

**STATE OF MAINE**

**COUNTY OF YORK**

**CITY OF SACO**

**I. CALL TO ORDER** – On Monday, October 5, 2015 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: Leslie Smith Jr., Thomas Roughan, Kevin Roche, Arthur Tardif, Eric Cote and Nathan Johnston. Councilor David Precourt was excused this evening. City Administrator Kevin Sutherland was also present this evening.

**III. PLEDGE OF ALLEGIANCE**

**IV. GENERAL**

**V. PUBLIC COMMENTS**

Ron Michaud, 143 Bayview Road – Mr. Michaud asked under Maine’s Right to Know Law that all the data including e-mails and analysis of what occurred and how this trolley ended up being funded be made available to the public on the web. That way we can receive the data and review it and make our own decision as to the value and to what occurred.

**VI. AGENDA**

**A. ZONING ORDINANCE AMENDMENT: TABLE 707 – (PUBLIC HEARING)**

The Code Enforcement Office recognized recently that the adoption of mixed use zones including MU-1, MU-3 and MU-4, did not include being added to Table 707 of the Zoning Ordinance. It was an oversight at the time, and has been corrected in the attached table.

The Planning Board considered this in workshop and held a public hearing on May 19, 2015. The Board recommends that the amendments be adopted as proposed. City Council discussed in Workshop on September 8, 2015.

Councilor Cote moved, Councilor Johnston seconded to open the Public Hearing.

There were no comments from the public.

Councilor Cote moved, Councilor Tardif seconded to close the Public Hearing, and be it ordered that the Saco City Council set the Second and Final Reading of the document titled, ‘Amendments to Table 707 – Signs in Mixed-Use, Business and Industrial Zones, Amended July 7, 2015’, for October 19th, 2015. Further move to approve the order. The motion passed with six (6) yeas.

**Table 707 - Signs in Mixed-Use, Business and Industrial Zones**

	<b>B-3/B-5/<u>MU-1/MU-4</u>, B-4 if no planned development under 410-8</b>	<b>B-1/B-2c/1-1/1-2/1-3 and B-2D</b>	<b>B-2b/B-6/<u>MU-3</u></b>	<b>B-2a</b>	<b>B-7</b>	<b>I-1, I-2, B-8 abutting Turnpike<sup>1</sup></b>
Overall Size Allowance per premise per foot of width of principal structure	2 sf to maximum of 100 sf	2 sf to maximum of 150 sf	2 sf to maximum of 200 sf	2 sf to maximum of 200 sf	2 sf to a maximum of 48 sf	2 sf to maximum of 350 sf
Number of signs per single occupancy premise	2 signs, only one of which may be freestanding, plus 1 additional wall sign not exceeding 12 sf	2 signs, only one of which may be freestanding, plus 1 additional wall sign not exceeding 12 sf	2 signs, plus 1 additional wall sign not exceeding 12 sf	2 signs, plus 1 additional wall sign not exceeding 12 sf	2 signs only one of which may be freestanding	3 signs, only one of which may be freestanding

<b>Multiple occupancy premises, number and type of signs:</b>						
For entire complex	1 freestanding or wall sign serving as a directory or anchor tenant sign not to exceed 50% of overall size allowance	1 freestanding or wall sign serving as a directory or anchor tenant sign not to exceed 50% of overall size allowance	1 freestanding or wall sign serving as a directory or anchor tenant sign not to exceed 50% of overall size allowance	1 freestanding or wall sign serving as a directory or anchor tenant sign not to exceed 50% of overall size allowance	2 signs only one of which may be freestanding	1 freestanding or wall sign serving as a directory or anchor tenant sign not to exceed 50% of overall size allowance
For each first floor occupancy	2 wall, projecting or awning signs per occupancy	2 wall, projecting or awning signs per occupancy	2 wall, projecting or awning signs per occupancy	2 wall, projecting or awning signs per occupancy	N/A	2 wall, projecting or awning signs per occupancy
Upper floor and basement occupancies:	1 wall or projecting sign not exceeding 12 square feet	1 wall or projecting sign not exceeding 12 square feet	1 wall or projecting sign not exceeding 12 square feet	1 wall or projecting sign not exceeding 12 square feet	N/A	
<b>Size limits, individual sign types for all zones:</b>						
Wall and awning signs maximum size	100 sf	100 sf	150 sf	150 sf	16 sf	If facing Turnpike, within 50 ft of Turnpike ROW, 150 sf. Greater than 50 ft from Turnpike ROW, 200 sf.
Freestanding and projecting signs maximum size per side	50 sf	75 sf	100 sf	100 sf	16 sf	100 sf
Minimum size allowance per premise			48 s.f.			

<sup>1</sup> Commercial and industrial structures with total floor area 40,000 s.f. and greater, on parcels with 200 feet or greater frontage along Turnpike ROW. Also subject to M.R.S.A. 23 §1913-A and 1914.

(Amended 9/3/13)

**B. ZONING ORDINANCE AMENDMENT: SECTION 724 – PRIVATE ROADS – (PUBLIC HEARING)**

The Planning Board reviewed earlier this year a subdivision that included a proposed 300 foot City Street. This led to discussion of a private road being substituted for the street. Longer serving Board members and City staff recall that the intent of Section 724 of the Zoning Ordinance is that a private road and a subdivision are two separate issues, and that the Council’s intent in 2001 was that the one is mutually exclusive from the other. The language addressing this in the Ordinance is perhaps not as clear as it could be, and is recommended for clarification.

The Planning Board considered this in workshop and held a public hearing on May 19, 2015. The Board recommends that the amendment be adopted as proposed. The City Council discussed in Workshop on September 8, 2015 and held the First Reading on September 21, 2015.

Councilor Smith moved, Councilor Roughan seconded to open the Public Hearing. The motion passed with six (6) yeas.

There were no comments from the public.

Councilor Smith moved, Councilor Roughan seconded to close the Public Hearing, and be it ordered that the Saco City Council set the Second and Final Reading of the document titled, ‘Amendment to Section 724. Private Roads, Amended July 7, 2015’, for October 19, 2015. Further move to approve the order. The motion passed with six (6) yeas.

## “Amendment to Section 724. Private Roads, Amended July 7, 2015”

### Section 724. Private Roads (Amended 10/5/01; 4/7/03)

5. Nothing in this section shall override any requirement in the subdivision regulations that subdivisions and all lots within subdivisions be built on public streets. See Section 10.8, Subdivision Regulations. (Amended ?/?/15)

### C. CITY CODE CHAPTER 177: SEX OFFENDER RESIDENCY RESTRICTIONS – (PUBLIC HEARING)

Maine Revised Statutes 30-A MRS §3014 provides the legal basis for municipal ordinances regarding residency restrictions for sex offenders. The City recognizes that providing for the safety and welfare of children is of paramount importance to the community and proposes to establish residency restrictions for certain sexual offenders.

The proposed ordinance will not affect sexual offenders currently residing in Saco. However, sexual offenders moving to Saco who have been convicted of Class A, B or C offenses against persons who have not attained 14 years of age would have to comply with the new ordinance.

Councilor Roughan moved, Councilor Johnston seconded to open the Public Hearing. The motion passed with six (6) yeas.

There were no comments from the public.

Councilor Roughan moved, Councilor Smith seconded to close the Public Hearing, and be it Ordered that the City Council sets the Second and Final Reading of the document titled, “City Code Chapter 177 Sex Offender Residency Restrictions” for October 19, 2015.” Further move to approve the order. The motion passed with six (6) yeas.

## Chapter 177. SEX OFFENDER RESIDENCY RESTRICTIONS

### 177-1. Title.

This article shall be known as the “City of Saco Sex Offender Residency Restriction Ordinance.”

### 177-2. Findings and purpose.

The City promotes and strives to create a safe environment for its citizens to live and raise families and considers the promotion of the safety and welfare of children to be of paramount importance. The City recognizes that sex offenders who prey upon children may have a high rate of recidivism, and for this reason extra protective measures are beneficial to the community and its children. Notwithstanding the fact that certain persons convicted of sex offenses or sexually violent offenses are required to register pursuant to the Maine Sex Offender Registration and Notification Act of 1999, 34-A M.R.S.A. § 11201 *et seq.*, as may be amended from time to time, the City finds that further protective measures are necessary and warranted to safeguard places where children play and congregate. The purpose of this ordinance is to provide such further protective measures while balancing the interests and residential needs of sex offenders.

### 177-3. Authority.

This ordinance is adopted in accordance with the provisions of 30-A M.R.S.A. § 3001 and 30-A M.R.S.A. § 3014, as may be amended from time to time.

### 177-4. Definitions.

*Designated Sex Offender(s)* - Person(s) convicted of Class A, B or C sex offenses committed against persons who had not attained 14 years of age at the time of the offense, regardless of whether the offense was committed in the

State of Maine or another jurisdiction.

*Residence* – The temporary or permanent occupation or use of a place, including, but not limited to a domicile, for the purpose of living, residing or dwelling.

*Restricted Property* – (i) The real property comprising a public or private elementary, middle or secondary school; and (ii) the real property comprising a municipally owned property or State-owned property that is leased to a nonprofit organization for purposes of a park, athletic field or recreation facility that is open to the public where children are the primary users.

*Setback* - A 750 foot radius surrounding “Restricted Property.”

**177-5. Restricted Property map; restrictions.**

(a) The Public Works Department, with the assistance of the Police Department, shall prepare and file with the City Clerk and Police Department an official map showing Restricted Property (to be called the “Restricted Property Map”) as defined by this ordinance. Said map is hereby incorporated herein and made a part of this ordinance. The Police Department shall, by July 1 of each year, recommend updates of the Restricted Property Map to the City Council to reflect any changes in the locations of any Restricted Property and Setbacks. The City Council shall review any proposed changes recommended by the Police Department at public hearing, and may thereafter amend the Restricted Property Map by Council Order. The official Restricted Property Map, and all amendments thereafter shall be filed with the City Clerk and the Police Department. If the Police Department does not forward or recommend any changes or revisions to the Restricted Property Map, then the existing Restricted Property Map shall remain in force and effect until the succeeding July 1.

(b) No Designated Sex Offender shall reside within the Setback of any Restricted Property, except as may be permitted below pursuant to Section 177-6.

(c) Restricted Property List:

1. Thornton Academy, 438 Main Street
2. Middle School, 40 Buxton Road
3. Young School, 36 Tasker Street
4. Burns School, 135 Middle Street
5. Fairfield School, 75 Beach Street
6. Community Center, 75 Franklin Street
7. Pepperell Park, Beach Street
8. Diamond Riverside Park, Irving Street
9. Saco Little League Field, Summer Street
9. Parks & Recreation maintained playgrounds and athletic fields at the following Locations:
  - Softball field, Franklin Street & North Street
  - Foss Road athletic fields
  - Plymouth Drive playground
  - Richards Way playground
  - Bruno Circle athletic field
  - Hillview Avenue playground
  - Lincoln Road playground
  - Ryan Road playground
  - Rosewood Drive playground

**177-6. Exceptions.**

A Designated Sex Offender maintaining a residence within the Setback of a Restricted Property is not in violation of this ordinance if the residence was established and consistently maintained as a residence prior to the date of adoption of this ordinance. A Designated Sex Offender is not in violation of this ordinance if the Restricted Property is created, moved or enlarged and such creation, movement or enlargement results in a Designated Sex

Offender residing within the Setback of a Restricted Property, as long as the residence was in place and consistently maintained prior thereto.

**177-7. Publication and Notice.**

The Restricted Property Map shall be posted in the City Planning Department with all City Zoning Maps, and a copy shall also be posted at the Saco Police Station at a place easily visible by the public. The City shall also post the Restricted Property Map on the City’s official web site. The City may, at its option, also mail a copy of the Restricted Property Map to the owners of all rental properties located within the City of Saco, so they are also on notice as to the location of all Restricted Properties.

**177-8. Violations and penalties.**

(a) A Designated Sex Offender who, thirty (30) days after actual receipt of written notice sent by regular mail or hand-delivered from the City, acting by and through its Police Department, is in violation of this ordinance shall be subject to an action brought by the City to enforce the requirements of this ordinance. The City may file a legal action against the violator seeking any and all remedies to which it is entitled pursuant to State and local laws, including, without limitation, declaratory and injunctive relief.

(b) The City may also seek a penalty in the minimum amount of \$500.00 per day. Each day of violation shall constitute a separate violation. In the event the City is the prevailing party in any action under this ordinance, it shall be entitled to an award of its reasonable attorney’s fees, court costs and the costs of any expert witness fees incurred by the City. All civil penalties shall inure to the benefit of the City of Saco.

**177-9. Severability.**

If any section, phrase, sentence or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**D. CONTRACT ZONE: 15 OCEANSIDE DRIVE – (FIRST READING)**

Applicants George and Nancy Driscoll propose to clarify through the contract zoning process that their property at 15 Oceanside Drive is regarded as two lots: one developed and one eligible for a building permit. Two lots were established as part of the Kinney Shores subdivision in 1914, and were acquired by the Driscolls in 1980, but were combined as a result of a 1985 amendment to the Zoning Ordinance. Today the City regards and taxes the property as a single parcel.

This item was reviewed by the Planning Board during their September 1<sup>st</sup> meeting. The Board arrived at a negative finding on the four standards found in Sec. 1403-6, and voted to forward a negative recommendation to the Council. The City Council discussed during Workshop on September 21, 2015.

Councilor Roche moved, Councilor Smith seconded “The City Council hereby ordains and approves the First Reading of the contract zone document entitled ‘Contract Zone Agreement By and Between J. George and Nancy S. Driscoll and the City of Saco’ dated Sept. 1, 2015”; and further moves to schedule a Public Hearing for October 19, 2015. The motion passed with six (6) yeas.

Contract Zone Agreement By and Between  
J. George and Nancy S. Driscoll and the City of Saco

September 1, 2015

THE CITY OF SACO HEREBY ORDAINS:

**I. That the Zoning Ordinance of the City of Saco, dated January 2, 1985, and amended through August 3, 2015 is hereby amended by adopting this contract by and between J. George and Nancy S. Driscoll**

## **(Applicants) and the City of Saco.**

1. The Applicants seek a single family residential building permit to be issued for a portion of the parcel they own at 15 Oceanside Drive (Subject Property).
2. Said parcel is improved with a single family dwelling, a permitted use.
3. Said property is identified as Tax Map 11, Lot 116 on City of Saco tax maps. The current lot (Map 11, Lot 116) was transferred to the Applicants as two separate parcels in 1980, was formerly taxed by the City as two separate parcels, but was merged together when Saco adopted its Zoning Ordinance in 1985.
4. Said property is in the R-1c and Shoreland Overlay zoning districts.
5. The Applicants contend that the Subject Property is actually two parcels, and have submitted a surveyed plan to that effect dated November 1, 2005.
6. The Applicants submitted an application for a building permit to the Code Enforcement Office on August 27, 2009 for the construction of a single family dwelling.
7. The Building Inspector, Richard Lambert, denied the application in a letter to the Applicants dated August 27, 2009.
8. An Administrative Appeal and Variance application was submitted to the City on August 18, 2009.
9. A hearing was held on Sept. 14, 2009 by the Zoning Board of Appeals; review was tabled due to missing factual information.
10. The ZBA meeting continued on Oct. 26, 2009, with updated copies of Section 7.1, Shoreland Zoning of the Zoning Ordinance, and with copies of the pending variance notice sent to the Maine Department of Environmental Protection on Sept. 16, 2009 via certified mail.
11. The ZBA voted unanimously to deny the administrative appeal of the Building Inspector's decision based on the merger of the vacant lot with the developed lot pursuant to the Board's understanding of Section 501-2(1) of the Zoning Ordinance.
12. The ZBA continued the meeting on Nov. 30, 2009 to consider the Applicants' request for space and bulk variances, and voted unanimously to deny said requests.
13. The Applicants subsequently appealed the ZBA decisions to Maine Superior Court, which issued a denial of the appeal dated Oct. 5, 2010.
14. The Applicants subsequently appealed the Superior Court decision to the Maine Supreme Judicial Court, which issued a denial of the appeal on Sept. 22, 2011, concluding the two lots had merged.
15. The Applicants have continued to weigh options that may allow them to legally establish the Subject Property as two separate, buildable lots. In so doing, they cite Article 14 of the Zoning Ordinance, which addresses contract zoning.
16. Recognizing the limitations of the Subject Property, and the requirements of the Zoning Ordinance, the Applicants hereby make application for a Contract Zone that would allow the Subject Property to be legislatively established as two separate, buildable lots.

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

This Contract Zone, specifically and exclusively for the parcel at 15 Oceanside Drive, would allow the Applicants or their designees, upon making application to the City of Saco Code Enforcement Office, a single family residential building permit for "Lot 202," or as previously identified by the City of Saco as Tax Map 11, Lot 116-1, subject to the following conditions and restrictions, as provided for in Section 1403 of the Saco Zoning Ordinance:

- a. The parcel identified by the City of Saco Assessor's Office as Tax Map 11, Lot 116 is hereby reconfigured into two separate parcels, henceforth to be labeled as Tax Map 11, Lot 116 and Tax Map 11, Lot 116-1.
- b. The parcel identified as Tax Map 11, Lot 116 shall be configured as shown on a surveyed plan produced by Dow and Coulombe, dated Nov. 1, 2005, with an area of 5,293 square feet, and 50.10 linear feet of frontage on Oceanside Drive, a City way.
- c. The parcel identified as Tax Map 11, Lot 116-1 shall be configured as shown on a surveyed plan produced by Dow and Coulombe, dated Nov. 1, 2005, with an area of 5,450 square feet, and 50.10 linear feet of frontage on Oceanside Drive, a City way.
- d. Minimum Lot and Yard Requirements set forth in Table 412-1 of the Zoning Ordinance shall be modified for the Subject Property as follows:

For Tax Map 11, lot 116:

1. A reduction in the minimum lot size requirement from 7,500 square feet to 5,293 square feet.
2. A reduction in the minimum lot area per dwelling unit from 7,500 square feet to 5,293 square feet.
3. A reduction in the minimum street frontage requirement from 75 feet to 50 feet.
4. A reduction in the minimum shore frontage requirement from 100 feet to 50 feet.
5. A reduction in the minimum width requirement from 100 feet to 50 feet.
6. A reduction in the minimum width of the side yard setback requirement on the north side from fifteen feet to one foot.
7. An increase in the maximum lot coverage requirement from 20% to 54%.

For Tax Map 11, lot 116-1:

1. A reduction in the minimum lot size requirement from 40,000 square feet to 5,293 square feet.
2. A reduction in the minimum lot area per dwelling unit from 20,000 square feet to 5,293 square feet.
3. A reduction in the minimum street frontage requirement from 75 feet to 50.10 feet.
4. A reduction in the minimum shore frontage requirements from 100 feet to 50 feet.
5. A reduction in the minimum width requirements from 100 feet to 50 feet.

- e. The Applicants shall adhere to all other applicable provisions of the R-1c and Shoreland Overlay zoning districts and of the City of Saco Zoning Ordinance.
- f. All details as shown on the submitted plans and included in the submitted application are hereby incorporated into this contract by reference. The proposed use shall be operated substantially in conformance with those plans.
- g. Minor changes may be approved by the staff of the City of Saco. Any changes determined by the staff to be "major" shall be submitted to the Planning Board for review. If it is determined that the changes constitute a change in the contract, then the developer shall also be required to obtain City Council approval of the changes.
- h. Upon approval of this contract by the City Council, the Applicants shall submit an application for site plan review to the Planning Office in order that the project may be reviewed by the Planning Board. Failure of the Applicants to secure site plan approval from the Planning Board 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

- i. one year deadline may be extended by one year upon written request to the City Council.
- j. 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.
- k. Failure of the Applicants, or buyers of a second lot that is created by virtue of this Agreement, to seek a single family dwelling building permit as described in application materials for this Contract Zone within two (2) years from the date of approval shall render this approval and Contract null and void. This two year deadline may be extended by one year upon written request to the City Council.
- l. 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.

III. 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 September 1, 2015, and the Saco City Council on \_\_\_\_\_ 2015, the following findings are hereby adopted:

A. City Tax Map 11, Lot 116 is a parcel of an unusual nature and location, for the following reasons:

- 1. The parcel is one of 131 in Saco with beach frontage.
- 2. A portion of the parcel (the former Lot 202) has been previously prepared in anticipation of building a residence with the installation of a 50 foot seawall and plantings of sea grass, as well as a second sewer service to the property.
- 3. The parcel dates to 1914, identified as Lots 201 and 202 on a “Plan of Land for M.H. Kinney, Saco, ME called Kinney Shores” and existed for several decades as two separate lots.

B. The proposed rezoning is consistent with the Saco 2011 Comprehensive Plan, based on the following goals:

Chapter 3, Section D. Marine Resources --

Saco’s coastline, in the face of mounting development pressure in southern Maine, has managed to stay relatively undeveloped. Marine industries still have a foothold in Saco. To help maintain that foothold, commercial development should generally be limited to marine and tourism related uses at Camp Ellis. Development on the bulk of the beach area should be limited to primarily small-scale residential uses.

Chapter 5, Section A. Population and Demographics

- 1. The City should assure that residential growth is accommodated in appropriate locations that are properly zoned and able to be provided with public services.

Chapter 6, Land Use Goals and Policies

Limited growth areas are the parts of the community where the City desires a limited amount of growth and development over the next ten years (see Figure 6.1). Limited growth areas include two types of environments:

*Established Residential Neighborhoods* – areas that are essentially fully developed and therefore have limited development potential where the City’s objective is to maintain the current land use pattern while allowing limited infill or redevelopment that is in character with the neighborhood...

C. The proposed use is consistent with the existing uses and permitted uses within the original zone. The original zones are, a) the Residential-1c (R-1c) zone, a low density residential district “. . . designated for areas which are predominately single-family residential in character. It includes both sewered and unsewered land, with appropriate lot size requirements for each situation. New land uses in this district are restricted to low-density residential and associated uses.” (Zoning Ordinance, Section 405-1.) Among the permitted and conditional uses allowed in the R-1c zone are single and two-family dwellings, churches, daycare centers, elderly congregated housing and bed and breakfast establishments. And, b) the Shoreland Overlay zone, which “. . .is intended to assure that activities that occur within close proximity of the waterbodies subject to state mandated shoreland zoning are carried out in a

manner that protects water quality, promotes wildlife movement, and preserves the scenic quality of these shorelands.”

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

**IV. 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, both parties agree to abide by the conditions and restrictions contained herein.**

Adopted by the Saco City Council on \_\_\_\_\_ 2015.

by \_\_\_\_\_  
Kevin Sutherland  
City Administrator

by \_\_\_\_\_  
J. George Driscoll  
Applicant

by \_\_\_\_\_  
Nancy S. Driscoll  
Applicant

**VII. CONSENT AGENDA**

Councilor Roughan moved, Councilor Roche seconded asked to pull item #C (Cable Television Franchise Transfer) and vote on this item separately.

Councilor Smith moved, Councilor Roche seconded to approve consent agenda items #A, B, D, E, F, G and H as follows:

A. Be it ordered that the City Council approve the minutes for September 21, 2015. Further move to approve the order;

B. The City of Saco hereby ordains and approves the Second and Final Reading of the document titled, ‘Contract Zone Agreement by and Between Sun Saco RV, LLC and the City of Saco,’ dated July 2015; for the property identified as Tax Map 59, Lots 7 and 11 as authorized by Section 1403 of the Zoning Ordinance, pursuant to 30A M.R.S.A. Section 4352(8), for October 5, 2015. Further move to approve the order;

D. Be it Ordered that the City Council grant the application for a License to operate a Game of Chance as follows: Queen of Hearts – 1 game from October 1, 2015 to Dec. 31, 2015 as submitted by the Biddeford & Saco Elks #1597. Further move to approve the order;

E. Be it Ordered that the City Council grant the application for a Solid Waste Permit as submitted by Doyon’s Property Maintenance & Landscaping Inc. Further move to approve the order;

F. Be it Ordered that the City Council grant the application for a Solid Waste Permit as submitted by Pine Tree/BBI Waste. Further move to approve the order;

G. Be it Ordered that the City Council grant the application for a Solid Waste Permit as submitted by Waste Management. Further move to approve the order;

H. Be it Ordered that the City Council confirm the appointments of Margaret E. Mills, Peter J. Yarborough – Alternate, Marie Doucette, and Lawrence Patterson – Alternate for 3 year terms to expire on October 5, 2018. Further move to approve the order.

The motion passed with six (6) yeas.

Note: The item commentaries for the above consent agenda are listed below including item #C’s motion and vote.

**B. CONTRACT ZONE – KOA CAMPGROUND, 814 PORTLAND ROAD – (2<sup>ND</sup> & FINAL READING)**

Applicant Sun Saco RV, LLC, proposes a significant expansion to the existing campground off Spring Hill Road.

An existing zoning boundary separating the B-6 and I-1 zones bisects two of the three parcels involved, and a contract zone is proposed in order to allow the expansion to move forward.

Campgrounds are a conditional use in the B-6 zone, so a good deal of the existing campground (Lot 8-1) is conforming. Lots 7 and 11 are divided by the zoning boundary line. There is some campground development intruding over into the I-1 zone, regarded as legally nonconforming, as campgrounds are not an allowed use in I-1. The contract zone as proposed would allow expansion on Lots 7 and 11, into the I-1 zone.

This item was reviewed by the Planning Board at its July 21 meeting. The Board arrived at a positive finding on each of the four standards found in Sec. 1403-6, and voted to forward a positive recommendation to the Council. First reading of the contract zone was discussed during the September 8<sup>th</sup> Council meeting and a Public Hearing was held on September 21<sup>st</sup>, 2015.

**Contract Zone Agreement by and Between  
Sun Saco RV, LLC and the City of Saco**

**July 2015**

THE CITY OF SACO HEREBY ORDAINS:

- I. That the Zoning Ordinance of the City of Saco, dated January 2, 1985, and amended through July 2013 is hereby further amended by adopting this Contract Zone Agreement by and between the City of Saco and Sun Saco RV, LLC (“Applicant”)**
1. The Applicant proposes to expand a Campground at 814 Portland Road (“Subject Property”). See attached exhibit #1.
  2. The Subject Property is identified as Tax Map 59 Lots 7 & 11 on City of Saco tax maps and is located in the I-1 and B-6 zoning districts.
  3. Subject property has been utilized for, at least, the past 30 years as a Campground, and is currently a KOA Campground.
  4. Right, title and interest is demonstrated with the Applicant’s submission of fee ownership deed as recorded in the York County Registry of Deeds Book 16811 Page 221.
  5. The proposed Campground is an allowed conditional use in the B-6 zone and not a permitted use in the I-1 zone.
  6. 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”
  7. Recognizing the use restrictions imposed by the Zoning Ordinance, the Applicants hereby make application for a Contract Zone that would allow a Campground to be expanded within the entire Subject Property.
- II. This Contract Zone, specifically and exclusively for the Subject Property, would allow the Applicant to expand and operate a Campground as proposed on the Subject Property, subject to the following conditions, as provided for in Section 1403 of the Saco Zoning Ordinance.**
1. A Campground as proposed by the Applicant shall be allowed to operate as a permitted use on the Subject Property.
  2. No new campsites shall be created within 30 feet of the exterior lot lines of a campground when abutting business or industrial zoning districts and not within 30 feet of the exterior lot line when

abutting residential zoning districts.

3. All camping units or structures shall be located at least 200 feet from any residence not owned or used by the campground owners.
4. No new campsite shall be created within 75 feet of the upland edge of a stream.
5. Each area proposed for a tent site or parking space for a travel trailer, pickup camper, motorized camper, or tent trailer must contain at least 2,000 square feet with no dimension less than 30 feet.
6. One (1) parking space for passenger vehicles shall be provided for each recreational vehicle (RV) and tenting site. The parking spaces shall be within the boundary of the Subject Property. No parking space may block walkways or interfere with traffic flow within the campground.
7. Minor changes may be approved by the staff of the City of Saco. Any changes determined by the staff to be "major" shall be submitted to the Planning Board for review. If it is determined that the changes constitute a change in the contract, then the developer shall also be required to obtain City Council approval of the changes.
8. Upon approval of this contract by the City Council, the Applicant shall submit materials required for site plan review to the Planning Office in order that the project may be reviewed by the Planning Board. Failure of the Applicant to secure site plan approval from the Planning Board within one (1) years 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 Applicant, this one (1) year deadline may be extended by one (1) year upon written request to the City Council.
9. This contract and its provision shall specifically and exclusively apply to the Contract Zone request submitted by the Applicant. Approval of this Contract Zone is in part based on the financial and technical qualifications of the Applicants as submitted to the City. A change in ownership prior to completion of the terms of this Contract may necessitate review and approval by the City Council. Determination of such shall be made by the Planning Office.
10. Failure of the Applicant to initiate the Campground expansion as described in the application materials for this Contract Zone within (2) years of the date of approval shall render this agreement null and void. Said two (2) year period may be extended for a period of one (1) year upon written request to the Planning Office prior to termination of said two (2) year period.
11. Breach of these conditions and restriction by the owner shall constitute a breach of the contract, and the owner may 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.

**III. A. The parcels identified as Tax Map 59 Lots 7 & 11 are parcels of an unusual nature and location, for the following reasons:**

- a. The property includes 127 campsites that are currently within the both Industrial (I) and Business (B-6) Zones. The proposal would allow for the continued use and expansion of the campground use. Currently, the campground use is not an allowed use under the Industrial Zoning Ordinance.
- b. The Applicants propose an activity that would allow for the continuation and expansion of the existing campground use. The campground use and expansion meets the goals of Comprehensive Plan as it is located in a Growth Area and further enhances the City's role in the Southern Maine tourist economy to expand the range of recreational, entertainment, and cultural activities available in Saco to meet the needs of travelers and visitors.
- c. The subject property is unique due to its proximity to the amusement parks within a mile radius of the campground. The success and expansion of these parks has led to increased demand for the

campground. As part of the expansion plan the large area of wetland and streams will be protected. In addition, the expansion plan includes a proposal for stormwater management and treatment.

**B. The proposed rezoning is consistent with the 2011 Saco Comprehensive Plan, based on the following goals:**

Chapter 6. Land Use Goals and Policies

Industrial Area (I)

Area: The Industrial Area encompasses the existing industrial areas south of the I-195 Connector between the industrial park rail spur and the Maine Turnpike including the City's public works facility.

Vision: The Industrial Area continues to provide attractive locations for a wide range of economic activities.

Allowed Uses: A range of service, office, light industrial, recreational, and community uses should be allowed in the Industrial Area. Retail, automotive service, and residential uses are not appropriate in this area. The following types of uses are generally appropriate in the Industrial Area as a permitted or conditional use:

- business services
- financial services
- business, professional, and government offices
- community and government services
- recreation uses
- light industrial uses
- wholesale and distribution uses
- recycling facilities

Development Standards: The City's development standards including the zoning requirements and site plan and design standards should focus on assuring that new development and the expansion or modification of existing buildings is well-designed and environmentally sound.

Appendix L. Land Use

A. General Pattern of Development -- Route 1 north of the I-195 Spur The land north of the I-195 Spur to the Saco/Scarborough municipal line includes a broad mix of land uses, from agricultural production to car dealerships to commercial recreation enterprises. Commercial uses tend to be clustered together, interspersed with occasional single family homes, open agricultural land, and vacant commercial land. Most of the land north of the Spur is zoned Highway Business District (B-6).

**C. The proposed use is consistent with the existing uses and permitted uses within the original zone.**

The original zone is split between the Industrial (I) and Business (B-6) Zones. The campground has existed for at least the past 30 years and at the time of re-zoning was split between the I and B-6 Zones. A Campground is not an allowed use within the Industrial Zone and therefore the existing campground in this area is grandfathered. The proposed expansion of the campground therefore requires this contract zone to allow the use of a campground within the Industrial Zone. Campgrounds are allowed as a Conditional Use within the B-6 Zone.

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

**IV. Based on the above findings, conditions and restrictions, the City Council hereby incorporates this Contract Zoning agreement in 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 [Date]

By: \_\_\_\_\_  
Kevin Sutherland  
City Administrator

By: \_\_\_\_\_  
[Name]  
Sun Saco RV, LLC  
Applicant

**C. CABLE TELEVISION FRANCHISE TRANSFER OF TIME WARNER CABLE TO CHARTER COMMUNICATIONS**

On May 23, 2015, Charter Communications, Inc., and its subsidiary CCH I, LLC (“New Charter”) entered into agreements with Time Warner Cable and Bright House Networks, LLC, with the goal of merging the three. The new entity would assume the existing license, and the merger would be complete by the end of 2015. The City was noticed as to these actions in the “Notice of Franchise Transfer” dated July 1, 2015 from Charter Communications.

Included in the Notice was a generic “Consent to Change of Control” for review by the City. The document has been reviewed and edited by attorney Bill August on the City’s behalf.

The City’s existing contract with Time Warner expires on Oct. 31, 2017. This will continue to be the case, but instead with cable provider Charter Communications, Inc.

Councilor Tardif moved, Councilor Smith seconded “The City of Saco hereby Ordains and Approves the consent to change of control for the proposed Cable Television Franchise Transfer from Time Warner Cable to Charter Communications due to their merger”. Further move to approve the order. The motion passed with four (4) yeas and two (2) nays – Councilors Roughan and Johnston.

**CONSENT TO CHANGE OF CONTROL**

WHEREAS, Time Warner Cable Northeast LLC ("Franchisee") is the duly authorized holder of a franchise, as amended to date (the "Franchise"), authorizing Franchisee to operate and maintain a cable system to serve City of Saco (the "Franchise Authority"); and

WHEREAS, on May 23, 2015, Charter Communications, Inc. ("Charter Communications") along with its subsidiary CCH I, LLC ("New Charter") entered into agreements with Time Warner Cable Inc. ("TWC") (the ultimate parent company of Franchisee), Advance/Newhouse Partnership ("A/N"), and Liberty Broadband Corporation ("Liberty") in order to merge with TWC, the ultimate parent of the Franchisee (the "Transaction"); and

WHEREAS, TWC will merge into a subsidiary of New Charter; and

WHEREAS, Charter Communications will merge with a subsidiary of New Charter, and New Charter will assume the name Charter Communications, Inc. ("Charter"); and

WHEREAS, the ultimate control of Franchisee will transfer to Charter; and

WHEREAS, Charter has filed an FCC Form 394 with the Franchise Authority (the "Application"); and

WHEREAS, the Franchise Authority has considered the Application and approves of the Transaction with such approval subject to F.C.C. and U.S. Department of Justice approval of the merger;

NOW, THEREFORE, BE IT RESOLVED BY THE FRANCHISE AUTHORITY AS FOLLOWS:

The foregoing recitals are approved and incorporated herein by reference.

1. The Franchise Authority consents to the Transaction subject to the aforesaid federal approvals.
2. The Franchise Authority confirms that the Franchise is valid and outstanding and in full force and Effect subject to the aforesaid federal approvals. Subject to compliance with the terms of this Resolution, all action necessary to approve the change of control of the Franchisee to Charter has been duly and validly

taken.

Charter or Franchisee may (a) assign, transfer, or transfer control of its assets,

1. including the Franchise, provided that such assignment, transfer, or transfer of control is to an entity directly or indirectly controlling, controlled by or under common control with Charter; (b) restructure debt or change the ownership interests among existing equity participants in Charter; (c) pledge or grant a security interest to any lender(s) of Charter's assets, including, but not limited to, the Franchise, or of interest in Charter, for purposes of securing any indebtedness; and (d) sell equity interests in Charter or any of Charter's affiliates.
2. Upon closing of the Transaction, Franchisee shall remain bound by the lawful terms and conditions of the Franchise.
3. This Resolution shall be deemed effective upon adoption.

PASSED, ADOPTED AND APPROVED this fifth (5<sup>th</sup>) day of October, 2015.

\_\_\_\_\_  
Kevin L. Sutherland  
City Administrator

ATTEST:

\_\_\_\_\_  
City Clerk

**D. APPLICATION FOR A LICENSE TO OPERATE GAMES OF CHANCE – BIDDEFORD & SACO ELKS #1597**

Biddeford & Saco Elks #1597 has applied for a License to operate a Game of Chance as follows: Queen of Hearts – 1 game from October 1, 2015 to Dec. 31, 2015.

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.

**E. APPLICATION FOR A SOLID WASTE PERMIT – DOYON’S PROPERTY MAINTENANCE & LANDSCAPING INC.**

Doyon’s Property Maintenance & Landscaping Inc. has applied for a Solid Waste Permit for a period of one year.

The applicant has paid all applicable permit fees as required by Chapter 181 – Solid Waste, Article II, Licenses §181-21.

**F. APPLICATION FOR A SOLID WASTE PERMIT – PINE TREE/BBI WASTE**

Pine Tree/BBI Waste has applied for a Solid Waste Permit for a period of one year.

The applicant has paid all applicable permit fees as required by Chapter 181 – Solid Waste, Article II, Licenses §181-21.

**G. APPLICATION FOR A SOLID WASTE PERMIT – WASTE MANAGEMENT**

Waste Management has applied for a Solid Waste Permit for a period of one year.

The applicant has paid all applicable permit fees as required by Chapter 181 – Solid Waste, Article II, Licenses §181-21.

**H. CONFIRM APPOINTMENTS TO THE VOTER REGISTRATION APPEALS BOARD**

The Registration Appeals Board consists of 3 members who must be appointed as follows: The municipal

committee of each of the major political parties shall nominate one member and an alternate board member who will serve three year terms, who must be enrolled in the party of the municipal committee that nominates the member, and the municipal officers shall appoint the persons nominated by the municipal committees.

The purpose of the committee: Pursuant to M.R.S.A Title 21-A §103 - If a person is aggrieved by the decision of the registrar of voters to cancel that person's registration in the central voter registration system or to reject that person's voter registration application, that person may appeal in writing to the registration appeals board.

**Nominations are as follows:**

	<u>Name</u>	<u>Address</u>	<u>Term to Expire</u>
Democratic Party	Margaret E. Mills	168 Simpson Rd.	10/5/2018
Democratic Party Alternate	Peter J. Yarborough	5 Lyman Ave.	10/5/2018
Republican Party	Marie Doucette	75 Clark Street	10/5/2018
Republican Party Alternate	Lawrence Patterson	105 New County Rd.	10/5/2018

**VIII. RECESS THE MEETING AND CONVENE THE WORKSHOP**

Councilor Roche moved, Councilor Johnston seconded to recess the meeting and convene the workshop. The motion passed with six (6) yeas. TIME: 7:50 p.m.

**IX. ADJOURN THE WORKSHOP AND RECONVENE THE MEETING**

Councilor Roughan moved, Councilor Roche seconded to adjourn the workshop and reconvene the meeting. The motion passed with six (6) yeas. TIME: 8:55 p.m.

**E. AUTHORIZE THE REFUNDING OF THE 2006 GENERAL OBLIGATION BOND**

The City's Finance Director and Bond Counsel has been monitoring the interest rate market to determine when it would become financially beneficial for the community to refund (refinance) the current 2006 bond issue to return savings to the community in lower interest payments. In November 6, 2001, the voters approved a Charter Amendment allowing the City Council to react in these instances, to save the community money, recognizing the time sensitivity of reacting to these lower rates. It appears as though it is a financially advantageous for the community to refund the 2006 bonds (Open Space 2006) of \$750,000.

Councilor Roche moved, Councilor Roughan seconded "The City of Saco hereby Approves the Order Entitled 'Order Authorizing Issuance of up to Seven Hundred Fifty Thousand Dollars (\$750,000) of General Obligation Bonds and Appropriating the Proceeds thereof'. Further move to approve the order. The motion passed with six (6) yeas.

**SACO CITY COUNCIL**

**ORDER AUTHORIZING THE ISSUANCE OF UP TO SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000) OF GENERAL OBLIGATION BONDS AND APPROPRIATING THE PROCEEDS THEREOF**

**WHEREAS**, the City desires to issue its general obligation bonds in an aggregate principal amount not to exceed \$750,000 and to appropriate the proceeds thereof, in order to obtain debt service savings, to refund all or a portion (as determined appropriate by the City Treasurer) of the City's 2006 General Obligation Bonds, dated as of January 1, 2006, and delivered on January 26, 2006 (the "2006 Bonds"), which 2006 Bonds were issued pursuant to an Order adopted by the City Council on July 2, 2002 and approved by referendum vote of the voters of the City on November 5, 2002;

**NOW, THEREFORE**, be it voted, resolved, and ordered by the City Council of Saco, Maine:

**Section 1: Appropriation.** The sum of \$750,000, or such lesser amount as determined appropriate by the

City Treasurer, plus any premium received on the issuance of the Bonds, as defined in Section 2 hereof, is hereby appropriated to refund the 2006 Bonds.

**Section 2: Authorization of Bonds.** For the purposes of financing the aforesaid appropriation, pursuant to the City Charter and Title 30-A of the Maine Revised Statutes and all other authority thereto enabling, there is hereby authorized and approved the issuance of general obligation bonds (the "Bonds") of the City in an aggregate principal amount not to exceed \$750,000. The Bonds shall be designated "City of Saco, Maine, General Obligation Refunding Bonds" or "City of Saco, Maine, General Obligation Bonds." The proceeds of the Bonds shall be used to refund the 2006 Bonds or such portion thereof as determined appropriate by the Treasurer of the City.

**Section 3: Rates and Other Provisions; Execution.** The Bonds shall mature at the times and in the amounts, be dated as of such date, bear interest at the rate or rates and be in such form and contain such terms and provisions (including but not limited to early redemption provisions, if any) as the Treasurer may hereafter determine or authorize. The Treasurer is further authorized to determine the form of the Bonds and other terms and provisions thereof. Each Bond issued hereunder shall be signed by the Treasurer, and shall be countersigned by the Mayor, and shall be sealed with the seal of the City, attested to by its Clerk.

**Section 4: Redemption.** The Treasurer is hereby authorized to provide that any of the Bonds hereinbefore authorized be made callable, with or without premium, prior to their maturity.

**Section 5: Financial Advisor; Underwriter.** The Treasurer is hereby authorized to select a financial advisor and an underwriter for the Bonds and the Treasurer of the City be and hereby is authorized and empowered to execute and deliver such contracts or agreements as may be necessary or appropriate in connection therewith including but not limited to, financial advisor agreements, refunding escrow agreements, bond purchase agreements, and other agreements, instruments and certificates as may be necessary or appropriate as determined and approved by the Treasurer in connection with the issuance of the Bonds and the refunding of the 2006 Bonds, which documents shall be in such form and contain such terms and conditions, not inconsistent herewith, as may be approved by the Treasurer, such approval to be conclusively evidenced by her execution thereof. The Bonds may be sold at a public or private sale and the Treasurer of the City is authorized and empowered to arrange for the underwriting of the Bonds at private sale through negotiated agreement, compensation for such underwriting to be provided by negotiated fee payable out of a premium on the sale of the Bonds or in such other manner as approved by the Treasurer of the City.

**Section 6: Official Statement.** The Treasurer is hereby authorized to prepare, or cause to be prepared, a Preliminary Official Statement and an Official Statement for use in the offering and sale of the Bonds, such Preliminary Official Statement and Official Statement to be in such form and contain such information as may be approved by the Treasurer, and the distribution of the Preliminary Official Statement and the Official Statement in the name of and on behalf of the City in connection with offering the Bonds be and hereby is approved.

**Section 7: Transfer Agent; Escrow Agent.** The Treasurer is hereby authorized to select (a) the registrar, paying agent and transfer agent (the "Transfer Agent") for the Bonds, (b) any necessary verification agent relating to any escrow for a refunding of the 2006 Bonds or a portion thereof, and (c) any necessary escrow agent for the refunding of the 2006 Bonds, and to execute and deliver such contracts and agreements as may be necessary or appropriate to secure their services.

**Section 8: Registration.** The Bonds shall be transferable only on registration books of the City kept by the Transfer Agent, and said principal amount of the Bonds of the same maturity (but not of other maturity) in the denomination of \$5,000 or any multiple thereof (or such other minimum denomination as the Treasurer shall establish) upon surrender thereof at the principal office of the Transfer Agent, with a written instrument of transfer satisfactory to the Transfer Agent duly executed by the registered owner or his attorney duly authorized in writing. Upon each exchange or transfer of a Bond, the City and the Transfer Agent shall make a charge sufficient to cover any tax, fee or any other governmental charge required to be payable with respect to such exchange or transfer, and with respect to such exchange or transfer, and subsequent to the first exchange or transfer, the cost of preparing new Bonds upon exchanges or transfer thereof to be paid by the person requesting the same.

**Section 9: Book Entry.** The Treasurer is hereby authorized to undertake all acts necessary to provide, if deemed necessary or appropriate by the Treasurer in her discretion, for the issuance and transfer of such Bonds in book-entry form pursuant to the Depository Trust Company Book-Entry Only System, as an alternative to the provisions of the foregoing Order above regarding physical transfer of Bonds, and the Treasurer is hereby authorized and empowered to enter into a Letter of Representation or any other contract, agreement or understanding necessary or, in her opinion, appropriate in order to qualify the Bonds for and participate in the Depository Trust Company Book-Entry Only System.

**Section 10: Exchanges and Transfers.** The Treasurer, and Mayor from time to time shall execute such Bonds as may be required to provide for exchanges or transfers of Bonds as heretofore authorized, all such Bonds to be executed as above described, and in case any officer of the City whose signature appears on any Bond shall cease to be such officer before the delivery of said Bond, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery thereof.

**Section 11: Tax-Exempt Bond Covenants.** The Treasurer is hereby authorized to covenant and certify on behalf of the City that, with respect to any Bonds that are issued with the intent that interest thereon be exempt from federal income taxation, no part of the proceeds of the issue and sale of such tax exempt Bonds shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause such Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and that no part of the proceeds of the issue and sale of such Bonds (including any bonds in renewal thereof) shall be used, directly or indirectly, in such manner which would cause the Bonds to be "private activity bonds" within the meaning of Section 141 of the Code. The Treasurer is hereby authorized to covenant and agree, on behalf of the City, for the benefit of the holders of the Bonds, that the City will file any required reports and take any other action that may be necessary to ensure that interest on such tax exempt Bonds will remain exempt from federal income taxation, and that the City will refrain from any action that would cause interest on such tax exempt Bonds to be subject to federal income taxation.

**Section 12: Qualified Tax-Exempt Obligations.** To the extent permitted under the Code, with respect to any Bonds that are issued with the intent that interest thereon be exempt from federal income taxation, the Treasurer is hereby authorized to designate any of such tax exempt Bonds authorized to be issued hereunder as qualified obligations for purposes of Section 265(b) of the Code.

**Section 13: Disclosure.** The Treasurer is hereby authorized to covenant, certify and agree, on behalf of the City, for the benefit of the holders of the Bonds, that the City will file any required reports, make any annual financial or material event disclosure, and take any other action that may be necessary to insure that the disclosure requirements imposed by Rule 15c2-12 of the Securities and Exchange Commission, if applicable, are met.

**Section 14: City Officials.** If any of the officers or officials of the City who have signed or sealed the Bonds shall cease to be such officers or officials before the Bonds so signed and sealed shall have been actually authenticated or delivered by the City, such Bonds nevertheless may be authenticated, issued, and delivered with the same force and effect as though the person or persons who signed or sealed such Bonds had not ceased to be such officer or official; and also any such Bonds may be signed and sealed on behalf of the City by those persons who, at the actual date of the execution of such Bonds, shall be the proper officers and officials of the City, although at the nominal date of such Bonds any such person shall not have been such officer or official.

**Section 15: Deputy Officers.** If the Treasurer, Mayor or Clerk are for any reason unavailable to approve and execute the Bonds or any of the related financing documents, the person or persons then acting in any such capacity, whether as an assistant, a deputy, or otherwise, is authorized to act for such official with the same force and effect as if such official had herself performed such act.

**Section 16: Other Actions.** The Treasurer, Mayor, Clerk and other appropriate officers of the City are hereby authorized and empowered to do all such acts and things, and to execute, deliver, file, approve, and record all such financing documents, contracts, deeds, assignments, certificates, memoranda, abstracts, and other documents as may be necessary or advisable, with the advice of counsel for the City, including but not limited to any certificates, bond insurance agreements, notices of sale and other documents as may be necessary or appropriate in connection

with the sale of the Bonds and any letter of credit agreement or liquidity facility agreement necessary to the issuance of any Bonds, to carry out the provisions of the resolutions heretofore adopted at this meeting in connection with the Project, the execution, sale, and delivery by the City of the Bonds and the execution and delivery of any related financing documents.

**Section 17: Costs.** The term “cost” or “costs” as used herein and applied to the Project, or any portion thereof, includes, but is not limited to (1) the purchase price or acquisition cost of all or any portion of the Project; (2) the cost of planning, developing, preparation of specifications, surveys, engineering, feasibility studies, legal and other professional services associated with the Project; (3) the cost of environmental studies and assessments; (4) the cost of financing charges and issuance costs, including premiums for insurance, interest prior to and during construction and for a period not to exceed three (3) years from the issue date of the Bonds, underwriters' fees and costs, legal and accounting fees and costs, application fees, and other fees and expenses relating to the financing transaction; and (5) the cost of all other financing authorized hereunder, whether related or unrelated to the foregoing.

**Section 18: Tax Levy.** In each of the years during which any of the Bonds issued hereunder are outstanding, there shall be levied a tax in an amount which, with other revenues, if any, available for that purpose, shall be sufficient to pay the interest on said Bonds, payable in such year, and the principal of such Bonds maturing in such year.

**Section 19: Consolidation.** Any or all of the Bonds issued hereunder may be consolidated with and become a part of any other issue of general obligation bonds authorized to be issued by any previous or subsequent Order of the City Council of the City of Saco.

**Section 20: Investment Earnings; Premium.** The investment earnings on the proceeds of the Bonds, if any, and the excess proceeds and premium of the sale of the Bonds, if any, be and hereby are appropriated to be used to fund the refunding of the 2006 Bonds, to pay redemption premium on the 2006 Bonds, to pay interest on the 2006 Bonds or the Bonds and to pay issuance costs for the Bonds.

## **X. ADJOURNMENT**

Councilor Smith moved, Councilor Roughan seconded to adjourn the meeting at 8:58 p.m. The motion passed with six (6) yeas.

Attest: \_\_\_\_\_

Michele L. Hughes, City Clerk