

REGULAR MEETING MINUTES
City Council of the City of Bath, Maine
Wednesday, January 6, 1999 7:00 PM
City Council Chambers, Bath City Hall

The Regular Meeting of the Bath City Council was called to order by Chairman Hall at 7:00 PM on Wednesday, January 6, 1999 for the purpose of conducting business as listed on the agenda.

Chairman Hall opened the meeting with the Pledge of Allegiance.

ROLL CALL: Councilors Williams, James, Blake, Wyman, Hayden, Tibbetts, Rogers, Tainter and Chairman Hall.

Also in attendance were the City Manager, John Bubier, City Solicitor, Roger Therriault and Deputy City Clerk, Mary White.

C. PUBLIC HEARING: 1) Proposed New CDBG Housing Assistance Application and Report on Bath's Housing Improvement Program. – 7:00 PM

Chairman Hall read the Public Hearing Notice.

Motion by Councilor Blake, seconded by Williams to place item on the floor.

Chairman Hall opened the Public Hearing by recognizing Al Smith, Community Development Director. The following statement was given by Mr. Smith:

The City of Bath started the Housing Improvement Program (HIP) a year ago last August, providing low interest loans to multi-family property owners to address health and safety concerns. The Program was established through a \$300,000 Community Development Block Grant (CDBG) to the City. I am please to report tonight that HIP has been successful in accomplishing the goal of maintaining safe and decent affordable housing in Bath and helping to upgrade our neighborhoods.

The Housing Program has resulted in 8 loans involving 18 properties with 51 affordable housing rental units being addressed. These properties will meet or exceed HUD Housing Quality Standards and local safety codes. Taken as a whole, the properties represent a city-wide geographic balance and include both (small) one or two property(s) owners and (larger) multiple properties owners. The City also now has a Housing Revolving Loan Fund to continue this effort. Five projects are now completed and three are in progress (including BHDC Middle Street, 35-41 Elm Street, and Townhouse Realty at Hyde Park).

The City's Community Development Committee with input from the Housing Loan Review Committee is recommending that the City make application on January 29, 1999, for a 1999 CDBG Housing Assistance Grant. The new Housing application involves two components to continue addressing substandard housing conditions in Bath's low and moderate income neighborhoods and to promote greater LMI homeownership in these neighborhoods. These neighborhoods include, but are not limited to Middle/Walker, the South end, Lambert/Orchard Court, Hyde Park, and Tarbox Hill.

While we have made an important contribution in addressing substandard health and safety concerns in multi-family buildings, we know significant additional need exist. Therefore the CD Committee wants to seek funding in order to address the identified unmet need. If successful in the grant competition additional low interest loan funds would be available to additional interested homeowners. However, we have currently two active applications representing 23 units and have worked with four property owners in the Hyde Park neighborhood with interest in addressing a variety of unsafe and potentially health hazardous conditions including: electrical, plumbing, lead-based paint, asbestos materials, and heating systems. In addition, there are energy conservation measures which require attention including: converting from electric heat, lack of insulation, and installing replacement doors and windows.

Homeownership is generally recognized as an American dream which provides a stabilizing influence on community. As a second component, we are proposing to establish a homeownership initiative in the low and moderate income neighborhoods. This effort will both provide decent, affordable housing in the community and help to strengthen our neighborhoods with a better balance of owner occupied housing. The homeownership opportunities will be accomplished by partnering with community groups which currently operate low and moderate income first-time homebuyers programs. These groups include the Bath Housing Development Corporation, Coastal Economic Development Corporation, and Coastal Enterprises, Inc.

Prospective home buyers would be identified, provided homeownership classes, assisted in identifying potential houses, assisted through bank underwriting processes, and pre-qualified for soft second (deferred) mortgages funded by the CDBG funds. The goal will be to enable up to 10 low income families to become first time buyers and provide a model for subsequent efforts.

If the City is successful with the new housing proposal we will be holding a second public hearing, conducting an environmental review, and will be coming back to the City Council for a vote to accept the and to authorize implementation of the project.

Chairman Hall asked for any questions or comments from Council. There were none.

Chairman Hall opened the hearing to the public. There were none.

Chairman Hall closed the hearing at 7:15 PM.

Councilor James asked how many of the 18 properties and 51 rentals are single family dwellings and how many are owned by Bath Housing Authority?

Mr. Smith replied the first year had been focused on multi-family to best serve the public need and 3 buildings are owned by Bath Housing Development Corporation.

Councilor James also asked if Codes Enforcement Officer, Scott Davis was involved with identifying the worst properties?

Mr. Smith answered that Mr. Davis had been involved from the beginning and had helped with prioritizing the projects to be done first and he had been involved in the inspections also.

Councilor Blake asked Mr. Smith what the dollar amount of the proposed grant would be.

Mr. Smith stated the grant would be in the amount of \$300,000.

Mr. Smith stated that at a later date he would come before Council to have the Committee recognized for their efforts. He introduced Joanne Troy and Janice Wingate from the Bath Housing Authority, who were in the audience.

D. CONSENT AGENDA: – 7:20 PM

Chairman Hall introduced the Consent Agenda consisting of the following:

- 2) **Minutes of Previous Meetings of December 2, 10 and 16, 1998** (motion to approve as presented)
- K-4) Committee Appointments** (motion to appoint)
Personnel Service Commission – Dean Almy – term to expire January 2002
Zoning board of Appeals – Bruce Goodwin – term to expire September 1999
- K-5) Annual Appointment** (motion to appoint)
J. Scott Davis as Codes Enforcement Officer, Health Officer and Plumbing Inspector for the City of Bath for one year, pursuant to State Statutes
- K-6) Annual Appointment** (motion to appoint)
Robert Williamson as Alternate Code Enforcement Officer and Plumbing Inspector for the City of Bath

It was moved by Councilor Wyman, seconded by Councilor Tainter to accept the Consent Agenda as presented.

VOTE: Consent Agenda approved by Unanimous Vote 8-0

E. TIME DEVOTED TO RESIDENTS TO ADDRESS THE CITY COUNCIL: - 7:22 PM

No members of the public spoke at this time.

F. ORDINANCES, RESOLUTIONS AND ORDERS: 3) **Ordinance – Chapter 5. Businesses, Article 14. Manner of Sale of Tobacco Products – First Passage** – 7:23 PM

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 5. BUSINESSES

Add the following:

Article 14. Manner of Sale of Tobacco Products Section 5-401. Findings and Purpose.

The City Council of the City of Bath recognizes and finds that undeniable and substantial scientific and medical evidence indicates that the use of tobacco products leads to serious and life threatening medical problems such as cancer and heart disease. This Council further recognizes and finds that substances in tobacco are highly addictive and once engaged in the use of tobacco products, makes discontinuing their use difficult. Under these circumstances, the

Council finds that prevention by reducing accessibility to tobacco products by adolescents is in the public interest and in the interest of the safety, health and welfare of the inhabitants of the City of Bath. Therefore, the purpose of this Ordinance is to prohibit self-service sales, self-service displays, racks and shelves of tobacco products in environments which minors are allowed.

Section 5-402. Definitions.

The following words and phrases, whenever used in this Article, shall be construed as defined in this Section:

1. “Business” means any sold proprietorship, joint venture, corporation or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional services are delivered in the City of Bath.
2. “Exempt Business” means any business except tobacco specialty stores that does not allow anyone under eighteen (18) years of age to enter unless accompanied by an adult. These establishments will be exempt from the Ordinance as written.
3. “Person” shall mean any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee, or any other legal entity.
4. “Self-service merchandising” means open display of tobacco products and point-of-sale tobacco products that the public has access to without the intervention of an employee.
5. “Tobacco product” means any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco, snuff or any other form of tobacco which may be utilized for smoking, chewing, inhalation or other manner of ingestion.
6. “Tobacco retailer” shall mean any person or governmental entity that operates a store, stand, booth, concession, or other place at which sales of tobacco products are made to purchasers for consumption or use in the City of Bath.
7. “Vendor assisted” means only a store employee has access to the tobacco product and assists the customer by supplying the product. The customer does not take possession of the product until it is purchased.
8. “Vending machine” means any automated, self-service device which, upon insertion of money, token or other form of payment, dispenses cigarettes or any other tobacco product.
9. “Tobacco specialty store” shall mean a tobacco retailer whose business exclusively or primarily involves the sale of tobacco products and related goods.

Section 540.3. Regulation of Manner of Sale of Tobacco Products.

- A. It shall be unlawful for any person, business, or tobacco retailer, except tobacco specialty stores which do not allow persons under the age of eighteen (18) to enter the premises, to sell, permit to be sold, offer for sale or display for sale any tobacco products by means of self-service merchandising.
- B. Any person, business, tobacco retailer, or owner, manager or operator of any establishment subject to this Ordinance shall eliminate the self-service merchandising, vendor assisted counter displays, vending machines of tobacco products except for exempt businesses as herein defined, no later than February 10, 1999.

Section 5-404. Enforcement.

- A. Enforcement of this Ordinance shall be the responsibility of the Chief of Police or his or her designee.

Section 5-405. Violations.

Any person who owns, manages, operates or otherwise controls the use of any premises subject to this Ordinance, where tobacco products are sold, shall be subject to the terms and conditions of this Ordinance and any failure to comply with its terms and conditions shall be considered a violation thereof.

Section 5-406. Penalties.

Any person, business, tobacco retailer, or owner, manager or operator of any establishment subject to this Ordinance who violates any provision of this Ordinance shall be deemed guilty of a civil infraction, punishable by:

- 1) First violation, a fine, not exceeding one hundred dollars (\$100.00), payable to the City of Bath.
- 2) Second violation within one year, a fine, not exceeding five hundred dollars (\$500.00), payable to the City of Bath.
- 3) For a third or more violation within one year, a fine, not exceeding one thousand dollars (1,000.00), payable to the City of Bath.

Each day that a violation continues, shall constitute a separate offense and each shall be subject to the penalties noted above.

Nothing herein shall prohibit enforcement of this Ordinance through injunctive relief or other appropriate court order.

Section 5-407. Other Applicable Laws.

This Article shall not be interpreted or construed to permit tobacco vending machines and distribution of tobacco product samples where they are otherwise restricted by other applicable laws.

Ordinance highlighted by Chairman Hall.

Motion by Councilor Tainter, second by Councilor Wyman to place the item on the floor for discussion and consideration.

Councilor James informed the Council that the School Board unanimously endorses this ordinance both the spirit and proposed execution.

Councilor Blake brought attention to two typing errors. The first in Section 5-402. 1. Business the sold should be sole and second the end of the last sentence in Section 5-401. Findings and Purpose should say “products in environments in which minors are allowed”

Councilor Rogers asked for some clarification pertaining to displays. He asked if a wall display only accessible by removal from the wall would be allowed by this ordinance.

Solicitor Therriault answered that it would as that would not be self-serve.

Chairman Hall then opened the floor to public comments.

The following people spoke in favor of the ordinance and urged the Council to give the Ordinance First Passage.

Phyllis Wolfe, 59 Lemont Street, mother of three teenage daughters and public health educator works in the field of tobacco control.

Ann London, 250 Centre Street, mother of two young sons and her father and grandfather died of tobacco related illnesses.

Karla Gordon RN, BSN, Bath resident, mother of two children, and Health Occupations Instructor for Bath Regional Vocational Center, Morse High School.

Amanda Hamlin, student of the Bath Regional Vocational Center, Morse High School, Health Occupations Class.

Gordon Reed, 15 Mechanic Street, President of PTSA, member of Accreditation Committee for Morse High School and a member of the Let’s Talk group.

Megan Hannan, 176 Washington Street, Director of Advocacy, American Cancer Society.

Chris Barber, Bath resident, Occupational Health Nurse for Bath Iron Works and Co-chair for ACCESS.

Reverend Gregory S. Vinson, 516 Middle Street, clergy from the Elim Assembly of God in Bath and had a grandfather die of lung cancer.

Kimberly Brackett, Bath resident, mother of three children and co-owner of Brackett’s Market.

Chris Toy, Bath resident.

Chairman Hall closed the public comment section and opened the floor to Council comments.

Councilor Blake asked how long the merchants had to make the changes after passing.

Chairman Hall and Solicitor Therriault concurred the Ordinance would go into effect 21 days after final passage which would be February 10, 1999.

The Council discussed the possibility of extending the date of enforcement from February 10, 1999. It was decided that would be possible.

Councilor Rogers asked Councilor Tainter what the origin of the ordinance was and was it similar to Freeport's ordinance.

Councilor Tainter replied a Committee did the work and that it was very similar to the Freeport ordinance.

Councilor Rogers again voiced a problem with the language of vendor assisted.

Through the Chair, Mr. Toy was asked if Freeport merchants are allowed to have vendor displays on the counter.

Mr. Toy replied that Freeport merchants are allowed to have vendor displays on the counter.

Councilor Rogers expressed concern to the loss of income to merchants from tobacco firms if counter displays are denied.

Through the Chair, Kimberly Brackett was asked if vendor displays on the counters would be of great importance to merchants.

Ms. Brackett replied she did not think counter displays were of great importance.

Councilor Tainter reiterated the need for this ordinance for the benefit of the youth. He also expressed his appreciation for all of the citizens that have put their support behind this ordinance and hoped the Council would make a unanimous vote in support of the Ordinance.

Councilor James thanked everyone for coming and showing their support for the Ordinance and he was in favor of the Ordinance.

Councilor Williams as a former smoker, parent, concerned citizen and councilor she enthusiastically support this effort to take this first to protect the kids.

Councilor Rogers stated that he has some concerns with the wording but did support the Ordinance. He also did not want to see this hurt any small businesses do to the cost to comply with the Ordinance and just wanted to make sure the action taken is done fairly.

Councilor Wyman said he was in favor of the Ordinance and it would help the youth and the storeowners by stopping the pilferage.

Councilor Tibbetts voiced his opinion as the only smoker on the Council. He said he felt the same way about alcohol as the people that had spoken felt about tobacco. For this passage, he would support the Ordinance, but may oppose it in the future.

Chairman Hall sent the Ordinance to vote for First Passage.

VOTE: On Ordinance – First Passage approved by Unanimous Vote 9-0

Chairman Hall set the Public Hearing date for Second Passage of this Ordinance for January 20, 1999 at 7:01 PM

G. PETITIONS & COMMUNICATIONS: - 8:21 PM

No petitions or communications received.

H. CITY MANAGER'S REPORT: – 8:22 PM

- 1) Wished everyone Happy Holidays and a terrific New Year.
- 2) YMCA- solved water issues.
- 3) Call In Shows – Recreation Department with Jack Hart on January 26, 1999.
- 4) National League of Cities – Involved with Small Cities Council which gives Bath greater access to federal programs and programs that will allow us to match up local tax dollars with specific programs that the Council agrees to place forward.
- 5) Legislative Contact – State Legislators have been very good about keeping us informed and working on our behalf on issues that pertain to us.
- 6) BIW Relationship – Has been enhanced because of Rusty Robinson at the land-level facility.
- 7) Bath Business Association - Through Monthly and Retail Mix meetings the Association this allows them to give input to city government.
- 8) Urban Compact and Regional Centers Initiative – Allows cities like Bath access to additional planning and operation funds from State Planning Office and Department of Transportation and Housing and Urban Development.
- 9) Library – Jim Kemp from the Library has asked what they can do for the community. Possible book mobile for areas like the Moorings.
- 10) University of Maine Bath/Brunswick Center – Possibility of using building space in Bath if their expansion takes place.
- 11) Intelligent Transportation Systems – Systems are being used here in Bath such as the Alpha Numeric Board which addresses speed issues. Possible message board across the Congress Avenue bridge to give traffic info to commuters coming into Bath from the south.
- 12) Tree City USA – Will be applying again this year.
- 13) Landfill – Not considered a bad landfill by DEP. Up coming issues: Should we continue to be a taker of all waste from all comers? Maybe banking access landfill revenues to rebuild landfill or transfer station.
- 14) 1999-2000 Budget – Department Heads have been told to have the first cuts of budgets in by February 15, 1999.
- 15) Bus Issues – The Hudson Bus/BIW Shuttle is experiencing losses. We are working with MDOT and the bus system to find some help for the bus system so that they will continue to run, thus keeping the traffic volume down.
- 16) Personnel Retirements – Dennis Belanger, Fire Chief and George Sargent, Finance Director will be retiring at the end of this month. Greg L'Heureux is Acting Finance Director.
- 17) Chocolate Church - Would anyone on Council be interested in participating in the Chocolate Jubilee Tambourine Line? Performance March 18, 19, 20 and 21, 1999 and rehearsals believed to be on Thursdays at 4:30 PM.

I. COMMITTEE REPORTS & J. OLD BUSINESS: – 8:37 PM

Sagadahoc County Budget Committee – Councilor Tainter – The Committee of 9 people worked very hard to keep the tax down. Bath’s tax was a little less than last year.

Chairman Hall asked for some recommendations for members to LDC and for 2 citizen members for the 911 Appeals Board.

Chairman Hall reported that he should be hearing from the Parking Study, Transportation Study and the Waterfront Study sometime in late January or early February.

Chairman Hall asked Councilor Tibbetts, of the Finance Committee, as to the status of the Six Month Budget Report.

Councilor Tibbetts said that the Committee has not yet received the Six Month Budget Report, but should be receiving it soon. The Committee did obtain the First Quarter Final done on the new system and have worked out most of the bugs. The six month report should reflect this very well.

Chairman Hall reminded the Council that they would be needing to schedule a meeting soon to discuss the drafting of the *1999 Goals, Tasks and Objectives of the Bath City Council* and to start thinking about what they would like to do concerning this.

Chairman Hall relayed to the Council that they should have a meeting or discussion on consolidated dispatch in the very near future.

K. NEW BUSINESS: – 8:41 PM

Councilor James informed the Council and the public of a grass roots effort to name the first SC-21 Class of ship built in Bath the USS BATH. Her sister ship built down south will be named USS NEW ORLEANS. Senators Snow and Collins, Representatives Allen and Baldacci, and Governor King will be writing letters to Secretary of the Navy on this issue. The Maine State Legislature will be passing a bill regarding this. The elementary school students will be writing the Secretary also. He would like the Council to authorize the City Solicitor to draft a Resolution supporting this effort.

It was decided to have the City Solicitor draw up the Resolution and the Councilors would sign it.

ADJOURN:

Motion by Councilor Tainter, seconded by Councilor Rogers to recess to workshop. All in favor. Meeting recessed at 8:45 PM and workshops began at 8:55 PM.

WORKSHOPS:

- 1) Presentation regarding status of Carlton Bridge (reuse, etc.)
Tom Doe, DOT Bridge Engineer
- 2) PEG (Public, Education and Government) Cable TV Channel presentation

Laura Brill, Bath Cable Committee Chairwoman

At 10:00 PM, it was moved by Councilor James, second by Councilor Wyman to go into Executive Session for the purpose of discussing a personnel matter.

VOTE: To go into Executive Session approved by Unanimous Vote 8-0

Councilor Tibbetts motioned to extend the 10:00 PM closing time for Council Meetings. Seconded by Councilor Blake.

VOTE: To Extend Meeting Ending Time approved by Unanimous Vote 8-0

EXECUTIVE SESSION:

Personnel matters.

At 10:30 PM it was moved by Councilor Tainter, seconded by Councilor Tibbetts to come out of Executive Session.

VOTE: To Come Out of Executive Session approved by Unanimous Vote 8-0

On motion by Councilor Hayden, seconded by Councilor Williams it was moved to adjourn the meeting.

VOTE: To Adjourn approved by Unanimous Vote 8-0

Meeting Adjourned at 10:31 PM.

Respectfully submitted:

Mary J. White, Deputy City Clerk

Please note: These minutes are not recorded verbatim. A tape recording of the meeting is available for review in the City Clerk's office during regular business hours.