I. CALL TO ORDER – On Monday, December 1, 2014 at 7:00 p.m. a Council Meeting was held in the City Hall Auditorium.

II. ROLL CALL OF MEMBERS – Mayor Donald 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:
BRIDGE 2025 VISION STATEMENT PUBLIC FORUM

Mayor Pilon noted that on Dec. 6 the city was having a public forum for anyone in the city to take part in one of the cities vision sessions from 9-noon. There have been 12 focus groups so far and there is an on-line survey you can complete as well. There will be a group leader to assist in discussion to help the city do a planning process for the city for the next 10 years.

VI. CONSENT AGENDA:
A. OCTOBER 28, 2014 MEETING MINUTES

Point of Order – Councilor Johnston called a point of order to request that the Oct 28th meeting minutes be pulled from the consent agenda for approval before we move onto item #A because he felt they were not accurate. If we are going to move forward with item #A, I would like to discuss that before we move on.

Mayor Pilon inquired what the inaccuracies were in the minutes. Councilor Johnston noted that he would like to have them pulled first before the discussion.

Councilor Johnston moved, Councilor Smith seconded to pull the Oct 28th meeting minutes from the consent agenda for approval before we move onto #A on the regular agenda.

Councilor Johnston noted that the minutes seem to lack the entire conversation that took place between the Councilors and the City Administrator on what exactly we were voting on. All I see here is a motion that was supposedly made by Councilor Roche and I do not have in my notes that motion being made.

Mayor Pilon asked Councilor Roche if he disagreed.

Councilor Roche stated that he didn’t disagree with Nathan, but he wanted to make a point that there was a conversation and I believe I brought up at least 3-4 times to “confirm” that we were voting not on my amendment but that this was going to be a final amended motion. Which actually had me a little worried because I thought my amendment would get 6-1 or 7-0 passage and we move forward. Instead I was concerned that if this is final I don’t think that we have gone through it enough and my motion the final amendment would not pass. At least a couple of times back and forth with Rick had that understanding and I thought the other Councilors may have had that understanding too because the vote was close (4-3). But then I do agree, I looked at the minutes and I’m not saying they were inaccurate but they were highly summarized as to what transpired.

Councilor Johnston stated that he would agree and he for one was under the impression that we were only adopting the amendment that you had suggested and not the main motion. Previously at any time we made a motion to amend, we then voted on the main motion, and we didn’t do that. I don’t know about the rest of the Councilors but I certainly didn’t know that that was a final vote. In addition, I don’t understand why if this is a final vote we would have a public hearing tonight if this is already voted on. It makes absolutely no sense to me. City
Administrator Rick Michaud directed Councilor Johnston’s question to Attorney Ken Cole on the need for the Public Hearing this evening.

Attorney Ken Cole – Mr. Cole stated that he couldn’t disagree with Councilor Johnston on the practicality of this public hearing. However, it is required because the Dept. of Economic and Community Development requires that the Council hold a public hearing on the actual TIF that is granted. Since Councilor Roche’s motion passed to amend the TIF as was before you at that public hearing, it is required that you have another public hearing. You are absolutely correct it has passed back in October but still the public hearing is required because the record must reflect, in order for the DECD to approve the TIF, that a public hearing was held by the Council on the exact TIF that they are acting to approve.

Mayor Pilon asked Mr. Cole, so when they originally voted on Councilor Roche’s motion they approved the TIF at that time?

Attorney Ken Cole stated to Mayor Pilon that that was correct. Every legal sense of the Council’s action it was complete. It is simply for submission to the DECD which has to still approve it, although you have approved it, they require that in the record of that submission it shows you held a public hearing on the exact TIF that is being submitted to them. They won’t approve it based on an amendment. It has to be the exact one and therefore an additional public hearing is required simply for submission to the DECD. That is why the motion that is in your packet talks about no reconsideration being made on Nov. 3rd, that you are basically ratifying the action that took place in October.

Mayor Pilon noted that this is basically a formality for the DECD for the State.

Attorney Ken Cole stated that this does not change the legal effect of what you voted in October, it is a formality for submission to the DECD. As absent this formality they won’t approve the TIF.

Mayor Pilon inquired with Councilor Johnston if that was clear?

Councilor Johnston replied that he understand what Mr. Cole was saying but just don’t really think that makes much sense. If the idea is to hold a public hearing and have comment from the public so as Councilors we can make informed decisions, why would we have a hearing after the fact if we supposedly voted on it? I have never seen anything like it and realize I’m new but I have been around quite a while and have never seen something like this before.

Mayor Pilon noted that Mr. Cole just explained it.

Councilor Johnston noted that was fine but he didn’t know what he was voting for and maybe we should poll the Councilors to find out if they knew what they were voting for that night because I don’t think, it wasn’t clear to me, I thought we were just voting on the amendment. That is why Rick scheduled a Nov. 12th Public Hearing that was subsequently cancelled. The process just doesn’t seem right to me here that is all that I’m getting at. I just don’t want to continue to do this and have it snowball on other issues.

Mayor Pilon stated that is right.

Councilor Smith stated that you use an interesting word “ratify”. We are going to have a public hearing and then we are going to ratify the TIF. To me ratify means we are going to listen to the public they will bring forth opinion and information that we may not aware of, perhaps in a flat out attempt to influence the vote of one or more Councilors. After we have listened to the public, kicked it around a little more up here we will ratify by yea or nay. So why do you have a second public hearing other than to placate some pencil pusher in Augusta if we don’t have a chance to listen to the public and perhaps change our mind on way or another.

Attorney Ken Cole stated that it is your rules, that’s why you will notice in that motion it says “without objection”, the Clerk will note that it was ratified.
Councilor Johnston stated how can I object it? This is ridiculous.

Attorney Ken Cole stated again that it is your rules, you acted affirmatively. Now if you decide that you didn’t act affirmatively in October that is your decision. I was sitting here and you acted affirmatively 4-3 and I understood what was going on and I think you did. I’m going to be as blunt as that. That typically would close the book and we would be done. I agree that there is a pencil pusher in Augusta but the point here is if you want these folks to have a TIF that pencil pusher requires that you hold another public hearing on the exact terms of the TIF that you approved in October. I completely agree with you that from typical Legislative and Council action, you passed it, it is legally effective and they should approve it in Augusta, but they won’t. They require a public hearing on the exact wording. That would make sense if you gave more rather than less than what was noticed in October. It makes no sense given that you actually gave less. However, that is their requirement. You are hiring me basically to see this through to the end and the answer is absent this additional public hearing the end is denial or even more frustrating a letter saying that you have to hold another public hearing, which is what I’m standing here and telling you know. I don’t want to waste your time but that is the purpose of this.

Councilor Smith noted that he heard what he said but it doesn’t mean that I have to agree with him.

Councilor Roche noted that the point here is that the process here is kind of cumbersome to begin with because we vote on an amendment that if effect benefited the City of Saco yet we are having another public hearing about it. The whole role of having a public hearing for that just doesn’t make any sense. But, at least there is another public hearing to see if like Les says, anything else is brought up that could change minds or a vote. The more input the better, but how we got here, the process I’ll just say in best words is “cumbersome” if not silly.

Attorney Ken Cole stated that he didn’t disagree, but we would have had to have the exact TIF proposal that you eventually acted on as your motion and was passed as the public hearing notice and that wasn’t the case.

Councilor Roche stated he never got a clear understanding if it is any amendment to a TIF or is there a materiality threshold?

Attorney Ken Cole noted that any change from the TIF document that is before you and the public, prior to that public hearing requires another public hearing. I don’t disagree, I think it is totally irrational, but I also don’t control the person up there who is going to give the approval, and she will not approve it if it is not identical.

Councilor Johnston stated that he felt it was pretty clear that the minutes were not accurate, and the guy who said the motion himself just confirmed that.

Mayor Pilon called for a vote on the motion to remove the minutes of the Oct 28th meeting from the consent agenda. The motion passed with four (4) yeas and three (3) nays – Councilors Precourt, Brunswick and Tardif.

Councilor Precourt moved, Councilor Roche seconded to approve the minutes of the Oct. 28th meeting.

Councilor Precourt noted that going back to that night. When he first vote he voted against the amendment for 80-20 and the 60-40 to go back to the original amendment and then Rick explained it then to everybody that that was the final vote and that is when I went back and recused my vote and went back the other way and voted in favor of the compromise of the new TIF. So this was brought up at that meeting and I was the first vote on it. So it was brought up to the point that the 80-20 and 60-40 split was going to be the new TIF and that is how it was presented.

Councilor Johnston stated that none of that conversation is present in the minutes and that is what we are discussing is the approval of the minutes. Why are we going to approve things if we don’t know what we are approving? Are we just going to go off on what Rick, Michele, Kevin or whoever decides the minutes are? It should be recorded.

Councilor Roche noted that David remembered the full conversation and interaction well because I thought I was going to get the amendment vote because it was going to delay or hamper the process so to be honest, that should be to Nathan’s point, in the minutes. I was pretty well surprised that was not in the minutes. That was a pretty long
dialog back and forth a couple of times over and I just think that should be in the minutes. It wasn’t there and I think that is the problem. It’s definitely a debatable item right now.

Councilor Brunswick stated that she knew what she was voting on and I was voting to amend the TIF and approve it that night. Regardless of how much discussion took place and was not recorded either be it camera or through minutes, at this point I just think it is something we learn from and make sure that in the minutes they reflect what actually takes place from this point moving forward. I don’t think we can go back.

Mayor Pilon called for a vote on the motion to approve the minutes of the Oct. 28th meeting. The motion passed with five (5) yeas and two (2) nays – Councilors Smith and Johnston.

V. AGENDA
A. TAX INCREMENT FINANCING 120 MAIN STREET – SACO ISLAND – (PUBLIC HEARING)

The Saco City Council is holding a Public Hearing this evening to receive public comments on the designation of the proposed City of Saco, Saco Island Building No. 4 Municipal Development and Tax Increment Financing District for 5.04 acres, including Building No. 4, on Saco Island and the adoption of a development program for the said District, pursuant to the provisions of Chapter 206 of Title 30-A of the Maine Revised Statutes.

The proposed District will be located on Saco Island on a portion of the land designated as Tax Map 37, Lot 1 and Tax Map 37, Lot 8 with the overall address of 120 Main Street. A copy of the proposed development program for the district is on file with the Planning Department and may be reviewed during normal business hours.

Document History:
Workshop: 09/29/2014
10-day notice of PH Met
Public Hearing 10/20/14 continued to 10/28/14
Public Hearing tabled on 11/17/2014 and continued to 12/1/2014

10/28/14 – Public Hearing Minutes of the motion:

Councilor Roche moved, Councilor Precourt seconded to re-open the 10/20/2014 Public Hearing on Saco Island Mill 4 – 120 Main Street Tax Increment Financing proposal. The motion passed with unanimous consent.

Councilor Smith moved, Councilor Precourt seconded to close the Public Hearing on Saco Island Mill Building 4, 120 Main Street, Tax Increment Financing. The motion passed with seven (7) yeas.

Councilor Roche moved, Councilor Brunswick seconded “Be it Ordered that the City Council adopt the TIF Resolution, as presented in Exhibit H, and to dispense with the reading thereof and to amend the TIF to 80% - 20% for 1-8 years and 60% – 40% for the remaining 9-30 years”. The motion passed with four (4) yeas and three (3) nays – Councilors Smith, Cote and Johnston.

The City Administrator will advertise for Public Hearing for Nov. 12th.
Councilor Roche moved, Councilor Tardif seconded to open the Public Hearing on Saco Island Mill 4 – 120 Main Street Tax Increment Financing proposal.

Mayor Pilon stated the Public Hearing was now open and that there had been a couple public hearings before so the Council would like to hear from people with new information that may be helpful.

Richard Petersen, 44 High Street – Mr. Petersen noted that this is a tough situation. He noted that his first question is a legal one, he thought, but didn’t know because he isn’t a lawyer. But, could the Council find itself doing this in the future where is has a vote before it has public input? I don’t know who to ask that question to, but I know the TIF attorney is over here and my Councilor is a attorney, so I would like to ask that question because that seems to set a precedent. So I figured I would ask that question first. This is a done deal.

Mayor Pilon noted that the Council really wasn’t taking questions, where this is a public hearing.

Mr. Petersen stated this is a public hearing and I’m asking a question about whether we have, you are having a public hearing and there is always a vote after the public hearing. My understanding is there is no vote. I’m just making sure I have clarity. I think I should be able to, that is new information and I’m not aware. I’m asking. Please give a answer please.

Mayor Pilon asked Mr. Petersen if he could rephrase the question, please.

Mr. Petersen asked “Can the Council have votes before public input legally?” In the future could it set a precedent tonight and in the future find itself in the same situation and because of our nice TIF attorney here who is qualified and the contractor who I’m sure is going to make us proud here in Saco. I’m not worried about that. I’m asking about the precedent being set here tonight and I’m asking about the future. Can the Council legally vote before public input? It is a straight forward question.

Councilor Precourt noted that we had already had a public hearing on this (Mr. Petersen stated 1) in October before we took the vote on the 28th. The only thing that changed is the actual TIF increment and that was the only thing that changed. I think in all, we have had 2 public hearings in this process up-to-date, not counting tonight. Tonight is just a formality as the attorney had explained it is just to satisfy the State.

Mr. Petersen stated there is no vote.

Councilor Precourt stated there is a vote that we took the other day.

Mr. Petersen stated that he understood that, but there is no vote after public input and if I came up here and said “geesh I think yada, yada, whatever”, there is not vote after this public hearing.

Mayor Pilon stated that this was not going to be a debate.

Councilor Brunswick asked to add some clarity. So, the public hearing in about the TIF, it is not about whether or not we want to have a project go forward, it is about the TIF. So, we have voted on the TIF and it has been approved by us. That is all it is, it’s about the TIF.

Mr. Petersen stated that he understood that and he was clear and you have a tough enough job to do here and I usually don’t come up here to speak to hear myself speak. I realize what I’m asking and I haven’t got a real clear answer on it, but that okay. The vote has already been taken, you have made that very clear, so I gave allot of thought to my words and I have the time. I enjoyed the walk over and I’ll enjoy my walk home and I hope you give allot of thought to the precedent that you are setting. Thank you.

City Administrator Rick Michaud noted that there was a motion made to open the Public Hearing and it was
seconded, but the Council did not vote on it. You could declare it open by unanimous consent or you could call the
vote. Mayor Pilon asked what the people would prefer on this. Councilor Brunswick asked if there was a second?
City Administrator Rick Michaud stated there was a second, but no vote. Councilor Precourt also acknowledged
there was no vote.

Mayor Pilon declared the public hearing open with the unanimous consent of the Council.

Councilor Cote noted that he was going to answer Mr. Petersen’s question, but he left.

Mayor Pilon addressed Mr. Jacob Johnston who was at the podium and asked if he had new information for the
Council.

Jacob Johnston, 62 Pleasant St - Mr. Johnston stated that he certainly did, absolutely, because we have to have new
information for the formality of a public hearing after a vote on an amendment but not the main motion. But it
doesn’t matter, you guys know how I feel on this at this point. This is corporate welfare for an apartment building.
Well. But that is not what I’m here to talk about tonight because that is old news, we all know that. I’m here to
talk about the process that happened on the 28th that you guys have talked allot about. I feel that I was a spectator
here and it kinda matters what I remember being said or not said. So, on the 28th there was an amendment proposed
by Councilor of Ward 4 so amend the TIF from a 20-80 to a 40-60. Councilor Brunswick second that. Then the
vote started after some conversation. The Councilor from Ward 1 voted “no” then the City Administrator went like
this (Mr. Johnston began waving his hands in the air) and said “whoa, whoa, whoa, whoa, whoa, whoa, whoa, whoa,
whoa”. I just want to be specific about what I remember he said was “We are not voting on the main motion here,
we are voting on the amendment from a 20-80 to a 40-60”. He didn’t even believe that night from what I remember
that we could even vote on it due to the fact that we needed to give a 10 day notice because we were changing the
structure completely. That is what I remember. Then the vote continued and it ended up with a 4-3 split. The
“yeas” beat the “nays” and there was an amendment to the TIF. But, never ever did they in any speaking or manner
move on the main motion. I’m not a lawyer. I wish you guys could talk to your City Attorney one on one and ask
him. But, as we know you can’t. You would have to go through the City Administrator. It seems like the City
Administrator tells you when to vote, where to vote, and after you vote, what you voted on. But of course a lawyer
told her that that is okay, so it doesn’t make me feel good about the process. I’m young I always thought straight
up, hey you do this, you do that, you vote on the main motion, you let the public have their way, I mean have their
say, you have the way. I didn’t think the City Administrator and lawyers told us what we did and didn’t do. Hey,
I’m fine with playing a game of baseball as long as we all know the rules. But the rules seemed to have changed
haven’t they. So, where does the power lie. Does the power lie in the reality of what the Council voted on, on the
28th or does the power lie in what lawyers and the City Administrator sees what you voted on, because we would
love to hear what actually heard on a video recorder. I mean those technology are kind of new but wouldn’t it be
time to hear that. Humm, because I know what was said, Kevin knows what was said, Tardif knows what was said,
Brunswick knows what was said, the Councilor from Ward 1 knows what was said, Councilor from Ward 2 knows
what was said and the City Administrator I’m sure he remembers what was said. I don’t vote for a City
Administrator, I don’t vote for a Lawyer, I vote for a Councilor and a Mayor. I feel that your power is being taken
away from this process. No matter how you feel, whether you are for the TIF or not for the TIF I think secretly in
my opinion that we all know what really happened and secretly we can’t say it too loudly the system was screwed.
I would have been willing to accept whatever the TIF was decided but you never voted on the main motion. You
all know that. You can think it and change what you think in your head and so well going forward we should
change the process but you haven’t. So how do you change this? There is a way to correct this process, it is not too
late and you can vote on the main motion tonight. You can do that but the City Administrator will say no you can’t
and the lawyer will saw no you can’t and you can’t talk to the City Attorney because uh you are not allowed to talk
to him right. But, there is a way, all you have to do, one of the four that voted “yes” for the amendment, all they
have to do is say “Hey, you know what, we actually just voted for the amendment and never really voted on the
main motion” and why don’t we do that tonight. It won’t change anything because I’m pretty sure the vote’s gonna
turn out the way it is gonna turn out. But, the process, the integrity. When I looked at the American flag tonight, I
pledge allegiance to the flag, I thought these people are gonna let a lawyer and an appointed official steal the truth.
There hasn’t been a public hearing on the amendment which is why there hasn’t been a vote on the main motion. You all know that. Have a great night. Understand though, system matters, process matters. I don’t mind losing an argument, but I do mind when the system doesn’t let it happen in a natural way. We are not machiavellian, the means just don’t justify the ends. Process matters, so when I can look out into the public, they can see me and you and say “Hey I lost, but at least it happened fairly”. You know it didn’t happen fairly here. We can still change this. Have a good night. Thank you.

Elizabeth Johnston, 62 Pleasant St. – Ms. Johnston noted that there is really nothing that I can say to improve upon the statement that was just made. I really think what was just said is the absolute truth. I left that same meeting with the same impression of at least 4 other people in the audience. What I thought I heard. What I think is unacceptable is that there was no recording made of this meeting. How can we check what we all remember? I checked with City Hall and there was no video tape taken that night and there was no audio recording made. Both of which I understand are customary. But I think the very fact that we don’t have that to verify what occurred that night and that everyone seems to have a different impression is reason alone to have this whole process start over again and I do believe that it is not too late. People can make decisions to try to straighten out the process even if in the end the project goes forward or the project doesn’t go forward. I was wondering and this is along the same line of question that Dick Petersen asked. The TIF attorney has said the State requires that we have a public hearing on the change of the TIF. Well does the State think that should occur after the vote? I mean I can’t believe they would accept the fact that that public hearing would occur after the vote. Which is again what was just said. That night I don’t think anybody, I know the Administrator from my perspective did not seem to be indicating this was the last vote. The process is unbelievably flawed, unbelievably flawed. Even if it was unintentional which I think is certainly up for questioning. There are people in this room tonight that live in the area who did not attend the previous hearings, I think largely because they didn’t know that they were even going on. This project has been well hidden from the vast majority of the public. I hope that some of these people will come up and speak tonight, only if to say “You know we feel cut out of the process or maybe they will say they don’t”, I don’t know. But I hope they will come and speak because it is the opportunity for people to come and speak and express what they are feeling and what they are thinking. It just amazes me really that this has gotten to the point that it has gotten too and I would really like to ask each of you who are on the Council to think about, is there some way that we can handle this without just accepting the fact that it is already out the door. That old saying from way back in 1975, “Well the horse is already out of the barn”. Well you know what, bring it back. Because you have the power. We do elect you and I really hope that others will come and speak to you tonight as well. If nothing else we need to change the process and set it back into motion in the correct manner and I really hope that you will all do that. Thank you.

Steve Ryan, 13 Cross St. – Mr. Ryan stated that he was here tonight because Beth e-mailed him. He thanked all the Council for their service and the Mayor for his service. I know what allot of work it is and allot of tedium is involved. What I’m hearing tonight that there is allot of confusion. I think it would make sense to revisit that decision to the fact that the hearing was not recorded and that we didn’t have video. I think all of us in Saco really have integrity and we really value that kind of integrity, so I think it would make sense to start over. I think it would be a minor delay and regardless of how anybody feels about the project, ultimately it go forward. I think it will make the Council stronger and the city stronger.

Councilor Roche moved, Councilor Brunswick seconded to close the Public Hearing on Saco Island Mill Building 4, 120 Main Street, Tax Increment Financing, and Be it Ordered that the City Council hereby state that since no reconsideration motion was offered on November 3, 2014, without objection, the Clerk shall note in the minutes that the Council has hereby ratified and confirmed its October 28, 2014 approval of the Chinburg TIF in its entirety.”.

Councilor Smith stated that he was a word guy. Be it Ordered that the City Council hereby state that since no reconsideration motion was offered on November 3, 2014, without objection, the Clerk shall note. So now we are being asked to vote to confirm that there was no change, or to confirm the results of November 3rd?
TIF Attorney Ken Cole – Mr. Cole stated that you are simply being asked to note that in your next regular meeting following Oct. 28th, which was November 3rd pursuant to your rules to overturn the decision that you made on November 3rd you would have had a motion to reconsider at that time. Because you rules talk about the next regular meeting. That that did not occur would simply be a reflected in this order. So that again we go up to the DECD we can explain to them why this was still legally effective. Because the Oct 28th decision was not reconsidered and this public hearing was therefore held pursuant to their requirements. I agree it is a mess and it is not a mess of our making or your making. It is a mess because there is a bureaucrat in Augusta who insists that there must be a public hearing on the exact action that you approved which is nothing like anything else that you do because everything else that you approve you have a right to amend when you act on it, which you did on this. So legally for purposes of all of us here you acted appropriately on Oct. 28th but we have a bureaucrat who insists we have one more public hearing or she won’t approve the TIF. So everyone’s actions to date would be a waste of time, so therefore I agree to some degree this is a charade, but a required one. I can’t be more candid.

Councilor Smith noted that he was not on the prevailing side so he could not bring up a reconsideration motion. I left here thinking we had gone from 80-20 to 60-40 and the amount of apartments was perhaps still in play. To be honest with you, I walked out of here scratching my head wondering “What hath god wrought” to quote the inventor of the telegraph. I don’t know how we got to where we got. Because I was not on the prevailing side under Robert’s Rules the often referred to seldom read document provided to the Council at large. I had no ability to bring this back, so I guess we have what we have. But don’t ask me to be happy about it.

Councilor Cote noted that his understanding of this process was a little different than everything he has heard tonight. I understood on the 28th the motion passed with Kevin’s amendment. That is what I understood when I went out of here. I had lost. The State is requiring another public hearing in order for the process to continue on and we open the public hearing and if you don’t want to do it, you vote to not close the public hearing, so we do have a chance to stop the project at this point. Which I think we should do. The reason why I think we should do it as you have heard me complain before about the plan that you saw on this project. Basically the whole top of the hill is going to be paved. Hardly any green space, 150 small up-scale apartments is what is planned. Being part of the public comment and my own observation and I had 10 years on the Planning Board, this is too many units. I did check with the Historic Preservation Commission and in order to get a Historic Tax Credit it is a real issue to tear down part of the building. It is a real issue and they may not be able to do that. I think we should give it nothing. Another 150 apartments there plus some commercial space is too much. The Planning Board doesn’t have the discretion that we do. The Planning Board has to follow the ordinance and for us to give a TIF if we don’t like the project or we want to change the project we can talk about it. So I think we should talk more to the developer and from my understanding he is a very skilled developer. The Councilor from Ward I went to one of his projects and said it was a very nice project. So what I think we should do is talk to the developer about making the project a little smaller. I don’t see in the project so far, I hear there is not many children. If you had 150 apartments and no children, I don’t think so. Now if they have children, what are they going to do on Saco Island with the huge pavement, where are they going to play? There is no place to play, there is no green space. It is very dangerous for kids playing ball out in this huge parking lot. Are you going to have elderly residents? Image the walk from a parking space when it is raining or snowing through a huge parking lot to the third floor of the build way down at the end. It is too big of a project. I’ve asked questions about the traffic light. What is going to happen when the trains come, you have 150 units here, 30 units out back and you got the train traffic. How are these people going to get out into traffic on Main Street. Right now if you want to get to the Train Station, you have some wait. If your coming after a train, you have traffic way down York Hill and it is tough to come out. We haven’t had those questions answered. About the traffic light, how is the traffic going to move etc. I think that we should vote no to close the public hearing and talk to the developer about the project to get answers. This project is too big for the site.

Councilor Brunswick asked the City Administrator Rick Michaud if he knew at which part of the process this has gone through the Planning Dept or has it?

City Administrator Rick Michaud stated that his impression is that they have not applied for any permits from the city at this point.
Councilor Brunswick stated right, so we haven’t even gotten to there yet. This is only about the TIF and there will be public hearings about the project itself with the Planning Board.

Councilor Cote stated no, the Planning Board has to follow the Zoning Ordinance as I said which is different than what we are going. We have discretion. If we don’t like a project we can talk to the developer about changing it. The Planning Board, the parking requirements on Saco Island with this old mill building are very, very poor. What there first proposal is to pave the whole top of the hill, they can do that. The Planning Board doesn’t have a choice, but we can stop it. The Planning Board can’t. You come back here in 5 years and you will see that whole hill paved and it is going to be a mess.

Councilor Brunswick noted that she sees there is more process to come and she really only believes this is about the TIF.

Councilor Cote stated no, we as approving this TIF, you can approve the TIF for a project if we like the project but if we don’t like the project we can talk to the developer about making changes to the project. My proposal is that it is too big and we should make it smaller.

Mayor Pilon asked Councilor Cote what he perceived the project to look like.

Councilor Cote responded maybe 2/3 to ½ the size, 150 is too big. Maybe 75-100 units with some green space, some play areas and we could do something with the parking and talk about the traffic lights. I don’t know what is going to happen about the traffic lights. Are they going to have one, do they need one? We haven’t talked about any of that.

Mayor Pilon stated that was a matter for the Planning Board.

Councilor Cote replied that we are approving a TIF for a proposed project. It is up to us and up to the Planning Board. It is not up to the Planning Board. The developer can pave the whole top of the hill with the existing Zoning Ordinance. We don’t have to approve a project that paves the entire top of the hill. It is not just up to the Planning Board, it is up to us too.

Councilor Brunswick stated that we are not at this stage yet.

Councilor Cote stated yes we are. This is the last time we are going to see this project if you vote to close the public hearing, it will be the last time you will see the project period.

Councilor Roche noted that this was going to the Planning Board and therefore people can vote on things. Are you saying that they can’t deny certain things like paving the hill?

Councilor Cote stated the parking requirements right now allows the developer to do just as they have proposed. I’m not sure when the change happened but that is the way the ordinance is. They don’t have to have the same standards to build an apartment building somewhere. You don’t have all the parking lots they have for this project.

Councilor Brunswick noted that it was just a proposal right now and they can’t even close on the property until they know they can get this TIF.

Mayor Pilon noted this is just the TIF.

Councilor Cote stated that it is not just the TIF. We are permitting this development to happen. What they have right now most likely will go through the Planning Board.
Councilor Brunswick stated yes that’s just it. If you don’t like the project don’t vote for the TIF.

Councilor Cote stated right, he doesn’t like the size of the project.

Councilor Tardif moved, Councilor Brunswick seconed to move the question. The motion passed with four (4) yeas and three (3) nays – Councilors, Smith, Cote and Johnston.

Mayor Pilon called for vote on the Main Motion. The motion passed with four (4) yeas and three (3) nays – Councilors Smith, Cote and Johnston.

B. DISCONTINUANCE OF A PORTION OF FENDERTON ROAD

Applicants John Galloway and John Lane have requested that the end of Fenderson Road – a graveled section, owned by the City but not accepted as a City street – be abandoned so that they can take title to the land and develop it as a private road.

The majority of Fenderson Road was accepted as a City street in 2008. Commencing at Hearn Road, it extends about 2,700 feet before terminating in a dead-end. At the end of the accepted section, the portion in question continues for a few hundred more feet as a gravel road. John Galloway owns the last house on the right, 33 Fenderson Road. John Lane owns two parcels on the left (southerly) side of the right of way.

The Planning Board reviewed this item at its meeting of Nov. 5, and voted to forward this to the Council with a positive recommendation.

Councilor Smith introduced the item for debate.

Councilor Precourt moved, Councilor Roche seconded that notice be mailed to all abutting property owners prior to the discontinuance of the unimproved portion of Fenderson Road, and that the Council schedule the Public Meeting December 15, 2014 for the discontinuance of the unimproved portion of Fenderson Road. The motion failed with zero (0) yeas and seven (7) nays – All Councilors.

C. TRASH DISPOSAL FOR DYER LIBRARY SACO MUSEUM

There has been a request by members of the Dyer Library Board of Directors for the Library/Museum to be eligible to participate in the City’s curbside trash collection program. Granting permission to participate in this program will require Council action.

The City’s Solid Waste Ordinance (Article 1- Collection and Removal) states:

For the purpose of providing solid waste collection, includes single-family, duplex and multifamily dwellings (up to and including six units) on public ways. Residential uses may include home occupations as defined in the Zoning Ordinance, but not other mixed commercial and residential uses.

There were exceptions made by the City Council between 2000 and 2009 with regard to which property designations were eligible for participating in the municipal waste collection contract, in an effort to expand Citywide recycling results. However, since the collection contract extension in 2009 and the elimination of the City’s Recycling Coordinator staff position, the City has adhered to the current ordinance language for issuing new trash and recycling containers to only residential properties that met service requirements listed in the ordinance.

Councilor Brunswick moved, Councilor Precourt seconded “Be it ordered that the City Council grant Dyer Library/Museum an exemption from Chapter 181: Solid Waste Ordinance and provide weekly curbside trash collection to the Library located at 371 Main Street.”
AMENDMENT - City Administrator Rick Michaud requested an Amendment immediately following section 181, these words be inserted “As provided in section 181, paragraph #7”. Paragraph #7 says “The city at its discretion may enter into contracts for collection of recyclable materials or other solid waste with residential users that do not meet the strict definition of residential users in this article and with non-residential users. Each contract shall be negotiated individually.

Mayor Pilon called for a vote on the Main Motion with the Amendment proposed by the City Administrator. The motion passed with five (5) yeas and two (2) nays – Councilors Smith and Tardif.

D. DISPOSITION OF FORECLOSED PROPERTY – 16 BEACH AVENUE

The Finance Department has identified a single property, 16 Beach Street, upon which the City has foreclosed for nonpayment of property taxes. Several attempts have been made to notify the property owners about the matured tax lien. A more recent attempt by the Planning Office has failed to elicit a response. Authorization is being requested to initiate the disposal procedure provided by the Code for the property.

The Planning Board reviewed the property and the procedures outlined in Chapter 81 of City Code, and recommended that the City retain the parcel, recognizing that the impending Corps of Engineers beach restoration plan would require easements from beachfront owners, and that City-owned parcels would likely simplify that process.

Councilor Roche moved, Councilor Smith seconded “Be it ordered that the City Council retain the parcel identified on Tax Map 1, as Lot 42 due to the non-payment of property taxes for the amount of $402.29 tax lien date 7/25/2011.” The motion passed with seven (7) yeas.

<table>
<thead>
<tr>
<th>Property</th>
<th>Map Lot Number</th>
<th>Lien Date</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>16 Beach Avenue</td>
<td>1 – Lot 42</td>
<td>7/25/11</td>
<td>$402.29</td>
</tr>
</tbody>
</table>

Note: The Finance Director Cheryl Fournier clarified that it was Beach Avenue and not Beach Street.

VI. CONSENT AGENDA

Councilor Johnston requested that item #B be pulled from the consent agenda and voted on separately.

Councilor Johnston moved, Councilor Tardif seconded to approve consent agenda item #A as follows:

A. Be it Ordered that the City Council approve the minutes of October 20, 2014; November 3, 2014 and November 17, 2014.

The motion passed with seven (7) yeas.

B. ZOA §707-4 RE: SIGNS IN RESIDENTIAL ZONES FOR COMMERCIAL USES – (SECOND & FINAL READING)

The Planning Office has been approached about allowing larger signs for commercial uses in residential zones on certain arterial streets. A recent example is the Acapello Salon seeking approval for a larger sign, as traffic on Main Street makes reading signs difficult, particularly for those seeking an unfamiliar destination. The current request is regarding a small business recently established at 7 Industrial Park Road, in the R-2 zone. The proposed language would allow larger signs in specific residential-zoned areas that public ways such as Elm Street, Main Street, and Industrial Park Road pass through.

The Planning Board considered this in workshop and held a public hearing on Oct. 1, 2014.
The Board recommends that the amendments proposed be adopted.

Councilor Brunswick moved, Councilor Precourt seconded “The City of Saco hereby ordains and approves the Second and Final Reading of the document titled, ‘Amendments to Table 707 – Signs in Business and Industrial Zones, Amended June 11, 2013’.” “I move to approve the Order.

AMENDMENT #1 – Councilor Johnston moved, Councilor Roche seconded to eliminate Elm St., Main St. and change North St - #112 area from the Park St. to Rotary Dr. to just the Industrial Park Rd to Rotary Drive. The motion failed with one (1) yea and six (6) nays – Councilors Precourt, Smith, Brunswick, Roche, Tardif and Cote.

AMENDMENT #2 – Councilor Smith moved, Councilor Roche seconded to eliminate Elm St. only. The motion failed with three (3) yeas and four (4) nays – Councilors Cote, Tardif, Brunswick, and Precourt.

Councilor Brunswick moved, Councilor Smith seconded to move the question. The motion passed with five (5) yeas and two (2) nays – Councilors Tardif and Johnston.

Mayor Pilon called for a vote on the Main Motion. The motion passed with five (5) yeas and two (2) nays – Councilors Tardif and Johnston.

VII. RECESS THE MEETING AND CONVENE THE WORKSHOP

Councilor Smith moved, Councilor Roche seconded to recess the meeting and to convene to the Workshop. The motion passed with unanimous consent. TIME: 8:38 p.m.

VIII. RECONVENE THE MEETING

Councilor Smith moved, Councilor Brunswick seconded to reconvene the meeting. The motion passed with seven (7) yeas. TIME: 9:44 p.m.

E. PARK NORTH CONTRACT ZONE AMENDMENT – (FIRST READING)

Park North Development located at 941 Portland Road, requests an amendment to the Contract Zone Agreement by and between Park North Development LLC and the City of Saco executed on September 5, 2006.

Councilor Brunswick moved, Councilor Precourt seconded Be it ordered that the City Council approve the First Reading of the Contract Zone Amendment to the document titled, ‘Contract Zone Agreement By and Between Park North Development, LLC and the City of Saco, dated June 6, 2006’, to add an allowed use on Lot C1 for car sales and its associated activity, and further move to schedule the Public Hearing for December 15, 2014. The motion passed with seven (7) yeas.

Contract Zone Agreement
By and Between
Park North Development, LLC and the City of Saco
June 6, 2006

THE CITY OF SACO HEREBY ORDAINS:

I. That the Zoning Ordinance of the City of Saco, dated January 2, 1985 and amended through April 20, 2006, is hereby amended as further described in this Agreement by and between Park North Development, LLC (Applicant) and the City of Saco.
1. The Applicant proposes a mixed-use development on the parcels at 941 Portland Road and an unnumbered parcel off Cascade Road (Subject Property). The Subject Property excluding, however, any land zoned Resource Protection is identified as Tax Map 62, Lot 1 and Tax Map 48, Lot 4 on City of Saco tax maps.

2. The Subject Property is the site of an existing restaurant, twenty-six (26) seasonal cabins, and a single-family residence.

3. A copy of a Warranty Deed, dated March 18, 1985, is submitted by the Applicant. Said deed is recorded in Book 3481, Page 243 at the York County Registry of Deeds. Said deed identifies the current owner of the Subject Property as Richard L. and Marie A. Aube of Standish, Maine.

4. Evidence of right, title and interest is submitted in the form of a Contract for the Sale of Real Estate dated March 30, 2006 which identifies Park North Development, LLC and/or Assigns as the Purchaser of the Subject Property, and Richard L. and Marie A. Aube as the Seller.

5. The Subject Property is in the Business-6 (B-6), Business Park (BP) and Conservation-1 (C-1) zoning districts.

6. The Applicant has submitted a copy of its Articles of Organization of Limited Liability Company filed with the Office of the Secretary of State, dated January 28, 2004 being authorized to do business or carry on activities in the State of Maine. Timothy H. Norton, 53 Exchange Street, Portland, Maine 04101 is named as Registered Agent for Park North Development, LLC.

7. The Subject Property has an area of approximately 38.59 acres. The Subject Property is proposed to be divided into four (4) parcels as shown on a Sketch Plan dated May 10, 2006 as prepared by Sebago Technics for the purpose of constructing Cascade Falls, a multi-use development. In order to facilitate the multi-use nature of the project, Parcels 1, 2, 3 & 4 shall have distinct space and bulk and use restrictions as set forth below.

8. The Applicant proposes certain uses that are allowed and consistent with the current zoning of the Subject Property. The Applicant further proposes certain additional uses, such as residential and multi-family housing uses that are not allowed uses given the current zoning of the Subject Property. The Applicant has therefore made application for a Contract Zone under the provisions of Article 14 of the Saco Zoning Ordinance.

9. The Applicant recognizes that no public sewer system is readily available within the Portland Road right of way to service the Subject Parcel. The Applicant proposes to make provision for the extension of the City of Saco sewer system from its current terminus on Portland Road.

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

1. This Agreement supersedes Article 4, District Regulations, of the Saco Zoning Ordinance. District Regulations applicable to the Subject Property shall instead be governed by the terms of this Agreement.

2. Notwithstanding any contrary provision of Section 10.12 or Section 11.14 of the Subdivision Regulations of the City of Saco, the Applicant shall be authorized to implement a Low Impact Design stormwater management system for the Subject property. This system shall comply with existing City and State water quality and quantity standards.

3. The definitions of Front, Side and Rear Yards shall remain the same as in the Saco Zoning Ordinance. The following shall apply as the exclusive Space and Bulk Requirements applicable to the Subject Property:

| PARCEL 1 |
|-----------------|-----------------|
| Minimum Lot Size: | 7,500 Square Feet |
| Minimum Street Frontage: | 50 feet |
| Minimum Front Yard: | 50 feet for the front yard facing Route 1 if any, 20 feet for all other front yards * Service areas of the buildings shall not face the Route 1 corridor. |
| Minimum Side Yard: | 20 feet for Lots abutting a residential or conservation district; 10 feet for Lots not abutting a residential or conservation district |
| Minimum Rear Yard: | 20 feet for Lots abutting a residential or conservation district; 10 feet for Lots not abutting a residential or conservation district |
| Maximum Building Height: | 60 feet |
| Maximum Building Coverage: | 50% |
| Density: | N/A |
**PARCEL 2:**

<table>
<thead>
<tr>
<th>Minimum Lot Size:</th>
<th>10,000 Square Feet if sewered</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Street Frontage:</td>
<td>50 feet</td>
</tr>
<tr>
<td>Minimum Front Yard:</td>
<td>20 feet (0 feet between units in a multi-unit building)</td>
</tr>
<tr>
<td>Minimum Side Yard:</td>
<td>20 feet for Lots abutting a residential or conservation district, 10 feet for Lots not abutting a residential or conservation district (0 feet between units in a multi unit building)</td>
</tr>
<tr>
<td>Minimum Rear Yard:</td>
<td>20 feet for Lots abutting a residential or conservation district, 10 feet for Lots not abutting a residential or conservation district (0 feet between units in a multi unit building)</td>
</tr>
<tr>
<td>Maximum Building Height:</td>
<td>35 feet</td>
</tr>
<tr>
<td>Maximum Building Coverage:</td>
<td>40%</td>
</tr>
<tr>
<td>Density:</td>
<td>Not more than 40 units</td>
</tr>
<tr>
<td>Minimum Lot Area/Dwelling Unit</td>
<td>16,629 s.f. *total lot acreage divided by the total number of units proposed</td>
</tr>
<tr>
<td>Minimum Net Residential Acreage per dwelling unit</td>
<td>1 unit per 10,000 s.f.</td>
</tr>
</tbody>
</table>

**PARCEL 3:**

<table>
<thead>
<tr>
<th>Minimum Lot Size:</th>
<th>30,000 S.F. unsewered</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Street Frontage:</td>
<td>100 feet</td>
</tr>
<tr>
<td>Minimum Front Yard:</td>
<td>20 feet (0 feet between units in a multi-unit building)</td>
</tr>
<tr>
<td>Minimum Side Yard:</td>
<td>20 feet for Lots abutting a residential or conservation district, 10 feet for Lots not abutting a residential or conservation district (0 feet between units in a multi unit building)</td>
</tr>
<tr>
<td>Minimum Rear Yard:</td>
<td>20 feet for Lots abutting a residential or conservation district, 10 feet for Lots not abutting a residential or conservation district (0 feet between units in a multi unit building)</td>
</tr>
<tr>
<td>Maximum Building Height:</td>
<td>35 feet</td>
</tr>
<tr>
<td>Maximum Building Coverage:</td>
<td>40%</td>
</tr>
<tr>
<td>Density:</td>
<td>Not more than 2 units</td>
</tr>
<tr>
<td>Minimum Lot Area/Dwelling Unit</td>
<td>52,054 s.f. *total lot acreage divided by the total number of units proposed</td>
</tr>
<tr>
<td>Minimum Net Residential Acreage per dwelling unit</td>
<td>1 lot or unit per 12,500 s.f.</td>
</tr>
</tbody>
</table>

**PARCEL 4:**

<table>
<thead>
<tr>
<th>Minimum Lot Size:</th>
<th>30,000 S.F. unsewered</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Street Frontage:</td>
<td>100 feet</td>
</tr>
<tr>
<td>Minimum Front Yard:</td>
<td>20 feet (0 feet between units in a multi unit building)</td>
</tr>
<tr>
<td>Minimum Side Yard:</td>
<td>20 feet for Lots abutting a residential or conservation district, 10 feet for Lots not abutting a residential or conservation district (0 feet between units in a multi unit building)</td>
</tr>
<tr>
<td>Minimum Rear Yard:</td>
<td>20 feet for Lots abutting a residential or conservation district, 10 feet for Lots not abutting a residential or conservation district (0 feet between units in a multi unit building)</td>
</tr>
<tr>
<td>Maximum Building Height:</td>
<td>35 feet</td>
</tr>
<tr>
<td>Maximum Building Coverage:</td>
<td>40%</td>
</tr>
<tr>
<td>Density:</td>
<td>Not more than 2 units</td>
</tr>
<tr>
<td>Minimum Lot Area/Dwelling Unit</td>
<td>32,452 s.f. *total lot acreage divided by the total number of units proposed</td>
</tr>
<tr>
<td>Minimum Net Residential Acreage per dwelling unit</td>
<td>1 lot or unit per 20,000 s.f.</td>
</tr>
</tbody>
</table>
Permitted and Conditional Uses for each Parcel

**PARCEL 1:**

<table>
<thead>
<tr>
<th>PERMITTED USES:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Dwelling units above the first floor as part of a mixed use building</td>
<td>16. Business Services</td>
</tr>
<tr>
<td>2. One caretaker’s apartment within a non-residential use</td>
<td>17. Offices of Tradesman and Contractors</td>
</tr>
<tr>
<td>3. Hotels and Motels</td>
<td>18. Offices</td>
</tr>
<tr>
<td>4. Retail Businesses and uses with no more than 80,000 s.f. of floor area per occupant</td>
<td>19. Health care clinics for humans</td>
</tr>
<tr>
<td>6. Artist and crafts person studios</td>
<td>20. Hospitals</td>
</tr>
<tr>
<td>7. Eating establishments</td>
<td>21. Funeral Homes</td>
</tr>
<tr>
<td>8. Eating and Drinking establishments</td>
<td>22. Animal hospitals and veterinarian offices</td>
</tr>
<tr>
<td>9. Drive thru eating establishments with internal access only.</td>
<td>23. Any use permitted in the Resource Protection District</td>
</tr>
<tr>
<td>13. Professional Offices</td>
<td>27. Private Schools</td>
</tr>
<tr>
<td>15. Personal Services</td>
<td>29. Day Care Center</td>
</tr>
<tr>
<td></td>
<td>30. Adult Day Care Centers, Types 1 and 2</td>
</tr>
</tbody>
</table>

**CONDITIONAL USES:**

1. Enclosed sports facilities
2. Commercial recreation

**PARCEL 2:**

<table>
<thead>
<tr>
<th>PERMITTED USES:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Any use permitted of right in the R-2 District</td>
<td>5. Any use permitted in the Resource Protection District</td>
</tr>
<tr>
<td>2. Hospice House</td>
<td>6. Home baby sitting service</td>
</tr>
<tr>
<td>3. Elderly congregate housing</td>
<td>7. Adult day care center, Type 1</td>
</tr>
<tr>
<td>4. Home Occupations</td>
<td>8. Nursing Homes</td>
</tr>
<tr>
<td></td>
<td>9. Hotels/Inns with no more than 100 units</td>
</tr>
</tbody>
</table>

**CONDITIONAL USES:**

1. Any use permitted as a conditional use in the R-2 District and not otherwise listed herein as a use permitted as a matter of right
2. Enclosed Sports Facilities

**PARCEL 3:**

<table>
<thead>
<tr>
<th>PERMITTED USES:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Any use permitted of right in the R-2 District</td>
<td>2. Any use permitted in the Resource Protection District</td>
</tr>
<tr>
<td></td>
<td>3. Home baby sitting service</td>
</tr>
</tbody>
</table>

**CONDITIONAL USES:**

1. Any use permitted as a conditional use in the R-2 District and not otherwise listed herein as a use permitted as a matter of right
PARCEL 4:

PERMITTED USES:

1. Any use permitted of right in the R-2 District
2. Any use permitted in the Resource Protection District
3. Home baby sitting service

CONDITIONAL USES:

1. Any use permitted as a conditional use in the R-2 District and not otherwise listed herein as a use permitted as a matter of right

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

1. Development of the mixed-use development described herein as proposed by the Applicant is allowed on the Subject Property.

2. All structures constructed, located, renovated or reconstructed on Parcels 1 & 2 of the Subject Property shall be connected to and serviced by the Biddeford Saco Water Company and to the municipal sanitary sewer system. Units constructed on Parcels 3 & 4 shall not require connection to Biddeford Saco Water Company and to the municipal sanitary sewer system. Notwithstanding the provisions contained in this Agreement, any existing building or structure on the Subject Property may continue to be used for any use permitted under this Agreement without connecting to Biddeford Saco Water Company or the municipal sanitary sewer system unless and until the water and sewer lines are extended to a location reasonably allowing connection to such buildings or structures. Upon said extension of water and sewer service, existing buildings or structures shall be connected to public water and sewer within one (1) year of availability, or removed from the Subject Property.

3. The portion of the Applicant’s land shown on the Project Plan as “Resource Protection/Gift Lot” which is approximately 17.26 acres in size shall be donated to the City of Saco or its designee within thirty (30) days of the final subdivision approval. The choice of designee is the City’s alone. This parcel consists of land surrounding Cascade Brook and its falls. Park North, LLC will contribute $50,000 to the City of Saco for the purpose of trail development and construction on said Gift Lot. Said trail development and construction may be delegated by the City to an agent of its choosing, i.e., Saco Bay Trails. The money shall be paid in the following manner:
   A. $20,000 within 30 days of Final Subdivision Approval
   B. $20,000 within 1 year from the date of the first payment
   C. $10,000 within 1 year from the date of the second payment

Park North, LLC further agrees to construct a parking lot for public access off Cascade Road in a location agreeable to both Park North, LLC as well as the City of Saco. The parking lot capacity shall be twenty (20) spaces and shall be neither lighted nor paved, subject to agreement between Applicant and City. Said parking lot shall be constructed no later than one (1) year after final subdivision and site plan approval of the project by the Planning Board.
4. Development of the Subject Property shall be subject to either Subdivision or Site Plan review by the Planning Board as dictated by the Saco Zoning Ordinance and/or the Saco Subdivision Regulations.

5. City and Applicant recognize that the sketch plan submitted for contract zone review is a general representation of site layout, but is subject to change as a result of site plan and subdivision review conducted by the Planning Board. The project is subject to any and all permits, licenses or approvals, which the project may be subject to by the Maine Department of Environmental Protection, the Maine Department of Transportation, the U.S. Army Corps of Engineers and all other regional, state and federal agencies.

6. No site plan or subdivision approvals shall be granted by the Planning Board prior to an executed agreement being reached between the City and the Applicant for the design, financing and construction of a functional sanitary sewer collection and conveyance system serving the subject property, and connected to the existing City of Saco sanitary sewer system.

7. Failure of the Applicant to submit an application for subdivision or site plan review as proposed to the Planning Office for review and approval by the Planning Board within one (1) year of the approval of this Contract Zone shall render this Agreement null and void. This deadline may be extended for successive six (6) month periods at the discretion of the City Administrator upon written request submitted to the City Planning Office by the Applicant. In the event that this Contract Zone Agreement becomes null and void, the zoning applicable to the Subject Property shall revert to the zoning in effect prior to the approval of the Contract Zone.

8. 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.

9. This Document and Contract Zone affects only the Subject Property identified herein.

10. This contract and its provisions shall specifically and exclusively apply to the Contract Zone request submitted by the Applicant.

11. This Document and the Contract Zone it creates shall not be transferable without approval by the City Council, provided however that upon receipt of final subdivision and/or Site Plan approval (as required), Lots and Units within the Subject Property shall be saleable to third parties. Notwithstanding the provisions of this section, this Agreement may be transferred by the Applicant without prior approval of the Council to any entity the majority ownership of which is held by R. Elliott Chamberlain.

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 and shall be subject to enforcement action under the terms and procedures of 30-A M.R.S.A. Section 4452.

13. Notwithstanding Section 10.3.5 of the Subdivision Regulations, buildings and roads shall be allowed to be built on up to twelve thousand (12,000) square feet of wetlands on Parcel 2 (condominium portion) of the Subject Property. Total wetland alterations on the property are subject to the Department of Environmental Protection permitting process.

14. In the event that the Applicant determines that the sanitary sewer system cannot reasonably be extended to the Subject Property, it shall so notify the City Planner in writing. Upon receipt by the City Planner of such written notice, this Agreement shall become null and void and the zoning applicable to the Subject Property shall revert to the Zoning in effect as to the Subject Property prior to the approval of this Agreement.
15. The parcel identified as Tax Map 48, Lot 4 is a portion of the Subject Property and part of a larger parcel located in both Saco and Old Orchard Beach. Said parcel is crossed by the former Eastern rail line, and as such is a portion of the Eastern Trail, a multi-community off-road trail between Kittery and South Portland. The Applicant and/or Seller shall convey via either warranty or quitclaim deed, or easement, the portion of said parcel occupied by the Eastern Trail as no less than a fifty (50) foot wide corridor to the Eastern Trail Management District for development of a paved or unpaved public recreational trail. Further, a portion of Tax Map 48, Lot 4 or of the larger parcel located in both Saco and Old Orchard Beach adequate for users of said trail to park no fewer than six (6) motor vehicles shall be conveyed to the Eastern Trail Management District by either the Applicant or the Seller.

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 June 13, 2006, and the Saco City Council on September 5, 2006, the following findings are hereby adopted:

A. The Subject Property is a parcel of an unusual nature and location, for the following reasons:

1. The Subject Property is crossed by Cascade Brook and is the site of Cascade Falls. As stated in the 1999 Update of the Saco Comprehensive Plan, “The scenic resources of a community are the attributes that give it identity and make it an appealing place to live. The places and vistas identified as valued by the community in the November 1997 Comprehensive Plan Community Forum include: Cascade Brook Falls off Cascade Road...”

2. The City’s Comprehensive Plan, Zoning Ordinance and Zoning Map recognize Cascade Brook as a valuable natural resource that is protected via its designation as a Resource Protection zone.

3. The Applicant is agreeable to donating the portion of the Subject Property identified as Resource Protection/Gift Lot to the City of Saco to be permanently preserved for the benefit of the public.

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

Chapter 17, Section F. Land Use, Local Goals

- “To guide development to identified growth areas that are compatible with the existing settlement pattern and that enhances the desired pattern of land use.” – The proposed uses promote a transition and mitigation of land use between residential development and commercial use.

- “To accommodate the growth of commercial and industrial activities in designated growth areas where public services and facilities are or can be provided.” – Park North is addressing commercial growth potential and proposes to extend public sewer to the property that will be a catalyst for expansion of public utilities along the remaining Route One corridor.

- “To encourage a pattern of land use that can be served efficiently and that does not impose undue burden on the City’s financial resources.” – The Cascade development encourages commercial development with ease of access and at a scale that will require minimal services concerning public safety. The proposed age-restricted multi-family housing will be privately maintained and will not require municipal services with the exception of public safety as may be necessary. The age-restricted component reduces the impact of an increase in the number of children in the school system, providing a positive contribution from property taxes.

C. The proposed use is consistent with, but not limited to, the existing uses and permitted uses within the original zones. -- The proposed contract maintains many of the same uses as currently permitted in the underlying zoning district. While housing in the current zoning district is limited to “One single-family dwelling on a lot of record,” “Dwelling units above the first floor as part of a mixed use building,” and “One caretaker’s apartment within a non-residential use,” the adjacency to existing residential development as well as the existence of several nearby mobile home parks establishes consistency of the proposed multi-family housing use with existing uses within the original zone.
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 September 5, 2006.

City of Saco

by ________________________________
Richard Michaud
City Administrator

Park North Development, LLC

by ________________________________
Elliott Chamberlain
Authorized Member

IX. EXECUTIVE SESSION

Councilor Brunswick moved, Councilor Precourt seconded to move “Be it Ordered that the City Council Pursuant to [M.R.S.A. Chapter 18, Subchapter 1, §405 (6)(D)(A)] move to enter in Executive Session to discuss: (D) Management Proposals for Collective Bargaining Agreement and (A) Employment of Officials – Appointment of the City Administrator and Acting City Administrator. The motion passed with seven (7) yeas. TIME: 9:45 p.m.

REPORT FROM EXECUTIVE SESSION

Councilor Brunswick moved, Councilor Precourt seconded to move from executive session. The motion passed with the unanimous consent. TIME: 10:40 p.m.

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.

There was no report this evening.

X. ADJOURNMENT

Mayor Pilon adjourned the meeting with the unanimous consent of the Council. TIME: 10:41 p.m.

Attest: ________________________________
Michele L. Hughes, City Clerk