STATE OF MAINE
COUNTY OF YORK
CITY OF SACO

I. CALL TO ORDER – On Monday November 7, 2016 at 6:42 p.m. a Council Meeting was held in the City Hall Auditorium.

II. RECOGNITION OF MEMBERS PRESENT – Mayor Roland Michaud recognized the members of the Council and determined that the Councilors present constituted a quorum. Councilors present: David Precourt, Roger Gay, William Doyle, Kevin Roche, Alan Minthorn, Eric Cote and Nathan Johnston. City Administrator Kevin Sutherland was also present this evening.

III. PLEDGE OF ALLEGIANCE

IV. GENERAL

  Election Day Reminder– Mayor Michaud noted that tomorrow Nov. 8th is Election Day with the polls opening at 7:00 a.m. and closing at 8:00 p.m.

  Joshua D. Martin – Eagle Scout Award - Mayor Michaud recognized and congratulated Joshua Martin who will be awarded the Eagle Scout Badge on November 9th for his fine work and accomplishment. It is very hard to obtain this badge with less than 5% of all scouts obtaining that rank.

V. PUBLIC COMMENT

  Barbara Colman, 45B Stockman Ave. – In a well-functioned democracy, government provides reliable and timely information to the public. Effective communication in the City of Saco and the public is especially important when we are in the middle of transition between one administration and another. Current changes have left some citizens uncertain about how information is relayed to Council members and the public. Harder yet is such late notices to the public. Examples are included in the administration’s recent report. One such example is Stackpole Bridge. Approximately $400,000 was approved by the administration with the understanding that the bridge would be completed in November 2016. Now only because a document lost amongst the weeds of the website did I locate an update on the bridge. I would have expected this on the Public Works page as well, but it doesn’t appear on this page as of this morning. In order to reach a large number of the city population the city needs to start recognizing the importance of press releases to the public television station and newspapers. The website though up and running is not actually as functional as the previous version. Great pictures sliding onto the home page is great advertisement for the City of Saco. But when it takes up a whole full computer screen it is not effective. One does not find the information expected on the home page and to have to scroll down the full length of the computer to me personally is frustrating. Now if the front page looked like the other pages on the website with a shorter banner across the top then this look would be great. Please for the sake of the citizens of Saco, release information sooner than later. Someone had to know that the bridge was not going to be completed before this week’s posting. I will end with this quote: Communication must be “H.O.T”. That is honest, open and two-way. Quote by: Danny Oswell.

  John Harkins, 4 Christopher Terr. – This past week I had an opportunity to visit our Transfer Station and I was quite impressed with the progress being made. I guess it slipped by me because I was wondering when this project was going to be bid. So I would like to know the cost of the project, if bidders were invited to participate in the process when this went out. Was this an advertised bid? Another thing that I would like to call to the attention of the Council is the purchasing policy with respect to be debated “professional services” clause in the contract. I think this leaves the Council wide open as well to a number of fiscal matters that could be avoided and tightened up and a little bit more oversight to the administration to that regard. In our contracts for services, do we assure to protect the community to make sure the contract is performed in accordance with the stated conditions? Is a performance bond required? Listening to a subject here a couple of weeks ago, I heard there was money left on the table for roads which were not improved which could have been improved out of the approval process and I wondered why that was happening if there was a policy in place.

VI. CONSENT AGENDA
Councilor Precourt moved, Councilor Doyle seconded to approve consent agenda items #A, B, C, D and E as follows:

A. CONFIRMATION OF MAYOR’S APPOINTMENT OF KATHERINE AUDET TO THE HISTORIC PRESERVATION COMMISSION - Be it Ordered that the City Council confirm the Mayor’s appointment of Katherine Gaudet to the Historic Preservation Commission, as an alternate member, for a three-year term ending on November 7, 2019. Further move to approve the Order.

B. APPLICATIONS FOR A LICENSE TO OPERATE GAMES OF CHANCE FRATERNAL ORDER OF EAGLES #3792 - Be it Ordered that the City Council grant the applications for a License to Operate Games of Chance as follows: Daily Pool and Playing cards from January 1, 2017 to December 31, 2017 as submitted by the Fraternal Order of Eagles #3792. Further move to approve the Order.

C. ASSET FORFEITURE – STATE OF MAINE VS. RASMANE SANKARA - Be it Ordered that the City Council does hereby approve with reference to York County Superior Court Docket #CR-15-00566-Criminal Forfeiture, of the transfer of assets to the City of Saco, pursuant to 15 M.R.S. §5824(3) and/or §5826(6). Further move to approve the Order.

D. CONFIRM THE MAYOR’S APPOINTMENT OF SAMANTHA HERLIHY TO THE SACO SHORELINE COMMISSION - Be it Ordered that the City Council confirm the Mayor’s appointment of Samantha Herlihy as a full member of the Saco Shoreline Commission, with her term ending on December 31, 2018. Further move to approve the Order.

E. CONFIRMATION OF ELECTION WARDEN APPOINTMENT - Be it Ordered that the City Council confirm the appointment of Gordon E. Mehlman as the Ward 3 Warden with a term to expire on December 4, 2017. Further move to approve the order.

The motion passed with seven (7) yeas.

VII. AGENDA

A. CUTTS AVENUE, LLC – (PUBLIC HEARING)

Applicant Cutts Avenue, LLC proposes to redevelop the Notre Dame Church property, which would include rehabilitation and conversion of the church building, removal of the rectory, and construction of new apartment buildings to each side of the church. A total of up to 80 residential units are proposed, each 7-800 s.f. in area with one-bedroom. While the existing B-3 zone allows multi-family dwellings, the applicant seeks a contract zone that would allow greater density than is currently allowed; reduce the side and rear setbacks from 10 feet to 5 feet; and reduce the number of required parking spaces from 47 to 33.

This item was reviewed by the Planning Board at its October 4, 2016 meeting. The Board arrived at a positive finding on each of the four standards found in Section 1403-6, and voted to forward a positive recommendation to the Saco City Council. The item was discussed at a City Council Workshop on Tuesday, October 11, 2016.

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

Hardypond Developer Frank Carr – We are proposing to redevelop the church on Cutts Ave. It is part of the historic fabric of Saco and we are planning to start marketing this in March 2017 and hoping to get phase 1 occupancy in the church by August 2017. We are looking at a project with 3 phases with the church being the 1st phase of 19 new market rate apartments with the church to remodel the interiors. Phase 2 as you face the church will be on the left hand side and that will be 28 new units of market rate apartments. Phase 3 will come last and that is on the far right with 33 units of senior living. The design team has worked the plan so that late last week we were able to calculate actual ability to achieve parking on the site. So in the Councilors packet for the Nov. 14th meeting we have introduced that we can meet parking on the site, so our contract zone has been amended in time for that Nov. 14th meeting. The interiors of these apartments are ranging from 500 – 800 sq. feet. The amenities
have on-site parking, laundry, bike storage, pack receiving and the church will have loft storage feel. The new construction will adhere to the energy code so we plan to super insulate the existing church because right now there is no insulation. We will gain allot of efficiencies comparable to the Portland area. Our progress with the community is we have sought a couple of meetings and are having another public meeting on Thursday this week to continue along with the design. So right now what you are seeing are placeholders for the design. We are asking the community to work with us and share their input. We had a meeting with the Historic Preservation Commission about 1 ½ weeks ago to understand some of their concerns in this area. We are also announcing a community meeting on Nov. 17th for the community to come and talk to us about the design and what they see and want to be in their community. We also provided a suggestion box downstairs with maps for people to draw what they would actually like to see and put it into the box. We are actively looking to see what the community wants and are trying to work with them. We will have an announcement in the Courier about the suggestion box as well. We welcome the comments from the Councilors and are excited to be a part of this project in Saco.

Mayor Michaud asked Mr. Carr if he could refresh the public on what provision in the zoning ordinance he is looking for.

Mr. Carr stated that right now he is seeking 3 things: 1) Parking, which we are now taking off the table because the design meet the parking according to the zone; 2) Density – We are asking to go from 1,500 sq. ft. per unit on the site plan area down to 340 sq. ft. and that gets us the ability to have 80 units on site. 3) Set Back Relief – The setbacks right now are 10 ft. on the sides and the rear and we are asking for 5 ft. on the sides and the rear.

Barbara Colman – Ms. Colman asked Mr. Carr if on the senior housing he was requesting assistance from Maine State Housing in building that? In the future are you requesting a TIF on any of this property? How many parking spaces are we going to ultimately end up with for this location?

Mr. Carr stated that on the project they are not seeking Maine State Housing……usually when you are chasing low-income housing and tax credits you are looking for the 50-60% AMI strata and we are not looking to do that on this project. The need for a TIF …there is probably a need for a public and private partnership for some assistance. I don’t know exactly how that is structured but this time we are looking to understand what our ability is in the contract zone so we can shape, form and work on some of the pro-formers and the financials on this project. So within the next couple of weeks we should be able to understand what it is we would like to go forward with on a partnership with the city with that kind of assistance. We now have on the site 44 parking spots which by moving senior housing to the 3rd phase which I said was 33 units, actually achieving the number of spots on the site and moving the senior over to the 3rd phase allowed us to achieve those 44 that meets the zoning requirements.

Beth Johnston, 62 Pleasant St. – I was here before and addressed some of my concerns which centered around parking and the number of new residents to downtown Saco. There has been the suggestion that having more people downtown would be a economic tool. Well in theory I can understand that. I did a little research today and it is incomplete and you may already know more than I do about this. Although I do live in the midst of this and I have for 40 years or so. I was interested in the number of other apartments in Saco and Biddeford and the Mill complex area and Waters Street in Saco. If I did my math even close to right we already have down on Water Street with Lord Pepperrell and River View 170 or so units, 150 coming on line with Mill #4 and another 80 proposed on Cutts Ave. That is 402 units. Now if there is room and any guarantee that those residents would come downtown to shop and I’m a downtown business owner that would seem like pure heaven. But the fact is with all the units on Water Street since the 80’s there has been a minimal impact to the downtown area. So I would like to suggest to the Council that in of itself is not a good reason to grant this contract zone. I was able to go to the presentation that the developer presented to the Historic Preservation Commission and I will say that I’m totally behind his concept of redoing the church but I’m still very concerned about the number of units. I know the developer says he cannot do it with less than 80 units but, we have already tweaked the parking a little bit and I wonder if we could tweak the number of units as well. A couple of other things come to mind for me. The first is that we are just starting the process of looking at our Comprehensive Plan and it seems to me this could be putting the cart before the horse with anymore development in the downtown. I would also like to say that if we are going to go into this contract that we really should be looking at what can we get as part of our contract help with the downtown. It could be many things and doesn’t need to be limited to just around this development. One of the ideas was what if we reconfigured Cutts Ave. and make it more like Water Street. Where there is a one-way street
with a little parking on the side of the road or maybe it feels more conducive to residential living. I would like to suggest that the Council really look at what can benefit the downtown in terms of maybe some of the aspects. Trees are great too but I really think there are allot of things that could be done. I love the idea of a suggestion box and I do think it is great that they are reaching out to the community. Unfortunately a good part of the community doesn’t know how to reach back. But it doesn’t mean that they are not concerned about what happens there. So think that if these other buildings are going to go up next to the church allot of thought needs to be given to how to make them fit into that space.

John Harkins, 4 Christopher Terr. – I think it is great that the project is being proposed but I would caution using the limitation on parking. I think parking is essential and with the number of units projected, 80+ there is only 44 places to park and I think that is going to be a problem with off-street parking. Right now it is busy to get out and walk down the street. As far as the project itself, is the developer prepared to proceed if he is not granted a TIF?

Jeff Brochu, 257 Buxton Rd – Parking is a fairly large concern for me. It is nice to hear that it has been resolved with the 44 parking spaces. I think it is great that they are taking the opportunity and the challenge of trying to reuse the building because it has allot of emotional attachment to allot of people in our community. My primary focus would be to see that nothing really changes as far as that and most people understand that because of this B3 zone they are able to get away with 44 parking spaces. If it were anywhere else in the town it would be 88 parking spaces. I would like that to stay concrete in this contract zone and to also have some clarity of the contract zone if I’m understanding correctly is just for this development and this owner. If the property was not to succeed, fail or to be sold and its use were to change where they would eliminate the 33 elderly units and maybe make them all 80 units my understanding is that they would have to come back and apply for a new contract zone. Is that correct? It is kind of like a variance and it is locked on that parcel of land?

Mayor Michaud noted that the contract zone creates a contract zone on that piece of property and stays with the property in perpetuity. However, the stipulation in the contract must always be met in order for the contract to be valid. It is like any other piece of property. It is local to that piece of property clearly and would be a requirement that any future owner would need to maintain. I would imagine the transfer would need to be approved by the city as well.

Mr. Brochu – My suggestion is that if they could just add in verbiage from what I saw in the proposal that did not include the breakdown of the 80 units being 33 for elderly and the remaining for multi-family. If we could possibly add that in so that we know the ratio and anybody who may be interested in this property in the future, it very clearly states the ration and that is how they get away with the parking.

Councilor Precourt – Maybe I misread this originally but wasn’t this supposed to be a 55 and older originally or was it supposed to be market rate with that amount of units. I thought that was why they got the reduced parking because it was going to be an older community living there and it there would be less need for vehicles.

Mayor Michaud said he didn’t recall it being just for 55 and older.

Councilor Precourt noted that the representative from Hardypond said that if he couldn’t get an elevator up to the second floor it would probably be more conducive to millennials or younger people living there. Has the concept of 55 and older changed? It sounds like 47 units are going to be market rate and 33 for 55 and older.

Mr. Carr, Hardypond – Originally we intended for the church to be market rate housing, the building to the left which is where the rectory now stands we had planned on that being the senior housing component but just in the last week we have moved the senior housing component to the phase 3 which is on the right hand side of the church. So that is what allowed us to get the additional parking. The parking rules in the zone are 1.5 for the market rate units at 1 bedroom and .5 at the elderly level. So that is why we moved it over to the right hand side to achieve the 44 parking and meeting the current zone.

Councilor Precourt noted that 1.5 for market rate and .5 for elderly comes up to more than 44 parking spots.

Mr. Carr noted that because of the location of the project, this also always for a 50% reduction beyond the initial calculation we just made. That gets you to the 44.
Councilor Roche – Dave, to answer your question, in the Courier’s first article on this it was quoted that “Mr. Carr noted that the units would be marketed to urban 55+ seniors. There seems to be a market for that in the Saco area. The older generation is looking to downsize, relocate and be part of an urban environment. We stood on that church’s door steps and were able to walk to 5 different restaurants and it puts the church’s location ideally suited for that kind of customer”. Quote on quote.

Councilor Johnston moved, Councilor Minthorn seconded to close the Public Hearing, and further move to set the Second and Final Reading of the document entitled “Contract Zone Agreement by and Between Cutts Avenue, LLC and the City of Saco,” dated October 4, 2016, for the property identified as Tax Map 38, Lots 105, 105-1 and 106 as authorized by Section 1403 of the Zoning Ordinance, pursuant to 30A M.R.S.A. Section 4352(8), for November 21, 2016. The motion passed with seven (7) yeas.

Contract Zone Agreement
By and between
Cutts Avenue, LLC and the City of Saco

October ___, 2016

THE CITY OF SACO HEREBY ORDAINS:

I. That the Zoning Ordinance of the City of Saco, dated January 2, 1985 and amended through May 2, 2016 (the “Ordinance”), be amended as further described in this Contract by and between the City of Saco and Cutts Avenue, LLC (Applicant).

a. The Applicant proposes to renovate the existing church building and develop and construct up to 80 units of residential housing in three (3) phases on parcels located at 16-18, and 28 Cutts Avenue, City of Saco, County of York, and State of Maine (the “Subject Property”). The Subject Property is identified as Tax Map 38, Lots 105 and 106 on the City of Saco Tax Maps.

b. The Subject Property is the site of the former Notre Dame de Lourdes Roman Catholic Church, which includes the former church, school, and rectory, as well as an adjacent parking lot.

c. The Applicant has established right, title and interest with the submittal of a Contract for the Sale of Commercial Real Estate dated July 15, 2016, as the same may be amended, wherein the Roman Catholic Church of Portland will sell the Subject Property to the Applicant.

d. The Subject Property is located within the B-3 Downtown Business District (the “B-3 District”), which includes in its permitted uses Multifamily dwellings and Elder/Disability Housing Facility. The Subject Property is across the street from the R-3 High Density District.

e. The Subject Property has an area of 27,504 square feet. The minimum lot area requirement in the B-3 District is 7,500 square feet.

f. The Subject Property has 300 feet of frontage on Cutts Avenue. The minimum frontage requirement for a parcel in the B-3 District is fifty (50) feet. The minimum side and rear setback in the B-3 District is ten (10) feet.

g. The minimum lot area per dwelling unit is 1,500 square feet.

h. The parking requirement for a mix of multifamily residential housing and multifamily residential housing restricted to elderly is approximately 46.5 parking spaces for 80 units of housing under the Ordinance.\(^1\)

\(^1\) For multifamily residential, 1.5 parking spaces are required per one-bedroom unit of housing. See Table 708-2. For multifamily residential restricted to elderly, one parking space for every two units is required (.5 per unit). See Table 708-2. However, Section 708-2 of the Ordinance reduces both requirements by 50% for the B-3 District north and west of the Boston and Maine Railroad, which would mean .75 parking spaces per one-bedroom unit of multifamily residential and .25 parking spaces per one-bedroom unit of multifamily residential restricted to elderly.

id.
i. The applicant proposes to renovate the existing church building and develop and construct up to 80 units of residential housing in three (3) phases, and requests that certain lot, depth, and parking requirements found in Article 4 of the Ordinance be amended as follows:

   i. That the 1,500 square feet minimum lot area per dwelling unit in the B-3 District be reduced to 340 square feet minimum lot area per dwelling unit to permit up to eighty (80) dwelling units on the Subject Property.

   ii. That the ten (10) foot minimum side and rear yard setback be reduced to five (5) feet.

   iii. That the maximum number of parking spaces on the Subject Property for up to eighty (80) one-bedroom residential dwelling units be thirty-three (33) parking spaces, down from approximately 46.5 parking spaces currently required under the Ordinance.

j. The Zoning Ordinance provides no authority for either the Planning Board or City staff to deviate from the stated lot, depth, and parking requirements.

k. Accordingly, this Contract Zone Agreement is proposed by the Applicant to permit differing land uses and development for the Subject Property, while maintaining the current character of the Subject Property through renovations of the existing church.

II. This Contract Zone Agreement Amends the Saco Zoning Ordinance as follows:

   a. The minimum lot area per each dwelling unit on the Subject Property shall be 340 square feet.

   b. The minimum depth side & rear yard on the Subject Property shall be five (5) feet.

   c. The maximum number of parking spaces on the Subject Property shall be thirty-three (33).

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

   a. The provisions of this Contract Zone shall become effective only in the case of a subdivision application being submitted by the Applicant, or an agent thereof on behalf of the Applicant. Should no subdivision plan application be submitted to the Planning Office of the City of Saco within two (2) years of the date of approval of this Agreement, then the provisions herein shall become null and void.

   b. Minimum lot per dwelling and setback requirements established in Table 412-1 of the Ordinance shall be reduced in accordance with Section II(a)-(b) above. The parking requirements in Table 708-2 shall be reduced in accordance with Section II(c) above.

   c. The Subject Property shall be served by public sewer and public water.
d. Except as addressed in this Contract Zone Agreement, the project shall adhere to all other applicable provisions of the Ordinance and subdivision regulations.

e. This Contract Zone Agreement applies only to the Subject Property.

f. Failure of the Applicant, its successors and assigns, to submit an application for a 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 Agreement 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, its successors and assigns, this deadline may be extended by one (1) year upon written request submitted by the Applicant.

g. This Contract Zone Agreement and Contract Zone it creates shall not be transferable prior to the development as proposed by the Applicant unless said transfer is approved by the City Council.

h. Breach of these conditions, restrictions and/or Contract Zone Agreement by the Applicant shall constitute a breach of the contract and a zoning violation, subject to enforcement action by the City of Saco.

IV. Pursuant to authority found in 30A M.R.S.A. §4352(8), and the Ordinance, Section 1403, and by vote of the Saco Planning Board on ______________, and the Saco City Council on ______________, the following finds are hereby adopted:

a. The Subject Property is a parcel of unusual nature and location for the following reasons:

i. The Subject Property is the site of the former Notre Dame de Lourdes Roman Catholic Church, which includes the former church, school, and rectory buildings.

ii. The Applicant is interested renovating the existing church building and construct additional buildings to permit residential housing, while maintaining the character of the neighborhood as it currently exists.

iii. The Applicant proposes to construct a new residential building over the existing paved parking area to add much needed single bedroom units to Saco’s housing stock.

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

i. **Population and Demographics.** To accommodate growth in a manner that maintains the character of the City. To assure that a diversity of people is able to continue to live in Saco. As a result, the City should continue to provide for the construction of a wide range of types of house at a variety of densities and types to assure that a diversity of people can continue to live in the City, including younger people.

ii. **The Local Economy.** To maintain the vitality of Downtown Saco and expand its role as a commercial, office, retail, educational and cultural **residential** and service center.

iii. **Utilities.** The City should allow residential development in higher densities in those areas where water (and sewer) service is available than in those areas where service is not available.

iv. **Transportation.** The City should review the parking requirements in the Downtown area and consider reducing the requirements if reasonable.

v. **Housing.** To provide a diversity of housing to meet the needs of a wide variety of residents. To that end the City should consider relaxing the standards for parking and other regulations governing housing development in Intown neighborhoods to ensure that these requirements do not adversely affect development proposals.

c. The proposed use is consistent with the existing uses and the permitted uses within the B-3 District, which includes multifamily dwellings. Additionally, the Subject Property is located across the street from the R-3 High Density Residential District, which allows land to be developed “more intensively” due to its proximity to the business area and the availability of utilities.

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

V. Based on the above findings, conditions and restrictions, the City Council hereby incorporates this Contract Zone 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 this ___ day of __________, 2016.

Signed this ___ day of ___________, 2016.
B. RENEWAL APPLICATION FOR A SPECIAL ENTERTAINMENT PERMIT – BIDDEFORD SACO COUNTRY CLUB – (PUBLIC HEARING)

Biddeford Saco Country Club 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 Cote moved, Councilor Johnston seconded to open the Public Hearing. The motion passed with seven (7) yeas.

There were no public comments.

Councilor Cote moved, Councilor Minthorn seconded to close the Public Hearing and be it Ordered that the City Council grant the renewal application submitted by the Biddeford Saco Country Club 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.

C. SCHOOL REVOLVING RENOVATION FUND LOAN FORGIVENESS GRANT FINANCING – (PUBLIC HEARING & SECOND AND FINAL READING)

On January 29, 2016, Saco Public Schools obtained approval from the Maine Department of Education for a School Revolving Renovation Fund project for health, safety and compliance repairs to the Saco Middle School. That approval offered the City a 0% interest, 5-year loan in the principal amount of up to $20,294 to finance the project, but of which $8,572 of principal has been forgiven (the “Grant Financing”).

To obtain the Grant Financing, the City must enter into a loan agreement with the Bond Bank for the unforgiven $11,722 portion of the loan and must evidence that borrowed principal with general obligation securities (bonds). However, because Saco Public Schools has already prepaid the $11,722 portion of the loan, the Bond Bank agrees that the bonds are paid and satisfied, and will so indicate on the bonds.

Please refer to the attached exhibits, including the order to authorize the School Revolving Renovation Fund loan forgiveness grant financing, for further details.

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

There were no comments from the public.

Councilor Doyle moved, Councilor Minthorn seconded to close the Public Hearing and be it Ordered that the Saco City Council hereby approves the ‘Order to authorize School Revolving Renovation Fund loan forgiveness grant financing for health, safety and compliance repairs to Saco Middle School’ dated October 24, 2016. Further move to approve the Order. The motion passed with seven (7) yeas.

ORDER TO AUTHORIZE SCHOOL REVOLVING RENOVATION FUND LOAN FORGIVENESS GRANT FINANCING FOR HEALTH, SAFETY AND COMPLIANCE REPAIRS TO SACO MIDDLE SCHOOL

BE IT ORDERED by the City Council as follows:

1. That, under and pursuant to a Maine Department of Education School Revolving Renovation Fund Project Eligibility Certificate dated January 29, 2016, issued to assist the City of Saco (the “Governmental Unit”) in the financing of health, safety and compliance repairs to Saco Middle School (the “Project”), and all other applicable law, the Mayor and the Treasurer of the Governmental Unit be authorized in the name and
on behalf of the Governmental Unit to execute and deliver a Loan Agreement between the Maine Municipal Bond Bank (the “Bond Bank”) and the Governmental Unit to effect a loan from the Bond Bank to finance the Project in the principal amount of up to $20,294.00, but of which amount $8,572.00 of principal is forgiven by the Bond Bank (the “Loan Agreement”); and that the Loan Agreement be substantially in the form presented at this meeting, with such changes therein not contrary to the general tenor thereof as the Mayor and the Treasurer may approve, the execution and delivery thereof to be conclusive evidence of such approval; provided, however, that the Loan Agreement shall provide that, if the Governmental Unit has prepaid all of the borrowed principal which has not been forgiven and which has been evidenced by bonds, the Bond Bank agrees that the bonds are paid and satisfied.

2. That under and pursuant to sections 5953-E and 6006(F) of the Maine Municipal Bond Bank Act and all other applicable law, the Mayor and the Treasurer be authorized to borrow in the name and on behalf of the Governmental Unit the sum of up to $11,722.00 from the Bond Bank to finance the Project; that in connection therewith, the Mayor and the Treasurer be authorized to issue general obligation securities (bonds or notes) of the Governmental Unit in an original principal amount of up to $11,722.00, payable WITH NO INTEREST in five equal annual installments of principal, and to execute and deliver such general obligation bonds or notes (as so executed and delivered, the "Bond") in registered form under the seal of the Governmental Unit and attested by the City Clerk of the Governmental Unit; and that the Bond be in substantially the form presented to this meeting, with such changes therein not contrary to the general tenor thereof as the Mayor and the Treasurer may approve, the execution and delivery thereof to be conclusive evidence of such approval; provided, however, that the Treasurer shall have prepaid the Bond on or before delivery thereof, and that such payment and satisfaction shall be indicated on the Bond by the Bond Bank.

3. That the Mayor, Treasurer, City Clerk, and other proper officials of the Governmental Unit, acting singly, be authorized in the name and on behalf of the Governmental Unit to execute and deliver an Assignment of monies transferred by the State of Maine to pay for Project costs and such other instruments, documents, certificates and agreements, and to take or cause to be taken such further actions for and on behalf of the Governmental Unit, as may be necessary, convenient or appropriate to effect the transactions contemplated by this Order and the documents referenced therein, and that the City Clerk be authorized to attest to the foregoing and attach the City’s seal to any of the foregoing.

4. That the City Clerk file an attested copy of this Order with the minutes of this meeting.

Dated: November 7, 2016

________________________________________________________________________

________________________________________________________________________

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Being a majority of the members of the City Council

A true copy, attest: ________________________________
Michele L. Hughes, City Clerk

D. CONTRACT ZONE AMENDMENT: 95 KING ST., THE FORMER WINTERHAVEN ASSISTED LIVING FACILITY – (FIRST READING)
Applicant Thornton Academy proposes to acquire the former WinterHaven assisted living facility at 95 King Street and convert it into student housing. The previous use was made possible by a contract zone, approved in 1996. TA proposes to amend the contract zone in order to allow a student and staff housing facility for up to eighteen beds, plus a living arrangement for a couple or family to staff the facility.

The City Council discussed this item during the October 24, 2016 Workshop.

Councilor Doyle moved, Councilor Precourt seconded to approve the First Reading of the contract zone document entitled “Contract Zone Agreement by and between the City of Saco and Thornton Academy,” dated October 24, 2016; and further move to schedule a Public Hearing for November 21, 2016, for the property identified as Tax Map 32, Lot 179 as authorized by Section 1403 of the Zoning Ordinance. The motion passed with seven (7) yeas.

Contract Zone Agreement
By and between the
City of Saco and Thornton Academy

October 24, 2016

THE CITY OF SACO HEREBY ORDAINS:

That the zoning ordinance of the City of Saco, dated January 2, 1985 and amended through September 19, 2016, is hereby amended by adopting the change in use as further described in the following contract by and between the City of Saco and Philip and Lucie Hatch, Thornton Academy.

This amendment to the Saco Zoning Ordinance shall be subject to the following conditions and restrictions, as provided for in Section 1403 of the Zoning Ordinance:

1. All work performed as a result of the 1996 approval was shall be done in conformance with the approved plans entitled “Site Development Plan” Assisted Living Home for Philip & Lucie Hatch, drawn by Foster & Associates. Any deviations from the approved plans shall be reviewed and approved by the City prior to work commencing. The approved plans were received by the Saco Planning Department on July 3, 1996.

2. Prior to work beginning, the applicant shall establish performance guarantee, acceptable to the City, for 150% of the cost of the following improvements:
   - landscaping
   - drainage
   - paving
   - erosion control

3. All work shall be done in conformance with Section 806 of the Saco Zoning Ordinance, Erosion Control.

4. The approved 1996 contract is was for the express purpose of allowing elderly congregate housing as a use on this parcel of land, Map 32, lot 179, located at 95 King Street, in an R-1B zoning district. The 2016 amendment shall allow a Student and Staff Housing Facility that would house up to eighteen (18) high school students, and residential directors which may be a couple or a family who would reside in the existing dwelling at 95 King Street, which is attached to the Facility.

5. Density requirements for this parcel limit the elderly congregate use to 10 beds as long as the home is owner-occupied. If, at some point in the future, the home is no longer owner-occupied, the elderly-congregate use will be allowed to expand to 15 beds. This shall only occur upon notification and concurrence by the Code Enforcement Officer.

6. The area designated as future parking shall remain in an undeveloped state. If at any time in the future the City determines that additional parking is required, the owner shall be notified and shall have six months to provide the parking. If the owner proposes to expand the use to 15 beds, the additional parking shall be required.

7. The wooded area to the rear of the proposed addition, lying adjacent to land owned by Desjardins, shall remain in its present condition. Only dead or dying trees may be removed, along with underbrush. No structures are permitted in this area.

8. No dumpsters will be allowed on the property, unless the owner secures an amended approval.
9.8 No further structures will be allowed on the property between the parking area and King Street.

9.9 All details as shown on the approved plans are hereby incorporated into this contract by reference, and the site shall be developed 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.

9.10 To provide adequate funding for City services, the applicant agrees not to convert this business or use to a not-for-profit enterprise, either now or in the future. This condition shall extend to any future owners of the business or land. As agreed under the 2016 amendment, the applicant shall be allowed to own the facility as a tax exempt entity. If Thornton Academy should convey the facility in the future, any future transferee of the property shall not be a tax exempt entity, unless so approved by the City Council.

9.11 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 and shall constitute a zoning violation, subject to enforcement action.

9.12 The area shown on the approved site plan, bounded by King Street, Winter Street, the garage, and the future labeled "future parking", shall remain in a vegetated condition. No paving or structures shall be permitted in this area.

By vote of the Saco Planning Board on June 25, 1996, and the Saco City Council on August 6, 1996, the following findings were hereby adopted:

A. The subject real estate is somewhat unusual and unique in its size and location. The parcel consists of 32,000 square feet of usable land area. This size parcel is relatively large compared to the other typical 10,000 square foot parcels in the immediate neighborhood. This size factor makes it uniquely conducive to this type of use. Due to the fact that the Winter Haven assisted living facility utilized elderly congregate housing facilities typically need to be ten (10) beds or more to achieve economic feasibility, a facility of that size would required at least a 20,000 square foot parcel in the R-1 zone to meet the zone's density requirement. Given this size constraint, additional similar development in the R-1B zone seems to be precluded, being that there few, if any, similarly sized, undeveloped parcels of land in the zone. In addition to its unique size, the site is centrally located and is easily accessible to most public, religious, and business services.

B. Chapter 5 of the 2011 Comprehensive Plan, Subpart 8 expresses the City's desire to limit commercial activities within residential neighborhoods except for strictly regulated uses with minimum impact. The proposed Student and Staff Housing Facility most properly identified as an accessory use to Public or Private School, each of which are permitted uses in the R-1B zone. The proposed facility will have arguably less impact on the neighborhood than the existing assisted living use.

A goal of the Transportation section of the 2011 Plan is to reduce road congestion while minimizing traffic in residential neighborhoods. The students living at the facility would walk to school most days, or may board a single small bus for a ride in inclement weather. Boarding students are not allowed to have cars, so the impact of the facility will be far less than the previous use, with family members and staff traveling to and from the property at all hours.

The Housing section of the 2011 Plan discourages the conversion of properties from single family dwellings to multi-family in order to limit adverse impacts on older residential neighborhoods. Thornton Academy's proposed use of the property is similar to the existing use, with younger occupants. The net effects of the new use would be a change of ownership, and a change in the nature of the occupants.

The Land Use Goals and Policies in the 2011 Plan, Chapter 6, promote orderly development that discourages urban sprawl and encourages the efficient use of City resources. The proposed use would be located in the in-town area and constitutes an efficient re-use of a very specialized structure. It is serviced by public water and sewer. The proposed change in ownership and use will not result in significant exterior changes to the property.

B.1. The Saco Comprehensive Plan, dated 1987, clearly intends that the R-1 zones be developed to promote a variety of residential uses. Specific to the housing needs of the elderly, the plan establishes the City's socio-economic development goals and policies by suggesting that the Planning Board shall investigate the use of various zoning and siting techniques to encourage elderly and barrier free housing in Saco. (p. DH4). The land use portion of the Comprehensive Plan also encourages housing for all income and age levels (p. E1). Additionally, the plan further
E. REQUEST TO CONTINUE USE OF KENNEALLY AND COMPANY UNTIL JANUARY 2017

Funds for marketing services are included in the FY ’17 Economic Development Department Budget. The city has maintained its relationship with the vendor from the previous year, however, according to our Purchasing Policy we are required to put this to bid. The Marketing RFQP went out to bid on November 3rd, 2016 with an estimated contract award date of January 3rd.

Councilor Minthorn moved, Councilor Doyle seconded to approve of the continued engagement of Kenneally and Company for ongoing marketing consultancy services on a month to month basis, not to exceed $2,000 per month.
thru January of 2017 pending the receipt and review of proposals and vendor selection based on criteria set forth in a Request For Qualified Proposals (RFQP) for Marketing Services. The motion passed with seven (7) yeas.

MEMORANDUM

TO: Mayor Michaud and City Council
FROM: Kevin L. Sutherland, City Administrator
DATE: November 2, 2016
RE: Request to Continue with Kenneally and Company

In the previous fiscal year, the City of Saco hired Kenneally and Company on a month by month basis to help with some internal re-branding and set the city up for our long-term marketing goals. Kenneally and Company also acts as the marketing consultant for the City of Biddeford and as we work to collaborate with Biddeford more, it made sense to share this resource.

Kenneally and Company’s relationship with both cities has allowed for greater collaboration, cost sharing and savings by the two cities, extending our reach to do more regional and out of the area marketing and has freed up resources to collaborate more with the Biddeford Saco Area Chamber of Commerce; while at the same time maintaining our individual City branding.

Kenneally’s ability to buy media placements (both print and cable) in bulk and share among the company’s client base is significant and the savings alone nearly covers the entire consultancy fee that we pay to Kenneally versus what the cost would be if we were not able to take advantage of these buying discounts.

We are pleased with the creative content, marketing counsel, and value we are receiving from Kenneally, however, it is good practice and a requirement of the City’s Purchasing Policy to see what the market may offer periodically. In November we will exceed spending $8,000 with this vendor in a single fiscal year (the threshold in our purchasing policy), therefore we respectfully request the City Council approve the request to continue with this vendor until we’ve completed the RFQP process.

VIII. COUNCIL DISCUSSION AND COMMENT

➢ Mayor Michaud – Met with Conservation Commission this evening and has been working on trying to get it reenergized. It is an eleven member commission. If you know folks who would be interested in serving on this commission ask them to contact me.
➢ Councilor Roche – I would like to revisit the idea of having a Finance Committee and meeting on a regular basis just like the School Committee does and just talk finances.
➢ Councilor Johnston – Reiterated that he likes the idea and brought it up at the last meeting as well.
➢ Mayor Michaud noted that the Council could actually add a finance section too each Workshop. That would be easy to do.
➢ Councilor Cote – Noted that over 5,000 people voted by absentee ballot for the Nov. 8th Election. He congratulated the city staff on the great job they did.
➢ Councilor Gay – How many bids did the city get on the construction of moving the Transfer Station, or was it just the Shaw’s Brothers bid?
➢ Councilor Minthorn – Noted that residents should check their bank accounts because over the weekend an out-of-state groups intercepted a number of ATM pin numbers and hacked the accounts.

IX. ADJOURNMENT

Councilor Minthorn moved, Councilor Doyle seconded to adjourn the meeting. The motion passed with seven (7) yeas. TIME: 7:30 p.m.

Attest: ______________________________
Michele L. Hughes, City Clerk