

STATE OF MAINE

COUNTY OF YORK

CITY OF SACO

I. CALL TO ORDER – On Monday, January 7, 2019 at 6:30 p.m. a Council Meeting was held in the City Hall Auditorium.

II. RECOGNITION OF MEMBERS PRESENT – Mayor Marston Lovell recognized the members of the Council and determined that the Councilors present constituted a quorum. Councilors present: Marshall Archer, Roger Gay, William Doyle, Alan Minthorn, and Nathan Johnston. Councilor Copeland and Councilor Smart were excused this evening. Councilor Copeland has a planned vacation and Councilor Smart is the proud father of a 10-day little girl named Myra. We wish Stephanie and Micah all the best. City Administrator Kevin Sutherland and City Clerk Michele Hughes were also present this evening.

III. PLEDGE OF ALLEGIANCE

IV. GENERAL

A. RECOGNITION OF DAN VERLE – CITIZEN WHO SAVED A LIFE

Mayor Lovell asked Fire Chief Duross and Deputy Fire Chief Pendleton forward to present the award.

Fire Chief John Duross to recognize a member of the community whose actions are directly related to saving a life. On the morning of December 11, 2018 at approximately 7:45 a.m. While driving on the Flag Pond Road Mr. Dan Verle noticed smoke and fire coming from a residence. He immediately pulled his vehicle into the driveway of the home and called 911. But, his actions did not stop there. Mr. Verle got out of his vehicle, ran towards the burning home calling loudly to alert any occupants. By this action a sleeping occupant Lynn Underwood was awoken. Inside the home smoke was beginning to fill the living space as Ms. Underwood was exiting the home. She and Mr. Verle reached the door at the same time and Mr. Verle assisted Ms. Underwood to safety. While waiting for the Fire Department to arrive Mr. Verle continued to care for Ms. Underwood assisting her to her care where she could find warmth and shelter. There was significant smoke and fire damage to the home. But, had it not been for the quick actions on the part of Mr. Verle the outcome could have been much worse. The Saco Fire Department would like to join the City Council and Mayor tonight and publicly thank Mr. Dan Verle and present him with a Challenge Coin from the Saco Fire Department.

Mayor Lovell asked Mr. Dan Verle and Ms. Lynn Underwood to step forward to join him and the Chief's. Mayor Lovell presented a Certificate of Recognition to Mr. Verle for his extraordinary actions that placed high value on human life and minimizing the damage caused by fire. We commend your display of bravery and quick thinking on Tuesday, December 11, 2018.

➤ **Workshop – January 14** – Football & Cheerleader Recognition

V. PUBLIC COMMENT

There were no comments.

VI. CONSENT AGENDA

Councilor Minthorn moved, Councilor Doyle second to approve consent agenda items #A, B, and C as follows:

A. Application for a Solid Waste Permit – Doyon's Property Maintenance & Landscaping Inc.- “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.

B. Application for a Solid Waste Permit – Troiano Waste Services Inc. – “Be it Ordered that the City Council grant the application for a Solid Waste Permit as submitted by Troiano Waste Services Inc.” Further move to approve the Order.

C. Approval of Minutes for November 19, December 3 and December 17, 2018 – “Be it Ordered that the City Council approve the minutes for November 19, December 3 and December 17, 2018. Further move to approve the Order.

The motion passed with five (5) yeas.

VII. AGENDA

A. CONTRACT ZONE – WIRELESS TELECOMMUNICATIONS FACILITY AT 644 MAIN STREET – (FIRST READING)

Applicant L&M Properties, Inc., proposes to erect a 130-foot tower on a fenced 100’X100’ portion of the property at 644 Main Street. Wireless Telecommunication Facilities are not an allowed use in the B-2b zone. The applicant hopes to lease space on the tower to multiple carriers. A contract zone (CZ) is the only option that would allow a cell tower to be built and operated in this location. There is precedent for cell towers being allowed via contract zoning; there are WCF’s on Industrial Park Road, Rte. One and Flag Pond Road. WCFs are conditional uses in the I-1 and I-3 zones (Mill Brook Business Park). Elsewhere, such facilities would be subject to contract zoning.

The applicant was approved for a CZ at this location for the construction of an identical wireless facility in May 2014. In January 2015, the applicant obtained site plan approval from the Planning Board. The applicant did not obtain necessary approvals and permits from the City within the allotted timeframe of the contract zone provisions, which nullified the contract zone.

This item was again reviewed by the Planning Board at its Oct. 16 meeting. The Board arrived at a positive finding on each of the four standards found in Sec. 230-1405 (E), and voted to forward a positive recommendation to the Council

Councilor Doyle moved, Councilor Gay seconded to approve the First Reading and adopt the findings in the contract zone document entitled “Contract Zone Agreement By and between L&M Properties, Inc. and the City of Saco,” dated September 23, 2018; and to schedule a Public Hearing for January 22, 2019, for the property identified as Tax map 42, Lot 9-1, as authorized by Section 1405 of the Zoning Ordinance, pursuant to 30A M.R.S.A. Section 4352(8). The motion passed with five (5) yeas.

Proposed
Contract Zone Agreement by and between
L&M Properties, Inc., and the City of Saco, Maine
Wireless Telecommunication Tower and Facilities
Submitted to Saco Planning Department September 23, 2018

THE CITY OF SACO, MAINE HEREBY ORDAINS:

- I. That the zoning ordinance of the City of Saco, Maine, dated January 2, 1985 is hereby amended by adopting the proposed change in use as further described in the following contract between the City of Saco, and L & M Properties, Inc.

This contract amends the Saco Zoning Ordinance to permit the construction of a 130-foot Wireless Telecommunication Facility on a parcel abutting 644 Main Street, identified as Tax Map 42, Lot 9-1, subject to the following conditions and restrictions, as provided for in Section 1403 of the Saco Zoning Ordinance:

1. L&M Properties, Inc., (the Applicant) and/or its affiliates, proposes to construct a single Wireless Telecommunication Facility in the form of a monopole tower one hundred and thirty (130) feet high on a parcel identified as Tax Map 42, Lot 9-1 (Subject Property), abutting the parcel at 644 Main Street.
2. The Subject Property has an area of 3.37 acres and is regarded by the City as a Lot of Record, having existed in its current ownership since March 2001,

3. The Subject Property is located in the Highway Business B2-B District. The Subject Property is a vacant lot of record owned by the applicant.
4. The abutting parcel, Tax Map 42, Lot 10, is owned by the same owner under a different entity name, Leon Foster, which will be encumbered by an access and utility easement as well as a restriction from development easement as determined by 105% of the Tower height or 136.5 Feet as created from the proposed tower centerline.
5. The City of Saco does not prohibit more than one principal commercial or business use from co-existing on a single conforming lot of record.
6. Wireless Telecommunication Facilities are defined by the Saco Zoning Ordinance and recognized as a conditional use in certain districts. Said Facilities are not an allowed use in the B2-B District.
8. Due to the ownership of the parcel, and its location along US Route 1 and Interstate I-195 corridor, and that there is an apparent lack of reception and coverage for receiving data via wireless devices, the Applicant believes that the proposed site is an ideal location for a Wireless Facility.
9. The Applicant thereby requests that the City of Saco establish a Contract Zone specifically and exclusively for the Subject Property in order to allow the installation, and operation of a Wireless Telecommunication Facility.

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

1. A single Wireless Telecommunication Facility, specifically a one hundred thirty foot monopole tower and supporting infrastructure, including a pre-fabricated support structure for housing the electronic and/or mechanical instrumentation, and a backup generator at the tower's base sited within a fenced enclosure as shown on a site plan submitted by the applicant, shall be regarded as an allowed use on the Subject Property.
2. The proposed Tower location is approximately 50 feet from a property line separating the subject parcel from land owned by Leon Foster (644 Main Street parcel). Given the possibility of a Tower accident and fall, and resulting property damage and/or personal injury, the City requests, and it will be part of this agreement, that the applicant shall secure from Mr. Foster a negative, no build easement/covenant over a portion of the parcel found at 644 Main Street. The no build restrictive easement shall cover that portion of 644 Main Street that lies within a 136.5 foot radius fall zone (130 foot Tower height plus a 5% added buffer) measured out from the base of the Tower. The easement must be reviewed and approved by the City in advance; it must be binding upon Mr. Foster and his heirs, successors and assigns; it will be recorded by the City; and this condition must be met before a building permit for the Tower can be issued. The failure to deliver a satisfactory easement prior to construction shall constitute a default of this Agreement. Upon compliance with this request, Section 230- 728. E. 2 of the Saco Zoning Ordinance is waived as to setbacks, including the condition that no easement exceed 30% of a Towers' height.

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

1. The Wireless Telecommunication Facility is subject to review under the provisions of Section 728, and Article 11, Site Plan Review of the Saco Zoning Ordinance,
2. Except as addressed in this Contract Zone document, the property shall adhere to all other applicable provisions of the City of Saco Zoning Ordinance.
3. All details as shown on the final plan approved by the Planning Board are hereby incorporated into this contract by reference. The site shall be developed in conformance with those plans. Minor changes may be approved by the staff of the City of Saco. Any changes determined by the staff to be "major" shall constitute a

change to the contract, and then the developer shall also be required to obtain City Council approval for the changes.

4. This Contract Zone Agreement affects the parcel of land identified as Tax Map 42, lot 9-1 on the City of Saco Tax Maps. Recognition is given that the abutting parcel, identified as Tax Map 42, Lot 10, will be subject to an easement pertaining to access and a "fall-down zone," which will be a necessary component for the project.
5. This contract and its provisions shall apply exclusively to the contract zone request submitted by L&M Properties, Inc.
6. This Document and the Contract Zone it creates shall not be transferable prior to development as proposed by the Applicant.
7. Failure of the Applicant to secure site plan approval from the Planning Board, and any and all permits or approvals that may be required by the City, or other regulatory agencies including but not limited to the Federal Aviation Administration and/or Federal Communications Commission within one year of the approval of this Contract by the City of Saco Council shall render this Contract null and void. In the event that permits or approvals are delayed due to circumstances beyond the Applicant, this one year deadline may be extended by one year upon written request by the Applicant.
8. Breach of these conditions and restrictions by the developer shall constitute a breach of the Contract. Said breach of the Contract shall constitute a zoning violation subject to enforcement by the City of Saco.
9. The Applicant, and its successors and assigns,, shall provide the City of Saco's Fire and Police Departments with a co-location position on the proposed tower, at no charge, along with space in the support structure or area within the fenced enclosure also at no charge for as long as the tower stands. Notwithstanding the preceding, the cost of any necessary equipment shall be borne by the City. The City's use shall be reasonably accommodated on the tower and not unduly restricted by location or height but in no event shall its Tower location be below 110 feet.
10. The Applicant shall provide a signed statement obligating the owner of the Facility and its successors and assigns to:
 - a. Respond in a timely, comprehensive manner to any request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
 - b. Negotiate in good faith for shared use of the facility by the third parties, thereby agreeing not limit the number of wireless carriers utilizing the Facility to less than the carrying capacity of the Facility;
 - c. Allow shared use of the facility if any applicant agrees in writing to pay reasonable charges for co-location;
 - d. Require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principles. This charge may include, but is not limited to a pro-rata share of the cost of planning the project administration, site design, construction, financing, return on equity, depreciation, and all of the costs adapting the Facility or equipment to accommodate a shared user without causing electromagnetic interference.
 - e. The above conditions shall not apply to the City of Saco's use of the tower.

IV. By Vote of the Saco Planning Board on October 16, 2018 the following findings are hereby adopted:

A. Map 42, lot 9-1 possesses an unusual nature and location for the following reasons:

1. The Property in question is owned by the applicant, and is adjacent to US Route 1, and I-195 corridor. The Telecommunications industry typically seeks Wireless

Telecommunications Facilities along transportation corridors, such as the Maine Turnpike and US Route 1, or areas demanding high volumes of wireless data, or internet access, such as downtown areas, Business and Commercial Districts, or such as the Northern Route 1 Business District and the edge of the Downtowns Saco District. Subject Property is well situated for the proposed use.

2. The Subject Property is unique in its location from its abutters. Abutters and/or nearby properties include the Eastern Trail, Sweetser Home, and the owner's adjacent lot of residential rentals, and business buildings. The site also abuts residential uses and properties on Moody Street, but will be well buffered from their view.

3. The parcel is burdened with a tributary of the Goosefare Brook, which traverses the middle of the parcel making the parcel rear unlikely for development given the terrain and wetlands necessary to cross, and for that reason is limited in possible uses.

B. The proposed rezoning is consistent with the City of Saco Comprehensive Plan, based on the following Chapter 6 Land Use Policy and Goals:

-To increase the commercial tax base of the City.

-To strengthen Saco's role as a service center for the region, including the industrial, commercial, office, health and medical, tourism and hospitality, education and retail.

-To assure that new commercial and industrial development occurs in a way that is visually and environmentally sound and That protects established residential neighborhoods.

-To maintain the vitality of Downtown Saco and expand its role as a commercial, office, retail, educational and cultural, residential, and service center. To assure that the City's public facilities are adequate to support residential and non-residential development in any areas where the City desires growth.

-To accommodate the growth of commercial and industrial activities in designated growth areas where public services and facilities are or can be provided.

-The City should also maintain the Route One 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 continue its efforts in this area to improve visual attractiveness, traffic flow, vehicular access, and pedestrian safety.

The installation of a Wireless Telecommunications Facility at the Subject Parcel adjacent to US Route 1 and I-195 will serve the telecommunication needs for the citizens, business owners and visitors of Saco. The location and proposed use of this site is consistent with the existing zoning for the B2-B Business district. The current zoning will allow for TV and Radio Tower facilities and broadcasting equipment as a conditional use, but not Telecommunications which is a similar use which is actually less intensive and less visually intrusive than wireless uses.

The location of the proposed facility will reduce the immediate need to locate other Wireless telecommunications Facilities between the Downtown and Northern Business Districts. The facility will not produce noise, dirt, light glare, smoke, sewerage, vibration, fumes, odor, or promote danger from fire, and will fit harmoniously in the location and will not be detrimental to the neighborhood nor will impose safety or health risks. It will have minimal visual impact to residences with the provisions of wooded buffers and will protect those neighbors which are fearful from impacts of business. The installation of the facility will provide a useful transitional buffer and promote privacy between the boundaries of the Residential and Business districts.

The immediate vicinity of the Route 1 and I-195 Corridor will promote excellent coverage adjacent businesses, downtown areas, and customers further improving the desire for citizens, or business owners to utilize these areas for investment. The demand for cellular and wireless data services in such an area is consistent with this heavily travelled and commercially active area. The development will have no further impacts on traffic, or other public services, and will provide space for City emergency broadcasting services if so desired.

C. The proposed use is consistent with but not limited to existing uses and permitted uses allowed conditionally in the B2-B zone. Existing uses include Overhead transmission lines for Central Maine Power, retail businesses, financial institutions, professional offices, hotels and lodging. Permitted uses include Essential services, public utility buildings, Repair services, (as conditional uses Contractors, Light

industrial uses, Radio and TV Transmission towers, High Voltage Transmissi lines, and outdoor recreational facilities, etc.

- D. The Conditions and restrictions noted in the above are adequate to meet intent of the Saco Zoning Ordinance.

Based on the above findings, conditions, and the restrictions listed above the City Council hereby incorporates this Contract Zone agreement into the Saco Zoning Ordinance by reference.

By signing this contract, both parties agree to abide by all the conditions and restrictions contained herein.

Adopted by the Saco City Council on _____, 2019.

City of Saco

L & M Properties, Inc.

By: _____
Its Duly Authorized: City Administrator

By: Leon M. Foster
Its Duly Authorized: President

VIII. ADMINISTRATIVE UPDATE

Zoning Survey

Last week we released a survey geared toward our rezoning efforts. This will help our consultants plan the categories discussed at a charrette (or focus group) planned for February 7th. We've had 520 responses so far. Our goal is 750 and I would be willing to jump in the ocean in January if we collect 1,000 respondents. Deadline for submission is January 18th.

Website

Emily Roy, our Marketing and Communications Specialist has sent the final revisions for design elements to Revize today. This is the company who developed our current website and is working with us to further redevelop it. She will then move into the development phase which is estimated to take 2-4 weeks. She has been cleaning up existing navigation and content to prepare for the launch of the new site. We are anticipating having this go live by mid-February. The website redesign incorporated feedback from councilors, constituents, city staff, and google analytics. Some of the highlights of the redesign include: ADA compliance, improved navigation, incorporated branding, and overall aesthetic enhancements.

Security Improvements

The Facilities and Information Technology Departments worked collaboratively to install security cameras at the Police Station, Fire Station, Community Center, Transportation Center, Water Resource Recovery Facility, and City Hall. These cameras are fully functional. The wiring for the key card system at City Hall has been completed and the equipment has been purchased. We will begin the installation process for those during the next few weeks.

Department Video Series

Check out the [City Clerk's department video](#). Emily is working with the videographer (selected through the RFP process) to continue to capture footage from various departments. The next videos being created are the Mayor and City Council, Administration, and the Police Department. We are also gathering footage of Parks and Recreation, the Fire Department, and Public Works to prepare for their videos. We have received a lot of positive feedback and are excited to continue to use this platform for storytelling.

Pedestrian Bridge RFP

Collaborating with Saco Main Street, we were awarded a grant through the Sewall Foundation in the fall. We've had a successful RFP bid award process, overseen by Brandon Pettit, for 'Design and Planning' for the Pedestrian Bridge extension of the RiverWalk. The firm chosen to perform the planning and design services is CES Inc., a local Saco engineering firm.

Saco River Dredging

You may not have seen any movement to date, but yes, the dredging of the Saco River is still happening this winter. While many residents heard the Army Corps dredging project would occur in November of 2018, that was just the earliest the project could start due to environmental permitting restrictions. The contractors are currently mobilizing their equipment from other locations on the east coast up to Maine. Dredging will begin within January and they have until March 15, 2019 to complete the work.

IX. COUNCIL DISCUSSION AND COMMENT

There were no comments.

X. EXECUTIVE SESSION

Councilor Minthorn moved, Councilor Johnston second "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)] (C) Acquisition of Property and (A) Evaluation of Officials – City Administrator's Contract." The motion passed with five (5) yeas. Time: 6:50 p.m.

XI. REPORT FROM EXECUTIVE SESSION

Councilor Minthorn moved, Councilor Johnston seconded to come out of Executive Session. The motion passed with five (5) yeas. Time: 7:38 p.m.

Mayor Lovell, Councilors: Archer, Gay, Doyle, Minthorn, and Johnston, and the City Administrator were present.

Councilor Minthorn moved, Councilor Johnston seconded that the City Council authorizes the City Administrator to spend \$20,000 as a participant in the acquisition of property.

Mayor Lovell noted this motion was to attend an auction on January 11, 2019.

Councilor Doyle stated for the record that we are not a real estate company and we shouldn't be there if we are not going to be looking to buy any parcel.

Mayor Lovell called for a vote on the motion. The motion passed with four (4) yeas and one (1) nay – Councilor Doyle.

There were no further reports.

XII. ADJOURNMENT

Councilor Minthorn moved, Councilor Gay second to adjourn the meeting at 7:40 p.m. The motion passed with five (5) yeas.

Attest: _____
Michele L. Hughes, City Clerk