

**State of Maine**

**County of York**

**City of Saco**

**I. CALL TO ORDER** – On Tuesday, May 21, 2018 at 6:30 p.m. a Council Meeting was held in the City Hall Auditorium.

**II. RECOGNITION OF MEMBERS PRESENT** – Mayor Marston Lovell introduced the members and determined that the councilors present constituted a quorum. Councilors present: Marshall Archer, Roger Gay, William Doyle, Lynn Copeland, Alan Minthorn, Micah Smart, and Nathan Johnston. City Administrator Kevin Sutherland was also present this evening.

**III. PLEDGE OF ALLEGIANCE**

**IV. GENERAL**

**A.** Historic Preservation Commission Recognition – Removed from Agenda.

**B.** Proclamation – Building Safety Month

**Proclamation**

**Building Safety Month — May, 2018**

**Whereas, our City is committed to recognizing our growth and strength depends on the safety and economic value of the homes, buildings and infrastructure that serve our citizens, both in everyday life and in times of natural disaster, and;**

**Whereas, our confidence in the structural integrity of these buildings that make up our community is achieved through the devotion of vigilant guardians—building safety and fire prevention officials, architects, engineers, builders, tradespeople, design professionals, laborers and others in the construction industry—who work year-round to ensure the safe construction of buildings, and;**

**Whereas, these guardians are dedicated members of the International Code Council, a U.S. based organization, that brings together local, state and federal officials that are experts in the built environment to create and implement the highest-quality codes to protect us in the buildings where we live, learn, work, worship, play, and;**

**Whereas, our nation benefits economically and technologically from using the International Codes® that are developed by a national, voluntary consensus codes and standards developing organization, our government is able to avoid the high cost and complexity of developing and maintaining these codes, which are the most widely adopted building safety and fire prevention codes in the nation; these modern building codes include safeguards to protect the public from natural disasters such as hurricanes, snowstorms, tornadoes, wildland fires, floods and earthquake; and;**

**Whereas, Building Safety Month is sponsored by the International Code Council to remind the public about the critical role of our communities' largely unknown guardians of public safety—our local code officials—who assure us of safe, efficient and livable buildings that are essential to keep America great, and;**

**Whereas, “Building Codes Save Lives” the theme for Building Safety Month 2018, encourages all Americans to raise awareness of the importance of building safe and resilient construction; fire prevention; disaster mitigation, and new technologies in the construction industry. Building Safety Month 2018 encourages appropriate steps everyone can take to ensure that the places where we live, learn, work, worship and play are safe, and recognizes that countless lives have been saved due to the implementation of safety codes by local and state agencies, and,**

**Whereas, each year, in observance of Building Safety Month, Americans are asked to consider the commitment to improve building safety and economic investment at home and in the community, and to acknowledge the essential service provided to all of us by local and state building departments, fire prevention bureaus and federal agencies in protecting lives and property.**

**NOW, THEREFORE, I, Marston Lovell, Mayor of the City of Saco, Maine do hereby proclaim the month of May 2018 as Building Safety Month. Accordingly, I encourage our citizens to join with their communities in participation in Building Safety Month activities.**

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C. Proclamation - Arbor Week

The City of Saco is pleased to announce that we have been designated a Tree City USA city for the 8<sup>th</sup> year in a row by the Arbor Day Foundation. The Tree City USA program has been greening up cities and towns across America since 1976. It is a nationwide movement that provides the framework necessary for communities to manage and expand their public trees. Saco joins just a select number of cities and towns in the state of Maine that share this recognition.

I will now read the official Arbor Week Proclamation:



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*Whereas,* In 1872 J. Sterling Morton proposed to the Nebraska Board of

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*Whereas,* In 1872 J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees, and  
*Whereas,* this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska, and  
*Whereas,* In 1978, the State of Maine first celebrated Arbor Week during the 3<sup>rd</sup> full week of May, and  
*Whereas,* trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce life-giving oxygen, and provide habitat for wildlife, and  
*Whereas,* trees are a renewable resource giving us paper, wood for our homes, fuel for our fires, and beautify our community, and  
*Whereas,* trees, wherever they are planted, are a source of joy and spiritual renewal.

*Now, Therefore,* I, Marston Lovell, Mayor of the City of Saco, do hereby proclaim May 20<sup>th</sup> through May 26<sup>th</sup> as the celebration of



## **Arbor Week!**

In the City of Saco, I urge all citizens to celebrate Arbor Week and to support efforts to protect our trees and woodlands, and

*Further,* I urge all citizens to plant trees to gladden the heart and promote the well-being of this and future generations.

### **V. PUBLIC COMMENT**

**A.** Mayor Lovell asked Stephen Shiman of 15 Bayview Road as Saco School Board liaison to the City Council for a report from the School Board. Mr. Shiman said that the School Board had met for a brief meeting the previous week. He said that the Board discussed the school budget and the upcoming election which includes a vote on the budget. He asked to remind everyone that the School Board voted unanimously to support the proposed budget. He also said that the meetings that were held near the end of the budget process worked well, but that the School Board would like to schedule those earlier in the budget process next year. He said that he had also heard this from members of the City Council.

Mayor Lovell reiterated his intention to have the City Council and the School Board hold quarterly workshops.

**B.** Donald Pilon from Glenhaven Circle said that last week, after much debate, the City Council decided to send the School Budget out to a referendum vote. He said that that disturbs him and concerns him a lot. He noted that the City Council members are

elected by the people in their respective wards to make decisions for the citizens of Saco. By taking the position of not making the decision on the School Budget, but rather, sending it out for a citywide vote goes against the articles of the City Charter.

Mr. Pilon said that he had voted for a city councilor to make the decisions, some popular, some unpopular, and that the members of the council are not able to choose which decisions they want to make. He said that even though this is a controversial budget and that at times people will not agree with a councilor's decision, and perhaps a councilor doesn't want to offend anyone, perhaps with re-election in mind, still the hard decisions have to be made, and so by sending this budget out for city-wide election, the Council is not doing its job.

Mr. Pilon spoke about Section 2-07 f of the City Charter which reads: "The Mayor shall be frequent, shall by frequent conferences with the City Administrator, keep himself and the City Council informed as to the progress on all City Council directives, the general financial standing of the City, the current status of all negotiations, administrative proposals for future City plans, and recommendations for City Council action. He or she will request all information and any supporting documents that he or she feels are necessary for himself or herself and the City Council in order to make reasoned and informed decisions on matters coming before the City Council or its member committees." Mr. Pilon said that speaking to a few of the Council members, it was apparent that the Mayor did not attend some or all of the finance meetings that were budget items.

Mr. Pilon said that the Mayor has to attend those meetings, so that he or she can come back to the City Council and tell them how the School Budget was built. It is imperative for the mayor to do this as a mouthpiece and advocate for the School Board, to return to the Council and explain how the School Board built their budget. If the Council doesn't know how that budget was built, how can they intelligently vote on it? Mr. Pilon said that in his opinion, this is what had happened here.

As a final comment, Mr. Pilon said that the State of Maine had given the Saco School Department \$750,000.00 this year. The School Board had used half of that money to pay for a new boiler in one of the schools, and they put the balance into the 2019 budget. Last week, Mike O'Hayan, who is the chairman of the School Board, stood before the City Council and used the word "padded" the school budget in anticipation between 35 and 50 new students going into Thornton Academy. That equates to \$480,000.00. Mr. Pilon suggested that the City Council tell the School Board to use these funds left over from what the State had given to Saco School Department to offset this anticipated expenditure for Thornton tuition, and that would go a long way to reducing the school budget and the proposed 53 cent tax increase that its present levels will require. He said that he didn't know how this could happen, since the budget is already prepared to go out to referendum, but that the message must get out. Mr. Pilon said that he took offense to the School Board Chairman's use of the word "padded", and believed that was inappropriate.

**C.** Mary Pelkey of 35 McKenney Road spoke about the previous week's City Council meeting, during which the Council made it clear that they were concerned about how a tax increase would impact Saco's citizens. She wanted to thank the Council for reducing the City budget and said that she shares the Council's concern over the proposed School Budget, and hopes that they will have the opportunity to make the reductions that were spoken of that night. She said that it was evident that they had attempted to keep costs down and their efforts are appreciated. Mary reiterated her hope that the Council would keep the City's Volunteer Program intact, and that she cannot stress enough that there is a lot of work involved in the position: Constant contact with and support for the volunteers, and the important paperwork needed to ensure that those involved with the program get their tax credits on time is crucial.

Mrs. Pelkey said that she did have one concern with the budget that was passed at the last Council Meeting, and that is the half time Executive Assistant that was approved for the Administrator's office. Several of the current Council members were not here last year and would not have seen the difference coming from the Administrator's office when he had a full-time staff person. Kate, and later Emily, were very accessible for any question or problem that anyone had. With a City Administrator who prefers an open door policy as Kevin does, a support person is necessary to handle all of the detailed items that pass through that office, so that he can be available to staff and to the public whenever needed. Mary said that she wished The Council would reconsider this position.

Mrs. Pelkey also said that the combinations that were discussed involving an Executive Assistant that would also include internal audit along with grant writing responsibilities would be nearly impossible. As a former Human Resources manager, Mary said that she could agree with Saco H/R Director Marylou Kadlick that it is next to impossible to find someone with those combined skillsets. A thirty- hour grant writer and a 20 hour internal auditor could be possible, but that could not include executive assistant. She said that she was not recommending the grant writer position to be thirty hours, because if that position brings in needed grant monies, then the position should be full time. She said that in the past, she has written many grants and has also been the person who reviewed grants, and that she knows first- hand how labor intensive this process is.

**D.** Bette Brunswick of 11 Old Orchard Road wished to thank the City Administrator for the amount of time he has recently devoted to the economic development of the City of Saco. She said that during the time Mr. Sutherland has been with the City, that he has made great strides in implementing the Council's Strategic Goals. She said that she was encouraged by the steps that he has taken to make the Economic Development Commission a more important function of the Economic Development oversight. She said that she believed these changes would help the Council with their work of Administration oversight. It is time for the Council to shift to the true system of results oriented measures. Kevin Sutherland understands Saco's policy

governance very well, and it seems to have taken him this long to understand how past system failures can now be brought into efficient functionality.

She said that the Council must develop their own clear policies of clear expectations and measures for all Boards, Commissions, and Administrative functions. These entities are the Council's oversight for efficient functionality. The Bridge 20/25 was a first step toward results oriented measures. The hiccup we had during the City Administrator's search and his settling in is now past, and we must use this current time of good economic conditions to focus on what is most important. As the Economic Development Commission Chair, Mrs. Brunswick said that she is committed to helping the Commission function at the best level possible, for the Council to keep current with economic development needs, goals and trends. She said that she has been proud to serve on the Marketing Committee, and can inform the Council that this committee has real impact on other boards, such as the Saco Main Street organization. It took Mrs. Brunswick and several other key people in those organizations 2 years to get them up to speed, and they are still improving.

Mrs. Brunswick thanked Kevin Sutherland once again for his commitment to the City of Saco.

**E.** Kevin Roche of 18 Vines Road began by congratulating the City for winning the designation as an "Opportunity Zone" by the federal and state governments, the only city in York County to achieve that designation. That is the result of a lot of work by Brandon Pettit, the City's Grant Writer, whose position the Council voted to keep in the budget, and also by Emily Roy. In the past, Saco did not score well with the bridge that was proposed for Main Street. That application scored 17 out of 100. Our downtown development grant got off to a very slow start as well, so this is a good sign of some changes well needed in this city.

Mr. Roche said that he was also speaking for former Councilor David Precourt who is on vacation. Mr. Roche wanted to address former Mayor Pilon who led off Public Comment at the last Council Meeting. He said that it was brought up that the School Board was trying to obtain \$1200.00 of salary four years ago in our Charter Meetings. He said that the minutes from those meetings will show that the Council approved that. What the Council at that time did not approve, was Mayor Pilon's attempt to receive \$8,000.00 in salary, plus health insurance. Mr. Roche felt that the School Board was cast in a very bad light during the last meeting, and it has continued on to this meeting. Regarding the school finance meetings, Mr. Roche said that Mayor Lovell was at those meetings. Mr. Roche said that he saw Mayor Lovell there. Some Councilors have young children and cannot make all of those school finance meetings, but that Mayor Lovell was definitely there, and Mr. Roche commends Mayor Lovell for that.

In regard to the debate on the current school budget that has recently taken place, both Mr. Roche and Mr. Precourt agree that 4 million dollars is a lot to absorb, and they differ in how to handle that, the Council vote is now over and it's time to let the people decide at the polls. The overall mil rate increase is a 2.7% increase. And a lot of

the credit in keeping it at that level goes not only to council, but also to the new Finance Director and the City Administrator. They heard the Council, they worked through the meetings. It took a lot of work, but they did their job. For the record, since Kevin Sutherland became Administrator in 2015, the City mil rate, which he can most control, went from \$7.84 to \$7.18.

Mr. Roche said that later this evening, the Council would be discussing the City Administrator contract in Executive Session. It has been reported that Kevin Sutherland has asked for a one year extension from this Council: His contract is up in September. Mr. Roche said that he and Mr. Precourt see no reason to deny this. Mr. Sutherland has finally had the chance to work with key staff of his hiring, a power that our City Charter entitles the Administrator to have. If the people do not like the Charter, then it needs to be changed. The Charter does not allow City Staff to work hand in hand with Councilors on their own agenda and direction. Kevin Sutherland has had to endure this for the last two plus years of working for this city, and a couple of Councilors continue to publicly, (and Councilor email is public information), proclaim their opposition against the City Administrator.

So, Mr. Roche asks five Councilors to give Kevin Sutherland a full year of their direction for him and for his new staff through him. Mr. Sutherland has admitted mistakes, one being full focus on direct communication with the Council. That should be a requirement of your extension, and the same with the communication with the Mayor. But one thing that will not change is his full empowerment and trust in his staff to get the job done. He will continue to have that faith and trust in staff, with the highest of ethics to see things through. Mr. Roche said that he and Mr. Precourt would not be supporting Kevin Sutherland if his integrity was ever in doubt.

**F.** Craig Pendleton, Director of Biddeford Chamber of Commerce and Industry, asked to speak on a couple of points. First, that the business community thrives on stability and so he urged the Council to support the contract extension for the City Administrator. He said that in the two and a half plus years that he has worked with Mr. Sutherland, two words come to mind: Ethical and honest. Mr. Pendleton said that he finds Mr. Sutherland to be a man of his word, and those are very high qualities to possess. Kevin has worked hard to vastly improve the working relationship between the City and the Chamber. Mr. Pendleton said that he recently served on the committee to hire the new Planning/Economic Development Director, and that Mr. Sutherland had put together a very good scenario of how that would be accomplished, and that good things would come as the result.

Mr. Pendleton said that he had also worked with Mr. Sutherland on two businesses: Ready Seafood which is going to build a 90,000 sq. ft. building, and a company named Siris in the Industrial Park. He said that he and Mr. Sutherland had worked hard to not only attract business, but also to keep them here and that both of these things are very important. He also said that Mr. Sutherland's foresight to promote Emily Roy has created a direct link for them to work on marketing and public relations

opportunities that come across the Chamber desk periodically, and provide great opportunities to promote the area. Once again, he urged the Council to approve the Administrator's contract extension.

**G.** Ron Michaud, 143 Bayview Road, wanted to speak about the City Administrator's contract extension issue. He said that as a former mayor, city councilor and school board member, he has had the opportunity to work with a wide variety of administrators and superintendents, and that one of the things that he has learned is that stability in management is critical to the success of our community. The City was turning over city managers frequently in the 1980's, and when stability was achieved, it added a lot to the community. Mr. Michaud said that working as Mayor with Kevin Sutherland was a great experience, that he was always improving, and that he thought Mr. Sutherland was doing a great job for the community. He said that he did not know what was being done within the contract, but that he hoped it would be for an extension for another year, which would give the new councilors the opportunity to work with him. He said he believed that this would be good for the community. He spoke in regard to the current budget, and said that he went through lots of budgets with other City Managers, but that his "RAD" process added something relatively new, and effective. He said that it allowed him, and the Council, to focus on the important things in the budget, and not to spend all of their time going through the minutiae that is possible to become wrapped up in. He said that he thought Mr. Sutherland's budget presentation this year was outstanding. To see the budget actually go down slightly is really something. So, once again, he expressed his hope that the Council would consider extending his contract.

The other issue Mr. Michaud wanted to speak about is the Volunteer Write-Off Program. He understands that there is a move coming before the Council to drop the amount to \$599.00 in order to simplify tax requirements. However, he said that if he was a participant in the program, it would appear as if his taxes are probably going to go up, yet his subsidy is going to go down. He said that he didn't believe the program should be reduced just to make it easier on the paperwork, but rather, we should be looking at what is good for the clients involved. He said that he strongly urged the Council to follow Councilor Minthorn's suggestion, to table this motion for this evening, put the committee together, and that he would volunteer to be on that committee. But he said that this committee should be in place to do the analysis, because when he looked at it quickly, Saco is one of the few communities that actually do this volunteer program. Most communities do a "Tax Program", which is a different provision in the legislation, so we ought to be looking at that too. We know that the Volunteer Program is a tremendous value to the train station. Mr. Michaud said that his biggest concern is that the City is spending \$10,000.00 on administering the service and \$30,000.00 to \$35,00.00 in subsidies, and he feels that this is not a good investment of the funds. The City should find a way to administer the program more efficiently and use the amount saved to provide additional help to seniors who can take part in the program. So, he would ask that the

Council consider tabling the motion tonight, and put a committee together, and see what plans they might come up with.

**H.** Tracy Collins, 378 Main Street, wanted to thank the members of the City Council for their efforts during the budget season, and now that budget season has passed, she wanted to reflect a little bit. She said that from an historical perspective, the budget process over the last few years has been infinitely more accessible and transparent to the average person. There is now a dialogue between council members and the various boards or committees who wish to discuss education or other matters. She also wanted to commend the City Administrator for the work that has been done in the downtown effort, regarding the businesses that are coming in, because that helps to off-set our school costs. And she wants to remind folks that the Bridge 2025 program was a massive effort, with many swaths of the public that came together in focus groups, and put together a vision for where we wanted to be as a city, and our goals, and at the top of the list was good schools, because without good schools, you don't have good community, and without good community, you don't have good schools. So, to the majority of the Council that was supporting the current budget, she offered her thanks.

**I.** Steve Shiman, 15 Bayview Terrace, asked to speak about a matter other than in his capacity representing the School Board. He wanted to address his comments to Kevin Sutherland, who he said, has been tremendously helpful to him and to the School Board, and to the community. Mr. Shiman said that from all of his personal years of leadership, the he recognizes a strong leader in Mr. Sutherland, and that from his point of view, Mr. Sutherland is excellent, and that he has done an outstanding job. Several years ago, when Mr. Shiman was not involved with the community, he said that he had a great deal of trouble understanding the communications when it came to budget season, which seemed desperately weak. He said that he believed communications have strengthened over the recent past, and he reiterated that over the last couple of years, that Mr. Sutherland has done an outstanding job. From the public's perspective, different people will always have different points of view, but he believes that the public has a very good general impression, and that he certainly does.

## **VI. CONSENT AGENDA**

### **A. Notice of Election for the Budget Validation Referendum Election, June 12, 2018**

Councilor Minthorn Moved, Councilor Doyle Seconded, and be it Ordered that the City Council approve the Notice of Election for the Budget Validation Referendum Election scheduled for Tuesday, June 12, 2018.

The Motion passed with seven (7) Yea's.

## **AGENDA**

**A. (Public Hearing) Renewal Application for a Special Entertainment Permit – Kerryman Pub**

**John Kerry d/b/a Kerry men Pub, 512 Main Street** has applied for a renewal of the establishments Special Entertainment Permit. The permit will be concurrent with the establishment's liquor license.

The applicant has paid all applicable permit fees and the clerk has properly advertised the public hearing in accordance with the Saco City Code, Chapter 93 - Entertainment §93-2.

Councilor Doyle Moved, Councilor Minthorn Seconded to Open the Public Hearing.

The Motion passed with seven (7) Yea's.

There was no Public Comment.

Councilor Doyle Moved, Councilor Minthorn Seconded to Close the Public Hearing and be it Ordered that the City Council grant the renewal application submitted by John Kerry d/b/a/ Kerry men Pub for a Special Entertainment Permit to be concurrent with the establishment's liquor license.

The Motion passed with seven (7) Yea's.



# PERMIT TO BE DISPLAYED

MUNICIPALITY: **Saco** COUNTY: **York, Maine**

Fee Paid... <sup>150.00</sup> ~~140.00~~ Date Paid... 5-7-18  
ck. # 5367

## Special Entertainment Permit

<b>This permit is hereby granted upon condition that the licensed premises do not violate the above statute or any ordinance, rules or regulations promulgated pursuant thereto.</b>	
Licensee's Name:	<u>John Kerry</u>
Business Name:	<u>Kerryman Pub</u>
Location of Premises:	<u>72 Main St. Saco, ME 04072</u>
P.O. Box Address:	
Municipality:	<u>Saco</u>
Description of Premises:	<u>Restaurant - Pub</u>
Facilities Required:	
Hours Permit is Effective:	<u>12:00 Noon</u> to <u>1:00 A.M.</u>
Type(s) of music, dancing, entertainment permitted:	<u>Bands</u>

This permit expires... June 3..., 2019, unless revoked by the Municipal Officials.

Dated at the City of Saco this.....day of....., 20.....

	_____	Mayor
Certified True Copy	_____ }	
	_____ }	
Municipal Clerk	_____ }	Council members
	_____ }	of the City of Saco
	_____ }	

### **B. Acceptance of CDBG Economic Development Grant for low/moderate income job creation**

Councilor Doyle Moved, Councilor Johnston Seconded, and Be it ordered by the Council of the City of Saco that the City Administrator:

- 1) Is authorized and directed to submit an application for an Economic Development program for \$400,000.00 within the State of Maine's CDBG Program, to the Department of Economic and Community Development on behalf of the City of Saco, in the form presented to this Council;
- 2) Is authorized to make assurances on behalf of the City of Saco required as part of such applications, and
- 3) Is authorized and directed, upon acceptance of said funds to carry out the duties and responsibilities for implementing said program, consistent with the Charter of

the City of Saco and the laws and regulations governing planning and implementation of community development programs in the State of Maine.

Mayor Lovell pointed out that this application is in the initial state and so the Council is authorizing the submission of the application at this point, and if it is approved, that the City would be accepting the grant.

The Motion Passed with seven (7) Yea's.

### **C. Volunteer Citizen Work off Program Guideline Changes and Annual Approval**

This year marks the ninth year of the City's Volunteer Senior Tax Work off Program. This program has successfully connected Senior Citizens with City Departments to provide support to the assigned department. In exchange for their assistance with various tasks, the volunteer earns tax abatement credits toward their property tax bill.

Based on a review of the needs of the program and in the interest of improved disclosure on benefits for the purpose of state and federal reporting, the Guidelines should be updated as detailed in the attached document.

We are requesting the approval for up to 50 participants for fiscal year 2018/2019. Upon completion of a minimum of 59 hours of service, each participant is eligible for a tax abatement of \$599.

Councilor Copeland Moved, Councilor Gay Seconded, and Be it ordered that the City Council authorize up to fifty (50) Senior Abatements pursuant to City Code, Chapter 220, Article I, Volunteer Citizen Work off Program for fiscal year 2018-2019 and further approves the changes made to Chapter 220, Attachment 1, "Volunteer Programs" as outlined in the attached exhibit item.

Mayor Lovell pointed out that one of the things that occurred in the May 7, 2018 Workshop was that Councilor Minthorn brought up the idea of an Ad Hoc Committee, and the Mayor wished to thank the councilor for suggesting this committee, which is designed to examine the Work Off Program and the assistance that is provided by this version, as there are now multiple versions by the tax abatement program, and that the Council can expect the Ad Hoc Committee approval document will appear in the June 4, 2019 agenda.

Finance Director Glenys Salas wanted to explain that the motion was a fix put in place to assure compliance with the Internal Revenue Service in regard to reporting, based on limited existing staff resources to support incremental administrative tasks.

Additionally, as had been discussed at the May 7<sup>th</sup> meeting, this is the recommended fix for now, but it does not have to be a permanent fix, because the Council could implement something along the lines of what had been proposed by the former mayor, or by Councilor Minthorn. Finally, in terms to the work/volunteer program guidelines, this is really just a clerical change. Historically, it said that volunteers would complete a W-4 or a withholding form. That was not necessary, that is something that has not been done in the past, so we wanted to take that out of the guidelines. And then, we wanted to add that the City of Saco would be issuing a letter annually to each volunteer. Volunteers have been responsible for all Federal and State reporting, but have not been provided any documentation for that. So, the City is providing all of the documentation that they need to comply with all State and Federal regulations.

Councilor Archer asked, based on the previous figure of \$750.00 and the new figure of \$599.00, what is the cost to the City in manpower to fill out the W-9?

Ms. Salas said that if the Council wants to keep the previous \$750.00 amount, that they should move \$1,000.00 in overtime to the Finance Department, to support extra clerical time to ensure that each of the volunteers are set up as contractors.

Councilor Archer asked for clarification: Is this figure of \$1,000.00 for a full year and would this cover all of the volunteers? Ms. Salas said that it would.

City Administrator Kevin Sutherland said that the program is currently in place and the volunteers have been meeting with city staff to receive the various training that is required, so the program has already been in motion for several months. He said that he would recommend to the Council to approve this motion as is, and in addition, to create the Ad Hoc Committee to investigate other ways to move forward.

Ms. Salas asked if the City Administrator could provide clarity to the Council as to whether or not this program could continue after July 1, 2018 without Council approval this evening? The City Administrator said that it would require Council approval, and it was determined that a potential vote to table would mean that the issue would come before Council again on June 4<sup>th</sup>, before the new fiscal year begins.

Councilor Minthorn Moved, Councilor Doyle Seconded to Table the Motion until June 4, 2018.

The Motion to Table passed with seven (7) Yea's.

## **D. (First Reading) Contract Zone Amendment – KFC, Foresite Realty, LLC and York Count FCU.**

The City Council approved a contract zone encompassing three abutting Main Street parcels at 477, 485 and 491 Main Street on October 17, 2005. The properties included those owned by Linron Inc., doing business as KFC; the York County Federal Credit Union; and two parcels between KFC and the credit union that were under contract to Saco Realty Limited Partnership, possibly to be developed as a CVS pharmacy.

Fast forward to 2018 -- the KFC has been demolished and replaced, with a Certificate of Occupancy being granted in May, 2006. The credit union building was removed, then rebuilt and occupied in January, 2016. The two lots that were owned by SRLP have become a single lot, under contract to Jacob Roskelley dba Foresite Realty, LLC, who hopes to relocate his existing dental practice.

The principals at the two other businesses, Scott Chretien at York County FCU, and Ron Giles at KFC, have discussed the proposal with Mr. Roskelley, and each is eager to finalize the plan envisioned by the 2005 contract zone. The rear access drive linking the three uses with Smith Lane would be constructed as part of the development.

This item was reviewed by the Planning Board at its May 15 meeting. The Board made a positive finding on each of the four standards required for a contract zone and forwarded a positive recommendation to the Council for the proposed amendments.

**Councilor Smart Moved, Councilor Archer Seconded, and The City of Saco hereby Ordains and Approves the First Reading and the findings in the contract zone document entitled ‘Amended Contract Zone Agreement by and Between Linron, Inc., Foresite Realty, LLC, York County Federal Credit Union and the City of Saco,’ dated May 15, 2018, and to schedule a Public Hearing for June 4, 2018, for the properties at 477, 485 and 491 Main Street, as authorized by Section 1403 of the Zoning Ordinance, pursuant to 30A M.R.S.A Section 4352 (8).**

**The Motion Passed with Seven (7) Yea’s.**

**Amended Contract Zone Agreement**

**by and Between**

LINRON, INC., Foresite Realty, LLC, ~~SHANNON REALTY LIMITED PARTNERSHIP,~~

and YORK COUNTY FEDERAL CREDIT UNION  
and the CITY OF SACO

October 18, 2000

Amended March 16, 2015

Proposed Amendments May 1, 2018

THE CITY OF SACO HEREBY ORDAINS:

- I. That the Zoning Ordinance of the City of Saco, dated January 2, 1985, and amended through March 12, 2018 ~~July 19, 2010~~ which was amended by adopting a Contract Zone Agreement dated October 17, 2005, as ~~previously~~ amended August 4, 2008, and again amended March 16, 2015 by and between the City of Saco and LINRON, INC. ("Linron"), Foresite Realty, LLC ~~SHANNON REALTY LIMITED PARTNERSHIP ("SRLP")~~ and YORK COUNTY FEDERAL CREDIT UNION ("Credit Union") (collectively "Applicants") and their successors and assigns which the Applicants propose to further amend so that it reads as follows:
1. The original Applicants proposed in 2005 to establish a series of three (3) permitted uses located on Main Street with a single curb cut off of Main Street and a rear drive providing access for the three uses to ~~Shannon~~ Smith Lane and its signalized intersection. The proposed uses included an existing eating establishment (KFC Restaurant) on the Linron, Inc. property; an existing financial institution (York County Federal Credit Union) and a proposed retail business (CVS Pharmacy) on the Shannon Realty Limited Partnership (SRLP) parcels.
  2. Said properties are identified as Tax Map 33, Lot 6 (Linron); Tax Map 33, Lot 7 (formerly SRLP, now under contract to Foresite Realty, LLC) ~~& Map 33, Lot 4 1 (SRLP)~~ and Tax Map 33, Lot 9 (Credit Union) on City of Saco tax maps, and are ~~is~~ in a B-2d zoning district (the "Subject Properties").
  3. Part of the properties are currently improved with a KFC Restaurant (Linron parcel). The Credit Union occupies one parcel. The Foresite Realty, LLC ~~SRLP~~ parcel ~~is~~ ~~are~~ unimproved.
  4. Eating Establishments, financial institutions and offices ~~retail businesses~~ are permitted uses in the B-2d zoning district.
  5. Applicant Foresite Realty, LLC proposes ~~a zoning amendment in the form of~~ an amendment to this contract zone agreement to facilitate the construction of a building for an Office use (dental practice). Other participants in the contract zone agreement included ~~CVS Pharmacy~~, the construction of a new KFC (completed, Certificate of Occupancy granted 5/31/06), an addition to the Credit Union

(completed, Certificate of Occupancy granted 1/5/16). Other prominent features of the agreement include the installation and maintenance of a single Main Street curb cut, and the establishment of a common rear drive to ~~Shannon~~ Smith Lane benefiting all three (3) uses and the City of Saco.

Recognizing the public necessity and convenience which will result from this undertaking, particularly traffic safety and efficiency that shall come from a shared common access and reduced curb cuts on Route 1, and recognizing the unique location of the parcels, and the requirements of the Zoning Ordinance, ~~the Applicants~~ Foresite Realty, LLC hereby makes application for an amended Contract Zone that would permit the following modifications to the requirements in the B-2d Zone and the establishment of the following components for the subject properties, which modifications would, in part, amend the Saco Zoning Ordinance.

## II.

A. An integrated landscape buffer ~~which may contain the sidewalk all as depicted on Exhibit A attached hereto~~ will be established along Main Street for Linron, the Credit Union and Foresite Realty, LLC SRLP. A five (5) foot wide vegetative buffer is ~~will be~~ established along ~~Shannon~~ Smith Lane for the Linron property. Five (5) shade trees and shrubs as described in Section 708-3.9.C of the Zoning Ordinance ~~shall be~~ have been installed along Smith ~~Shannon~~ Lane, with final details ~~to be~~ addressed during site plan review ~~provided said planting requirements will~~ recognizing the desire of Linron to maintain its visibility. A five (5) foot wide paved sidewalk serving all three (3) properties shall be located within the Main Street right of way to the extent possible. However, said sidewalk may be located in the landscape buffer on the Subject Properties, ~~as shown on Exhibit A,~~ and the Applicants shall grant easements for the same, to the extent that right of way width imposes limits on the location of the sidewalk.

B. Except as more specifically described in A above for landscaped buffers along streets, interior landscaping requirements for each property shall be as follows:

(1) Interior landscaping requirements for the Linron property are waived;

(2) ~~Notwithstanding the depicted landscaping found on Exhibit A,~~ Interior landscaping requirements for the Foresite Realty, LLC SRLP property ~~were~~ shall be determined, ~~and may be modified or waived,~~ as part of ~~and through~~ site plan review for the proposed use on the Foresite Realty, LLC SRLP parcel ~~which site plan was approved by the Saco Planning Board on February 24, 2009;~~

(3) Interior landscaping for the Credit Union property shall be as currently existing;

(4) A landscaping plan prepared by a registered landscape architect shall be submitted as part of site plan review of the individual properties, with specific attention to meeting and exceeding requirements found in Section 708-3.9.C regarding the front buffers along Main Street and ~~Shannon~~ Smith Lane.

C. ~~B.~~ Upon the build-out of the Subject Properties there will be only a single curb cut off Main Street, where the Credit Union's current curb cut is located. Said curb cut will be restricted to a left hand turn and a right hand turn into the property and a right hand turn out of the property. The curb cut shall be configured to permit a left hand turn and a right hand turn in and a right hand turn out. Until the Subject Parcels and proposed internal roadways and drive improvements, and the improvements related to the new access drive and related Route One and Smith Lane ~~Shannon Road~~ improvements are constructed, the access drive and internal roadways serving the Credit Union property will remain in their present configuration and with their same utility to the Credit Union.

D. ~~C.~~ A common directional sign plan shall be submitted with the site plan applications for the Foresite Realty, LLC and Linron ~~and the Shannon Realty Limited Partnership~~ properties, with the goal of encouraging traffic headed southbound on Main Street with the Subject Properties as a destination to turn left at the signalized intersection at ~~Shannon~~ Smith Lane, thence to a rear two-way drive that will be established and that will provide access to ~~Shannon~~ Smith Lane for all three (3) uses pursuant to an easement agreement. All vehicles exiting the Subject Properties, then turning left (south) onto Main Street will be directed through the ~~Shannon~~ Smith Lane signalized intersection via internal signage on the Subject Properties.

(1) Notwithstanding Section 230-707(7)(d) ~~707-i(d)~~ of the Saco Zoning Ordinance, an off-premise directional sign for the purpose of informing southbound motorists of access to the Subject Properties via Smith Lane will identify all uses on the Subject Properties and may be located off-site either on private property or City owned land if the parties hereto can negotiate such an arrangement. Nothing herein assures Linron, ~~SRLP~~ Foresite Realty, LLC or the Credit Union that the City will make land available for the location of such signage.

E. The setback for the Linron stacking lane off of Main Street is ~~will be~~ reduced from forty (40) feet to twenty-five (25) feet, thereby amending Saco Zoning Ordinance Section 230-708.C(11) ~~708-3(11)~~.

F. This is a contract between four parties (City, Linron, Foresite Realty, LLC ~~SRLP~~ and Credit Union) which anticipates the improvement of three (3) ~~four (4)~~ parcels all at different times, with the parties acknowledging that Linron completed construction in 2006, and that York County Federal Credit Union completed construction in 2016. ~~is ready to undertake construction as of this date and should not be delayed in their construction.~~ To provide assurances to all concerned, the following conditions are agreed to:

- (1) Foresite Realty, LLC has presented a Plan titled "Dental Practice" which proposes forty-one (41) ~~seventy nine (79)~~ parking spaces on its parcel as part of Phase 1 improvements, and a total of sixty-five (65) spaces at buildout. The plan shows twenty-five (25) existing spaces on the Linron parcel. The plan calls for five (5) existing spaces on the Linron parcel abutting the Foresite Realty, LLC parcel to be reconfigured and replaced with ten (10) spaces shared by the Linron and Foresite Realty, LLC parcels, acceptable per Section 230-708.C(2) of the Zoning Ordinance. Existing spaces on the York County Federal Credit Union parcel are unaffected by this plan.
- (2) Said parking configuration meets the intent of the 2005 contract zone agreement. As stated in that agreement, when the Foresite Realty, LLC parcel is proposed for development, Linron will cooperate with Foresite Realty, LLC to create shared parking ~~with the~~ between the Linron and

Foresite Realty, LLC parcels as envisioned and set forth in the 2005 contract zone agreement. Said shared parking spaces are to be constructed and/or paid for by the owner/developer of the Foresite Realty, LLC parcel, unless otherwise agreed to by Linron and Foresite Realty, LLC.

~~(3) Plan C101. Linron has presented a proposed Plan Design labeled C101, which Plan lays out shared parking with SRLP and a common access drive and which Plan is all parties' preferred option. Should Linron proceed with this Plan variant the required combined parking for the Linron and SRLP lots, based on a shared parking arrangement, by easement, (See Saco Zoning Ordinance Section 230-708.C(2) 708-3) shall total eighty one (81) spaces instead of the required one hundred two (102) spaces, with no required five (5) foot buffer between the Linron and SRLP lots as required by Section 708-3.2 of the Zoning Ordinance.~~

~~(4) Plan C101/B. If Linron is, for reasons outside its control, unable within a reasonable time period to assure itself of, and secure parking rights on Foresite Realty, LLC SRLP property sufficient to build out Plan C101, it may proceed with the Plan detailed as C101/B. However, the following affirmative conditions shall be met:~~

a. Linron covenants to negotiate in good faith in its effort to secure shared parking rights with Foresite Realty, LLC ~~SRLP~~ and/or other parties in interest (as set forth in Section F(1), their successors and assigns. This covenant constitutes an ongoing obligation that continues until construction of the rear access drive has been completed.

b. When and if the SRLP (now Foresite Realty, LLC) parcels are subsequently developed/improved, whether or not such development requires site plan approval, Linron will cooperate with said parties to create shared parking with and between Linron and SRLP parcels as envisioned by this agreement ~~and set forth on Plan variant C101~~. Said shared parking spaces to be constructed by the owner/developer of the SRLP parcels or paid for by said owner/developer of the SRLP parcels.

c. In addition, and at said future date, Linron (subject to Section (F) (2) (d) below) will grant to Foresite Realty, LLC ~~SRLP~~ or its successors and assigns, and to the Credit Union or its successors and assigns, full and irrevocable permission, and an easement, to enter upon and construction across the Linron parcel the common shared access shown on earlier plans for parties to this agreement ~~Plan variant C101~~. Said easement will be for the benefit of the public for travel, for the benefit of Foresite Realty, LLC ~~SRLP~~, its successors and assigns, and for the benefit of Credit Union and its successors and assigns. Said construction will not unreasonably interfere with Linron's or Credit Union's or Foresite Realty, LLC's use of its property.

d. ~~SRLP~~Foresite Realty, LLC and Credit Union, as they should negotiate, shall bear the costs of building out the shared access. In addition, Foresite Realty, LLC and Credit Union, as they negotiate, shall also pay Linron a separate fee of not less than \$200,000.00 or more than \$275,000.00 as additional consideration for the easement across Linron's property. ~~SRLP~~ Foresite Realty, LLC and the Credit Union, as they should negotiate, shall also agree upon

a maintenance contract for the rear access drive.

e. Linrmon shall bear the burden, cost and obligation to secure a release from any and all mortgages of record encumbering Linron's property at the time of the execution of the required easement.

f. Until said shared parking is created, Linrmon will only be required to have 27 parking spaces for its parcel ~~under Plan variant C101/B~~ instead of 37.

g. The required number of parking spaces for the Foresite Realty, LLC parcel shall be forty-one (41) for Phase 1, and sixty-five (65) at buildout.

h. The required front yard setback for the Foresite Realty, LLC parcel shall be twenty-three (23) feet, recognizing that this is a reduction of the otherwise required front yard setback of twenty-five (25) feet in the B-2d zone.

G. The Credit Union was ~~will be~~ permitted to replace the existing building and maintain a northwesterly sideline setback of no less than ten (10) feet without the need for a variance during construction in 2015. The height of this addition ~~did not~~ shall not exceed the maximum height allowed in the B-2d zone, thirty-five (35) feet. The new credit union building was ~~addition will be~~ constructed consistent with design review standards found in Section 729 of the Zoning Ordinance. (Amended 3/16/15)

H. The required number of parking spaces for the Credit Union will be the presently existing eighteen (18) spaces consisting of one (1) space per 150 square feet of building footprint area based on a 2,280 square foot footprint rather than one (1) space per 150 square feet of floor area, as provided in Table 230-708-2. ~~Six~~ Seven additional parking spaces were ~~will be~~ added as part of the construction of the new building ~~addition~~ referred to in the preceding subparagraph, ~~as depicted on Exhibit A.~~

I. The site plan application submitted to the Planning Board by Linrmon was ~~shall be~~ subject to Zoning Ordinance, Section 230-729, Design Standards.

~~J. There shall be no more than a single row of parking spaces between the SRLP structure and Main Street. SRLP may configure its parking so that up to 41.5%, (twenty-two (22)) of the total required number of parking spaces (fifty three (53)) for the SRLP parcel may be located between the building and Main Street, notwithstanding Zoning Ordinance Section 708-3.9.E.~~

K. Linrmon and the Credit Union will be permitted to retain their existing level of signage, including area, height, composition, configuration and style of signage, but the Foresite Realty, LLC ~~SRLP~~ business, and its successors, ~~including but not limited to CVS,~~ will be required to comply with the existing sign ordinance provisions. Each use will be treated separately for signage purposes except that the Credit Union, to accommodate the new traffic conditions, pedestrian sidewalks and the

impacts of changes in the traffic improvements on the subject Properties and adjacent Main Street, U.S. Route One, may, at its option, relocate its sign or located a similar sign in area, height, composition, configuration and style of signage at another location adjacent to or in the esplanade area on its parcel, and may as it finds necessary located internal direction signs to assist its customers to access and exit the Credit Union properly. The Credit Union's signage which is relocated shall be in place in a location acceptable to the City Planner and City Code Enforcement Officer.

L. The easement described herein above shall be reviewed by the City for approval, which shall not be unreasonably withheld. The easement shall assure perpetual public right to cross and re-cross the entire length of the shared drive.

~~M.~~ M. City and Applicants recognize that any 'Sketch Plans' submitted for the purposes of Contract Zone consideration are limited in scope and detail. The project is subject to site plan review by the Planning Board, and 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, and all other regional, state and federal agencies.

~~N.~~ N. Failure of Linron or Foresite Realty, LLC ~~SRLP~~ to submit an applications for 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 amendment shall render this amended Agreement null and void. The existing, amended 2015 Agreement shall continue to exist if the 2018 amendment becomes moot. In the event that permits or approvals are delayed due to circumstances beyond the control of ~~Linron or SRLP~~ Foresite Realty, LLC, this deadline may be extended by one (1) year ~~six (6) months~~ upon written request submitted by ~~an~~ the Applicant. ~~The York County Federal Credit Union proposal for a fifteen (15) by sixty-six (66) foot addition to the northeasterly side of its building is subject to site plan review, but shall not be required to meet either the one year or eighteen month deadline.~~

O. Except as addressed in this Contract Zone document, the project shall adhere to all other applicable provisions of the City of Saco Zoning Ordinance. All details shown on the plans and application materials submitted in connection with the contract zone application or in connection with Linron's or Foresite Realty, LLC's ~~SRLP~~'s site plan review applications, to date or in the future are hereby incorporated into this contract by reference. The site shall be developed in conformance with those plans and materials. Minor changes may be approved by the Planning Office of the City of Saco. If it is determined that the changes constitute a change in this Contract Zone Agreement, then the developer shall be required to obtain City Council approval of the changes.

P. This Contract Zone shall affect only the Subject Properties and shall bind the parties, as well as their successors and assigns.

Q. This contract and its provisions shall specifically and exclusively apply to the Contract Zone request submitted by the Applicants. Any proposed change of use for any of the subject properties

shall be subject to site plan review by the Planning Board.

R. This Contract Zone, and benefits derived thereunder shall not be transferable without approval by the City Council, which approval shall not be unreasonably denied. With approval of this contract zone amendment, approval of the City Council for the transfer in ownership from SRLP to Foresite Realty, LLC is granted.

S. Breach of these conditions, restrictions and/or Agreement by any of the Applicants shall constitute a breach of the contract. Said breach of contract shall constitute a zoning violation, subject to enforcement action by the City of Saco.

T. Upon construction of the shared, common access drive, all delivery vehicles will be directed to enter the subject properties over Smith Lane or by turning right from Main Street into the subject properties.

This Contract Zone, specifically and exclusively for the parcels at 477 Main Street (Credit Union), 485 Main Street (Foresite Realty, LLC) ~~481 Main Street (SRLP), 485 Main Street (adjoining parcel)~~ and 491 Main Street (KFC), would allow the Applicants to develop the subject parcels with the limitations and modifications as proposed above, subject to the above conditions and restrictions.

Pursuant to authority found in 30A Section 4352 (8), and the City of Saco Zoning Ordinance, Section 230-1403, and after a requisite recommendation from the Saco Planning Board on May 1, 2018, and by vote of the Saco City Council on \_\_\_\_\_ ~~October 18, 2019~~, the following findings are hereby adopted:

A. City Tax Map 33, Lot 6, Map 33, Lot 7, ~~Map 33, Lot 4-1,~~ and Map 33, Lot 9 are parcels of an unusual nature and location, for the following reasons:

1. The ~~four~~ three parcels are contiguous parcels bordered by Main Street and Smith ~~Shannon~~ Lane. A common rear drive accessible to all ~~four~~ three parcels can only be constructed with the mutual participation and cooperation of the owners of all ~~four~~ three parcels. That mutual undertaking is possible only if the property owners are able to retain the ability to operate and undertake reasonable expansion of their businesses. If development is not able to proceed consistent with the proposed contract zone, reconstruction on the KFC property consistent with current zoning will eliminate the opportunity to construct a common rear access by which all ~~four~~ three parcels can access ~~Shannon~~ Smith Lane's signalized intersection.

2. The ~~four~~ three parcels are configured in such a way as to limit Main Street access for all ~~four~~ three parcels to a single curb cut.

3. Such shared access and limited curb cuts are necessary and appropriate given the significant traffic accessing the area, and using the U.S. Route 1 corridor, and will substantially aid traffic flow,

reduce accidents, and thereby advance the public welfare.

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

### Section 2A Local Economy Goals, Policies and Strategies.

#### State Goal:

1. To promote an economic climate that increases job opportunities and overall economic well-being.
  - The proposed development of the parcel is an infill of a vacant parcel that provides for new economic benefit. The proposed building will be for an existing growing dental practice with a long history in the community. That will provide opportunities for skilled practitioners. Additional space will also provide for new business opportunities.

#### Local Goals:

1. To increase the number and quality of jobs available in Saco.
  - **Biddeford-Saco Dental Associates** is developing this project to provide space to support their growing practice that will provide opportunity for new business to locate to or expand in Saco.
2. To diversify the mix of firms/jobs and to avoid dependence on single sectors.
  - **Biddeford-Saco Dental Associates** will provide additional opportunities for professional skilled practitioners. Additional space for development may be supporting practices in the field of dentistry or professional offices.
3. To increase the commercial tax base of the City.
  - The redevelopment of this property, which has been vacant for over a decade, will now add significantly to the City tax base.
4. To ensure that new commercial and industrial development occurs in a way that is visually and environmentally sound and that protects established residential neighborhoods.
  - **Biddeford-Saco Dental Associates** is proposing to construct a new two story building with an architectural character that draws upon the historic character of downtown Main Street. The placement of the building along Main Street with parking to side and rear will create a street presence with the building performance and enhanced landscape.

## Comprehensive Plan Policies

3. Attracting new businesses to Saco and accommodating the growth of existing businesses will require that the city continue to fund a robust economic development program. The City's efforts should continue to include the judicious use of the State's development district legislation statues including tax increment financing (TIF) and other financial incentives, including but not limited to economic development grants to fund locally imposed impact and permit fees for significant development projects when these are needed to make a project viable, attract a project to Saco, and/or will result in the creation or retention of good quality jobs.
  - **The proposed Biddeford Saco Dental Associates** development will provide retention of an existing dental practice that has served the community for decades. The new facility will provide opportunity to expand this practice, creating new skilled professional positions. In addition, the future development of the second floor (Phase II) for professional office and/or supporting medical/dental practices will increase opportunities for retention and/or bring new professional jobs to the City.
5. The Route One corridor from Thornton Academy north to the I-195 spur functions as a community commercial center. The city should work to improve visual appearance of this area. In addition, efforts should be made to upgrade traffic flow and to improve access to and from adjacent properties and neighborhoods. This effort should be guided by the access management principles endorsed by the City in the Main Street Access Study, February 2005, and subsequent reports.
  - **The proposed Biddeford Saco Dental Associates** development accomplishes goals stated above. The design and massing of the proposed building will provide a strong presence within the corridor. The intended architectural design draws from the historical character of buildings in the downtown. Parking has been located to the side and rear of the building, allowing the architecture to provide the street parking. In addition, on-site circulation will provide interconnectivity between the York County Federal Credit Union, this parcel and KFC that will direct most vehicular traffic to the traffic signal of Smith Lane and Main Street, Route one. A right turn in right turn cut from Main Street will restrict south bound making a left turn resulting in traffic backup.

Saco Comprehensive Plan ~~Chapter 17,~~

~~Goals and Policies~~

~~1. The Local Economy~~

~~Local goals: To increase the number of jobs available in Saco.  
To maintain Saco's role as a retail and service center for the region.~~

~~Chapter 17(B)(6) The Route 1 corridor from Thornton Academy to the I-195 spur functions as a community commercial center. The City should work to improve the visual appearance of this area. In addition, efforts should be made to upgrade traffic flow and to improve access to and from adjacent properties and neighborhoods.~~

~~Chapter 17(F)(16) The City should also designate the Route 1 corridor from Thornton Academy north to the I-195 spur as a commercial district recognizing the established pattern of commercial use in this area. The City should focus its efforts in this area on improving traffic flow and vehicular access by developing alternative roadways and on improving the visual environment by continuing to work to reduce the amount and size of signs in the corridor.~~

~~Chapter 17(G)(5) The City's development standards should continue to limit the creation of new curb cuts to provide access to abutting property along the entire length of the Route 1 corridor. These standards should require the creation of consolidated entrances where feasible.~~

~~Chapter 17(G)(7) The City should discourage the creation of new lots fronting directly on Route 1. Where feasible the City's development standards should require that an overall access plan be instituted when new lots are created so that access to Route 1 is limited to internal streets or to combined access ways to minimize the number of access points.~~

~~C. The proposed use is consistent with the existing uses and permitted uses within the original zone. The original zone is the B-2d zone and all of the proposed uses are permitted in that zone. Furthermore, the creation of the common rear drive and single Main Street curb cut are all consistent with the Comprehensive Plan and the City's Main Street Access Study. This contract zone proposal is designed to accommodate existing uses while creating a vastly improved common vehicular access system.~~

The conditions proposed are sufficient to meet the intent of Section 230-1403 Contract Zoning, of the Saco Zoning Ordinance.

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

Adopted by the Saco City Council on October 18, 2010.

Amended by the Planning Department as approved by the City Council on March 16, 2015.

Approval granted by the City Council for a further amendment on ????????????, 2018.

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Kevin L. Sutherland, City Administrator

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Jacob Roskelley

Foresite Realty, LLC

## **E. Order to Abate Malfunctioning Septic System**

The Code Enforcement Department responds to complaints of possible malfunctioning subsurface wastewater disposal units, also known as septic systems. In cases where we determine that there is a malfunction, we attempt to work with the owners to have these situations corrected.

The owners of the property are Aaron and Ruth Avery. The Averys own a home at 73 Hearn Road where a second “in-law” unit was constructed several years ago without benefit of a building permit. When Code Enforcement discovered it, they were able to enter into a consent agreement with the Averys which required them to do certain modifications and to submit a septic system design that would be large enough to cover both units. That system was never installed but the Consent Agreement authorized the City to enter onto the property and install the system should the old one go bad. It now appears that the existing system has become overburdened and is no longer treating the wastewater generated on site. A letter was sent to the Averys advising them that they needed to correct this matter and they contacted the Department to advise that the system would be pumped however that has not happened yet. Although the Consent Agreement does imply that the City can go in and replace the system, the City Attorney has advised the City go through the Statutory requirement to have the Municipal Officers order it repaired/replaced.

The order is to make sure things do not get delayed any further than necessary to get the malfunction abated in the shortest time possible. The owners are still responsible for correcting this condition and may do so on their own at any time before the deadline but assures that if they do not act, the City will step in and make the corrections and will charge the expenses back to the real estate on which the system is located as a special tax.

The Municipal Officers are authorized under Title 30-A M.R.S. § 3428 to order this system to be repaired. If the system is not repaired per the order, the Statute authorizes the City to contract with an installer to put a new system in and charge to owners of the property for the expense through a special tax.

The Averys have been notified of this action and of this meeting.

Councilor Gay Moved, Councilor Johnston Seconded, and Be it Ordered that the City Council approve the abatement order.

Councilor Archer had two questions for Code Enforcement Officer Richard Lambert. First, regarding the photograph provided as Exhibit Item #4, Councilor Archer asked if that photograph showed raw sewage? Mr. Lambert replied that it did. Second, Mr. Archer asked how long it would take to clean up the property for public health reasons based on the passage of this order? Mr. Lambert said that would depend on how quickly a contractor would be available to perform the work.

Councilor Johnston asked if there is anyone currently living on the property? Mr. Lambert replied that there is someone currently living there, however it is unclear whether or not it is the Avery family. Mr. Johnston asked if the Avery's had made any contact with the City? Mr. Lambert replied that the owners of the building, the Avery family, had contacted his Administrative Assistant to advise her that they were going to be in contact with their son, because they were out of state, and that they were going to instruct him to have the septic tank pumped, but as far as the City knows, that has not happened. Mr. Johnston asked Mr. Lambert if he thought pumping the tank would help. Mr. Lambert said that he did not think so.

Councilor Minthorn asked Mr. Lambert that as of now, had the Avery's done anything to correct the problem? Mr. Lambert said no.

Councilor Smart asked how would the cost to the City be recouped for the work that is required? Mr. Lambert said that the charges would be paid by the City, most likely through contingency, and the bill is forwarded to the Tax Assessor's Office, who assigns a special tax, which we are allowed to do by statute, and it matures just like a regular tax. City Administrator Kevin Sutherland said that this motion would ultimately give the Council authority to assess this tax.

Councilor Johnston asked if the Avery's are current on their taxes? That information was not currently available, but could be determined. Councilor Johnston said that this is obviously a health issue and was only curious if it is a financial issue for the Avery family.

Mayor Lovell asked Mr. Lambert about the seriousness of the health issue. He asked if the health of the person living there is in danger? Mr. Lambert said that people living near the property can become ill because this is untreated waste water that is going across the ground. He said that it is certainly a nuisance because it has a pretty bad odor that permeates the whole neighborhood.

Councilor Archer asked for clarification: Is this raw sewage running down and across other people's properties, and those people have no ability to stop it? Mr. Lambert said yes, and that the photograph was taken from the neighbor's property.

Councilor Minthorn asked if the City has the ability to assess a fee over and above the cost of the actual repairs, for the time invested to correct this situation? Mr. Lambert said that he did not believe the City could add a surcharge. Mayor Lovell said that he didn't believe that the City could assess a fine, and that a fine would require court action. Mr. Lambert said he believed the only way a fine could be levied would be through court action.

Councilor Copeland asked if there is an estimated cost for this project, realizing that it would be charged to the property owners through taxation. Mr. Lambert said that his best estimate would be \$12,000.00. Ms. Copeland asked if the sewage was going onto the neighbor's property. Mr. Lambert said that he did not know exactly where the lot line was, but that it was very close. Ms. Copeland asked if there had been complaints from the neighbors? Mr. Lambert said that yes, complaints had been received from the abutting neighbor and from the neighbor across the street.

Councilor Johnston asked if this was a multi-family property? Mr. Lambert responded that it is more of a single family with an accessory apartment.

The Motion passed with seven (7) Yea's.

Note: After the Motion was approved, it was determined by the Council, upon advice by the City Administrator, The Code Enforcement Officer, and recommendation by the Mayor, that this is a Health Issue, requiring immediate action, negating the normal bid process to ensure the public safety.

## **F. End Excise Rebate Over and Above Vehicle Transference**

MRSA Title 36, Part 2 Chapter 111 section 1482. 5(D) of State Law allows municipalities to choose whether to refund excess excise tax paid above the amount transferred to another vehicle. Most municipalities do not participate in the program because the administrative cost exceeds the rebate to the tax payer. In FY 2017, the City of Saco paid out \$11,287.86 to 183 tax payers. 99 of those transactions cost the City more than the tax payer received as a rebate. To reduce the property tax load on our citizens, staff recommends ending the optional excise tax rebate program.

Councilor Minthorn Moved, Councilor Copeland Seconded, and Be it ordered that the City Council end participation in the optional program as expressly authorized by MRSA Title 36, Part 2 Chapter 111 Section 1482. 5(D).

The Motion passed with seven (7) Yea's.

## **G. Amendments to City Code, Chapter 181-Solid Waste; Article III: Transfer Station**

As part of the 2019 City of Saco Municipal Budget process, adjustments to the revenue structure at the City's transfer station were discussed and approved on May 14, 2018. These revenue adjustments require changes to the solid waste ordinance, due to the presence of language that references "permit holders may dispose of three cubic yards without paying a disposal fee." Once this language is addressed in the ordinance, fees will be adjusted annually during the approval of the citywide fee schedule.

Councilor Smart Moved, Councilor Copeland Seconded and The Saco City Council hereby ordains and approves the first reading of the document titled 'Amendments to Chapter 181-Sold Waste,' and further move to set the Public Hearing for June 4, 2018.

Councilor Archer asked Public Works Director Patrick Fox if he believes that the new fees are fair and equitable? Mr. Fox replied that he does. He said that after the passage of the 2019 Budget, his department had been doing some research locally, as well as what was being done best-practice wise, how are the fees broken up, because we did have that free system before, some of the fees were better off being broken up into individual items. That way, when someone goes to the Transfer Station and they are dealing with the attendant, there is a little more awareness and not as much room for argument over what the waste is. Saco does not weigh its waste streams, which is what other facilities do, but that involves a very expensive scale system, and it's actually quite cumbersome, as people have to drive over the scale for every single waste stream. Amy Oliver, our Office Manager, has been handling our waste issues, both from the residential complaints and issues with our vendors over the last five years, so she put most of this proposal together. Mr. Fox said that he also ran the proposal by the transfer station attendant, who went over how he has explained things to residents over the last five to ten years, and made recommendations over what he thought would be most palatable to them. Mr. Fox said that Public Works heard the Council's direction and comments, concerning a revenue direction for this issue, and it was decided to ease into this process, making it very palatable to the residents, so that they can work through and understand the process. Not all of these fees cover every disposal dollar for every fee, but they wanted to go with what they believed to be a good way to transition to a revenue stream and keep it as a system where a resident will not go to the transfer station and get "sticker shock".

Councilor Gay said that a number of citizens have told him that losing the "three free yards" was like having one of the last things being taken away from them, and that they pay taxes for it.

Councilor Johnston asked if the card would still be used to prove that the person looking to use the transfer station is actually a resident?

Mr. Fox said that the transfer station is sized for Saco residents only. All that will be required to use the station is to prove residency or that you are a property

owner, because there are a lot of property owners, especially in Ward 4, that are not residents. The card system will not be maintained, and the station will expand what is necessary to prove residency. The transfer station card system is very cumbersome. People lose their cards very often. There are a lot of regular users that the attendant knows are residents, but the attendants will be scrutinizing the documents to make sure this station is used by residents, property owners, or contractors working for at Saco locations. The contractor's rates are still only intended to take on Saco waste streams. He said they designed the rates to not be attractive to people in surrounding communities.

Councilor Copeland asked how would a contractor prove that they are working for a Saco resident or property owner? Mr. Fox said they will be asked to provide an address and a name, and the station attendant will have quick look up capability for the current assessor's database, to be used as a quick double check. If it is a new contractor, or someone who seems to be bringing in a huge amount of waste, then that process will be scrutinized more heavily. The contractor rates are high enough that if the waste is coming from outside our community, our taxpayers will not be paying for that disposal. The contractor rates will be high enough to cover any additional costs. Councilor Copeland said that she appreciated the work that Public Works had done on this. Mr. Fox said that he was happy to answer any questions, since there was not time enough to take this item through workshop in time for the July 1<sup>st</sup> deadline.

City Administrator Kevin Sutherland said that he appreciates the work that Mr. Fox and his staff did on this item, which was a lot of work in a short period of time, and that he is happy that Public Works and the City Council was moving in this direction, and hopefully it will reduce waste. Mayor Lovell said he seconded that sentiment.

The Motion passed six (6) to one (1) with Councilor Doyle voting in the minority.

## **VIII. COUNCIL DISCUSSION AND COMMENT**

A. Councilor Copeland said that she would like to ask some questions of State Representative Donna Bailey who is present this evening. Mayor Lovell asked Rep. Bailey if she would be willing to speak. Councilor Copeland asked about three issues: The approval of the "Downtown District", the Senior Citizen Tax Bill that Rep. Bailey has sponsored, and the status of the School Construction application.

State Representative Donna Bailey of 7 Scrimshaw Lane said that she had spoken with Director Scott Brown in regard to State Funding for Young School, and he said that the State has completed the assessment process. She said that the City had submitted a request in April of this year. At that time, there were 81 requests that had to be assessed and prioritized. That list is now down to 75, and according to Director Brown, the priority list is being written and will be submitted to the Department of Education on June 13<sup>th</sup>. So, Director Brown expects that the principals involved will find out where they are on the list on June 13<sup>th</sup> or shortly after. As the Council members will remember, where you fall on the priority list will determine when the application will be addressed. They

complete projects in order, so hopefully Saco's project will be near the top, and these projects are completed as money becomes available through the State. Rep. Bailey said in regard to the last list that was assembled, it took 8 years to complete that list of projects. Hopefully it will not take as long this time, and Young School is near the top of the list. She said she knew that Saco had submitted other requests, but she considered Young School as presenting the greatest need.

As to the other two issues that Councilor Copeland asked about, Rep. Bailey said that they are both on the Senate Appropriations table currently. The Legislature adjourned with addressing many of the bills that are on the Appropriations table. Hopefully, the Legislature will be called back for a special session, and those issues will be addressed and be funded. In regard to the Senior Tax Bill that she sponsored which is designed to pay tax bills for seniors and for those who are disable and qualify, L.D. 1196, there has been no opposition to that bill. She said that it is her understanding from the Governor's Office that he will not oppose the bill when it makes it to his desk, which is good to know.

Councilor Copeland thanked the Rep. Bailey for advocating for the City.

Mayor Lovell asked about the Downtown Development Bill. Rep. Bailey said that it was on the Appropriations Table also. City Administrator Kevin Sutherland said that he believes the DECD still has the issue before them. The Mayor said that it is a request currently before the Department of Economic and Community Development. This is an issue that has to do with Tax Increment Financing. Rep. Bailey said that she did not know about that issue, but would ask the appropriate sources. She thought the Council was asking about the Down Development Bill, which is currently on the Appropriations table.

Councilor Minthorn expressed his thank to Rep. Bailey and said that he has been told the special session will occur after the primary election, so that it is in place before June 30<sup>th</sup>.

Councilor Smart added his thanks for Rep. Bailey's presence this evening.

Councilor Doyle said that last year, the previous City Council set a deadline of June 1, 2018, for the Ross Ridge Open Space. That deadline is now rapidly approaching and per the residents of the Ross Ridge Development, nothing has been done at this point in that field. Councilor Doyle said that this is a common theme that the City sees time and again with developers, where the City sets deadlines and nothing happens. This needs to stop. And the City also needs to address the issue at Ross Ridge. Councilor Doyle said that he believes that there is money set aside from the permitting process at the beginning of this project, and by the way, the project is now 8 years old, and nothing has been done. This is a problem. Councilor Doyle asks for the City to move the money that has been in reserve, to start fixing the field before the end of the Summer, so that the people can start enjoying the space down there, rather than to wait on the developer who is not going to do anything prior to the June 1<sup>st</sup> deadline, with the Summer rapidly approaching and there are only four months of it.

The Mayor said that he was not aware of this issue, but that he would research it, and try to get onto the next workshop agenda, set for June 4<sup>th</sup>. Councilor Doyle noted that this would be after the June 1<sup>st</sup> deadline which was set last year.

Councilor Archer said that he had spoken with a resident about this and had looked at the minutes from the meeting during which the deadline was determined.

Councilor Johnston said that he remembered this issue at that meeting and that he is totally in support of what Councilor Doyle is proposing, which is to take the money from the performance bond and seeding the field. He said that he highly doubts that Mr. Chamberlain is going to do it.

Councilor Archer asked to point out that next Monday is Memorial Day, and a parade will begin at Eastman Park in Saco, marching to Veteran's Park, in Biddeford. Mayor Lovell said that the Veteran's Day Parade will be marching from Biddeford to Saco this year.

Mayor Lovell noted that there is a holiday on May 27<sup>th</sup> as Councilor Archer pointed out and that City Hall will be closed on that day. The City Council's next regularly scheduled meeting will be on June 4<sup>th</sup>. He also said that he had learned today that Saco had won Enterprise Zone approval for the length of Rte. 1 in Saco. He asked Kevin Sutherland for the details.

Mr. Sutherland said that the City had only learned of this a few hours ago. Basically, it is a zone in which businesses located within the zone can shelter their capital gains resources to invest in additional properties. So this really is a big boost for Ward 3 and part of Ward 6. It is essentially from the intersection of North and Beach Streets with Route One, North to Scarborough, up to the turnpike and over to the Old Orchard Beach line, which is census tract #53, and Saco is the only community in York County that received an Opportunity Zone. The City is really excited about this, because it could help to propel a lot of commercial development along the Route One corridor. Congratulations to staff for finding this opportunity, for submitting the application, and for working with the state to ensure this approval.

Mayor Lovell said that there are differences in the ways in which Mayors work. He said that he did not see his job as instructing the Council on how to vote on any budget, whether it is the School budget or the Public Works budget or any budget. He said what he tries to do is to have the process be fair, as open as possible for the Council. Periodically he will ask to meet with councilors, in order to ask them how they feel or to gauge their opinions on a matter, but not to try to persuade them in any direction. Other mayors may differ in their opinion of that process, but this is how the current mayor operates.

## **IX. EXECUTIVE SESSION**

Councilor Gay Moved, Councilor Copeland Seconded, and be it ordered that the City Council enter into executive session, Pursuant to [M.R.S.A. Title 1, Chapter 13, Subchapter 1 § 405(6) D. Discussion on the City Administrator's Contract.

The Motion passed with seven (7) Yea's.

The City Council Entered Executive Session at 8:06 P.M.

**X. REPORT FROM EXECUTIVE SESSION**

Councilor Minthorn Moved, Councilor Copeland Seconded to adjourn from Executive Session at 9:50 P.M.

The Motion passed with (7) Yea's.

Councilor Minthorn Moved, Councilor Gay Seconded to extend the City Administrator's contract for a period of one year, from October 1, 2018 to September 30, 2019, subject to drafting and final approval at the June 4, 2018 City Council Meeting.

The Motion passed with six (6) Yea's and one (1) Nay, Councilor Doyle voting in the minority.

**XI. ADJOURNMENT**

Councilor Minthorn Moved, Councilor Smart Seconded to Adjourn the Council Meeting.

The Motion passed with seven (7) Yea's. Meeting was Adjourned at 9:51 P.M.

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

William T. Rankin, Dep. City Clerk

DRAFT