I. CALL TO ORDER – On Monday, March 6, 2017 at 6:30 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

➢ John Andrews – Mayor Michaud remembered Mr. Andrews who had a huge impact on Saco. He was a persistent and persuasive person who dedicated many years to make the Eastern Trail a reality. The bridge over Route one is named in his honor.

➢ Saco’s Oldest Cane Presentation – Mayor Michaud and Councilor Precourt presented a cane this past Saturday to the oldest individual in our community. This is a New England tradition that started in the early 20th century and we have done this a few times in the past. Ernie Merritt, a resident of Saco makes the canes for the city. The cane was presented to Angeline Beland who lives on the Boom Road and she will be 102 on March 22nd.

➢ Letter of Appreciation – The city received a letter of appreciation from the Town of Hollis from its Selectman. On February 23rd the Hollis Fire and Rescue responded to a structure fire on Old Alfred Road in Hollis. This fire involved a barn as well as a residential dwelling. The City of Saco responded in a timely and professional manner which resulted in savings the residence and from being consumed by fire and there were no injuries. The professional response eliminated a potential catastrophic event and the loss of lives. The Town of Hollis greatly appreciates the efforts of your Fire Department and officers and we commend them for their professional call to duty.

➢ School Dept. – Mayor Michaud noted that at the last meeting there was a friendly amendment made about having the school and city departments work closer particularly in back office operations. I’ve talked to the Chairman of the School Board, Superintendent, City Manager and I’ve asked for a couple of volunteers from the Council (Councilor Precourt & Roche) to work on a committee and I’ll be meeting with the school board. I’d like the ad hoc committee to work with the leadership on both sides of the isle to determine what areas of commonality exist and how can these areas be integrated to improve overall efficiencies and realize cost savings and the likely timeframe for implementation. Certainly we should have a goal of no later than July 1, 2018.

V. PUBLIC COMMENT

➢ Barbara Colman, 45B Stockman Ave. – I see tonight again on the consent agenda are the January 9, 2017 minutes which you kindly pulled at the last meeting. We asked for a legal opinion in writing and have yet to receive it. I have contacted the Sec. of State and they are supposed to be sending the city a response as to why those minutes cannot be included, along with some additional details on a FOAA request that I had put in. I’m being asked to pay a substantial amount of money because the documents are not readily available. These should be in paper format or at least online for me to be able to access. Tonight I’m going to ask you once again, Council please remove from the Consent Agenda the January 9th minutes unless the City Solicitor can explain why in Workshop you can legally take a vote without an official roll call and officially if you accept those minutes you have set a precedence that we will expect Council Workshop minutes from the Council forward.

VI. CONSENT AGENDA

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

A. MINUTES - Be it ordered that the City Council approve the minutes for January 9, 2017 and February 6, 2017. Further move to approve the order;
B. CONSERVATION COMMISSION APPOINTMENT - Be it Ordered that the City Council confirm the Mayor’s appointment of Dwayne Singletary to the Conservation Commission for a three-year term ending on March 6, 2020. Further move to approve the Order.

The motion passed with seven (7) yeas.

VII. AGENDA
A. AMENDMENTS TO CITY CODE CHAPTER 34 PERSONNEL ORDINANCE – (PUBLIC HEARING)

Policies relating to personnel are listed in Saco City Code, Chapter 34: Personnel. In order to amend or change an ordinance, the process requires the standard three meeting process adopted as part of the Saco Charter (Section 2.09). This includes publication in a newspaper before the public hearing.

City staff is currently reviewing the personnel ordinance as well as several other city policies. By changing the code to reference a personnel policy, it will be easier and more effective to bring necessary change to Council’s attention. It is our recommendation that Saco City Code, Chapter 34: Personnel be amended to read, “The City of Saco will have a personnel policy, on file with the City offices” and upon adoption, have Council approve the Personnel Policy as a separate document. This would enable our Human Resources Department to more efficiently modify the personnel practices for city staff with a one meeting approval from Council.

Councilor Minthorn moved, Councilor Doyle seconded to open the Public Hearing. The motion passed with seven (7) yeas.

There were no comments from the public.

Councilor Minthorn moved, Councilor Doyle seconded to close the Public Hearing and further move to set the Second and Final Reading of the document titled ‘Amendments to Chapter 34 Personnel Ordinance dated February 21, 2017’ for March 20, 2017. The motion passed with seven (7) yeas.

Amendment to Chapter 34 Personnel Ordinance
February 21, 2017

“The City of Saco will have a personnel policy, on file with the City offices”

B. ADDITION OF CHAPTER 171, SINGLE USE BAGS – (FIRST READING)

Single-use plastic bags have an adverse effect on the environment. Because the City is a coastal community with a river as a natural border, both aquatic and wildlife are affected by the environmentally hazardous plastic bags. Research has shown that production and disposal of petroleum based products can injure or poison animals, disrupt habitats, and leach into ground water. Additionally, chemical by products can cause harm to humans, pets, and livestock.

The current proposal is to add “Chapter 171 – Single-Use Plastic Bags” to the City of Saco’s general code, which would not allow a business to provide a single use plastic bag. The City’s goal is to discourage single-use bags and to encourage the use of reusable bags. We recommend the implementation of a monetary fine system for violations of Chapter 171, should the proposal be approved and go into effect.

The Council reviewed this item at the February 21st, 2017 workshop.

Councilor Minthorn moved, Councilor Johnston seconded “The Saco City Council does hereby ordains and approves the First Reading of the document titled, ‘City of Saco Code Amendment: Chapter 171 - Single-Use Plastic Bags’, and further move to set the Public Hearing for March 20, 2017”. The motion passed with seven (7) yeas.
“City of Saco Code Amendment:
Chapter 171 - Single-Use Plastic Bags,”

Chapter 171. Single-Use Plastic Bags

Section 171-101. Purpose:

It is in the best interest of the residents of the City of Saco (City) to protect the environment and natural resources of Maine by prohibiting the distribution and use of single-use plastic bags. This ordinance intends to encourage the use of degradable resin bags and/or reusable shopping bags in businesses.

Section 171-102. Findings:

Single-use plastic bags have an adverse effect on the environment. Because the City is an oceanside community with a river as a natural border, both aquatic and wildlife are affected by the environmentally hazardous plastic bags. Research has shown that production and disposal of petroleum based products can injure or poison animals, disrupt habitats, and leach into ground water. Additionally, chemical by products can cause harm to humans, pets, and livestock.

Sec. 171-103. Authority:

This proposed Ordinance to be adopted pursuant to the City’s home rule authority pursuant to 30-A MRS Section 3001, et seq.

Section 171-104. Definitions:

ASTM International means the former American Society for Testing and Materials. It is now called ASTM International.

ASTM Standards means the standards related to single or reusable bags.
- ASTM 5208 is the standard for UV exposure of photodegradable plastics
- ASTM 5272 is the standard practice for outdoor exposure testing of photodegradable plastics
- ASTM 5338 is the standard for determining aerobic biodegradation of plastic materials (requiring oxygen)
- ASTM 5511 is the standard for determining anaerobic biodegradation of plastic materials (does not require oxygen)
- ASTM 6400 is the standard for labeling of plastics designed to be aerobically composted

Business means any business that has or requires a business license with the City.

Degradable means a compound that breaks down into simpler compounds by stages.

Emergency food or other goods provider means a facility operated by a non-profit or governmental agency that provides goods to residents for no charge.

Degradable resin means a solid or highly viscous substance that is typically convertible into polymers.

Plastic means an organic or petroleum derived synthetic organic solid that is moldable.

Retail business means any business that sells consumers goods and has or requires a retail business license with the City.

Reusable bag means a bag with consumer carrying handles that is specifically designed and manufactured for multiple reuse and is made of cloth, fiber or other machine washable fabric, but not plastic film.

Single-use plastic bag means a bag with consumer carrying handles made from plastic, which also may or may not be intended for a one time use. These bags fall under the category of plastic film.
C.  AMENDMENTS TO CHAPTER 186, STREET OPENING ORDINANCE – (FIRST READING)

Sections of Chapter 186 (Article I) of the City Code pertaining to excavation activities within City right-of-ways are being updated to provide a clear process for property owners and contractors needing to perform work in public places. These changes aim to clarify current practices, and modify other approaches to be more in line with excavation requirements in neighboring communities. Highlights of the changes include: creating separate permits for driveway paving versus excavation activities; establishing an annual approved contractor list based on proper insurance, ability, and deposits; overseeing final pavement restoration to improve ride quality and reduce future
maintenance; tying work results to the contractor performing the work instead of the property owner requesting the work.

Councilor Doyle moved, Councilor Minthorn seconded “The City of Saco hereby Ordains and approves the First Reading of the document titled, ‘Amendments to Chapter 186: STREETS AND SIDEWALKS, dated March 1, 2017’, and further moves to schedule the Public Hearing for March 20, 2017.” The motion passed with seven (7) yeas.

Chapter 186
Streets and Sidewalks

[HISTORY Adopted by the City Council of the City of Saco 5-1-1995 as Ch. XVIII of the 1994 Code. Amendments noted where applicable.]

GENERAL REFERENCES
Dogs and nondomestic animals at large — See Ch. 64, Arts. II and IV, respectively.
Bicycles, skateboards and roller skates — See Ch. 69.
Sewers — See Ch. 176.
Trees — See Ch. 204.
Vehicles and traffic — See Ch. 211.

Article I
Excavations in Streets and Public Places

§ 186-1 Definitions.
As used in this article, the following terms shall have the meanings indicated:

CITY
The City of Saco and/or its public works.

DRIVEWAY OPENING PERMIT
Permit issued by City to a licensed contractor for construction or reconstruction of any portion of a residential or commercial driveway within the public right-of-way.

EXCAVATION
Any opening in the surface of a public place made in any manner whatsoever, except an opening in a lawful structure below the surface of a public place, the top of which is flush with the adjoining surface and so constructed as to permit frequent openings without injury or damage to the public place.

FACILITY
Pipe, pipeline, tube, main, service, trap, vent, vault, manhole, meter, gauge, regulator, valve, conduit, wire, tower, pole, pole line, anchor, cable, junction box or any other material structure or object of any kind or character, whether enumerated herein or not, which is or may be lawfully constructed, left, placed or maintained in, upon, along, across, under or over any public place.

INSPECTOR
A duly authorized representative of the City, including the Director of Public Works, the City Engineer or their representatives.

LICENSED CONTRACTOR
Any person who has been issued a Contractor License by the City to work within public places and public right-of-ways in the City.

NEWLY BUILT OR REBUILT STREETS
Any public place which has been newly built or rebuilt within the preceding five years.

PERMITTEE
Any person who has obtained a permit as required by this article.

PERSON
Any person, firm, partnership, association, corporation, company or organization of any kind.

PUBLIC PLACE
Any public street, way, place, alley, sidewalk, park, square, plaza or any other similar public property owned or controlled by the City and dedicated to public use.

STREET OPENING PERMIT
Permit issued by the City to a licensed contractor for any construction activity within the public right-of-way, excluding work associated with residential or commercial driveways.
UTILITY

A private company, corporation or quasi-municipal corporation under the direction and control of the Public Utilities Commission.

§ 186-2 Start of work notice; authority to revoke permit. Contractor License.
A. No person or utility shall be granted an opening permit to work in a public place without holding a valid Contractor License for such work from the City. The Public Works Department shall issue such license upon receipt of a completed application; determination of competency and ability of the applicant to perform work in accordance with City standards; receipt of the required annual license fee; receipt of proof of insurance as required in § 186-31; and receipt of bond or cash deposit. A Contractor License may be revoked if the City determines the person or utility has willfully disobeyed any portion of this article. The Contractor License is valid from January 1st to December 31st of the year issued.

B. Bonds or cash deposits shall be required for all licensed contractors in good standing, other than utilities, in order to guarantee their performance. Bonds in the amount of $5,000 or cash deposit in the amount of $2,500 shall be provided to the City in order for a license to be issued. Bonds shall be posted for a minimum of two (2) years. Cash deposits shall be refunded on an annual basis in the amount not to exceed $2,000 upon approved completion of all conditions of this article.

A. Excavation work must be started no later than 30 days from the date of issuance of the excavation permit. After the expiration of this thirty day period, the excavation permit shall become null and void and shall have to be renewed.

B. Excavation shall not begin within a twelve-hour period from the time the permit is issued. The applicant shall notify the Director of Public Works when excavation will begin, at least 12 hours beforehand.

C. The Director of Public Works or his/her duly authorized representative shall have the authority to revoke the permit if it is found that any section of this article has been violated. Upon such action, the person or utility shall cease all work and proceed to make trench conditions safe to the public. Work shall not commence until a new permit has been issued and all warning periods have been adhered to.

§ 186-3 Permit required.
A. No person-licensed contractor or utility shall make any excavation or fill any excavation in any public place without first obtaining an opening permit from the Director of Public Works, except as otherwise provided in this article.

Examples of work typically requiring an opening permit include, but not necessarily limited to, installation of utilities, driveways, curbing or sidewalks; excavation or filling for grading purposes; or any other modification that could either damage the City’s infrastructure or conflict with existing or planned utility or infrastructure locations.

Construction activities limited to the repair/reconstruction of existing driveways or construction of new driveways within any public place (primary activity) are required to obtain a Driveway Opening Permit. The work associated with these construction activities may also include ancillary sidewalk and curb restoration work associated with the primary activity.

All other construction activities within a public place are required to obtain a Street Opening Permit.

B. Each year, on or about March 31 and updated monthly thereafter, each utility should submit to the Director of Public Works its planned work program for the ensuing year, which will not include emergency work, as defined in § 186-21 hereof, or normal hours service lines. Any excavation opening permit issued to a utility company by the Director of Public Works which is contained on the list aforementioned shall be issued for the duration depending on the complexity of the work to be performed and supported by a work schedule which must be approved by the Director of Public Works. Any excavation opening permit issued to a utility company by the Director of Public Works which is not covered on the aforementioned list shall be issued for a period not to exceed 30 days from the time of issuance. All opening permits issued under this section will terminate on November 1 of each year.
C. Excavation work must be started no later than 30 days from the date of issuance of the opening permit. After the expiration of this thirty-day period, the opening permit shall become null and void and shall have to be renewed.

D. Excavation shall not begin within a twelve-hour period from the time the opening permit is issued. The applicant shall notify the Director of Public Works when excavation will begin, at least 12 hours beforehand.

E. The Director of Public Works or his/her duly authorized representative shall have the authority to revoke the opening permit if it is found that any section of this article has been violated. Upon such action, the person or utility shall cease all work and proceed to make trench conditions safe to the public. Work shall not commence until a new opening permit has been issued and all waiting periods have been adhered to.

§ 186-4 Application for permit.

A. No excavation opening permit shall be issued unless a written application, on a form provided by the City for the issuance of an excavation opening permit, is submitted to the Director of Public Works. The written application shall state the name and address of the applicant, licensed contractor, and an emergency phone number that will be answered 24 hours a day.

(1) If the applicant is other than a utility and intends to excavate in the vicinity of a facility owned or operated by a public utility or an oil pipeline owned by a person, the applicant shall provide the information required by the City under this section to the utility or person owning such facility, in addition to providing such information to the City.

(2) The application shall provide the name of the public place to be excavated, the street number, the beginning date of proposed work and the type of work to be done. Signatures of utility approval, the signature of the City department (if involved) and a diagram of the planned excavation, submitted on a sketch 8 1/2 inches by 11 inches, marked "Exhibit A," showing trench locations, trench widths, trench depths and the location of all barricades, warning signs, detour signs and detour routes may be required by the Director of Public Works. This sketch shall become part of the permit and shall be strictly followed. Three copies shall be presented with the application.

(3) The permit shall also provide for a preconstruction meeting if so warranted by the Director of Public Works.

B. The application for an opening permit shall be accompanied by a cash deposit as hereinafter provided. All applications shall be presented to the Director of Public Works for the issuance of an excavation opening permit, within 30 days from the date of the last utility approval. After the expiration of this thirty-day period, the application shall become null and void and shall have to be renewed.

§ 186-5 Fees. [Amended 4-7-2003]

A fee established by the City Council after a public hearing shall be paid for each excavation opening permit or renewal thereof. When required by the provisions of this article, additional charges for resurfacing the excavation for which a permit is requested shall be paid to the City before issuance of the permit. When additional charges for resurfacing are required by the provisions of this article, these charges shall be computed from the table of charges per square yard set forth in this section. Each opening permit may be assessed two (2) fees: an administrative charge and a permanent pavement restoration charge as follows:

A. Administrative: This fee shall reimburse the City for the direct cost of labor and equipment necessary to administer the rules and regulations of this article and the rehabilitation of the city streets primarily due to excavations.

B. Permanent pavement restoration: This fee shall cover the City’s cost of permanently restoring the disturbed pavement area.

Effective [Date of enactment of this amendment], all fees and charges collected by the Administrator in the issuance of permits pursuant to this article shall be placed in a fund dedicated and utilized solely for the administration of this article and the rehabilitation of city streets primarily due to excavations.

A. Street opening charges and sidewalk opening charges shall be applicable as follows:

B. (Reserved)

C. Special conditions:

(1) There will be a minimum charge made for any street or sidewalk opening equivalent to two square yards, assessed at the appropriate unit rate above.

(2) There will be a minimum charge made for a street or sidewalk opening equivalent to two square yards for bar holes used for testing gas and water lines, assessed at the unit rate above.
(3) Where three or more street openings are made in sequence, 15 feet or less, center to center between each adjacent opening, the permittee shall be charged for one opening measured from the first opening to the last opening.

(4) For street openings exceeding 100 square yards, the permittee may request the City's permission to contract privately for the street or sidewalk repairs. If the City agrees, the permittee shall post a bond for the estimated amount of street opening multiplied by the appropriate unit rates above, as approved by the Director of Public Works. Street repair shall be done to City specifications and is subject to inspection by the Director of Public Works and/or the City Engineer. The City may charge the permittee for engineering and inspection charges incurred during the street excavation and repair work. The City may require a complete overlay at the permittee's expense.

(5) When a permittee is granted permission to permanently repair an excavation, the City may send an on-the-job inspector, and the permittee shall be charged $10 per hour for the services of such inspector.

(6) The City shall perform required restorations of any excavation permitted under the terms of this article which permitted excavation is 100 square yards or less in surface area. The cost of such restorations shall be paid by the permittee prior to issuance of the permit in accordance with the terms of this section, except that upon written request by a utility and approval by the Director of Public Works, the utility may contract privately to repair the street and or sidewalk, all work to be done in accordance with Subsection C(1) and (5) above.

§ 186-6 Deposits. (Reserved)

A. Special deposits. The application for an excavation permit to perform excavation work under this article shall be accompanied with a check deposit, made out to the City of Saco, Maine, to be deposited with the Director of Finance in accordance with the rates set forth herein.

B. Purpose. Any special deposit made hereunder shall serve as payment for the permanent repair of the excavation after the excavation work is completed and proper time has elapsed for settlement and the repair of said settlement by the permittee.

C. Refund or billing. Upon the completion of the excavation work and after settlement has stabilized, a measurement shall be made by the City of the size of the opening, and a bill or refund will be mailed to the permittee depending upon the cost of said opening to be repaired. The cost of the repair of openings will be a factor of the total number of square yards multiplied by the rate set forth herein.

D. Public utility companies. Where excavations are made by public utility companies operating under a franchise issued by the City or under the supervision of the Public Utility Commission or utilities operated by governmental agencies, a permit may be granted without making such deposits. In such cases, the utilities shall be liable for the cost of the repair of the opening, which is a factor of the total amount of square yards multiplied by the rate set forth herein. However, the City may, in the future, require such deposits from any utility if a bill rendered in accordance with this article remains unpaid 60 days after the date of billing.

§ 186-7 Clearance for vital structures.

The excavation work shall be performed and conducted so as not to interfere with access to fire hydrants, fire stations, valve housing structures, traffic signal cables and loops and all other equipment as designated by the City.

§ 186-8 Protective measures and routing of traffic.

A. The permittee shall, in general, maintain safe crossings for two lanes of vehicle traffic at all street intersections where possible and safe crossings for pedestrians at intervals of not more than 200 feet. If any excavation is made across any public street, alley or sidewalk, adequate crossings shall be maintained for vehicles and for pedestrians. If the street is not wide
enough to hold the excavated material without using part of the adjacent sidewalk, a
passageway at least 1/2 of the sidewalk width shall be maintained along such sidewalk line.

B. It shall be the duty of every permittee cutting or making an excavation in or upon any public
place to place and maintain barriers and warning devices necessary for the safety of the
general public. Traffic control in the vicinity of all excavations affecting vehicular,
pedestrian and bicycle traffic shall be subject to final review and approval of the Traffic
Engineer or his/her designated representative.

C. Barriers, warning signs, lights, etc., shall conform to the latest edition of the Manual on
Uniform Traffic Control Devices. Warning lights shall be electrical markers or flashers used
to indicate a hazard to traffic from sunset of each day to sunrise of the next day. Electrical
markers or flashers shall emit light at sufficient intensity and frequency to be visible at a
reasonable distance for safety. Reflectors or reflecting material may be used to supplement,
but not replace, light sources.

D. The permittee shall take appropriate measures to assure that during the performance of the
excavation work, traffic conditions as near normal as possible shall be maintained at all
times so as to minimize inconvenience to the occupants of the adjoining property and to the
general public.

E. When traffic conditions permit, the Traffic Engineer/Public Works Director or his/her
designated representative, with the approval of the Police and Fire Departments of the City,
may, by written approval (or by verbal approval in case of emergency), permit the closing
of streets and alleys to all traffic for a period of time prescribed by him/her, if in his/her
opinion it is necessary. The written approval of the Public Works Director/Traffic Engineer
of the City may require that the permittee give notification to various public agencies and to
the general public. In such cases, such written approval shall not be valid until such notice is
given. In case of emergency on weeknights, weekends or holidays, the utility company
having such emergency shall contact the Police and Fire Departments by phone before
closing a street to traffic, except in a case of immediate hazard of loss of life or serious
property damage, in which event prompt notice of closing shall be given.

F. Warning signs shall be placed far enough in advance of the construction operation to alert
traffic within a public street, and cones or other approved devices shall be placed to channel
traffic in accordance with the instructions of the Public Works Director/Traffic Engineer
of the City, after his/her review of the proposed traffic control measures for the project.

G. The permittee shall hereby be informed that the Public Works Director/Traffic Engineer of
the City will require special police protection at locations where the permittee, by his/her
work, interferes with school walk routes or crossing locations.

H. The permittee is also informed that construction activities (unless an emergency condition
exists) shall not interfere with the normal flow of traffic on arterial streets of the City,
except to the extent and under conditions approved by the Public Works Director/Traffic
Engineer and Police and Fire Departments. The full roadway lane width shall be maintained
between the hours of 6:45 a.m. and 8:30 a.m. and between the hours of 4:00 p.m. and 9:00
p.m.

I. The permittee may shift traffic to the opposite side of the roadway to maintain the above
required lane width. The permittee may only make such a shift with the approval of the Public
Works Director/Traffic Engineer, following proper review of detour plans to ensure
adequate, safe two-way traffic flow and proper number and placement of police officers.

§ 186-9 Relocation and protection of existing utilities.
The permittee shall not interfere with any existing facility without the written consent of the City
and the owner of the facility. If it becomes necessary to relocate an existing facility, this shall be
done by its owner. No facility owned by the City shall be moved to accommodate the permittee
unless the cost of such work shall be borne by the permittee. The cost of moving privately owned
facilities shall be similarly borne by the permittee, unless it makes other arrangements with the
person owning the facility.

A. The permittee shall support and protect, by timbers or otherwise, all pipes, conduits, poles,
wires or other apparatus which may be in any way affected by the excavation work and do
everything necessary to support, sustain and protect them under, over, along or across the
work. The permittee shall secure approval of method of support and protection from the
owner of the facility.

B. In case any pipes, conduits, poles, wires or apparatus should be damaged, and for this
purpose pipe coating or other encasement or devices are to be considered part of a
substructure, the permittee shall promptly notify the owner thereof. All damaged facilities
shall be repaired by the agency or person owning them, and the expense of such repairs
shall be charged to the permittee.

C. It is the intent of this section that the permittee shall assume all liability for damage to
facilities, and any resulting damage or injury to anyone because of such facility damage and
such assumption of liability is a contractual obligation of the permittee. The only exception
will be such instances where damage is exclusively due to the negligence of the owner of
the facility. The City shall not be made a party to any action because of this section. The
permittee shall inform itself as to the existence and location of all underground facilities and
protect the same against damage.
§ 186-10 Abandonment of substructure.
A. Whenever the use of a substructure is abandoned, except the abandonment of service lines
designed to serve single properties, the person or utility owning, using or controlling such
substructure or having an interest therein shall, within 30 days after such
abandonment, file with the City a statement, in writing, giving in detail the location of the
substructure so abandoned. If such abandoned structure is in the way or subsequently
becomes in the way of an installation of the City or any other public body, the owner of
such substructure shall establish if the substructure is abandoned and make the first cut or
tan before allowing the substructure to be removed by the excavator.
B. When gas or other flammable service to buildings is discontinued, the existing service line
for such service shall be terminated at a point outside the building.

§ 186-11 Protection of public property.
The permittee shall not remove, even temporarily, any trees or shrubs which exist in the street
area without first obtaining the consent of the appropriate City department or City official having
control of such property.

§ 186-12 Excavated material.
A. All work shall be conducted in strict accordance with the latest regulations of OSHA for
excavations.
B. All excavations shall be performed in accordance with the City of Saco Department of Public
Works specifications or in a manner prescribed by the Public Works Director for
circumstances not covered by the specifications.
C. All material excavated from trenches and piled adjacent to the trench or in any street shall be
piled and maintained in such manner as not to endanger those working in the trench,
pedestrians or users of the streets and so that as little inconvenience as possible is caused to
those using streets and adjoining property.
D. Where the confines of the area being excavated are too narrow to permit the piling of
excavated material beside the trench, the City shall have the authority to require that the
permittee haul the excavated material to a storage site and then reload it to the trench site at
the time of backfilling.
E. It shall be the permittee's responsibility to secure the necessary permission and make all
necessary arrangements for all required storage and disposal sites.
F. All material excavated shall be laid compactly along the side of the trench and kept trimmed
so as to cause as little inconvenience as reasonably possible to vehicular and pedestrian
traffic or as specified by the City. Whenever necessary in order to expedite the flow of
traffic or to abate the dirt or dust nuisance, toe boards or bins may be required by the City to
prevent the spreading of dirt into traffic lanes.

§ 186-13 Breaking through pavement in streets.
A. All excavations on paved street surfaces shall be precut in a neat straight line with pavement
breakers or saws.
B. Heavy-duty pavement breakers may be prohibited by the City when the use endangers
existing underground facilities or other property.
C. Cutouts of the trench lines must be normal or parallel to the trench line.
D. Pavement edges shall be trimmed to a vertical face and neatly aligned with the center line of
the trench.
E. Unstable pavement shall be removed over caveouts and overbreaks, and subgrade shall be
treated as the main trench.
F. The permittee shall not be required to pay for repair of pavement damage existing prior to
the excavation, unless his/her cut results in small floating sections that may be unstable, in
which case the permittee shall remove the unstable portion and the area shall be treated as
part of the excavation.
G. When three or more street openings are made in sequence (15 factor less, center to center,
between each adjacent opening), the permittee shall neatly cut and remove the area of
pavement between these adjacent openings and shall patch as one trench.

§ 186-14 Breaking through pavement in sidewalks.
A. All parts of § 186-13 shall apply to this section in all cases except gravel sidewalks.
B. On concrete sidewalks, all cuts shall be made from the nearest joint or score line on one side
of the excavation to the nearest joint or score line on the other side of the excavation.
C. All bricks in the way of excavation shall be removed by the permittee prior to the work to be done and transported to a storage site to be selected by the City.

§ 186-15 Backfilling.
Upon completion of the utility installation, the trench shall be backfilled to the grade of the underside of the surfacing material.

A. Trench backfilling; paved areas. In paved areas, the backfill material shall be that excavated material which the inspector deems suitable and which the excavator may have stockpiled or it shall be a granular material from off site. Granular material for trench backfill shall be approved by the inspector and shall meet the requirements of the American Association of Highway Officials (AASHO) Specification M145-49, Classification A-3 or better. No stones over three inches in size, roots or other organic matter or frozen material will be allowed in the backfill material.

(1) The backfill shall be placed and compacted in layers not exceeding nine inches in depth. The moisture content of the fill material shall be such that 95% of optimum density, as determined by field tests, may be obtained. The maximum density shall be determined in accordance with AASHO Specification T180, Method C or D. The inspector shall reserve the right, if in his/her opinion the compaction is not adequate, to perform such tests necessary to confirm that the required compaction has been attained. The cost of such tests shall be borne by the excavator should they not meet the above requirements. If it is found that the above requirements have not been met, the excavator shall recompact and/or reexcavate and compact as necessary until the density requirements have been met. Compaction methods shall be the option of the excavator, provided that required densities can be met without disturbing or damaging existing facilities.

(2) Minimum depths of base and subbase materials in paved areas shall be those required under this article, unless existing conditions exceed these minimums.

B. Trench backfilling; nonpaved areas. For nonpaved areas the trench may be backfilled with excavated material or with granular material described as specified in Subsection A above. The material shall be placed in layers not to exceed two feet and compacted to assure a reasonably firm mass and to minimize subsequent settlement. Specific density requirements will not apply in these areas except that the permittee shall maintain any apparent trench settlement for a period of six months after the excavation has been completed.

§ 186-16 Restoration of surface in streets and sidewalks.
A. By City. Permanent resurfacing of excavations shall be made by the City. Temporary resurfacing by the permittee.

-The top surface of the backfill shall be covered with three inches compacted depth of bituminous temporary resurfacing material by the permittee. Such temporary paving material shall be cold mix, except that the permittee may use or the City may require hot mix. All temporary paving material shall conform closely enough to the level of the adjoining paving surface and shall be compacted so that it is hard enough and smooth enough to be safe for pedestrian travel over it, as well as for vehicular traffic to pass safely over it at a legal rate of speed. The permittee shall maintain temporary paving for a period not exceeding six months after all backfilling is completed and shall keep the same safe for pedestrian and vehicular traffic until the excavation has been resurfaced with permanent paving by the City, except that if it is not possible to maintain the surface of the temporary paving in a safe condition for pedestrian travel or vehicular traffic, then the permittee shall maintain barriers and light where required herein.

B. By permittee. Permanent resurfacing by the City.

Upon completion of the backfilling and temporary resurfacing of an excavation within a public place for the installation or removal of a substructure, the City, at its option, may allow the permittee to: the City shall permanently resurface that portion of the street surface damaged by the permittee's excavation, except that upon written request by a utility and approval by the Director of Public Works, the utility may contract privately to repair the street and/or sidewalk, all work to be done in accordance with City standards, in which event permanent resurfacing shall be done in a manner and under specifications prescribed by the City and shall be completed within a period of 90 days after such authorization to complete final resurfacing. If such permanent resurfacing is satisfactory to the City, all charges for resurfacing, except for City inspection charges as hereinbefore set forth, will be canceled. The cost to complete the permanent resurfacing work by the City will be paid through the Permanent Pavement Restoration Fee that is assessed to the permittee as part of the Opening Permit application.

C. Refilling of bar holes. Any person or utility making bar holes in the street or sidewalk area of any public way shall, immediately upon completion of the work, fill these bar holes by the method set forth below:

(1) Plugging of bar holes. Bar holes shall be plugged by the use of Plug-R asphalt plugs made by the Package Pavement Company, Stormville, New York, or approved equal.

(2) The size of the asphalt plug to be used shall be as follows:
<table>
<thead>
<tr>
<th>Size of Plug (inches)</th>
<th>Approximate Drill Size (inches)</th>
<th>Top Diameter Plug (inches)</th>
</tr>
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<tr>
<td>3/4</td>
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</tr>
<tr>
<td>1 3/4</td>
<td>2</td>
<td>2 1/4</td>
</tr>
</tbody>
</table>

D. Unfilled bar holes. Any bar holes left unfilled will be repaired by the City, and the minimum two square yards per hole will be charged to the permittee at the rate set forth herein.

§ 186-17 Restoration of surface in sidewalks. (Reserved)
A. By City. Permanent resurfacing of excavations in the sidewalk area shall be made by the City. If a large amount of square yardage is involved, 100 square yards or over, the permittee may repair the sidewalk area under the direct supervision and specifications of the City.
B. By permittee. Upon completion of the backfilling on brick, cement concrete and bituminous concrete sidewalks, the permittee shall place two inches of temporary paving material (cold mix) on the top surface of the backfill to protect the pedestrian travel on the sidewalk excavated and shall maintain such temporary patch for six months after the backfilling is completed.

§ 186-18 Trenches.
The maximum length of open trench permissible at any time shall be 100 feet, and no greater length shall be opened for pavement removal, excavation, construction, backfilling, patching or other operation without the written permission of the City. No trench exceeding five feet in length shall remain open through night hours or nonworking days without the written permission of the City, which permission may be made conditional upon having the excavation guarded or protected by a watchman, at the permittee's expense, 24 hours a day. Trenches shall be at a width that will allow the backfill materials to be thoroughly compacted. When an excavation is within a paved area, the trench area within the pavement and road or sidewalk base area shall not be less than 24 inches in width.

§ 186-19 Prompt completion of work.
After an excavation is commenced the permittee shall pursue, with diligence and expedition, all excavation work covered by the excavation opening permit and shall promptly complete such work and restore the street disturbed area as specified herein. The permittee shall perform such restoration work so as not to obstruct, impede or create a safety hazard to public travel by foot or vehicle. The permittee must renew the excavation opening permit far enough in advance of the expiration date if the terms of the permit have not been completed before expiration.

§ 186-20 Urgent work.
When traffic conditions, the safety or convenience of the traveling public or the public interests requires that the excavation work be performed as emergency work, the City shall have the full power to order, at the time the permit is granted, that a crew of men and adequate facilities be employed by the permittee beyond normal working hours, including up to 24 hours a day to the end, that such excavation work may be completed as soon as possible.

§ 186-21 Emergencies.
A. Nothing in this article shall be construed to prevent the making of such excavations as may be necessary for the preservation of life or property or for the location of trouble in conduit or pipe or for making repairs, provided that the person making such excavation shall apply to the City for such a permit on the first working day after such work is commenced. Before any excavation work is started, the person or utility excavating must contact all utilities or persons owning oil pipelines in the area for on-the-spot locations.
B. Within 15 days after commencing any such emergency excavation, the person performing such emergency excavation shall make a detailed report thereof to the Director of Public Works, who shall review the same to determine whether or not such excavation was of an emergency nature. No further permits under this section shall be issued to the person or utility making such excavation after the expiration of the fifteen-day period until such report has been submitted.

§ 186-22 Noise; dust and debris.
Each permittee shall conduct and carry out excavation work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. The permittee shall take appropriate measures to reduce, to the fullest extent practicable in the performance of the excavation work, noise, dust and unsightly debris and between the hours of 10:00 p.m. and 7:00 a.m. shall not use, except with the express written permission of the City or in case of an emergency as herein otherwise provided, any tool, appliance or equipment producing noise of sufficient volume to disturb the sleep of occupants of the neighboring property.
§ 186-23 Monuments.
Any monument set for the purpose of locating or preserving the lines of any street or property subdivision or a precise survey reference point or a permanent survey benchmark within the City shall not be removed or disturbed or caused to be removed or disturbed without first obtaining permission, in writing, from the City to do so. Permission to remove or disturb such monuments, reference points or benchmarks shall be granted only when no alternate route for the proposed substructure or conduit is available. If the City is satisfied that no alternate route is available, permission shall be granted only upon the condition, by an agreement in writing, that the person or utility applying for such permission shall pay all expense incident to the proper replacement of this monument by the City.

§ 186-24 Granite curb.
No person or utility shall remove, damage, haul away or cause misalignment of any granite curbing, including radius curb and catch basin stones, for any reason whatsoever without first receiving written permission from the City. Any curb missing, damaged or misaligned shall be replaced by the contractor.

§ 186-25 Bituminous and concrete curb.
Any person or utility damaging bituminous and concrete curbing during the course of excavation work or for any other reason shall be charged for the repair or replacement of the bituminous and concrete curbing at the rate set forth herein.

§ 186-26 Denial of permit; arterial streets.
A. The Director of Public Works may, at his/her discretion, deny any street opening permit if he/she feels, in his/her judgment, such excavation would endanger the life or property of Saco citizens or if such excavation would endanger the general public or interfere with snow maintenance. The denial may be appealed within 30 days to the Saco City Council, and all denials by the Director of Public Works shall be made in writing to the applicant. Street opening permits for arterial streets will not be granted between December 1 and April 1 of each year, unless it can be shown that denial will create an undue hardship.

B. The arterial streets are Main Street, U.S. Route No. 1, Beach Street, North Street, Industrial Park Road and Bradley Street.

§ 186-27 Installation of facilities.
A. No person or utility shall, without written permission of the City, install any facility, except manholes, vaults, valve casings, culverts and catch basins, at a vertical distance less than 24 inches below the established flow line of the nearest gutter in street areas. If the flow line is not established, then the depth shall be at a minimum of 24 inches below the surface of the nearest outermost edge of the traveled portion of the street.

B. Other public places. The minimum depth of any facility on any other public place shall be 18 inches below the surface; provided, however, that the City may permit a lesser depth in special cases.

C. Nothing in this section shall impose a duty upon the permittee to maintain said specifications as required herein upon subsequent changes of grade in the surface, unless the grade in the facility interferes with the maintenance of or travel on a public street.

§ 186-28 Inspections.
The City shall make such inspections as are reasonably necessary in the enforcement of this article. The City shall have the authority to promulgate and cause to be enforced such rules and regulations as may be reasonably necessary to enforce and carry out the intent of this article.

§ 186-29 Maps.
Every person or utility owning, using, controlling or having an interest in substructures under the surface of the public way used for the purpose of supplying or conveying gas, electricity, communication, impulse, water, steam, ammonia or oil in the City shall file with the City, after the adoption of this article, a map or set of maps, each drawn to scale commonly used by the utility, showing in detail the plan, location, size and kind of installation of all new and/or renewed substructures except service lines designed to serve single properties. These maps shall be provided to the City no later than 60 days after the completion date of construction.

§ 186-30 Liability of City.
This article shall not be construed as imposing upon the City or any official or employee any liability or responsibility for damages to any person injured by the performance of an excavation work for which an excavation permit is issued hereunder, nor shall the City or any official or employee thereof be deemed to have assumed any such liability or responsibility by reason of inspections authorized hereunder, the issuance of any permit or the approval of any excavation work.

§ 186-31 Insurance.
A Public Liability Insurance Certificate naming the City as an additional insured shall be provided by the licensed contractor. The permittee shall maintain during the life of this any opening permit the following insurance, which shall be made a part of the permit application:
A. Bodily injury liability and property damage liability insurance. The contractor shall take out and maintain during the life of this permit such bodily injury liability and property damage liability insurance and automobile bodily injury liability and property damage liability insurance as shall protect him and any subcontractor performing work covered by this permit from claims for damages for personal injury, including accidental death, as well as from claims for property damage which may arise from operations under this permit, whether such operations be by himself or by any subcontractor or by anyone directly or indirectly employed by either of them, and the amounts of such insurance shall not be less than the following: [Amended 4-18-2000]

(1) Bodily injury liability insurance, in an amount not less than $1,000,000 for injuries, including wrongful death to any one person, and subject to the same limit for each person in an amount not less than $1,000,000 on account of one accident.

(2) Property damage insurance, in an amount not less than $2,000,000 for damages on account of any one accident and in an amount not less than $2,000,000 for damages on account of all accidents.

§ 186-32 Reconstructed or repaved streets.
Whenever the City has developed plans to reconstruct a street, the City or its representative shall give written notice thereof to all abutting property owners, the City departments and to all public utilities or persons who or which have or may wish to lay pipes, wires or other facilities in or under the highway. Upon receipt of such written notice, such person or utility shall have 60 days in which to install or lay any such facility. If an extension of time is needed by a person or utility for the installation of such facilities, the person or utility shall make a written application to the City explaining fully the reasons for requesting such an extension of time. At the expiration of the time fixed and after such street has been reconstructed, no permit shall be granted to open such street for a period of five years, unless an emergency condition exists or unless the necessity for making such installation could not reasonably have been foreseen at the time such notice was given.

§ 186-33 Violations and penalties.
Any person, firm or corporation who or which violates any of the provisions of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $25 and not more than $100. Each day such violation continues shall constitute a separate offense.

A. If the work or any part thereof mentioned in the preceding sections of repairing or backfilling the trenches or excavations aforesaid shall be unskillfully or improperly done, the City shall cause the same to be skillfully and properly done and shall keep an account of the expense thereof; and in such case such person or utility shall pay the City an amount equal to the whole of the expense incurred by the City, with an additional amount of 50%. Thereafter, upon completion of the work and the determination of the costs thereof, the City shall issue no further or new permits to any person or utility until it shall receive payments of said costs.

B. Any person or utility who or which continues to violate any section of this article shall receive no further permits until such time as the City is satisfied that the person or utility shall comply with the terms of this article.

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**PROPOSED FEE SCHEDULE**

**CITY OF SACO**

**Fee Schedule (July 1, 2017)**

<table>
<thead>
<tr>
<th>Code</th>
<th>Subject</th>
<th>Amounts</th>
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</thead>
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<tr>
<td></td>
<td>Street Opening Permit Application Fee</td>
<td>$30.00 per each</td>
</tr>
<tr>
<td></td>
<td>Driveway Opening Permit Application Fee</td>
<td>$10.00 per each</td>
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<tr>
<td></td>
<td>Contractor License Fee</td>
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<tr>
<td></td>
<td>Inspection Fee</td>
<td>$25.00 per each</td>
</tr>
<tr>
<td></td>
<td>Permanent Pavement Restoration Fee</td>
<td>$25.00 per square yard</td>
</tr>
</tbody>
</table>

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**BEGIN**

Will Planned Construction Activity Extend into any Public Place?

- NO
  - No Opening Permit Required

- YES
VIII. COUNCIL DISCUSSION AND COMMENT

- Councilor Gay – Thanked Police and Fire Dept. for coming over to his house on Sunday for an emergency. They did a very good job.

- Councilor Roche – Budgets - Wanted to briefly go over the January financials knowing that we have a School Board meeting on March 8th to talk about the financial state of the schools and their potential budget cuts coming up. The January financials we are on expenses about $1 million ahead of budget 7 of 12 months in? City Administrator Kevin Sutherland stated according to the January numbers it is about $900,000. Councilor Roche noted that this format is supposed to account for seasonality in the year to date budget correct? Is this $1 million in savings expected to go up, stay about the same or be eaten into? The City Administrator noted that there is paving that didn’t happen in the Fall and it will need to happen in the Spring for about $400,000, there is a 3rd payment in March for payroll because it is on a every other week period and 2 times during the year it is 3 times a month and there are about $400,000 in purchase order so it comes to roughly $1.2 million total. Also February was a tough winter month so that number will get smaller every month. Even though we plan for seasonality it doesn’t mean necessarily happens in January or February. On the revenue side a big piece of that was that property taxes were paid a little earlier than what would normally show. Councilor Roche asked if we went the next 5 months excluding those events we could still be more ahead than we are? The City Administrator noted it could be but he didn’t think it would be near that. Councilor Roche inquired know that the school could be an issue is there any action the city could do to hold the line on spending considering some paving projects that are coming up in the Spring that may be delayed? The City Administrator didn’t advise shifting the infrastructure policies that you have in place for this, I would advise maybe holding the line on any hiring and any unnecessary expenditures. If the Council feels we need to save on the city side to support the school, the expenditures have to be approved by the Administrator as that sort of approach rather than derailing any of the efforts. The City of Saco is in a real good place when it comes to planning for its roads and road maintenance. 

CITY OF SACO
OPENING PERMIT PROCESS FLOW CHART
would hate to see that get deteriorated for a one-time problem. Councilor Roche noted that he didn’t think the paving would eat into this too much and since being on the Council this hasn’t come into fruition. On the revenue side the city is $1.4 million ahead alone on the property tax alone. How much was that people taking advantage of writing off their taxes for 12/31. City Administrator Kevin Sutherland replied $1.1 million. Councilor Roche inquired what it was last year? The City Administrator speculated that it was about the same. Councilor Roche felt that some of that was permanent and real for higher property taxes and about 1/3 was excise taxes from Enterprise. The City Administrator confirmed that was correct. Councilor Roche noted that the city was $1.2 million ahead of budget in last year and he didn’t see anything here that would prevent the city from being $1.2 again this coming year. The city is $2.2 million ahead total and it will be eaten into because of timing but the $2.2 million combined with expenses and revenues I think we can be at $1.2 million. I don’t think we will eat more than $1 million on that. Can you tell me different? Mayor Michaud inquired if it was fair to say that Councilor Roche was looking for some funds to help minimize the potential impact of the upcoming school budget? Councilor Roche stated “yes” to see where we are at. Mayor Michaud noted that the city would be meeting with the school next week in workshop and if you have any ideas we can discuss them. Those are valid questions. Can we use the excess funds that we generate this year in either revenue or savings on one side of the budget to deal with the other side of the budget to avoid a tax increase? Councilor Roche noted that there are no decisions here, this is just to get numbers out on the table and again prove that the city spending goes up the same amount as the school. I know the school is a bigger pie but it gets a bigger percent of reimbursement too. If we are all accepting of the average tuition in state that T.A. charges can go up 4% I don’t see where public schools would get allot less than that or even cuts. We have things to talk about as far as the structures of the school. But in the current environment that we live in now I don’t see how it would be that much different than the average tuition that T.A. is allowed to charge.

Councilor Doyle – Ad Hoc Committee – I would be remiss if I didn’t speak about the ad hoc committee and why Councilor Minthorn the champion of the idea is not on the ad hoc committee. Mayor Michaud stated that as he looked at the Councilors involved and when he wants to get something done he makes sure he gets as many votes as he can on it and so people who are not necessarily in favor of it you have them work on it and you can maybe gain their support of the item as it moves forward. So it is a balance.

IX. EXECUTIVE SESSION

Councilor Minthorn moved, Councilor Gay seconded “Be it ordered that the Saco City Council, Pursuant to [M.R.S.A. Title 1, Chapter 13, Subchapter 1, §405 (6) (E)] move to enter into Executive Session to discuss: potential litigation by a former employee (Bernaiche)” . The motion passed with seven (7) yeas. Time: 7:15 p.m.

X. REPORT FROM EXECUTIVE SESSION

Councilor Gay moved, Councilor Precourt seconded to move from the Executive Session. The motion passed with seven (7) yeas. TIME: 7:49 p.m.

Mayor Michaud conducted a roll call of the members 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.

There was no report this evening.

XI. ADJOURNMENT

Councilor Minthorn moved, Councilor Johnston seconded to adjourn the meeting at 7:40 p.m. The motion passed with seven (7) yeas.

Attest: ________________________
Michele L. Hughes, City Clerk