

REGULAR MEETING MINUTES
City Council of the City of Bath, Maine
Wednesday, September 1, 2010 6:00pm
City Council Chambers, Bath City Hall

Present: Councilors Cochrane, Rogers, Eosco, Sinclair, Winglass and Chairman Wyman.
Councilor Omo (excused)
Councilor Pagurko (by phone)
Councilor Paulhus (late)

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.

C. Public Hearings: 6:01 PM

1. Ordinance: LUC Amendments to Articles 7, 8, 9 and 10, (second passage)

A complete copy of this Ordinance is on file in the Bath City Clerk's office with agenda items for the August 4, 2010 Council Meeting.

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

City Planner James Upham explained these amendments were to cover housekeeping issues in the Land Use Code covering contract zoning. These amendments included the addition of the Museum District, regarding parking requirements for the Plant Home District, assisted residential facilities and places of worship, changes made to the name of the C2 Zone and changes to setback requirements in C2 and C3 Zones.

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

Chairman Wyman opened the public hearing. Seeing no further comments he closed the public hearing and asked for a roll call vote.

ROLL CALL VOTE:

YEAS: Cochrane, Rogers, Eosco, Sinclair, Pagurko, Winglass

NAYS: None

Ordinance passed unanimously. 6-0

Chairman Wyman stated this would become law in 21 days.

2. Bond Ordinance: \$100,000.00 for the purpose of funding the replacement of the drive chain for the clarifiers at the wastewater treatment plant (second passage)

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

ORDINANCE AUTHORIZING PERMANENT FINANCING

THE PURPOSE OF THIS ORDINANCE IS TO AUTHORIZE THE ISSUANCE OF GENERAL OBLIGATION BONDS/NOTES OR OTHER INDEBTEDNESS FOR THE CITY OF BATH, MAINE, IN AN AMOUNT UP TO, BUT NOT TO EXCEED, \$100,000.00 FOR THE PURPOSE OF FUNDING THE REPLACEMENT OF THE DRIVE CHAIN FOR THE CLARIFIERS AT THE WASTEWATER TREATMENT PLANT.

IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF BATH, AS FOLLOWS:

Section 1. That a sum up to, but not to exceed, \$100,000.00 is hereby appropriated for the purpose of providing funding for the replacement of the drive chain for the clarifiers at the Wastewater Treatment Plant.

Section 2. That, for the purpose of financing the aforesaid appropriation, authorization is hereby given to incur indebtedness by the issuance of bonds/notes of the City of Bath, in an amount up to, but not to exceed, \$100,000.00 under, and pursuant to, the Charter of the City of Bath.

Section 3. That any and all bonds/notes issued pursuant to this Ordinance shall be payable in yearly installments.

Section 4. That the term of any bonds/notes or other indebtedness issued under the within Ordinance shall not exceed ten (10) years.

Section 5. That the proceeds of any bonds/notes issued pursuant to this Ordinance shall be used only for those purposes specified in Section 1 above.

Section 6. That any proceeds of the bonds/notes issued not used for the purposes specified in Section 1 shall be applied to repayment of the principal and/or interest of any such bonds/notes.

Section 7. That any suit questioning the validity of this Ordinance shall be barred unless commenced within forty-five (45) days following publication of the Ordinance, said publication in accordance with Section 809 of the Charter of the City of Bath.

Section 8. That the City Treasurer, with the approval of the Chairman of the City Council and the City Manager, shall determine the date or dates, maturities, denominations, interest rate or rates and any other details of each issue of bonds and/or notes issued in anticipation of this permanent financing.

Section 9. That any and all bonds and/or notes issued by the City pursuant to Chapter 8 of the Charter of the City of Bath shall be signed by the City Treasurer and countersigned by the Chairman of the City Council and the City Manager.

Section 10. That any and all bonds and/or notes issued pursuant to Chapter 8 of the Charter of the City of Bath shall be general obligation securities of the said City.

Section 11. The City Treasurer, with the approval of the Chairman of the City Council and the City Manager, is hereby authorized to make any such bonds or notes authorized hereby subject to call for redemption with or without premium at the election of the City before the dates fixed for the final payment thereof. Any notes issued hereunder shall be subject to prepayment without penalty.

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

Chairman Wyman opened the public hearing. Seeing no further comment he closed the public hearing and asked for a roll call vote.

VOTE:

YEAS: Cochrane, Rogers, Eosco, Sinclair, Pagurko, Winglass

NAYS: None

Ordinance passed unanimously. 6-0

Chairman Wyman stated this Ordinance would become law in 21 days.

D. Consent Agenda: 6:04 PM

***3 & *4)** Accept Minutes of the previous Council Meeting of August 4, 2010 and appoint Thomas Hoerth as Tree Warden. Councilor Winglass made a motion to accept the minutes as presented. Councilor Rogers seconded the motion. All were in favor of the motion.

E. Time Devoted to Residents to Address the City Council: 6:05 PM

Rabyrne Hutton of 195 High Street addressed Council regarding the political sign ordinance. Mr. Hutton asked Council to change the ordinance so that people could put political signs up on their private property earlier than the present time line. He asked that the date be changed to the day after Labor Day for November elections and eight weeks prior to any special or primary elections. It was the consensus of Council to schedule a workshop regarding this change.

F. Ordinances, Resolutions and Orders: 6:10 PM

5) Ordinance – LUC Amendments Article 2 – Definitions, Section 2.02 – Dwelling Unit (first passage)

Chairman Wyman read the following Ordinance:

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:

Amend Article 2--Definitions, Section 2.02, as follows:

Dwelling Unit (in non-shoreland zones). A room or group of rooms designed and equipped for use as permanent, seasonal, or temporary living quarters for only 1 family at a time, and containing cooking, sleeping, and toilet facilities. The term includes manufactured housing and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented, but does not include recreational vehicles, so-called park-model mobile homes, assisted residential units, or rooms in land-use categories other than Category 1.0, Residential, in the Land Use Table (see Section 9.02).

Dwelling Unit (in shoreland zone). A room or group of rooms designed and equipped for use as permanent, seasonal, or temporary living quarters for only 1 family at a time, and containing cooking, sleeping, and toilet facilities. The term includes motels, hotels, inns, tourist cabins, manufactured housing and other rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented, but does not include recreational vehicles, so-called park-model mobile homes, or assisted residential units.

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

City Planner James Upham explained this amendment was due to a request from the Department of Environmental Protection for the City to modify the definition of dwelling unit . The reason DEP has asked for this definition is because hotels in coastal areas are being built which include kitchenettes, making them apartments. This practice is causing an impact on the coastal communities where this is occurring. To protect the shoreland resource DEP feels these rental units should be treated as apartments. This would include facilities that have cooking, sleeping and toilet facilities.

ROLL CALL VOTE:

YEAS: Cochrane, Rogers, Eosco, Sinclair, Pagurko, Winglass

NAYS: None

Ordinance passed unanimously. 6-0

Chairman Wyman set second passage of this Ordinance for October 6, 2010 at 6:01 PM.

6. Resolution – Crosswalks for Old Brunswick Road, Oak Grove Avenue, and Whiskeag Road

Chairman Wyman read the following Resolution:

RESOLUTION

BE IT HEREBY RESOLVED by the City Council of the City of Bath that, pursuant to the authority of Council under Section 17-154 of the Code of the City of Bath to designate crosswalks at areas other than at intersections by Resolution of Council, the following crosswalks be and hereby are designated:

- Crosswalk on Old Brunswick Road between property now or formerly of McMann and Oak Grove Cemetery, located 580 feet northwest of intersection of the Old Brunswick Road and Judkins Avenue
- Crosswalk on Oak Grove Avenue from Public Works to West Field Trail Easement (adjacent to CMP power line), located 1410 feet south of northeast corner of intersection of Whiskeag Road and Oak Grove Avenue
- Crosswalk on Whiskeag Road from West Field Trail Easement to north side of Whiskeag Road, located 525 feet east of northeast corner of intersection of Whiskeag Road and Oak Grove Avenue

The designation of these crosswalks shall be placed on record at the Clerk’s Office and the areas appropriately marked.

Councilor Pagurko made a motion to put the resolution on the floor for discussion. Councilor Cochrane seconded the motion.

Recreation Director Steve Balboni reported Bath Trails Group will be having the Grand Opening of the 5-mile trail from the Bath Area YMCA to Thorn’s Head on September 18th. He gave an overview of the trail route and use of signage.

VOTE:

YEAS: 6

NAYS: 0

Resolution passed unanimously. 6-0

7. Order – McMann Field Upgrade

Councilor Paulhus took his seat at this time.

Chairman Wyman read the following Order:

**ORDER
MCMANN FIELD UPGRADE**

WHEREAS, the Committee, known as the Fields for Our Future, has engaged in fundraising activities since 2007 in order to fund the installation of a turf field at the City of Bath Recreation Facility known as McMann Field; and

WHEREAS, the voters in the City-wide Referendum in June of 2010 declined to contribute taxpayers' funds to the project; and

WHEREAS, the Committee members and their supporters believe that this is an important project and worthwhile project that has their continued and renewed support; and

WHEREAS, the Committee has advised the City Council that they are willing to continue the fundraising effort to fully fund the new turf field with donations and in-kind contributions.

NOW, THEREFORE, the City Council of the City of Bath orders as follows:

- The Fields for Our Future Committee is encouraged to continue their fundraising efforts to provide resources to construct a turf field at McMann Field with the support and consent of the Bath City Council, and with the understanding that there will be no request for, nor will there be any appropriation, of taxpayers' funds for the construction.
- The City Council hereby establishes a reserve enterprise fund for the sole purpose of providing funding for future replacement of the turf field at the end of its useful life. This enterprise fund will be funded on a year-to-year basis in the amount of \$35,000.00 from revenues received from field rentals and other income from McMann Field.
- The fundraising activities for the initial installation shall be subject to a five (5) year sunset provision from the date of enactment of this Order at which time fundraising shall cease and the City Council shall then review the status of the project as to whether or not any further funding activities, if necessary, may be appropriate or to recommend the distribution of donations if, in fact, the goals and objectives of the fundraising are not met.
- All construction activities with respect to the field will be subject to City of Bath purchasing Ordinance requirements.

Councilor Pagurko made a motion to put this order on the floor for discussion. Councilor Cochrane seconded the motion.

Councilor Rogers made a motion to amend the second bullet by adding the words "no less than" before \$35,000.00. Councilor Sinclair seconded the motion.

VOTE on Amendment #1:
YEAS: 5
NAYS: 2 (Eosco, Winglass)
Amendment passed. 5-2

Councilor Rogers made a motion to amend the first bullet by replacing the word “construction” with the words “procurement or installation of the field.” Councilor Pagurko seconded the motion.

VOTE on Amendment #2:
YEAS: 6
NAYS: 1 (Winglass)
Amendment passed. 6-1

Susan Goodfellow of the Fields for Our Future Committee explained the need for acknowledging “In Kind Gifts” in the contractual agreement as they make up 20% of the contract price.

Councilor Rogers made a motion to replace the fourth bullet with: “The City Council will form a Building Committee to include members of the Field of Our Futures to work with Field of Our Futures Committee to administer and facilitate the procurement and installation of the field.” Councilor Pagurko seconded the motion.

VOTE on Amendment #3:
YEAS: 7
NAYS: 0
Amendment passed unanimously. 7-0

Jackie Dwinall of 1552 Washington Street thanked Council for accepting the amendments to this Resolution. She wished Fields for Our Future Committee with their fundraising and hoped they accomplish their goal.

Councilor Rogers made a motion to amend the third bullet by replacing the word “funding” with the word “fundraising”. Councilor Pagurko seconded the motion.

VOTE on Amendment #4:
YEAS: 7
NAYS: 0
Amendment passed unanimously. 7-0

Councilor Sinclair made a motion to put a comma after the word “Order”, delete the rest of the paragraph and add “at which time the donations already received shall be distributed back to the donors”. Councilor Rogers seconded this motion.

VOTE on Amendment #5:
YEAS: 2 (Rogers, Sinclair)
NAYS: 5
Amendment failed. 2-5

VOTE on amended Order:
YEAS: 6
NAYS: 1 (Pagurko)
Order passed. 6-1

G. Petitions & Communications: 7:00 PM

There were no petitions or communications at this time.

H. City Manager's Report: 7:00 PM

Discussed upcoming Workshops:
Property Maintenance Ordinance
Unaccepted Streets

I. Committee Reports 7:02PM

There were no committee reports.

J. Unfinished Business 7:02 PM

City Manager Giroux reported on the construction progress on Centre Street and Congress Avenue. Mr. Giroux stated he would make sure updates on the construction schedule would be on the City's Web Page under the Public Works section.

K. New Business: 7:05 PM

8. Appointment 2 members to the Bath Planning Board with terms to expire in September 2013.

Councilor Pagurko nominated Robert Oxtan and Paul Fraser for these positions. Councilor Winglass seconded the nominations. All were in favor of the nominations.

9. Appointments 2 members to the Bath Zoning Board of Appeals with terms to expire September 2013.

Councilor Pagurko nominated William Truesdell and Thomas Watson for these positions. Councilor Paulhus seconded the nominations. All were in favor of the nominations.

Councilor Sinclair brought up the status of the smell reported in the vicinity of Valley Road. City Manager Giroux reported the problem was due to the overflow in the stormdrain, which has now been capped. There is a Public Meeting planned for September 22nd at 5PM at the Mid Coast Center for Higher Education.

The meeting adjourned at 7:12 PM with a motion by Councilor Pagurko, seconded by Councilor Cochrane. 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.