I. CALL TO ORDER – On Monday, February 3, 2014 at 7:15 p.m. a Council Meeting was held in the City Hall Auditorium.

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

III. GENERAL

MOMENT OF SILENCE – MATTHEW J. COX

Mayor Pilon asked for a moment of silence in memory of Matthew J. Cox who passed away on January 24, 2014. Matthew was a student at C.K. Burns Elementary School.

EMPLOYEE RECOGNITION 25 YEARS OF SERVICE – COREY HUNTRESS, SACO POLICE DEPARTMENT

Police Chief Bradley Paul read the following recognition in honor of Sgt. Huntress. It is with a great deal of pride that we recognize Sergeant Corey Huntress for marking his 25th year of service with the City of Saco. Corey began working for the City the day after Christmas in 1988. He distinguished himself almost immediately with his work ethic.

After graduating from Marshwood High School he pursued his dream of being a Police Officer and received his Associate’s Degree from SMVTI in 1987.

Sgt. Huntress has always been known for his decency and compassionate manner when dealing with the public, and his human relations ability made him a perfect choice to become the police department’s primary investigator of sex crimes, particularly those involving children. Corey has received commendations from Sexual Assault Services of Southern Maine in 2003, 2006 and 2007, culminating in a Community Service Award from them in 2009. Corey has also been recognized by many of the agencies that we deal with for his superior service and competence when assisting during investigations, and the City has received letters of commendation from federal, state, and other municipal law enforcement agencies.

And as if that wasn’t enough, Sgt. Huntress has received MANY commendatory memos, certificates of recognition, and the Department’s Spirit Award for his efforts at making the police department a more positive place to work. Corey is a fine officer, a valued co-worker and more importantly, a good person who has served the City well in his 25 years and we are honored to recognize him tonight.

Mayor Pilon thanked Sgt. Huntress on behalf of the City Council and himself and also presented him with a plaque honoring him for the service to the city.

V. AGENDA:

A. ZONING ORDINANCE AMENDMENT

The Zoning Board of Appeals has identified concerns with two subsections of Article 5 of the Zoning Ordinance, and made recommendations for amending each:

-- Section 502 addresses nonconforming lots, and provides guidance for,
    a) how vacant contiguous lots owned by the same party shall be handled, and for,
b) how built, contiguous lots owned by the same party shall be handled, but offers no guidance on how a built lot adjacent to a vacant lot owned by the same party should be regarded. A proposed subsection would address the latter situation, Sec. 502-1(3).

-- In a separate matter also in Article 5, Section 504(3) addresses nonconforming structures in the shoreland zone. Subsections a, b and c work well, but subsection d speaks to “(t)wo or more contiguous lots…” rather than structures. The proposed amendment would move subsection d to Section 502, where it would properly address nonconforming lots.

The Planning Board considered the suggested amendments in workshop on Dec. 3, and during a public hearing on Dec. 17. The Board recommends that the amendments be adopted as proposed.


There were no comments from the public.

Councilor Johnston moved, Councilor Smith seconded to close the Public Hearing and “Be it ordered that the City Council set the Second and Final Reading for the document ‘Amendments to § 502 and 504 of the Zoning Ordinance, Dec. 17, 2013’ for February 18, 2014.” Further move to approve the order. The motion passed with seven (7) yeas.

"Amendments to Sections 502 and 504 of the Zoning Ordinance, Dec. 17, 2013"

(Proposed new language is underlined, proposed deletions are struck through. Amendments suggested at 1/6/14 workshop are double-underlined.)

Article 5, Section 502.

502-1. VACANT LOTS
1) A nonconforming lot of record may be built upon provided that such a lot shall be in separate ownership and not contiguous with any other lot in the same ownership, except as provided in paragraph 502-1 (2) and 502-1 (3) below.
2) If two or more contiguous lots or parcels are in single or joint ownership of record at the time of adoption or amendment of this Ordinance, all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use exists on each lot, the nonconforming lots may be conveyed separately or together, provided all state law and local ordinance requirements are complied with.

(As reviewed by Council at Jan. 6, 2014 workshop.)
3) If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if said lots do not individually meet the dimensional requirements of this Ordinance, and if one or more of the lots are vacant or contain no principal structure, the lots shall be combined to the extent necessary to meet the dimensional requirements. This shall not apply to contiguous lots with frontage on different streets, or to lots legally created and recorded as part of an approved subdivision after March 22, 1972, the date of adoption of Saco’s subdivision standards.

(As re-drafted by City Attorney, including Council recommendations from Jan. 6 workshop.)
3) If two contiguous lots or parcels are in common ownership of record at the time of the adoption of this ordinance, Jan. 3, 1985, and either lot does not individually meet the dimensional requirements of this Ordinance, and provided that one lot is vacant or contains no principal structure and the other lot has a principal structure, the lots shall be combined into one lot of record. This shall apply to lots or parcels within all zoning districts in the City of Saco. This shall not apply to contiguous lots with frontage on different streets, or to lots legally created and recorded as part of an approved subdivision after March 22, 1972, the date of adoption of Saco’s subdivision standards.
B. CONTRACT ZONE AMENDMENT 401 MAIN STREET – (SECOND & FINAL READING)

Acapello Salon requests an amendment to its contract zone that would allow a larger, lighted sign on Main Street. Acapello was granted a contract zone on January 17, 2006, in order to establish a “high-end, full service salon”, in the house at 401 Main Street. The R-1b zoning does not allow a Personal Services use as defined by the Zoning Ordinance, hence the contract zone.

The existing two-sided, 4 s.f. per side sign was allowed as a 2007 amendment to the contract zone. Acapello has found that the relatively small, unlighted sign has limited visibility, and proposes a 15 s.f. per side, two-sided sign that would be lighted at a minimal level, with lights out at the close of business each day, currently 8 p.m.

The Planning Board reviewed this proposal on October 15, November 19, and December 3, 2013. The Board recognizes that signs in residential zones city-wide are limited to 2 s.f. per side for two-sided signs, or 4 s.f. per side for a one-sided sign, and expressed concern about the size of the proposed sign. Nor is the lighting of signs in residential districts allowed.

The Board recommended allowing a 12 s.f. per side, two-sided sign, lighted, being mindful of fairness to other businesses along this section of Main Street, and the desire to limit the size of signs within a residential district.

Councilor Cote moved, Councilor Smith seconded “The City of Saco hereby ordains and approves the Second and Final reading of the Contract Zone Agreement ‘by and Between Acapello Salons, Inc., and the City of Saco,’ dated November 1, 2005, amended June 6, 2006, and amended Dec. 3, 2013”. The motion passed with six (6) yea s and one (1) nay – Councilor Tardif.

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

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

October 1, 2005
Amended June 6, 2006
Amended December 3, 2013

THE CITY OF SACO HEREBY ORDAINS:

I. That the Zoning Ordinance of the City of Saco, dated January 2, 1985, and amended through September 3, 2013 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.

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 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) twelve (12) square foot per side sign and to allow said sign to be externally illuminated. 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 400 North 15 Cleveland Street, in Saco. Said Parking Agreement shall, without fee or charge, provide the church members with parking privileges during those hours of specified by the Parking Agreement, primarily for 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-1b zoning district and of the City of Saco Zoning Ordinance and Subdivision Regulations except where otherwise noted in this Agreement.

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. After the January 17, 2006 approval of this contract by the City Council, the Planning Board granted site plan approval on May 2, 2006. The Planning Board review is adequate to ensure compliance with design standards of the Ordinance including those of Section 413, Historic Preservation. No further Historic Preservation review is required.
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 on June 13, 2006, and the Saco City Council on January 17, 2006 and on June 26, 2006 and on __________, 2014, 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-
C. MARINE 5 OCEAN RESCUE CRAFT REPLACEMENT RECONSIDERATION

The Fire Department is seeking to replace the totaled Multimission rescue response boat, Marine 5, with a boat that will meet current and future needs.

Council approved the following motion on 11/18/13: “Be it Ordered that the City Council authorize the Fire Department to complete the purchase of a new multi-mission response boat.” Subsequently, on December 9, 2013 the Council voted to reconsider this motion.

The ‘reconsideration’ of the approval to complete the purchase of a new multi-mission response boat remains on the ‘table’ as a result of the January 6, 2014 motion to wait for the Biddeford City Council to vote on the ‘Interlocal Agreement’.

On January 21, 2014 the Biddeford City Council voted to table the request to approve the ‘Interlocal Agreement’. Saco City Council also voted on January 21, 2014 not to remove the item from the ‘table’, but instead to continue to wait for action by the Biddeford City Council on the ‘Interlocal Agreement’ or wait for 2 weeks for Biddeford Council action – whichever is to come first.

Document History:
• February 4, 2013 – Workshop
• February 19, 2013 – Workshop
• March 4, 2013 – Meeting
• November 18, 2013 – Meeting – motion approved
• December 9, 2013 – Reconsideration of the Item - motion tabled for 30 days
• January 6, 2014 – Reconsidered after the 30 day extension – no vote
• January 21, 2014 – Reconsidered and Item was TABLED until Biddeford votes on the Interlocal Agreement or in 2 weeks – whichever comes first.
January 21, 2014 – Biddeford City Council did not vote to remove the Interlocal agreement from the table for discussion or vote.

The Biddeford City Council Tabled the Interlocal Cooperation Agreement for the Public safety on the Saco River and the Atlantic Ocean with the City of Saco at their meeting of December 17, 2013. The Biddeford City Council considered the matter again on January 21, 2014 a motion was made to remove the order from the table. The motion failed.

Councilor Roche moved, Councilor Smith seconded “Be it Ordered that the City Council removes from the table the item Marine 5 Ocean Rescue Craft Replacement Reconsideration.” Further move to approve the Order. The motion passed with seven (7) yeas.

Councilor Roche moved, Councilor Smith seconded “Be it Ordered that the City Council authorize the Purchase of a Marine 5 Ocean Rescue Craft from Winninghoff Boats, Inc, for a purchase price of $108,000.” “Further move to approve the Order.” The motion passed with four (4) yeas and three (3) nays – Councilors Precourt, Brunswick and Tardif.

VI. CONSENT AGENDA

Councilor Smith moved, Councilor Tardif seconded to approve consent agenda item #A as follows:

A. Be it Ordered that the City Council approve the minutes for January 21, 2014. Further move to approve the Order.

The motion passed with seven (7) yeas.

VII. EXECUTIVE SESSION

Councilor Smith moved, Councilor Tardif seconded “Be it Ordered that the City Council, Pursuant to [M.R.S.A. Chapter 18, Subchapter 1, §405 (6) (C)] move to enter into Executive Session to discuss: Sale of 351 North Street. The motion passed with seven (7) yeas.

REPORT FROM EXECUTIVE SESSION

Mayor Pilon moved from executive session with the unanimous consent of the Council at 8:32 p.m.

Mayor Pilon conducted a roll call of the members and determined that the Councilors present constituted a quorum. Councilors present: David Precourt, Leslie Smith Jr., Bette Brunswick, Kevin Roche, Arthur Tardif, Eric Cote and Nathan Johnston. City Administrator Rick Michaud was also present.

Councilor Cote moved, Councilor Smith seconded to put the sale of 351 North Street on the next Council Agenda. The motion passed with seven (7) yeas.

VIII. ADJOURNMENT

Mayor Pilon adjourned the meeting with the unanimous consent of the City Council at 8:33 p.m.

Attest: ________________________
Michele L. Hughes, City Clerk