

STATE OF MAINE

COUNTY OF YORK

CITY OF SACO

I. CALL TO ORDER – On Monday, February 4, 2013 at 7:00 p.m. a Council Meeting was held in the City Hall Auditorium.

II. ROLL CALL OF MEMBERS – Mayor Johnston conducted a roll call of the members and determined that the Councilors present constituted a quorum. Councilors present: David Tripp, Leslie Smith Jr., Marie Doucette, Philip Blood, Arthur Tardif, Eric Cote and Marston Lovell. City Administrator Rick Michaud was also present.

III. PLEDGE OF ALLEGIANCE

IV. GENERAL

RECOGNITION OF THORNTON ACADEMY FOOTBALL TEAM -2012 STATE CHAMPIONS

It was a banner year for the 2012 Thornton Academy Football Program as it won its first gold ball in 24 years by defeating Lawrence in the State Championship Game 37-23. The Golden Trojans had an 11-1 record and defeated Cheverus in the Western Maine Final Game to end their 34 game winning streak. The team placed twelve players on either the 1st or the 2nd Team SMAA All-Conference Team and had another eight players named to the All-Academic Team. Bobby Begin was named a Gaziano Award Finalist and a Fitzpatrick Trophy Semi-Finalist and Andrew Libby was named the Maine Gatorade Player of the Year. As it happens, the City of Saco recently celebrated in July 2012, its 250th sesquibicentennial birthday-the same year the Golden Trojans won the State Championship.

Thornton Academy Football 2012 Roster

#10-Carter Davis, #11-Captain Eric Christensen, #12-Tali Price, #13-Brandon Briggs, #14-Andrew Smith, #15-Robert Runnells, #16-Andrew Libby, #18-Cody Lynn, #20-Matthew Cleary, #21-John Rizeakos, #22-C.J. Michaud, #24-Dylan Morton, #25-Justin Boure, #26-Will Renell, #28-Josh Coffin, #29-Alex Rizeakos, #20-Chris Camire, #31-Nate Glaude, #32-Jesse Meikle, #33-Demel Ruff, #34 Nick Kenney, #35-Derek Boissonnault, #38-Dylan Smith, #40-Jake Paquette, #41-John Cyr, #42-Jack Lemoine, #44-Chris Harris, #50-Josh Penafloida, #52-Jack Grondin, #53-Captain Bobby Begin, #54-Jeremy Lambert, #55-Captain Connor McCrum, #56-Dalton Collard, #58 Hunter Parenteau, #60-Jared King, #61-Jordan Matthews, #62-Jimmy Remmes, #63-Mohammed Karim, #64-Quinlan O'Brien, #65-Raymond Ngo, #67-Cody Meserve, #70-Ian Paul, #72 David LaPauloue, #73-Tyler Fleurant, #74-Ashton Lord, #75-Michael Granger, #76 Jordan Berube, #77-D'Andre Morgan, #78-Ben Zuke, #79-Brian Martin, #80-Peter Danton, #81-Ben Simard, #82 Dominic Small, #84-Tyler Rodgers, #85-Dakota Tarbox, #87-Ryan Oliveria, #88-Chris Kowash, #89 Kevin Barrett, Steven Peters, Head Coach-Kevin Kezal, Assistant Coaches – Craig Agreste, Dick Agreste, Kirk Agreste, Marc Gagne, Leon Hadiaris, Tony LeBlanc, Brian Morrison, Jack Morrison, Greg Paradis, Josh Pulsifer and Nick Tabor.

VI. CONSENT AGENDA

Councilor Tardif requested that item #4 be voted on separately.

Councilor Lovell moved, Councilor Blood seconded to approve consent agenda items #1, 2, 3 as follows:

1. "Be it Ordered that the City Council approve the minutes for October 1, 2012 and January 22, 2013". Further move to approve the order.
2. "Be it ordered that the City Council authorize and empower the Executive Director of Biddeford Housing Authority, or its assigns, on behalf of Saco Housing Authority to merge the wait lists for Saco Housing Authority and Biddeford Housing Authority. By so doing, the administration of both housing authorities will become significantly more efficient. The public will be significantly better served because

of this simple change. No changes to the administration of the program are anticipated and all processes and procedures will remain consistent with HUD regulations and fair housing laws.”

3. “Be it ordered that the City Council appoint City Councilor David Tripp and City Administrator Richard Michaud to the Portland Area Comprehensive Transportation System Policy Committee, and further appoint the City Engineer and the Development Director as Alternates.”

The motion passed with seven (7) yeas.

Note: The item commentaries for the consent agenda are below.

2. SACO AND BIDDEFORD HOUSING AUTHORITY RESOLUTION

In order to merge the waiting lists for both Saco Housing Authority and Biddeford Housing Authority, the Department of Housing and Urban Development requires city council authorization. Biddeford Housing Authority operates both programs out of its office; merging the choice housing waiting list would streamline the housing process, cutting down on administration time and providing less confusion for the public.

3. REQUEST FOR APPOINTMENTS TO FUTURE PACTS POLICY COMMITTEE

The Portland Area Comprehensive Transportation System (PACTS) is revising their bylaws. One revision for actions is to change the PACTS Policy Committee’s members - they shall be the elected officials of local governments or their designees. Each single-representative municipality shall also appoint two alternates, and each multiple-representative municipality shall appoint two alternates beyond the number of member seats.

The City of Saco will be represented by two members and two alternates.

4. CONFIRM THE MAYORS REAPPOINTMENT OF DON GIROUARD AND SANDY GUAY TO THE PLANNING BOARD

The Planning Board primarily reviews subdivisions and site plans. The Board is also authorized at its discretion to undertake studies and make recommendations on matters of land development, energy and water conservation, transportation, solid waste disposal, location of municipal and school facilities, affordable housing, urban beautification and design improvements, historic and scenic preservations and agricultural preservation. Mayor Johnston would like consideration for re-appointment to the Planning Board both Don Girouard, 58 Lafayette Street, and Sandra Guay, 52 Cumberland Avenue. Each term will run three years and expire on February 4, 2016. Mr. Girouard was originally appointed to the Planning Board on Feb. 3, 1998, and was recognized with the Joe Riley Volunteer Service Award by the City on Jan. 30th. Ms. Guay was appointed to the Board on May 5, 2003, and would begin her 5th three-year term with this re-appointment.

Councilor Blood moved, Councilor Smith seconded “Be it Ordered that the City Council confirm the Mayor’s appointment of Don Girouard to the Planning Board, for a 3-year term to expire on February 4, 2016”. Further move to approve the Order. The motion passed with seven (7) yeas.

Councilor Blood moved, Councilor Smith seconded “Be it Ordered that the City Council confirm the Mayor’s appointment of Sandra Guay to the Planning Board, for a 3-year term to expire on February 4, 2016”. Further move to approve the Order. The motion passed with six (6) yeas and one (1) nay – Councilor Tardif.

V. AGENDA

A. ZONING ORDINANCE AMENDMENT – §412-1 HEIGHT OF BARNs AND SIMILAR STRUCTURES, AND ARTICLE 3 DEFINITIONS – (PUBLIC HEARING)

The proposed Zoning Ordinance Amendment would increase the height limit for barns from 35 feet to 50 feet in those zones where they are most likely to be proposed: C-1, and to a lesser extent, B-2a and B-2b, where ‘*Public Riding Stables*’ are a conditional use.

A proposed footnote 23, will be added to §412-1, which is a list of footnotes to Table 412-1, and also proposed is a definition of “Barn,” which represents an amendment to Article 3. Definitions.

The Planning Board considered the proposed amendments in two workshop sessions, held a public hearing on Nov. 27, 2012, continued to December 11, and forwards a positive recommendation for the proposed changes.

**“Proposed Amendments to Section 412-1 and Article 3 of the Saco Zoning Ordinance,
December 11, 2012”**

Amend Section 412-1 as follows. Language proposed for deletion is ~~struckthrough~~, while proposed new language is underlined.

23. The maximum height of a non-commercial barn or similar structure in the C-1, B-2a, B- 2b and BP zones shall be 50 feet. If proposed as 35-40 feet in height, a barn shall be set back no less than 50 feet from side and rear lot lines. If 41-45 feet in height, a barn shall be set back no less than 75 feet from side and rear lot lines. If 46-50 feet in height, a barn shall be set back no less than 100 feet from side and rear lot lines.

Amend Article 3 as follows.

Barn: a large farm building typically used for storing farm or agricultural products and sheltering livestock, or similarly a very large garage for the housing of vehicles.

(END: ‘Proposed Amendments to the Saco Zoning Ordinance Concerning Section 412-1 and Article 3, December 11, 2012.’)

Councilor Doucette moved, Councilor Blood seconded to open the Public Hearing on the document titled, ‘Proposed Amendments to Section 412-1 and Article 3 of the Saco Zoning Ordinance, December 11, 2012’. The motion passed with seven (7) yeas.

City Planner Bob Hamblen stepped forward to address questions that the Council may have.

Councilor Tripp inquired as to when the building permit was issued (what date)? Planner Hamblen stated that it was in August.

Councilor Lovell stated that the permit says approved August 21st. Planner Hamblen noted that the permit was for the foundation only, and at that point the Code Office became aware the proposed structure was in excess of 35’.

Councilor Tripp asked at the time this permit was issued, it was issued for a structure 35’? Planner Hamblen stated that it was issued for a foundation. Councilor Tripp inquired why the zoning was initiated for a 35’ structure. His understanding was this was done for ocean front properties. Planner Hamblen noted that allot of communities use this number. Councilor Tripp said so in this instance here, the permit was issued for the foundation. At that time did the permit have the height of the building on it? Planner stated that the plan that had been submitted for a building permit called for a 51’ high barn at that point. Earlier on the structure was going to exceed 41’ in height, then the height had been brought down to 41’ as shown on the permit. Councilor Tripp said “So when this permit was issued the setback at that time was still 25’”? Planner Hamblen replied “Correct”. Councilor Tripp stated “And the permit itself states there was to be a structure that would exceed 40’”? Planner Hamblen stated “Yes it does”. Councilor Tripp inquired, “How did it get back to the Planning Board”? Planner Hamblen said that it came back to the Planning Board only in the form of the zoning ordinance amendment. Councilor Tripp inquired “What initiated it’? Planner Hamblen said recognition on the Code Enforcement and Building Department part saying that we have a structure that exceeds 35’. Councilor Tripp asked “How did they get the permit to begin with”? Planner Hamblen noted that because of the time of the year, it was getting onto the end of August, the builder of the barn asked if he could get a foundation permit in order to get that into the ground, and he would then go about resolving

the height issue. Planner Hamblen stated that is where this two headed approach to tackling the height issue came up. First and foremost an application was presented to the builder and completed and he ended up in front of the zoning board of appeals seeking a variance for the height of the building. The variance was denied. The second path is the path we are on this evening, which is to try amending the zoning ordinance to allow a structure higher than 35'. Councilor Tripp said "Go back earlier, I assume the builder came to Code Enforcement and in that initial application, it stated that the building would exceed 35'". Planner Hamblen said that is correct. Councilor Tripp inquired "so there was no question at that time that the setback was going to be an issue"? Councilor Tripp noted that the Department already knew that there was a height issue, and yet they issued a permit for the foundation. Planner Hamblen said "For the foundation, that is correct". He noted that setback had not become an issue and had not been part of the discussion what-so-ever. The intent was to hope for a variance for the height of the building. Planner Hamblen noted that as originally drafted the zoning ordinance amendment was going to allow a barn or agricultural structure to be as high as 50' in the C1 zone. That assumed the existing setbacks would be 30' front, and 25' side and rear. So, going under that assumption the foundation being located where it is and permitted for was perfectly fine. He believed the setback was 46', so it exceeded the 25' setback. Councilor Tripp inquired "So the setback on this building is 46'?" Planner Hamblen stated "That is correct". Councilor Tripp stated "So we are looking at a 4' from what is proposed here for a setback". Planner Hamblen stated "that is correct". Councilor Tripp asked, "so if I went out there right now and walked it off, I would be 46' from the abutter to the foundation"? Planner Hamblen stated that was his understanding. He also noted a correction from Councilor Tripp's previous statement. Part of the suggested language says if a barn is proposed at 41' - 45' in height the barn shall be set back now less than 75' from the side and rear lot lines. So it being 46' it falls considerably short of meeting the proposed setbacks that are before the council tonight, by about 29'. It is well in excess of the existing setback, but well short of the proposed setback.

Councilor Blood asked for a clarification on whether the city approved an application on something that opposed our ordinances? Planner Hamblen stated that the site plan approval that was granted by the Planning Board proposed a barn 46' from the side property line, which was well in excess of the minimum side line setback requirement. What the Planning Board went on was what appeared on the site plan itself, which laid out all the lot and yard requirements, height limitations and setback and frontage requirements, and that small table provided by the engineering firm that put the site plan together stated that 35' was the maximum height. So, that is what this staff member and what our Planning Board looked at and it never became a question. You would find minutes from 1 or the 2 meetings where the builder was asked how high is this barn going to be, and we heard something to the effect that it would be 18' high at the eaves, but we never heard a height of the proposed peak of the barn. It ended at that point, and the Planning Board never came back to be what the finished elevation of this structure would be. Councilor Blood stated that he still wasn't sure if that was a "yes" or a "no". Planner Hamblen stated a barn was proposed with a setback of 46' from the side property line, 150' from the front, side and rear. The site plan stated a 35' high limitation. So in effect the Planning Board approved a barn that would be no higher than 35'. Councilor Blood asked "Did the city approve an application that was against the city ordinances"? Planner Hamblen stated "no".

Councilor Lovell asked Planner Hamblen to pull out the foundation building permit. He asked, "Now on that document it says the building is going to be 41.6' in height"? Planner Hamblen stated "41.6', that is correct". Councilor Lovell said, "and, it says the side setback is going to be 50'?" Planner Hamblen stated that "it does", but it is not filled in for left side or rear setback, but for right side, it says 50'. Councilor Lovell stated, and part of this problem is that they only went out 46'? Planner Hamblen stated that the 46', to the best of his knowledge is that the right hand setback is 46'. Councilor Lovell asked, "and that is a approved permit dated August 21st, by Dick Lambert". Planner Hamblen stated "yes". Mayor Johnston stated, and the side setback is not in violation. Planner Hamblen stated, "that it was not in violation of the current setback".

Councilor Smith stated that all along the premise was "We are going to build our concrete foundation and you knew from day one"? He was wondering what the measurement to the eaves was all about. Is this an attempt to confuse the issue as to the ultimate height of the barn? Planner Hamblen stated that the builder represented that the eaves would be about 18' in height and somehow the Planning Board did not get back to the height of the peak of this

proposed barn. That is what the record shows. Councilor Smith inquired "What is the required front yard setback to this building under the current ordinance"? Planner Hamblen stated "30'". Councilor Smith asked "30' for a 35' barn"? Planner Hamblen stated "yes". Mayor Johnston asked "and the proposed setback is how much"? Planner Hamblen stated "150'". The front, one side and the rear meet or exceed 150', which is well in excess of any setbacks. Councilor Smith asked "so for this structure to be 50' under the proposed change, it needs to be setback at least 100'. Seventy five feet from the sides and 100' in front? Planner Hamblen stated if 41'-45' in height, a barn shall be setback no less than 75' from side and rear only. It would continue to be 30' from the front property line. No proposal here can change the front setback. Mayor Johnston inquired "basically the existing ordinance, not the amendments, says "How far from the front"? Planner Hamblen stated "30'". Mayor Johnston pointed out "and they are setting it back 150'". Planner Hamblen stated "correct". Mayor Johnston inquired "the side yard requirement under the existing ordinances how many feet"? Planner Hamblen stated "25". Mayor Johnston inquired "and they have set back their foundation to be"? Planner Hamblen stated "well in excess of 150' on one side, but the line at issue here is 46'". Mayor Johnston asked "are they still within the existing ordinance"? Planner Hamblen stated "exactly". Mayor Johnston stated "so the only issue here is the height". Planner Hamblen stated "correct".

Councilor Doucette asked "Didn't somebody go out and inspect that foundation and give it their approval"? Planner Hamblen stated "he wouldn't be a bit surprised however he is not a code officer or building inspector". Either Dick Lambert or Dave Twomey assumedly has been over to inspect that, but he couldn't verify that for sure. Mayor Johnston noted "and it meets the existing zoning setback requirements for a C1 zone". Planner Hamblen stated "yes". Councilor Smith asked "the foundation does, with a 35' building on it"? Planner Hamblen stated "yes".

Mayor Johnston inquired whether Planner Hamblen had researched back to see what the height of barns were that predate the zoning requirements. Planner Hamblen stated that he had not, but that he could do that. Mayor Johnston stated that he took a ride around town and said that they usually are higher than 35', only because of the type of activity that occurs. Planner Hamblen stated that there have been other barn proposals, but they have run into that 35' height limitation. He felt that this was a agriculturally friendly amendment.

Councilor Tripp inquired "you (Planning Board) became aware of this after the initial permit was issued"? Planner Hamblen stated "well after the site plan review had been completed by the Planning Board. Councilor Tripp asked "So the Planning Board was going on the premise that they were dealing with a 35' or less structure". Planner Hamblen stated "absolutely". He stated beyond that the site plan submitted by the applicant said 35' height limitation, period. So there was no question in anyone's mind when the gavel fell at that Planning Board meeting that this approval was for a barn 35' or less in height. Councilor Tripp asked "and at that point the permit was issued for a foundation"? Planner Hamblen stated "yes, about 2 months later". Councilor Tripp stated "so 2 months later you find out it is going to be in excess of 35', so that is why we have this before us here tonight". Planner Hamblen stated "correct". Councilor Tripp noted in a proposed footnote #23 in paragraph 2 of the commentary here tonight the original proposal was even greater than the number we are seeing here tonight. Planner Hamblen stated that the original language drafted by Dick Lambert and myself would have simply allowed a barn to be built in the C1 and a couple of the commercial zones, up to 50' in height. The Planning Board after seeing that preferred the higher the structure, the higher the setbacks would be. That language was tempered and after the second meeting of the board they discussed rolling those numbers back, so they reduced the setback requirement. Mayor Johnston noted that he had a copy of the application for a permit by contractor Wolf Moon LLC and it clearly states that the barn is going to be 41.6' and it is signed by the Code Enforcement Officer/Building Inspector. So this starts the process that we are going to have a barn for 41.6' in height, regardless of what the Planning Board said. The permit was dated August 21st.

In favor of higher barn height limits:

Beth Austin, 121 Loudon Road – Ms. Austin stated that we are here tonight because the site plan for the riding arena that she wished to build was approved in June 2012. Since then she received a permit by the Code

Enforcement Office to build a foundation for this arena. The foundation is now in place. It came to the attention of the Code Enforcement Office at that time that the arena was to be 41' tall and private residence were only allowed to be 35' at this time with a 25' setback. This proposed arena is 6' taller than the current ordinance allows. Because of this, I applied for a variance, but was denied. The issue went back to the Planning Board and they were in agreement that an amendment was needed to allow for barns to be built at heights greater than 35'. However, they also proposed side setbacks that will do harm to all citizens Saco wishing to build affordable family farms in the future. This amendment if approved would call for 75' setbacks for my proposed arena. If my barn was 40' tall the side setback would be 50'. But since it is 41', the side setback would be 75'. These setbacks per the admission of the city planner were pulled out of thin air. I'm here asking for your consideration of an alternative proposal. One first proposed by Rene Ittenbach on the Planning Board. This approach demonstrates a more measurable and equitable approach to setbacks and it supportive to cities Comprehensive Plan and more in line with what are surrounding communities are doing. The amendment before you is not supportive of the city Comprehensive Plan and we are here to show you why. Saco is my home, and we have been good and generous citizens of Saco. We have invested heavily in our community. Please help us tonight to move forward in building our riding arena. Ms. Austin presented a power point slide show to tell her story and to ask for the Council's help. The slide show presented before and after picture of her house showing her investment into it, the rate of taxes when she bought the house compared to now, and various horses that she has rescued over the years. It also showed the foundation and a view to her neighbor's house which was barely visible from the setback through the trees. She felt that 3 seasons out of the year it would be hard for the neighbors to see the building that would be there. She showed the area that was picked because it was a fairly flat area. The building site was chosen due to feasible topography. There is a pond located behind the arena as well as rolling hills. The arena is situated to be approximately to the barn and outdoor corral. To the left of the arena is a steep embankment and moving in any direction would involve substantial site work and cost. The site plan approval stated that the landscaping, provisions for buffers and onsite landscaping and retention of existing vegetation minimize the impact of detrimental features of the proposed use on neighboring property and screened the appearance of public parking areas from private rights of way and abutting properties. The width of the barn is important because of the height of the horses and the heights they will be jumping inside the arena. The height of the barn was needed on this style barn because it is a fabric roof and it had to meet snow load requirements. This is why I think the Planning Board's proposed setbacks are too severe. Such large setbacks will severely impede Saco residents from making full use of their farm land. Anyone wishing to build a home or barn in an agricultural zone would require approximately 3 acres of land. A 3 acre lot could just accommodate a house of 100' adjoining a 50' tall barn and a 60' wide barn with the required 100' setbacks on each side. Per the cities 2011 Comprehensive Plan the cities policies should be worked to retain the cities farm and forest land and natural resource use while allowing the owners of this land to have reasonable use of their property. The proposed setback of 105% amendment that I would like to propose is consistent with the Comprehensive Plan and the setbacks suggested by the Planning Board create a strange dynamic where adding one foot of height to a 35' barn would fully double the setback requiring adding 25'. Adding one foot of height to a 40' barn would also add yet another 25' of setback. A percentage approach makes more sense to me. I propose more measured an equitable approach to setbacks for barns 35'-50' in height. Allow barns to have side setbacks of 105% setback of the proposed barn height and 50' front the front and the rear setbacks. Because that is where there is more of a visual impact. In Scarborough the definition of building height for a pitched roof is an average height of the eaves and pitch. Scarborough understands that a pitched roof provides a much different type of impact to neighbors. The average/height of 18' of my planned barn and 41' the height of the pitch of the planned barn is just under 30'. Biddeford is a limited rule farm zone. They allow a 60' barn with side and rear setbacks of 25' with 40' from the front. This would require a lot size of about ¾ acre. Scarborough has a residential farm zone and this would be for personal use only. The setbacks are 15' on both sides and 50' from the front and back, with no height limit on the barn.

Councilor Tripp inquired whether there would be any structures (stables/box stalls etc.) inside this arena? Ms. Austin stated that she plans to have 8 stalls inside part of the arena. The city required a fire wall between the arena and where the horses would be stabled.

Councilor Lovell inquired, the photo there is the sunset, so that would the view of the sunrise be obscured by the barn? Ms. Austin stated the picture was from the other neighbor's side. She said that the other neighbor has an issue with the fact that the sunset would be impacted. There view of her backyard will be impacted but they will still have a view of the pond and fields beyond that. They should still be able to see the sunset over the roof of the barn as she can with her neighbor. She would be willing to put in a green barrier if it would help. There already is one there 3 seasons of the year, but she would be willing to put something there for the winter.

City Administrator Rick Michaud noted that on the building form signed by Richard Lambert, there is a place that seems to be highlighted with 2 arrows and it says foundation only. In his conversations with Mr. Lambert that the construction of the building itself was going to require an additional permit. Is that how you understood the process? Ms. Austin replied that yes, she was going to have to come back to get another permit for the building.

Brian Johnson representing Wolf Moon LLC – The question that the City Administrator asked in regards to the permit for the foundation. We had made a full submission for a building permit, but because of the size of the arena the building inspector requested a 2 hour fire wall be installed between the barn and the arena, and he was waiting for the engineer to produce the sketches showing that wall before he would issue the building permit. When we made the submission to the Planning Board there was a discrepancy on the site plan which showed a 35' height maximum, but the building plans were submitted with the site plan showed a 54' building which Bob had noted on the first meeting that we had with the City Council. The question came up in the first meeting with the Planning Board about the height and the answer came up that the eve was 18', and we just never got back to the pitch. The foundation was inspected and outside engineers were reviewing the conditions. At the end of the day, I don't know if you can put blame on anyone person here. There was allot of miscommunication. I have never tried to hide anything, and that is something that has been insinuated. It right there on the permit application in black & white. Councilor Tripp inquired whether this was a 4' of 6' high foundation. Mr. Johnson replied 4'. Councilor Lovell stated that the only reason why a second building permit was going to be sought was because it was associated with fire design. Mr. Johnson stated "correct, otherwise he wouldn't have gone forward with the foundation". When he made a complete submission for a building permit and after the review it came back that we needed a 2 hour firewall between the barn and the arena. Councilor Lovell noted that you made a full submission, and it was approved for a foundation only based on the fire design and you would not have initiated the foundation had it not been for an understanding we are talking about essentially a modification with the fire protection. Is that correct? Mr. Johnson stated that was correct.

Councilor Smith – Why did you go forward with a 41' barn knowing the height limit was 35'? Mr. Johnson said he met the City Planner and Building Inspector and showed them what we were building and they didn't have a problem with that. Then when I went back for a building permit I showed them and even told them that it was a 41' building, and no one said no, I can't build it. Councilor Smith said yes, there was miscommunication somewhere. So now you are stuck with a big slab of cement that is too close to the side setback.

Jean Saunders, 3 Plymouth Dr. – Ms. Saunders is here to support the 105% citizen proposed amendment. She is against the Planning Board proposed amendment. Enactment of the Planning Board amendment would severely restrict people's ability to use their farm land. She thinks that if people truly understood the impact of the proposed amendments on this particular building. This is a less than 30' impact to neighbors. If you take the 18' eaves and add that to the pitch and average that, it comes out to a less than 30' exposure to the neighbors. This is the approach Scarborough takes. The City Planner said these setbacks were picked out of thin air. I have been a administrator for many years, and never once did I pick a standard out of thin air and try to apply it to any building project that I had. We need a measured approach for this.

Shauna Muller representing Berstein & Shur – Ms. Muller noted that there were multiple involved early on and there was miscommunication along the way with the applicant's team, builder and engineers. There was a discrepancy in what was submitted. This was not done intentionally. Ms. Muller pointed out that the Comprehensive Plan language and some other language in the zoning ordinance that is really indicative of the policy goals of city towards agriculture and forestland. The Comprehensive Plan says the city should safeguard the

state's agricultural and forest resources and that the objective should be to maintain the rural character by limiting residential development and supporting the continuation on traditional resource uses including farming and forestry. To work to retain the cities farm and forestland and natural resource use while allowing the owners of this land to have reasonable use of this property. The city should work proactively and in cooperation with the owners of farm and forest land to keep it in production where possible. In the zoning ordinance it says the C1 district where this lot is located is designed to promote and preserve agriculture and open space while permitting low density uses that do not conflict with this overall provision.

Nancy Breton – Ms. Breton asked the Council to support Beth Austin's height requirement and setback for her barn as you are probably already aware that most barns that have been build long before Beth ever came up with her barn are higher than 35' high. Beth Austin is a great person who has provided homes to allot of rescued horses. Ms. Breton is in favor of eight advancements for barns in Saco.

Peter Doughty, 58 McKenney Road – Mr. Doughty supports Beth Austin's recommendation of the 105% rule and that the Council should consider it. The amendments being proposed tonight are way out of line and should not be restricted that much.

Linda Roth, Seaside Ave. – Ms. Roth stated that where she lives, it makes sense to have limits of 35' houses. She supports the 105% amendment that Ms. Austin is proposing. The agricultural land that is a part of the beauty of Saco needs to be utilized by it owners. She also thinks from an economic perspective, have more flexibility than what the current regulations are restricting it too. Think about this measured approach and to step away from this old regulation that perhaps does have its under pinning in the shore side property, but we need to have something separate and distinct for our people who are living on agricultural land and have ideas and thoughts that might expand the economy here.

Letter from Mr. and Mrs. Collard, 142 Loudon Road – This letter is to validate the character of Mrs. Beth Austin as a responsible and dedicated citizen of Saco. We have known Beth and her family for over 10 years primarily as neighbors and never had a negative interactions. She is a person who has always extended help to those in need and would never mislead anyone in any business issues. Another positive aspect of Beth Austin is her dedication to help animals.

Opposed to higher barn height limits:

Craig Rancourt Attorney from Biddeford representing Mark & Lee Duranceau – Mr. Rancourt stated that his clients don't oppose barns or riding arenas in Saco or any place else. They feel that it is an important part of the landscape and the rural economy. This proposed zoning change that is before you is before you because someone either made a mistake or did not follow your rules. I find it a little incredible that to believe that contractors and architects were somehow not aware of the very standard 35' height limitation. Standard operating procedure and practice is that when you go to build something, you go to check out those specs and if you have any question about it, you raise it with the proper authorities. The fact of the matter is, we have a problem here. I think the looming question here is whether or not it is sound government policy to change an ordinance every time a citizen's project fails to comply with the city rules. If you make exceptions continuously, you got a zoning ordinance that you can't even recognize anymore. I submit to you that this is perhaps one step that is happening here. My clients and I are not aware of any problems with a 35' height limitation here in Saco. I submit to you that a properly designed barn that is 35' in height can provide necessary space for ample hay, feed and allot of livestock. This particular project is one that calls for an extremely large building. If the Council makes the determination that a zoning change is truly warranted, I think it should be based on a true deficiency in your ordinance, and not on a mistake or trick of an building permit applicant. The Duranceau's neighbors the Harris's applied for and received a permit for a 16,000 sq. ft. riding arena, and they came forward and said that they wanted to do this the right way and this was going to be a commercial enterprise and they were required setbacks of 150' all the way around for each abutter. Wolf Moon LLC wishes to build this barn that is 19, 444 sq. ft. It is almost 3,500 feet larger than that one. This proposed arena is 216 feet long, 90 feet wide and I don't understand the math that when you average it is 30' high.

Well it is 41.6' high, not 30' high. The Duranceau's have lived at their home for 21 years. Their footprint for their house is 1,152 sq. ft. That means this barn/arena that will be 46' away from their property is 16.8 times the size of their house. That is huge. We think that if it is built, it would be a big mistake being that close. He strongly suggested that the Council not use "use impacts", but should look to size. There shouldn't be any difference for setbacks for commercial versus private use. His clients feel that if the building is built, it should be build with adequate setbacks or 150' just like the Harris's had to do.

Lee Duranceau, 107 Loudon Road – Ms. Duranceau presented to the Mayor and Council some pictures showing the Harris's barn size and how the Beth Austin much larger proposed barn will be in comparison.

Councilor Smith asked Ms. Austin, "What would preclude you from having a 35' roof on this building"? Ms. Austin replied it needed a steeper pitch to accommodate snow load requirements. Mr. Johnson replied that when you have horses jumping, you need to have clearance because the roof trusses drop down inside the building by about 3'.

Mark Duranceau, 107 Loudon Road – Mr. Duranceau stated that he isn't against the barn, but it is so big, it is just over whelming being that close to our residence. The Austin power point presentation really didn't show you all the foundation. It is mostly all cement sonotubes. The part that they should you is where the stalls were going to be. The whole area that they showed as maybe a quarter of the total length of the building. So basically $\frac{3}{4}$ of the building is all sonotubes. Material cost, cement and what not to pull those out and put to a proper setback for a building of that size. This building is 216' long, 90 feet wide and 17 times the size of his house. I don't know why anybody ever gave them a permit for personal use in the first place. It doesn't make sense for a building of that size. Personal use is for a lawn shed or a garage. This really isn't an agricultural building, it is an entertainment building.

Mark Winslow, lifelong resident of Saco – Mr. Winslow has know Mr. Duranceau since they were kids. The view from their house is beautiful. He feels that there would be a severe impact on the view. He advised his friends to stick to the laws and to not bring emotions into it. There was a fault in the permitting process.

Councilor Doucette moved, Councilor Tripp seconded to close the Public Hearing and "Be it Ordered that the City Council set the Second and Final Reading of the document for February 19, 2013". Further move to approve the order. The motion passed with seven (7) yeas.

B. RENEWAL APPLICATION FOR SPECIAL ENTERTAINMENT PERMIT – SACO PLAZA LLC D/B/A RAMADA SACO & EXPRESS EVENTS CATERING – (PUBLIC HEARING)

Saco Plaza LLC d/b/a Ramada Saco & Express Events Catering has applied for a renewal of their 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 Doucette moved, Councilor Blood seconded to open the Public Hearing. The motion passed with seven (7) yeas.

There were no comments from the public.

Councilor Doucette moved, Councilor Tripp seconded to close the Public Hearing and "Be it ordered that the City Council grant the renewal application submitted by Saco Plaza LLC d/b/a Ramada Saco & Express Events Catering for a Special Entertainment permit to be concurrent with the establishment's current liquor license". Further move to approve the Order. The motion passed with seven (7) yeas.

C. CASCADE FALLS – MONKEY TRUNKS ZIP LINE

As part of the Park North Project on outer Route 1, the City of Saco accepted a parcel of land, 17.32 acres including

the Cascade falls, donated by developer Elliot Chamberlain. Mr. Chamberlain, through the planning process, dedicated \$50,000 toward the development of a trail. Additionally, Elliot recently built a 20-car gravel parking lot off the Cascade Road for access to the Falls. The Saco Bay Trails crews have conducted multiple work parties to improve the aesthetics of the Falls area including hundreds of seedlings being planted.

The Cascade Falls Committee comprised of 'Saco Bay Trails' members and City representation was formed to administer the re-development of this area with a concerted effort to make this a safe family destination. Accordingly the committee developed a 'Master Plan for Cascade Falls' and has completed Phase 1 the "Trout Pond Loop" trail, which is a short trail designed for easy accessibility.

In the fall of 2012, Monkey Trunks eXtreme contacted the Saco Parks and Recreation Department to discuss their interest in a high ropes/ zip line course, which would propose segments over the falls and onto City land. The Board of Directors of Saco Bay Trails has seen the proposal and given project recommendations. Monkey Trunks eXtreme proposes to offer remuneration to the city by allowing Saco Summer Recreation Program participants to use the course at no cost to the participants during a specified week of Summer Camp.

The Council discussed this item at Workshop on January 22, 2013.

Councilors received calls from residents expressing concerns regarding the zip line proposal. Liability to the city was brought up, and one Councilor stated that he would like to discuss a different area for the zip line, because this would be a revenue generator for the city.

Councilor Smith moved, Councilor Cote seconded "Be it ordered that the City Council authorize the City Administrator to negotiate a lease with Monkey Trunks eXtreme for use of City property – of which the City Council will have final approval." The motion was defeated with seven (7) nays.

XI. EXECUTIVE SESSION

Councilor Blood moved, Councilor Smith seconded 'Be it Ordered that the City Council, Pursuant to [M.R.S.A. Chapter 18, Subchapter 1, §405 (6) (F)] move to enter into Executive Session to discuss: A Poverty Abatement'. The motion passed with five (5) yeas and two (2) nays – Councilors Tripp and Cote. TIME: 9:03 p.m.

A. REPORT FROM EXECUTIVE SESSION

Mayor Johnston moved from Executive Session with the unanimous consent of the Council at 9:59 p.m.

Mayor Johnston conducted a roll call of the members and determined that the Councilors present constituted a quorum. Councilors present: David Tripp, Leslie Smith Jr., Marie Doucette, Philip Blood, Arthur Tardif, Eric Cote, and Marston Lovell. City Administrator Rick Michaud was also present.

There was no report this evening.

VII. ADJOURN THE MEETING

Mayor Johnston adjourned the meeting with the unanimous consent of the Council at 10:00 p.m.

Attest: _____
Michele L. Hughes, City Clerk