

**REGULAR MEETING MINUTES
CITY COUNCIL OF THE CITY OF BATH, MAINE
Wednesday, August 1, 2012 6:00 PM
City Council Chambers, Bath City Hall**

Present: Councilors Brackett, Paulhus, Rogers, Wyman, Eosco, Pagurko, Winglass and Chairman Sinclair.

Excused: Councilor Merrill

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

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

Chairman Sinclair thanked Councilors Paulhus and Rogers for stepping up and going to Tsugaru, Japan in his place on such short 24-hour notice. He commended them on the admirable job they did representing the City of Bath during their stay in Japan.

Councilor Paulhus reported that he and Councilor Rogers had a wonderful time and the people of Japan were very cordial to them. He said they traveled with 9 students and 4 adults and stayed with the Mayor of Tsugaru and met with the Governor of Aomari. Councilor Paulhus stated that they visited many sites, shrines and temples and did over 30 actives during their stay. He encouraged Bath citizens to meet and greet and give the Japanese exchange group a good time when they come to visit Bath in mid-August.

Councilor Rogers explained the history of the Cheseborough event, which started the link between the City of Bath and Shariki (now Tsugaru), and its effects and hoped to bring back its meaning in future exchanges. He stated the Japanese people literally rolled out the red carpet for them everywhere they went.

C. Public Hearings 6:01 PM

1) Liquor License and Special Amusement License for Bath Golf Club at 387 Whiskeag Road

Chairman Sinclair opened the public hearing. Councilor Winglass stated that he wanted to welcome the Harris' back to the golf club. Seeing no more comments from the Council or Public he closed the hearing.

VOTE ON LIQUOR LICENSE:

YEAS: 7

NAYS: 0

Liquor License passed unanimously. 7-0

VOTE ON SPECIAL AMUSEMENT LICENSE:

YEAS: 7

NAYS: 0

Special Amusement License passed unanimously. 7-0

2) Commercial Street Sidewalk Improvement Project

Chairman Sinclair opened the Public Hearing.

City Planner Andrew Deci gave a brief history as to how this project came about and how it has progressed. He explained that this is part of the permitting and engineering process to hold the Public Hearing. Mr. Deci stated that if the engineering and permitting is successful the construction could start next year.

Seeing no Council or Public comment, the Chairman closed the Public Hearing.

D. Consent Agenda 6:10 PM

***3) Minutes of the Regular Council Meeting on July 9, 2012. (Motion to Accept as Presented)**

Chairman Sinclair made a motion to amend the minutes by deleting “All were in favor of the waiving motion.” in Item 6 at the bottom of page 8. Councilor Winglass seconded the motion. All were in favor of the amendment.

Councilor Pagurko motioned to amend the minutes by changing “Jayne Morse” to “Jane Morse” under Time Devoted to Residents on page 10. Councilor Eosco seconded the motion. All were in favor of the amendment.

VOTE ON AMENDED MINUTES:

YEAS: 7

NAYS: 0

Amended minutes passed unanimously. 7-0

E. Time Devoted to Residents to Address the City Council 6:11 PM

- MRRA Check Presentation to City Council

Steve Levesque, Executive Director of the Mid Coast Regional Redevelopment Authority, presented the Council with a check in the amount \$7,700 (initial payment of \$7,000 plus 10% interest) as a pay back of money the City gave them for marketing efforts.

Scott Gessner of Central Avenue, Bath, Evan Groat of Mckeen Street, Brunswick and Evan Millet of E. Milan St. thanked Council on behalf of the Skatepark for letting them renovate the Armory Building.

Cemeteries and Park and Recreation Director, Steve Balboni gave an update on the Skate Park activities and services. Mr. Balboni reported an average of 100-150 kids use the center daily. He stated the support had been unbelievable and plans were in the works for a Grand Opening in September.

Kimberly Gates of 36 Hinckley Street reported to Council that she had recently experienced a fire at her home due to the explosion of a propane tank on her deck. She stated that the Fire Department was there in 2 minutes. Ms. Gates expressed her gratitude to the Fire Department for their efforts in saving her home and that she was very glad to live in Bath. She did inform Council of a parking problem on Middle Street that resulted in the rerouting of the fire truck. She thanked Police Chief Field for help with a previous parking issue.

F. Ordinances, Resolutions and Orders 6:24 PM

4) Order: Approving Bid and Contract for the Gas System and Intermediate Cover Project

Chairman Sinclair read the following Order:

**ORDER
APPROVING BID AND CONTRACT**

BE IT HEREBY ORDERED BY THE CITY COUNCIL OF THE CITY OF BATH, THAT THE BID OF SARGENT CORPORATION. FOR THE 2012 BATH LANDFILL GAS SYSTEM AND INTERMEDIATE COVER PROJECT IN THE AMOUNT OF \$258,230.00 IS ACCEPTED, IT BEING THE LOWEST QUALIFIED BID SUBMITTED, AND A CONTRACT BY AND BETWEEN THE CITY OF BATH AND SARGENT CORPORATION. IS HEREBY APPROVED AND THE MANAGER IS AUTHORIZED TO EXECUTE THE CONTRACT AND ANY OTHER DOCUMENTS NECESSARY TO ITS IMPLEMENTATION ON BEHALF OF THE CITY OF BATH. THE PROJECT SHALL BE FUNDED FROM LANDFILL (FUND 6) ACCOUNTS 665 892 AND 665 893.

Councilor Wyman made a motion to put this Order on the floor for discussion. Councilor Pagurko seconded this motion.

Public Works Director Peter Owen explained the purpose of the project is to expand the Zone of Influence of the gas collection system so that it will continue to operate efficiently. He stated this project would also include the installation of an intermediate cover which is required by regulations to temporarily close the section being used when moving to a new section. Mr. Owen stated that the project should be completed by October 2012.

VOTE ON ORDER:

YEAS: 7

NAYS: 0

Order passed unanimously. 7-0

Council scheduled a Workshop to discuss the Landfill for Wednesday, October 17th at 6PM in Council Chamber at Bath City Hall and asked that it be filmed.

G. Petitions & Communications 6:34 PM

There were no petitions or communications.

H. City Manager's Report 6:34 PM

•Huse School Property Discussion

City Planner Andrew Deci stated that this is a policy issue which needs to be addressed regarding the future of the building. Mr. Deci cited a memo that he had made available to Council which gave an overview of the possibilities' (*this memo is included in the agenda materials*).

City Manager William Giroux stated that he wanted Council to begin to think about whether they wanted to continue to own the building or to sell it.

After a brief discussion, it was decided to put this matter before the Economic Development Committee and have them make a recommendation to Council as to how to proceed. Councilor Rogers, Chairman of the Committee, said he would set up a meeting within the next couple of months for the Committee to discuss this matter.

I. Committee Reports 6:50 PM

Councilor Wyman reported that he and Chairman Sinclair have been attending the RSU #1 meetings to discuss their budget process. He stated that the group agreed that they need to work on equity among all municipalities and were making progress.

J. Unfinished Business 6:50 PM

There was no unfinished business.

K. New Business 6:51 PM

5) Appointment of a Downtown Retail Representative to the Sidewalk Vending Committee term to expire May 2013

Councilor Pagurko nominated Gayle Hunt, proprietor of “Ornament” for this position. All were in favor of the nomination.

Councilor Pagurko made a motion to amend the agenda to add the appointment of Daniel Donovan to the Old Customs House Board of Directors for the next 3 years. Councilor Eosco seconded the amending motion. All were in favor of amending the agenda to add the appointment.

Councilor Pagurko nominated Daniel Donovan to the Old Customs House Board with term to expire in August 2015.

All were in favor of the nomination.

6) Consideration of Sagadahock Real Estate Association request for egress/access to the Moses Building, Columbia Block and Farnham Building

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

City Manager Giroux stated that these items were being placed on the agenda at a couple of Councilor’s requests after a Council workshop on site on July 25th. Councilor Eosco, one of the sponsoring Councilor’s, explained that the property owners don’t have access to the back of their building.

Jane Morse of Sagadahock Real Estate Association explained the problems they were having trying to make repairs to the backs of the buildings on Front Street, the issue with not being able to enter the old YMCA gym, which they own, without going over City owned land and the hope to purchase the land off Elm Street for parking for their buildings.

Councilor Eosco made a motion to transfer the land that is marked on Plan A6 of the agenda materials to Sagadahock Real Estate Association for the purpose of letting them have access to the back of their building.

City Solicitor Therriault explained Council could discuss two choices one is an easement that will allow the use to occur and the second is to transfer the title to the land. Mr. Therriault stated once that is decided then he would put together an Order to accomplish the decision.

After a discussion on which way to proceed, Councilor Eosco pulled her motion.

Ms. Morse stated that the Association would rather buy the land instead of having an easement because of the possibilities of conflicts as to uses and maintenance responsibilities. She stated that in the first deed to the YMCA land there was an easement, but it would be hard to clarify the actual lines.

City Solicitor Therriault explained the difference between title and easement of land. He stated that if there was an easement then the City would not be able to do anything with the land due to the scope of the easement even if the City owned it. Mr. Therriault said there were two things that Council should keep in mind, the first that there are no setbacks in the downtown, and second the effect that an easement might cause for a future purchaser.

Bill King spoke in support of the selling of the property to Sagadahock Real Estate Association.

Councilor Winglass made a motion to go ahead with the sale of the 10-foot piece of land that Jane Morse was requesting and Mr. Therriault had described. He stated that he was open to a price, but thought it should be minimal maybe in the amount of \$100.

The City Solicitor proceeded to create the correct wording for the motion as follows: to authorize the sale of the property as depicted in drawing A6 and sell to Sagadahoc Real Estate Association for \$100, subject to condition that no building expansion occur in the area.

Jane and John Morse explained the exact detail lines and particulars of the requested property to be bought.

The City Solicitor made a more detailed motion clarifying the lines.

Councilor Rogers made a motion to table the issue to Executive Session at the end of the meeting. Councilor Eosco seconded the tabling motion.

Councilor Winglass stated he would withdraw his motion until Executive Session and will bring it right back up. He asked the City Solicitor to write up the motion.

Vote on Tabling Motion:

YEAS: 6

NAYS: 1 (Brackett)

Tabling motion passed. 6-1

7) Discussion of possible appraisal regarding Old YMCA property.

Councilor Eosco stated that the City needs to know the value of the land and that is why she asked to have it put on the agenda.

City Manager Giroux asked that the Council decide which way they wanted to go with getting the value by appraisal or go through a commercial realtor. He stated there is a difference in the costs and time frame with the two options.

Director of the Patten Free Library Lesley Dolinger spoke to Council regarding the possible use of the Old YMCA property for parking which would benefit the Library and the downtown.

Bill King stated he would be strongly in favor of appraisal lots on Summer and Elm Streets.

Main Street Bath Director Jennifer Gieger spoke to Council regarding an observation of the Sagadahock Real Estate Association which contributed great efforts in the revitalization and maintenance of their historic downtown buildings and brought viable businesses that have good access and parking and to keep this in mind when making a decision.

Jane Morse of Sagadahock Real Estate Association explained that in order for her to accommodate her tenants and be able to rent out her vacant spaces in the buildings near the Old YMCA property she needs more parking spaces.

City Planner Andrew Deci explained that the issue of the Ordinance relating to parking lots previously referenced stated that if the principal use on the lot is torn down and replaced by the principle use of a parking lot would not be the case here. In this instance, according to the Codes Officer, if the adjacent property owner acquires the property then parking on that lot would be a secondary use and not a principal use.

The City Solicitor agreed with this assessment and stated that Sagadahock Real Estate Association's commercial buildings would be the principal use of the lot and the parking area would be in support of the principal use. This use would not be in violation of any Ordinance.

Councilor Winglass made a motion to close the discussion. There was no second to the motion so it failed.

Councilor Paulhus made motion to authorize the City Manager to have an appraisal done of the Old YMCA property. Councilor Rogers seconded the motion.

Councilor Winglass asked that the appraisal be in three sections upper section, lower section and land in back of building.

Chairman Sinclair asked that the City Manager bring back the three separate numbers as well as one aggregate number.

City Manager stated he understood and would do that.

VOTE on Motion:

YEAS: 5

NAYS: 2 (Eosco, Pagurko)

Motion passed. 5-2

Councilor Pagurko made a motion at 8:06 PM to go into Executive Session to discuss a Labor Matter per 1 MRSA § 405(6)(D) and a Property Disposition Matter and Item K6 above per 1 MRSA § 405(6)(C). Councilor Eosco seconded the motion. All were in favor of the motion

Councilor Eosco made a motion at 8:55 PM to come out of Executive Session. Councilor Rogers seconded the motion. All were in favor of the motion.

Councilor Rogers made a motion at 8:56 PM to go past 9:00 PM. Councilor Wyman seconded the motion.

VOTE ON MOTION:

YEAS: 6

NAYS: 1 (Pagurko)
Motion passed. 6-1

Councilor Eosco made a motion at 8:56 PM to go back into Executive Session. Councilor Winglass seconded the motion.

VOTE ON MOTION:
YEAS: 6
NAYS: 1 (Pagurko)
Motion passed. 6-1

Councilor Rogers made a motion to come out of Executive Session at 9:11PM. Councilor Eosco seconded the motion. All were in favor of the motion.

Council Winglass made the following motion:

Motion to authorize the sale of property from the YMCA lot to Sagadahock Real Estate Association, being a strip of land running along the present property of Sagadahock Real Estate Association, being Lots 246, 248 and 249 on City of Bath Tax Map 26, in accordance with the Sketch Plan, and subject to the following conditions:

1. There will be no building expansion onto the premises being sold.
2. The City will reserve over the strip of land being sold, maintenance rights for the remaining property known as the YMCA lot for the benefit of that property and to run with that property.

The Manager is further authorized to execute Deeds and such other documents as may be needed to conclude the transaction.

Councilor Wyman seconded the motion. All were in favor of the motion.

The meeting adjourned at 9:14 PM with a motion by Councilor Pagurko, seconded by Councilor Rogers.

VOTE ON ADJOURNING MOTION:
YEAS: 6
NAYS: 1 (Wyman)
Motion passed. 6-1

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.