

STATE OF MAINE

COUNTY OF YORK

CITY OF SACO

I. CALL TO ORDER – On Monday, December 20, 2010 at 7:00 p.m. a Council Meeting was held in the City Hall Auditorium.

II. ROLL CALL OF MEMBERS – Mayor Roland Michaud conducted a roll call of the members and determined that the Councilors present constituted a quorum. Councilors present: Margaret Mills, Marie Doucette, Jeffrey Christenbury, Arthur Tardif, Eric Cote and Marston Lovell. City Administrator Rick Michaud was also present.

III. PLEDGE OF ALLEGIANCE

IV. GENERAL:

PRESENTATION OF THE PAUL JANSON AWARD FOR 2010

This item was postponed until January 2011.

CODE ENFORCEMENT OFFICER OF THE YEAR 2010

The Maine Building Officials and Inspectors Association (MBOIA) conferred its first annual “Code Enforcement Officer of the Year” award to Dick Lambert, Code Enforcement Officer for the City of Saco. MBOIA is a professional association made up of approximately 200 Building Officials, Code Enforcement Officers and allied professionals from throughout the State. This award was given in appreciation for the work that has been done by Dick on behalf of the Code Enforcement profession in the adoption and subsequent writing of the first state-wide building and energy codes and for his participation in Regional and National Code Enforcement Associations.

Dick has been a member of MBOIA since 1982 and became its treasurer in 1985. He served in that capacity until 1989 when he became the Association’s Vice-President. In September of 1992 he was elected to serve a 2 year term as President of the group. In 1994, he became immediate past president and served on various sub committees until he was asked to once again become Vice-President in 2004. He also serves as Vice-Chair of the International Code Council’s Property Maintenance Code Committee; Secretary-Treasurer of the North East Regional Coalition, a regional code group made up of code enforcement officers from New England and New York State and is a member of the Maine Technical Building Codes and Standards Board.

Dick recently completed his 25th year with the City of Saco and serves the local community as an Assistant Scoutmaster with the Boy Scouts of America. He and his wife Caryn live in Biddeford and have 3 sons.

Mayor Michaud and City Administrator Rick Michaud congratulated Dick Lambert for receiving the ‘Code Enforcement Officer of the Year’ award.

V. APPROVAL OF MINUTES: DECEMBER 6, 2010 & DECEMBER 13, 2010

The December 6, 2010 and December 13, 2010 minutes were approved with unanimous consent.

VI. AGENDA ITEMS:

A. COMPREHENSIVE ANNUAL FINANCIAL REPORTING AWARD FROM GFOA

For the 7th year, the Government Finance Officers Association of the United States and Canada presented a “Certificate of Achievement for Excellence in Financial Reporting” to the City of Saco, Maine for its Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2009. This award is the highest form of recognition in governmental budgeting. Its attainment represents a significant achievement by our organization.

Additionally, for this quality work, Finance Director, Cheryl Fournier has received an "Award of Financial Reporting Achievement" for preparing the Comprehensive Annual Financial Report, given by the Government Finance Officers Association.

Mayor Michaud and City Administrator Rick Michaud congratulated the City of Saco and to our Finance Director – Cheryl Fournier for the excellent work, and may we continue with these results in the future.

B. AMENDMENT TO THE SACO CODE, CHAPTER 112-GENERAL ASSISTANCE PROGRAM APPENDIXES FOR OVERALL MAXIMUMS, THRIFTY FOOD PLAN & HOUSING MAXIMUMS FOR OCTOBER 2010-2011 – PUBLIC HEARING

Each year Maine Municipal Association presents municipalities with new Appendixes for their City Ordinance, which need to be reviewed and adopted. Municipalities should adopt the new maximums (Appendixes) by October 1st or as soon as possible thereafter. The levels in the Overall Maximums – Appendix A, as well as the Housing Maximums – Appendix C are the same as they were for 2009-2010. This is because the annual increase in the federal poverty levels is a factor in the statutory formula used for calculating the overall maximums. This year was slightly unusual in that the federal government did not increase the federal poverty levels from last year. Also, the Food Maximums – Appendix B, are the same as the USDA 2010-2011 Thrifty Food Plan and were not increased this year.

The City Council discussed this item at Workshop on November 15, 2010; the First Reading was held on December 13, 2010.

Councilor Tardif moved, Councilor Mills seconded to open the Public Hearing on the amendment to the Saco Code, Chapter 112, General Assistance Program, Appendix A – Overall Maximums, Appendix B – Food Maximums, and Appendix C – Housing Maximums. The motion passed with six (6) yeas.

There were no comments from the public.

Councilor Tardif moved, Councilor Christenbury seconded to move to close the Public Hearing and be it ordered that the City Council set the Second and Final Reading for January 3, 2011, and further move to approve the Order. The motion passed with six (6) yeas.

VII. CONSENT AGENDA

Councilor Smith arrived at 7:10 p.m.

Councilor Mills moved, Councilor Lovell seconded to adopt the following Consent Agenda - The City of Saco hereby:

A. Approves the First Reading of the document titled, 'Section 733-2 of the Saco Zoning Ordinance, Certificate for Demolition in B-3 District, December 20, 2010', and further move to set the Public Hearing for January 3, 2011;

B. Ordains and approves the First Reading of the document titled, 'Code Amendment §4-35 (F) Economic Development Commission, dated December 13, 2010', and further move to set the Public Hearing for January 3, 2011;

C. Ordains and approves the First Reading of the document titled, 'Contract Zone Agreement By and Between Michael and Brenda Maksut and the City of Saco,' dated December 1, 2010'; and further to schedule a Public Hearing for January 3, 2011, for the property at 128 Flag Pond Road.

The motion passed with seven (7) yeas.

The item commentaries are listed below.

A. ZONING ORDINANCE AMENDMENT B-3 – FIRST READING

On March 1 the City Council adopted zoning ordinance amendments related to the B-3. Amendments limiting the size of commercial buildings and commercial occupancies and a few changes in the B-3 use lists were adopted in the usual way. A new Section 733-2, “Certificate for Demolition in B-3 District”, however, was passed with an automatic 9 month repealing provision, which expires at year’s end.

Since the Council adopted these amendments, the Comprehensive Plan Committee has completed a draft plan, including downtown land use, and the Planning Board began work on specific downtown zoning on December 15. (A report to the Council is scheduled in January.)

The expiring demolition provisions afford a degree of protection to buildings built before 1895. A prepared motion would readopt the provisions. The Planning Board is now working on downtown zoning.

In workshop on December 13 councilors suggested that the time limit in the current version of this ordinance be removed and that is represented in the current draft.

Section 733-2 of the Saco Zoning Ordinance Certificate for Demolition in B-3 District, December 20, 2010

(Please note that underline represents new language while ~~striketrough~~ represents language to be deleted.)

Section 733-2. CERTIFICATE FOR DEMOLITION IN B-3 DISTRICT

A. SCOPE AND PURPOSE The following provisions apply to any proposal involving the demolition or removal of any building or structure built before 1895, or any appurtenance thereto, in the B-3 zoning district, except for those buildings already in the downtown Historic Preservation District. Such buildings may not be demolished without a Certificate For Demolition The purpose of this section is to afford the city the opportunity to preserve neighborhood character and to preserve historic buildings and structures, or important portions and features thereof.

B. PROCEDURE AND SUBMISSIONS The Planning Board shall hold a public hearing on each application within 30 days of submission. Notice shall be given in the same manner as required for a site plan review. The Planning Board may waive any application requirement if it determines it is not necessary to an application. There is no fee for this application. Applicants shall file with the Planning Board an application for a Certificate For Demolition, which shall include at least the following:

- a) The applicant’s name, address, and interest in the subject property. If not representing the owner, the applicant shall provide evidence of right, title, or interest in the property.
- b) The owner's name, address, and signature, if different from the applicant's.
- c) The address and the tax map and lot number.
- d) The present use and zoning classification of the subject property.
- e) Photographs of the building involved and of adjacent buildings.
- f) A brief description of the new construction, reconstruction, alteration, maintenance, demolition or removal requiring the issuance of the Certificate of Demolition.
- g) Evidence which supports one or more of the Standards of Approval below. This might include evidence from a structural engineer, a building inspector, an architectural historian, builder, an appraiser, or other qualified expert.

C. STANDARDS OF APPROVAL FOR A CERTIFICATE FOR DEMOLITION

The building may be demolished within 60 days unless the Planning Board makes the following three findings based on the record:

1. The building is of historical significance as defined in Sections 413-2 and 413-4 of the Saco Zoning Ordinance;

2. Prudent and feasible alternatives to demolition exist; or

3. The property is not deteriorated beyond reasonable repair.

If the Planning Board finds that any of the three standards are not met, it shall issue a Certificate For Demolition. If it does not make such findings within 60 days of the public hearing or if it issues a Certificate of Demolition, the code enforcement officer may issue a demolition permit.

D. CONDITIONS OF APPROVAL In approving an application for the demolition, the Planning Board may impose reasonable conditions, including, but not limited to, the following conditions:

1. Photographic, video, or drawn recording of the property to be demolished, and/or

2. Reasonable salvage and curation of significant elements, and/or other reasonable mitigation measures.

E. HAZARD BUILDINGS Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature. Nothing in the section shall prevent the construction, reconstruction, or demolition of any building or feature which the Code Enforcement Officer shall determine is required because of concerns about structural deficiencies, the safety of the building and the safety of its occupants.

B. CODE AMENDMENT: §4.35 ECONOMIC DEVELOPMENT COMMISSION – FIRST READING

On November 1, 2010, the Council adopted the “City of Saco Economic Development Plan.” One of its recommendations reads: “The Economic Development Commission charge should include a requirement that it prepare a strategic development plan on a biennial basis and that it be formally presented to the city council no later than 60 days after the council is sworn into office.”

The proposed amendment would implement that recommendation.

The City Council discussed this item at Workshop on December 13, 2010.

Code Amendment §4-35 (F) Economic Development Commission Dated December 13, 2010

(Please note that underline represents new language, while ~~strikethrough~~ is language to be deleted).

§ 4-35 Economic Development Commission.

A. Creation and name. There is hereby created the Economic Development Commission.

B. Purposes. The Economic Development Commission shall encourage, promote, establish, solicit and provide for industrial development, expansion and growth within the City of Saco, within the Saco Industrial Park, so called, and on lands hereafter acquired by the City for industrial uses and purposes and on other lands within the City which may be privately owned but which are particularly adaptable to industrial uses; option and purchase lands within the City on behalf of the City and do all those things designed to promote and encourage the location and perpetuation of industry within the City; encourage and promote the development and expansion of existing industrial and commercial uses within the City; gather, correlate and preserve statistics, surveys and other data relating to land classification and uses, buildings, labor statistics and other matters that will enable it to carry out its function and purposes; and perform such other functions as may be required for economic development and improvement.

C. Commission membership and terms of office. The Commission shall consist of seven voting members and the City Administrator or his/her appointed representative as an ex officio member. The Commission members shall be appointed by the Mayor, with Council confirmation, for terms of five years. Initial appointments shall be made as follows: two members for five years, two members for four years, one member for three years and one

member for one year. Commission members shall be residents of the City of Saco and shall be persons qualified to perform the duties of such office.

D. Vacancy in office.

(1) Vacancies in office occur when:

(a) A member submits his/her resignation, in writing, to the City Council, which shall declare that member's seat vacant.

(b) A member's official residence is no longer within the City, in which instance the Secretary of the Commission shall notify the City Council in writing, which shall declare that member's seat vacant.

(c) A member fails to attend three consecutive unexcused meetings of the Commission, in which instance the Secretary of the Commission shall notify the City Council in writing, which shall declare that member's seat vacant.

(d) Upon the expiration of the term of a member.

(2) In the event that a vacancy does occur, the Mayor shall appoint a replacement for the unexpired term, subject to confirmation by the City Council. A member whose term has expired may continue to serve until the vacancy is filled.

E. Organization.

(1) A quorum consists of four members. The Commission may act by a majority vote of those present and voting, but at least three affirmative votes shall be necessary to take any action under Subsection F.

(2) The Commission shall annually elect a Chairman and Secretary. They shall hold regular meetings as they shall determine. Special meetings may be called by the Chairman after notice to each member at least three days in advance of such meeting.

F. Powers and duties.

(1) The Commission may collect, hold, manage, control, invest, reinvest and expend all funds annually appropriated to it by the City, subject to approval of the Council.

(2) The Commission may, in the name of the City, negotiate to purchase, enter into options to purchase and purchase lands lying within the City for current and prospective industrial uses, subject, however, to approval by the Council.

(3) The Commission may, in the name of the City, negotiate and enter into lease and rental transactions of industrial sites and improvements owned by the City, subject to approval by the Council.

(4) The Commission shall, in the name of the City, manage and administer all revolving loan funds. Any expenditures of these funds are subject to approval by the Council.

(5) Review site plans and building designs and make recommendations to the Planning Board.

(6) The Commission may, in the name of the City, negotiate and enter into options for the sale of industrial real estate, contracts for sale of real estate and conveyances of real estate with prospective buyers of the same, subject to the approval of the Council; provided, however, that the Council shall determine site prices of improved and unimproved industrial real estate and real estate interests owned by the City.

(a) In the event that the Commission secures a prospective purchaser for one or more of said sites and/or improvements, the Commission may, without further authority from the Council, enter into a contract to sell, an option to sell or a conveyance of such site or sites or improvements, based upon the predetermined prices or a price in excess of the predetermined prices.

(b) The predetermined prices for such real estate and real estate interests as determined by the Council shall remain in force for a period of 12 months from the date of such determination for the purposes as set forth in this subsection; provided, however, that the Council may, within any twelve-month period, adjust the prices and provide written notification of such adjustments to the Commission, in which event the Commission shall use the adjusted prices in dealing with industrial prospects. In any event, the Council shall, at least every 12 months, review the predetermined prices and notify the Commission, in writing, of any adjustments thereto.

(7) The Commission may accept, in the name of the City, gifts and devises of real estate and real estate interests to be used by the Commission and the City for further industrial development and expansion.

(8) The Commission may employ personnel, including engineers, surveyors, architects, contractors, attorneys at law, accountants and other necessary persons, for the purpose of designing, developing, constructing and promoting the Saco Industrial Park, so called, and any other industrial real estate which may be hereafter acquired by the City, subject to its authority and the expenditures of funds, as provided in Subsection F(1).

(9) The Commission shall ensure, through the City Code Enforcement Office, any covenant and deed restrictions on industrial property. The Code Enforcement Office is authorized to initiate legal action to enforce covenant and deed restrictions.

(10) The Commission shall prepare an economic development plan every other year, and it shall be presented to the new City Council within 60 days of the Council's taking office.

G. Budget. The Commission shall prepare an operating budget for each fiscal year and shall submit such budget to the City Administrator, for inclusion in the City operating budget, not less than three months prior to the commencement of such fiscal year.

H. Confidentiality of negotiations. It is hereby determined that premature disclosure of information used in or generated by negotiations undertaken pursuant to Subsection F(6) would prejudice the competitive and bargaining positions of the Commission and the City. Therefore, the Commission may conduct those negotiations in accordance with 1 M.R.S.A. § 405.

C. CONTRACT ZONE – 128 FLAG POND ROAD, MICHAEL AND BRENDA MAKSUT, OWNERS AND APPLICANTS – FIRST READING

Applicants Mike and Brenda Maksut propose a contract zone that would allow them to establish an Auto Repair Garage in an existing building on their property at 128 Flag Pond Road. In order to establish such a use in this R-1a zone, the best alternative for the applicants is a contract zone. Mr. Maksut operated Seacoast Auto on Portland Road in leased space until recently, and would like to re-open the business on his own property.

This item was reviewed by the Planning Board on December 1, 2010. The Board voted to make a positive finding on each of the four standards required for a contract zone, and has forwarded a positive recommendation to the Council. If the contract zone is approved, the project would be subject to site plan review by the Planning Board prior to opening.

The City Council discussed this item at Workshop on December 13, 2010.

**Contract Zone Agreement by and Between
Michael and Brenda Maksut and the City of Saco**

December 1, 2010

THE CITY OF SACO HEREBY ORDAINS:

I. That the Zoning Ordinance of the City of Saco, dated January 2, 1985, and amended through July 19, 2010 is hereby further amended by adopting this Contract Zone Agreement by and between the City of Saco and Michael and Brenda Maksut (Applicants).

1. The Applicants propose to establish an Auto Repair Garage at 128 Flag Pond Road (Subject Property).
2. Subject Property is identified as Tax Map 76, Lot 11 on City of Saco tax maps, and is in the R-1a zoning district.
3. Said property is currently developed with a Single Family Dwelling which serves as the Applicants' residence, a permitted use in the R-1a zoning district.

4. Right, title and interest is demonstrated with the Applicants' submission of a warranty deed conveying the premises at 128 Flag Pond Road from Richard and Diane Girard to Michael and Brenda Maksut. Said deed is recorded in Book 4949, Page 322 at the York County Registry of Deeds.
5. The Subject Property is improved with a 1,025 square foot single-family dwelling, a 2,400 square foot garage, and a 768 square foot workshop.
6. The Applicants currently operate an Auto Repair Garage at 748 Portland Road, in leased space.
7. The Applicants propose to move their business from Portland Road to the Subject Property. However, "Auto Repair Garage" is not an allowed use in the R-1a zone.
8. As stated in Section 1403-1 of the Zoning Ordinance, "Occasionally, competing and incompatible land uses conflict; and traditional zoning methods and procedures such as variances, conditional use permits, and alterations to the zone boundaries are inadequate to promote desirable growth. In these special situations, more flexible and adaptable zoning methods are needed to permit differing land uses in both developed and undeveloped areas, and at the same time recognize the effects of change."
9. Recognizing the use restrictions imposed by the Zoning Ordinance, the Applicants hereby make application for a Contract Zone that would allow an Auto Repair Garage to be established and to operate on the Subject Property.

II. This Contract Zone, specifically and exclusively for the parcel at 128 Flag Pond Road, would allow the Applicants to establish and operate an Auto Repair Garage as proposed on the Subject Property, subject to the following conditions and restrictions, as provided for in Section 1403 of the Saco Zoning Ordinance:

1. An Auto Repair Garage as proposed and described by the Applicants shall be allowed to operate as a permitted use on the parcel identified herein as the Subject Property: Tax Map 76, Lot 11.
2. The Applicant shall adhere to all other applicable provisions of the R-1a zoning district and of the City of Saco Zoning Ordinance.
3. 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.
4. 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. Accordingly, this contract and the contract zone it creates shall not be transferable unless approved by the City Council.
5. Failure of the Applicants to open the proposed Auto Repair Garage for business within one (1) year from the date of approval shall render this approval and Contract null and void.
6. Breach of these conditions and restrictions by the developer shall constitute a breach of this Contract Zone Agreement, which shall be considered a zoning violation, subject to enforcement action.
7. As specified in Section 1403-9 of the Zoning Ordinance, all applications for contract zoning are subject to site plan review.

III. Pursuant to authority found in 30-A 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 December 1, 2010 and the Saco City Council on _____, 2011, the following findings are hereby adopted:

A. City Tax Map 76, Lot 11 is a parcel of an unusual nature and location, for the following reasons:

The property at 128 Flag Pond Road is within one-quarter mile of the Maine Turnpike. While zoned R-1a, it is in close proximity to Rte. One and located on a connector road, both of which facilitate access to the property for both residential and commercial uses.

The Applicants have built a 2,400 s.f. garage on the property and have established personal use of the garage for auto repair work. The scale of activity has been found to be appropriate for the neighborhood.

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.

Chapter 17, Section F. Land Use, Local Goals

To foster a pattern of land use that respects and builds upon the established settlement pattern of an urban core surrounded by an outlying rural area.

To guide development to identified growth areas that are compatible with the existing settlement pattern and that enhance the desired pattern of land use.

C. The proposed use is consistent with the existing uses and permitted uses within the original zone. The original zone is the Residential Low Density District (R-1a) zone, the purpose of which is “predominantly 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-1a zone are single and two-family housing, community living uses, day care centers, stables, kennels, home-based retail uses, and golf courses.

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

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 _____, 2011.

by _____

Richard Michaud
City Administrator

by _____

Michael and Brenda Maksut
Applicants

VIII. ADJOURNMENT

Councilor Christenbury moved, Councilor Mills seconded to adjourn at 7:12 p.m. The motion passed with unanimous consent.

ATTEST: _____
Michele L. Hughes, Deputy City Clerk