

REGULAR MEETING MINUTES
CITY COUNCIL OF THE CITY OF BATH, MAINE

Wednesday, January 2, 2013
City Council Chambers, Bath City Hall

Present: Councilors Brackett, Merrill, Paulhus (arrived 6:07 p.m.), Lockwood, Eosco, Sinclair, Winglass and Chairman Wyman

Absent: Councilor Mitchell (Excused)

Also in attendance were City Manager Bill Giroux, City Solicitor Roger Therriault and Deputy City Clerk Pam Gray.

Chairman Wyman led the Pledge of Allegiance and Deputy Clerk Gray called the Roll.

C. Public Hearings: 6:01 p.m.

1) Special Amusement License for Front St. Public House at 102 Front St.

Councilor Eosco made a motion to put this item on the floor for consideration and discussion, which was seconded by Councilor Lockwood and was passed unanimously.

Christopher Johnston, one of the partners of the establishment, addressed the City Council representing the Front Street Public House and said he would answer any questions that the Council may have regarding this license.

Councilor Brackett asked what type of music they planned to have. Mr. Johnston responded that they have a small space so it would just be acoustic music and maybe some trios.

Councilor Winglass asked if there was a possibility for expansion. Mr. Johnston responded that there are no plans for expansion at this time.

Chairman Wyman then asked if there was any public comment and hearing none, he closed the Public Hearing.

Vote:

Yeas: Brackett, Merrill, Lockwood, Eosco, Sinclair, Winglass

Nays: None

The Special Amusement License was passed unanimously with a vote of 6-0.

D. Consent Agenda 6:05 p.m.

2) Minutes of the Previous Council Meetings December 5 and 19, 2012 and Items K10 and K11 (motion to accept)

Councilor Winglass made a motion to accept the Consent Agenda as presented, which was seconded by Councilor Eosco and was passed unanimously.

E. Time Devoted to Residents to Address the City Council 6:05 p.m.

Jerry Provencher of 15 Winslow Court addressed the City Council and said he was representing a group of concerned citizens to defend democracy against attack. He stated that campaign finance reform has had little effect, and the Citizens United vs. the Federal Election Commission had disastrous results. Mr. Provencher said that they would like to meet with individual Councilors to discuss this item. A Public Forum is scheduled to be held at City Hall on February 21 and they hope to come back to City Council for formal discussion in March.

3) Bath Freight Shed Alliance/Commercial St. Sidewalk Project

Wiebke Theodore, Chairman of the Bath Freight Shed Alliance, addressed the City Council to explain the proposed project. She referenced the restoration of the building that will be impacted and said that the new pedestrian way will enhance the work that has been done. She explained that every penny has gone into the building and said that it was essential to do the work to complete the façade restoration.

She stated that they would use the exact bricks specified in the current plan and would have them etched, adding that cutting into the bricks for etching would make them less slippery. She said that they hoped to sell around 100 bricks at a cost of about \$150.00 each, asking Council to accept these bricks and to allocate them specifically for this project.

Councilor Lockwood inquired about the financial impact and said she wanted to ensure that there would be no cost to the City.

Councilor Eosco inquired about long-range maintenance plans. Ms. Theodore said that these would become city bricks as a gift and that they had a life of about 100-200 years durability, which is not compromised by the etching process. It was suggested that maybe a replacement plan could be worked in.

Councilor Paulhus inquired about the timeline for the project. City Planner Andrew Deci responded that it would go out to bid in late spring with construction scheduled for this summer.

Councilor Sinclair congratulated the Freight Shed Alliance for bringing this project forth and said that there have been numerous successful projects like this around the State, citing the Damariscotta Public Library for doing a similar fund-raising project

eight or nine years ago with great success. The Council then gave a unanimous endorsement of this project.

F. Ordinances, Resolutions and Orders

4) Order – Approving Conservation Easement to Kennebec Estuary Land Trust for Butler Head, so called – 6:17 p.m.

Chairman Wyman read the following order:

Be it Ordered by the City Council, as follows:

ORDER APPROVING EASEMENT

WHEREAS, the City of Bath has agreed to convey a Conservation Easement to the Kennebec Estuary Land Trust, on a parcel of land owned by the City at Butler Head, so-called, and;

WHEREAS, the purpose of the conveyance of the Butler Head property is to provide significant public benefit by protecting and preserving in perpetuity the Butler Head property.

NOW THEREFORE BE IT ORDERED by the City Council of the City of Bath that a Conservation Easement for the property, as more particularly described in Exhibit A of the proposed Conservation Easement (attached hereto), be and hereby is approved, and the City Manager is authorized to execute an appropriate Easement or such other documentation as may be necessary to conclude the transaction. The Easement shall be in substantially the same form as the proposed Conservation Easement.

Councilor Sinclair made a motion to put the item on the floor for discussion, which was seconded by Councilor Lockwood.

Tom Barrington addressed the City Council on behalf of the Forestry Committee and said that they enthusiastically support Councilor Sinclair’s position on this vote tonight on the easement that has been proposed. He urged the Council not to get wrapped up in those details, but to focus on the formal protection of Butler Head.

There was no public comment.

Councilor Eosco asked if all property owners had been contacted. She felt that all property abutters should be made aware and said she may make a motion to table this item to make sure that all abutters are notified.

Councilor Brackett inquired if something had brought this item forth.

Councilor Sinclair said that the primary impetus was because there were steps made to sell off a portion of Butler Head and they wanted to avoid this happening. Councilor Paulhus added that he also had concerns about that transaction and thought this might be a good way to have a discussion on the issue.

Councilor Winglass asked Tom Barrington if he knew the history on Butler Head. Tom Barrington said that he did not have any detailed history but knew that it had been taken for taxes by the City around 1967. City Solicitor Roger Therriault stated that it had been acquired in 1967 by deed from Dorothy Cummings and explained that there were five or six exceptions, but that all transactions preceded her conveyance. Councilor Paulhus reiterated that this property should be preserved for future citizens.

Councilor Winglass stated that he was in general agreement with the document and asked if there was anything that leaves the City not responsible for taking care of the roads, fire protection, etc. City Manager Bill Giroux responded that there is nothing in writing but that they have been plowing to the top of the hill.

Forestry Chairman Beth Haskell inquired about the official rules for notifying people and pointed out that there have been several meetings on this item and that it has been advertised in the newspaper. City Solicitor Roger Therriault responded that there are no “official” rules but said that it is good for transparency purposes and that they often do it. It was pointed out that many of these abutters are just summer residents.

Councilor Sinclair stated that he is in favor of people being notified but pointed out that this was discussed two months ago, a decision was made to bring the item forth this evening and it was advertised. Councilor Eosco reiterated that many of these abutters are summer people and probably don't get the Times Record.

Councilor Eosco made a motion to table this until the next meeting until the neighbors could be contacted, which was seconded by Councilor Brackett.

Vote to Table:

Yays: Brackett, Merrill, Eosco, Winglass

Nays: Sinclair, Paulhus, Lockwood

5) Order – Approving Authorization BIW Tax Increment Financing District (FY 2013) 6:35 p.m.

Chairman Wyman read the following Order:

Be It Ordered by the City Council as follows:

**ORDER APPROVING AUTHORIZATION
BIW TAX INCREMENT FINANCING DISTRICT (FY 2013)**

Be It Hereby Ordered By the City Council of the City of Bath that nine hundred nineteen thousand and seven hundred sixty-five and 00/100 (\$919,765) be and hereby is authorized to be spent from the Tax Increment Financing District Development Program Fund Project Costs Accounts from the fiscal year commencing July 1, 2012 and terminating on June 30, 2013 for the following purposes:

TIF REVENUE	
INCREMENT	\$927,386
TRANSFER IN FROM RESERVE	
TOTAL REVENUE	<u>\$927,386</u>
 <u>EXPENSES</u>	
DEBT SERVICE	\$664,865
CONTRIBUTION TO BATH LOCAL DEVELOPMENT CORP.	\$133,900
CONTRIBUTION TO MAIN STREET BATH	\$28,000
HOLIDAY LIGHTS	
ECONOMIC DEVELOPMENT PROJECTS ACCOUNT	\$55,000
TRAIN STATION FUNDING – TRANSFER	\$18,000
HISTORIC MARKER PROGRAM	<u>\$20,000</u>
 TOTAL	 <u>\$919,765</u>
 SURPLUS	 \$7,621

Councilor Winglass made a motion to put this item on the floor for discussion. Councilor Paulhus seconded the motion.

Councilor Winglass thanked City Manager Bill Giroux and staff for holding a workshop on this agenda item to provide more clarity.

Councilor Sinclair stated that he had requested the workshop and said that he would be voting against this agenda item. He stated that he is not comfortable with the validity of the numbers and said that there is no information to substantiate them.

Councilor Winglass made a motion to pass this item, which was seconded by Councilor Eosco.

VOTE ON MOTION:

Yeas: Brackett, Merrill, Paulhus, Lockwood, Eosco, and Winglass

Nays: Sinclair

Motion passed: 6-1

F6) Order Authorizing Sale of Trolley – 6:40 p.m.

Chairman Wyman read the following Order:

ORDER AUTHORIZING SALE

WHEREAS, the old City of Bath Trolley, affectionately known as “Emma”, is considered to be surplus equipment whose value exceeds \$1,500.00, and it is in the best interest of the City that the vehicle be sold; and

WHEREAS, Section 7.14 of the Ordinances of the City of Bath requires an Order of Council authorizing all sales of equipment whose value exceeds \$1,500.00, and

WHEREAS such sale is to be conducted in accordance with purchases in excess of \$4,000.00 in accordance with Section 7.05; and

WHEREAS, Section 7.05 provides for an alternate method of soliciting bids, or in this case providing for sale, by soliciting bids from potential purchasers where the nature of the item being sold does not lend itself to normal bid procedures; and

WHEREAS, the Trolley is an unusual item and has a limited market and alternative methods of sale would be appropriate in order to find the best price.

NOW THEREFORE BE IT ORDERED by the City Council of the City of Bath that the City of Bath Trolley named “Emma” be advertised in a manner which will be most likely to attract appropriate buyers and appropriate prices and the City Manager is authorized to determine an alternate method of soliciting purchasers and to report the results of the solicitations back to Council for consideration of the proposed purchase amount.

City Planner Andrew Deci addressed the City Council and said that it is time to bid farewell to Emma, now that they are happy with “Charlie”. He explained that there are several ways outside of the bid process available to address this; there was a consensus that a broker would be the best means for the best value.

Councilor Paulhus inquired if anything from Emma would be saved as a keepsake, and it was felt that this was a good idea.

Councilor Lockwood said she would like to talk about the finances in terms of why Emma is being disposed of, and asked how significant the repairs were compared to revenue. City Manager Bill Giroux responded that this came to the Council because mechanics felt that Emma was no more feasible to run. He said that they just need to replace it and move on and not keep a fleet of unusable vehicles. It was mentioned that there may be a business model where a second trolley may be feasible.

Councilor Lockwood asked if there was a minimum, and Andrew Deci responded that they would be working with a broker on establishing this.

Councilor Brackett asked if the broker fee is commission, and he was informed that it was, but that it was a reasonable amount.

Councilor Winglass asked what would be done with the money. Finance Director Juli Millett said that they may have put it in the budget as revenue. She said it would go back into that fund and that it would go where Council wants it to go.

Councilor Winglass made a motion to pass the Order, which was seconded by Councilor Lockwood.

Vote on motion:

Yeas: Brackett, Merrill, Paulhus, Lockwood, Eosco, Sinclair, Winglass

Nays: None

Motion passed: 7-0

F7) Order – Approving Lease Renewal Southern Maine Community College – 6:50 p.m.

Chairman Wyman read the following Order:

ORDER APPROVING LEASE RENEWAL

WHEREAS, the City of Bath has had in place a Lease with Southern Maine Community College (SMCC); and

WHEREAS, SMCC wishes to renew the Lease on the current space occupied by them, being a portion of the property located in Bath, in the County of Sagadahoc, and State of Maine, formerly known as the Mid Coast Hospital of Bath and previously referred to as the Bath Memorial Hospital; and

WHEREAS, an eighteen (18) month Lease, with the option of renewal, has been negotiated to accomplish this purpose.

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Bath that the Lease with SMCC, in substantially the form attached hereto, be and hereby is approved, and the City Manager is authorized to execute said Lease on behalf of the City of Bath, together with any Renewals thereof.

Chairman Wyman asked if there was any Council discussion on this agenda item. Hearing none, Councilor Merrill made a motion to approve the Order as presented, which was seconded by Councilor Paulhus.

Vote on motion:

Yeas: Brackett, Merrill, Paulhus, Lockwood, Eosco, Sinclair, Winglass

Nays: None

Vote: Passed 7-0

F8) Order – Approving Lease Renewal University College of Bath-Brunswick – 6:52 p.m.

Chairman Wyman read the following Order:

ORDER APPROVING LEASE RENEWAL

WHEREAS, the City of Bath has had in place a Lease with the University College of Bath/Brunswick (University College); and

WHEREAS, University College wishes to renew the Lease on the current space occupied by them, being a portion of the property located in Bath, in the County of Sagadahoc, and State of Maine, formerly known as the Mid Coast Hospital of Bath and previously referred to as the Bath Memorial Hospital; and

WHEREAS, an eighteen (18) month Lease, with the option of renewal, has been negotiated to accomplish this purpose.

NOW, THEREFORE BE IT ORDERED, by the City Council of the City of Bath that the Lease with University College, in substantially the form attached hereto, be and hereby is approved, and the City Manager is authorized to execute said Lease on behalf of the City of Bath, together with any Renewals thereof.

Chairman Wyman asked if there was any Council comment on this agenda item. There were no comments. Councilor Winglass made a motion to approve the Order as presented, which was seconded by Councilor Paulhus.

VOTE ON ORDER:

Yeas: Brackett, Merrill, Paulhus, Lockwood, Eosco, Sinclair, Winglass

Nays: None

Order passed 7-0

G. Petitions and Communications

9) Sidewalk Plowing Priority List per Bike and Pedestrian Committee – 6:53 p.m.

Public Works Director Peter Owen and Robert McChesney, Chairman of the Bike and Pedestrian Committee, addressed the City Council and reported that City Council had requested a formal policy of snow removal for sidewalks. Peter Owen explained that this is a complex process and said that there are certain sidewalks that must be cleared first and are prioritized into Priority Levels 1, 2 and 3, with schools and churches typically falling into the Priority 1 classification. Citizens who are able

were encouraged to participate in the Adopt A Sidewalk or Adopt a Hydrant Program and to help with removing snow from designated areas.

Sean Paulhus thanked the Committee for their work and noted that this issue comes up every year. . He said that he likes the idea of the Adopt A Sidewalk and Adopt A Hydrant Programs. He then said that he would like to see a map of these areas with their classifications. Andrew Deci apologized and said that it was his job to get the map for them and said that he would get them one as quickly as possible.

City Manager Bill Giroux said that they should promote these programs and to get Marc and the Bike and Pedestrian Committee involved. He said that he doesn't want to comment on the hydrants without the Fire Dept. and Water District being present.

Councilor Sinclair suggested a table of which streets fall into these categories.

Councilor Lockwood referenced the snow removal policy for the downtown and asked about enforcement of this. Bill Giroux responded that Scott Davis notifies the business owners of the policy every year but pointed out that they would have to be taken to court to enforce any fines.

Councilor Eosco thanked the Committee for their work and said she would like to promote the Adopt A Sidewalk and Adopt A Hydrant programs. She encouraged residents to be patient and reminded people that the crews need to be able to get some sleep at some point during snowstorms. Chairman Wyman noted that the crews do an excellent job of snow removal.

Councilor Paulhus inquired what the radius is around schools. Peter Owen responded that it is set up by streets and explained that the map looks like a ladder, adding that a child should only have to walk one block to get to a cleared area. He reiterated that there are many complex factors including logistics, equipment and staffing.

Councilor Winglass agreed that the crews do an excellent job and suggested that they try to keep both sidewalk plows running and it was noted that Bath Savings does an excellent job and that their property is kept spotless.

Andrew Deci stated that the map will show if a street is a Priority Level 1, 2 or 3 and said that he would make sure that the map is legible enough for everyone to read.

H. City Manager's Report – 7:10 p.m.

There was no City Manager's Report.

I. Committee Reports – 7:11 p.m.

On behalf of the Council Interview Committee, Councilor Eosco read a list of City Committees that have openings on them and gave a brief summary of each. She stated that applications are available in the City Clerk's Office.

Councilor Paulhus reported that the Flag Committee would be meeting on Monday, January 7th at 6 p.m.

Councilor Winglass reported that Bath Housing Authority Director Joanne Marco would be getting through at the end of this year.

J. Unfinished Business – 7:12 p.m.

There was no Unfinished Business

K. New Business – 7:13 p.m.

12) Annual Appointments to Committees by Council Nominees:

Bath Housing Authority Board of Directors – Steve Brackett

Midcoast Council of Governments – David Sinclair, Leverett Mitchell, Carolyn Lockwood

Patten Free Library Board of Directors – Meadow Merrill

Recreation Commission – Steve Brackett

Sidewalk Vending License Committee – Leverett Mitchell

Student Community Liaison Council – Leverett Mitchell

Welfare Review Board – David Sinclair, Andrew Winglass, Steve Brackett

Vote to accept as presented:

Yays: Brackett, Merrill, Paulhus, Lockwood, Eosco, Sinclair, Winglass

Nays: None

Passed unanimously 7-0

Councilor Winglass made a motion to go into Executive Session to discuss a Real Estate Matter per 1 MRSA §405(6)(E) and to discuss a Poverty Abatement per 36 MRSA §36 841 at 7:15 p.m., which was seconded by Councilor Eosco and was passed unanimously.

Councilor Lockwood made a motion to come out of Executive Session at 7:59 p.m., which was seconded by Councilor Paulhus and was passed unanimously.

Councilor Sinclair made a motion to adjourn at 8:00 p.m., which was seconded by Councilor Winglass and was passed unanimously.

Attest:

Pamela J. Gray, Deputy City Clerk

Please note: These minutes are not recorded verbatim. A DVD recording of the meeting is available for review in the City Clerk's office during regular business hours by appointment.