic partner, parent, sibling or child as a member of the state military forces, as defined in 37-B M.R.S.A. §102, or the U.S. Armed Forces, including the National Guard and Reserves, dies or incurs a serious health condition while on active duty.

B. A serious health condition means an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical care facility, or continuing treatment by a health care provider.

C. Employees must make a request for family leave in writing to the Personnel Officer at least 30 days in advance of their intended leave, unless prevented by medical emergency. Certification from a physician, other health care provider, or accredited practitioner of the healing methods of a recognized church or religious denomination, must accompany the request for leave, to verify the need for the leave and the amount of leave time requested.

D. If an employee is granted family leave, he/she may elect to use any accrued vacation time, and if the leave is taken because of the employee’s serious health condition or the serious health condition of the employee’s spouse, child or parent, the employee may
utilize any accrued sick leave before taking unpaid leave. Employees will be allowed to continue fringe benefits, such as health insurance, on the same basis as before their leave. Vacation and sick leave do not accrue during unpaid leave.

Maine family medical leave is generally unpaid. However, the City requires all employees to substitute any accrued vacation leave, personal leave, floating holidays, sick leave and family sick leave for MFMLA leave. MFMLA leave taken after employees’ accrued vacation, sick and personal time is exhausted is unpaid.

Employees’ short-term disability leave or workers’ compensation leave may be counted as Maine family medical leave for the purpose of the 10 week benefit. However, an employee is not required to exhaust paid leave when the circumstances for the leave also trigger eligibility for workers’ compensation benefits or leave and/or short-term disability benefits. Employees may use accrued paid leave to supplement short-term disability benefits or workers’ compensation benefits but they must discuss and agree with the City to use this option.

Employees retain all accrued benefits while on leave. However, if and as consistent with applicable policy and/or collective bargaining agreement, holidays that occur during MFMLA leave will not be paid and employees will not accrue additional vacation, sick and personal time during MFMLA leave. Employees requesting leave are responsible for paying their portion of the health insurance premium that they paid before requesting leave. In the event that an employee fails to return from leave, consistent with the terms of this policy, the employee will be liable for the premiums paid by the City to maintain insurance coverage unless:

1. The employee’s failure to return to work stems from the continuation, reoccurrence, or onset of a serious health condition that would entitle the employee to leave; or

2. The failure to return to work stems from circumstances beyond the control of the employee.

E. During leave, employees are expected to keep their supervisor informed of their status and intentions, and to submit additional medical certification if necessary. So that return to work can be properly scheduled and planned for, employees should provide their supervisor with at least two weeks advance notice of their intended return to work date. Upon expiration of leave, employee will be reinstated to the same position or an equivalent position unless:

(1) they have given notice of their intent to terminate their employment;

(2) they fail to return to work on the agreed-upon return date;

(3) they are unable, with or without reasonable accommodation, to safely perform the essential functions of their job; or

(4) their position no longer exists for reasons unrelated to their taking of family leave.
§34-30 other benefits (A)

Clothing or uniform allowance. Full-time employees who are required to wear uniforms, as a condition of employment shall be reimbursed at the same or equivalent rate as union members of the same department. Full-time City employees who are required to wear protective clothing, or any type of protective device as a condition of employment shall be reimbursed with an annual maximum amount budgeted, eligible to receive a clothing allowance of $350 for replacement of articles damaged under normal working conditions and up to $125 for appropriate work boots as needed. Purchase of clothing shall be limited to footwear and outer clothing and shall receive prior approval from the department head and/or the City Administrator.

5. CODE AMENDMENT TAXI CAB HANDICAP ACCOMMODATIONS – (FIRST READING)

Chapter 195 of the Saco City Code (Taxicabs) currently contains no language regulating handicapped-accessible taxicabs. Handicapped-accessible cabs are not currently required by ordinance to have restraint systems designed to hold a wheelchair in place, nor does the ordinance require taxicab personnel to be trained in the appropriate and safe application of the system installed for that purpose. This amendment addresses that issue by adding new language to Chapter 195.

Chapter 195 §19 provides for penalties and suspensions for non-compliance and is attached for review.

‘Code Amendment §195-12 Maintenance of taxicabs; required equipment, dated September 16, 2013’

All taxicabs operating within the City of Saco shall adhere to the following requirements at all times:

A. Taxicabs shall at all times be clean and in good repair inside and out and shall be maintained at all times in compliance with the laws of the State of Maine relating to passenger vehicles and the rules and regulations of the State Commissioner of Transportation enacted pursuant thereto.

B. Taxicabs that compute fare through the use of a taximeter shall have those meters installed so as to give an accurate reading of all the car's movements and so as not to be subject to tampering. Any meters used shall be tested, approved and sealed by the State Sealer of Weights and Measures. Said meters shall indicate fare and mileage by means of legible figures which are electrically illuminated during the period
between sunset and sunrise, which fare shall be calculated in accordance with the fare posted on the
vehicle and on file in the application on file with the City Clerk.

C. Every taxicab operating in the City shall be equipped with an exterior light affixed to the roof thereof,
which shall be covered with a translucent fixture marked with the word "Taxi" in legible lettering and
which shall be operated during the period between sunset and sunrise.

D. Every taxicab shall be conspicuously marked, in letters not less than 1 1/2 inches in height, with the
word "Taxicab," "Taxi" or "Cab" and the owner's name or trade name or, in lieu of such name or trade
name, with a design or monogram containing the owner's name or trade name. Such design or monogram
shall be not less than eight inches in diameter.

E. Every taxicab shall be conspicuously marked, in numbers not less than 1 1/2 inches in height, with a
vehicle number, which shall correspond to the vehicle license number issued by the City Clerk, such
number to be unique to all taxicabs licensed by the City of Saco.

F. All taxicabs shall have access to a certified child safety seat, for use when transporting children
required to be placed in such a seat.

G. All handicapped-accessible taxicabs licensed in the City of Saco to pick up or drop off passengers
must have a restraint system or straps designed to hold a wheelchair and passenger securely in
place. Every operator of a handicapped-accessible taxicab licensed to operate within the City is to
be trained by the employer in the appropriate and safe application of said restraint system or strap.

Chapter 195 §19 Enforcement; violations and penalties
The Saco Police Department shall have the primary duty to enforce this chapter. Any person violating any
provisions of this chapter shall pay a fine not exceeding $50 for the first such offense in any calendar year
and $100 for each subsequent offense in the same calendar year. Any licensed owner or operator who
violates any of the provisions of the foregoing sections shall, in addition to said penalty, thereupon
become subject to suspension or forfeiture of his/her/its license thereafter.

IV. GENERAL:
A. CODE AMENDMENT: CHAPTER 82 FIREWORKS – (PUBLIC HEARING)

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.

Councilor Blood moved, Councilor Smith seconded to open the Public Hearing on the document titled, “City Code
Chapter 82 Consumer Fireworks § 82-4 Violations and penalties, Dated September 3, 2013”. The motion passed
with unanimous consent.

There were no comments from the public.

Councilor Blood moved, Councilor Smith seconded to close the public hearing and “Be it Ordered that the City
Council set the Second & Final Reading for October 21, 2013.” Further move to approve the order. The motion passed with seven (7) yeas.

“City Code Chapter 82 Consumer Fireworks § 82-4 Violations and penalties,
Dated September 3, 2013”

(Please note the underline is new language while strikethrough is language to be deleted)
Saco City Code  
Chapter 82 Consumer Fireworks

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 authorizes, permits or does not take action to prevent 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 per violation 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.

B. RENEWAL APPLICATION FOR SPECIAL ENTERTAINMENT PERMIT: SACO EAGLES #3792 – (PUBLIC HEARING)

Saco Eagles #3792 applied for a renewal of their Special Entertainment Permit. The permit will be concurrent with the establishment’s liquor license.

The applicant has paid all applicable permit fees and the clerk has properly advertised the public hearing in accordance with the Saco City Code, Chapter 93 - Entertainment §93-2.
Councilor Doucette moved, Councilor Blood seconded to open the Public Hearing. The motion passed with unanimous consent.

There were no comments from the public.

Councilor Doucette moved, Councilor Smith seconded to close the Public Hearing and “Be it Ordered that the City Council grant the renewal application submitted by Saco Eagles #3792 for a Special Entertainment permit to be concurrent with the establishment’s current liquor license”. Further move to approve the Order. The motion passed with seven (7) yeas.

C. ZONING ORDINANCE & MAP AMENDMENT: BRADLEY STREET – (2ND & FINAL READING)

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.

Councilor Lovell moved, Councilor Tripp seconded “The City of Saco hereby Ordains and Approves the Second and Final Reading of the document titled, ‘Zoning Ordinance and Map Amendment to Rezone an Area off Bradley Street’.” Further move to approve the Order. The motion passed with six (6) yeas and one (1) nay – Councilor Tardif.
D. NOTICE OF ELECTION – NOVEMBER 5, 2013

The Notice of Election is submitted to Mayor and Council to authorize the General Election scheduled for November 5, 2013.

The Clerk, as required by Title 21-A, Article §622-A, has prepared the Notice of Election which will be posted in all Wards on or before October 28, 2013.

Councilor Tripp moved, Councilor Smith seconded “Be it Ordered that the City Council approve the Notice of Election for the General Election scheduled for November 5, 2013.” Further move to approve the Order. The motion passed with seven (7) yeas.
NOTICE OF ELECTION/WARRANT
STATE OF MAINE
GENERAL ELECTION
TUESDAY, NOVEMBER 5, 2013
WARDS 1-7 INCLUSIVE

COUNTY OF YORK CITY OF SACO

TO BRADLEY PAUL, CHIEF OF POLICE OF SACO:

GREETING:

YOU ARE HEREBY REQUIRED, in the name of the State of Maine, to notify and warn the inhabitants of the City of Saco, qualified according to law to vote in the election of Municipal Officers, to meet at their respective Ward Room in said City, viz:

- Ward One, at the Saco Community Center, 75 Franklin St.
- Ward Two, at the Saco Community Center, 75 Franklin St.
- Ward Three, at the Saco Community Center, 75 Franklin St.
- Ward Four, at the Saco Community Center, 75 Franklin St.
- Ward Five, at the Saco Community Center, 75 Franklin St.
- Ward Six, at the Saco Community Center, 75 Franklin St.
- Ward Seven, at the Saco Community Center, 75 Franklin St.

**Tuesday, November 5, 2013** at 7:00 in the forenoon, to give in their votes for the following: Mayor, Council, Wardens, Ward Clerks for all seven wards, with all to serve two year terms; Regional School Unit No. 23 Board, two members to serve four year terms and to vote on the following question:

**Question #1**

Do you favor the withdrawal of the City of Saco from the Regional School Unit No. 23 subject to the terms and conditions of the Withdrawal Agreement dated August 1, 2013?

The polls shall be opened at 7:00 a.m. and shall be closed at 8:00 p.m.

A person may register to vote and/or enroll in a political party on or before Election Day.

Pursuant to Title 21-A § 759 (7), absentee ballots will be processed at the polls at the following times: Approximately 8:00 a.m., 2:00 p.m. and 8:00 p.m.

Dated at Saco, this 7th day of October 2013.

David L. Tripp  Leslie E. Smith, Jr.  Marie D. Doucette

Philip L. Blood  Arthur J. Tardif  Eric B. Cote

Marston D. Lovell

Councilors of the City of Saco

Mark D. Johnston, Mayor  Michele L. Hughes, City Clerk

A TRUE COPY
ATTEST: ____________________________

City Clerk of the City of Saco
Applicant George Giovanis requests a rezoning of two parcels off Bradley Street, from the current residential R-1d to a mixed use zone, MU-1. Mr. Giovanis seeks the change for both a parcel that he owns and a parcel abutting the Turnpike owned by Robert Douville, together about 84 acres. Mr. Giovanis’s interest lies in the potential for commercial and mixed-use development on the acreage adjacent to and visible from the Turnpike.

With such a change, the acreage involved would go from being available for moderate density residential development to both greater density residential development and a number of commercial uses being possible such as retail businesses, professional offices, financial institutions and several more. Density for residential development would be increased fivefold, from the existing R-1d at 15,000 s.f. per lot for a single-family dwelling to 3,000 s.f. per lot, while multi-family dwellings would be allowed at 2,000 s.f. of lot per unit.

The Planning Board held a public hearing on the proposal at its Sept. 3 meeting, and forwards a negative recommendation to the Council, having expressed concerns about this proposal’s departure from the Comprehensive Plan, and traffic impacts on nearby neighborhoods.

TABLED - Councilor Lovell moved, Councilor Blood seconded to postpone action this evening and to set up a workshop at a later date. The motion passed with four (4) yeas and three (3) nays – Councilors Smith, Doucette and Cote.

F. 32 MARKET STREET BROWNFIELD & HOUSING
On October 24, 2011, the City Council accepted the gift from Downeast Energy of Brunswick of 32 Market Street, a 2.75 acre property adjacent to Diamond Riverside Park. Elevated heating oil storage tanks were on the site until 1998. The staff has obtained a $200,000 EPA grant to remediate brownfields on the site, and Ransom Engineering is now designing the remediation, which will be undertaken in the spring. About 1.5 acres will be added to the Diamond Riverside Park, and some of the higher land (about 1.25 acres) nearer Market Street will be developed for housing, based on the Council’s earlier action.

The City Council’s Housing Committee has met several times on the project including most recently on July 11. They reviewed with Guy Gagnon of Southern Maine Affordable Housing (and Saco Housing Authority and BHA) and staff the concept of developing 7-9 cottage style houses to be sold to seniors, looking to downsize their homes in the area. The development would be set up as a houseminium concept where the land is common, but the individual houses are purchased and privately owned. (Ferry Landing uses this free-standing condominium concept.) The Committee reviewed site designs, prepared by Ransom Engineering, showing from 7 to 9 units.

Gagnon hopes to use modular homes, with an estimated sale price of $130,000 to $140,000, but with a higher value on the land. The land would be provided without initial cost to the project. A “soft second” mortgage would provide 10% of the sales proceeds to a housing fund when the original buyers sell. Southern Maine Affordable Housing would fund the project with conventional financing, and sell the units. Since a newspaper article about the project several enthusiastic seniors have approached the City and Gagnon. The Council reviewed the project in workshop on September 16.

Additional background
The Council’s 2010 action:
Councilor Tardif moved, Councilor Doucette seconded “Be it ordered that the city council authorize the acceptance of 32 Market Street from Downeast Energy to add the land to the Diamond Riverside Park, if an EPA brownfields cleanup grant is obtained through SMRPC; To appropriate for the grant match of up to $40,000, up to $10,000 from a contribution by Downeast Oil and up to $30,000 from the land for Saco bond fund, acc. #30107/500910; That the staff and the Housing Committee continue efforts to develop housing on the Market Street portion of the site by working with the city’s regional housing partners.” Further move to approve the Order. The motion passed with five (5) yeas and two (2) nays – Councilors Mills and Smith.

(Downeast Oil has now provided $5000 per the city’s agreement and will provide up to $5000 additional, if more match is needed, based on the agreement.)

Councilor Cote moved, Councilor Lovell seconded “Be it Ordered that the City Council authorize the City Administrator to enter into agreement with Southern Maine Affordable Housing to provide the land at 32 Market Street for a seniors houseminium project, contingent on future contributions to a housing fund based on 10% of the resale price of the units.” Further move to approve the order. The motion passed with six (6) yeas and one (1) nay – Councilor Smith.
VIII. EXECUTIVE SESSION

Councilor Tripp moved, Councilor Smith seconded “Be it Ordered that the City Council, Pursuant to [M.R.S.A. Chapter 18, Subchapter 1, §405 (6) (C)] move to enter into Executive Session to discuss: The potential sale and/or lease of city properties, Map 69, Lot 1 (rear portion) and Map 70, Lot 4. The motion passed with six (6) yeas and one (1) nay – Councilor Cote. TIME: 7:27 p.m.

Councilor Doucette was excused due to an illness.

A. REPORT FROM EXECUTIVE SESSION

Mayor Johnston moved from Executive Session with the unanimous consent of the Council at 7:55 p.m.

Mayor Johnston conducted a roll call of the members and determined that the Councilors present constituted a quorum. Councilors present: David Tripp, Leslie Smith Jr., Philip Blood, Arthur Tardif, Eric Cote, and Marston Lovell. Councilor Doucette was excused due to an illness. City Administrator Rick Michaud was also present.

There was no report this evening.

VI. ADJOURN THE MEETING AND CONVENE THE WORKSHOP:

Councilor Tripp moved, Councilor Blood seconded to adjourn the meeting and convene the workshop at 8:03 p.m. The motion passed with unanimous consent.

Attest:_______________________________________
Michele L. Hughes, City Clerk