

**REGULAR MEETING MINUTES
CITY COUNCIL OF THE CITY OF BATH, MAINE**

Wednesday, December 1, 2010 7:30 PM
City Council Chambers, Bath City Hall

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

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.

Presentation by Thomas Barrington, Chairman of the Bath Forestry Committee regarding the proposed Butler Head Sugarbush Project.7:35 PM

Mr. Barrington explained that a Sugarbush project was being proposed for a plot of land at Butler Head. He stated that in 2007 Forest Ecosystem Management Plan prepared a study by Walter Armstrong, which reported that a small portion of the property could be used for a sugarbush. Mr. Barrington reported that a portion of this area has been designated to be used by RSU 1 to set up a sap harvesting operation and the rest of the plot would be used by a commercial sap harvester. He stated the commercial harvester will serve as a demonstration operation for RSU 1 students. Mr. Tom Hoerth, Tree Warden, stated that he had discussed the project with the City Manager, the Director of Parks and Recreation, Superintendent of RSU 1 and several commercial harvesters. All were willing to participate in the project which should begin operation in the Spring of 2011. Mr. Barrington said the Bath Forestry Committee will be back to Council for approval of the leases with RSU 1 and the commercial harvester and after these leases are approved, the harvesting of the non-sugar producing trees will begin and sap collection would take place during the normal harvesting season of February to May. Mr. Barrington invited the Councilors to visit the site.

Presentation by Sally Johnstone of Main Street Bath regarding Downtown Business Survey.

Ms. Johnstone reported 400 residents of the Bath area responded to the survey. She stated that best thing that came from the survey was that the majority of people that responded like the downtown for the offerings of banking, the farmers' market, gifts, clothing and books. She stated that the survey responders stated they would like to see the parking problem resolved, more restaurants, a movie theater and extended hours of shopping. Ms. Johnstone said all in all it was a very positive survey.

Presentation Peter Owen, Director of Public Works with status up date of the new Roundabout and Centre Street projects.

Mr. Owen reported that the Roundabout project was 98% done and has produced the traffic calming effect needed for that area. He stated that some signage and lighting were still left to be done.

Mr. Owen reported that the Centre Street project was 98% done with the installation of a new forcemain, water main, sidewalk and road paving and the catch basins have been separated. He stated that the remaining things to be done are the final course of pavement and seeding of lawns.

C. Public Hearings 8:25 PM

1) Ordinance: Chapter 8A. General Assistance Maximums for October 1, 2008 to September 30, 2009 (second passage)

Chairman Wyman 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, Appendix B – Food Maximums, Appendix C – Housing Maximums. Maximums shall be effective as of October 1, 2010.

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

A complete copy of the Appendices are filed in the agenda materials for the December 1, 2010 meeting in the City Clerk's Office.

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

City Manager Giroux explained this is an annual item and the State sets the maximums.

Chairman Wyman opened the Public Hearing. Seeing no comment he closed the hearing.

ROLL CALL VOTE:

YEAS: Brackett, Omo, Paulhus, Rogers, Eosco, Sinclair, Winglass

NAYS: None

Ordinance passed unanimously. 7-0

Chairman Wyman stated this Ordinance would be retroactive to October 1, 2010.

2) Ordinance: Chapter 20. Property Assessed Clean Energy (PACE) (second passage)

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

PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE.

PREAMBLE

WHEREAS, the 124th Maine Legislature has enacted Public Law 2009, Chapter 591, "An Act to Increase the Affordability of Clean Energy for Homeowners and Businesses," also known as "the Property Assessed Clean Energy Act" or "the PACE Act"; and

WHEREAS, that Act authorizes a municipality that has adopted a Property Assessed Clean Energy ("PACE") Ordinance to establish a PACE program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the City/Town, financed by funds awarded to the Efficiency Maine Trust under the Federal Energy Efficiency and Conservation Block Grant (EECBG) Program and by other funds available for this purpose, and to enter into a contract with the Trust to administer functions of its PACE program; and

WHEREAS, the City of Bath wishes to establish a PACE program.

NOW THEREFORE, the City Council of the City of Bath hereby enacts 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 20. PROPERTY ASSESSED CLEAN ENERGY (PACE)

A complete copy of this Ordinance is on file in the agenda materials for the November 3, 2010 meeting in the City Clerk's Office.

Community Development Director Al Smith explained the funding is a revolving loan fund through the Efficiency Maine Program and qualified residents are eligible for up to \$15,000 to make energy efficiency improvements to their properties, but this can only happen if the municipality has passed the PACE Ordinance. The program is overseen by the Efficiency Maine agency.

Mr. Smith stated that the City would be educating the public on the grant and assisting residents with application preparation.

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

Chairman Wyman opened the hearing to the public. Seeing no comment he closed the public hearing.

ROLL CALL VOTE:

YEAS: Brackett, Omo, Paulhus, Rogers, Eosco, Sinclair, Winglass

NAYS: None

Ordinance passed unanimously. 7-0

Chairman Wyman stated this would become law in 21 days.

D. Consent Agenda 8:35 PM

***3) Minutes of Previous Meetings - November 3, 2010 and Items F4, F5, F6, F7 and F8. (motion to accept)**

Councilor Paulhus asked that Item F4 be pulled from the Consent Agenda and taken up as a separate item. All were in favor of the request.

All were in favor of the accepting the Consent Agenda as presented minus Item F4.

Item F4 was brought up at this time.

F4) 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.

Councilor Paulhus asked that the Council schedule at least 2 meetings per month as he felt there was enough business that Council needed more time for discussion. After a lengthy discussion, Councilor Paulhus made a motion to accept the Order as presented. The motion was seconded by Councilor Rogers.

VOTE:

Yeas: 7

Nays: 0

Order passed unanimously. 7-0

E. Time Devoted to Residents to Address The City Council 8:48PM

Tony Grill of 155 Butler Head Road asked Council to consider letting the City Public Works Department help him with snowplowing the road.

After a discussion, it was decided that Mr. Grill should meet with the City Manager to see if something could be worked out between them.

F. Ordinances, Resolutions and Orders 9:01 PM

***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 polices, or as may be amended by this Council.

This Order was passed on the Consent Agenda.

***6) Adoption of Working Rules and Regulations for Council year 2010-2011 (motion to pass)**

A complete copy of these Rules are on file with the agenda materials for December 1, 2010 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.

This Order was passed on the Consent Agenda.

***8) Order – Appointing Registrar of Voters for January 2011- December 2012 (motion to pass Order)**

**ORDER
APPOINTING REGISTRAR OF VOTERS**

WHEREAS, Title 21-A Section 101 requires the Municipal Officers shall appoint a qualified Registrar of Voters by January 1 of each odd numbered year.

NOW, THEREFORE, be it ordered by the City Council of the City of Bath that Mary Jane White be and hereby is appointed Registrar of Voters for the City of Bath with a term to expire December 31, 2012.

This Order was passed on the Consent Agenda.

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

9) Order – Purchase of Sidewalk Plow 9:01 PM

Chairman Wyman read the following Order:

ORDER APPROVING PURCHASE

BE IT HEREBY ORDERED BY THE CITY COUNCIL OF THE CITY OF BATH, THAT THE BID OF H P. FAIRFIELD, AS SUPPLIER FOR A SIDEWALK PLOW WITH FLAIL MOWER OPTION, FOR THE TOTAL BID PRICE OF \$112,445.00, BEING THE LOWEST QUALIFIED BID SUBMITTED, BE AND HEREBY IS APPROVED AND THE CITY MANAGER IS AUTHORIZED TO EXECUTE SUCH DOCUMENTS AS MAY BE NECESSARY TO COMPLETE THE PURCHASE ON BEHALF OF THE CITY OF BATH. THE FUNDS FOR THIS PURCHASE ARE DESIGNATED AS PART OF A BORROWING ORDINANCE APPROVED BY COUNCIL ON JUNE 23, 2010.

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

Public Works Director Peter Owen explained this expense had been included in the passing of the budget in June 2010. He reported that the Department presently has 2 sidewalk plows but one is broken down and will be expensive to fix. Mr. Owen stated that with all of the new sidewalks to be added to what the City already has it will take 2 good plows to do the job this winter. He said this is a multi-service vehicle as it will be able to be used in the Summer for road side mowing as well as the plowing in the Winter.

VOTE:

Yeas: 7

Nays: 0

Order passed unanimously. 7-0

10) Bond Ordinance - authorizing issuance of general obligation bonds for the City of Bath, Maine, in the stated principal amount of up to, but not to exceed, \$1,100,000 for the purpose of funding waterfront park improvements and pier restoration and other miscellaneous downtown improvements. (first passage)

Councilor Omo made a motion to waiving the reading of the Ordinance. There was no second to the motion.

Chairman Wyman read the following Ordinance:

BOND ORDINANCE

AUTHORIZING ISSUANCE OF GENERAL OBLIGATION REFUNDING BONDS FOR THE CITY OF BATH, MAINE, IN AN AMOUNT UP TO, BUT NOT TO EXCEED, \$1,100,000 FOR THE PURPOSE OF FUNDING WATERFRONT PARK IMPROVEMENTS AND PIER RESTORAATION AND OTHER MISCELLANEOUS DOWNTOWN IMPROVEMENTS.

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, \$1,100,000, plus the sale premium of the bonds/notes authorized in Section 2 below, is hereby appropriated for the purpose of funding Waterfront Park improvements and pier restoration and other miscellaneous downtown improvements and of paying the costs of issuance therefore.

Section 2. That, for the purpose of funding the aforesaid appropriation, the City Treasurer, with the approval of the Chairman of the City Council and the City Manager, is hereby authorized, in the name of and on behalf of the City, to issue the City's bonds/notes or notes in anticipation thereof, in the stated principal amount of up to, but not to exceed, \$1,100,000 under and pursuant the City Charter and 30-A MRSA §5772.

Section 3. That any and all bonds/notes or notes in anticipation thereof issued pursuant to this Ordinance are issued pursuant to Chapter 8 of the City Charter and shall be signed by the City Treasurer and countersigned by the Chairman of the City Council and the City Manager.

Section 4. That any and all bonds/notes issued pursuant to this Ordinance shall be payable in annual installments, which need not be equal, pursuant to Section 807 of the City Charter.

Section 5. That the term of any bonds/notes issued pursuant to this Ordinance shall not exceed twenty (20) years.

Section 6. 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 (not to exceed the maximum term specified above), denominations, interest rate or rates and any other details of any bonds/notes or any notes in anticipation thereof to be issued pursuant to this Ordinance, such approval to be conclusively evidenced by the execution thereof.

Section 7. The City Treasurer, with the approval of the Chairman of the City Council and the City Manager, is hereby authorized to make any bonds/notes or notes in anticipation thereof issued pursuant to this Ordinance subject to call for redemption with or without premium prior to the stated maturity date at the election of the City.

Section 8. That the City Treasurer is hereby authorized to take all such action as may be necessary to designate any bonds/notes or notes in anticipation thereof issued pursuant to this Ordinance (to the extent such designation is available) as qualified tax-exempt obligations for purposes of Section 265(b) of the Code.

Section 9. That the proceeds of any bonds/notes or notes in anticipation thereof issued pursuant to this Ordinance shall be used only for those purposes specified in Section 1 above and any proceeds not used for such purposes shall be applied to repayment of the principal and/or interest of such bonds.

Section 10. That the bonds/notes or notes in anticipation thereof issued pursuant to this Ordinance shall be general obligations of the City, backed by the full faith and credit and taxing power of the City.

Section 11. That the City Treasurer is authorized to do or cause to be done all such acts and things, and to execute and deliver any and all contracts, agreements, certificates, and other documents as may be necessary or advisable, including but not limited to an Arbitrage and Use of Proceeds Certificate and a Continuing Disclosure Certificate, to carry out the provisions of this Ordinance in connection with the issuance and delivery by the City of the bonds/notes or notes in anticipation thereof.

Section 12. That any suit questioning the validity of this Ordinance shall be barred unless commenced within forty-five (45) days following publication of the Ordinance in accordance with Section 805 of the City Charter.

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

Councilor Sinclair made a motion to amend the Ordinance by removing the wording “and other miscellaneous downtown improvements.” in Title and Section 1. Councilor Rogers seconded the motion.

Vote on amendment:

YEAS: Omo, Paulhus, Rogers, Sinclair, Winglass

NAYS: Brackett, Eosco

Amendment passed. 5-2

Councilor Paulhus made a motion to amend the title and Section 1 by adding the wording “and the Vine Street project and downtown parking improvements.” after the words “pier restoration”. Councilor Omo seconded the motion.

Vote on amendment:

YEAS: Brackett, Omo, Paulhus, Winglass

NAYS: Rogers, Sinclair, Eosco

Amendment passed. 4-3

ROLL CALL VOTE on the twice amended Ordinance:

YEAS: Brackett, Omo, Paulhus, Eosco, Sinclair, Winglass

NAYS: Rogers

Amended Ordinance passed. 6-1

Chairman Wyman set second passage for January 5, 2011 at 6:01 PM.

11) Bond Ordinance - authorizing issuance of general obligation refunding bonds for the City of Bath, Maine, in the stated principal amount of up to, but not to exceed, \$2,425,000 for the purpose of refunding outstanding debt of the city. (first passage) 9:28

Councilor Omo left his seat at this time.

Chairman Wyman read the following:

BOND ORDINANCE

AUTHORIZING ISSUANCE OF GENERAL OBLIGATION REFUNDING BONDS FOR THE CITY OF BATH, MAINE, IN AN AMOUNT UP TO, BUT NOT TO EXCEED, \$2,425,000 FOR THE PURPOSE OF REFUNDING OUTSTANDING DEBT OF THE CITY.

RECITALS

WHEREAS, on or about May 13, 1999, the City of Bath issued its 1999 General Obligation Bonds in the stated principal amount of \$4,500,000 to finance the costs of certain combined sewer overflow abatement improvements and certain street and sidewalk improvements (the “1999 Bonds”); and

WHEREAS, on or about March 1, 2010, the City of Bath issued its Sidewalk Payment Note in the stated principal amount of \$400,000 to finance the costs of certain sidewalk improvements around the City’s Praver Block, so-called (the “2010 Note” and together with the 1999 Bonds, the “Prior Bonds”); and

WHEREAS, due to a drop in interest rates since the Prior Bonds were issued, the City desires to refund and refinance the outstanding principal on the Prior Bonds through issuance of its general obligation refunding bonds;

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

NOW THEREFORE, 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, \$2,425,000, plus the sale premium of the bonds/notes authorized in Section 2 below, is hereby appropriated for the purpose of refunding the Prior Bonds and of paying the costs of issuance therefore.

Section 2. That, for the purpose of funding the aforesaid appropriation, the City Treasurer, with the approval of the Chairman of the City Council and the City Manager, is hereby authorized, in the name of and on behalf of the City, to issue the City’s bonds/notes, in the stated principal amount of up to, but not to exceed, \$2,425,000 under and pursuant to the City Charter and 30-A MRSA §5772.

Section 3. That any and all bonds/notes issued pursuant to this Ordinance are issued pursuant to Chapter 8 of the City Charter and shall be signed by the City Treasurer and countersigned by the Chairman of the City Council and the City Manager.

Section 4. That any and all bonds/notes issued pursuant to this Ordinance shall be payable in annual installments, which need not be equal, pursuant to Section 807 of the City Charter.

Section 5. That the term of any bonds/notes issued pursuant to this Ordinance shall not exceed twenty (20) years.

Section 6. 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 (not to exceed the maximum term specified above), denominations, interest rate or rates and any other details of any bonds/notes to be issued pursuant to this Ordinance, such approval to be conclusively evidenced by the execution thereof.

Section 7. The City Treasurer, with the approval of the Chairman of the City Council and the City Manager, is hereby authorized to make any bonds/notes issued pursuant to this Ordinance subject to call for redemption with or without premium prior to the stated maturity date at the election of the City.

Section 8. That the City Treasurer is hereby authorized to take all such action as may be necessary to designate any bonds/notes issued pursuant to this Ordinance (to the extent such designation is available) as qualified tax-exempt obligations for purposes of Section 265(b) of the Code.

Section 9. That the proceeds of any bonds/notes issued pursuant to this Ordinance shall be used only for those purposes specified in Section 1 above and any proceeds not used for such purposes shall be applied to repayment of the principal and/or interest of such bonds/notes.

Section 10. That the bonds/notes issued pursuant to this Ordinance shall be general obligations of the City, backed by the full faith and credit and taxing power of the City.

Section 11. That the City Treasurer is authorized to do or cause to be done all such acts and things, and to execute and deliver any and all contracts, agreements, certificates, and other documents as may be necessary or advisable, including but not limited to an Arbitrage and Use of Proceeds Certificate and a Continuing Disclosure Certificate, to carry out the provisions of this Ordinance in connection with the refunding of the Prior Bonds and the issuance and delivery by the City of the bonds/notes.

Section 12. That if the City Treasurer, Chairman of the City Council, the City Manager, or Clerk are for any reason unavailable to approve and execute the bonds/notes or any related financing documents, as authorized by this Ordinance, the person or persons then acting in such capacity, whether as an assistant, a deputy, or otherwise, is authorized to act for such official with the same force and effect as if such official had himself or herself performed such act.

Section 13. That any suit questioning the validity of this Ordinance shall be barred unless commenced within forty-five (45) days following publication of the Ordinance in accordance with Section 805 of the City Charter.

Councilor Omo took his seat at this time.

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

ROLL CALL VOTE:

YEAS: Brackett, Omo, Paulhus, Rogers, Eosco, Sinclair, Winglass

NAYS: None

Ordinance passed unanimously. 7-0

Chairman Wyman set second passage of this Ordinance for January 5, 2011 at 6:02 PM.

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

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

G. Petitions & Communications 9:34 PM

There were no petitions or communications.

H. City Manager's Report 9:34 PM

The following topics were discussed:

- Council Workshop to discuss City Streets was set for Tuesday, December 14th at 6:30 PM in the Second Floor Conference Room.
- Council Workshop to discuss Boat Storage was set for Wednesday, January 19th, 2011 at 6:30 PM in the Second Floor Conference Room.
- Update City Energy Audit Status.

I. Committee Reports 9:42 PM

Councilor Eosco urged everyone to visit the downtown stores for their Christmas shopping.

J. Unfinished Business 9:43 PM

There was no unfinished business.

K. New Business 9:44 PM

13) Appointment 1 member to the Bath Water District Board of Directors term expiration November 2013 (to fill unexpired term).

Councilor Paulhus nominated Clarence Stilphen to fill this position. Councilor Sinclair seconded the nomination. All were in favor of this nomination.

At 9:45 PM Councilor Omo made a motion to go into Executive Session to discuss real estate matters per per 1 MRS A §405(6)(C). Councilor Rogers seconded the motion. All were in favor of the motion.

At 10:30 PM Councilor Rogers made a motion to come out of Executive Session. Councilor Omo seconded the motion. All were in favor of the motion.

The meeting adjourned at 10:31 PM with a motion by Councilor Rogers, seconded by Councilor Omo. 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.