

REGULAR MEETING MINUTES
CITY COUNCIL OF THE CITY OF BATH, MAINE
Wednesday, March 7, 2012 6:00 PM
City Council Chambers, Bath City Hall

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

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 explained this was the first evening of live video streaming for all those who have internet. He stated the next step was to improve the video and audio for the BCTV broadcast of the Council Meetings.

Chairman Sinclair presented the following Proclamation to the Morse High School Debate Team on behalf of the Council:

PROCLAMATION

WHEREAS the Maine Forensic Association held its annual Speech and Debate Tournament on January 28, 2012 at Brunswick High School, and

WHEREAS participants in the debate competition from Morse High School included Kyle Hietala, David Rice, Keegan Denery, Balt Von Heune and Alex Sinclair, and

WHEREAS Sophomore Kyle Hietala was undefeated for the event and captured the State Championship in Varsity Lincoln Douglas Debate, and

WHEREAS the Freshman teams of Balt Von Heune and Alex Sinclair, and David Rice and Keegan Denery competed in the Novice Division of Public Forum Debate, with Von Heune and Sinclair capturing Second Place, and

WHEREAS Morse High School brought home Third Place debate honors out of 20 schools that participated in debate competition, and

WHEREAS speech and debate teams teach lifelong skills including public speaking, critical thinking, research and reasoning;

NOW THEREFORE BE IT PROCLAIMED that the Bath City Council does hereby commend the Morse High Debate Team not only for the awards that they have won, but also for their dedication to increasing their knowledge of current events in our country and the world, and we further commend the Debate Team for the honor that they have brought to themselves, their organization and our community.

Signed this 7th day of March, 2012

Chairman Sinclair stated that the City Manager had asked to have an item added to the agenda to address the agreements with tenants at the Armory Building. Chairman Sinclair asked if anyone would care to make a motion to add this item.

Councilor Wyman made a motion to add this item. Councilor Paulhus seconded the motion. The motion passed and the Item became K11.

C. Public Hearings: 6:08 PM

1) Ordinance: Ordinance – Military Exemption from Excise Taxes (second passage)

There was a motion to waive the reading of the Ordinance and all were in favor of the motion.

ORDINANCE

WHEREAS, the first regular session of the 125th Maine Legislature has enacted provisions regarding military service personnel deployed or stationed outside of Maine; and

WHEREAS, the provisions of 36 M.R.S.A. Section 1483-A provide a local option for exemption of such military personnel as defined in the provisions of 36 M.R.S.A. Section 1483(17); and

WHEREAS, the City Council of the City of Bath, by Ordinance, chooses to exercise its local option to provide this exemption from annual excise taxes.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Bath that a resident who is on active duty serving in the United States Armed Forces and who is either permanently stationed at a military or naval post, station or base outside this State, or deployed for military service for a period of more than one hundred and eighty (180) days, may apply for an exemption from annual excise taxes regarding any vehicle owned by the military resident. The active duty military resident shall file an application for exemption with the City of Bath on a form for that purpose and present with the application a certification from the Commander of the resident's post, station or base or from the Commander's designee, evidence certifying that the resident is permanently stationed or based at that post or is deployed for military service for a period of more than one hundred and eighty (180) days. Active duty personnel shall include the United States Armed Forces, National Guard, and Reserves.

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

Finance Director Juli Millett explained the purpose of the Ordinance is an additional military tax abatement for military personnel on deployment and reported that other municipalities are looking into passing this Ordinance but haven't as of yet. She stated that it would be very hard to answer the question on how much it would cost the City as we don't know exactly how many residents are on deployment, but doesn't expect it to be a large additional abatement of taxes.

ROLL CALL VOTE:

YEAS: Brackett, Merrill, Paulhus, Rogers, Wyman, Eosco, Pagurko, Winglass

NAYS: None

Ordinance passed unanimously. 8-0

Chairman Sinclair stated that this Ordinance would become law in 21 days.

D. Consent Agenda 6:08 PM

*2) Minutes of the previous meeting of February 1, 2012 Council Meeting. (Motion to Accept as Presented)

Councilor Rogers made a motion to accept the minutes as presented. Councilor Pagurko seconded the motion. All were in favor of the motion.

E. Time Devoted to Residents to Address the City Council 6:09 PM

There was no one that addressed Council at this time.

F. Ordinances, Resolutions and Orders 6:09 PM

3) Ordinance: Handicap Parking Change on Front Street (first passage)

Chairman Sinclair 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 17. VEHICLES AND TRAFFIC

Article 6. Stopping, Standing and Parking

Section 17-259. Parking Restrictions.

Amend as follows:

East Side:

From Vine Street to a point across from the southerly side of Centre Street, two-hour parking. From a point across from the south side of Centre Street to the northerly side of the entrance to the southerly parking lot of The Bank of America~~the Fleet Bank~~, no parking. From ~~to~~ the northerly side of the entrance to the southerly parking lot of The Bank of America for a distance of 30 feet, **Bus Stop for Bath Municipal Buses only**. (6/7/06) From the northerly terminus of the bus stop to Board Street, two-hour parking, with the northern most 25 feet being designated handicapped parking. (3/2/2005) From Broad Street to Arch Street, fifteen-minute parking. ~~From Arch Street running north 25 feet, handicapped parking.~~ From ~~a point 25 feet north~~ of Arch Street to a point 39 feet north of the fire hydrant located just south of Elm Street, two-hour parking, except for a 20 foot area located 10 feet north and 10 south of the fire hydrant, which shall be no parking, and except for a 29 foot area beginning 10 feet north of the hydrant and running north 29 feet which is designated handicapped parking (3/2/2005)(6/7/06). From a point ~~39~~40 feet ~~north~~ south of said fire hydrant to Bowery Street, no parking.

Additions shown as underlined text; deletions shown as strikethrough.

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

City Solicitor Roger Therriault made the Chairman aware of a typo on the 10th line down “Board Street” should be “Broad Street”.

Chairman Sinclair asked that the City Clerk note the amendment to the Ordinance and see that it be corrected.

Police Chief Michael Field stated the reason for these changes is in response to a downtown accessibility survey referencing a handicap spot in front of the First Federal Bank on Front Street. He explained the problem with the spot is it is on an incline and has a light post which makes difficult for a handicap van to deploy a wheelchair ramp to that side of the street. Chief Field reported that by moving this spot to in front of the Pine Tree Society Building the area would be level and has much better accessibility for side or rear deployment of a wheelchair ramp.

ROLL CALL VOTE:

YEAS: Brackett, Merrill, Paulhus, Rogers, Wyman, Eosco, Pagurko, Winglass

NAYS: None

Ordinance passed unanimously. 8-0

Chairman Sinclair set second passage on April 4, 2012 at 6:00 PM.

4) Order: Exercising the Alewife fishing rights at Winnegance Lake to be administered by the Winnegance Alewife Commission as per Harvest Plan.

Chairman Sinclair read the following Order:

ORDER

Be It Ordered by the City Council of the City of Bath, Maine, that the Alewife Fishing Rights at Winnegance Lake be operated by the Winnegance Alewife Commission as per Ordinance adopted August 28, 1985, and the municipal rights to take alewives will be sold by the Commission. The Harvest Plan (Condition and Regulations) will be submitted by the Commission setting forth in detail the exact conditions under which alewives may be taken, all in accordance with good conservation practices. This plan will be submitted to the Department of Marine Resources by the Commission with City of Bath approval.

Councilor Rogers made a motion to put this Order on the floor for discussion. Councilor Paulhus seconded the motion.

VOTE:

YEAS: 8

NAYS: 0

Motion passed unanimously. 8-0

5) Order: Exercising the Alewife fishing rights at Whiskeag Creek to “Rod and Line”

Chairman Sinclair read the following Order:

ORDER

Be It Ordered by the City Council of the City of Bath, as follows:

that, the taking of alewives at Whiskeag Creek will be restricted to “Rod and Line” only.

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

VOTE:

YEAS: 8

NAYS: 0

Motion passed unanimously. 8-0

6) Investment Policy

Councilor Winglass made a motion to waive the reading of the Investment Policy. Councilor Pagurko seconded the motion. Councilor Rogers was the only one opposed to the motion so the motion passed.

A complete copy of this policy is on file in the Bath City Clerk's Office with the agenda materials for the April 4, 2012 Council Meeting.

Councilor Pagurko made a motion to put this Item on the floor for discussion. Councilor Eosco seconded the motion.

Finance Director Juli Millett explained that Part A is for City's operating investments and Parks and Cemetery investments and Part B is for the reserve fund.

The H.M. Payson Investment representative explained the company had met on many occasions with the investment committee made up of several Councilors, City Manager, City Attorney and Finance Director to craft the policy. He stated that during these meetings there were discussions on strategies for investment of the surplus funds from Maine Public Employees Retirement System investments contributions that the City has made and these strategies have been written in this policy.

City Manager Giroux explained that the Council Finance Committee will be meeting with H.M. Payson quarterly to go over the program and give a paper report to Council and once a year they come and report in person to Council. He stated that the Finance Director will develop written procedures and controls that will be audited by the City Auditors every year.

Scott Upham, an investment consultant, asked if there would be an RFP now that the policy has been completed.

City Manager William Giroux stated this process had already been done.

Councilor Winglass made a motion to accept the Policy as written. Councilor Wyman seconded the motion.

VOTE to accept:

YEAS: Brackett, Merrill, Paulhus, Wyman, Eosco, Pagurko, Winglass

NAYS: Rogers

Motion passed. 7-1

7) Fund Balance Policy

Councilor Eosco made a motion to waive the reading of the Fund Balance Policy. Councilor Pagurko seconded the motion. All were in favor of the motion.

A complete copy of this policy is on file in the Bath City Clerk's Office with the agenda materials for the April 4, 2012 Council Meeting.

Finance Director Juli Millet explained the process under which the policy had been crafted. Councilor Pagurko made a motion to put this Item on the floor for discussion. Councilor Eosco seconded the motion.

Councilor Winglass made a motion to accept the Policy as written. Councilor Wyman seconded the motion.

VOTE to accept:

YEAS: 8

NAYS: 0

Motion passed unanimously. 8-0

8) Order: Requesting Transfer of Individual Unpooled Unfunded Actuarial Liability Surplus Balances Held by the Maine Public Employees Retirement System

Chairman Sinclair read the following Order:

**ORDER TO REQUEST TRANSFER OF
INDIVIDUAL UNPOOLED UNFUNDED ACTUARIAL
LIABILITY SURPLUS BALANCES HELD
BY THE MAINE PUBLIC EMPLOYEES RETIREMENT SYSTEM**

WHEREAS, the City of Bath has been a member of the Maine Public Employees Retirement System since the mid-1970's; and

WHEREAS, upon the conversion from the Social Security System to the Maine State Retirement System, the City was required to pay enhanced contributions for a number of years in order to fund potential retirement benefits for its employees; and

WHEREAS, these funds have generated a surplus balance designated as part of the Individual Unpooled Unfunded Actuarial Liability Fund (IUUAL); and

WHEREAS, these funds are not part of the consolidated plan monies and do not fund any retirement benefits administered by MainePERS for any former Bath employees; and

WHEREAS, the City of Bath, through its City Council, has expressed its desire to acquire and manage these funds directly; and

WHEREAS, the City of Bath has put in place a service agreement with H.M. Payson & Co. as well as adopted updated investment and fund balance policies.

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Bath that the IUUAL surplus balances held by MainePERS be turned over to the City of Bath in order that the City may manage said funds in the best interests of the City and its Inhabitants. In order to carry out the intent of Council, the City Manager is hereby authorized to notify the MainePERS of the City's desire to acquire these funds, to provide a certified copy of this Order, and to execute such other documentation and provide such other information as may be needed or required for the transfer of such funds.

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

VOTE:

YEAS: Brackett, Merrill, Paulhus, Wyman, Eosco, Pagurko, Winglass

NAYS: Rogers

Motion passed. 7-1

G. Petitions & Communications 6:42 PM

There were no Petitions or Communications.

H. City Manager's Report 6:42 PM

The following topics were discussed:

- Budget Discussions Update
- Scheduled Workshops for Richardson and Willow Street Flooding Issues
- Bridge for Waterfront Park Project by Public Works Department
- Armory Project Update
- New Trolley Update

I. Committee Reports 7:00 PM

9) Bike and Pedestrian Committee Update on Activities

Chairman of the Bike and Pedestrian Committee Robert McChesney of 132 Washington Street gave out a handout that outlined what they had been doing for the past year. Mr. McChesney reported that the Walking Subcommittee had done a walk through of the Front and Centre Streets area of the downtown in response to concerns regarding people with disabilities being able to access the downtown. He reported that from this walk through the Codes Enforcement Officer Scott Davis has made a plan for the changes that needed to be made to make the area ADA compliant and Public Works Director Peter Owen had developed a capital budget to make these changes. Mr. McChesney stated that the Bike and Pedestrian Committee would recommend this amount be passed in the capital budget this year. He reported that the Bike Subcommittee had done a fairly complete audit of Bath streets that need bike signage and fog line stripping for bike routes. Mr. McChesney stated that the Committee would like to do from Five Corners down North Street to Commercial Street to King Street to Washington Street to High Street and end at Winnegance this year.

J. Unfinished Business 7:08 PM

There was no unfinished business.

K. New Business 7:09 PM

10) Appointment 1 member to the Bath Housing Authority Board of Directors for a 5-year term.

Councilor Pagurko nominated Terrance Gray to the Bath Housing Authority Board of Directors for a 5-year term. The appointment was unanimous.

11) Discussion of a tenant lease agreements at the Armory Building.

City Manager William Giroux asked Council to give him some guidance on how to proceed with the drafting of leases for the tenants of the Armory Building. Mr. Giroux stated he thought tenants should be paying for their utilities, maintaining the janitorial tasks and tenant fit ups.

The City Manager explained that regarding the Recreation Department's portion of their agreement, they would continue to pay their own utilities and that the subsidy now given to them go away and be used to cover the debt service for the \$308,000. He stated that with the agreement with "Box 19" this would consist of their utilities cost being figured on their usage of floor area (1/16 of floor area = 1/16 of utilities) and that all tenants would be responsible for the upkeep of the inside of the building and the City would be responsible for the upkeep of the outside of the building.

City Solicitor Roger Therriault explained he felt that "Box 19" would get a straight lease and regarding the Skatepark the City would be looking at a financial piece and a rules and regulations piece that would define conduct as to what the City expects of them.

Councilor Merrill suggested including in the estimate for the cost of leasing the space a "future maintenance fee" be built in.

Councilor Brackett stated he would like to make sure it is clear as to whose role it would be to renovate the downstairs space should there be any interest in the use of it.

City Manager Giroux explained that he would cover the future maintenance fee with a reserve fund and would see what it would cost to fit up the space, and then look at what could be brought in for rental it covers fit up after a couple of years and should gain profit from then on.

Councilor Winglass stated that where this is a startup project, the first year will be hard to get firm costs but would rather err on the side of caution as a budgeted number so that the City won't end up in the red as opposed to the black.

There was a brief discussion on the term the leases should cover. One suggestion was for a 1-year lease to see how the first year's finances would work and the second suggestion was for a 2-year lease. This would help the tenants feel more secure of where they would be for a longer stretch of time.

City Manager Giroux stated all recommendations of Council would be taken into consideration when drafting a lease containing lease year terms and regulations/conditions and that the Council would be able to make amendments before passage.

Councilor Paulhus made a motion to go into Executive Session at 7:25 PM to discuss Personnel Matters per 1 MRSA §405(6)(A) and Real Estate Matters per 1 MRSA §405(6)(E). Councilor Pagurko seconded the motion. All were in favor of the motion.

Councilor Rogers made a motion to come out of Executive Session at 8:50 PM. Councilor Eosco seconded the motion. All were in favor of the motion.

Councilor Rogers made a motion at 8:51 PM to go past 9:00 PM. Councilor Pagurko seconded the motion. All were in favor of the motion.

Councilor Rogers made a motion to go back into Executive Session at 8:52 PM. Councilor Pagurko seconded the motion. All were in favor of the motion.

Councilor Pagurko made a motion to come out of Executive Session at 9:16 PM. Councilor Rogers seconded the motion. All were in favor of the motion.

The meeting adjourned at 9:16 PM with a motion by Councilor Merrill, seconded by Councilor Brackett. All were in favor of the adjournment.

Attest:

A handwritten signature in cursive script that reads "Mary J. White".

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.