I. CALL TO ORDER – On Monday, October 6, 2014 at 7:00 p.m. a Council Meeting was held in the City Hall Auditorium.

II. ROLL CALL OF MEMBERS – Mayor Donald Pilon conducted a roll call of the members and determined that the Councilors present constituted a quorum. Councilors present: David Precourt, Leslie Smith Jr., Kevin Roche, Arthur Tardif, Eric Cote and Nathan Johnston. City Administrator Rick Michaud was also present. Councilor Bette Brunswick was excused this evening.

III. PLEDGE OF ALLEGIANCE

IV. GENERAL:

V. AGENDA:

A. CONTRACT ZONE AMENDMENT: HORTON MEADOWS SUBDIVISION – (SECOND & FINAL READING)

Contract Zone Agreement

By and Between
Doyle Enterprises, Donald B. and Jean A. Horton,
Saulnier Development Saco, LLC and the City of Saco

October 24, 2005
Amended , 2014

THE CITY OF SACO HEREBY ORDAINS:

I. That the Zoning Ordinance of the City of Saco, dated January 2, 1985 and amended through May 12, 2014 May 11, 2005, be amended as further described in this Contract by and between the City of Saco (the City) and Saulnier Development Saco, LLC, Donald B. and Jean Ashton Horton (Mr. And Mrs. Horton or the Hortons) and Doyle Enterprises (Applicant of Developer).

1. The Applicant proposes to develop a clustered residential subdivision on a portion of the parcel at 464 Buxton Road (Subject Property). The Subject Property is identified as Tax Map 123, Lot 21 on City of Saco tax maps.

2. The Subject Property is the site of one single-family dwelling, owned and reside in by Donald B. and Jean Ashton Horton.

3. A copy of a Warranty Deed, dated March 11, 1988, is submitted by Mr. and Mrs. Horton as evidence of right, title and interest. Said deed is recorded in Book 4649, Page 245 at the York County Registry of Deeds.

4. A copy of a purchase and sale agreement between the Hortons and Saulnier Development Saco, LLC is submitted by Saulnier Development Saco, LLC as evidence of right, title and interest.

5. The Subject Property is in the C-1 zoning district.

6. Mr. and Mrs. Horton have submitted a written statement authorizing the Applicant to represent their property before the City of Saco, applied for and received approval for an earlier version of this contract zone agreement for this property on November 7, 2005. Subsequently they applied for and received approval from the Planning Board for a clustered subdivision for thirty-one (31) lots on June 15, 2010. Construction did not occur due to a poor real estate market.

7. Section III.12 of the 2005 contract zone agreement stated that only the Hortons may develop the proposed subdivision under the terms of said agreement and that the project “shall not be transferable prior to development as proposed by the Applicant.”
8. The Hortons request approval from the City Council to convey the project to current Applicant Saultner Development Saco, LLC. The Hortons are currently overseeing a reapproval process for the subdivision plan before the Planning Board, with the intent of selling the project to the Applicant after approval. Approval of the preliminary subdivision plan was granted by the Board on June 24, 2014.

9. The Subject Property has an area of 68.3 1/6 ac. The minimum lot area requirement in the C-1 zoning district is 80,000 square feet. The Subject Property is a conforming parcel with respect to minimum lot area.

10. The Subject Property has 311.18 540 ft of frontage on Buxton Road. The minimum frontage requirement for a parcel in the C-1 zoning district is two hundred (200) feet. The Subject Property is a conforming lot with respect to the frontage requirement.

11. The Applicant proposes to develop a clustered residential subdivision with thirty-one (31) or fewer single-family dwellings on a sixty-five (65) 1/4-acre portion of the Subject Property. The project is proposed as a Clustered Residential Subdivision that would comply with requirements found in Article 6 of the Zoning Ordinance with the exception of those provisions found in Section II, below. The Applicant recognizes that neither public water nor public sewer are readily available to service the Subject Parcel, and instead proposes to provide on-site drilled wells and subsurface septic systems.

12. The Applicant proposes to establish a one hundred (100) 1/2-acre portion of the Subject Property as open space. Said open space is proposed for conveyance to the City of Saco. Said open space would be improved with a trail system and parking area for use by the general public.

13. 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.

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

1. Section 602-3 is amended to allow dwelling units in a cluster development that are not connected to the Maine Biddeford and Saco Water Company supply, and instead serviced by dependent on private or community wells.

2. Section 602-4 is amended to allow dwelling units in a cluster development that are not connected to the municipal sanitary sewer system, and instead serviced by private or community systems.

3. Table 412-1 is amended to establish a minimum lot size of 9,000 square feet for individual building lots within this cluster development.

4. Table 412-1 is amended to establish a minimum frontage requirement of fifty (50) feet for individual building lots within this cluster development.

5. Table 412-1 is amended to establish a minimum front yard setback requirement of fifteen (15) feet for individual building lots within this cluster development.

6. Table 412-1 is amended to establish a minimum side and rear yard setback of ten (10) feet for individual building lots within this cluster development.

7. Sections 10.12 and 11.14 of the Subdivision Regulations are amended in order to allow the implementation of a Low Impact Design stormwater management system that shall comply with existing City and state water quality and quantity standards.

III. This Contract Zone is subject to the following conditions and restrictions, as provided for in Section 1403 of the Saco Zoning Ordinance:

1. Development of a clustered residential subdivision by the Applicant is allowed on the Subject Property.
2. Requirements found in Sections 602-3 and 602-4 of the Zoning Ordinance that all dwelling units in a cluster development shall be connected to the Maine Biddeford-Saco Water Company system and to the municipal sanitary sewer system, respectively, shall be waived.

3. Minimum lot and yard requirements established in Table 412-1 of the Zoning Ordinance shall be reduced in accordance with Section II.3-6 above.

4. No more than thirty-one (31) single-family residences shall be permitted in the clustered residential subdivision allowed by this Contract Zone. This total of 31 units shall include the existing home/residence of the Hortons, leaving the Applicant Doyle Enterprises the option to build out a total of 30 new, additional, single-family residences.

5. **Section 10.22.1.2 of the Subdivision Regulations is waived in order that LED streetlight luminaires shall be installed rather than the specified Lumen Domus Small.**

6. A one-hundred (100) +/- acre portion of the Subject Property shall be established as open space with public access. A Warranty Deed for said open space shall be submitted to the Planning Office and City Administrator as evidence of conveyance to the City of Saco.

The rough boundaries of the 100-acre parcel to be deeded to the City are set forth in a document entitled “Concept Site Plan Horton Property for Doyle Enterprises” dated July 26, 2005. Additional open space may be deeded to the City.

Said open space may be deeded with use restrictions but in no circumstance shall any such restrictions bar free access or prohibit passive recreation by the public. Passive recreation may include activities such as walking, hiking, birdwatching, picnicking, cross-country skiing, or nature photography. Passive recreation shall not include activities that may result in degradation of the open space, including but not limited to motor vehicle use, removal of vegetation beyond that necessary for trail construction, disturbance of soil beyond that necessary for trail construction, and hunting. The transfer of the open space is a specific condition of this Contract Zone.

The Developer and City as mutually agreed shall be responsible for surveying the open space and preparing a satisfactory deed to said space for City review.

Title to the 100 +/- acres will be immediately and irrevocably passed after approval of this Contract Zone, and no later than final Plan approval by Saco’s Planning Board, said transfer to be not later than 5 days after approval. Any conditions for use and access on the remaining parcel constituting the project site shall be fixed by the Planning Board, in consultation with the Hortons, Developer and City Planning staff.

Upon title passing, any subsequent delay or failure of the project shall not alter title transfer to the City.

6. The trail system and parking area specified in L.9 above shall be constructed by the Applicant at a time agreed upon by Applicant and City, but in no instance shall said construction occur later than issuance of the first occupancy permit for dwellings within the subdivision. Doyle Enterprises, in consultation with Planning and Code staff, shall install appropriately sized and placed signage for public information at the parking site. Costs to maintain the parking site thereafter shall run to the City.

7. The Applicant proposes to use a system of common wells and common septic systems. If either or both common systems are approved by the Planning Board, then the Applicant Doyle Enterprises shall create and irrevocably establish for the benefit of all homeowners of the development a homeowners’ association, governed by certain by-laws. It shall be a primary obligation of said homeowners association to assure and maintain said common systems for the benefit of all homeowners. They shall be required to fund a reserve or contingency account for such purposes. Such Reserve Fund shall be initially established and funded by the Applicant Doyle Enterprises by assessing a $500.00 per lot fee, said fee collected by Developer upon each initial sale. By-laws shall provide for the collection of subsequent and additional yearly fees and fees upon further out sales to of subsequent purchasers of lots.
If the Developer independently or by decision of the Planning Board opts to create and maintain a private road network servicing the homeowners’ association, and the roads are never built to or offered to City for acceptance, then Developer and the homeowners’ association (as well as the referenced by-laws) will provide additional contingency funding for care and maintenance of said road network.

Until roads are offered to City, Developer shall be responsible for the costs of all plowing and sanding, as well as all costs for private trash collection. Developer acknowledges herein that the City cannot service any development located on private roads.

8. Except as addressed in this Contract Zone document, the project shall adhere to all other applicable provisions of the City of Saco Zoning Ordinance and Subdivision Regulations.

9. All details shown on the plans and submitted as application materials are hereby incorporated into this contract by reference. The site shall be developed in conformance with those plans and materials. The staff of the City of Saco may approve minor changes. If it is determined that the changes constitute a change in the contract, then the developer shall be required to obtain City Council approval of the changes.

10. This Document and Contract Zone affects only the parcel of land identified as Tax Map 123, Lot 21 on City of Saco tax maps.

11. This contract and its provisions shall specifically and exclusively apply to the Contract Zone request submitted by the Applicant.

12. This Document and the Contract Zone it creates shall not be transferable prior to development as proposed by the Applicant, without approval of the City Council.

13. Failure of the Applicant to gain approval submit application for a clustered residential subdivision as proposed to the Planning Office for review and approval by the Planning Board within two (2) years of the approval of this Contract Zone shall render this Agreement null and void. In the event that permits or approvals are delayed due to circumstances beyond the control of the Applicant, this deadline may be extended by two, one (1) year periods upon written request submitted by the Applicant.

14. Breach of these conditions, restrictions and/or Agreement by the developer shall constitute a breach of the contract. Said breach of contract shall constitute a zoning violation, subject to enforcement action by the City of Saco.

15. The Applicant Developer, for itself, and its successors and assigns, including any lot purchasers herein specifically, knowingly and intentionally releases City from any and all claims related to or in any way concerning or arising from water, water quality and water quantity at the project site, and the use of common wells. As consideration for this Contract Zone, Developer herein releases and holds the City harmless from such claims, demands, suits, etc., it being understood and agreed that and all remedies related to water, water quality and water quantity are the sole responsibility of the Applicant Doyle Enterprises, and its successors and assigns, including lot owners; and, that this condition shall be recorded in the Registry of Deeds by Developer for notice purposes.

IV. 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 October 24, 2005, and the Saco City Council on November 7, 2005, and again on September 11, 2014 subject to proposed amendments, the following findings are hereby adopted:

A. City Tax Map 123, Lot 21 is a parcel of an unusual nature and location, for the following reasons:
   a. The Subject Property and abutting 100 acre parcel conveyed from Don and Jean Horton to the City of Saco on Feb. 14, 2006 was is one of eleven parcels in Saco that is one hundred fifty (150) acres or larger in area. Of those eleven, only three are owned as private residences; the other eight are agricultural in nature, or owned by charitable or government agencies.
b. The Subject Property in 2005 was bisected by Stackpole Creek and associated wetlands. The City’s Comprehensive Plan, Zoning Ordinance and Zoning Map recognize Stackpole Creek as a valuable natural resource that is protected via its designation as a Resource Protection zone.

c. The Subject Property in 2005 was a topographically diverse parcel, home to a variety of ecosystems including ridges forested with oak and maple, pine and hemlock groves, a ten-acre marsh, and a one-acre heath. Wildlife includes beaver, deer, moose, fisher, bobcat and waterfowl.

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

Chapter 5: Community Goals and Policies
Section C: Natural Resources

Local Goals: To protect and improve the quality of the surface waters within Saco; To maintain the quality and quantity of the groundwater; To protect significant wetlands and adjacent uplands from encroachment and degradation.

Surface Waters: As part of this effort to maintain the river’s quality, the City should continue to work with the other communities along the river to manage land use and development in the watershed through the Saco River Corridor Commission. In addition, the City’s land use regulations should provide for the management of stormwater quality in the area of the watershed upstream of the water company’s intake. These regulations should require that Best Management Practices (BMPs) be used to manage stormwater runoff.

10. The City should also consider acquiring conservation easements over high value wetland areas and should encourage the Saco Valley Land trust and other conservation organizations to give high priority to these areas in their acquisition programs.

Fisheries and Wildlife Habitat

18. The riparian zone adjacent to rivers and streams plays an important role in the value of a water body as fishery and wildlife habitat. Retaining a natural buffer along these resources can have water quality benefits as well as habitat benefits. Therefore, the City should work to maintain a naturally vegetative buffer along streams with high habitat value and that serve as travel corridors connecting large habitat blocks based upon the State’s Beginning with Habitat program.

19. The City should continue to work with the Saco Land Trust and other conservation organizations to acquire or otherwise protect areas with significant habitat value.

Chapter 17, Section C. Natural Resources, “To protect and improve the quality of the surface waters within Saco,” and “To protect significant wetlands and adjacent uplands from encroachment and degradation. Pursuant to these goals, the City of Saco’s policies with respect to the management of its natural resources are:

Surface Waters

4. The Saco River serves as the source for the Biddeford-Saco Water Company and the City’s land use regulations should require that existing perennial and intermittent streams be maintained as natural drainage ways to the maximum extent possible. The City should also work with the Water Company to acquire conservation easements along these waterways and should encourage the Saco Valley Land Trust and other conservation organizations to give high priority to these areas in their acquisition programs.”

Wetlands

12. The City should also consider acquiring conservation easements over high value wetland areas and should encourage the Saco Valley Land Trust and other conservation organizations to give high priority to these areas in their acquisition programs.

Fisheries and Wildlife Habitat

21. The riparian zone adjacent to rivers and streams plays an important role in the value of a water body as fishery and wildlife habitat. As discussed above under surface water, retaining a natural buffer along these
resources can have water quality benefits as well as habitat benefits. Therefore, the City should work to maintain a naturally vegetative buffer along streams with high habitat value.

22. The City contains a number of identified deer yards in addition to the habitats already discussed. The City's development regulations should continue to require that subdivision and nonresidential development proposals identify areas with habitat value and address the preservation of these habitats in the site planning process.

Chapter 17, Section F. Land Use - Local Goals:

- To encourage a pattern of land use that can be served efficiently and that does not impose an undue burden on the Town’s financial resources.
- To permanently protect environmentally and ecologically sensitive and scenic areas through outright purchase or conservation easements.

General Pattern of Development

6. In those areas where there are significant natural constraints to development such as wetlands and floodplains, the City should restrict development and work to maintain the natural resource value of the area.

Chapter 17, Section G. Transportation

Sidewalks and other Pedestrian Facilities
30. The City should continue to support the efforts of Saco Trails to establish and maintain a trail system throughout the community.

Chapter 17, Section H. Housing

Local Goals: To provide a diversity of housing to meet the needs of a wide range of residents.

Pursuant to these goals, the City’s policies with respect to housing are:

1. The City should continue to provide for the construction of both single family and multi-family housing in a variety of locations that are appropriate for the type of housing and the location.

Chapter 17, Section J. Recreation and Open Space

Local Goals: To provide recreational facilities to meet the needs of the City’s growing population.

Pursuant to these goals, the City’s policies are:

1. The City should continue to require that new subdivisions address the need for recreation and open space resulting from the development–but should revise its development standards to create a workable system for the dedication of land or the payment of an in-lieu-of-fee-to-meet this need.

C. The proposed use is consistent with the existing uses and permitted uses within the original zone. The original zone is the Conservation-1 (C-1) zone. “... designed to promote and preserve agriculture and open space, while permitting low density residential uses that do not conflict with this overall purpose.” (Zoning Ordinance, Section 408-1.) Among the permitted and conditional uses allowed in the C-1 zone are Single and Two-family Dwellings, Clustered residential projects, Public parks and playgrounds, and Outdoor commercial recreation facilities.

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

V. Based on the above findings, conditions and restrictions, the City Council hereby incorporates this Contract Zone agreement into the Saco Zoning Ordinance by reference.

By signing this contract, both parties agree to abide by the conditions and restrictions contained herein.

Councilor Precourt moved, Councilor Smith seconded “The City of Saco hereby ordains and approves the Second and Final Reading of the Contract Zone Agreement document titled, ‘Contract Zone Agreement By and Between Saulnier Development Saco, LLC and the City of Saco’.” The motion passed with five (5) yeas and one (1) nay – Councilor Tardif.

Motion to Reconsider– Councilor Precourt moved, Councilor Johnston seconded to reconsider the motion. The motion passed with five (5) yeas and one (1) nay – Councilor Tardif.

AMENDMENT – Councilor Precourt moved, Councilor Smith seconded “The City of Saco hereby approves the following amendments to the ‘Contract Zone Agreement By and Between Saulnier Development Saco, LLC and the City of Saco’,” at the request of Councilor Precourt, as follows: (language that is underlined represents new language while strikethrough indicates language to be deleted).

II. 3. Table 412-1 is amended to establish a minimum lot size of 10,000 square feet for individual building lots within this cluster development.

4. Table 412-1 is amended to establish a minimum frontage requirement of seventy (70) feet for individual building lots within this cluster development.

The motion passed with five (5) yeas and one (1) nay – Councilor Tardif.

Mayor Pilon called for a vote on the Main Motion with Amendment. The motion passed with five (5) yeas and one (1) nay – Councilor Tardif.

B. DISCONTINUANCE OF BURROW STREET (PAPER STREET)

Burrow Street is a paper street shown on City tax map 34, running between Stockman Avenue and Ocean Park Road and bounded on either side by such businesses as R.P. Bell, VIP Auto Parts, and Cumberland Farms. At the request of Phil O’Connor of R.P. Bell, staff has initiated the process for vacating the paper street. It is intended that a public easement will be retained to ensure access for utility or drainage work. Burrow Street was originally shown on the 1923 plan of the Lexington subdivision, a recorded plan. Its sister streets – Louise, Paul, Norman, Olive, Lucille, Coolidge – provide multiple crossover options from Ocean Park Road to Stockman and vice versa. Burrow is the closest to Main Street/Route One of all these streets, probably too close to be built and utilized safely given today’s traffic volumes.

The Planning Board forwards a positive recommendation on the vacation of Burrow Street.
Councilor Smith moved, Councilor Precourt seconded “Be it ordered that the City Council authorize notices to be mailed to all abutting property owners prior to the vacation of Burrow Street identified on the document titled ‘Legal Description of Burrow Street’, and further that the Council schedule the Public Meeting for October 20, 2014 for the vacation of the paper street known as Burrow Street.” Further move to approve the order. The motion passed with six (6) yeas.

VI. CONSENT AGENDA

Councilor Smith moved, Councilor Roche seconded to approve the consent agenda as follows:

A. “Be it ordered that the City Council Approve the minutes for September 15, 2014.” Further move to approve the order.”

The motion passed with six (6) yeas.

VII. EXECUTIVE SESSION

Councilor Precourt moved, Councilor Smith seconded “Be it Ordered that the City Council, Pursuant to [M.R.S.A. Chapter 18, Subchapter 1, §405 (6) (A)] move to enter into Executive Session to discuss: Employment of Officials – Appointment of Acting City Administrator. The motion passed with six (6) yeas. TIME: 7:29 p.m.

REPORT FROM EXECUTIVE SESSION

Councilor Tardif moved, Councilor Precourt seconded to move from Executive Session. The motion passed with six (6) yeas. TIME: 7:34 p.m.

Councilor Smith moved, Councilor Tardif seconded “Be it ordered that the City Council Appoint the Finance Director as Acting City Administrator.” Further move to approve the order. The motion passed with six (6) yeas.

VIII. ADJOURNMENT

Councilor Smith moved, Councilor Roche seconded to adjourn the meeting at 7:34 p.m. The motion passed with six (6) yeas.

Attest: 
Michele L. Hughes, City Clerk