

**STATE OF MAINE**

**COUNTY OF YORK**

**CITY OF SACO**

**I. CALL TO ORDER** – On Tuesday January 3, 2017 at 6:32 p.m. a Council Meeting was held in the City Hall Auditorium.

**II. RECOGNITION OF MEMBERS PRESENT** –Mayor Roland Michaud recognized the members of the Council and determined that the Councilors present constituted a quorum. Councilors present: David Precourt, Roger Gay, William Doyle, Kevin Roche, Alan Minthorn, Eric Cote and Nathan Johnston. City Administrator Kevin Sutherland was also present this evening.

**III. PLEDGE OF ALLEGIANCE**

**IV. GENERAL**

**V. PUBLIC COMMENT**

- Barbara Colman, 45B Stockman Avenue – T.A. Contract Zone Agreement – I stated on Dec. 5<sup>th</sup> before the Council voted on the T.A. Contract Zone Agreement that the process of going through the Planning Review process was a legal requirement. I stated that I would personally file a law suit against the City of Saco if the T.A. Contract Zone Agreement passed. I consulted with an attorney to verify the legal issues surrounding the T.A. Contract Zone Agreement. Legally it was required by section #10 of the original contract zone agreement for the Hatch's and Title 30-A M.R.S.A. §4352 “to be reviewed by the authoritative body before going to Council for vote”. Here are the steps that I sought to prevent filing a law suit. From Dec. 12<sup>th</sup> – 16<sup>th</sup> I left messages to set up a meeting as well as sending an e-mail to the City Administrator, Mayor, Councilor Johnston and the City Planner. The City Administrator acknowledged receipt of the messages and e-mail and asked me to elaborate my concerns. I provided my e-mail of concerns dated Dec. 19<sup>th</sup> and I did not hear back from the City Administrator, so on Dec. 25<sup>th</sup> through a FOIA request I asked for the T.A. Contract Zone Agreement. The City Administrator e-mailed and said a copy would be available in his office on the afternoon of Dec. 22<sup>nd</sup>. The City Administrator explained that the cost of a law suit would be more than the value of the pilot. I stated that it wasn't the pilot that I was concerned with it was the procedure and process the amended contract zone followed. Discussion proceeded and I was told in no uncertain terms by the City Administrator I was to leave his office and not speak to his staff. I stated that a cease and desist order would need to be put in place since this is a public entity. The former Police Chief Brad Paul was summoned to the office to discuss the above action. I believe though I have not requested an e-mail from the City Administrator was sent out to his staff saying not to have interactions with her personally. I sent a e-mail to the City Administrator as well as the Deputy Chiefs and the Chief at the time letting them know that I wanted to resolve the issue to set up a meeting and indicated the T.A. Contract Zone effective date was incorrect and should reflect January 5, 2017. I appeal to you as the legislative body of the city to seriously think about bringing this item onto the agenda tonight and null and void the contract and properly proceed with the correct process. Those voting in the affirmative are able to proceed with the action in the long run it will ultimately be for the benefit of all individuals.
- John Harkins, 4 Christopher Terrace – Chairman of the Saco Citizens for Sensible Government – Mr. Harkins noted that he was here on his own volition and that Ms. Colman's comments tonight did not represent out group. We have not met to discuss it. I'm much disturbed that a citizen in the community has to go through such great lengths to get public information, documentation and provide for open transparency in our government. We have for a long time pursued the need for transparency here, the need for proper visual techniques for the public who are not only present here but also at home so they can understand what is going on at these council meetings. I can tell you right now that people here this evening have no clue what “B1 or B7” or whatever. There are no graphics. After thousands of dollars spent on technology we cannot see the screens and cannot participate and neither can the people at home. I don't know why these things are happening but the process with which Ms. Colman speaks, and that is the driving force, has been abused. We have seen it time and time again that corrective action needs to be taken by the Council to assure that actions are taken in accordance with our Charter, Statutes and public

policy.

- Mayor Michaud – Noted that he did not agree with the reference of this transparency not being appropriate. I have been involved with this 20+ years and I have a fair understanding of the process that we follow. It is a very clear unambiguous process. Zoning Amendments that are discussed in a workshop are discussed in a workshop and that is the function of the workshop. You will have a first reading of the zoning amendment which is published on the internet for people to see if they wish to do so. There are 7 Councilors that represent the Council and they can answer questions that the public wishes to present them without a problem. If they need further guidance they can get it from city staff. There is a public hearing on the zoning amendment and we listen to the public as they make their comments. The Council makes a decision on the comments they want to incorporate or not. Then it goes to the second and final reading. It is a very clear process which has been followed for 20 years. People many times will make arguments about transparency because they are not able to affect the policy they would like to see implemented and use the premises that we are not being transparent. I do not buy that argument. I think this Council is as transparent as anyone can be and accept the fact that we don't always win what we like to win but it is part of the political process. We have been and continue to be open to the public. That video back there will be used for the public hearings as it should be and be available for anyone to see it and everything we do is published on the web. People are able to look at it and understand it or call someone at City Hall to get an answer. So I do not accept the argument that we continually hear that the Council hasn't been transparent.

## VI. CONSENT AGENDA

Councilor Precourt moved, Councilor Johnston seconded to approve consent agenda items A, B and C as follows:

A. Minutes - Be it ordered that the City Council approve the minutes for December 19, 2016 and further move to approve the order;

B. Application for a License to Operate Games of Chance – Biddeford and Saco Elks #1597 - Be it Ordered that the City Council grant the application for a License to operate a Game of Chance as follows: Cards/Cribbage from January 1 – December 31, 2017 as submitted by the Biddeford & Saco Elks #1597 and further move to approve the Order.

C. Certification of Election Results – General and Referendum Election - Be it Ordered that the City Council hereby approve the results of the November 8, 2016 General & Referendum Election as presented and further move to approve the Order.

The motion passed with seven (7) yeas.

## VII. AGENDA

### A. ZONING ORDINANCE AMENDMENT: I-1 ZONE – (FIRST READING)

This proposed Zoning Ordinance amendment would:

- 1.) Remove the highlighted and hash-marked area (known as the Spring Hill Section of the Saco Industrial Park) shown on the map labeled Exhibit A.
- 2.) Create an I-1a Zone consisting of the parcels/area highlighted and hash-marked (known as the Spring Hill Section of the Saco Industrial Park) shown on the map labeled Exhibit A.
- 3.) Prohibit Medical Marijuana caregiver businesses from locating in the I-1a zone, otherwise all Permitted and Conditional uses that are allowed in the I1 Zone will be Permitted or Conditionally allowed in the I1a Zone.

On September 19, 2016 the Saco City Council approved the allowance of medical marijuana caregiver businesses in the I-1 and I-2 zones.

On June 14, 1999 the City of Saco recorded the following: Declaration of Covenants, Conditions, and Restrictions for the Saco Industrial Park – Springhill Section in Book 9521 Page 145 of the York County Registry of Deeds. On page 9 of those Covenants it states: “5.2 Prohibited Uses. The following operations and uses shall not be permitted on any property subject to this Declaration: . . . G. Uses prohibited by federal, state, or local law, including applicable City of Saco Zoning ordinance provisions and other uses deemed objectionable by the Economic

Development Commission or City Council.”

In addition to the aforementioned conflict, federal funds were used in the development of the Spring Hill Section of the Saco Industrial Park. Marijuana is considered an illegal substance under federal law, and the the City’s Code Department will need clarity in regards to where Medical Marijuana Caregivers may locate and not violate either the Saco City Council’s Action of September 19, 2016 or the Declaration of Covenants, Conditions, and Restrictions for the Saco Industrial Park – Springhill. In order to address these concerns, it is recommended that the Saco Zoning Map and Ordinance be amended as first stated above.

On December 20, 2016 the City of Saco Planning Board voted unanimously to forward a positive recommendation to the City Council for Action.

Councilor Doyle moved, Councilor Minthorn seconded “The City Council hereby Ordains and Approves the First Reading of the document titled, ‘Amendment to Section 410-11of the Zoning Ordinance, the addition of new Section 410-11a, and an amendment to the Zoning Map, Amended January 3, 2017’, and further moves to set the Public Hearing for January 16, 2017”. The motion passed with five (5) yeas and two (2) nays – Councilors Gay and Roche.

**“Amendment to 410-11. I-1 Industrial Park District,  
Amended September 19, 2016”**

**410-11. I-1 INDUSTRIAL PARK DISTRICT** (Amended 8/1/88, 11/17/88, 3/2/92, 7/6/93, 11/7/94, 2/19/02; 9/19/16)

**PERMITTED USES**

1. Hotels and motels
2. Supply Yards
3. Parking Lots as an accessory use to abutting lots in the B-6 zone
4. Off-site parking for uses located within the district (Amended 11-7-94)
5. Health Club
6. Financial Institutions
7. Business offices
8. Business services
9. Hospitals and Clinics for humans
10. Research and testing labs
11. Wholesale trade and warehousing
12. Distribution
13. Truck Terminal
14. Light Industry
15. Any use permitted in the Resource Protection District
16. Essential services
17. Accessory uses
18. Municipal Uses
19. Public Utility Buildings
20. Public and private schools
21. Commercial schools
22. Nursery School
23. High Voltage Transmission Lines (Amended 12/15/08)
24. Medical Marijuana Caregivers, growing (Amended 9/19/16)
25. Medical Marijuana Caregivers, growing facility (Amended 9/19/16)

**CONDITIONAL USES**

1. Heavy Industry

2. Recycling Center
3. Waste Composting Facility
4. Day Care Center
5. Wireless Telecommunication Facilities (Amended 10/21/02)
7. Registered dispensary, grow-only (Amended 7/19/10)
8. Addiction Treatment Facility (Amended 12/6/10)

**“Amendment to 410-11a. I-1a Industrial Park District,  
Amended January 3, 2017”**

Note: This is a new district. All permitted and conditional uses will remain the same as the I1; however, Medical Marijuana caregivers are not an allowed use in this district.

**410-11a. I-1a INDUSTRIAL PARK DISTRICT (Established 12 06 16)**

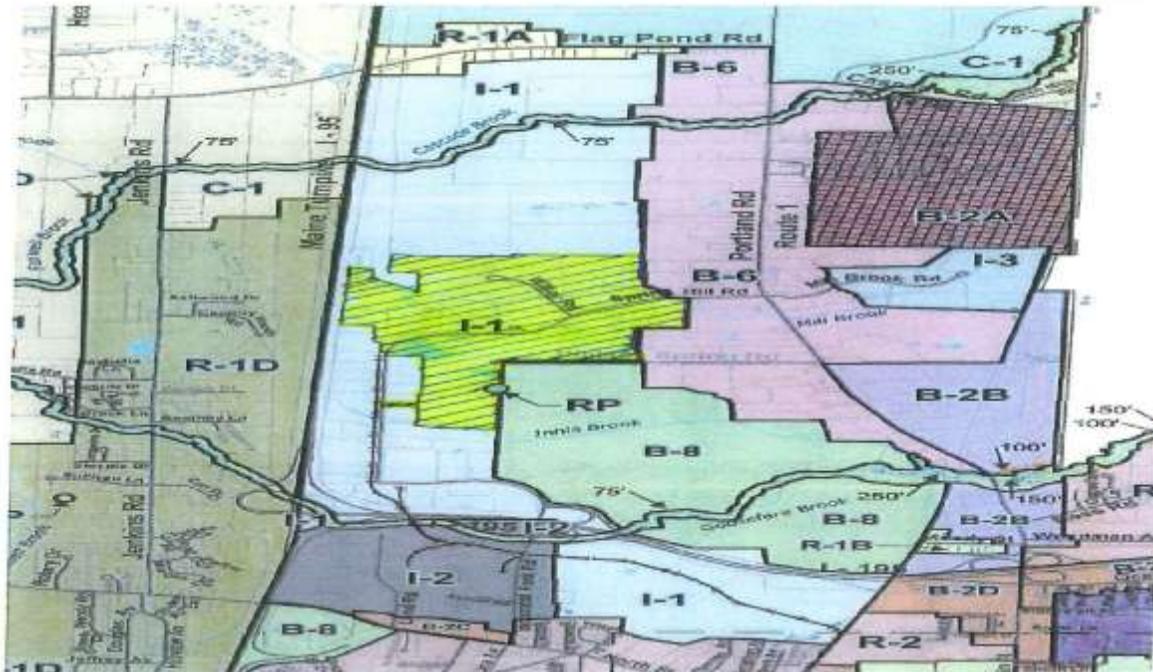
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**CONDITIONAL USES**

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Exhibit A



**B. ZONING ORDINANCE AMENDMENT: B-7 ZONE – (FIRST READING)**

This proposed Zoning Ordinance amendment would add “Eating Establishments” to the B-7 zone as a Conditional Use. The B-7 zone encompasses about 40 parcels along Main and Beach Streets, from School Street north to Beach Street, then as far east as James Street. Sixty-five percent of the district is residential, twenty two percent commercial, and the remainder a mix of the two. Among the uses that are currently allowed: Public and Private Schools, Offices, Artist and Craftsperson Studios, Funeral Homes, Financial Institutions, and Retail Businesses Except Alcohol Sales (limited to 1,500 s.f.).

Saco Main Street Executive Director Rob Biggs notes that the building at 9-11 Beach Street is owned by the couple that operates the CIA (Coffee, Ice cream, Art) café in the Knightville section of South Portland. They are interested in establishing a second location in the Beach Street building, but are not allowed by zoning. Saco Main Street views this as an opportunity to create a new downtown destination.

The Planning Board reviewed this item and held a public hearing on Dec. 20, 2016. The Board recommends that the amendment be adopted as amended, so that Eating Establishments would be limited to existing structures in the B-7 zone.

Councilor Cote moved, Councilor Doyle seconded “The City Council hereby Ordains and Approves the First Reading of the document titled, ‘Amendment to Section 410-9-B Limited Business Residential District, Amended Jan. 3, 2017’, and further moves to set the Public Hearing for January 16, 2017”. The motion passed with seven (7) yeas.

**“Amendment to Sec. 410-9-B, B-7 Limited Business Residential District,  
Amended Jan. 3, 2017”**

*(Proposed language is underlined).*

**410-9-B, B-7 LIMITED BUSINESS/ RESIDENTIAL DISTRICT**

**PERMITTED USES**

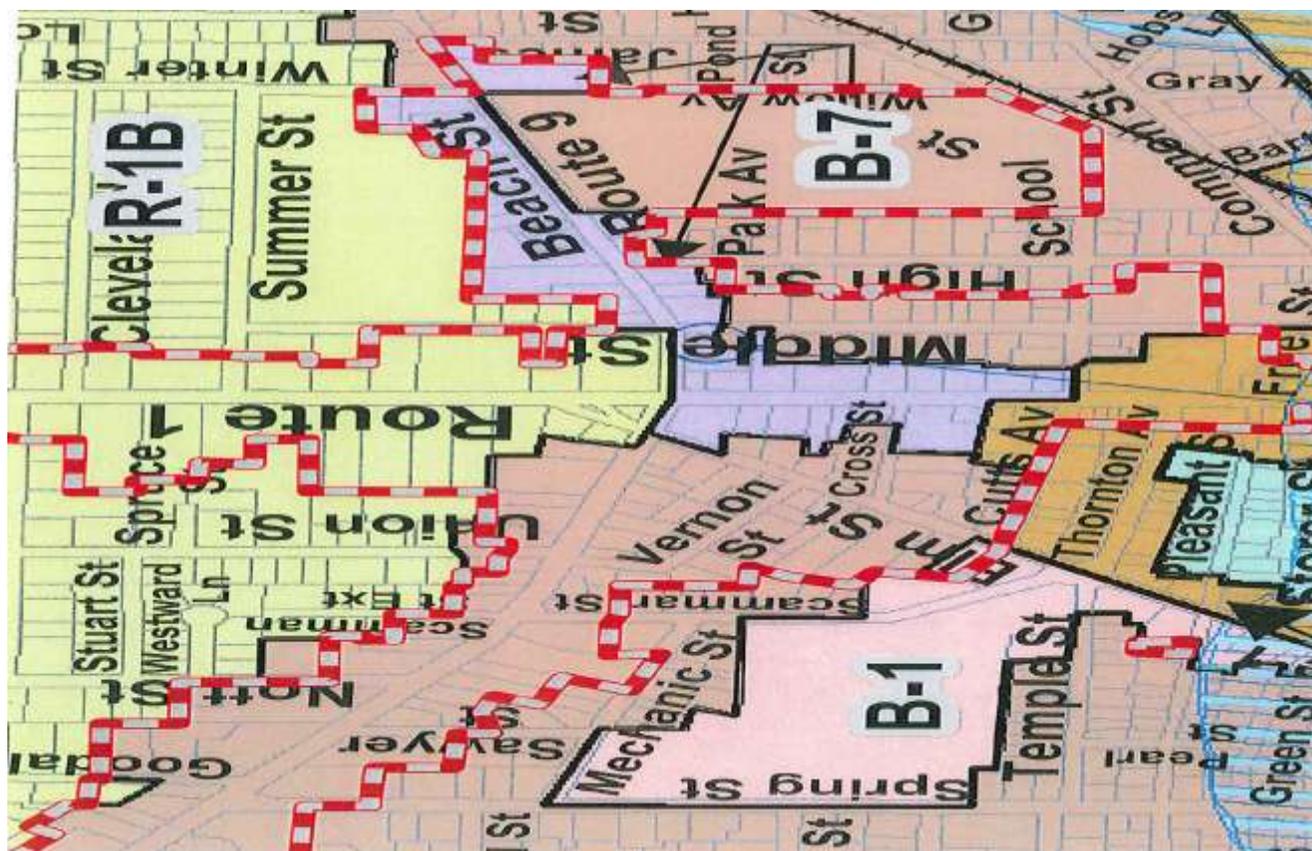
1. Single family dwellings
2. Two family dwellings
3. Multi-family dwellings

4. Elder/Disability Housing Facility  
Elder/Disability Housing Facility – Limited Service (Amended 5/21/12)
5. Adult day care center, Types 1 and 2
6. Bed and breakfast establishments
7. Home babysitting service, day care center, day care home
8. Home occupations
9. Personal services, except laundromats and dry cleaners
10. Nursery schools
11. Public and private schools
12. Accessory uses
13. Municipal uses
14. Offices
15. Quasi-public uses
16. Artist and craftsperson Studios (Amended 1/17/85)
17. One accessory apartment in a single family dwelling (Amended 10/20/08)

**CONDITIONAL USES**

1. Funeral homes
2. Boarding houses
3. Community living uses
4. Elder/Disability Care Facility – Full Service (Amended 5/21/12)
5. Financial institutions
6. Retail businesses except alcohol sales (limited to 1,500 square feet.)
7. High Voltage Transmission Lines (Amended 12/15/08)
8. Eating establishments, limited to existing structures<sup>1</sup>

<sup>1</sup> In order to maintain the essential residential character of existing neighborhoods



### C. AUTHORIZE THE USE OF THE REQUEST FOR PROPOSAL PROCESS FOR CITY PROPERTY – 90 MAPLE STREET

The City acquired ownership of the property at 90 Maple Street in January, 2016 due to the non-payment of property taxes. As outlined in Chapter 81 of City Code, consideration of the sale of the City-owned property has been referred to the Planning Board "...for evaluation and a report to the City Council." The property in this case is an existing two-family dwelling valued in tax year 2016 at \$219,600. Per Chapter 81, several City departments have been asked for comments, which are attached.

The Planning Board reviewed the property and held a public hearing at its meeting of Dec. 6. Given comments from staff, and procedures outlined in City Code, the Board recommends that the property be offered for sale through a sealed request for proposals process, with details to be worked out by the City Administrator and Finance Director.

City Council tabled this item during the December 19, 2016 Council Meeting.

Councilor Minthorn moved, Councilor Doyle seconded "Be it ordered that the City Council hereby authorizes the City Administrator to issue a Request for Proposals for the sale of real estate and real property of the city owned property located at 90 Maple Street." Further move to approve the Order.

Amendment - Councilor Roche moved, Councilor Johnston seconded to authorize the City Administrator negotiate a sale agreement with the applicant for the taxes plus a small amount for the additional cost to the community in administrating the whole process and ensure that we come out with no additional costs and to come back to the Council with a formal offer. The motion passed with seven (7) yeas.

### VIII. COUNCIL DISCUSSION AND COMMENT

- Councilor Doyle – Was the T.A. Contract Zone done legally? City Administrator Kevin Sutherland stated that in his opinion the process was done correctly. If a lawsuit is filed and it goes in a direction that is not beneficial for the city, this means that it will go back through the Planning Board process and back to Council again. Mayor Michaud noted it was a "contract change" and not a "zone change".
- Councilor Roche – Process of complaints/contacts to City Administrator - Is it true right now that we are instructing city staff not to talk to one of the citizens? City Administrator Kevin Sutherland noted that there was an over use of staff resources such as is they don't get an answer they go to another person and another person and another person. We have rules with Council about if you have needs or requests you are to come to me before you go to staff. There are individual members of this community who abuse their ability to access staff and I'm clamping down on that. There is a FOIA process and they can use that process to get information they need. If they have ministerial inquires for example: "Where do I pay my parking ticket?" or "How do I get my license renewed?" We will answer those questions. We are open to the public and the public are allowed to be in this building. But in terms of staff resources to answer these questions those are going to go through the FOIA process going forward. Mayor Michaud noted that we need to make sure the staff is used effectively and there is an overutilization then management needs to take actions.
- Councilor Doyle - Would be worthwhile to do a "reconsideration" vote on the T.A. Contract Zone in order to get further review? Mayor Michaud noted that we should wait until the city gets the attorneys comments. Will we be out of the time frame to do a reconsideration vote if we wait that long? Mayor Michaud noted that is usually the meeting right after the event and City Administrator Kevin Sutherland noted that the Contract Zone Agreement has already been signed. Mayor Michaud that the Council could actually reconsider it after receiving the attorney's comments and we could bring it back to the board on our own and try to negate the contract. Councilor Precourt asked: "How many people feel that they voted the wrong way?" Councilors Johnston and Doyle noted that it is about the "process". Councilor Roche stated that there was a request that the attorney's comments be read from the Oct 24<sup>th</sup> Workshop on page 66 and proceeded to read them. City Administrator Kevin Sutherland noted that he would go to the attorney with all the comments and get an opinion. Councilor Johnston read that #9 of the contract zone referencing that "Minor changes may be approved by the staff of the City of Saco. Any changes determined by the staff

to be "major" shall be submitted to the Planning Board for review. If it is determined that the changes constitute a change in the contract, then the developer shall also be required to obtain City Council approval of the changes." Councilor Johnston felt that switching the contract entity and going from tax exempt to exempt were major changes. The original contract specified it was not supposed to be "none tax exempt".

- Councilor Cote – Camp Ellis – I think the Water Company did some work down in Camp Ellis on the road to the pier a couple of months ago and it is all dirt and pot holes? Is it going to be that way all winter long? Mayor Michaud noted the paving equipment was still down there. City Administrator Kevin Sutherland noted he would look into it.
- Councilor Precourt – What is the status on Stackpole Bridge? Where do we stand and what is the cost so far. Have the pledges that were promised for the bridge been received yet? City Administrator Kevin Sutherland noted that it went to workshop that it was going to be delayed and would be finished in May, but there are not going to be any additional costs from the contractor.
- Councilor Minthorn – He posted 10 pictures on his Facebook page as Councilor of a K-8 school in Florida that did some really innovative stuff in respect to the school design and layout. Please feel free to look at them and hopefully it will spark some interest in a single school facility co-located with the Middle School and putting forth the idea of a new Parks and Recreation building co-located so that before and after school programs can also be housed there to cut down in transportation costs down for the next 30-40 years. The elementary schools have roughly 1,000 students and it depends on what the person in front of the classroom is doing as far as whether the kids are learning or not. This idea that all learning stops if the school is x, y, z size versus a, b, c size is proven wrong again and again. We need to start thinking about this discussion because the bid list will be coming out in Jan. 2018 but our submission needs to be in by this April.
- Councilor Roche – Audit – There will be questions that I bring up tonight to be addressed at the meeting in next week's Workshop and the following Council meeting. 1) Schools – Aversion to debt – We constantly hit the mil rate for things we should have the confidence to borrow and update current facilities now. We have gone 3 years out of the RSU with no capital improvements. Saco Middle School has been shut down today, tomorrow and possibly the rest of the week because of a pipe burst. Thornton Academy does get a IBF of about \$700,000 a year in capital spending for one school. We get nothing for 3 years on 4 schools. I want to make sure we are aware of that at budget time with debt coming off the books and work with the School Dept. on this. 2) Audit Packet was received over Christmas break. I have allot of questions up until point that are still not answered. In the back of the audit packet is a 10 year history. The mil rate has increased and average 5% over the last 10 years on the city side and has risen 4% on the school side. We need to look at why things are going up all the time. Going back to the debt which the city has a low debt ratio but instead we go after the taxpayer on the mil rate. What came in on the audit financials is the \$1.3 million we are ahead of budget with \$900,000 on the revenue and \$400,000 on the expenses. I would like to know how that ties to our cash. Need to clearly explain to Council where that found cash is, unrestricted versus restricted and how it affects this ratio that we are trying to get to of over 10% of our budget. Where is that found in the fund balances? Where is the basic documentation of the encumbrances? 3) TIFS – The Saco Island TIF expired on 12/31/16 and we got a presentation on how important TIF are to protect property valuation from taxes yet the mil rate increases on average 5% a year. We did not prep for the Saco Island TIF coming off the books.
- Councilor Precourt – The 2 TIF's that we put in for the medical research building and the mill #4 building will that offset the Saco Island TIF? City Administrator Kevin Sutherland noted that it would help but it doesn't fully offset it.

## IX. ADJOURNMENT

Councilor Minthorn moved, Councilor Precourt seconded to adjourn the meeting at 7:27 p.m. The motion passed with seven (7) yeas.

Attest:

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Michele L. Hughes, City Clerk

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