

**REGULAR MEETING MINUTES
CITY COUNCIL OF THE CITY OF BATH, MAINE
Wednesday, May 2, 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 read the following Proclamation and presented a City Chair to retiring Community Development Director Alvin Smith for his many years of dedicated service to the citizenry of Bath.

PROCLAMATION

WHEREAS Al Smith was born in Mahopoc, NY, the son of Emma Stevens Smith and Mervin Smith and a sibling of Nancy and Smith Brothers Mervin and Richard, graduating from Carmel High School and is a proud parent of Adrian, Patrick and Cassie, and

WHEREAS Al came to Maine in 1969 (the year the Mets won the pennant) starting his career in community development in Bangor, serving as a consultant and doing CDBG work in Augusta, Bath, Chelsea, Damariscotta, Hallowell, Newcastle, Randolph, Readfield, Richmond, Topsham and Waldoboro, getting money and implementing CDBG funds and housing projects in some 36 towns, and

WHEREAS Al came to work for the City of Bath in 1995 bringing in multi-millions of dollars for Bath through a variety of federal and state programs in areas such as improving infrastructure, enhancing economic development within the City, renovating the City's housing stock, and recently obtaining funds to address historic preservation and energy conservation issues, pouring his heart and soul into making Bath a better place to live, and

WHEREAS Al can get more time out of a 24 hour period than anyone we know, spending numerous hours volunteering for a multitude of activities and events such as the local Soup Kitchen and the Common Ground Fair, initiating the first Democratic Youth Group after Kennedy was shot and Bath's first Citizen Involvement Day, serving as Selectman in Richmond, President of the Community Development Directors, and as a founding member of the Maine Clean Election Coalition, also clocking in countless hours on many different Boards and Committees including the CDBG Committee, the Housing Loan Review Committee, the National Coalition for Co-Operative Housing, Maine Common Cause, and the "Joe Hill Gang", a socially-responsible local organization that furnishes modest grants to community-based progressive organizations, and

WHEREAS Al's many achievements are too numerous to mention, being an Unsung Hero for many of these, with two of his stand-out recognitions being the Governor's Award for Administrator of the Year for excellence and professionalism in administering several CDBG projects and for his commitment to the community and region, and the Commissioner's Award for outstanding achievement in using \$1,440,000 in CDBG funds to leverage \$2,451,000 for the completion of activities in economic development, public infrastructure, housing, public service and planning to enhance the well-being of the residents of Bath, and

WHEREAS Al has spent more time at City Hall than most of the City of Bath combined and has been found sleeping on his desk, on the floor, on the couch in the Employee Lounge, under his desk and places that we don't even know about, and because he is not just an "all work and no play" kind of guy, spending a respectable amount of time on the golf course as a player and a caddy, as well as on the basketball court as a player and youth basketball coach, loving music more than anyone we know, supporting the Chocolate Church and the Northeast Blues Festival for many years, owning every Nina Simone cut on vinyl and CD, and dancing and singing everywhere he goes, or doing a Groucho impression, making people smile and advising them to "Do what you can during the day, but always dance the night away";

NOW THEREFORE BE IT PROCLAIMED that Al Smith has provided 17 years of dedicated service to the citizenry of Bath, that he has endeared himself to us, that his long and productive career has been marked by his integrity and professionalism, by compassion and humor, and be it proclaimed that, "singing the blues", we send him off with our warmest wishes and heartfelt gratitude, and our sincere hope that Al will be able to fulfill his lifelong dream of singing and dancing across the continent of Africa.

Mr. Smith stated the people of the City of Bath are like family and it had been a wonderful run. He expressed his appreciation for all the help along the way and especially to his co-worker/friend Pol Wheelock.

C. Public Hearings 6:08 PM

1) Hyde School Project: \$2,200,000 Revenue Bonds

Chairman Sinclair opened the public hearing and seeing no comment from Council or the Public he closed the public hearing.

2) CDBG Infrastructure Grant for \$260,000

**NOTICE
City of Bath
Public Hearing Notice**

The City of Bath will hold a Public Hearing on May 2, 2012, at 6:00PM at the Bath City Hall, City Council Chambers, 55 Front Street, Bath, ME to discuss acceptance of a \$260,000 Public Infrastructure CDBG Grant. The purpose of the grant is to provide funding for replacement of water and sewer lines on Fitts, North, Tallman, Granite, and Bailey Streets. Public comments will be solicited at this Hearing and will be submitted as part of the Project development Phase. All persons wishing to make comments or ask questions about the acceptance of these funds are invited to attend this Public Hearing. Comments may be submitted in writing to: Community Development Office, 55 Front Street, Bath, ME at any time prior to the Public Hearing.

Chairman Sinclair opened the public hearing.

Community Development Director Justin Poirier explained this would be to accept the monies.

Seeing no comments from the Council or public, Chairman Sinclair closed the public hearing.

D. Consent Agenda 6:10 PM

***3) Approval of Minutes of the previous meetings of April 4 and 17, 2012 and Items F5, F6, and F7. (Motion to Accept as Presented)**

Councilor Winglass made a motion to amend the Special Meeting minutes of April 17, 2012 to read “Council Chambers” instead of “Second Floor Conference Room”. All were in favor of the amendment.

Councilor Pagurko made a motion to accept the Consent Agenda as amended. Councilor Winglass seconded the motion. All were in favor of the motion.

E. Time Devoted to Residents to Address the City Council 6:13 PM

Chairman Sinclair asked under Section d) to change the word “cable” to DSL in the title. All were in favor of the change.

a) Presentation from Jennifer Geiger, Director of Main Street Bath regarding update on Heritage Days’ festivities and Recognition from the Maine State Legislature for the 2012 Great American Main Street award.

Main Street Bath Director Jennifer Geiger gave a brief update of the 40th Annual Heritage Days events. Ms. Geiger stated that the festival would be July 4th -8th and consist of a parade, fireworks, carnival, chicken barbeque, 5K, music and many other events.

Ms. Geiger and Main Street Bath Vice President Gail Hunt presented the Sentiment of Recognition from the Maine State Legislature for the 2012 Great American Maine Street award to the City Council. They thanked and congratulated all that were involved in making this award possible.

b) Presentation from William Neilson, Chairman of the Advisory Board of the Greater Bath Elder Outreach Network.

Mr. Neilson explained the purpose and funding of the organization and it’s involvement within the City of Bath.

c) Presentation from Betty King of HOMEtogether Emmaus of Bath.

Betty King spoke regarding the property at 2 Sheridan Road and asked that it not be demolished but given to HOMEtogether organization by the City of Bath for housing for the homeless. Ms. King stated the site is suitable for their cause and the organization would be responsible for repairs, upkeep and maintenance of the property.

d) Discussion of DSL Service to the West Chops Point area.

Chairman of the West Chops Point Homeowners’ Association Joan Nason of 12 Eagle Point Road spoke to Council on behalf of the Association and the area of Varney Mill Road in North Bath regarding the possibility of the extension of DSL services to these areas, which totals around 94 residences. She stated the lack of this service has a negative effect on the education, work and home sales of the residents.

Ms. Nason reported the area residents are requesting that the Bath City Council support this effort by granting \$15,000 in funds and adopting a letter of support to strengthen their likelihood of receiving a Fairpoint ConnectME Grant. She stated that this grant application had to be in by May 18th.

Francis Dillon of West Chops Point explained that the history of the cable situation in the West Chops Point area and asked Council to support this request.

Several Councilors spoke in favor of the letter of support.

Chairman Sinclair invited the group to come to the budget workshops to be held the following week to put forth their budget request and asked the group to work with the City Manager to draft a letter of support to bring to Council for signing at that time.

F. Ordinances, Resolutions and Orders 6:56 PM

4) Arbor Week Proclamation

Chairman Sinclair read the following Proclamation:

ARBOR WEEK PROCLAMATION

WHEREAS, in 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees, and

WHEREAS, this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska, and

WHEREAS, Arbor Day is now observed throughout the nation and the world (more often as a weekly observance), and

WHEREAS, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce oxygen and provide habitat for wildlife, and

WHEREAS, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products, and

WHEREAS, trees in our city increase property values, enhance the economic vitality of business areas, and beautify our community, and

WHEREAS, trees, wherever they are planted, are a source of joy and spiritual renewal,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BATH, MAINE, HEREBY PROCLAIMS THE WEEK OF MAY 20th -26th AS

ARBOR WEEK

in the City of Bath, and we urge all citizens to celebrate Arbor Week and to support efforts to protect our trees and woodlands, and

FURTHER, we urge all citizens to plant trees to gladden the heart and promote the well-being of this and future generations.

Councilor Wyman made a motion to pass the proclamation as read. Councilor Pagurko seconded the motion.

VOTE to approve Proclamation:

YEAS: 8

NAYS: 0

Proclamation was unanimously approved. 8-0

***5) Order: Notice of Election for the State Primary Election to be held June 12, 2012.**

This Order was passed as part of the Consent Agenda.

ORDER

In City Council
May 2, 2012

BE IT HEREBY ORDERED BY THE CITY COUNCIL, AS FOLLOWS:

That, the Notice of State of Maine Primary Election be prepared and issued to notify and summons the inhabitants of the City of Bath, qualified to vote, that the State of Maine Primary Election will be held at their respective Ward Rooms (1-7 inclusive), on Tuesday, June 12, 2012 for the purpose of determining the following questions:

To determine:

Candidates in the Republican/Democratic/Green Independent Parties

STATE OFFICES:

United States Senator

Representative to Congress: District 1

State Senate - District 19

Representative to the Legislature - Districts 62 and 65

COUNTY OFFICES:

Judge of Probate

Register of Probate

Sheriff

Absentee Ballots shall be processed Election Day at 10:00am, 11:00am, 1:00pm, 2:00pm, 3:00pm and 8:00pm.

The polls shall be opened at 8:00am and closed at 8:00pm.

***6) Order: Appointing Warden and Ward Clerk for the State Primary Election to be held June 12, 2012.**

This Order was passed as part of the Consent Agenda.

ORDER

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

that the following be appointed for the Maine Primary Election to be held on Tuesday, June 12, 2012:

Warden

Darlene Compton

Ward Clerk

Mary Arsenault

***7) Order: Registrar of Voters Hours for the State Primary Election to be held June 12, 2012.**

This Order was passed as part of the Consent Agenda.

ORDER

Be It Ordered by the City Council of the City of Bath, that the hourly schedule for the office of the Registrar of Voters shall be from 8:30am to 4:30pm Monday through Friday prior to the State Primary Election to be held Tuesday, June 12, 2012. The Office will be open on Saturday, June 2, 2012 from 11:00am to 2:00pm. On Election Day anyone may register to vote at the Polls at the Bath Middle School Gymnasium from 8:00am to 8:00pm.

8) Resolution: CDBG Infrastructure Grant for \$260,000.

Chairman Sinclair read the following Resolution:

**COUNCIL RESOLUTION
STATE OF MAINE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

WHEREAS, the City of BATH wishes to apply to the Department of Economic and Community Development for a Community Development Block Grant to carry out a community development program; and

WHEREAS, the planning process required by Maine Law and the CDBG Program have been complied with, including participation in the planning process by low and moderate income families and individuals and the community has conducted at least one duly advertised public hearing.

NOW THEREFORE, be it resolved by the Council of the City of BATH that the City Manager is authorized and directed to submit an application for the Public Infrastructure program in the amount of \$260,000 to the State of Maine's CDBG Program, at the Department of Economic and Community Development on behalf of the City of BATH, substantially in the form presented to this council;

- 1) Is authorized to make assurances on behalf of the City of BATH required as part of such applications, and
- 2) Is authorized and directed, upon acceptance of said funds to carry out the duties and responsibilities for implementing said program(s), consistent with the Charter of the City of BATH and the laws and regulations governing planning and implementation of community development programs in the State of Maine.

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

Vote on Resolution:

YEAS: 8

NAYS: 0

Resolution passed unanimously. 8-0

9) Resolution: Declaring Its Official Intent with Respect to Hyde School Project

Councilor Rogers made a motion to waive the reading of the Resolution. Councilor Pagurko seconded the motion. All were in favor of the motion.

A complete copy of this Resolution is on file with the agenda materials for the May 2, 2012 Council Meeting in the Bath City Clerk's Office.

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

Hyde School Representative Jim Safkin explained the process for bonding the project. Carl Young also representing Hyde School explained the funding and construction/design plans for the project.

Several Councilors spoke in favor of the project.

City Solicitor Therriault stated he had no concerns with the Resolution and no staff time will be used in the repayment of the bonds.

Vote on Resolution:

YEAS: 8

NAYS: 0

Resolution passed unanimously. 8-0

10) Resolution: "New Freedom Access" Grant Application

Chairman Sinclair read the following Resolution:

**Resolution
"New Freedom Access" Grant**

WHEREAS, the Maine Department of Transportation is offering grant opportunities under a Federal Transit Administration Program entitled "New Freedom Access"; and

WHEREAS, the City of Bath is eligible for the Grant Program due to the Bath City Bus Service in the downtown; and

WHEREAS, if approved, an award of grant funds to the City of Bath will allow the funding and construction of improvements to sidewalks, crosswalks and curb ramps in the downtown area and removal of accessibility barriers; and

WHEREAS, the Program does not call for City matching funds; the Grant(s) is to be funded at 80% from Federal Transit Authority Funds and 20% State Pedestrian and Bond Funding.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Bath that a Municipal Application(s) is hereby authorized to be filed with the Maine Department of Transportation to access "New Freedom Access" Grants Funds and the City Manager and/or the City Planning Director be authorized to execute Grant Application(s) and such other documentation relating to the application as may be required, necessary or convenient to the transaction.

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

City Planner Andrew Deci explained there have been a number of accessibility barrier areas in the downtown identified. An audit for accessibility has been conducted and an improvement plan for accessibility has been proposed by the Codes Enforcement Officer/ADA Coordinator. Mr. Deci stated that the funding would be 100% funded through this grant and the City of Bath would qualify for the grant through its transit program.

He explained the grant process and details of the projects that will be put forth in the application. Mr. Deci made Council aware that two parking spaces in the downtown would be lost due to this project.

Mr. Tisdale, owner of the Black Barnacle Pub on Front Street, spoke in favor of this grant application as he had personally witnessed the blocking of the crosswalk with cars and suggested a bump-out at the crosswalk might help this situation.

Vote on Resolution:

YEAS: 8

NAYS: 0

Resolution passed unanimously. 8-0

11) Order: Approving Option for the Bath Sports Club, LLC

Chairman Sinclair asked for a motion to amend the Order to read “Bath Athletic Club INC” instead of “Bath Sports Club, LLC”

Councilor Pagurko made a motion to amend all occurrences of “Bath Sports Club, LLC” within the Order with “Bath Athletic Club, INC”. Councilor Rogers seconded the motion. All were in favor of the motion to amend.

Chairman Sinclair read the following Order:

ORDER APPROVING OPTION

WHEREAS, the Bath Athletic Club, INC is proposing to develop Lot 7-3 at the Wing Farm Business Park, Phase II Development; and

WHEREAS, development plans have progressed to the point where funding requirements are being considered; and

WHEREAS, funding institutions require that the developer demonstrate an interest in the property proposed to be developed; and

WHEREAS, this Option will provide sufficient evidence of title to allow the developer to proceed with plans for the project.

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Bath that the Option, substantially in the form attached hereto, be and hereby is approved and the City Manager is authorized to execute the Option on behalf of the City of Bath, together with any other documentation that may be required, necessary or convenient to the transaction.

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

Vote on Order:

YEAS: 8

NAYS: 0

Order passed unanimously. 8-0

12) Order: Authorizing sale of Butler Head property

Chairman Sinclair read the following Order:

**ORDER AUTHORIZING THE SALE
OF CITY-OWNED LAND AT BUTLER HEAD**

WHEREAS, Lucy E. Stinson owns property on Merrymeeting Bay, designated at Lots 17 and 18 on City of Bath Tax Map 4, and acquired by virtue of Trustees Deed, dated November 1, 1994, and recorded in the Sagadahoc County Registry of Deeds in Book 1329, Page 1; and

WHEREAS, the City of Bath owns adjacent property between the Stinson lots and the driveway to the Grill residence; and

WHEREAS, by correspondence from the Stinson's, the City has been requested to consider conveying the property to the Stinson's/Lucy E. Stinson; and

WHEREAS, the property to be conveyed, is more particularly described on the attached Map.

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Bath that, in consideration of the sum of Thirty Thousand Dollars (\$30,000.00), the property depicted and outlined on the attached Map be sold to Lucy E. Stinson, or her designee, and that the City Manager be authorized to execute a Municipal Quit-Claim Deed and such other documents as may be necessary, required or convenient to conclude the transaction.

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

City Manager William Giroux explained why the price had changed since the item had been last discussed.

Thomas Barrington of 26 Rocky Reach Road and Chairman of the Bath Community Forestry Committee explained the Committee's reservations about the sale of any part of Butler Head properties. He cited the Comprehensive Plan's Management Policy for Butler Head which deals with development of the area and said the sale of this area will not be compliant with this policy. Mr. Barrington recommended that Council not approve the sale.

Tony Grill, who lives at Lot 19 at Butler Head, spoke in favor of the sale of the property.

Councilor Merrill made a motion to table the item until the next regular meeting of the Council so that the Comprehensive Plan questions can be answered. Councilor Brackett seconded the motion.

Vote on tabling Order:

YEAS: 8

NAYS: 0

Tabling motion passed unanimously. 8-0

13) Order: Exchange and Boundary Agreement of Hammond Trust property

Chairman Sinclair read the following Order:

**ORDER
PROPERTY EXCHANGE AND BOUNDARY AGREEMENT**

WHEREAS, the City of Bath owns certain property in Dresden and Wiscasset, more particularly described in Deed to the City of Bath from Chester W. Chubbuck and Marlene J. Chubbuck, dated December 20, 1978, and recorded in the Lincoln County Registry of Deeds in Book 972, Page 86; and

WHEREAS, the property adjacent to the south is owned by the Stella L. Hammond Trust of 2004, James A. Hammond, Trustee, being more particularly described in Deed recorded in the Lincoln County Registry of Deeds in Book 3385, Page 185; and

WHEREAS, the Hammond family has approached the City of Bath about exchanging properties between the Hammond Trust and the City of Bath, resulting in a swap of properties of approximately .5 acres each and creating a new agreed upon boundary line.

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Bath that an exchange of properties by Deed for the establishment thereby of a new common boundary line by and between the property of the City of Bath and the property of the Stella L. Hammond Trust of 2004, be and hereby is approved. The City Manager is authorized to execute any and all documents necessary, required or convenient to conclude the transaction.

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

Steve McConnell, Land Surveyor from Wiscasset, reported that during the survey he performed, a discrepancy in the lines of the property was discovered and this order will clean up the boundary line.

City Solicitor Roger Therriault explained that this was in the best interest of the City due to the fact that this exchange of property will allow the City to own the land by which the City uses to gain access to the City's property.

Vote on Order:

YEAS: 8

NAYS: 0

Order passed unanimously. 8-0

G. Petitions & Communications 7:39 PM

There were no petitions or communications.

H. City Manager's Report 7:39 PM

The following topics were discussed:

- Transferring the Huse School and the Nunnery properties to Bath Development Corporation so the Corporation could oversee the Brownfield Grant Clean Up of them.
- Transfer of the old YMCA property back to the City from the Bath Development Corporation.
- May Budget Workshop Schedule

I. Committee Reports 7:44 PM

Councilor Merrill reported that the Recreation Commission will be sponsoring the first running of the MURPH, a 5-mile trial race, and a public barbeque at McMann Field on Saturday, May 5th.

Councilor Eosco reported that Main Street Bath will be putting on Mayfair Weekend and dedication of the new trolley on May 5th.

Councilor Pagurko reported that the City will be hosting the annual Bike Rodeo on June 2nd at 10 am by the Bath Recreation Department.

J. Unfinished Business 7:46 PM

There was no unfinished business.

K. New Business 7:46 PM

14) **Appointment of one member to the Bath Bike and Pedestrian Committee with a term to expire in May 2015.**

Councilor Pagurko nominated John Swenson for this position. All were in favor of the nomination.

Councilor Rogers made a motion directing the City Manager to work with the West Chops Point Homeowners' Association in drafting a letter of support from Council regarding their grant proposal. Councilor Rogers stated this letter should have nothing to do with the funding. Councilor Paulhus seconded the motion.

Discussion of RSU #1 Cost Allocations:

Pat Scully of the law office of Bernstein, Shur, Sawyer & Nelson of Portland explained the allocation changes and their effects to the City.

City Manager William Giroux gave Council some options for going forth:

- Do nothing
- Options to reduce RSU #1 budget by \$682,000
- In the future, put together a Committee to work on a fairer allocation.
- Litigate the decision, which would be expensive and time consuming.
- Bath withdraw from RSU #1.

Mr. Scully explained what each of these options would entail. He stated that the public should get in touch with their individual RSU #1 Board Members Representative and express their opinion on this subject.

There was a very lengthy discussion of this matter by Council.

Mr. Scully expressed his concerns on advising Council on legal issues regarding this matter in an open public session and suggested this be done in Executive Session.

Councilor Pagurko made a motion at 8:31 PM to go into Executive Session to discuss Real Estate Matters per 1 MRSA§405(6)(C) and a Legal Matter per 1 MRSA §405(6)(E). Councilor Rogers seconded the motion. All were in favor of the motion.

Councilor Rogers made a motion at 8:58 PM to come out of Executive Session. Councilor Pagurko seconded the motion. All were in favor of the motion.

Councilor Eosco made a motion to continue the meeting past the 9:00 PM time limit. Councilor Rogers seconded the motion. All were in favor of the motion.

Councilor Rogers made a motion at 8:59 PM to go back into Executive Session to continue the discussion on Real Estate Matters and the Legal Matter. Councilor Merrill seconded the motion. All were in favor of the motion.

Councilor Pagurko made a motion at 9:08 PM to come out of Executive Session. Councilor Brackett seconded the motion. All were in favor of the motion.

Councilor Pagurko made a motion to have Pat Scully draft a letter from Council to the Board of Education for RSU #1 in regards to the change of funding situation. Councilor Rogers seconded the motion. All were in favor of the motion.

Councilor Winglass made a motion at 9:10 PM to go back into Executive Session to continue the discussion on Real Estate Matters. Councilor Pagurko seconded the motion. All were in favor of the motion.

Councilor Pagurko made a motion at 9:17 PM to come out of Executive Session. Councilor Merrill seconded the motion. All were in favor of the motion.

The meeting adjourned at 9:18 PM with a motion by Councilor Pagurko, seconded by Councilor Winglass. 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.