

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

Wednesday, February 6, 2013 6:00 PM
City Council Chambers, Bath City Hall

Present: Councilors Brackett, Merrill, Paulhus, Lockwood, Eosco, Sinclair, Mitchell, Winglass and Chairman Wyman.

Also in attendance were the City Manager – William Giroux, City Solicitor - Roger Therriault and City Clerk - Mary White.

Chairman Wyman led the Pledge of Allegiance and City Clerk White called the Roll.

Chairman Wyman presented a plaque to former Councilor Rogers inscribed as follows:

Presented to Kyle C. Rogers, Councilor Ward 3 in recognition of your dedicated service to the citizens of Bath 2006-2012.

C. Consent Agenda 6:02 PM

***1) Minutes of Previous Meetings – January 2, 2013. (motion to accept)**

Councilor Mitchell made a motion to accept the Consent Agenda as presented. Councilor Winglass seconded the motion. All were in favor.

Councilor Mitchell made a motion to amend the agenda to move Item E3) Order – Approving Conservation Easement to Kennebec Estuary Land Trust for Butler Head, so called to the end of the agenda, as an Executive Session was going to be needed before the item could be discussed. Councilor Eosco seconded the motion.

Vote on the Motion to Amend Agenda:

YEAS: Brackett, Merrill, Eosco, Mitchell, Winglass

NAYS: Sinclair, Lockwood, Paulhus

Motion passed: 5-3

D. Time Devoted to Residents to Address The City Council 6:03 PM

Halcyon Blake, a resident and business owner in Bath, read a statement regarding the Superpacs' influence during the voting process. Ms. Blake asked that the Council make a Resolution asking the US Congress to pass an amendment to the US Constitution undoing the Citizens United decision, not let corporations have the same rights as citizens, and not let their spending be considered Freedom of Speech. She reported there would be an informational meeting held on February 21, 2013 in Bath City Hall Auditorium and urged everyone to attend.

Pamela Wischkaemper of 17 York Street spoke to Council regarding a sewer line issue on her property.

Scott Walker, a Bath resident, expressed his appreciation to Council for their support of the Fields of Our Future and stated the group has worked very hard on funding the project. Kathryn Beveridge of Arrowsic reported the group has raised \$490,000, with a matching gift of \$25,000, which will bring them within \$65,000 of their goal. Ms. Beveridge stated the group hoped to finish the fundraising by the end of

March. Lu Lozano of Woolwich, Co-Chairman of the Fields of our Future, requested that Council put forth a building committee for the project so construction could get underway this summer.

E. Resolutions, Orders and Ordinances 6:20 PM

2) Order - Prepare Election Warrant to notify inhabitants of the City of Bath of the RSU #1 School Districts 1 and 7 Referendum Election to be held on Tuesday, March 19, 2013. (motion to pass Order)

Chairman Wyman read the following Order:

ORDER

In City Council
February 6, 2013

BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF BATH, THAT:

Warrants be prepared and issued to notify and summons the inhabitants of the City of Bath, qualified to vote, that the Regional School Unit No. 1 Referendum Election will be held at Bath Middle School, 6 Old Brunswick Road (Districts 1-7) inclusive, on the 19th day of said March, in the year of our Lord Two Thousand Thirteen, at 8 O'clock in the forenoon, then and there, to cast their votes at the Election in their respective Districts for:

Regional School Unit # 1 Referendum Question:

Article 1: Shall the method of sharing costs in Regional School Unit No. 1 be changed from the Current Method described below to the Proposed Method described below?

Current Method	Proposed Method
<p>The current method of deriving the share of costs to be raised by each member in Regional School Unit No. 1 is set forth in Private and Special Law 2007, Chapter 25, Section 11, as follows:</p> <p>The local costs of the district must be allocated to the participating members as follows: Valuation. One-third must be allocated based on the property fiscal capacity of each participating member; Pupil count. One-third must be allocated based on the most recent calendar year average pupil count of each participating member; and Population. One-third must be allocated based on the population of each participating member as determined by the latest Federal Decennial Census or Federal Estimated Census.</p>	<p>The proposed method of sharing costs in Regional School Unit No. 1 is as follows: Step 1. From the total approved budget, subtract All budgeted miscellaneous revenues of the RSU (such as tuition receipts, gate receipts , refunds, and carry forward balance); and State debt service subsidy amounts for principal and interest payments (currently, debt service subsidy amounts for the Vocational Center and Woolwich Central School) to derive the total locally distributable costs of RSU No. 1 under this method. Step 2. Apportion the locally distributable costs between the RSU No. 1 members based on their most recent calendar year pupil count. Step 3. From each member's apportionment of distributable costs, subtract all State subsidy that RSU No. 1 receives for that member, including special education adjustments for that member but excluding debt service subsidy accounted for in Step 1 above, to derive the share of costs to be raised by that member.</p>

and, be it further ordered, that said polls are to be kept open until eight o'clock in the afternoon of said day and then be closed.

Councilor Sinclair made a motion to put this item on the floor for discussion. Councilor Mitchell seconded the motion.

Councilor Sinclair explained that this Order would bring the cost for RSU #1 to be more equitably distributed among the municipalities of the RSU and urged Bath voters to get out to the polls.

VOTE ON ORDER:

YEAS: 8

NAYS: 0

Order passed unanimously. 8-0

E3) Order – Approving Conservation Easement to Kennebec Estuary Land Trust for Butler Head, so called. (motion to pass Order)

This Item was moved to the end of the agenda.

F. Petitions & Communications 6:24 PM

Councilor Eosco gave an overview regarding a conference she had recently attended which dealt with the goal of changing the perception of drug use by younger people.

G. City Manager's Report 6:26 PM

There was no City Manager's Report

H. Committee Reports 6:26 PM

Councilor Paulhus reported that the Flag Committee should have a sample to bring to the Council at the Regular March meeting.

Councilor Eosco reported that she and Councilor Brackett attended the County Budget Meeting and that she had been elected to the Budget Advisory Committee representing the City.

I. Unfinished Business 6:28 PM

There was no unfinished business.

J. New Business 6:28 PM

4) Appointment - 1 member to the Personnel Service Commission term expiration January 2016

Councilor Eosco nominated Karla Gagnon to fill this position. All were in favor of the nomination.

5) Appointment - 1 member to the Bath Community Forestry Committee term indefinite.

Councilor Eosco nominated James Hummer fill this position. All were in favor of the nomination.

6) Appointment - 1 member to the Bath Recreation Commission term expiration November 2015

Councilor Eosco nominated Michele Walters to fill this position. All were in favor of the nomination.

7) Appointment - 2 Housing Representative members to the Bath Housing Authority Board of Directors terms expiration February 2018

Councilor Eosco nominated Frederick Clarke and Freida Gaudette to fill these positions. All were in favor of the nominations.

8) Appointment - 2 members to the Bath Planning Board terms expiration September 2015

Councilor Eosco nominated John Swenson and Andrew Omo to fill these positions. All were in favor of the nominations.

Councilor Sinclair asked that an item be added to discuss the policy of the Interview Committee. The Chairman agreed to the discussion. Councilor Sinclair asked if Council wanted to know when the Committee's decision wasn't unanimous on an applicant for a position. After a brief discussion, it was decided that the Council didn't wish to know if it was a unanimous vote of the Interview Committee on an applicant.

9) Appointment - 1 member to the Bath Planning Board term expiration September 2014

Councilor Eosco nominated Albert Branca, Jr. to fill this position. All were in favor of the nomination.

Councilor Eosco asked that a report of Committee Openings be a regular item on the agenda and preceded to give a report on current committee openings.

E3) Order – Approving Conservation Easement to Kennebec Estuary Land Trust for Butler Head, so called. (motion to pass Order)

Chairman Wyman read the following Order:

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.

A copy of the Exhibit A - Proposed Conservation Easement is on file in the Bath City Clerk's Office with the Agenda materials for 2/6/2013.

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

Councilor Brackett made a motion to go into Executive Session at 6:44 PM to discuss a Real Estate Matter per 1 MRSA §405(6)(E) . Councilor Eosco seconded the motion and all were in favor of the motion.

Councilor Sinclair made a motion at 7:00 PM to come out of Executive Session. Councilor Paulhus seconded the motion and all were in favor of the motion.

Councilor Sinclair explained that he and Councilor Paulhus brought this item forward to Council because they felt it was in the best interest of the citizens of Bath to preserve the Butler Head property from further development or sale and urged fellow councilors to support it.

Councilor Paulhus stated that he concurred with Councilor Sinclair.

Councilor Brackett asked if anyone had any responses from abutters.

Councilor Mitchell said that he had met with many abutters and most were fully in favor of the easement. He also said non-abutters spoke to him positively about the easement.

Parks and Recreation Director Steve Balboni reported that most of the responses he received were in favor of the easement as long as it doesn't involve individual properties and road maintenance.

Thomas Barrington spoke on behalf the Forestry Committee stating that the Committee was in favor of the easement. Mr. Barrington reported that the Forestry Committee recommends that the City retain ownership of the property which an abutter is asking to purchase.

Donna Pine, a cottage owner on Merrymeeting Bay, spoke of concerns she and other abutters have about the continuing maintenance of roads by the City, the abutters' use of ATVs, and the riding of horses in the area of their properties.

The City Manager stated that the City will maintain the same status of road maintenance that they are providing at the present time. He said the Council and Forestry Committee have not wanted to change the character of the land by changing road conditions and/or widening the road.

City Solicitor Roger Therriault stated that this easement will not take away any property owners rights given by deed or prescriptive use. All homeowners are responsible for plowing beyond where the City stops plowing.

Tony Grill, an abutter, explained the present use of the road by visitors to Butler Head and how it affects the present property owners. Mr. Grill asked that the possibility of construction of a visitor-use parking area be looked into. He said visitors park in non-parking areas and in residents' driveways at night.

Esther Sharrigan of Mallard Road asked to purchase the property that she's had an easement on with the City where her septic system is located.

City Manager Giroux stated that he will be in touch with Ms. Sharrigan regarding her request.

Jim Hummer, an abutter, spoke in favor of the easement.

Skip Stinson spoke in favor of the easement, but asked that the details be worked out to benefit everyone. He suggested a meeting of all parties to discuss the easement so there will be no misunderstandings about anything.

Tom Barrington stated that the wording of the Order is such that it authorizes the City Manager to execute these minor details, but urged the City Council to approve the Order with this stipulation.

Tony Grill asked that the City Manager consult the property owners on their concerns.

Councilor Brackett asked for clarification on Mr. Grill's request for a meeting with homeowners of Butler Head. Mr. Giroux said he would do so. If Council votes on the easement, with minor "tweaks", it will go forth.

City Solicitor Therriault clarified that there is a limit to "tweaking" the easement. The easement will be in substantially the same form as has been presented to Council. Any issues "tweaked" will not be substantive issues, he said. Any substantial changes will have to come back before Council. The document cannot be revised.

Councilor Lockwood asked that any revisions do not include sale or maintenance of property.

VOTE ON ORDER:

YEAS: 8

NAYS: 0

Order passed unanimously. 8-0

Councilor Paulhus made a motion to go into Executive Session at 7:30 PM to discuss a Poverty Abatement per 36 MRSA §851(2), Real Estate Matters per 1 MRSA §405(6)(E) and Personnel Matters per 1 MRSA §405(6)(A). Councilor Merrill seconded the motion and all were in favor.

Councilor Lockwood made a motion at 7:53 PM to come out of Executive Session. Councilor Mitchell seconded the motion and all were in favor.

Councilor Winglass made a motion to grant the poverty abatement. Councilor Brackett seconded the motion.

Vote on Abatement:

YEAS: Mitchell, Winglass

NAYS: Brackett, Merrill, Paulhus, Lockwood, Eosco, Sinclair

Abatement failed. 2-6

Councilor Paulhus made a motion to go back into Executive Session at 7:54 PM to discuss Real Estate Matters per 1 MRSA §405(6)(E) and Personnel Matters per 1 MRSA §405(6)(A). Councilor Mitchell seconded the motion and all were in favor.

Councilor Winglass made a motion at 8:24 PM to come out of Executive Session. Councilor Lockwood seconded the motion and all were in favor.

The meeting adjourned at 8:25 PM with a motion by Councilor Sinclair, seconded by Councilor Paulhus. All were in favor of the adjournment.

Attest:

Mary J. White, City Clerk

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