

MEETING ITEM COMMENTARY

- AGENDA ITEM:** (New Business) Saco Citizens Grievance Review Committee Update
- COUNCIL RESOURCE:** Councilor Philip Hatch, Ward 5
- STAFF RESOURCE:** John P. Bohenko, City Administrator
- BACKGROUND:** Enclosed is a PDF file containing the final report from the Saco Citizens Grievance Review Committee. The content of the report has been thoroughly reviewed by the three Ad Hoc committee members and is provided for presentation and review.
- It is anticipated that Councilor Hatch will introduce and summarize the report at the beginning of the presentation, allowing Councilor Gunn and Councilor Hatch opportunities for input.
- EXHIBITS:** 1. Saco Citizen Grievance Review Committee Memorandum with attachments
- RECOMMENDATION:** Staff recommend that City Councilors review the information and ask any questions.
- MOTION:** As this is a New Business item, no motion is necessary this evening.

MEMORANDUM
July 14, 2025

TO: Mayor Jodi MacPhail, Saco City Council, and City Administrator John Bohenko

FROM: Saco Citizen Grievance Review Committee (Ad Hoc)
Joseph Gunn, Ward 3 City Councilor
Phil Hatch, Ward 5 City Councilor
Nathan Johnston, Ward 7 City Councilor

RE: Final Report

At the December 16, 2024, meeting of the Saco City Council, the City Council considered the following four motions brought forth by Councilor Phil Hatch, Ward 5:

Motion 1: *"I move to remove the item from the table."* (NOTE: The item was previously tabled on December 9, 2024) Motion passes 7-0.

Motion 2: *"I move to acknowledge receipt of the Citizens' Grievance Petition December 2024 Follow-up."* Motion passes 7-0.

Motion 3: *"Be it ordered, that the City Council authorize the creation of a Mayor's ad hoc committee for the purpose of reviewing and evaluating the Grievance Petition dated August 11, 2023, and acknowledged by the City Council on September 26, 2023, and the Citizens Grievance Petition: December 2024 Follow-up, acknowledged by the City Council on December 16, 2024. The subcommittee shall report its findings and recommendations to the Mayor and full City Council by June 30, 2025."*

"I move to approve the order." Motion passes 7-0.

Motion 4: *"Be it ordered that the City Council confirm the Mayor's appointments of the following City Councilors to serve on the Mayor's Ad Hoc Citizen Grievance Committee:*

- 1. Joe Gunn*
- 2. Nathan Johnson*
- 3. Phil Hatch"*

"I move to approve the order." Motion passes 7-0.

Copies of the grievance petitions are attached as Exhibit 1.

The Saco Citizen Grievance Review Committee (SCGRC) held meetings to address all submitted grievance issues on January 29, February 19, March 5, April 9, April 30, May 21, June 4, and June 11. All meetings were open to the public, and public comments were welcome and received.

Saco City Code Chapter 4, Article VII, Boards, Commissions, and Committees, § 4-34 Planning Board (Amended 12-14-2020) outlines the Planning Board's role. For reference, a copy of that City Code section is attached to this memorandum as Exhibit 2.

Before the December 16, 2024 City Council vote and after the original citizen petition date, the Planning Board adopted a comprehensive set of Standard Operating Procedures (PBSOP) on December 5, 2023. The Planning Board later revised the PBSOP on May 28, 2024. The PBSOP serves as a written guide for Planning Board members, outlining their actions and duties. The PBSOP document is attached to this memorandum as Exhibit 3.

The SCGRC referenced both City Code and the PBSOP documents during its deliberations, along with other relevant information, to establish the basis of its recommendations (**all in red**) that follow.

Original Grievance Petition (July 12, 2023)

The original grievance document requested that the Mayor and City Council “*address serious questions regarding the manner in which some members of the Saco Planning Board and city staff conducted themselves during the hearings and deliberations (May & June 2023) pertaining to the Lincoln Village Subdivision, Conditional Use and Site Plan applications including, but not limited to:*

- *Conflicts of interest.*
- *Bias.*
- *Failure to follow appropriate due process.*
- *Failure to follow appropriate procedural requirements.”*

The grievance petition further requested that the City Council take steps to “*strengthen Saco’s Code of Ethics/Conduct, modify and clarify processes related to the review of Planning Board applications, ensure the respectful and equitable treatment of all who attend and participate in the Saco Planning Board process, and to let Saco elected officials know that we feel they are ultimately responsible for the actions of their appointed city officials and city staff.*”

After careful review of the opinions presented in the grievance document, the SCGRC offers the following recommendations for the City Council to consider:

1. Propose additions/modifications to the language contained in **Chapter 4. Administrative Code Article VII. § 4-34. Planning Board** as follows:

- a. Subsection A. Organization:

Add a new paragraph (4)(d) specifying that no more than one member of the Planning Board may have an occupation requiring a Maine real estate broker's license.

Add a new paragraph (4)(e) stating that no more than one Planning Board member may hold a part-time or full-time occupation in real estate construction and/or development.

Add a new paragraph (4)(f) stating that any Planning Board member with an active Maine real estate broker's license or who works part-time or full-time in real estate construction and/or development shall be prohibited from serving as Planning Board Chair or Vice Chair.

Add a new paragraph (6) that prevents any attorney from representing the Planning Board if any member of that attorney's law firm is a duly appointed member of the Planning Board.

Add a new paragraph (7) titled "Planning Board Member Appointments" that formalizes the citizen application process described in the attached Exhibit 4.

The ongoing duties and preparation responsibilities of Planning Board members, as outlined in Exhibit 4 referenced above, are undoubtedly time-consuming and relatively frequent. One might conclude that the time commitment needed to meet the responsibilities of a Planning Board member is slightly less than that of the Mayor, a City Council member, and a School Board member, all of whom receive compensation through citizen-approved stipends. To attract and retain Planning Board members who possess the characteristics detailed in Exhibit 4, the SCGRC also recommends that the City Council consider approving a financial stipend, the amount of which is to be determined, payable to each Planning Board member for every meeting attended, with further consideration given for a smaller stipend for each site walk attended.

2. Propose additions/modifications to the language contained in the above referenced **Planning Board Standard Operating Procedures** as follows:

- a. Section IV. Agendas, Meetings, Communication & Correspondence:
SCGRC recommends that, while retaining separate electronic file links to written public comments in the agenda format, the language should indicate that Planning Board members are permitted to cite public hearing testimony

as a consideration in their deliberations of findings of fact when a specific standard of approval has not been met.

- b. Section VII. Training Requirements. B. Required Training 1. Annual Training:
During the annual Planning Board legal training, the SCGRC recommends that all Planning Board members, after this training, acknowledge with a written signature that they have read, understand, and will adhere to the procedures outlined in the PBSOP.

3. City of Saco Code of Ethics/Conduct, Section 2: Commitment to Ethics and Proper Conduct

The SCGRC recommends that the City Council request that the City Administrator direct staff to enhance public instruction through municipal communication channels on a semi-annual basis regarding how to access and use the “ethics violation reporting mechanism” outlined in Section 2.

In addition to the previously identified recommendations, the SCGRC believes that the following original grievance-related issues have been sufficiently addressed within the PBSOP without needing further modification:

- 1. Failure to follow appropriate due process.
- 2. Failure to follow appropriate procedural requirements.
- 3. Modify and clarify processes related to the review of Planning Board applications.
- 4. Ensure the respectful and equitable treatment of all who attend and participate in the Saco Planning Board process.

Five “call to action” grievance issues (submitted via email November 20, 2024).

- 1. Planning Department and Planning Board deliberations and decisions
See SCGRC recommendations provided above under “Original Grievance Issues.”
- 2. Removal of City Solicitor
After former City Solicitor Murphy retired in early 2025, the SCGRC determined that further examination of this issue was unnecessary and chose not to address it during the committee’s review process.

3. Current status of Contract Zones approved by City Council prior to February 2021

The City Administrator and Planning Department staff, along with appointed legal counsel, are currently reviewing this issue. They are expected to present their findings to the City Council soon. The SCGRC has agreed that all recommendations to the City Council regarding CZA status will stem from this process.

4. Lucia Kimball Deering Trust

In this “call to action,” the citizen petitioners expressed numerous concerns regarding the conduct of the current Board of Trustees, including, but not limited to, adherence to the specific performance requirements outlined in City Code Chapter 15, attached as Exhibit 5. The grievance asserted general allegations related to the lack of transparency in the actions of the current Board of Trustees and conflicts of interest involving the then City Solicitor. The fact that substantial assets of the Trust were disposed of without the City Council’s formal approval, along with questions about the legal validity of those transactions, has also been raised. The detrimental public impact of asset disposition, as well as the significant legal costs incurred by the city in subsequent real estate developer lawsuits, was also noted by the SCGRC.

During its deliberations, the SCGRC received a copy of a legal opinion dated August 12, 2009, from Attorney Kenneth M. Cole III (Jensen Baird Gardner Henry). This opinion was provided to the City of Saco at the request of then Director of Economic Development Peter F. Morelli. The opinion addresses many concerns raised in the grievance and helps clarify the legal status of the Trust.

To establish an additional layer of credibility for his opinion, in his cover letter, Attorney Cole indicated *“some 33 years ago in 1976, I actually did a significant amount of research on this at the time that the action (City of Saco assumes control over the trust) was brought in York County Superior Court when my firm through Morton Henry served as the guardian ad litem for the unknown heirs of Lucia Kimball Deering.”*

The SCGRC focused on this assertion contained within Attorney Cole’s opinion: *“Mrs. Deering’s will did not create a trust. If no trust was created by either the Will or ordinance, the title given to the “Trustees” has given them no special authority or status, and they can be replaced by the City at will. However, even if a trust was created by the original ordinance, the City has the authority to revoke the trust at any time and, therefore, create a new “trust” with new “Trustees.”*

Furthermore, Attorney Cole's opinion, supported by case law, indicates *"The City consequently has the right to terminate it (the Trust), and to compel the reconveyance of any property subject to it."*

The concluding comment in Attorney Cole's opinion follows: *"I see nothing that would prohibit the City Councilors from regulating or changing the terms of the existing Trustees. The bequest was to the City and the City's municipal officers are its City Council. It is within their sole discretion to determine how those funds should be administered, whether by Trustees as been done since the 20's or in any other manner."*

In early April 2025, City Administrator Bohenko was directed by the Mayor and the SCGRC to request a meeting with the Trustees of the Lucia Kimball Deering Trust. During that meeting, City Administrator Bohenko was requested by the SCGRC to obtain Trust-related information that was deemed critically important to the grievance review process. On April 17, 2025, City Administrator Bohenko met with Trustees Jay St. John and Robert Quentin. A summary of that meeting is provided in Exhibit 6, which includes references to some information shared during the discussion. Exhibit 6 also outlines additional information that was requested to be delivered following the April 17th meeting.

Failing to receive a timely response to his April 17 request for additional information, City Administrator Bohenko sent a "reminder" email on April 29 to Trustees St. John and Quentin. In a May 16 response to that "reminder" email, Trustee St. John indicated he would check on the status of the update request with Trustee Quentin. On June 3, City Administrator Bohenko sent a second "reminder" email to Trustee St. John. On June 4, Trustee Quentin responded with most, but not all, of the requested information from the April 17 meeting. The SCGRC proceeded to deliberate with the information they had.

The SCGRC has determined that the Trustees exhibit a somewhat consistent historical pattern of neglecting to meet their responsibilities as outlined in City Code Chapter 15. Funds Article II. Lucie Kimball Deering Hospital Fund § 15-10. Board of Trustees.

Given the comments in the August 12, 2009, legal opinion from Attorney Kenneth Cole to the City of Saco and the need to better align the mission of the Lucia Kimball

Deering Trust with the current Saco Comprehensive Plan, the SCGRC **recommends the following:**

1. The City Council considers voting to relieve all current Trustees, including those Trustees with “lifetime” terms, of their respective appointments due to their alleged failure to properly perform their Trustee-related duties under City Code Chapter 15.
 2. Concurrent with the vote considered in 1. above, the City Council considers requesting that all historical legal and financial records of the Trust be submitted to the City Administrator’s office within 15 days of that vote.
 3. Concurrent with the vote considered in 1. above, the City Council considers requesting that all access to and control of deposit and investment accounts be transferred to the City of Saco Treasurer within 15 days from the date of that vote.
 4. Concurrent with the vote considered in 1. above, the City Council considers temporarily suspending the requirements outlined in City Code Chapter 15 and the Mayor appoints, and the City Council approves the formation of a temporary interim management entity for the Lucia Kimball Deering Hospital Fund.
 5. Subsequent to the formation of an interim management entity contemplated in 4. above, and with assistance from the City Solicitor, the City Council considers evaluating available options for forming a new management entity for the Lucia Kimball Deering Hospital Fund. Concurrent with the establishment of a new management entity, City Code Chapter 15 will need to be re-established by a vote of the City Council to better align with the newly formed entity and the City of Saco Comprehensive Plan.
5. City of Saco Purchasing Policy and RFPs
- Recommendations made under this “call to action” were numerous. The SCGRC identified specific issues deemed worthy of further consideration, creating the potential for significant changes to the City of Saco's Purchasing Policy. The SCGRC believes that the City Administrator and City Staff should first deliberate these policy changes before presenting them to the City Council.

The SCGRC recommends that the City Council conduct a thorough review and, where necessary, modify the City of Saco Purchasing Policy. This process should include, but not be limited to, the issues outlined in “Call to Action – Purchasing Policy, RFP’s, - Pending Grievance – 5th of 5” submitted via email on November 20, 2024. Once that process is complete, a vote of approval by the City Council should be conducted.

In conclusion, the SCGRC devoted considerable time and effort to reviewing the citizen grievance issues as they were presented. As a direct result of this review process, the SCGRC has acknowledged that careful compliance with the City Charter, City Code, City Policies, and Departmental Standard Operating Procedures by all elected officials, staff, citizen appointees, and paid professional appointees is crucial for securing the full faith, confidence, and respect of the citizens being served. The SCGRC hopes that addressing this grievance process serves as both a starting point and a continuation of a more effective and transparent level of municipal governance for the City of Saco.

Respectfully submitted:

Joseph Gunn, Ward 3 City Councilor

Philip Hatch, Ward 5 City Councilor

Nathan Johnston, Ward 7 City Councilor

July 14, 2025 Memorandum
Saco Citizen Grievance Review Committee
Exhibit 1 - Grievance Petitions

July 12, 2023

COPY

Pg 1 of 3

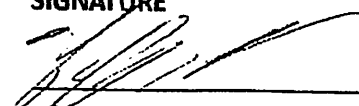
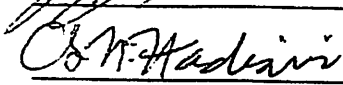
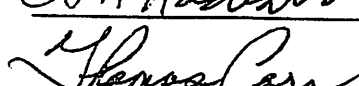
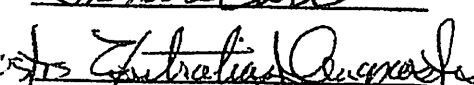
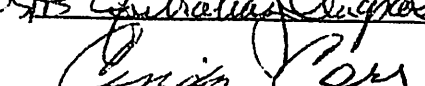

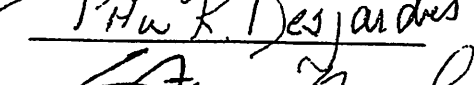
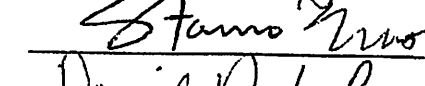
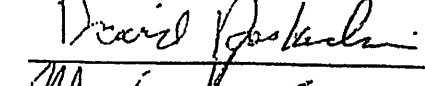

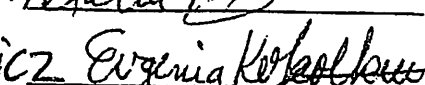
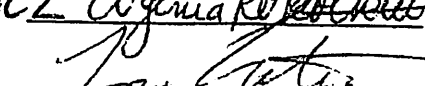
Grievance Petition

"Do you support a grievance being filed with the Saco City Council in accordance with Saco's Charter (Article VII Section 8.01) to ask the City Council to address serious questions regarding the manner in which some members of the Saco Planning Board and city staff conducted themselves during the hearings and deliberations (May & June 2023) pertaining to the Lincoln Village Subdivision, Conditional Use and Site Plan applications including, but not limited to:

- Conflicts of interest.
- Bias.
- Failure to follow appropriate due process.
- Failure to follow appropriate procedural requirements.

The purpose of the grievance to the City Council would be to bring these concerns to the attention of our elected officials in an effort to strengthen Saco's Code of Ethics/Conduct, modify and clarify processes related to the review of Planning Board applications, ensure the respectful and equitable treatment of all who attend and participate in the Saco Planning Board process, and to let Saco elected officials know that we feel they are ultimately responsible for the actions of their appointed city officials and city staff."

MUST BE A REGISTERED SACO VOTER.

	PRINTED NAME	SIGNATURE	ADDRESS
1	✓ BASIL ARABATZIS		52 PLYMOUTH DR
2	✓ CHRIS W. HADJARIOS		16 GRAY AVE.
3	✓ TOM CARR		31 SCRIMSHAW LN.
4	✓ EFSTRATIOS JAVAGNOSTIS		71 KING ST
5	✓ CINDY CARR		31 SCRIMSHAW LN.
6	✓ PETER R. DESJARDINS		42 ROSEWOOD DR. SACO
7	✓ STAVROS NASHI		47 PLYMOUTH DR SACO
8	✓ DAVID DESJARDINS		42 ROSEWOOD DR. SACO
9	✓ MICHELLE BUCURVALAS		35 SCHUL ST SACO
10	✓ EVGENIA KOKOTKIEWICZ		31 PEPPERELL ST.
11	✓ LOUIS COTSIS		131 BEACH ST.
12	✓ PHILIP KOWASH		14 EDGEMOOR LANE

Fwd: Call to Action- Citizens' Pending Grievances- Cover Letter-1st of 5 emails.

Kelley A
 Matthew Provencal
 Matt Dicianni , Jim Molleur
 , Carilyn Lane , Joyce Clark
 , Jeff Brochu , Emily C.
 Prescott , Jodi MacPhail
 , Marshall Archer
 Joshua Parks , Joseph Gunn
 Mike Burman , Phil Hatch
 Tricia Huot , Nathan Johnston
 , John Bohenko , Inga
 Browne , Chelsea Hil
 Michael Dahlem , Doug Edwards

Wed, Nov 20, 2024, 12:25 PM

**[CAUTION: THIS EMAIL ORIGINATED
 FROM OUTSIDE THE CITY OF SACO
 DOMAIN]**

Chair Provencal and Planning Board Members,

As mentioned last night in my Public Comment, citizens have recently brought our pending Grievances to the Mayor, City Administrator, Council, and City Planner. for an Investigation by Council per Charter. As you will read (5 Call to Action emails with supporting documents), some of the content pertains directly to the Planning Department and Planning Board deliberations and decisions. Not only do we have many documents, like the Bluewave Solar project, to eventually present, we are in hopes that your continued critical thinking skills warrant discerning inquiries of the Applicant, their representatives, Staff, Peer reviewers, Conservation Commission, et al, Public, and Public experts as well as, your critical review of any written verbiage being presented (ie..Bluewave Memo, 11/7/2023, pg 6, <https://cms1.revize.com/revize/sacome/PB%20Packet%20Blue%20Wave%20Solar%20Permit%20Ext%20Request%2011.07.23.pdf>). Trust, but verify.

In total transparency to the decision makers of Saco, as I included the Council in this first of

five emails, I have pasted my 11.19.2024 Planning Board Public Comment, (which you requested and did receive last night) below for the council's collective and current review..

Thank you for your time, dedication, and service.

Kelley Archer
Inga Browne
Chelsea Hill
Michael Dahlem

=====

11.19.2024 PB PUBLIC COMMENT

Kelley Archer, 185 Bradley St

I am providing you with an update and I do want to preface that many have witnessed and appreciate this past year's progress. Thank you.

Since the 321 Lincoln Street Appeal Denial in August, Co-filers, Inga Browne and myself, have reopened the citizens pending 2023 Grievance Petition with City Officials. We, and others, met with the Mayor & City Administrator; Inga & I met with the Planner and City Administrator followed by 5 Call to Action emails with supporting documents to the Council. For total transparency, we will be forwarding them to you as it does include zoning issues. During our visit with the Planner and Administrator, we discussed concerns of procedures and processes.

Mr. Chair, your consistent introduction is exceptional.

I do formally request that you remove the phrase " Public Comment to discuss non agenda items and anything nonspecific before the board this evening." as it curtails public input during non Public Hearing agenda items. A recent example was last week,

During the 18 Lund Rd application completeness and upon hearing the Phase 1 & 2 ESA conversation with missing documents, it triggered my attention back to their Jan 18, 2024 Purchase & Sale Agreement, Study Period and Environmental Period & Extension of Study Period with its timetables. Can the applicant provide supporting documentation stating they are in contract or provide the extensions?

Why? Continued Right, Title, and Interest must be assured as you deliberate a pending application or amendment. From Flatley being out of contract for months to my recent

comment to Council, Bluewave Solar project Site Plan and Conditional use Conditions of Approval # 22 stated "If substantial construction is not started within twelve months of this approval, the approval shall be null and void, per Section 1111 of the Zoning Ordinance." This solar project was NULL AND VOID on Nov 9, 2022- 12 months after, not at last November's amendment approval whereby Saco now has a solar farm with no approval. How does that now affect any government approvals? In May, the Maine Supreme Judicial Court favored Mr Dahlem in Dahlem vs City of Saco and ruled that null and void was just that null and void; anything else is illegal.

Lastly, We appreciate the Public guidelines and recent adoption of Standard Operating Procedures; however, out of fairness, where are the guidelines or introduction to the Applicants and/or their reps? Repeatedly, over years, citizens have watched their constant and free access to the podium without protocol. At times, new information was presented after the closing of a Public Hearing. It is not fair or equitable and the optics intimates bias. Applicants should only come to the Podium when requested by Chair or by a member through the Chair. We look forward to fairness in this regard.

Please continue to ask qualifying questions, request documentation, and table any item that does not have full packet disclosure.

Thank you.

=====

----- Forwarded message -----

From: **Kelley A** <karcherkw@gmail.com>

Date: Tue, Oct 29, 2024 at 7:02 AM

Subject: Call to Action- Citizen's Pending Grievances- Cover Letter- 1st of 5 emails.

To: Jodi MacPhail <jmacphail@sacomaine.org>

Cc: Marshall Archer <marcher@sacomaine.org>, Joshua Parks

<jparks@sacomaine.org>, Joe Gunn <JGunn@sacomaine.org>, Mike Burman

<mburman@sacomaine.org>, Phil Hatch <phatch@sacomaine.org>, Tricia Huot

<thuot@sacomaine.org>, Nathan Johnston <njohnston@sacomaine.org>, John

Bohenko <jbohenko@sacomaine.org>, Inga Browne <inga.browne4@gmail.com>,

Chelsea Hill <chelseasmit4@gmail.com>, Michael Dahlem

<mdahlem56@gmail.com>

Mayor, Administrator, and Council,

We believe that it is essential that the City Council has the information and data necessary to make informed decisions when setting policy for the City of Saco.

As a co-filer of the 2023 Citizen's Grievance Petition followed by Council's approval for a Special Hearing on 9/26/2023, I am providing, for the record, the remaining Grievances disclosures with timelines and attachments for your review, considerations, and actions. Due to its length, you will receive this Cover Letter followed by four separate emails: City Solicitor, Contract Zones, and Lucia Kimball Deering Hospital Fund/Kimball Health Center, and Purchasing Policy/RFP's. Thank you in advance for your due diligence and timely attention to this matter.

Timeline:

8/26/2024- CC Public Hearing. I announced the Appeal Denial and subsequent citizen action now being taken on the Pending Grievances

9/24/2024- Meeting with the Mayor. Discussed meeting with John and her asap in regards to City Solicitor's removal for cause and addressing remaining pending citizen's grievances.

ie... Contract Zones, Agreements, and its validity: Lucia Kimball Deering Health Fund/Kimball Health Center, RFP's compliance, fair and equitable, Miscellaneous

10/15/2024- Grievance petition co-filers Kelley Archer and Inga Browne, along with Chelsea Hill, and Michael Dahlem met with City Administrator Bohenko and Mayor MacPhail and discussed citizen's issues concerning the City Solicitor, Contract Zones, Lucia Kimball Deering Trust Hospital Fund/Kimball Health Center, and Purchasing Policy/RFP's will follow under a separate cover and below:

- **Website/other concerns:**

- FOAA's to be listed on Saco's website- (see Biddeford's page- 5 reasons to do so, 4 guidelines, and All FOAA's from 2016 are listed.)
(<https://www.biddefordmaine.org/2374/Freedom-of-Access-Request-Documents>)
- Update all City Boards and Commissions: current Committee members
- Council and Planning Board Packets- **full disclosure of materials are critical for informed decisions.** (Those 14 Members are the decision makers of Saco, except the Planner for minor reviews.)

10/28/2024- Meeting with Planner and City Administrator. Co-filers Kelley Archer and Inga

Browne in attendance. Discussed citizen's grievances regarding the Planning Department and Planning Board and seeking clarification of Planning Department Code Enforcement Offices responsibilities and enforcement; as well as, providing recommendations for best practices regarding protocol and processes.

Due to the delicate nature of the Grievances, we have only verbally received that the Grievances have been heard and are 'in process', and that the Mayor and Administrator wanted to update the Council; therefore, at this moment, we have not received a formal written response from either the Mayor or City Administrator on any of the Grievances.

We have appreciated the Mayor and City Administrator's timely attention to these matters and look forward to a collective response of the issues presented as soon as possible.

Thank you for your deliberations, consideration, and pledge of office to represent your constituents to the very best of your ability.

Thank you.

Kelley Archer
Inga Browne
Chelsea Hill
Michael Dahlem

Fwd: Call To Action- City Solicitor- Pending Grievance-2nd of 5 emails

Kelley A
 Matthew Provencal
 Matt Dicianni
 , Jim Molleur
 , Carilyn Lane
 , Jeff Brochu
 , Joyce Clark
 , Emily C.
 Prescott
 , Jodi MacPhail
 , Marshall Archer
 Joshua Parks
 , Joseph Gunn
 Mike Burman
 , Phil Hatch
 Tricia Huot
 , Nathan Johnston
 , John Bohenko
 , Inga
 Browne
 , Chelsea Hil
 Michael Dahlem
 , Doug Edwards

Wed, Nov 20, 2024, 12:30 PM

Unanswered Email- Removal of City Solicitor_ 5.14.2024.pdf

**[CAUTION: THIS EMAIL ORIGINATED
FROM OUTSIDE THE CITY OF SACO
DOMAIN]**

----- Forwarded message -----

From: **Kelley A** <karcherkw@gmail.com>

Date: Tue, Oct 29, 2024 at 7:03 AM

Subject: Call To Action- City Solicitor- Pending Grievance-2nd of 5 emails

To: Jodi MacPhail <jmacphail@sacomaine.org>

Cc: Marshall Archer <marcher@sacomaine.org>, Joshua Parks

<jparks@sacomaine.org>, Joe Gunn <JGunn@sacomaine.org>, Mike Burman

<mburman@sacomaine.org>, Phil Hatch <phatch@sacomaine.org>, Tricia Huot

<thuot@sacomaine.org>, Nathan Johnston <njohnston@sacomaine.org>, John

Bohenko <jbohenko@sacomaine.org>, Inga Browne <inga.browne4@gmail.com>,

Chelsea Hill <chelseasmit4@gmail.com>, Michael Dahlem

<mdahlem56@gmail.com>

October 29, 2024

Mayor MacPhail, City Councilors, and City Administrator Bohenko:

Over the last three City administrations, citizens have witnessed significant discrepancies in the legal advice provided to Council and Planning Board by the City Solicitor, and thereby have lost trust and confidence in the City's Solicitor's ability to provide consistent, unbiased, and impartial legal opinions. Charter 5.06 is also very clear that the City Solicitor serves as Chief Legal Advisor to all (Council, Mayor, City Administrator, City Departments, boards, agencies, committees and commissions), and therefore, so should his legal correspondence, accordingly; especially to the Mayor and Council to whom the City Solicitor serves at their Will.

The consistent obligatory failure by the City Solicitor to fully inform the Council and all decision-makers as a whole is now a significant detrimental pattern in the official record: written, audio, and/or video, with evidence of "waffling" from one legal opinion to another. A City Solicitor (or any elected, appointed, or employee municipal official) must not act on emotion or upon the pressing desire of any officials' particular agenda, but on the facts presented, checked and cross-checked in accordance with local, state, federal and Case laws.

Saco citizens, Council, and Planning Board Members have witnessed on-the-record statements and advice to sidestep or ignore ordinances and evidence of code violations in order to avoid the cost of litigation. Members must remain accountable and compliant to the Rules they have been entrusted to abide by. City Solicitors should not care more about litigation costs versus laws in place and should not continue to represent the City to repeatedly defend their own errors.

It is clear that the City of Saco cannot move forward when locked in a continuous loop of mediocre and detrimental legal advice and representation.

Citizens did not create this track record, nor did the Mayor MacPhail administration or staff leadership of Mr. Bohenko.

And yet: on September 12, 2023, four City Councilors, Councilors Johnston, MacPhail, Archer, and Hatch, supported the citizens Grievance Petition (as filed with the City

Clerk on August 11, 2023, per Charter 8.01), and invoked Charter 2.08 (A) to schedule a Special Hearing to hear citizens' concerns.

NEW BUSINESS ITEM D
EXHIBIT 3

On September 26, 2023, the Council heard Citizens' Grievances in a stand alone special hearing, several of which centered on city staff's bias and conflicts of interest, Code of Ethics/Conduct violations, and the failure to follow appropriate procedural requirements and due process. The City Solicitor's representation and conduct during the hearings and deliberations pertaining to the Lincoln Village project (May & June 2023) were ineffective, misguided, and biased toward the developer.

In alarming harmony with this conduct, the City Solicitor later showed egregious negligence in not informing the City Administrator of his decision to appeal Dahlem vs. City of Saco to the Maine Supreme Court. The City Solicitor is clearly not working for the citizens of Saco when he takes impulsive and costly action in isolation without full knowledge of the City administration.

This lack of professional conduct, respect for process and full disclosure to those accountable, and glaring "rogue" behavior is evidence of incompetence and inability to serve, putting the City of Saco at considerable risk if not directly and concisely addressed.

Citizens have lost full confidence in the actions and inactions of the City Solicitor that have cost taxpayers and stakeholders significant time, energy, and a considerable amount of money; not only in lawsuits, but also in public funding in defense of his own errors on any one item, multiple times over.

Many instances were entirely avoidable; however, who truly benefitted? A sample list below was provided to the Mayor and City Administrator on Oct. 15, 2024; several are well known errors to many of you, and well beyond what the average Saco citizen would ever fully know.

On Oct 15th, 2024, Grievance petition co-filers Kelley Archer and Inga Browne, along with Chelsea Hill, and Michael Dahlem met with City Administrator Bohenko and Mayor MacPhail and discussed:

- **City Solicitor**
 - 5.06- Performance of the City Solicitor; Removal of Appointment for cause

(<https://ecode360.com/13304195>)

- Code Of Ethics/Conduct- Numerous Violations
(<https://cms1files.revize.com/sacome/Policies/Code%20of%20Ethics%20and%20Conduct%20FINAL.pdf>)
- Legal's "Training" document- Violations
- Supreme Court and Grievance Petition withheld from Council
- Public funds spent in 'defense of errors' ; along with private Stakeholder funds:
 - Saco Island- 91
 - Saco Island- Trees
 - Marijuana- Main Street
 - Acapello/Church- multiple entities harmed and damaged.
 - Toddle Inn-
 - TES; site plan violation/violation of Contract Zone
 - Bay View Cabins
 - 321 Lincoln St- A tie vote, fails. Multiple entities and the reputation of Saco were harmed.
 - Deering Trust
 - Driscoll, 15 Oceanside Dr CZA- Defended multiple times even when the Ordinance clearly stated, no Contract Zone is permitted in a RP zone. (I have Foaa'd City Solicitor/Firm's Invoices on the Driscoll CZA, et al from 2015-2024)

Please note: attached is a May 14, 2024, letter to the City for your collective review that was never answered or acknowledged by City staff.

As the ultimate decision makers, the legal body representing the best interests of the citizens of Saco, we urge the City Council to investigate per Article II 4-4 the removal of the Appointment of City Solicitor (5.06) for cause, and to provide a timely and formal written response to this citizens' grievance first heard by Council on September 26, 2023.

Thank you for your deliberations, consideration, and pledge of office to represent your constituents to the very best of your ability.

Kelley Archer

Inga Browne

Chelsea Hill

Michael Dahlem

NEW BUSINESS ITEM D

Exhibit 1

From: **Michael Dahlem** <mdahlem56@gmail.com>
Date: Tue, May 14, 2024 at 12:11 P.
Subject: City Solicitor Timothy Murphy
To: <mayor@sacomaine.org>, <jbohenko@sacomaine.org>

NEW BUSINESS ITEM D
Exhibit 1

May 14, 2024

Mayor Jodi MacPhail
City Administrator John Bohenko
300 Main Street
Saco, Maine 04072

Mayor MacPhail and City Administrator Bohenko,

I am writing to you regarding the performance of City Solicitor Timothy Murphy.

Mr. Murphy's legal representation and advice falls below the minimum level of competence.

Consider the following examples:

1.) In the recently completed lawsuit regarding the Contract Zone Agreement (CZA) for 15 Oceanside Drive, Mr. Murphy provided a reasoned opinion to City Planner Bob Hamblen on April 16, 2021 that concluded that the CZA was null and void. He affirmed that opinion to City Administrator Byan Kaenrath on April 16, 2021.

Mr. Murphy changed course and generated a new opinion that postulated an impossibility of performance as the basis for granting a CZA extension irrespective of the fact that said action constituted a legislative act and not an adjudicatory act.

He was wrong on the law on all counts.

2.) The TES CZA has been an ongoing source of frustration for all parties. Mr. Murphy did not assure that the City entered into a well written and well understood agreement. Instead, there continues today and will into the future basic disagreements over the responsibilities of the parties.

The City has ended up on the hook for >\$300K in costs and > \$300K in financing for TES for the left turn lane.

Mr. Murphy failed to protect the interests of the City.

3.) In an opinion dated April 25, 2012 to Code Enforcement Officer Dick Lambert, Mr. Murphy correctly reasoned that the lots at 77 Oceanside Drive and 81 Oceanside Drive had been merged according to the Zoning Ordinance. In his opinion he cited City of Saco vs. Driscoll confirming that the two lots were merged. He has since reversed that stance and facilitated the City receiving a deeded ROW for the Shore Avenue boardwalk in a backdoor effort to create a second buildable lot.

Mr. Murphy has left the City legally exposed.

Mr. Murphy's legal incompetence has cost the City time and money.

His conduct continues to erode public confidence in the integrity of City government.

The City of Saco needs a new solicitor.

I ask that Mr. Murphy be removed from his position as City Solicitor for incompetence and failure to provide adequate advice and counsel to the City.

I also request that the City Council use ~~its~~ City Charter enumerated powers in §9. ~~Investigations~~ to have a third party attorney evaluate his performance in these specific matters and provide a full accounting of Mr. Murphy's fees so that the public has a transparent view of how much money has been spent in legal fees defending legal problems he created.

Sincerely,

Michael Dahlem
10 Oceanside Drive
Saco, Maine 04072

Fwd: Call to Action- Contract Zones- Pending Grievance- 3rd of 5 emails

NEW BUSINESS ITEM D
Exhibit 1

Kelley A
Matthew Provencal
Matt Dicianni
Prescott
Joshua Parks
Mike Burman
Tricia Huot
Browne
Michael Dahlem
Jim Molleur
Carilyn Lane
Jeff Brochu
Jodi MacPhail
Marshall Archer
Joseph Gunn
Phil Hatch
Nathan Johnston
John Bohenko
Chelsea Hil
Doug Edwards
Joyce Clark
Emily C.
Inga

Wed, Nov 20, 2024, 12:35 PM
15 Oceanside Drive CZA.docx

**[CAUTION: THIS EMAIL ORIGINATED
FROM OUTSIDE THE CITY OF SACO
DOMAIN]**

----- Forwarded message -----

From: **Kelley A** <karcherkw@gmail.com>

Date: Tue, Oct 29, 2024 at 7:04 AM

Subject: Call to Action- Contract Zones- Pending Grievance- 3rd of 5 emails

To: Jodi MacPhail <jmacphail@sacomaine.org>

Cc: Marshall Archer <marcher@sacomaine.org>, Joshua Parks
<jpark@sacomaine.org>, Joe Gunn <JGunn@sacomaine.org>, Mike Burman
<mburman@sacomaine.org>, Phil Hatch <phatch@sacomaine.org>, Tricia Huot
<thuot@sacomaine.org>, Nathan Johnston <njohnston@sacomaine.org>, John
Bohenko <jbohenko@sacomaine.org>, Inga Browne <inga.browne4@gmail.com>,
Chelsea Hill <chelseasmith4@gmail.com>, Michael Dahlem
<mdahlem56@gmail.com>

Mayor, Administrator, and Council,

We believe that it is essential that the City Council has the information and data necessary to make informed decisions when setting policy for the City of Saco.

Thank you and Staff for addressing and updating 230-1705 Contract Zones this year. (<https://play.champds.com/ATT/sacome/2024-08/7e8c06596cb505631e34e455ec54e24555c23d78.pdf>) (Mr. Dahlem's unanswered letter is included. pg 24-26)

Please Investigate per Article II 4-4 the legal validity of the majority of Contract Zone Agreements (pre-2021) by an outside Counsel **prior** to amending 230-1705.

- On Jan 11, 2021, Council to "A. to repeal the existing Zoning Ordinance, Subdivision Regulations and Zoning Map; B. to replace these by the enactment of the Zoning Ordinance, Site Plan Ordinance, and Subdivision Ordinance and Zoning Map all dated December 2, 2020.
(https://cms1files.revize.com/sacome/City%20Clerk/Council%20Minutes/2021/Convert/cm_2021_01_11.pdf)
- The Contract Zone Agreements (approx 51 CZA's) enacted under the 1985 Zoning Ordinance have never been codified under State Statute nor recorded on the Official Zoning Map per §4352 (3)
(<https://legislature.maine.gov/statutes/30-a/title30-Asec4352.html>) They all became null upon repeal as recorded in Chapter DL Disposition List (§ DL-1) of the City Code.
- The Language in §230-1705 is less restrictive than 30-A MRSA §4352 8 Conditional and contract rezoning and is therefore preempted by state statute. §230-1705 must state "Establish rezoned areas that are consistent with the existing and permitted uses within the original zones. "

Citizens urge Council to require that ANY legal review shall be performed by an "outside" counsel who has not previously weighed in or participated in Contract Zoning Agreements, and/or its amendments.

On Oct 15th, 2024, Grievance petition co-filers Kelley Archer and Inga Browne, along

with Chelsea Hill, and Michael Dahlem met with City Administrator Bohenko and Mayor MacPhail and discussed:

Contract Zones

- pre-2021 CZA's validity
 - Any changes to the Zoning Ordinance require City Council legislative action. this includes all ZO Amendments which include all CZA's and attendant approvals.
- Zoning Map- listing and pinpointing each CZ on Official Zoning Map (e.g. Scarborough Zoning Ordinance and Zoning Map.)
- Zoning Ordinance- continue the redline version/conversation at CC. Adopting amendment & including a link or Appendix of all CZ's for ease of use and transparency.
- CZ's unsigned-not executed-invalid
- Has the Maine DEP signed off on the 2021 Zoning Ordinance and Zoning Map?

Other major CZA concerns:

- Staff has not responded to Michael Dahlem's letters regarding pre-2021 Contract Zones validity during the process of amending 230-1705 this year. Citizen's **Unanswered** questions remain unacceptable.
 - CZA Taxpayers/landowners have suffered **significant harm and damages over many years due to faulty and incompetent legal opinions by the City Solicitor.**
 - Some CZA parties are not compliant nor held accountable with enforcement and/or penalties by the Code Enforcement Officer.

Consider Michael Dahlem's FOAA documents (**attached**) for your review prefaced by his introductory letter (copy and pasted here.)

"Mayor, Administrator, and Council,

The attached file contains emails regarding the 15 Oceanside Dr. CZA obtained via a FOAA request.

There are two emails from Solicitor Murphy.

The first is an opinion authored for former City Planner Bob Hamblen regarding the

Solicitor; however, a few months later the City Solicitor and also a Lifetime Trustee, was negotiating the terms of the contract. **Saco's city solicitor should not violate Code of Ethics/Conduct or waffle in their opinions.**

Several Current Councilors, along with the Mayor as a Councilor, have stated on record numerous concerns in regards to the Lucia Kimball Deering Hospital Fund, Trust, Trustees, By-Laws, financial records, etc. and Kimball Health Center. It is time to receive answers as to amending Chp 15; streamlining any connection to "LKDT"/Kimball Health Center: or repealing Chp 15.

Please investigate per §4-4 Investigations by City Council.

Kelley Archer
Inga Browne
Chelsea Hill
Michael Dahlem

Kelley A
Matthew Provencal
Matt Dicianni, Jim Molleur
, Carilyn Lane, Joyce Clark
, Jeff Brochu, Emily C.
Prescott, Jodi MacPhail
, Marshall Archer
Joshua Parks, Joseph Gunn
Mike Burman, Phil Hatch
Tricia Huot, Nathan Johnston
, John Bohenko, Inga
Browne, Chelsea Hil
Michael Dahlem, Doug Edwards

Wed, Nov 20, 2024, 12:36 PM

7-7-21 LKDT Meeting Minutes.docx

07282022 LKDT Meeting Minutes.docx

6-15-21 LKDT Meeting Minutes.docx

12082022 LKDT Meeting Minutes.docx

3-25-21 LKDT Meeting Minutes.docx

7-22-21 LKDT Meeting Minutes.docx

9-10-20 LKDT Meeting Minutes.docx

02082022 LKDT Meeting Minutes.docx

02112021 LKDT meeting minutes.docx

Cut off P&S Flatley transaction_2020_0724_ & ImpactFee.pdf

Grievance_ Deering Trust_BobQuentin_ 2024 emails.pdf

Grievance_Unanswered emails - Deering Trust_Kimball Health.pdf

**[CAUTION: THIS EMAIL ORIGINATED
FROM OUTSIDE THE CITY OF SACO
DOMAIN]**

----- Forwarded message -----

From: **Kelley A** <karcherkw@gmail.com>

Date: Tue, Oct 29, 2024 at 7:05 AM

Subject: Call to Action- Lucia Kimball Deering Hospital Fund- Pending Grievance-
4th of 5 emails

To: Jodi MacPhail <jmacphail@sacomaine.org>

Cc: Marshall Archer <marcher@sacomaine.org>, Joshua Parks

<jparks@sacomaine.org>, Joe Gunn <JGunn@sacomaine.org>, Mike Burman

<mburman@sacomaine.org>, Phil Hatch <phatch@sacomaine.org>, Tricia Huot

<thuot@sacomaine.org>, Nathan Johnston <njohnston@sacomaine.org>, John

Bohenko <jbohenko@sacomaine.org>, Inga Browne <inga.browne4@gmail.com>,

Chelsea Hill <chelseasmit4@gmail.com>, Michael Dahlem

<mdahlem56@gmail.com>

Mayor, Administrator, and Council,

After many years of uncertainty by many administrations and citizens, it is time to truly understand the relationship between Saco's Administration Legislation Chp 15 Article II Lucia Kimball Deering Hospital Fund requirements and responsibilities, Rules and Order of Business in regards to this Fund and its separate entity Kimball Health Center (990-EZ).

Citizens are requesting an independent 'outside' counsel to determine Saco's needs to either amend or repeal Chp 15 Article II Lucia Kimball Deering Hospital Fund and to present such unbiased review and opinion to Council for their deliberations and decision. Also, in the best interests of Saco and the grievance petitioners, 'outside' counsel means fresh eyes are critically needed for a fresh start. No attorney who has previously reviewed and opined should be defending or reiterating his/her own prior opinions.

On Oct 15th, 2024, Grievance petition co-filers Kelley Archer and Inga Browne, along with Chelsea Hill, and Michael Dahlem met with City Administrator Bohenko and Mayor MacPhail and discussed:

- **Deering Hospital Fund - Chp 15 Article II Lucia Kimball Deering Hospital Fund** (<https://ecode360.com/9675904>) Investigating:
 - 15-16- Does Saco have a Committee on Finance of the City Council? Where are those records?
 - 15-17- Should the city Amend the language of "hospital purposes"?
 - 15-18- Is this being done per ordinance? Where is it?

- Kimball Health Center-990-EZ-
(<https://projects.opublica.org/nonprofits/organizations/10364301>) City of Saco is listed as a Type II- Supporting Organization
 - Where is the 60K Earnest Money listed deposited? (Deposited)
 - Where is the \$1.499,999 sale of land 3/2022 deposited?
- Conflict of Interest- Minutes Record show (attached) City Solicitor/LKDT Trustee negotiated the Sale, "This also coincides with an email Tim Murphy sent suggesting a sale price of \$1,500,000 for the cash offer with no contingencies." (6/15/2021) when four months prior (2/1/2021), the Trust Minutes stated, "Tim has stayed out of the issue as city solicitor and feels that it is prudent to remove himself from any discussions of the land sale as an LKDTBoard member. Therefore, he exited the call prior to Syllas' update"

Other concerns:

- Legal name consistency- uses are Lucia Kimball Deering..."Trust" (Deeds and Purchase and Sales Agreements), "Heath Trust", "Fund", "Hospital Fund" (codified), etc...are some examples.
 - Chp 15 Article II Lucia Kimball Deering Hospital Fund
(<https://ecode360.com/9675904>)
 - Approved Budget Book- "Lucia Kimball Deering Health Trust"
(<https://cms1files.revize.com/sacome/FY2024%20Approved%20Budget%20Book.pdf>) p191
 - Annual Comprehensive Financial Report " Lucia Kimball Deering Trust
" <https://cms1files.revize.com/sacome/SACO%20CITY%20OF-SACO%202023%20AFR.pdf> p. 75, 111, 114, 116
- Removal of Erwin Warren, Trustee. Death. 4/2020
Property card, <https://gis.vgsi.com/sacome/Parcel.aspx?pid=3611> (Mailings have been sent to Kimball Health Center c/o Mr. Warren.)

have attached the following:

- Two Unanswered emails (2021 and 2024) for your review of citizens' collective questions.
 - Please Note: Jane Caron's 8/7/2021 email,.. Inquiries to the City of Saco AFTER Flatley's Purchase & Sale rescission (Spring 2021) and prior to the Mr. Graiver's 3/2022 Sale. The first instance was in Summer of 2020 (FOAA attached) that Flatley was out-of -contract and citizen's wanted the City to

Purchase to Land Bank this in town parcel and a neighbor to a former Councilor also inquired. Citizens were told it was under contract.

- Trustee Treasurer Bob Quentin's responses and attached Minutes per Chelsea Hill's request of where to find the Minutes and Trustee's compensation from 2021-2023. As you will also read, at one instance, a conflict of interest was presented by the City Solicitor; however, a few months later the City Solicitor and also a Lifetime Trustee, was negotiating the terms of the contract. **Saco's city solicitor should not violate Code of Ethics/Conduct or waffle in their opinions.**

Several Current Councilors, along with the Mayor as a Councilor, have stated on record numerous concerns in regards to the Lucia Kimball Deering Hospital Fund, Trust, Trustees, By-Laws, financial records, etc. and Kimball Health Center. It is time to receive answers as to amending Chp 15; streamlining any connection to "LKDT"/Kimball Health Center: or repealing Chp 15.

Please investigate per §4-4 Investigations by City Council.

Kelley Archer
Inga Browne
Chelsea Hill
Michael Dahlem

Fwd: Call to Action- Purchasing Policy, RFP's, -Pending Grievance- 5th of 5 emails

NEW BUSINESS ITEM D

Kelley A
Matthew Provencal
Matt Dicianni
Prescott
Joshua Parks
Mike Burman
Tricia Huot
Browne
Michael Dahlem
Jim Molleur
Carilyn Lane
Jeff Brochu
Jodi MacPhail
Marshall Archer
Joseph Gunn
Phil Hatch
Nathan Johnston
John Bohenko
Chelsea Hil
Doug Edwards
Joyce Clark
Emily C.
Inga

Wed, Nov 20, 2024, 12:45 PM

**[CAUTION: THIS EMAIL ORIGINATED
FROM OUTSIDE THE CITY OF SACO
DOMAIN]**

----- Forwarded message -----

From: **Kelley A** <karcherkw@gmail.com>

Date: Tue, Oct 29, 2024 at 7:06 AM

Subject: Call to Action- Purchasing Policy, RFP's, -Pending Grievance- 5th of 5 emails

To: Jodi MacPhail <jmacphail@sacomaine.org>

Cc: Marshall Archer <marcher@sacomaine.org>, Joshua Parks <jparks@sacomaine.org>, Joe Gunn <JGunn@sacomaine.org>, Mike Burman <mburman@sacomaine.org>, Phil Hatch <phatch@sacomaine.org>, Tricia Huot <thuot@sacomaine.org>, Nathan Johnston <njohnston@sacomaine.org>, John Bohenko <jbohenko@sacomaine.org>, Inga Browne <inga.browne4@gmail.com>, Chelsea Hill <chelseasmit4@gmail.com>, Michael Dahlem <mdahlem56@gmail.com>

Mayor, Administrator, and Council,

We believe that it is essential that the City Council has the information and data necessary to make informed decisions when setting policy for the City of Saco.

On Oct 15th, 2024, Chelsea Hill, Inga Browne, Michael Dahlem, and Kelley Archer met with the Mayor and Administrator and discussed:

- **RFP's-Purchasing Policy- Fair, Competitive Bidding, Compliance**

- Review of the Sewall Traffic Consulting contract. Contract ends 12/2024. (Consultant did not comply with revised 2022 MDOT TMP procedures- 321 Lincoln St- even when presented with the facts several times during Public Hearings.. (Nor did a current or former Southern Maine Traffic Engineer) Chelsea Hill's 321 Lincoln Street TMP Appeal still stands. Mr. Graiver still has an open Appeal in Biddeford to dispute such Appeal with MDOT Commissioner Van Note.)
- Review of RFP/vendor procurements per purchasing policy
- Review of contract terms and expirations.

It has been clear that procurement policies and following these policies in Saco are very soft, contradictory, and ripe for noncompliance. There seems to just be a lack of a unified approach to purchasing and a decentralized approach.

This email is formatted with a list of summarized Issues, then a summarized notation of changes between the 2021 and 2023 policies.

Issues:

- The Purchasing Policy has no record of changes at the front matter. Record of changes should include date, time, city leadership (CA and Council) sign-off on changes, and summary of every change made from one version to the updated version.
- The Purchasing Policy has no record of which department and/or POC maintains the

policy at the front matter and which department is responsible for enforcing this policy.

- 3. Purchase Categories section needs a time-bound element; \$3,000 annually for printing paper at City Hall? \$3,000 per vendor per year? \$3,000 per day? Current wording encourages purchase splitting to keep to the Small level and circumvent higher reviews and approvals.
- 3. Purchase Categories section "Purchases must be approved prior to payment." By whom? How? Where is the record of approval maintained? More detail needed.
- 5. c. iv. does not specify how to obtain contractual terms and conditions applicable to the procurement are obtained, i.e. who with legal is reviewing? Is anyone?
- 5. i. includes a provision where Quality can be weighed as a factor in Competitive Bid Process but reads as though Quality can only be considered when the Purchasing Agent is not the Department Head and the Department Head provides inputs related to Quality. However the section then does not allow the Purchasing Agent to weigh Quality in the award criteria, only allowing for award to "the lowest responsible and responsive bidder or State contract vendor."
- 8. Cooperative Purchasing: the change listed below related to private entities for purchasing, needs additional information for how this process will be governed across the City to avoid impropriety and undue influence.
- 11. Purchases & Bids Record: The policy should be modified to remove this responsibility from a decentralized approach to a centralized approach where one department is responsible for maintaining all of the city's proposal, evaluation, and award documentation. Putting this responsibility on the individual Purchasing Agents of each 1) department and 2) level of purchasing (small, intermediate, large) creates opportunities for inconsistent and noncompliant recordkeeping; loss of records (turnover and/or lack of attention to detail); repetitive purchasing or duplicative purchasing (departments seek similar services or solutions in parallel); impropriety or ethical conflicts.
- 12. Contract & Purchase Order, a. soft and contradictory language "*should* be signed (for large purchases)" - this should be a shall or must. Section a. then says "Both contract and purchase order *must* state" - assumes a contract and PO is a must? but then section b.

states "A corresponding PO *may* be submitted... where the department head determines that it is necessary to encumber the funds." Section c. covers PO approvals, which seems to allude that POs *are required* at each level of purchasing. Throughout the policy it is unclear when or if a PO is required or mandated for any purchases. Best practice would be that for every single purchase, a PO is created.

12. d. Control of Contract/Bid Extensions and Renewals: this section puts the act of securing a renewal or extension to the City and circumvents the competitive bidding / RFP process altogether. Reading this section, a person can infer that bids can be endlessly renewed without testing the market for better pricing, only requiring the Purchasing Agent 'conduct reasonable investigation of costs and benefits'. What does this mean? It can be mean anything to whoever is reading the policy section. This section is ripe for misuse or abuse as we have seen in traffic engineering and legal services and likely other services as well. It is a wide open door to endless noncompetitive awards, inflated pricing, and at the best, appearance of impropriety. Pricing is also not covered; is the assumption that a bid could be extended with same pricing since 2019? this is unfair to vendors who will be eventually underpaid. The extension policy is also unfair to other qualified prospective bidders in the state and does not inspire confidence in the fairness of awarding public opportunities.

12. e. allows an increase in expenditures that exceeds the Council Approved budget amount with only CA review and approval and does not require it to go before Council. I am fairly certain this is in violation of City Code, where only City Council can authorize expenditures outside of a budgeted amount.

18. The P-Card section of this policy requires clarification that a P-card User must still go through the Competitive Bid or RFP process prior to using their P-card to pay a vendor.

F. Year End Procedures 1. and 2. Seem to conflict with each other. Section 1 one seems to follow GASB by allowing funds to be encumbered from one FY to another; but then Section 2 indicates the city follows US GAAP and would require that expenses be recorded in the period they are incurred regardless of cash flow timing i.e. funds could not be encumbered in a FY if no services or goods are received. In any event, this section should require a reporting function for every department that chooses to encumber funds from one FY to another, likely directly to CA with a plan to spend down encumbered funds within a specific

timeline to avoid forever-encumbered funds.

- In a request for bid evaluation criteria for past awards to Sewall Infrastructure for traffic engineering, City was unable to provide documentation supporting the city's reliance on Sewall Infrastructure for traffic engineering services vs other awardees under the same RFP from 2019 despite those engineering firms demonstrating responsiveness to the RFP. Why?

City's last updated policies in 2023 but below are links to old ones also. Below are side by side notations of changes.

2023: <https://cms1files.revize.com/sacome/Purchasing%20Policy%20-%202023%20Rev.pdf>

2021: <https://cms1files.revize.com/sacome/2021%20Purchasing%20Policy.pdf>

2018: <https://cms1files.revize.com/sacome/Administration/Policies/2018%20Purchasing%20Policy%20-%202018.16.18.pdf>

Noted differences:

Add: "This policy is also designed to adhere to the Office of Management and Budget's (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (commonly called "Uniform Guidance") to ensure the City remains compliant with applicable regulations for the receipt of Federal grant funding."

Change: Intermediate Purchase definition updated from

Change: Large Purchase updated from

Change: Small Purchase updated from

Add: Principles: Local Business

Change: 8. Cooperative Purchasing, add "The Purchasing Agent may also consider partnership with private entities for purchasing purchases if that method will result in the best price for the City."

Change: 10. Purchase Exceptions. Remove: "Dual source" section.

Change: 15. Payment a. Significant changes:

Original:

15. PAYMENT

- a. A Requisition for payment using the form itself or a requisition for payment stamp is created by the requisitioning department. The requisition for payment includes the purchase order number (if applicable) and a copy of the invoice. The requisition must be signed off on by the Department Head or designee.

9

- b. Where an invoice is not available, the Finance Department will issue guidance on acceptable documentation for payment.
- c. Where a purchase is not already approved through a Purchase Order, or if the purchase will exceed the Purchase Order amount by more than \$1000, the requisition and invoice must be submitted for approval:
 - i. Small Purchases – Department Head or designee
 - ii. Intermediate Purchases – Department Head or designee and the Finance Director or City Administrator
 - iii. Large Purchases – Department Head or designee, Finance Director, and City Administrator
- d. Approved invoices are then submitted to Accounts Payable for payment
- e. If the material supplied is a fixed asset, an entry is made to the fixed asset records to record the history of the purchase by Finance.
- f. Finance may set a minimum threshold for payment by check.

Changed to:

15. PAYMENT

- a. A request for payment using the City's financial system is entered by the department that made the purchase. The request for payment includes the purchase order number (if

9

- applicable) and a copy of the invoice. The request must be signed off on by the Department Head or designee.
- b. Where an invoice is not available, the Finance Department will issue guidance on acceptable documentation for payment.
- c. The invoice must be submitted for approval:
 - i. Small Purchases – Department Head or designee
 - ii. Intermediate Purchases – Department Head or designee and the Finance Director or City Administrator
 - iii. Large Purchases – Department Head or designee, Finance Director, and City Administrator
- d. Approved invoices are then submitted to Accounts Payable for payment
- e. If the material supplied is a capital asset, an entry is made to the capital asset records to record the history of the purchase by Finance.
- f. Finance may set a minimum threshold for payment by check.
- g. Departments may use petty cash to make purchases under \$50. Petty cash purchases should be submitted to Finance for appropriate record keeping within five (5) business days.
- h. Under no circumstances should surplus cash collected as receipt of payment for City services be used to make department purchases "off the books."
- i. Petty cash drawer balances must reconcile to the City's Financial Statements as of June 30th each year and any differences be properly journaled.

17. Expired checks: some changes.

G. Inventory. Significant changes:

2021:

G.INVENTORY

A fixed asset inventory is an important area in which information can be valuable to the purchasing function. Every purchase of a furnishing, vehicle or piece of equipment with a value of \$10,000 or more will be carried in a fixed asset inventory. Information about cost, date of acquisition, condition and other pertinent information about the piece of equipment are important to maintain. Information on projected replacement is needed for proper planning and values are critical for insurance purposes. Each department will give the Finance Department any new information on old and new assets. The Finance Department keeps track of the Fixed Assets in the City's Fixed Asset computer program.

All Department Heads will have charge of the storage of supplies and materials purchased by their departments under \$10,000 and will keep proper inventory records thereof. He/she will keep informed and maintain records as to the sources of supply for all classes of purchases, price trends, and other related matters.

2023:

G.INVENTORY

The Finance Department keeps track of the capital assets in the City's capital asset computer program. Capital assets are defined in the City's Capital Improvement Policy. Where applicable, Capital Assets may also be tracked in specialized software maintained by the department.

All Department Heads will have charge of the storage of supplies and materials purchased by their departments that do not meet the definition of a capital asset and will keep proper inventory records thereof. He/she will keep informed and maintain records as to the sources of supply for all classes of purchases, price trends, and other related matters.

Thank you for your deliberations, consideration, and pledge of office to represent your constituents to the very best of your ability.

Kelley Archer

Chelsea Hill

Inga Browne

Michael Dahlem

July 14, 2025 Memorandum
Saco Citizen Grievance Review Committee
Exhibit 2 – Saco City Code Chapter 4, Article VII, Boards, Commissions, and
Committees, § 4-34

*City of Saco, ME
Tuesday, May 20, 2025*

Chapter 4. Administrative Code

Article VII. Boards, Commissions and Committees

§ 4-34. Planning Board.

[Amended 12-14-2020]

A. Organization.

- (1) A City Planning Board is hereby created, which Board shall consist of seven members who shall be appointed by the Mayor and confirmed by the City Council, none of whom shall hold the elective office of Mayor, Councilor or School Board member.
- (2) A quorum, for the purpose of voting, shall consist of four members, and a simple majority of members present and voting shall be sufficient for passage of a motion. In case of a tie vote, the motion fails.
- (3) The City Planning Board shall meet with the City Council at least twice each year to report on problems, progress and needs, to make recommendations to the Council and to be assigned whatever advisory tasks the Council may request.
- (4) Membership of the Planning Board shall be subject to the following requirements:
 - (a) Only residents of the City may serve on the Board.
 - (b) There shall be no more than two members on the Board who are residents of the same ward. In the event that a member moves during his/her term and his/her move results in more than two members living in the same ward, the member who has moved shall forfeit his/her seat on the Board.
 - (c) No more than two members of the Board shall have the same full-time occupation.
- (5) Any question of whether a member shall be disqualified from voting or shall abstain from voting on a particular issue before the Board shall be decided by a majority vote of the members present except the member who is the subject of the vote, who shall not vote on the question of his/her disqualification or abstention.

B. Terms of office; vacancies; procedure.

- (1) Terms. The terms of membership shall be three years. An appointment to fill a vacancy during an unexpired term shall be for the remainder of the unexpired term. Board members serving as full members at the time of the effective date of this section shall serve for the remainder of their current term. Alternate members serving at the time of the effective date of this section shall be eligible for appointment for membership under this section; any alternate member appointed as a member shall be deemed to begin serving his/her first term upon appointment. In the event of an appointment for the remainder of an unexpired term, the partial term shall be considered a first term if the time to be served is two years or more, but shall not be considered a first term under this subsection if the portion of the term to be served is less than

two years.

(2) Vacancies. Vacancies on the Board shall be created under any of the following circumstances:

- (a) A member submits his/her resignation, in writing, to the Chairperson of the Planning Board or to the Mayor.
- (b) A member's residence is no longer within the City or a member moves to a ward which already has two Planning Board members, in which instance the Chairperson shall so notify the Mayor in writing.
- (c) A member fails to attend three or more consecutive regular monthly meetings of the Board without being excused by the Chairperson, in which instance the Chairperson shall so notify the Mayor in writing.
- (d) A member fails to attend 75% of all meetings, including workshops, special meetings and regular meetings, within the four most recent consecutive months, in which instance the Chairperson shall so notify the Mayor in writing.
- (e) The term of a member expires.

(3) Procedure. Upon the occurrence of any of the above circumstances, the City Council shall declare the seat vacant, and the Mayor shall appoint a new member with the approval of the City Council.

C. Powers and duties. The Board shall have the power and be required to:

- (1) Review Comprehensive Plan updates and amendments as submitted to the Planning Board by the Long-Range Planning Committee (LRPC). The LRPC will be responsible for developing the Comprehensive Plans, Comprehensive Plan updates, and Comprehensive Plan amendments, and for overseeing the implementation of the City's Comprehensive Plan. The Planning Board will then be responsible to conduct public hearings on the Comprehensive Plan updates and amendments, approve by a majority vote after the public hearings, and submit a report to the City Council, and submit the Comprehensive Plan and any amendments to the City Council for approval.
- (2) Prepare and adopt and thereafter amend subdivision regulations approved by a majority vote of the Board after a public hearing.
- (3) Review subdivisions within the City as required by state law, local ordinances and Planning Board regulations.
- (4) Review site plans, planned unit developments and other land use proposals as authorized by state statutes, City ordinances and Planning Board regulations. The Board may delegate, through written procedures, all or part of the review function to the City Planner and may refer applications to special committees, commissions and technical experts for review and comment.
- (5) Prepare and recommend, after approval by a majority vote following a public hearing, for adoption by the City Council a Zoning Plan and Map and amendments thereto which shall be pursuant to and consistent with the Comprehensive Plan.
- (6) Meet in regular session not less than once a month, adopt rules for transaction of business and keep a public record of its resolutions and determinations. At its first meeting in January of every year, the Board shall elect a Chairperson and a Vice Chairperson. The Board shall file its rules for procedure with the City Clerk and shall amend these by majority vote, as needed.
- (7) Participate in and review programs or plans required by state and federal law or regulation.
- (8) Review applications for conditional uses, as required by the City of Saco Zoning Regulations.

- (9) Perform such other advisory duties as are assigned to it by ordinance or by resolution of the City Council for the assistance of the Council or other City agencies or officers.
- D. Authorization. The Planning Board may be delegated the following, at the request of the City Council at its discretion, to:
- (1) 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.
 - (2) Prepare and present to the municipal officers recommended building, plumbing, fire, electrical, housing and related codes and enforcement procedures and construction specifications for streets and related public improvements.
 - (3) Participate in a regional planning program with regional planning agencies, municipalities, state and federal agencies.
- E. Record of membership. The City Clerk and Chairperson of the Planning Board shall keep an accurate record of membership which shall be available to the Board, the City Council and the public at all times.
-

July 14, 2025 Memorandum
Saco Citizen Grievance Review Committee
Exhibit 3 – Planning Board Standard Operating Procedures



Planning Board Standard Operating Procedures

December 5, 2023;
Rev. May 28, 2024

Table of Contents

I.	Planning Board's Rules and Order of Business	3
II.	Saco's Planning Board	3
A.	Role of Planning Board	3
1.	Role of Planning Board Chair	3
2.	Role of Planning Board Vice Chair	3
3.	Role of Planning Board Member	3
B.	Role of Planning Department	4
III.	Reviewing Capacities	4
A.	Legislative Review	4
B.	Quasi-Judicial Review	4
IV.	Agendas, Meetings, Communication & Correspondence	4
A.	Agendas	4
1.	Workshops	5
2.	Order of Business	5
B.	Meeting Schedule	5
C.	Submission Due Dates	5
D.	Staff Reports	5
E.	Public Hearings	6
1.	Public Comments Guidance	7
2.	Late Submission Procedure	7
F.	Meeting Packets	8
G.	Legal Notices	8
H.	Mailed Meeting Notifications	8
I.	Public Notification Signage	8
J.	Emails	9
K.	Interactions with Public, Officials, Staff	9
L.	Freedom of Access, Planning Board Files & Access	9
V.	Application Types	9
A.	Site Plan Review	9
B.	Conditional Use Review	10
C.	Subdivision Review	10
1.	Subdivision Review Process	10
D.	Contract Zoning Recommendation Requests	11

1.	Contract Zoning Process.....	11
2.	Planning Board's Role in Contract Zones.....	11
E.	Zoning and Map Text Recommendation Requests	11
F.	Street Acceptance Petition Requests.....	11
VI.	Board Actions	12
A.	Record of Board Actions	12
1.	Minutes & Notes	12
B.	Meeting Recordings.....	12
C.	Deliberations	12
D.	Decisions.....	12
E.	Voting.....	13
VII.	Training Requirements.....	13
A.	New Member Training Materials.....	13
B.	Required Training.....	13
1.	Annual Training	13
2.	Other Training	13
VIII.	Appointments & Resignations	13
IX.	Board Conduct.....	14
A.	Conflicts of Interest	14
B.	Code of Ethics	14
X.	Definitions.....	14
XI.	Amendments	14
XII.	Attachments & Resources.....	15
A.	Chapter 4	15
B.	Chapter 179	15
C.	Chapter 186	15
D.	Chapter 188	15
E.	Chapter 230	15
F.	Technical Design Construction Standards Manual (TDCSM)	15
G.	Freedom of Access Act Information	15
H.	Saco's Comprehensive Plan	15
I.	Saco's Code of Ethics/Conduct	15
J.	Saco's Safe, Welcoming, and Diverse Community Resolution.....	15
XIII.	Planning Board SOP Summary / By Laws:.....	15

I. Planning Board's Rules and Order of Business

The purpose of the Rules and Order of Business is to provide the Planning Board, Planning Department, applicants, and residents with information about how the Planning Board conducts its business. This document is meant to supplement, not override, the provisions of Chapter 4, Subsection 4-34 of the City Code and Saco's ordinances and design standards. Where any conflicts arise, the ordinance standards override. Overall, the intent of this document is to provide the Board's Standard Operating Procedures.

Any questions about this document should be directed to the Planning Department.

II. Saco's Planning Board

Planning Board business shall be conducted in accordance with State statutes, Saco's ordinances, Technical Design Construction Standards Manual, Planning Board's Standard Operating Procedures, pertinent sections of Robert's Rules of Order, and any amendments and supplements thereto.

The Planning Board shall maintain courteous and professional conduct while reviewing all applications before it, and in all other business deliberations. All proposals shall be examined equally and equitably. Saco's Planning Board shall make its decisions based on the application proposal before it and only on relevant factors to the application and the relevant ordinances and statutes.

A. Role of Planning Board

The role of Saco's Planning Board is to review development proposals for site plan, subdivision, conditional use, and site location of development (per Saco's delegated review authority). Saco's Planning Board also acts in an advisory capacity to the City Council, making recommendations on ordinance revisions, comprehensive plans, contract zones, zoning map amendments, and street acceptance requests. The Planning Board's primary purpose is to ensure that development proposals conform to Saco's ordinance standards and design specifications.

It is imperative that the Board reviews applications according to the requirements of the City's ordinances. The Board uses Chapters 179, 186, 188, 230, and the Technical Design Construction Standards Manual to review proposals, along with pertinent sections of Maine's state statutes.

The Planning Board's authority is further detailed in Chapter 4, Subsection 4-34 of the City Code, link available in the Appendix of this document.

1. Role of Planning Board Chair

The Planning Board Chair is responsible for scheduling meetings and setting the meeting agendas, in collaboration with the Planning Department. The Chair is also responsible for running the Board meetings, following the Standard Operating Procedures, applicable Saco ordinances, and Robert's Rules of Order.

2. Role of Planning Board Vice Chair

The Planning Board Vice Chair is responsible for assisting the Chair and will run meetings in the Chair's absence.

3. Role of Planning Board Member

Each Planning Board member has a responsibility to uphold a fair and equitable review process. Each Planning Board member has a duty to refrain from ex-parte communications and to uphold Saco's Code of Ethics. If a Board member has any questions about ex-parte communications or about anything related to the Code of Ethics, these questions should be directed to the City Planner or to the City Administrator.

B. Role of Planning Department

The Planning Department is the Planning Board's professional staff resource. The Planning Department is responsible for providing potential applicants with information about Saco and its ordinance standards, accepting applications, informing applicants of missing information, coordinating development reviews from city staff and peer consultants, and preparing information about the application in advance of the Board's review. The Planning Department is also responsible for scheduling the applications, notifying residents of upcoming public hearings, and providing general information about the Planning Board and items under review. The Planning Department prepares materials in advance of every Board meeting with the compiled application materials into a meeting packet for the Board's review. More information about agendas and meeting packets is available below.

The Planning Department also works with other committees throughout the City, completing studies, recommending ordinance revisions, and planning for Saco's long-term vision.

The Planning Department is here to work with everyone. The Planning Department's recommendations are based on professional expertise, understanding of land use development and Saco's policies, and review of the application with City Staff and professional consulting peer reviewers.

III. Reviewing Capacities

The Planning Board can act in either a legislative review or a quasi-judicial review capacity. The type of review capacity changes based on the matter under consideration.

A. Legislative Review

When the Planning Board reviews ordinance amendments, Comprehensive Plan Updates, and zoning map amendments, it acts in a legislative capacity. When reviewing an item in a legislative capacity, Board members can talk with interested parties outside of Planning Board meetings, and can complete independent research, such as reviewing other communities' ordinances or comprehensive plans.

B. Quasi-Judicial Review

When the Planning Board reviews application proposals, such as Site Plans, Subdivisions, Conditional Uses, and Site Location of Developments, it acts in a quasi-judicial manner. In this manner, Board members must remain neutral. Board members must ensure due process is followed and therefore, should not discuss application materials with others outside of public board meetings. If, for some reason, a Board member is sent information or is provided information outside of the record (ex-parte communication), that Board member should report that information to the full board at the next public meeting and inform the Board, applicant, and public. Questions about review capacity and ex-parte communication are further addressed during Board trainings and questions about ex-parte communications should be directed to the Planning Department.

IV. Agendas, Meetings, Communication & Correspondence

The Planning Board will operate openly and communicate transparently. Correspondence addressed to the Planning Board should be directed to the Planning Department, which will provide it to the Planning Board.

A. Agendas

Planning Board agendas are set by the Chair in collaboration with the Planning Department. Planning Board agendas will be distributed by the Planning Department no later than 5:00 PM the Friday before the Tuesday meeting. Agendas will be posted on the City Hall interior and exterior bulletin boards, and posted on the City's website: www.sacomaine.org/planning.

1. Workshops

At each meeting, the Board will first take up any workshop items. Such items include but are not limited to, ordinance revisions, sketch plan reviews, and long-term planning items. Workshops are noted on the Board's agenda as "Workshop" and are recorded as part of the Board's meetings. Workshop items are also included in the meeting packet, see below for more information on meeting packets.

2. Order of Business

The Planning Board agenda will consist of the following order of business:

1. Call to Order: *Starting the meeting and ensuring that the recording is running.*
2. Recognition of Members Present: *Recognizing for the record those members who are present and establishing a quorum for the meeting*
3. Approval of Minutes: *Review and approve minutes of previous meeting(s)*
4. Public Comment: *Public comment period to hear from members of the public. This comment period is limited to a total of fifteen (15) minutes to those items not under Planning Board review. Those wishing to make statements about an application under Planning Board's review are asked to provide those statements during the applicable public hearing. Those making comments during this period are limited to three (3) minutes, but if there are a number of members of the public looking to speak, the Chair can reduce the three-minute time period per person to accommodate a number of speakers.*
5. Application Reviews & Public Hearings: *Review applications, application completeness findings, public hearings, decisions, etc.*
6. General Correspondence: *Correspondence sent to the Planning Board that is not related to a public hearing item will be listed in this section.*
7. Planning Department Update & Discussion: *Staff report on issued approvals, neighborhood meetings, ongoing initiatives, etc.*
8. Planning Board Comments: *Time within agenda for general board comments, which should be unrelated to agenda items before it.*
9. Adjournment: *Board adjourns with time of adjournment noted.*

B. Meeting Schedule

The Planning Board's regular meeting schedule is generally the first and third Tuesday of each month starting at 5:30 PM. However, the Chair, in collaboration with the Planning Department, has the ability to alter the meeting schedule or to schedule special meetings to ensure quorum and/or accommodate workloads. Site walks are scheduled on an as-needed basis. The Board's schedule is available on the Planning webpage at www.sacomaine.org/planning.

C. Submission Due Dates

Most applications are due in the Planning Department at least four weeks prior to the Planning Board's regularly scheduled meeting. However, applications are not scheduled for the Board's review until Planning staff finds the application complete and ready for the Board's consideration. In cases of subdivision review where a 30-day scheduling window applies, Planning Staff will appropriately schedule the application for the Board's review, noting any outstanding items for the Board. The Planning Department will keep an application submission schedule.

D. Staff Reports

The Planning Department Staff reviews applications and vets the applications for completeness. Staff reviews applications following Saco's land use ordinances found in Chapters 179 (Site Plan); Chapter 186 (Streets & Sidewalks); Chapter 188 (Subdivision); and Chapter 230 (Zoning). Staff also uses Saco's Technical Design

Construction Standards Manual (TDCSM) and other statutes referenced throughout Saco's ordinances to review applications. Links to ordinances included in the Appendix section.

For workshop items, Planning staff will prepare a memo to the Planning Board copying the applicant with initial considerations for the further review process.

For application review items, Planning Staff will prepare a memo to the Planning Board copying the applicant with information about the application, planning staff's professional recommendation based on above-referenced standards, and suggested motions for the Board's consideration. Additionally, Planning staff will provide draft findings of fact and draft conditions of approval for the Board's consideration. The Board will either amend the draft findings of fact and draft conditions of approval as necessary, or draft its own findings of fact to reflect the Board's review process and decision. The Board shall vote to make findings when the Board determines it is time to make a decision on the application before it.

E. Public Hearings

On July 19, 2022, and as revised on September 19, 2023, the Planning Board adopted the following Public Hearing Guidelines. These Public Hearing Guidelines are included with the Planning Board agendas when public hearings are scheduled.

Welcome to Saco's Planning Board public meeting. The purpose of this meeting is for the Planning Board to review and make decisions on specific applications related to land use and development in Saco. Other City business requiring input from the board may also be discussed. Please be advised that these meetings are recorded in accordance with open meetings and public records laws. You have a right to hear and see these proceedings. Please notify staff or the chair if you cannot see or hear.

Public Hearings

The Planning Board is scheduled to hold public hearings during tonight's meeting. The purpose of these public hearings is for the Planning Board to gather evidence to inform their decisions. Planning board decisions are based on standards and criteria that are contained in Saco's Zoning, Site Plan Review, and Subdivision ordinances which were adopted by Saco's City Council. In each case, it is the applicant's burden to demonstrate compliance with applicable standards and criteria. City staff support the board by making sure the required application review and public notice procedures are followed and by reviewing details of the project that are relevant to their expertise. In many cases the applicant has revised plans in response to staff comments prior to review by the board.

Hearing Procedure/ Outline

1. The chair will introduce each agenda item after calling the meeting to order
2. City staff summary
3. Presentation from applicant
4. Chair opens public hearing
5. Public comments heard
6. Board discussion
7. Public hearing closed
8. Board deliberation/ decision* *the board may choose to continue deliberating a case at a future meeting without reopening the public hearing

Public Comments: Members of the public are invited to speak during public hearings. Speakers have 5 minutes to present comments or questions to the board. Speakers will be timed by the chair of the

board. Speakers' comments and questions will be addressed at the planning board's discretion after everyone who intends to speak is heard.

- Speakers must clearly state their name and address or affiliation. Please speak directly into the microphone. Staff will provide a microphone for individuals who for any reason cannot stand at the podium.
- Individuals may speak a second time only with permission from the chair of the board and for not more than 3 minutes. Speakers may only speak a second time to present new information. Repeat testimony is strongly discouraged.
- Comments are most helpful when they are related to specific characteristics of a proposal or specific standards or criteria that apply to the application.
- Any person determined by the Chair to be disruptive or threatening will be asked to leave the meeting. If they refuse, the Chair will suspend the meeting or pause the proceedings until such time as a Saco Police Officer can remove the offending party.

Meeting Duration

No new business will be taken up by the board after 9:00 PM and the meeting will generally adjourn at 9:30 PM unless otherwise decided by majority vote of board members present. Any unfinished business will be continued at the next regularly scheduled meeting. You may request any of the records related to this meeting from City staff. You may also review the records or meeting recordings via the Planning Board's website at: https://www.sacomaine.org/boards_and_committees/planning_board_agenda.php

1. Public Comments Guidance

The Planning Board appreciates public comment and knows that public comment about matters before it can help the Board understand neighborhood concern, review an application, or help address an outstanding item. However, public comments are received during times when the Board calls for public comments, and are limited to those items on the Planning Board's meeting agenda. During times of public comment, the Board will listen with open minds and consider the public comment being made. Public comment is best provided when it is relevant to an ordinance or development standard under review. At all times during the meeting, the Chair shall be the presiding authority and has the ability to interject during public comment to maintain an organized public hearing. Planning staff can request that the Chair or Vice Chair address public comments or may interject to maintain an organized and lawful hearing process. Public comment that is meant to ridicule others or intentionally made to attack staff, board members, applicants, or other members of the public, will not be tolerated and will be addressed during the meeting by the Chair or Vice Chair. Additionally, similar conduct by a board member, applicant, or member of the public, to another at the meeting will not be tolerated and will be addressed during the meeting by the Chair or Vice Chair.

2. Late Submission Procedure

Items received in the Planning Department before 5:00 PM on the Thursday before the meeting packet is distributed will be included in the electronic meeting packet. Correspondence relative to public hearing items received after this time will be collected and logged by the Planning Department. The Planning Department will distribute hard copies of these public hearing items to the Planning Board at the meeting. The Planning Department will also make copies of this after-packet correspondence available to members of the public at the public hearing.

If the applicant brings new information to the meeting, the Board will not review it until the next meeting when the application is scheduled. Items from the applicant such as PowerPoint presentations that address already-submitted application materials can be presented at the meeting.

Correspondence received after 5:00 PM the Thursday before meeting packet distribution will be posted to the "more" section of the Planning Board's webpage at www.sacomaine.org/planning in the appropriate meeting date materials after the Planning Board meeting. The hard copies of these submission items will also be added to the Planning Department's application file.

F. Meeting Packets

The Planning Department shall electronically distribute a meeting packet with the workshop, application, and other relevant materials for the Board's review. While the Planning Department makes every effort to deliver these meeting packets as early as possible, the packets will be distributed not later than 5:00 PM on the Friday before the Tuesday Planning Board meeting. Meeting packets are distributed to the Planning Board members, applicants, and the public simultaneously. The meeting packet posted on the City's website is the same meeting packet that the Planning Board reviews and uses to make its decisions. These electronic packets are available at www.sacomaine.org/planning. Materials in meeting packets are also available for review in the Planning Department on the third floor of the City Hall.

G. Legal Notices

The Planning Department prepares legal notices to schedule public hearings. The legal notice is published in the *Portland Press Herald* in accordance with applicable ordinance provisions. The legal notice is also posted on the City's webpage in the "more" section of the Board's meeting webpage (www.sacomaine.org/planning).

H. Mailed Meeting Notifications

The Planning Department mails notifications to residents per ordinance requirements for the following application types, to notify residents about public hearings. The following is a summary of who is notified when:

- Preliminary Subdivision Public Hearing (Notices are sent to residents within 600' of project site)
- Final Subdivision Public Hearing (Notices are sent to residents within 600' of project site)
- Site Plan Public Hearing (Notices are sent to residents within either 200' or 600' of project site, depending on zoning district)
- Conditional Use Public Hearing (Notices are sent to residents within either 200' or 600' of project site, depending on zoning district)
- Contract Zone Planning Board Public Hearing (Notices are sent to residents within either 200' or 600' of project site, depending on zoning district)
- Zoning Map and Text Amendment Planning Board Public Hearing (Notices are sent to residents based on state statute requirements and nature of amendment)

Meeting notifications as outlined above and within ordinance standards are mailed to provide notification of the first scheduled public hearing night with the Planning Board. If the Planning Board continues the public hearing to another night where the continued hearing date is publicly stated, additional notices will not be sent. If the public hearing is continued to a night not announced during the Board meeting but continued indefinitely, notices will be sent again to notify residents of the date of the Planning Board's continued public hearing.

Questions about mailed meeting notifications should be directed to the Planning Department.

I. Public Notification Signage

The Planning Department retains Planning Board Notice of Application signs and provides them to applicants to be installed at the project site to notify residents of pending applications. The purpose of these signs is to help educate people about pending project applications within their area, and are required for site plan and subdivision applications, per ordinance standards.

J. Emails

Each Planning Board member is assigned a city email address, which is to be used for correspondence related to each person's official capacity as a board member. Email exchanges should be limited to packet deliveries, meeting schedule coordination details, and the like. Each email address is subject to Freedom of Access Act (FOAA) laws as noted below. Members should not use their city email addresses to correspond or communicate with one another about application review items before the Board. These discussions must happen in open, public meeting formats.

K. Interactions with Public, Officials, Staff

The Planning Board's interactions with public, officials, and staff sets the tone for how people interact with one another at Board meetings. The Planning Board interacts with the public, applicants, staff, and others in a professional, courteous manner, and expects the same from the staff, public, applicants, and others. Board members will ask questions before passing judgment and expect similar conduct from others during its meetings.

L. Freedom of Access, Planning Board Files & Access

The Planning Board and Planning Department are subject to Freedom of Access Act (FOAA) laws, which require that meetings be open to the public, that there not be ex-parte communication, and, in general, the public has the right to know about the Planning Board's actions. As such, the Planning Department retains applications that the public can come view, provides online information as much as possible, and is here to be a resource when possible. Residents can also file FOAA requests with the City Clerk's Office. A link to the State of Maine's FOAA law is included in the Appendix.

V. Application Types

There are various application types the Board is responsible for reviewing. Below is an overview of the most common applications and general information about processing:

A. Site Plan Review

Site Plan Review applications are required for commercial construction of 1,000 square feet or greater, soil disturbance of 10,000 square feet or more, and for multi-family proposals of three or more dwelling units. Additionally, site plan amendments are required for changes to an originally approved site plan. For a full list of those items that require site plan review, please refer to Chapter 179 of Saco's ordinances.

Site plan review applications with the Planning Board follow this process:

- Pre-application meeting with city staff (*optional first step*)
- Neighborhood meeting (*when required – depends on project type and zoning district*)
- Sketch Plan Review (*optional, and can be done either before or after the neighborhood meeting*)
- Site Plan Review Application Submission
 - Planning Department reviews the application, provides checklist, and informs the applicant of any outstanding items.
 - Planning Department sends application for review to other City Departments.
 - Planning Department sends application for peer review by professional consultants for traffic engineering, landscape architecture, lighting, and wetland delineation, as deemed appropriate by Planning Department staff.
 - Once Planning staff has determined the application checklist is complete, and the applicant has started to address review comments, the Planning staff will schedule the application for application completeness finding with the Planning Board. Once the application is found

complete, the application will then be scheduled for a public hearing following ordinance notification requirements.

- The Planning Department will coordinate the required public notification sign with the applicant to ensure it is posted on the property per ordinance standards.

It should be noted that Saco's ordinances also provide the City Planner with review authority for commercial structures up to 6,000 square feet throughout the city, and up to 30,000 square feet within city-approved, city-built industrial and business parks. The City Planner follows the same ordinance standards and development requirements when reviewing these applications as if they would have been sent for full board review.

B. Conditional Use Review

Conditional Use Review is required for land uses listed with a "C" in the Table of Permitted & Conditional Uses in Chapter 230. Oftentimes, a conditional use application is reviewed simultaneously with a site plan review application. If a site plan review application is required, the process outlined above is followed. If it's not required, here is the general process:

- Sketch Plan Review (*optional*)
- Conditional Use Review Application Submission
 - Planning Department reviews the application, provides checklist, and informs the applicant of any outstanding items.
 - Planning Department sends application for review to other City Departments.
 - Planning Department sends application for peer review by professional consultants for traffic engineering, landscape architecture, lighting, and wetland delineation, as deemed appropriate by Planning Department staff.
 - Once Planning staff has determined the application checklist is complete, and the applicant has started to address review comments, the Planning staff will schedule the application for application completeness finding with the Planning Board. Once the application is found complete, a public hearing will be scheduled following ordinance notification requirements.

C. Subdivision Review

Subdivision Review is required when three lots or more are proposed, when an existing subdivision will be amended, or, in Saco, when 15 or more dwelling units are proposed. The process for subdivision review requires two formal steps: 1.) preliminary review; and 2.) final review. Certain timelines are also prescribed in ordinance standards and state statutes.

1. Subdivision Review Process

Subdivision Review applications with the Planning Board follow this process:

- Pre-application meeting with city staff (*optional first step*)
- Neighborhood meeting (*when required by either staff or Planning Board*)
- Sketch Plan Review
- Preliminary Subdivision Review Application
 - Planning Department reviews the application, provides checklist, and informs the applicant of any outstanding items.
 - Planning Department sends notice to abutters of subdivision application receipt.
 - Planning Department sends application for review to other City Departments.

- Planning Department sends application for peer review by professional consultants for wetland delineation, traffic engineer, and other peer reviews, as deemed appropriate by Planning Department staff.
- Once Planning staff has determined the application checklist is complete, the Planning staff will schedule the application for application completeness finding and public hearing with the Planning Board, following ordinance notification requirement. Within the 30-day window, Planning Staff will schedule the application within the appropriate timeline and document missing information or remaining questions for the Planning Board.
 - The Planning Department will coordinate the required public notification sign with the applicant to ensure it is posted per ordinance standards.
- After the Board finds the application complete, it will be scheduled for public hearing following ordinance notification requirements.
- Final Subdivision Review follows the same process as outlined above for preliminary subdivision review, with the exception that notices are not re-sent to abutters upon final application receipt.

The full subdivision review process is outlined in Chapter 188 of Saco's ordinances.

D. Contract Zoning Recommendation Requests

1. Contract Zoning Process

Provisions for Contract Zoning are outlined in Chapter 230 of Saco's ordinance. In general, a contract zone requests follow this process:

- Pre-application meeting with City Staff (*optional first step*)
- Sketch Plan Review (*optional*)
- Contract Zone Request with supporting documentation submitted to the Planning Department
 - Planning Department reviews materials and informs applicant of any outstanding items
 - Planning Department sends request for review to other City departments
 - Planning Department sends request to peer reviewers as applicable
 - Once Planning staff has determined that the application is complete and comments are received from other city departments, the Planning Department schedules the contract zone request for review and public hearing with the Planning Board following ordinance requirements.

2. Planning Board's Role in Contract Zones

When reviewing contract zone requests, the Planning Board acts as a recommending, reviewing body to the City Council. The Planning Board will review the contract zone relative to the standards outlined in Chapter 230 of Saco's ordinances. The Planning Board's process is to review the application for completeness, hold a public hearing, close the public hearing, and forward either a positive or a negative recommendation to the City Council. From there, the City Council process takes effect for contract zone review.

E. Zoning and Map Text Recommendation Requests

Zoning and Map text amendment requests are reviewed by the Planning Board and the City Council following Chapter 230 standards. If a petition that meets the standards is received, the Planning Board will review the zoning and/or map text amendments, hold a public hearing, close the public hearing, and forward its recommendation to the City Council.

F. Street Acceptance Petition Requests

Street acceptance requests are reviewed per Chapter 186 of the City's ordinances. When a developer completes a city street intended to be reviewed for city acceptance and constructed to city standards, the developer

requests a punch list from the Public Works Department, which punch list outlines remaining work that needs to be completed before the city will consider the request. The developer is also responsible for providing draft deeds for the road acceptance along with as-built plans documenting final construction details. Once all documentation has been found acceptable to the Planning and Public Works Departments, and the City Attorney has reviewed and found the deeds acceptable, the Planning Department will schedule the request on a Planning Board agenda. The Planning Board will review the request, review staff recommendations, hold a public hearing, and close the public hearing. The Planning Board will then forward either a positive or negative recommendation to the City Council. From there, the City Council process takes effect for city street acceptance review.

VI. Board Actions

A. Record of Board Actions

1. Minutes & Notes

The Planning Department will provide draft minutes of Board meetings. Draft minutes from the previous meeting will be available in the Board's next meeting packet (contingent on packet due date). Board members can offer suggestions to revise the draft minutes. The Board must vote to approve or amend the minutes, and until they do so, no minutes are official. Within ten days of Board approval of the minutes, the Planning Department will post the final version of the minutes to the Planning Board's webpage. Minutes are meant to provide a record of the motions made during the meeting and are not a transcription of the record.

In cases where the Board hosts a site walk, notes of the site walk will be provided. These notes may be taken by either a Board member or Planning staff. Either way, the site walk notes will be included in the next available meeting packet (contingent on packet due date). The Board will consider the notes similar to minutes, and will review similar to meeting minutes. No motions are taken at site walks. Within ten days of approval of site walk notes, the approved notes will be posted to the Planning Board's webpage.

B. Meeting Recordings

The City of Saco will record Planning Board meetings. The record will be posted to the Planning Board webpage within ten days of the recorded meeting date. In cases where staffing is available, the meeting will be live-streamed. Meeting recordings will include workshops (which include sketch plan review) items, and all applicable sections of the agenda until adjournment. The meeting recording will stop once the Board adjourns. If there are breaks during the meeting, the recording will be paused during the break period.

Questions about meeting recordings should be addressed to the Planning Department.

C. Deliberations

Board deliberations happen after application completeness finding and public hearing. Board deliberations focus on ordinance requirements, development standards, state statutes, and technical design construction standards, input from City Staff and peer review consultants, evidence presented by the public during the hearing process, and the application materials.

D. Decisions

The Planning Board's decisions are based on the facts of the application before it as applied against the duly enacted and applicable city codes, ordinances, and standards. Each decision should be carefully vetted and supported by Findings of Fact. Every time the Planning Board makes a decision it must explain the reasons for its decision by reviewing the evidence in the record and voting on a final set of Findings of Fact. Even in cases where the Board denies an application, the Board must provide clear reasons for its denial, relying upon the evidence in the record to support why the denial was issued. As indicated above, the Planning Board's Findings of Fact are

drafted by the Planning Department, and the Planning Board, during its deliberations, will make appropriate modifications to those Findings of Fact and Conclusions of Law based on public hearing testimony, information from the applicant, or information from Staff. It is ultimately the Board's responsibility to provide clear findings of fact for the decision record.

The Board's decisions are made during its meetings, and Board members should not discuss potential application decisions with others outside of the public Board meeting.

E. Voting

Chapter 4 of the City's ordinances outlines voting and quorum requirements. Quorum consists of four members. The ordinance specifies that "a simple majority of members present and voting shall be sufficient for passage of a motion. In case of a tie vote, the motion fails." However, it's imperative for the Planning Board to provide findings, and to follow best practice from Maine Municipal Association Guidance for findings of fact. Some ordinance sections and applications may require a 2/3 majority vote to pass, and if this is the case, Planning staff will notify the Planning Board at the meeting that a 2/3 majority is required. More information about voting can be found throughout Saco's ordinances.

VII. Training Requirements

A. New Member Training Materials

The Planning Department will issue the following training materials to newly appointed Planning Board members:

- City-issued iPad with accompanying City email address
- Copy of Saco's most recent Comprehensive Plan
- Copy of Maine Municipal Association's Planning Board Manual
- Copy of most recently available Land Use Law Booklet published by Southern Maine Planning & Development Commission (SMPDC)

Other relevant documents may be added to this list as deemed appropriate by the Planning Department or the Planning Board.

B. Required Training

1. Annual Training

At least annually, the Planning Board will complete training on Freedom of Access (FOAA) information and other relevant topics with the City Attorney. Planning Board members are also encouraged to attend Maine Municipal Association trainings, which registration can be coordinated through the Planning Department.

2. Other Training

The City of Saco requires users of city email addresses to complete online security training. Such training includes information about phishing, password strength, and how to stay safe online while using city-issued emails and technology.

VIII. Appointments & Resignations

The Mayor is responsible for filling vacancies in accordance with ordinance and Charter requirements. The Mayor will present their appointment to the City Council, and the City Council will decide whether to confirm the appointment. If confirmed, the new member is appointed.

To resign, a Board member submits a signed letter of resignation to the City Clerk and the Mayor with the City Planner and City Administrator copied.

Additional information is available in Chapter 4 of the City's ordinances.

IX. Board Conduct

A. Conflicts of Interest

Saco is a small community, so it is understood that once in a while, a situation may arise where a Board member has a conflict of interest. An example of such a conflict would be owning property that abuts a proposed development under application review with the Planning Board. Another example of a conflict is being related to an applicant.

In any case where a Board member has either a potentially perceived or an apparent conflict of interest on any matter under review with the Planning Board, that board member should report that conflict of interest to the Planning Board during the first meeting where the application is being reviewed (or as soon as the Board member realizes there is a potential conflict of interest).

- In cases where the Board member is related to an applicant or has some financial stake in an application before the Planning Board, the Board member shall report the conflict and recuse themselves from the matter completely.
- In cases where the Board member or a Board member's relative is an abutting property owner or owns property within the notification distance of the application (either 200' or 600') or has some other conflict regarding the application, after reporting the conflict to the Board, the Board will:
 - Review the nature of the reported conflict and may ask questions about the board member's ability to neutrally review the application;
 - Ask the applicant whether they have any concerns or issues with the Board member reviewing or continuing to review the application.
 - If the applicant indicates that they have issue with the Board member reviewing or continuing to review, the board member will automatically recuse themselves from the application review.
 - If the applicant indicates no concerns, the Board will then vote on whether the board member will review (or continue to review) the application.

B. Code of Ethics

The City of Saco has adopted the Code of Ethics/Conduct policy to which the Planning Board shall adhere, and is incorporated by reference into this document. The Code of Ethics/Conduct is included as a link in Section 10, below.

X. Definitions

Terms are as defined in the City's ordinances. Terms not defined in this document and Saco's ordinances are given their common and generally accepted meanings unless the context requires otherwise.

XI. Amendments

Any future amendments to this Standard Operating Procedure will require a majority vote from the Planning Board.

XII. Attachments & Resources

The following list includes links to the indicated resources:

A. Chapter 4

Link to Chapter 4, Subsection 4-34 of Saco's Ordinances: <https://ecode360.com/9675706>

B. Chapter 179

Link to Chapter 179 of Saco's Ordinances: <https://ecode360.com/37185185>

C. Chapter 186

Link to Chapter 186 of Saco's Ordinances: <https://ecode360.com/9678880>

D. Chapter 188

Link to Chapter 188 of Saco's Ordinances: <https://ecode360.com/37185186>

E. Chapter 230

Link to Chapter 230 of Saco's Ordinances: <https://ecode360.com/32483142>

F. Technical Design Construction Standards Manual (TDCSM)

Link to Saco's Technical Design Construction Standards Manual:

<https://cms1files.revize.com/sacome/TCDSM%20adopted%2003222021.pdf>

G. Freedom of Access Act Information

Link to Saco's FOAA Request Webpage:

https://www.sacomaine.org/departments/city_clerk/freedom_of_access_act_request_form2.php

Link to State of Maine's FOAA Webpage:

<https://www.maine.gov/foaa/#:~:text=The%20public's%20right%20to%20information,privacy%20rights%20of%20individual%20citizens.>

H. Saco's Comprehensive Plan

Link to Saco's Comprehensive Plan: www.sacomaine.org/planning

I. Saco's Code of Ethics/Conduct

Link to Saco's Code of Ethics/Conduct:

<https://cms1files.revize.com/sacome/Code%20of%20Conduct%202020%20ER%2012.8.20.pdf>

J. Saco's Safe, Welcoming, and Diverse Community Resolution

Link to Adopted Resolution: <https://cms1files.revize.com/sacome/7.20.20%20Packet.pdf>

XIII. Planning Board SOP Summary / By Laws:

References: 2017 Edition MMA Planning Board manual and Saco Ordinance, Chapter 4, Article VII, Section 4-34 and Planning Board S.O.P.

- **Role of the Chair person** is to schedule meetings, special meetings, workshops and meeting agendas, in collaboration with the Planning Department. Also, the Chair person will run the meetings following "Standard Operating Procedures" and most current version of "Roberts Rules of Order." (S.O.P. page 3)

- **Role of the Vice Chair person** is responsible for assisting the Chair and will run the meetings in the Chair's absence. (S.O.P. page 3)
- **Planning Board meetings** generally occur the first and third Tuesday of each month starting at 5:30 pm. The Chair has the ability to alter the meeting schedule to ensure quorum and/or to accommodate workloads. Site walks and special meetings are scheduled on an as needed basis. (S.O.P. page 5)
- **Meeting duration** will generally adjourn at 9:30 pm unless otherwise decided by majority vote of the Board members present. (S.O.P. page 7)
- **A quorum**, for the purpose of voting, shall consist of four members, and a simple majority of members present and voting shall be sufficient for passage of a motion.
In case of a tie vote, the motion fails. (Article VII, 4-34, Section A (2). **If a motion results in a tie vote**, the board has failed to act. More information about tie votes can be found in Chapter 4, Subsection 4-34 and on page 39 of the Maine Municipal Association Manual.
- **Annual organization meeting** of the Board shall be the first meeting of the year. A candidate receiving the majority vote for Chair of the Board shall be declared elected. (MMA manual, page 173)
- **Participation of Board member(s)** who have not been able to attend every meeting at which the Board discussed substantive evidence regarding a particular application, then that Board member should not participate in making the decision on the application because it would violate due process. (MMA manual, page 37); (exceptions: MMA manual, page 38)
- **Abstain**, is to decline to vote for or against a motion, and/or to remove oneself from deliberation, and/or remove oneself for bias. Minutes must note the nature of the abstention. (MMA manual, page 21 and 23)
- **Freedom of Access Act**, to avoid violations and the right to due process, Board members shall not have discussions outside an advertised Board meeting. (MMA manual, page 15)

July 14, 2025 Memorandum
Saco Citizen Grievance Review Committee
Exhibit 4 – Planning Board Application Process

Rules and Order of Business Proposed Changes (Hatch)

O. Planning Board

The Planning Board is arguably the city's second most impactful quasi-judicial decision-making body, second only to the City Council itself. The Planning Board is empowered with the authority to monitor and approve real estate development compliance with all City Council-approved land-use ordinances and conformity with the City Council-approved Comprehensive Plan.

The Planning Board consists of seven members appointed by the Mayor and confirmed by the City Council for a 3-year term. Chapter 4. Administrative Code Article VII. Boards, Commissions and Committees § 4-34. Planning Board sets out specific requirements related to appointments and powers and duties. A Mayor appointed, and City Council confirmed council liaison serves with no privilege beyond a member of the public.

As further described within this document under section XIV. Qualifications, appointment and (re)appointment to various citizen boards and committees is a highly discretionary selection made by the Mayor and confirmed by the City Council. This selection process, particularly as it applies to the Planning Board, contemplates appointment selection based on the candidate's exhibited competency from formal academic training and/or professional/life experiences.

General candidate qualifications to serve on the Planning Board are also outlined within this document under section XIV. Qualifications. However, successful candidates for Planning Board appointment should exhibit the following additional qualifications:

1. An ability and willingness to thoroughly read, continuously review, and gain a working familiarity with *all* City of Saco land-use ordinances, including but not limited to the zoning ordinance, the subdivision ordinance, the site plan review ordinance, and the Comprehensive Plan.
2. An ability and willingness to read through substantial amounts of land-use application-specific data comprised of applicant-generated information, Planning Department staff memoranda, expert testimony, and public testimony.
3. Exhibit a work history that includes a high degree of data analysis skill leading to logical critical thinking-based conclusions. Examples of professional work that correlate well with a Planning Board member's role include but are not limited to land-use law, real estate construction, civil engineering, architectural design, real estate construction lending, quality control, regulatory compliance, licensed building trades, and licensed real estate sales brokerage. Due to an ever-present *appearance* of a conflict of interest, Planning Board members who are licensed real estate brokers will be precluded from serving as chairperson of the Planning Board.

The Board typically meets on the first and third Tuesday of the month at 5:30 pm at Saco City Hall, with additional meetings and workshops scheduled as needed. A 90% twelve-month rolling average attendance level is expected of all Planning Board members.

In addition to attending meetings, Planning Board members must be willing to commit to a fair

amount of pre-meeting preparation time to review and familiarize themselves with issues contained within all application documents to be discussed during the meeting. Although the Planning Department staff is available to provide application-specific guidance before, during, and after the meetings, it is expected that all Planning Board members will be prepared to ask questions beyond general high-level information that is already described in the meeting packet. Completion of designated training sessions is also required at no cost to the Planning Board members.

Citizens interested in serving on the Planning Board are asked to provide supplemental information by completing an addendum to the standard "City of Saco Advisory Body Application".

**Proposed Addendum to the “City of Saco Advisory Body Application”
(Planning Board only)**

Please attach a current resume/vita (or reasonable facsimile) outlining all your educational background, professional/life skills, and life experiences, particularly those that you believe are relevant to serving as an effective Planning Board member.

Additional questions:

1. What aspects of your work/life background as indicated in the attached resume/vitae do you feel correlate well with the duties of a Planning Board member as outlined in the “Rules and Order of Business” board/committee description and why?

2. What specific municipal land-use issues do you feel are a current priority, and as a Planning Board member you would like to help resolve and why?

3. Over the last 5 years, how many Planning Board meetings have you attended, either in person or via Zoom/streaming, and what land-use issue(s), either ordinance or project-specific level, have you been actively following?

My signature below acknowledges that I have read and accept responsibility to perform the duties of Planning Board members as outlined in both the “Chapter 4. Administrative Code Article VII. Boards, Commissions and Committee § 4-34. Planning Board” and the “City of Saco Rules and Order of Business”, and I am prepared and committed to providing the time necessary to adequately prepare for, attend, and actively participate in scheduled meetings as described.

Name:

Date

Proposed content for a press release soliciting citizen volunteers for Planning Board service:

If you have an affinity for the City of Saco and are interested in helping to productively shape future land use development within the city, here is your chance to be part of the solution.

Mayor MacPhail and the City Council are seeking qualified applicants to serve on the Planning Board to fill multiple recent resignations. These resignations have resulted from incumbents facing personal time commitments that have forced them to relieve themselves of their time commitment to the Planning Board. To competently serve on the Planning Board is a time consuming task. We are grateful for their past service to the city.

Planning Board members' duties are outlined in "Chapter 4. Administrative Code Article VII. Boards, Commissions and Committee § 4-34. Planning Board" and the "City of Saco Rules and Order of Business". Both documents can be easily accessed on the city's website (www.sacomaine.org).

If you have the requisite skills and are interested in being part of the solution to Saco's land-use challenges by serving on the Planning Board, please contact Mayor MacPhail or your Ward Councilor for additional information, or simply go ahead and complete the online application form. Your city needs your help, so please step up. You can stay on the sidelines and be part of the problem or volunteer to be part of the solution.

Thanks for your consideration.

July 14, 2025 Memorandum
Saco Citizen Grievance Review Committee
Exhibit 5 – City Code Chapter 15

*City of Saco, ME
Wednesday, April 30, 2025*

Chapter 15. Funds

Article II. Lucia Kimball Deering Hospital Fund

§ 15-10. Board of Trustees.

The City of Saco, by special election held on the second Monday of September 1917, as authorized by Chapter 95 of the Private and Special Laws of the State of Maine of the year 1917, having voted to accept the legacies and bequests of Lucia Kimball Deering as provided in the last will and testament of said Lucia Kimball Deering, dated November 19, 1915, said legacies and bequests, devises and gifts, which the City of Saco, Maine, is or may be authorized to accept, under the provisions of said Chapter 95 of the Private and Special Laws of the State of Maine of the year 1917, are hereby placed in the care, custody and under the administration of seven citizens of the City of Saco, who shall constitute a Board of Trustees for the care, custody and administration of these funds and the income thereof and to be designated as the "Board of Trustees for the care, custody and administration of the legacies and bequests provided for under the terms of the will of Lucia Kimball Deering" and all other legacies, bequests, devises or gifts to the said City of Saco for hospital purposes.

§ 15-11. Membership and term.

[Amended 10-5-2009]

The Board of Trustees shall consist of seven members, all being citizens of the City of Saco. Members shall be appointed by the Mayor, with the City Council confirmation, for a term of six years, beginning as each current member in 2009, on file with the City Clerk, concludes their lifetime term, initially with two members being appointed for six years, two members being appointed for four years, and three members being appointed for two years. Vacancies that occur in the Board of Trustees by death, resignation or removal from the City of Saco or by failure to qualify as provided in § 15-12 shall be filled in the same manner.

§ 15-12. Qualifications; bond.

Each member of the Board of Trustees, before assuming the duties of this office, shall be qualified by taking an oath before the City Clerk of the City of Saco that he/she will faithfully perform the duties of this office. The Board shall file a joint bond with such sureties and in such sums as the City Council may deem just and proper.

§ 15-13. Compensation.

[Amended 5-15-2000]

Each member of the Board shall serve with compensation that shall be established by the City Council, after a public hearing, from income from the fund. If the income does not equal the amount necessary to pay such members, then the pay will be proportioned according to the income, and, in addition, each

member shall be entitled to be paid for his/her actual cash expenditures incurred in behalf of the Board.

§ 15-14. Meetings; officers; compensation and bond of Treasurer.

[Amended 10-5-2009]

The Board of Trustees shall hold meetings at such times and place as the Board shall determine and, at the first meeting thereof after the election and qualification of the entire Board of Trustees, shall elect a President, Secretary and Treasurer from its own members. The Treasurer shall give to the Board a bond as Treasurer, in such sum and with such sureties as the Board shall deem just and proper. The compensation of the Treasurer shall be 1/8 of 1% of the gross amount of the fund and of the income thereof, annually, to be paid from the fund.

§ 15-15. Rules and orders.

The Board of Trustees shall make such rules and orders as it may deem wise for the conduct of its official business and which are not inconsistent with law or this article.

§ 15-16. Records.

The Board shall keep a true and perfect record of its proceedings, including its financial statements and operations, which at all times shall be open to the inspection of the Committee on Finance of the City Council.

§ 15-17. Investments.

The Board shall invest all funds in its custody and the income thereof only in such securities as the savings banks of Maine are authorized to invest in, and is authorized to receive into its custody and hold such securities and other property as the representatives of any other estate or any donor may hereafter deliver to said City of Saco for hospital purposes and to reinvest such parts of the same as the Board shall deem wise in like manner.

§ 15-18. Yearly statement.

The Board shall prepare, at the end of each calendar year, a true and perfect statement of the funds and other property in its custody and the income thereof and its entire financial doings and transactions, the same to be included and published in the annual report of the City of Saco next published after the filing of the report with the City Council. Upon the filing of the statement or report of the Board of Trustees to the City Council, it shall be the duty of the Committee on Finance of the City Council to immediately examine and check up the securities and other property in the care and custody of the Board of Trustees, subject, however, to all the provisions of this article.

**Saco Citizen Grievance Review Committee
June 16, 2025 Memorandum – Exhibit 6**

July 14, 2025 Memorandum
Saco Citizen Grievance Review Committee
Exhibit 6 – City Administrator’s Memorandum

Administration

Saco City Hall
300 Main Street
Saco, Maine 04072-1538
Phone: (207) 282-4191

**John P. Bohenko**

City Administrator

jbohenko@sacomaine.orgfacebook.com/sacomaine[Twitter.com/sacomaine](https://twitter.com/sacomaine)Instagram.com/saco.maine

Mayor and City Council Members,

On April 17, 2025, I met with Jay St. John, President of the Lucia Kimball Deering Trust and Bob Quentin, Treasurer of the Trust. The Trust is governed in accordance with Chapter 15 of the City Code (see attached code).

Currently, there are two vacancies on the Trust which can be filled by the Mayor with confirmation of the City Council (See attached list of Trustees). There are two vacancies from the departures of Tony Leblanc and Thomas Wells. The remaining members include Diana Huot, Timothy Murphy, Veronica Sheehan, Bob Quentin and Jay St. John.

As you can see from the attached, the board consists of seven members, all being citizens of the City of Saco. Lifetime members include Diana Huot, Timothy Murphy and Bob Quentin. All trustees receive annual compensation of \$175, including the Treasurer. I have attached the most recent income statement on file with the Saco. The Board of Trustees meets on a quarterly basis or as needed.

The Board's primary responsibility is the maintenance and care of the building at 333 Lincoln Street. The building was built in 1980 and has many required upgrades, which the Board is working towards with the funds that they received from the sale of land in 2022. Presently, there are health related practices that are tenants in the building, which is the primary purpose of the Health Trust. The Lucia Kimball Deering Trust owns 70% of the building and land and 30% has been set up as a condominium, purchased by Volunteers of America, an organization that works with veterans to provide assistance to them.

I have requested the following information from the Trustees:

1. Provide minutes for meetings from January 1, 2021, to present.
2. Provide legal documents that clearly explain the nature, mission, and relationship between the Trust and the Kimball Health Center facility.
3. Provide fiscal year and financial statements from 2020 through 2024 including, but not limited to, a detailed balance sheet, detailed income statement, and reconciliation of sources and use of cash.
4. Provide a summary of the Trust's overall investment strategy. It should be noted that, in accordance with Chapter 15, the Trust can only invest in certificates of deposits or US Treasuries.
5. Provide an in-report for the 2020 through 2024 timeframe.

Also attached is correspondence from attorney Karen Lovell that outlines the history, purpose, function, and administration of the Trust, which I believe you will find helpful.

John