

STATE OF MAINE

COUNTY OF YORK

CITY OF SACO

The following are minutes of the January 3, 2006 Council Meeting.

- I. **CALL TO ORDER** – On Tuesday, January 03, 2006, at 7:00 p.m. a Council Meeting was held in the City Hall Auditorium.
- II. **ROLL CALL OF MEMBERS** – Mayor Johnston conducted a roll call of the members and determined that the Councilors present constituted a quorum. Councilors present: David Tripp, Leslie Smith, Jr. Ronald Morton, Roland Michaud, Arthur Tardif, Eric Cote and Jesse McDougal.

Mr. Richard R. Michaud, City Administrator and Lucette S. Pellerin, City Clerk were also in attendance.

- III. **PLEDGE OF ALLEGIANCE**
- IV. **APPROVAL OF MINUTES:** Minutes were not presented for consideration this evening.
- V. **GENERAL**
- VII. **CONSENT AGENDA:**

A. (First Reading) Adoption of 2005 Electrical Code

The City of Saco adopts and enforces model construction codes that regulate all phases of building, plumbing, electrical and fire safety installations. These codes are written and revised by membership organizations such as the International Code Council and the National Fire Protection Association. Every 3 years, a new edition of these codes is published that include newly adopted provisions that recognize changes in safety and design.

The City has adopted and enforced, under the authority of Title 30-A, M.R.S.A., § 4171, the provisions of NFPA 70, The National Electric Code for many years. NFPA has published the 2005 edition of the National Electric Code as follows, for adoption.

After meeting with local electricians, several changes to the local amendments were suggested. As a result, the following changes are being proposed:

- The minimum wire size amendment has been removed. This was confusing for electrical contractors and made reference to a building code that has since been replaced.
- The local ground fault interrupter outlet amendment has been removed. The new edition of the NEC now has language that covers this subject.

- The non-combustible wiring amendment has been removed. The new edition of the NEC has clarified where this type of wiring method is required.
- The “Romex” wiring amendment has been removed. This made reference to a brand of wiring, not a type. The NEC is also clear on where sheathed cable on other types of cable are permitted and not permitted.
- The “jumping of services” amendment has been removed. This is not permitted by the National Electrical Safety Code, which is adopted for use by the City and Central Maine Power Company.
- The local rule making authority has been removed. After meeting with local electricians, it was determined that any amendments should go through the council rather than being promulgated by staff.
- A new smoke and heat detector section has been added. This was previously adopted as a rule and in light of the comments received, it was decided that it should be contained within the text of the Ordinance.

There have been several editorial changes that clarify already existing amendments.

Public hearing to be scheduled for Jan. 17, 2006.

B. Application to Operate a Game of Chance: BPOE 1597

BPOE #1597 has applied for a license to operate Games of Chance: Pull Tickets, from January 1, 2006 to April 30, 2006.

The applicant has submitted their application in accordance with the provisions of Title 17 M.R.S.A. chapter 13-A and in accordance with the Rules and Regulations promulgated by the Chief of the State Police governing the operation of Beano/Bingo or Games of Chance.

C. Solid Waste Permit for Pine Tree Waste

Pine Tree Waste has applied for their Solid Waste Permit renewal for a period of one year.

The applicant has paid all applicable permit fees as required by Chapter 181 – Solid Waste, Article II, Disposal Facilities § 181-21

D. Solid Waste Permit for Wood Structures, Inc.

Pine Tree Waste has applied for their Solid Waste Permit renewal for a period of one year.

The applicant has paid all applicable permit fees as required by Chapter 181 – Solid Waste, Article II, Disposal Facilities § 181-21.

Councilor Cote moved, Councilor Smith seconded, to approve the Consent Agenda. Further move the Order. The motion passed with seven (7) yeas.

VI. AGENDA ITEMS:

E. **(Public Hearing)** Contract Zone – Acapella Hair Salon

Acapello Salons request consideration of a contract zone in order to establish a “high-end, full service salon” in the existing residential building at 401 Main Street; the corner of Main and Summer Streets. June Juliano, president and her husband David Stanley, represent the salon. They operate salons in Scarborough and Falmouth, and have a sister company location in Portland. They find the Main Street location attractive due to its visibility, the high volume of traffic on Main Street, and the large side and rear yard that can be converted to parking.

A contract zone is requested due to the existing zoning of the parcel: R-1b. This primarily residential zone does not allow a Personal Services use as defined by the Zoning Ordinance.

The Planning Board at its November 1 meeting reviewed this item. The Board voted to make a negative finding on each of the four standards required for a contract zone, and thereby has forwarded a negative recommendation to the Council. If the Council approves the contract zone, the project would be subject to site plan review by the Planning Board prior to redevelopment of the site.

Councilor Cote moved, Councilor Smith seconded, to open the Public Hearing on the contract zone document entitled “**Contract Zone Agreement by and Between Acapello Salons, Inc., and the City of Saco,**” dated November 1, 2005. The motion passed with seven (7) yeas.

Ms. June Juliano, applicant for the Contract Zone, addressed the Council regarding her request. The main objective of her business, at the location on Main St., is to provide quality jobs that provide health and retirement benefits to the employees and to restore the beautiful building located at 401 Main St.

Mr. Arthur Huot, who is a member of the Episcopalian Church located at the corner of Main and Cleveland Streets spoke in favor of the project.

Mr. David Howe, 23 Cleveland St. supports the proposed use and felt that it would be a good fit for the area.

Mr. Lee Perkins, 17 Summer St., spoke against the Contract Zone. He stated that the Planning Board had ruled against the request and felt the Council should honor their recommendation. He also stated that additional businesses in the neighborhood and Main St. added to the traffic problems that already exist.

Councilor Cote moved, Councilor Smith seconded, to close the Public Hearing and be it Ordered that the City Council set the Second and Final Reading for January 17, 2006. Further move to approve the Order. The motion passed with seven (7) yeas.

Contract Zone Agreement By and Between Acapello Salons Inc. and the City of Saco

November 1, 2005

THE CITY OF SACO HEREBY ORDAINS:

- I. That the zoning ordinance of the City of Saco, dated January 2, 1985, and amended through June 20, 2005 is hereby amended by adopting this contract by and between the City of Saco and Acapello Salons Inc. (Applicants).
1. The Applicants propose to establish a Full Service Salon and Spa business in the existing building at 401 Main St.
 2. The City of Saco Zoning Officer has determined that a Salon and Spa business shall be categorized as a "Personal Service," a use and defined term in the Zoning Ordinance, as follows: "Establishments engaged in providing services involving the care of the person or personal apparel including but not limited to barber shops, beauty shops and manicurists, tailors, laundromats, shoe repair shops, tattoo parlors, massage therapists, and photographic portrait studios."
 3. Said property is identified as Tax Map 32, Lot 132 on City of Saco tax maps.
 4. Said property is in the R-1B zoning district. The property is also located in the Saco Historic Preservation District, and as such subject to review by the Historic Review Commission.
 5. Personal Services are not an allowed use in the R-1B zoning district.
 6. Said property is currently improved in the form of a building that is residential in use and appearance.
 7. The Applicants propose to utilize the first and second floors of the existing building for the business. Approximately 2,800 square feet of floor area would be devoted to the salon and spa.
 8. Recognizing the limitations of the parcel, and the requirements of the Zoning Ordinance, the Applicants hereby make application for a Contract Zone that would allow the proposed Personal Services business to be established and operate at 401 Main Street.

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

This Contract Zone, specifically and exclusively for the parcel at 401 Main Street, would allow the Applicants to operate a Personal Services business as proposed on the subject

C:\Program Files (x86)\PDFConverter\temp\NVDC\47C0585B-9163-4EE3-837E-2AEE79D421B6\6da2ecc9-b10d-4d15-b701-e80ae4581eccfile.doc 7/25/2016 Page 4 of 8

parcel, subject to the following conditions and restrictions, as provided for in Section 1403 of the Saco Zoning Ordinance:

- a. A Personal Services business as proposed and described by the Applicants shall be allowed to operate as a permitted use only on the parcel identified herein: Tax Map 32, Lot 132, also referenced as 401 Main Street.
- b. Section 707-4 of the Zoning Ordinance limits a sign in a residential district to four square feet if one-sided, or two square feet per side if two-sided. Section 707-4 is amended to allow the applicant to install one (1) freestanding two-sided, four (4) square foot per side sign. Said sign is otherwise subject to all permitting requirements ordinarily administered by the Code Enforcement Office.
- c. Hours of operation are proposed as 9:00 a.m.-9:00 p.m. Monday through Friday, 9:00 a.m.-4:30 p.m. on Saturday. The Applicants have stated that these are the maximum hours intended for operation, and that earlier closing times or additional days not open for business are possible. Hours of operation shall not extend beyond the stated times, but may be less as the Applicants choose.
- d. The Applicants will restrict the employees in the day spa business to no more than nine (9) full time equivalents. The Applicants will also limit the number of customers at the day spa to no more than nine (9) customers per two (2) hour period.
- e. The Applicants agree to enter into a Parking Agreement with the Trinity Episcopal Church located at 15 Cleveland Street, Saco. Said Parking Agreement shall, without fee or charge, provide church members with parking privileges during those hours of Sunday services, meaning 7:00 a.m. to 12:00 p.m. each Sunday and Christmas, and 4:00 p.m. to Midnight on Christmas Eve day.
- f. Utilization of the existing Main Street entrance shall be limited to the Applicants. All employees and all customers shall park on-site in the proposed parking lot. Off site parking along Main Street and Summer Street is expressly prohibited.
- g. The Applicants shall adhere to all other applicable provisions of the R-B1 zoning district and of the City of Saco Zoning Ordinance and Subdivision Regulations.
- h. All details as shown on the submitted plans and included in the submitted application are hereby incorporated into this contract by reference. The proposed use shall be operated substantially in conformance with those plans. Minor changes may be approved by the staff of the City of Saco. Any changes determined by the staff to be "major" shall be submitted to the Planning Board

for review. If it is determined that the changes constitute a change in the contract, then the developer shall also be required to obtain City Council approval of the changes.

- i. Upon approval of this contract by the City Council, the Applicants shall submit materials required for site plan review to the Planning Office in order that the project may be reviewed by the Planning Board. Failure of the Applicants to secure site plan approval from the Planning Board within one year of the approval of this Contract by the Saco City Council shall render this Contract null and void. In the event that permits or approvals are delayed due to circumstances beyond the control of the Applicants, this one year deadline may be extended by one year upon written request to the City Council.
- j. This contract and its provisions shall specifically and exclusively apply to the Contract Zone request submitted by the Applicants. Approval of this Contract Zone is in part based on the financial and technical qualifications of the Applicants as submitted to the City.
- k. Failure of the Applicants to open the proposed Personal Services business as described in application materials for this Contract Zone within one (1) year from the date of approval shall render this approval and Contract null and void.
- l. Breach of these conditions and restrictions by the developer shall constitute a breach of the contract, and the developer shall be required to apply for a contract modification. Failure to apply for, or to obtain a modification shall constitute a zoning violation, subject to enforcement action.

III. Pursuant to authority found in 30A M.R.S.A. Section 4352 (8), and the City of Saco Zoning Ordinance, Section 1403, and by vote of the Saco Planning Board on November 1, 2005, and the Saco City Council on _____, 2006, the following findings are hereby adopted:

- A. City Tax Map 32, Lot 132 is a parcel of an unusual nature and location, for the following reasons:
 1. The residence at 401 Main Street is a historically significant structure located in the R-1b zoning district and the City's Historic Preservation District.
 2. The residence was identified as the John Gilpatrick house as part of the City's historic resources survey in 1995. The Greek Revival-style structure was built in 1861, and the exterior retains much of its historic character.
 3. The property is unusual in the R-1b zoning district in which it is located in that the parcel is adequately sized at .75 acre to provide parking for a commercial use along the Main Street corridor, and, via the proposed parking agreement, to

provide parking for the neighboring Trinity Episcopal Church during the salon's non-business hours.

4. The parcel's location on the corner of Main and Summer Streets will allow the Applicants, as proposed, to establish a new entrance/exit from Summer Street for employee and customer use, thereby limiting use of the existing driveway off Main Street.

- B. The proposed rezoning is consistent with the Saco Comprehensive Plan, based on the following goals:

Chapter 17, Section B. Local Economy.

Local Goals: To increase the number of jobs available in Saco.

To increase Saco's role in the Southern Maine tourist economy and expand the range of activities available in Saco to meet the needs of travelers and tourists.

Maintaining Downtown Saco as a prosperous core of the community will require that the City play an active role in revitalizing this area...

Chapter 17, Section F. Land Use

General Pattern of Development – To facilitate (the historical pattern of a built-up urban center) the city should plan an active role in encouraging and supporting the redevelopment, reuse, and revitalization of the built-up areas of the City.

Chapter 17, Section K. Cultural Facilities

Local Goal: to provide cultural facilities to meet the needs of the community and reinforce Saco's role as a core community within the region.

The City should support private and public efforts to expand the range of cultural activities that are offered in the City and encourage the use of existing facilities.

- C. The proposed use is consistent with the existing uses and permitted uses within the original zone. The original zone is the Residential-1b (R-1b) zone, a low density residential district “. . . designated for areas which are predominately single-family residential in character...New land uses in this district are restricted to low-density residential and associated uses.” (Zoning Ordinance, Section 405-1.) Among the permitted and conditional uses allowed in the R-1b zone are single and two-family housing, churches, daycare centers, elderly congregate housing, offices within converted residential structures, and bed and breakfast establishments.

Examples of uses in the vicinity of the subject property include the Celtic Inn (398 Main St.), Saco Museum (375 Main St.), Home Companions, Inc., (378 Main St.), and the Monarch Center (392 Main St.), as well as single-family and multi-family dwellings. The building is approximately 1,200 ft from the B-2d zone to the north, and 1,000 feet from the B-7 zone to the south.

D. The conditions proposed are sufficient to meet the intent of Section 1403. Contract Zoning, of the Saco Zoning Ordinance.

IV. Based on the above findings, conditions and restrictions, the City Council hereby incorporates this Contract Zoning agreement into the Saco Zoning Ordinance by reference. By signing this contract, both parties agree to abide by the conditions and restrictions contained herein.

Adopted by the Saco City Council on _____2006.

by _____ by _____

Richard Michaud
City Administrator

June Juliano, President
Acapello Salons, Inc.
Applicant

F. Approve Rental Fees Parks and Recreation Facilities

With the recent acquisition of the new Community Center located at 75 Franklin Street, the need for a comprehensive rental fee schedule has been realized for use of the multiple areas in this building. The attached fee schedule was designed in an effort to establish fair rental rates for various private, profit, non- profit and citizen groups and activities. The establishment of a rental fee structure will assist the Parks and Recreation Department in meeting it's role of being a community meeting place while collecting fees to in part offset maintenance and utility costs of the building itself.

Additionally it was found that there needed to be a well-defined fee rental policy for use of these facilities and the appropriate application form for accountability

Councilor Morton moved, Councilor Michaud seconded, that it be Ordered that the City Council approve the document titled, "**Rental Fee Schedule for Parks and Recreation Facilities, dated January 3, 2006**". Further move to approve the Order. The motion passed with seven (7) yeas.

VIII. ADJOURNMENT

Councilor Tardif moved, Councilor Smith seconded, to adjourn. The motion passed with yeas. TIME: 7:33 p.m.

ATTEST: _____
Lucette S. Pellerin, City Clerk