

**REGULAR MEETING MINUTES**  
**CITY COUNCIL OF THE CITY OF BATH, MAINE**  
Wednesday, December 4, 2013 7:30 PM  
City Council Chambers, Bath City Hall

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

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

Madame Chair Eosco led the Pledge of Allegiance and City Clerk White called the Roll.

Madame Chair Eosco postponed Item F9 - Butler Head Land Sale to the January Council Meeting.

**C. Public Hearings: 7:39 PM**

**1) Ordinance--LUC Amendment: Special Purpose Commercial Contract Overlay Zone, 36 High Street (second passage)**

Councilor Mitchell made a motion to waive the reading of the Ordinance. Councilor Winglass seconded the motion. All were in favor of the waiving motion.

**ORDINANCE**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BATH THAT THE LAND USE CODE OF THE CITY OF BATH ADOPTED JULY 19, 2000, AND SUBSEQUENTLY AMENDED, BE HEREBY FURTHER AMENDED AS FOLLOWS:

**ARTICLE 16: CONTRACT ZONING DISTRICTS**

\*\*\*

**SECTION 16.20 - WINNEGANCE STORE CONTRACT ZONE**

**A. District Designation**

The property designated for contract rezoning amendment is the property located at 36 High Street; being identified as lot 20 on tax map 45 as shown on the tax maps dated April 1, 2013, additionally modified by the transfer of adjacent property recorded in September of 2013. The property is known as the Winnegance Store.

**B. Findings**

1. This property is located in the Special Purpose Commercial Contract Overlay District. The City Council makes the following additional specific findings:
  - a. The building was built as a neighborhood store in 1902.
  - b. The building is in a neighborhood of residential uses and in the R2 zoning district.
  - c. The property is currently vacant; it last operated as a store in 2009 as a non-conforming use.
  - d. The size and historic nature of the building make redevelopment in accordance with the uses allowed in the R2 zone problematic.
  - e. In order for the store to return to its historic use, the breadth of uses and reductions in space and bulk standards of the C1 zoning district should be applied to the property.

- f. All of the C1 uses allowed by the Special Commercial Contract Overlay District, however, would not be appropriate and compatible in the building or in the neighborhood.
- g. The owner of the property has voluntarily offered to limit the number and type of permitted uses of the property as allowed by Land Use Code Section 8.20, D, 2, a.

**C. Zoning Provisions Affected**

This contract zoning amendment is intended to limit the number and type of authorized uses of the property as would otherwise be permitted according to C1 designation in a Special Purpose Commercial Contract Overlay District, but which would be inappropriate on this site given the character of the neighborhood in which the building is located.

**D. Conditions of Approval**

This contract zone is approved subject to the following condition:

- 1. The only uses allowed are the use categories:
  - a. Use 2.1.1.1.1 – Sales or rental of goods, merchandise or equipment with less than 5,000 square feet of floor area.
  - b. Use 2.1.1.2 - Convenience store
  - c. Use 2.1.3.1 – Low volume traffic generation with less than 5,000 square feet of gross floor area
  - d. Use 3.1.1 - Operations designed to attract and serve numerous customers or clients on the premises, however, limited to only attorneys’ offices, professional offices, and travel agent offices.
  - e. Use 4.1 – Manufacturing, processing, creating, repairing, renovating or assembling of goods, merchandise, or equipment.
  - f. Use 10.1 – Restaurant with carry out, delivery service and consumption outside fully enclosed structure allowed. Service to customers remaining in vehicles not allowed.
  - g. Use 10.2 – Restaurant, carry out, delivery, and consumption outside fully enclosed structure.
  - h. Uses 11.1.1 & 11.4 – Overnight accommodations, including bed and breakfast.
  - i. Use 21.3 – Farmer’s market.
  - j. Use 15.0 – temporary uses.

City Planner Andrew Deci explained this amendment to the Winnegance Store property, which is an R1 Zone, with SPCC designation would be allowed to have C1 Commercial uses to exist on the property. He stated that the applicant has received the necessary approvals from the Planning Board and the Board was recommending passage of this amendment.

Councilor Winglass made a motion to put this Ordinance on the floor for discussion. Councilor Brackett seconded the motion.

Jennifer Green, owner of the property, gave an update and timeline on the construction project.

**ROLL CALL VOTE on Ordinance:**

**YEAS: Brackett, Merrill, Paulhus, Lockwood, Wyman, Sinclair, Mitchell, Winglass**

**NAYS: None**

**Ordinance passed unanimously. 8-0**

Madame Chair Eosco stated this Ordinance would become law in 21 days.

**2) Ordinance - Changing GA Maximums (2014) per State of Maine (second passage)**

Madame Chair Eosco read the following Ordinance:

## ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BATH THAT THE CODE OF THE CITY OF BATH, ADOPTED FEBRUARY 2, 1977, AND SUBSEQUENTLY AMENDED, BE FURTHER AMENDED AS FOLLOWS:

### CHAPTER 8A. GENERAL ASSISTANCE

Delete appendices to the Ordinance dealing with maximums allowances and replace with newly attached allowance summary sheets, schedules and appendices, Appendix A – Total Allowed GA Maximums effective as of July 1, 2013, and Appendix B – Food Maximums effective as of October 1, 2013.

*A copy of these maximums are on file in the Bath City Clerk's Office with the agenda materials for the 12/04/2013 Regular Council Meeting.*

Councilor Wyman made a motion to put this Ordinance on the floor for discussion. Councilor Merrill seconded the motion.

City Manager Giroux explained that these maximums are set by the State based on the US Census.

#### **ROLL CALL VOTE Ordinance:**

**YEAS: Brackett, Merrill, Paulhus, Lockwood, Wyman, Sinclair, Mitchell, Winglass**

**NAYS: None**

**Ordinance passed. 8-0**

Madame Chair stated these maximums were retro active.

#### **D. Consent Agenda 7:46 PM**

**\*3) Minutes of Previous Meetings - November 6 and 20, 2013 and Items F4, F5, F6, and F7. (motion to accept)**

Councilor Wyman made a motion to put the item on the floor. Councilor Mitchell seconded the motion.

Councilor Sinclair asked the City Solicitor if there had been any changes made to Item F6 – Council Working Rules since last year.

City Solicitor stated there had been no changes.

Councilor Sinclair made a motion to accept the Consent Agenda as presented. Councilor Mitchell seconded the motion.

All were in favor.

#### **E. Time Devoted to Residents to Address The City Council 7:47 PM**

No one spoke at this time.

**F. Resolutions, Orders and Ordinances 7:47 PM**

**4) Order - setting regular meetings of the City Council (motion to pass Order)**

**ORDER**

*Be It Ordered by the City Council, as follows:*

That, in accordance with Section 214 of Chapter 2 of the Charter of the City of Bath, the City Council will conduct its regular meetings in the Council Room, Third Floor at City Hall, on the first Wednesday of each month at 6:00 o'clock PM.

*This Order was passed on the Consent Agenda.*

**\*5) Order - adopting Robert's Rules of Order for parliamentary procedure (motion to pass Order)**

**ORDER**

*Be It Ordered by the City Council, as follows:*

That, the Rules of Parliamentary Practice comprised in Robert's Rules of Order, Newly Revised, shall govern the City Council in all cases to which they are applicable, and in which they are not inconsistent with the City Charter, and any Orders or Resolutions passed or adopted by the City Council to govern certain procedures or policies, or as may be amended by this Council.

*This was passed on the Consent Agenda.*

**\*6) Adoption Working Rules and Regulations for Council (motion to pass)**

*A complete copy of these Rules is on file with the agenda materials for the December 4, 2013 Council Meeting in the Bath City Clerk's Office.*

*This Order was passed on the Consent Agenda.*

**\*7) Order - Council approval on annual Blanket Letter of Approval on all renewals to operate Games of Chance and/or Beano Games (private clubs, etc.) (motion to grant approval)**

**ORDER**

*Be It Ordered by the City Council of the City of Bath,*

That, the City Clerk be authorized to send a "Blanket Letter of Approval" on all renewals to operate Games of Chance and/or Beano Games in accordance with the provisions of the State.

Bath Area Senior Citizens	Veteran's of Foreign Wars (VFW) Auxiliary #7738
American Legion	Lincoln Club of Bath, Inc.
Smith Tobey Post #21	Knights of Columbus
Bath Lodge of Elks	

*This Order was passed on the Consent Agenda.*

**8) Order – Changing Date of January’s Regular Meeting to January 8, 2014.**

Madame Chair Eosco read the following Order:

**ORDER**

**WHEREAS**, the date for the Regular Meeting of the Bath City Council for January comes on January 1, 2014 and

**WHEREAS**, January 1, 2014 is a Federal Holiday;

**NOW, THEREFORE, BE IT ORDERED THAT THE BATH CITY COUNCIL** approves changing the date of the Regular Meeting of the Bath City Council for Wednesday, January 8, 2014 at 6:00 pm.

Councilor Wyman motioned to put this Order on the floor for discussion. Councilor Paulhus seconded the motion.

**VOTE on Order:**

**YEAS: 8**

**NAYS: 0**

**Order passed unanimously. 8-0**

**9) Butler Head Land Sale**

*Madame Chair Eosco pulled this item from the agenda.*

**10) Ordinance – Approving Pine Tree Waste Contract (first passage)**

**ORDINANCE APPROVING  
PINE TREE WASTE CONTRACT**

**WHEREAS**, the City of Bath and Pine Tree Waste, Inc. have reached an agreement for continuation of curbside trash pickup, recycling pickup and other specialty collections, and

**WHEREAS**, the term of the Contract exceeds One (1) year, and

**WHEREAS**, the Charter of the City of Bath, pursuant to Section 1102, requires that Contracts involving payment of monies out of appropriations of more than One (1) fiscal year be approved by Ordinance.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Bath that the Contract with Pine Tree Waste, Inc., commencing July 1, 2013 and running through June 30, 2018, and attached hereto, be and hereby is approved and the City Manager is authorized to execute same on behalf of the City of Bath.

City Manager Giroux suggested that this Item be tabled to the January meeting citing lack of information in the packet.

Councilor Winglass made motion to table this Ordinance to the January 8, 2014 Council Meeting. Councilor Mitchell seconded the motion.

**VOTE on Tabling Motion:**

**YEAS: 8**

**NAYS: 0**

**Tabling motion passed unanimously. 8-0**

**11) Discussion Waterfront Park Dolphin Grant**

City Planner Andrew Deci reported this would be a grant opportunity for improvements to the Waterfront's Park pier and float system. He stated the grant would require the City to commit to providing matching funds at the time of application, with a deadline of next week. Mr. Deci explained the float system would consist of dolphins and a series of floats. The existing system is not securely stabilized into the ledge and at this time is supported only by the dolphins which are in the mud. He stated that the infrastructure is not capable of carrying the load of the large recreational vessels. Mr. Deci reported that last year the City received a shore and harbor technical grant to assist in designing an engineered plan for an improvement to fix this problem. He stated that the City now has an engineered plan, bid hook, and a cost estimate and the cost estimate is about \$300,000 for construction of the project. Mr. Deci said the City has the opportunity to apply for funds that would cover 50% of those construction costs so the City's level of commitment for that would be \$150,000. He stated that City Staff had identified funds in this year's TIF budget and next year's potential TIF budget and Capital Funds to fund the \$150,000 should Council want to proceed with the application. He then gave an overview of the project. Mr. Deci reported that the Economic Development Committee was looking into imposing docking fees and he hoped to have a revised Harbor Ordinance to be coming to Council early next year. He stated that he would need Council's consensus on how to proceed. Mr. Deci explained that they could do an application in the future if they decided not to go through with one at this time.

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

The City Planner explained the increase in the initial fee of \$200,000 to \$300,000 was the result of the rise in cost of steel and in a fabricated component of the system.

City Manager William Giroux stated that the rise in cost puts the Council in a difficult position and say if their hearts weren't in it, then they shouldn't do it. He told Council even if fees were charged for docking, they wouldn't be enough to fund the project.

Amy Lent of 28 York Street and Director of Maine Maritime Museum reported that the Museum had used the same construction company and had invested over \$500,000 on their piers. She stated that it would be terrific to invest in the waterfront but spoke to the Ordinance regarding fees and hoped whether the improvements went forward or not, that the City would start charging fairly for the waterfront useage because all the other cities do.

Council unanimously voted not to go forward with the application at this time.

**12) LUC Map Amendment Request – Maine Maritime Museum Discussion**

City Planner Andrew Deci explained the Maine Maritime Museum was requesting a rezoning of the Land Use Code Map Amendment to take a portion of their property on the east side of Washington Street that has a day care building and associated approximately 19,000 square foot piece of property from the Museum Zone to the R2 Zoning District. He stated the institution no longer has use for that property and building and would like to return it to the tax rolls and put it as a single family detached lot.

Mr. Deci reported that the Planning Board had reviewed the application and has recommended the unanimous approval of the map change to City Council.

Councilor Winglass motioned to table this to the January 8, 2014 meeting. Councilor Paulhus seconded the motion.

**VOTE on Tabling Motion**

**YEAS: 8**

**NAYS: 0**

**Motion passed unanimously. 8-0**

**G. Petitions & Communications 8:08 PM**

There were no petitions or communications at this time.

**H. City Manager's Report 8:08 PM**

There was no City Manager's Report

**I. Committee Reports 8:09 PM**

Madame Chair Eosco set a Workshop Meeting to be held on December 18<sup>th</sup> at 6PM in the Second Floor Conference Room to discuss Councilors' appointments to various City committees.

**J. Unfinished Business 8:10 PM**

There was no unfinished business.

**K. New Business 8:10 PM**

**13) Nominations for the Election of Council Representative to attend the Bath Water District Board of Directors' meetings.**

Councilor Paulhus nominated Councilor Wyman to fill this position. All were in favor of the nomination.

**14) Appointment one member to the Parks and Recreation Commission for a term ending November 2016.**

Councilor Lockwood nominated Jennifer DeChant for this position. All were in favor of the nomination.

**15) Appointment one member to the Personnel Service Commission for a term ending January 2017.**

Councilor Lockwood nominated James Gillies III for this position. All were in favor of the nomination.

Councilor Paulhus make a motion to add a section at the end of future agendas named "Council Comments" where that Councilors would comment on events happening around the City. Councilor Lockwood seconded the motion. All were in favor of the motion.

Councilor Winglass reported that the "Festival of Trees" sponsored by the YMCA was being held next week.

Councilor Lockwood announced there were committee openings: 1 member on the Bath Bike and Pedestrian Committee and 1 member on the Bath Housing Authority Board of Directors and that anyone interested in these positions should contact the City Clerk's Office or go to the City's Web site to get an application and details.

Councilor Paulhus brought attention to the new City Flag now being displayed in Council Chambers and stated that another flag would soon be flying over City Hall.

Councilor Brackett expressed his sincere appreciation to the public for their outpouring of support of one of his employees after the great loss of her daughter. He reported that the Tony Zomba Dance Studio had raised \$4,000 to help with expenses and he felt sure that through the public's generosity the funeral expense would be covered.

Councilor Winglass reminded everyone that the schools' winter sports programs have started and to try to attend as many as possible to show support for the participants.

Madame Chair Eosco reported that it was dog licensing season in the City Clerk's Office and to avoid the fine, do it by the end of January 2014. She asked that during the holiday season the public shop locally to help out the local economy.

Madame Chair Eosco stated that she would like to have a time set aside at the end of each meeting where Councilors would take a portion of the Comprehensive Plan and make a report/summary for the other Councilors' and the public's information. She said the Council would discuss the idea at the Workshop Meeting on December 18<sup>th</sup>.

The meeting adjourned at 8:20 PM with a motion by Councilor Paulhus, seconded by Councilor Wyman. 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 meeting is available for review in the City Clerk's office during regular business hours by appointment. You can also view them on [Townhallstreams.com](http://Townhallstreams.com) for up to a year.*