I. CALL TO ORDER – On Monday, May 12, 2014 at 7:00 p.m. a Council Meeting was held in the City Hall Auditorium.

II. ROLL CALL OF MEMBERS – Mayor Pilon conducted a roll call of the members and determined that the Councilors present constituted a quorum. Councilors present: David Precourt, Leslie Smith Jr., Bette Brunswick, Kevin Roche, Arthur Tardif, Eric Cote and Nathan Johnston. City Administrator Rick Michaud was also present.

III. PLEDGE OF ALLEGIANCE

IV. GENERAL:

FIRES ALONG RAILROAD TRACKS

Mayor Pilon and Fire Chief John Duross gave a brief overview of the fires that ranged from Scarborough to Arundel along the railroad tracks last Thursday afternoon. The fires are still under investigation. They both thanked all the city departments (Fire, Police, Public Works & Code Enforcement) that helped fight the fires that were in Saco as well as the homeowners for pitching in as well as the following Fire Departments: Buxton, Hollis, Waterboro, Scarborough, Alfred, Gorham, Windham, Arundel, Goodwins Mills, Kennebunkport and the Maine Forest Service and York County Emergency Management. Everyone did a great job and their helped was much appreciated since the city was not able to use their normal mutual aid.

PROJECT CITIZEN – THORNTON ACADEMY STUDENT PRESENTATIONS

Mr. Devon Beliveau who teaches Government at Thornton Academy brought his senior government students in to do presentations and learn about democracy in action. The students that presented were: Joshua Blow, Joshua Brages, Wyatt Byars, Ian Carrier, Jacob Collette, Timothy Holbrook, Nicholas Jandreau, Federico Mastopietro, Luke Morneau, Jeremy Poisson, Ross Pratt, Irina Silvano, Nicole Vadnais, Jacob Willette and Evan Wright. They presented charts and conducted surveys on 3 different problems they believe exist in town and their proposals to fix those problems.

Problem #1 - Jenkins Road onto North Street Left Turn

At certain times of day it is impossible to make a safe left turn from Jenkins Road onto North Street. The recommendation was to have a traffic light installed.

Problem #2 – Restaurants or Convenience Store Selling Food/Sandwiches needed in North Saco

The students noted that currently all of the restaurants are located downtown and there are none in North Saco. North Saco would be the area around Jenkins Road down to Flag Pond Rd and over to Lincoln Road. The recommendation was to change the zoning in that area to allow these types of businesses.

Problem #3 - Celebrate Holidays in Style with Fireworks

The students felt that fireworks should be legal because it is a way of celebrating free speech. There shouldn’t be a ban on fireworks for certain set times. The recommendation is allow fireworks to be used on July 4th and New Years from 10:00 a.m. – 10:00 p.m. and people would need to obtain a permit to do so.

V. AGENDA:

A. FY15 SACO MUNICIPAL SCHOOL ADMINISTRATIVE UNIT (MSAU) BUDGET

On November 6, 2013, the Saco citizens voted (2,996 yes - 977 no) in favor of the City of Saco withdrawing from the Regional School Unit No. 23 (RSU 23).

The Withdrawal Agreement between the City of Saco Withdrawal Committee and the RSU 23 dated August 1, 2013, provides some of the budget processes. The document can be found at this web site:
Additional guidance is provided in state statute.

**Timeline**

- May 12th Council votes on Saco MSAU budget
- May 13th – Absentee Ballots Available
- June 10th – Election Day

The School Board recommended budget of $32,952,862 is projected to cause a 0.00% change to the tax rate. The property tax payment on a $200,000 home will not change in the coming year if the budget is adopted as presented.

Councilor Roche moved, Councilor Precourt seconded Be it ordered that the City Council approve the budget adoption for the Saco Municipal School Administrative Unit FY15 Cost Center Summary Budget as follows:

<table>
<thead>
<tr>
<th>Cost Center Summary Budget Category</th>
<th>Amount Recommended by School Board</th>
<th>Amount Approved by the Saco City Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regular Instruction</td>
<td>$19,749,960</td>
<td>$19,749,960</td>
</tr>
<tr>
<td>Special Education Instruction</td>
<td>$5,917,104</td>
<td>$5,917,104</td>
</tr>
<tr>
<td>Career Technical Education Instruction</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Other Instruction</td>
<td>$169,681</td>
<td>$169,681</td>
</tr>
<tr>
<td>Student &amp; Staff Support</td>
<td>$1,716,364</td>
<td>$1,716,364</td>
</tr>
<tr>
<td>System Administration</td>
<td>$623,134</td>
<td>$623,134</td>
</tr>
<tr>
<td>School Administration</td>
<td>$995,035</td>
<td>$995,035</td>
</tr>
<tr>
<td>Transportation</td>
<td>$1,330,028</td>
<td>$1,330,028</td>
</tr>
<tr>
<td>Facilities Maintenance</td>
<td>$2,106,406</td>
<td>$2,106,406</td>
</tr>
<tr>
<td>Debt Service</td>
<td>$345,150</td>
<td>$345,150</td>
</tr>
<tr>
<td>All Other Expenditures</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td><strong>TOTAL K-12 BUDGET</strong></td>
<td><strong>$32,952,862</strong></td>
<td><strong>$32,952,862</strong></td>
</tr>
<tr>
<td>Adult Education (Saco’s share of budget is $114,802.50)</td>
<td>$229,605.50</td>
<td>$229,605.50</td>
</tr>
</tbody>
</table>

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

**B. SCHOOL DEPARTMENT REJOINING CITY’S MAINE STATE RETIREMENT PLAN**

The Maine Public Employees Retirement System (MEPERS) requires the Saco City Council to take formal action in regards to certain School Department employees’ participation in the City’s MEPERS “regular” (non public safety) retirement plan to be effective July 1, 2014. There are two possible classes of employees that must be addressed by the Council:

1) Current school support staff (all staff except teachers and certain Educational Technicians), who were mandatory participants under the prior RSU plan and will become Saco School Department employees on July 1, 2014, must be allowed a one-time election to continue or drop their enrollment (so this group must be included in the Council action at a minimum) as members under the City’s current plan; and

2) New hires (future hires who were not RSU employees) can be included or excluded from membership under the City’s plan. If included, at hire they would have a one-time election opportunity to join MEPERS; if they join, they would be enrolled under the new rules for members effective as of July 1, 2014 (normal retirement age is 65, etc.), unless they were in MEPERS with another employer.

Councilor Smith moved, Councilor Brunswick seconded “Be it ordered that the City Council approve the offer of the Regular Plan AN to all school support employees of RSU 23 who become employed by the City effective July
1, 2014 and who were members of RSU 23’s MEPERS plan immediately prior to becoming employed by the City. Also included are the City’s School Department support staff hired after July 1, 2014, that are considered full-time (as defined by the City as working 30 hours or more per week on average), and further move to authorize the City Administrator to sign all necessary related documents as required by the Maine Public Employees Retirement System on its behalf. Further move to approve the order. The motion passed with seven (7) yeas.

VI. CONSENT AGENDA

Councilor Smith moved, Councilor Roche seconded to approve consent agenda items #1, 2 & 3 as follows:
1. No minutes presented this evening;
2. The City of Saco hereby ordains and approves the Second and Final Reading of the “Contract Zone Agreement By and between Robert Lister and the City of Saco,” dated March 4, 2014;
3. The City of Saco hereby ordains and approves the Second Reading of the document titled ‘Amendments to § 503-5 and 504-1 of the Zoning Ordinance, April 7, 2014’.

The motion passed with seven (7) yeas.

The complete item commentaries are listed below.

2. CONTRACT ZONE PROPOSAL – 188 LINCOLN STREET – (SECOND & FINAL READING)

Contract Zone Agreement By and Between
Robert Lister and the City of Saco
March 4, 2014

THE CITY OF SACO HEREBY ORDAINS:

I. That the Zoning Ordinance of the City of Saco, dated January 2, 1985, and amended through September 3, 2013 is hereby further amended by adopting this contract by and between the City of Saco and applicant John Lister.

1. John Lister (Applicant) has submitted an application for a contract zone for the parcel (Subject Property) at 188 Lincoln Street.
2. The Subject Property is owned by the Applicant, acquired October 1, 2008, and subject to a deed recorded in Book 05498, Page 844 at the York County Registry of Deeds.
3. The Subject Property is identified as Tax Map 52, Lot 149 on City of Saco tax maps.
4. The Subject Property is in the R-3 zoning district.
5. The first floor of the building on the Subject Property was operated as a Retail Business/Convenience Retail Use for many years until it closed in early 2012. There are two apartment units on the second floor which continue to operate. The building was built in 1909.
6. The Applicant proposes to re-establish the Retail Business/Convenience Retail Use in the first floor space of the building. A Retail Business is not an allowed use in the R-3 zoning district.
7. Article 5 of the Zoning Ordinance addresses nonconforming uses as follows:

      503-3. DISCONTINUANCE -- A nonconforming use which is discontinued for a period of 12 months may not be resumed. The uses of the land, building or structure shall thereafter conform to the provisions of this Ordinance.

The Applicant recognizes that more than twelve months have passed since the convenience store has operated. The use may not be resumed under current zoning restrictions.
8. Recognizing the use restrictions imposed by the Zoning Ordinance, the Applicants hereby make application for a Contract Zone that would allow the proposed Retail Business/Convenience Retail Use to be established and to operate on the Subject Property as a legally conforming use.
9. As stated in Section 1403-1 of the Zoning Ordinance, “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.”

II. This Contract Zone Agreement amends the Saco Zoning Ordinance as follows:

This Contract Zone, specifically and exclusively for the Subject Property as identified above, would allow the Applicant to establish a Convenience Retail Use in the existing building at 188 Lincoln Street, as provided for in Article 14 of the Saco Zoning Ordinance:

a. Section 410-1 of the Zoning Ordinance is hereby amended so that “Convenience Retail Use” shall be a permitted use on the Subject Property.

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

c. The total number of signs and total area of signage in place when the business was closed in 2012 may be maintained or re-established, but shall not be exceeded.

d. The historic use of the first floor as a neighborhood convenience store was not supported by off-street parking as is required by the Zoning Ordinance. The lack of on-site parking has not changed. The requirement for ten (10) off-street parking spaces set forth in Table 708-2 of the Zoning Ordinance is hereby waived.

III. This Contract Zone Agreement is subject to the following conditions and restrictions, as provided for in Section 1403-5 of the Saco Zoning Ordinance:

a. The Applicant shall adhere to all other applicable provisions of the R-3 zoning district and of the City of Saco Zoning Ordinance.

b. City and Applicant recognize that the plan submitted for contract zone review is representative of the existing and proposed site layout, but may be subject to change as a result of site plan review conducted by the Planning Board. If it is determined that the changes constitute a significant change in the contract, then the developer shall also be required to obtain City Council approval of the change.

c. Upon approval of this contract by the City Council, the Applicants shall submit materials required for site plan review to the Planning Office. Failure of the Applicants to secure site plan approval within one year of the approval of this Contract by the Saco City Council shall render this Contract null and void. In the event that permits or approvals are delayed due to circumstances beyond the control of the Applicants, this one year deadline may be extended by one year upon written request to the City Council.

d. After the initial site plan review with the Planning Board, the modernization and limited expansion of the proposed Convenience Retail Use may occur through a minor site plan review process to assure that the scale and intensity of the activity is appropriate and that the impacts on neighboring properties is minimized.

e. This contract and its provisions shall specifically and exclusively apply to the Contract Zone request submitted by the Applicants. Approval of this Contract Zone is in part based on the financial and technical qualifications of the Applicants as submitted to the City. Accordingly, this Agreement and the contract zone it creates shall not be assigned or transferred without review and written approval by the City Council, such consent not to be unreasonably withheld.

f. Breach of these conditions and restrictions by the developer shall constitute a breach of the contract, and the developer shall be required to apply for a contract modification. Failure to apply for or to obtain a modification shall constitute a zoning violation, subject to enforcement action.
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 4, 2014, and the Saco City Council on May 12, 2014, the following findings are hereby adopted:

A. The Subject Property, identified as City Tax Map 52, Lot 149, is a parcel of an unusual nature and location for the following reasons:

1. The Subject Property is located in the R-3 zoning district, a high density, single- and multi-family residential zone. When the store closed in 2012, it was recognized as a grandfathered, nonconforming use. A premise of zoning is that nonconforming uses are and should be phased out. However, neighborhood support of Wagner’s Variety and the benefits of a Convenience Retail Use in this location have been substantial for many years.

2. Prior to zoning, a mix of uses often occurred based on demand. In the case of the Subject Property, a convenience store met the needs of the surrounding neighborhood. Zoning often separated such uses from residential neighborhoods. However, current-day thinking is recognizing the value of mixed uses; what worked prior to zoning may be an improvement on the rigid separation of uses required by zoning.

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

Chapter 6, Land Use Goals and Policies

26. There is a number of existing neighborhood convenience stores located throughout the City. These stores provide a valuable service to the community and the neighborhoods in which they are located. The City’s policy is to support the retention and modernization of these stores as long as the scale and intensity of activity is appropriate for the specific location. Currently many of these neighborhood stores are nonconforming uses since they are located in residential zones that do not allow retail sales. In addition, the City’s current nonconforming use provisions preclude the expansion of these buildings.

The City’s land use regulations should be revised to make these existing neighborhood convenience stores a conforming use in the appropriate residential districts. These regulations should allow for the modernization and limited expansion of these facilities through a minor site plan review process to assure that the scale and intensity of the activity is appropriate and that the impacts on neighboring properties is minimized. The regulations should not allow the addition of gasoline sales to an existing neighborhood store.

C. The proposed use is consistent with but not limited to the existing uses and permitted uses within the original zone. The existing zone is the R-3 High Density District, which “…may be developed more intensively than in the R-2 district due to its proximity to the central business area of Saco, the availability of central water and sewer facilities, and the general character of existing land uses.” Allowed uses in the R-3 district include places of worship, adult day care centers, and elder/disability housing facilities, hotels and motels, funeral homes, hospitals and clinics for humans, day care centers, and private clubs. The proposed use is consistent with the character of these and other uses.

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 Zoning agreement into the Saco Zoning Ordinance by reference. By signing this contract, all parties agree to abide by the conditions and restrictions contained herein.

Adopted by the Saco City Council on May 12, 2014.

by ________________          by ________________
Richard Michaud
City Administrator          Robert Lister
Applicant/Owner
3. ZONING ORDINANCE AMENDMENT: ARTICLE 5 NONCONFORMING USES IN THE RESOURCE PROTECTION ZONE – (SECOND & FINAL READING)

While the Maine Department of Environmental Protection (MeDEP) allows expansions of existing dwellings in the Resource Protection (RP) zone of up to 30% of existing floor area or volume, such expansions are not allowed in Saco. This is not due to Shoreland Zoning specific language. Instead, the prohibitive language is a combination of Section 410-15. RP District and Section 503-5. Expansion of Use. Dwellings are not an allowed use in the RP zone (410-15), and Section 503-5 does not allow a nonconforming use to expand “…in area or function”. So, the 152 dwellings in the RP cannot be expanded, though the owners of several dwellings have expressed interest over the years.

Code Enforcement Officer Dick Lambert notes that the 2009 update of shoreland zoning in the Ordinance resulted in an expansion of the RP zone throughout Saco, so more homes are now included in the RP zone. He does not see a 30% expansion as a threat to the resource – nor does the DEP – and such expansions would be relatively easy to track. So, he supports the change, as does Mike Morse, Southern Maine Shoreland Zoning coordinator for the DEP.

The Planning Board considered the suggested amendments in workshop on Dec. 17, 2013, and during a public hearing on Jan. 7, 2014. The Board recommends that the amendments be adopted as proposed.

“Amendments to Sections 503-5 and 504-1 of the Zoning Ordinance, April 7, 2014”

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

503-5. EXPANSION OF USE

1) A nonconforming use, including a nonconforming outdoor use of land, shall not be extended or expanded in area or function; provided, however that a nonconforming use may be extended throughout any part of a building or structure that was lawfully and manifestly designed or arranged for such use as of the effective date of this Ordinance.

2) Expansions of nonconforming uses are prohibited, except that nonconforming residential uses in the Resource Protection district may be expanded under the provisions of Section 504-1(3)e.

Section 504. Nonconforming Structures

504-1.

3) e. A non-conforming structure in the RP zone may be added to or expanded as measured in floor area or volume by up to 30% upon issuance of a permit from the Code Enforcement Office, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs (a) through (c) above.

VII. ADJOURNMENT

Councilor Tardif moved, Councilor Roche seconded to adjourn the meeting at 7:50 p.m.

Attest: ____________________________

Michele L. Hughes, City Clerk