

STATE OF MAINE

COUNTY OF YORK

CITY OF SACO

I. CALL TO ORDER – On Monday, November 2, 2015 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., Thomas Roughan, Kevin Roche, Arthur Tardif, Eric Cote and Nathan Johnston. City Administrator Kevin Sutherland was also present this evening.

III. PLEDGE OF ALLEGIANCE

IV. GENERAL

35 YEARS OF SERVICE RECOGNITION: CAPTAIN MARC PAQUETTE AND CHIEF JOHN DUROSS, FIRE DEPARTMENT

Marc Paquette

Fire Chief John Duross recognized Marc Paquette for his 35 years of service as follows: Marc Paquette was hired as a full-time Firefighter on October 22, 1980. Ambulance duty was Marc's first assignment which meant nights and weekends during the first few months of employment was spent at Basic EMT School. Even today, Marc still maintains a current EMT License and uses those skills on every shift.

Recognizing the importance of education, Marc attended classes at Southern Maine Community College, enrolled in the Fire Science Degree Program, to prepare himself for his duties as a firefighter and eventual assignment as a front-line fire apparatus driver/operator.

Promoted to Captain in 1994 and along with his duties as Shift Commander Marc was actively involved in our Fire Prevention Program and as an original member of our joint Fire Prevention Committee with the Saco School Department. Marc spent countless hours in the Saco School System working side-by-side with our teachers presenting the Learn Not To Burn Curriculum to elementary school children.

Marc is currently serving as the Shift Commander of B-Shift. As Shift Commander, Marc is responsible for the day-to-day operations of the Fire/EMS service and service delivery to meet the needs of our citizens and our department. For 35 years Marc has proudly served the citizens of Saco and has time-and –time again demonstrated his commitment and dedication to the Fire Service,

Mayor Pilon presented a plaque to Marc on behalf of the Council and citizens of Saco and thanked him for his many years of service.

John Duross

City Administrator Kevin Sutherland recognized John Duross for his 35 years of service as follows: John Duross was hired as a full-time Firefighter on October 21, 1980. He was assigned to the ambulance as his primary duty with the Saco Fire Department. During the first few months of his employment, John spent numerous hours attending Emergency Medical Technician School in order to obtain a Maine EMT-Basic license to prepare him for his work on the ambulance.

After completing EMT school and early in John's career, he recognized the importance of training and education and enrolled in the Fire Science Degree Program at Southern Maine Vocational Technical Institute. While working towards his degree, he concurrently attended local and regional fire training programs to become better prepared to deal with the additional fire suppression duties that went along with being a Firefighter. The knowledge he received by attending these programs, as well as the experience he was gaining working in Saco, caused John to realize that he wanted to further his contribution to the fire service by sharing with others what he had learned. On December 3, 1987 he joined Maine Fire Training and Education and worked as a State Certified Fire Instructor teaching fire related topics to firefighters throughout the State Maine and continues to do so today.

John was promoted to Captain on July 1, 1990, strengthening his position as a leader in both his Department and

statewide with his commitment in fire training. Working with the Fire Chief he helped build an in-house training program that provided certification for every Saco Firefighter in both the Career and Call Divisions.

Nearly 5 years later on May 8, 1995, John was appointed as Deputy Fire Chief. In his new position, Deputy Duross worked with the Code Enforcement Department to address fire code compliance in both new and existing occupancies. He also initiated the Department's first annual in-house inspection program increasing the number of business inspections that the Department was conducting all while overseeing the Department's Fire Training Division.

On July 1, 2010, John was promoted to the position of Fire Chief. Since that time, some of his accomplishments include: the construction of a new Central Fire Station on North Street, the addition of a third ambulance to the city's Emergency Medical Services fleet, and procuring the funds necessary to build a new Multi-Mission Rescue Response Boat.

Beyond his daily responsibilities as Fire Chief, Chief Duross serves in a professional capacity in other Fire Service Organizations in an effort to keep Saco on the leading edge of what's occurring in the Fire and EMS Services. His goal is to better serve the health and welfare of his personnel and the residents of our community. These roles and responsibilities include the following: Fire Service Instructor with Maine Fire Service Institute; President of the York County Chiefs Association; County Director with the Maine Fire Chiefs Association; and the Maine Director of the New England Division of the International Association of Fire Chiefs. For more than 35 years, John has proudly served the citizens of Saco and the Maine Fire Service Community and continues to demonstrate his commitment and dedication to his chosen profession.

Mayor Pilon presented a plaque to John on behalf of the Council and citizens of Saco and thanked him for his many years of service.

V. PUBLIC COMMENTS

Barbara Colman, Stockman Ave – Per corrected information from the City Administrator on tonight's item of the Stackpole Bridge, the fund balance was dropped to 10%. I understood from Councilman Roche materials dated Oct. 19th the undesignated fund was \$5 million which would have made the fund balance 11%. In the e-mail I received I was informed there were P.O.'s in the amount of a few thousand dollars in process. Based on a 1% decrease the amount of difference is \$450,000. How did this major oversight happen? I find it admirable and smart budgeting by the City Administrator to have a goal of 16.67% of reserves, but the City Code itself states that the city needs to maintain an 8.33 or 10% of the maximum of the following years General Fund balance as adopted by the City Council. To continue with the Stackpole Bridge issue, the bond itself has been approved by the citizens of Saco in the amount of \$990,000. Has the City Staff explored the issue of looking at other investment companies to see if we could obtain a better interest rate? I discovered through research the City of Saco has been using the same investment firm of Moors & Cabot since January 1, 2002 if not longer. I would suggest the Council have the current Administration seek bids from other investment firms.

Norman Davidson, 7 Watson Mill Rd – Mr. Davidson had sent a letter to the Council last week and wanted to know if there has been any activity or thought given to that letter?

William Mann, Economic Development Director – Mr. Mann announced that the cities Sustainability & Energy Committee will be at the polls to take names of citizens who are interested in the city considering a solar initiative for the community.

VI. AGENDA

A. RENEWAL APPLICATION FOR SPECIAL ENTERTAINMENT PERMIT – FRATERNAL ORDER OF EAGLES #3792 – (PUBLIC HEARING)

Fraternal Order of Eagles Aerie #3792 has applied for a renewal of their Special Entertainment Permit. The permit will be concurrent with the establishment's liquor license.

The applicant has paid all applicable permit fees and the clerk has properly advertised the public hearing in

accordance with the Saco City Code, Chapter 93 - Entertainment §93-2.

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

There were no public comments.

Councilor Tardif moved, Councilor Smith seconded to close the Public Hearing and “Be it Ordered that the City Council grant the renewal application submitted by the Fraternal Order of Eagles #3792 for a Special Entertainment permit to be concurrent with the establishment’s current liquor license”. Further move to approve the Order. The motion passed with seven (7) yeas.

B. CONTRACT ZONE: 15 OCEANSIDE DRIVE – (SECOND & FINAL READING)

Applicants George and Nancy Driscoll propose to clarify through the contract zoning process that their property at 15 Oceanside Drive is regarded as two lots: one developed and one eligible for a building permit. Two lots were established as part of the Kinney Shores subdivision in 1914, and were acquired by the Driscolls in 1980, but were combined as a result of a 1985 amendment to the Zoning Ordinance. Today the City regards and taxes the property as a single parcel.

This item was reviewed by the Planning Board during its September 1st meeting. The Board arrived at a negative finding on the four standards found in Sec. 1403-6, and voted to forward a negative recommendation to the Council. The City Council discussed this item during Workshop on September 21, the First Reading on October 5th, and a Public Hearing on October 19th.

On October 7th, Councilor Roughan emailed Saco’s Code Enforcement Officer and City Planner to clarify the language in Section I, subsection 16, that states “established as two separate, buildable lots.” Whereas, there is no guarantee that a building permit will be issued for this lot since there are many considerations beyond zoning, Councilor Roughan suggested modifying the language from “buildable” to “conforming”.

Councilor Roche moved, Councilor Roughan seconded “The City of Saco hereby ordains and approves the Second and Final Reading of the document titled ‘Contract Zone Agreement By and Between J. George and Nancy S. Driscoll and the City of Saco’ dated Sept. 1, 2015”. Further move to approve the order.

Mayor Pilon called for a vote on the motion. The motion failed with three (3) yeas and four (4) nays – Councilors Precourt, Tardif, Cote and Johnston.

Contract Zone Agreement By and Between J. George and Nancy S. Driscoll and the City of Saco

September 1, 2015

THE CITY OF SACO HEREBY ORDAINS:

I. That the Zoning Ordinance of the City of Saco, dated January 2, 1985, and amended through August 3, 2015 is hereby amended by adopting this contract by and between J. George and Nancy S. Driscoll (Applicants) and the City of Saco.

1. The Applicants seek a single family residential building permit to be issued for a portion of the parcel they own at 15 Oceanside Drive (Subject Property).
2. Said parcel is improved with a single family dwelling, a permitted use.
3. Said property is identified as Tax Map 11, Lot 116 on City of Saco tax maps. The current lot (Map 11, Lot 116) was transferred to the Applicants as two separate parcels in 1980, was formerly taxed by the City as

4. two separate parcels, but was merged together when Saco adopted its Zoning Ordinance in 1985.
5. Said property is in the R-1c and Shoreland Overlay zoning districts.
6. The Applicants contend that the Subject Property is actually two parcels, and have submitted a surveyed plan to that effect dated November 1, 2005.
7. The Applicants submitted an application for a building permit to the Code Enforcement Office on August 27, 2009 for the construction of a single family dwelling.
8. The Building Inspector, Richard Lambert, denied the application in a letter to the Applicants dated August 27, 2009.
9. An Administrative Appeal and Variance application was submitted to the City on August 18, 2009.
10. A hearing was held on Sept. 14, 2009 by the Zoning Board of Appeals; review was tabled due to missing factual information.
11. The ZBA meeting continued on Oct. 26, 2009, with updated copies of Section 7.1, Shoreland Zoning of the Zoning Ordinance, and with copies of the pending variance notice sent to the Maine Department of Environmental Protection on Sept. 16, 2009 via certified mail.
12. The ZBA voted unanimously to deny the administrative appeal of the Building Inspector's decision based on the merger of the vacant lot with the developed lot pursuant to the Board's understanding of Section 501-2(1) of the Zoning Ordinance.
13. The ZBA continued the meeting on Nov. 30, 2009 to consider the Applicants' request for space and bulk variances, and voted unanimously to deny said requests.
14. The Applicants subsequently appealed the ZBA decisions to Maine Superior Court, which issued a denial of the appeal dated Oct. 5, 2010.
15. The Applicants subsequently appealed the Superior Court decision to the Maine Supreme Judicial Court, which issued a denial of the appeal on Sept. 22, 2011, concluding the two lots had merged.
16. The Applicants have continued to weigh options that may allow them to legally establish the Subject Property as two separate, buildable lots. In so doing, they cite Article 14 of the Zoning Ordinance, which addresses contract zoning.
17. Recognizing the limitations of the Subject Property, and the requirements of the Zoning Ordinance, the Applicants hereby make application for a Contract Zone that would allow the Subject Property to be legislatively established as two separate, conforming lots.

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

This Contract Zone, specifically and exclusively for the parcel at 15 Oceanside Drive, would allow the Applicants or their designees, upon making application to the City of Saco Code Enforcement Office, a single family residential building permit for "Lot 202," or as previously identified by the City of Saco as Tax Map 11, Lot 116-1, subject to the following conditions and restrictions, as provided for in Section 1403 of the Saco Zoning Ordinance:

- a. The parcel identified by the City of Saco Assessor's Office as Tax Map 11, Lot 116 is hereby reconfigured into two separate parcels, henceforth to be labeled as Tax Map 11, Lot 116 and Tax Map 11, Lot 116-1.
- b. The parcel identified as Tax Map 11, Lot 116 shall be configured as shown on a surveyed plan produced by Dow and Coulombe, dated Nov. 1, 2005, with an area of 5,293 square feet, and 50.10 linear feet of frontage on Oceanside Drive, a City way.

- c. The parcel identified as Tax Map 11, Lot 116-1 shall be configured as shown on a surveyed plan produced by Dow and Coulombe, dated Nov. 1, 2005, with an area of 5,450 square feet, and 50.10 linear feet of frontage on Oceanside Drive, a City way.
- d. Minimum Lot and Yard Requirements set forth in Table 412-1 of the Zoning Ordinance shall be modified for the Subject Property as follows:

For Tax Map 11, lot 116:

1. A reduction in the minimum lot size requirement from 7,500 square feet to 5,293 square feet.
2. A reduction in the minimum lot area per dwelling unit from 7,500 square feet to 5,293 square feet.
3. A reduction in the minimum street frontage requirement from 75 feet to 50 feet.
4. A reduction in the minimum shore frontage requirement from 100 feet to 50 feet.
5. A reduction in the minimum width requirement from 100 feet to 50 feet.
6. A reduction in the minimum width of the side yard setback requirement on the north side from fifteen feet to one foot.
7. An increase in the maximum lot coverage requirement from 20% to 54%.

For Tax Map 11, lot 116-1:

1. A reduction in the minimum lot size requirement from 40,000 square feet to 5,293 square feet.
 2. A reduction in the minimum lot area per dwelling unit from 20,000 square feet to 5,293 square feet.
 3. A reduction in the minimum street frontage requirement from 75 feet to 50.10 feet.
 4. A reduction in the minimum shore frontage requirements from 100 feet to 50 feet.
 5. A reduction in the minimum width requirements from 100 feet to 50 feet.
- e. The Applicants shall adhere to all other applicable provisions of the R-1c and Shoreland Overlay zoning districts and of the City of Saco Zoning Ordinance.
 - f. 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.
 - g. 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.
 - h. Upon approval of this contract by the City Council, the Applicants shall submit an application 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.
 - i. 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.
 - j. Failure of the Applicants, or buyers of a second lot that is created by virtue of this Agreement, to seek a single family dwelling building permit as described in application materials for this Contract Zone

within two (2) years from the date of approval shall render this approval and Contract null and void. This two year deadline may be extended by one year upon written request to the City Council.

- k. 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 September 1, 2015, and the Saco City Council on _____ 2015, the following findings are hereby adopted:

A. City Tax Map 11, Lot 116 is a parcel of an unusual nature and location, for the following reasons:

- 1. The parcel is one of 131 in Saco with beach frontage.
- 2. A portion of the parcel (the former Lot 202) has been previously prepared in anticipation of building a residence with the installation of a 50 foot seawall and plantings of sea grass, as well as a second sewer service to the property.
- 3. The parcel dates to 1914, identified as Lots 201 and 202 on a “Plan of Land for M.H. Kinney, Saco, ME called Kinney Shores” and existed for several decades as two separate lots.

B. The proposed rezoning is consistent with the Saco 2011 Comprehensive Plan, based on the following goals:

Chapter 3, Section D. Marine Resources --

Saco’s coastline, in the face of mounting development pressure in southern Maine, has managed to stay relatively undeveloped. Marine industries still have a foothold in Saco. To help maintain that foothold, commercial development should generally be limited to marine and tourism related uses at Camp Ellis. Development on the bulk of the beach area should be limited to primarily small-scale residential uses.

Chapter 5, Section A. Population and Demographics

- 1. The City should assure that residential growth is accommodated in appropriate locations that are properly zoned and able to be provided with public services.

Chapter 6, Land Use Goals and Policies

Limited growth areas are the parts of the community where the City desires a limited amount of growth and development over the next ten years (see Figure 6.1). Limited growth areas include two types of environments:

Established Residential Neighborhoods – areas that are essentially fully developed and therefore have limited development potential where the City’s objective is to maintain the current land use pattern while allowing limited infill or redevelopment that is in character with the neighborhood...

C. The proposed use is consistent with the existing uses and permitted uses within the original zone. The original zones are, a) the Residential-1c (R-1c) zone, a low density residential district “. . . designated for areas which are predominately single-family residential in character. It includes both sewerred and unsewerred land, with appropriate lot size requirements for each situation. 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-1c zone are single and two-family dwellings, churches, daycare centers, elderly congregate housing and bed and breakfast establishments. And, b) the Shoreland Overlay zone, which “. . .is intended to assure that activities that occur within close proximity of the waterbodies subject to state mandated shoreland zoning are carried out in a manner that protects water quality, promotes wildlife movement, and preserves the scenic quality of these shorelands.”

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 _____ 2015.

by _____
Kevin L. Sutherland
City Administrator

by _____
J. George Driscoll
Applicant

by _____
Nancy S. Driscoll
Applicant

VII. CONSENT AGENDA

Councilor Roughan asked that item #C “Confirm the Mayor’s Appointment of William Hicks to the Zoning Board of Appeals” be withdrawn from the agenda because Mr. Hicks asked to defer on his appointment.

Councilor Roughan moved, Councilor Johnston seconded with the exclusion of item #C to approve the following:

A. Be it ordered that the City Council approve the minutes for October 19, 2015 and further move to approve the order;

B. Be it Ordered that the City Council grant the applications for a License to operate Games of Chance as follows: Daily Pool and Cards – 2 games from Jan. 1, 2016 – Dec. 31, 2016; Nevada Gold Pull Tickets – 2 games from Jan.1, 2016 – March 31, 2016 and Queen of Hearts – 1 game from Jan. 1, 2016 – March 31, 2016 as submitted by the Biddeford & Saco Elks #1597.” Further move to approve the Order.

The motion passed with seven (7) yeas.

VIII. UNFINISHED BUSINESS

A. STACKPOLE CREEK BRIDGE FUNDING

Councilor Roughan moved, Councilor Roche seconded to remove the unfinished business item as being out of order.

City Administrator Kevin Sutherland inquired at what point we because of Robert’s Rules would need to bring this back to Council because the motion didn’t have a defined date.

Councilor Roughan noted that he felt it was Councilor Cote’s intention to table the item at the last meeting for further discussion at a point certain or perhaps it was an indefinite point, I’m not clear on that.

Mayor Pilon called for a vote on the motion. The motion passed with five (5) yeas and two (2) nays – Councilors Precourt and Tardif.

Councilor Roughan asked to follow up Councilor Cote’s motion at the last meeting to table.

Councilor Roughan moved, Councilor Smith seconded to authorize that we place back onto our agenda at the first Council meeting in the month of December a discussion in Workshop for the Stackpole Bridge Funding.

City Administrator Kevin Sutherland recommended taking the item off the table and than a motion to put it back on the table with a specified date and then we just address it at that point with that date set.

Councilor Roche called a point of order. We took it off the agenda so there is not avenue here to continue this discussion.

City Administrator Kevin Sutherland noted that you aren't currently debating something else so somebody can make a motion to take something off the table. You haven't closed the agenda.

Councilor Roughan moved, Councilor Johnston seconded to take it off the table and move it to a point certain which would be the second Council meeting in the month of December. The motion passed with six (6) yeas and one (1) nay – Councilor Tardif.

Councilor Roche moved, Councilor Roughan seconded to set a Workshop date for the second Council meeting in December. The motion passed with six (6) yeas ad one (1) nay – Councilor Tardif.

IX. ADJOURNMENT

Councilor Johnston moved, Councilor Roche seconded to adjourn the meeting at 8:02 p.m.

Attest: _____
Michele L. Hughes, City Clerk