

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

Present: Councilors Cochrane, Paulhus, Rogers, Eosco, Sinclair, Pagurko, Winglass,
Chairman Wyman.
Councilor Omo was late.

Also in attendance was the City Manager – William Giroux, Acting City Solicitor – Michael 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: Chapter 8A. General Assistance Maximums for October 1, 2009 to
September 30, 2010 (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, 2009.

*A complete copy of these maximums is on file in the Bath City Clerk's Office with the agenda materials
for 1/06/2010 Council Meeting.*

Motion by Councilor Pagurko, seconded by Councilor Eosco to put this item on the floor for
discussion.

City Manager Giroux explained that this is a routine matter and the maximums are directives from the
State over which the Council has no control. He stated the maximums have to be adopted by the
Council in order for the City to participate in the program.

Chairman Wyman opened the public hearing.

Seeing no comments, Chairman Wyman closed the public hearing.

ROLL CALL VOTE:

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

NAYS: None

Ordinance passed unanimously. 7-0

Councilor Omo took his seat at this time.

2) CDBG for the Public Facilities grant application for the Chocolate Church for Historic Preservation work.

Al Smith, CDBG Director, explained that this grant would assist the Chocolate Church Arts Center in taking historic preservation measures.

Michael Barndollar, Board of Directors President, reported on the status of the preservation efforts to this point which consisted of restoration to the Annex and the old Gallery. He explained this grant would assist in the restoration needing to be done to the Church itself.

Barbara Bowers, Executive Director, gave an overview of the restoration work that needs to be completed. Ms. Bowers stated that the focus of the funding of this grant would consist of three areas; the roof would be torn off and replaced with an insulation barrier and re-shingled with architectural shingles, the bell tower would be revamped or replaced and all rotten and missing wood on the exterior of the building would be replaced concluding with painting of the entire building. She stated that they had raised \$150,000 in matching funds and pledges and with the grant that would give them the \$300,000 needed for repairs.

Councilor Omo made a motion to support this grant application process. Councilor Pagurko seconded the motion. The Council voted unanimous in support of this process.

D. Consent Agenda 6:11 PM

(Items as marked with an asterisk () on the agenda shall be considered routine matters not requiring debate. In the case of items marked with an asterisk, the motion as stated in parenthesis following the items on the agenda shall be considered to have been passed by the City Council as part of the Consent Agenda. Any Councilor wishing to have any item so marked with an asterisk removed from the Consent Agenda shall have the unlimited right to do so at any time prior to the vote by Council on the Consent Agenda. If such an item is removed from the Consent Agenda, it shall be dealt with in the normal course of the meeting.)*

*3) Motion by Councilor Pagurko to accept as presented the Minutes of the previous meeting of December 2, 2009 Council Meeting and Items K8 and K9. Councilor Omo seconded the motion. All were in favor of the motion.

E. Time Devoted to Residents to Address The City Council 6:12 PM

No one spoke at this time.

Chairman Wyman made a change to the agenda to bring the City Manager's Report forward.

H. City Manager's Report 6:12 PM

The City Manager reported on the following items:

- No Council Workshop on January 20, 2010
- Relocation of the Bath Skate Park – State Senator Seth Goodall spoke regarding legislation relating to this issue.

F. Ordinances, Resolutions and Orders 6:26 PM

4) Ordinance: Fields of the Future Financing (first passage)

Chairman Wyman read the following Ordinance:

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, \$300,000.00 FOR THE PURPOSE OF FUNDING THE PURCHASE AND INSTALLATION OF 90,000 SQUARE FEET OF ALL WEATHER TURF AT THE MCMANN FACILITY.

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, \$300,000.00 is hereby appropriated for the purpose of providing funding for the purchase and installation of 90,000 square feet of all weather turf at the McMann Facility.

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, \$300,000.00 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 annual 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 Omo seconded the motion.

Bradford Walfield of 75 Winship Street spoke representing the “Fields of Our Future” group. Mr. Walfield gave an overview of the group and the future project. He stated the group was formed 3 years ago and was made up of all volunteers, parents, coaches and teachers who were interested in improving the playing surfaces. Mr. Walfield highlighted a few of the benefits of the project such as helping kids to be more active, providing more playing fields for sports events, and ensuring that they are no longer robbed of the home field advantage due to weather issues. He explained the field will be safer and added that a \$50,000 donation has been made for an academic need.

Mr. Walfield stated that this project will not add to the City Budget and the contracts negotiated with the turf and site contractors are very good ones.

William Haggett, Committee Member, explained that this project would be benefiting the City in the same manner that the new YMCA has. He stated that this project would increase usable time on the field to 1500 hours and in all seasons. Mr. Haggett reported this project would only enhance the value of the community and over time would be self-financing. He encouraged the Council to support it.

Jackie Dwinal of 1552 Washington Street, spoke against this project. She stated she didn't feel it was prudent to have the City become a lender to private groups.

Elizabeth Haskell of Whiskeag Road asked to have someone elaborated on the proposed youth obesity programs that would be available and the for the statistics on field injury records.

Recreation Director Steve Balboni reported weather would not be an issue with this field therefore; it could be used for more programs. He said to his knowledge there aren't any safety issues at the present time with the current field.

Giroux explained the funding through the City budget process.

ROLL CALL VOTE:

YEAS: Cochrane, Omo, Eosco, Winglass, Wyman

NAYS: Paulhus, Rogers, Sinclair, Pagurko

Ordinance passed. 5-4

Chairman Wyman set second passage of the Ordinance for February 3, at 6:01PM.

5) Ordinance: LUC Amendments Creation Plant Home Zone (first passage)

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:

With Amendments to Articles 2, 7, 8, 9, and 11.

A complete copy of this Ordinance with these changes are on file in the Bath City Clerk's Office at 55 Front Street, Bath, Maine.

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

Councilor Pagurko motioned to put this Ordinance on the floor for discussion. Councilor Omo seconded the motion.

City Planner James Upham explained the reason this zoning change was coming before Council. Mr. Upham stated this zoning change would make the zone consistent with and pursuant to the recently adopted Comprehensive Plan.

Fred Denson of 8 East Lane, an abutter, spoke in favor of this change but had some concerns with the "use" definitions.

Don Capoldo, Executive Director of Plant Home, explained the Home has a 99-year lease that has guidelines that have to be followed for low-income housing. He stated that should there be a fire and the Home destroyed, they could not rebuild as the Code is written now.

ROLL CALL VOTE:

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

NAYS: None

Ordinance passed unanimously. 8-0

Chairman Wyman set second passage for February 3, at 6:02PM

6) Ordinance: LUC Amendments Bath Iron Works Contract Rezoning (first passage)

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:

SECTION 16.18 – SOUTH PO2 CONTRACT ZONE, NUMBER 2

A. District Designation

The property designated for this Contract Rezoning is a portion of the property located on Washington Street being identified as a portion of Lot 142 on City of Bath Tax Map 27, dated April 1, 2009.

B. Findings

The property is located in the Industrial/Shipyard District (I). The City Council makes the following additional specific findings:

1. The building, presently known as the Pre-outfit 2 (PO 2) Building was constructed in 1986, underwent a major upgrade in 2004, and had a 66,780 square-foot addition with a height of 106 feet in 2007. The addition in 2007 required the creation of a Contract Zone. This Contract Zone is contained in Land Use Code Section 16.14.
2. The building is used for industrial purposes.
3. The applicant now proposes to construct a 46,077 square-foot addition on the south side of the building. The addition is proposed to be 106 feet in height.
4. Without the creation of a contract zone, the maximum height allowed in the Industrial District is 75 feet under the provisions of Section 8.14(C) of the Land Use Code.
5. Contract Rezoning is allowed on this parcel per Section 8.14(D) of the Land Use Code.
6. The applicant has offered the following voluntary, Discretionary Condition in exchange for the Contract Rezoning. For the Contract Rezoning the applicant will transfer the parcel of land at the southeast corner of the Middle and Centre streets intersection—Lot 68-1, on City of Bath Tax Map 27, dated April 1, 2009, to the City of Bath.

C. Zoning Provisions Affected

This Contract Rezoning is intended to only modify the maximum height allowed, under Section 8.07(C) of the Land Use Code, by allowing the construction of the building addition 106 feet in height, depicted on the Site Plan approved by the Bath Planning Board on December 15, 2009.

D. Conditions of Approval

This Contract Rezoning Ordinance requires full and complete compliance with all conditions of approval, which are part of the Site Plan approval, granted to Bath Iron Works, by the Bath Planning Board on December 15, 2009, including the following:

1. That the Conditions contained in Land Use Code Section 16.14 remain in force unless modified herein;
2. That the large doors of the Ultra Hall building be closed from sunset to sunrise;
3. That the evergreens and the white picket fence along Washington Street, between the street and by Bath Iron Works' property south of the South Gate, be maintained;
4. That the approval is contingent upon approval being granted by the Maine Department of Environmental Protection and that a copy of DEP's approval be submitted to the Planning Office; and
5. The Discretionary Condition listed in Section B (6), above.

Any proposed amendment to the above cited Site Plan Approval, which meets the requirements of Section 12.13 (B) may be approved by the criteria in Section 12.13 (B).

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

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

City Planner James Upham explained the proposed changes as an amendment to the contract zone. The contract zoning process allows the Council to modify the space and bulk standards of the zone provided that the applicants do something that is over and above what is normally required in the Ordinance. Mr. Upham stated that he thinks of it as an incentive zoning process and it has been used very successfully. He reported that Bath Iron Works is asking to build a building that is taller than 75 feet tall, which is the maximum height in that zone. In exchange for permitting this to happen Bath Iron Works is willing to help the City meet it's downtown development goals by giving to the City the parcel of land in the downtown that is presently used for BIW employee parking.

John Fitzgerald, Vice President and General Counsel of Bath Iron Works, gave an overview of the project that has brought forth this ordinance rezoning request.

Fred Denson of 8 East Lane spoke in favor of this change and asked Council to approve it.

ROLL CALL VOTE:

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

NAYS: None

Ordinance passed unanimously. 8-0

Chairman Wyman set second passage for February 3 at 6:03PM.

7) Order: Approving Provisional Use Permit - Kids Works

ORDER APPROVING PROVISIONAL USE PERMIT

WHEREAS, Kid Works Child Care is a business located in the building at 221 Washington Street on the campus of the Maine Maritime Museum; and

WHEREAS, Kid Works Child Care provides day-care services to approximately 40 children; and

WHEREAS, the building at 221 Washington Street, located on the campus of the Maine Maritime Museum, once housed a day care; and

WHEREAS, the Maine Maritime Museum is willing to extend the lease of this building to Kid Works Child Care; and

WHEREAS, a day care facility is not currently a permitted use at this site which is in the C 5 zone; and

WHEREAS, Kid Works Child Care's Provisional Use Permit previously approved by the City Council of the City of Bath expires after one (1) year on January 7, 2010; and

WHEREAS, Kid Works Child Care desires to continue to temporarily occupy the building at 221 Washington and use the building and site in accordance with all applicable state and local building and fire codes, and local site development requirements; and

WHEREAS, the City Council has the authority under Land Use Code Section 11.24 to issue Provisional Use Permits for uses otherwise not allowed by the Land Use Code for a period of time up to one year, and to allow one six (6) month extension; and

WHEREAS, the use of the property does not create a nuisance or hazard;

NOW, THEREFORE, be it ordered by the City Council of the City of Bath that Kid Works Child Care is hereby granted a Provisional Use Permit and authorized to use the building at 221 Washington Street as a daycare facility for a period of time not to exceed six (6) months, said Permit expiring on July 6, 2010.

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

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

City Planner James Upham stated the Land Use Code allows the City Council to permit uses in places on a temporary basis otherwise the Code wouldn't allow and this Provisional Use Permit is good for a year the Ordinance but allows the Council to extend this Use Permit for six months.

He reported the Council granted a Provisional Use Permit a year ago to allow this daycare to operate out of a building in the C5 Marine Business Zone and now they are asking for a six-month extension.

Maine Maritime Museum Director Amy Lent spoke asking Council to grant this extension so site issues can be worked out with the tenant and so they can keep the building in use. The Maine Maritime Museum would need to shut the building down if the extension is not granted.

VOTE:

YEAS: 7

NAYS: 1 (Rogers)

Ordinance passed. 7-1

G. Petitions & Communications 8:22 PM

Councilor Eosco asked to make the public aware that she has a blog (beonthesamepage.com) on line with pertinent City information listed.

I. Committee Reports, if any 8:23 PM

There were no Committee Reports.

J. Unfinished Business 8:23 PM

There was no unfinished business brought up at this time.

K. New Business 8:23 PM

***8) Annual Appointment of J. Scott Davis as Codes Enforcement Officer, Health Officer and Plumbing Inspector for one year, pursuant to State Statutes.**

This was taken up on the Consent Agenda.

***9) Annual Appointment of Donald McPherson as the Alternate Codes Enforcement Officer and Plumbing Inspector for one year, pursuant to State Statutes.**

This was taken up on the Consent Agenda.

10) Appointment one member to the Personnel Service Commission term to expire January 2013.

Councilor Pagurko nominated Karla Gagnon to fill the position on the Personnel Service Commission. Councilor Cochrane seconded the nomination. All were in favor of the appointment.

11) Appointment one member to the Bath Recreation Commission term to expire November 2012.

Councilor Pagurko nominated Kelly McKeller to fill the position on the Bath Recreation Commission. Councilor Cochrane seconded the nomination. All were in favor of the appointment.

12) Appointment one member to the Board of Assessment Review term to expire July 2012.

Councilor Cochrane nominated John Sunderland to fill the position on the Bath Board of Assessment Review. Councilor Paulhus seconded the nomination. All were in favor of the appointment.

13) Annual Appointments to Committees by Council Nominees:

Chairman Wyman read the following list of candidates for positions on Committees:

- Bath Housing Authority – Bernard Wyman
- Midcoast Council of Governments -
David Sinclair, Sean Paulhus, Kyle Rogers
- Patten Free Library – Andrew Winglass
- Recreation Commission – Wayne Cochrane
- Sidewalk Vending License Committee – Ruthe Pagurko
- Student Community Liaison Council – Wayne Cochrane
- Welfare Review Board – Ruthe Pagurko, Mari Eosco

The slate of candidates passed unanimously.

The meeting adjourned at 8:26 PM with a motion by Councilor Pagurko, seconded by Councilor Cochrane. All were in favor.

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.