

SPECIAL MEETING MINUTES
City Council of the City of Bath, Maine
Wednesday, March 17, 1999 7:00 PM
City Council Chambers, Bath City Hall

Present: Councilors Williams, James, Blake, Wyman, Hayden, Tibbetts, Rogers, Tainter and Chairman Hall

Also Present: City Manager Bubier, City Solicitor Therriault and City Clerk White

Chairman Hall called the meeting to order at 7:00 PM.

I. RESOLUTION – Regarding Improvements to Leeman Highway - 7:01 PM

Chairman Hall read the following resolution:

RESOLUTION REGARDING
IMPROVEMENTS TO LEEMAN HIGHWAY

WHEREAS, the Route #1/Leeman Highway corridor is not just an intrastate roadway but also is an integral part of the City of Bath, and

WHEREAS, the current configuration of the Route #1/Leeman Highway corridor, promotes the exodus of traffic from the City rather than acting as a gateway to the City and promoting the City of Bath as a destination point, and

WHEREAS, the corridor itself provides virtually no connectivity between the North and South sides of the highway for people or vehicles which results in the highway becoming a physical, visual and psychological barrier between the North and South areas of the City of Bath, and

WHEREAS, limited crossover access and connectivity provide inadequate crossing points, creating traffic congestion at highway access points, and

WHEREAS, the corridor has little landscaping, screening and other aesthetic embellishments making for a stark and unattractive gateway to the City, and

WHEREAS, the corridor offers minimal connection with the downtown area and little integration in spite of the interrelationships between the two primary business areas in the City, and

WHEREAS, the development of the corridor area is inconsistent with the historical heritage of the downtown Bath area and other areas within the community, and

WHEREAS, the directional signage is inconsistent, often confusing, and not compatible with historic signage in other areas of the City, and

WHEREAS, the current corridor configuration presents safety problems with respect to the movement of traffic due to excessive curb cuts on each side of the highway, the speed of vehicles utilizing the highway, and the virtual unenforceability of speed regulations due to an inability to cross over and access traveling vehicles headed in the opposite direction, and

WHEREAS, the development over the years and current status of the Route #1/Leeman Highway corridor, in addition to the visual, psychological and integrational problems it has caused, also has resulted in vacant or underutilized parcels of land adjacent and near the corridor which should be available to support economic development, provide new economic facilities, increase the City's tax base, and diversify its economy.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Bath that this City intends to focus its attention, with the anticipated cooperation of the Maine Department of Transportation and other related State and local entities, on improving the Route #1/Leeman Highway corridor as a gateway to the City of Bath by improving connectivity between the North and South areas of the Leeman Highway in order to remove the corridor as a barrier between the North and South sections of the City, by improving the visual aspects of the gateway, by integrating the gateway with land to the North and South of the gateway and the downtown area, by providing appropriate signage and recognizing the gateway's relationship with the rest of the historic areas of the City of Bath, by addressing safety issues regarding traffic utilizing the corridor, and by providing an opportunity to develop and redevelop property on either side of the gateway for the benefit of the City and its Inhabitants. The City further pledges its cooperation, which it hopes will be reciprocated, with the Maine Department of Transportation and other agencies, organizations and citizens, to achieve these goals and objectives.

Motion to put the resolution on the floor for discussion by Councilor James, seconded by Councilor Blake.

Chairman Hall asked for preliminary Council comments.

Councilor Blake made a comment that the resolution was long overdue.

Chairman Hall asked for public comment. There was none.

Chairman Hall asked for Council comment.

Councilor James stated that he asked that this resolution be drafted because he felt that it was important for the Council to articulate the City's plans for Leeman Highway and Route One to help commercial development along the highway.

Chairman Hall asked for a vote on the resolution.

Vote on Resolution:

Yeas: 8

Nays: 0

Unanimous vote to accept.

II. ORDINANCE – Amendment Land Use Code; Article 7. Zoning Districts Section 7.16. Highway Business District - C IV and Section 7.18. Commercial District - C II (Cottage Street) – (first passage) 7:06 PM

Chairman Hall 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 DECEMBER 7, 1983, AND SUBSEQUENTLY AMENDED, BE FURTHER AMENDED AS FOLLOWS:

ARTICLE 7. ZONING DISTRICTS Section 7.16. Highway Business District - C IV Delete the following:

"Thence running westerly by the southerly line of Lot #201 on Map #31 to a right of way;

"Thence running southerly Ten (10) feet by the right of way;

"Thence running westerly across the right of way and by the southerly line of Lot #207 on Map #30 to Cottage Street;

"Thence running southerly by Cottage Street to the westerly extension of Quimby Street;"

Replace with the following:

"Thence running westerly along the southerly line of Lot #201 on Map #31 to the easterly line of Lot #201A on Map #31;

"Thence running southerly by Lot #201A on Map #31 to the northeasterly corner of Lot #214 on Map #31;

"Thence running westerly by the southerly lines of Lot #201A on Map #31 and Lot #208 on Map #30 to Cottage Street;

"Thence running northerly by Cottage Street to the easterly extension of Quimby Street;"

Section 7.18. Commercial District - C II

Delete the following:

B. Western District in its entirety.

Replace with the following:

"Lot 202A on Map #31 in its entirety;

"The easterly corner of Lot #210B and the northerly corner of Lots #210A and #214 on Map #30."

Councilor Wyman made a motion to put this Ordinance on the floor for discussion, seconded by Councilor Blake.

James Upham, City Planner, explained why the request for this change had come about. The applicant had requested this change be made so that he could build a hotel which at the present time is not allowed in this District. The Planning Board had made a recommendation to Council against the change with a 3 to 2 vote.

Chairman Hall asked for any preliminary Council comment. Seeing none, he then asked Mr. Upham to explain some of the differences between C II and C IV.

Mr. Upham gave the following list of uses for the two Districts:

C II - Commercial Support District:

Business Services/Business Offices	Finance/Insurance/Real Estate Offices
Single Family/Two Family Dwellings	Mortuary/Funeral Parlors
Professional Offices	Home Occupations
Retail Uses => 5,000 sq. ft.	Garage Sales
Certain Commercial Parking Facilities	Schools
Government Buildings and Uses	Hospital/Nursing Home/Convalescent Homes
Day Nursery/Nursery School/Kindergarten	Restaurant Classes I and III
Non Residential Institution of Educational/Religious/Philanthropic/Fraternal /Social	

C IV - Highway Business District:

Hotels/Motels	Multi Family Housing /Mixed Use Project
Retail/Wholesale Establishments	Personal/Business Services
Finance/Insurance/Real Estate Offices	Automotive Dealers
Retail Nurseries/Lawn Care/Garden Stores	Restaurant Classes I, II, III, IV
Drive-In Restaurant	Veterinary Services
Theaters/Entertainment/Recreational Services	Professional Offices
Commercial Parking Facility	Farm Stand
Communication Facility	Arts and Crafts Studios
Mortuary/Funeral Parlor	Miscellaneous Repair Services
Home/Business Offices	

Councilor Rogers asked if under the present zoning he could open a restaurant similar to J.R. Maxwells in the C II zone.

Mr. Upham stated that this would be possible if the site plan for the establishment met approval criteria of the Ordinance.

Chairman Hall opened the floor to public comment.

The following Bath residents spoke against the zone change:

Brian Mulligan, 46 Western Avenue, would like to see this stay as a C II to be used a buffer zone for the neighborhood.

William Quimby, 28 Farrin Street, would like to see the C II stay because the street cannot handle the traffic that would come with a C IV change.

Joanne Pottle, 39 Western Avenue, opposed the change because she runs a day care in this area and the safety issue of the children playing in her backyard is of great concern to her.

Kate Bussey, 700 High Street, stated that this is an exciting time in Bath concerning development, but that this change for this area is not necessary to continue this growth.

Thomas Littlefield, 40 West Street, stated that his children attend Ms. Pottle's daycare and he also is concerned with the safety issue. Mr. Littlefield asked why the developer couldn't look at an already specified C IV zone?

Barbara Reinertsen, 69 Western Avenue, opposed this change because it would prove to be damaging in terms of quality of life and traffic and would not promote the historic character of the City.

Susan Musk, 32 Farrin Street, opposed this change due to the threat of losing the preservation of the neighborhood on which Bath has been founded.

The following Bath residents spoke in favor of the zone change:

Jayne Palmer, 300 Front Street and owner of Gediman's, Inc. at 67 Centre Street, stated that the City needs to attract quality business to increase its tax base.

Michael Quigg, 10 Marshall Avenue and owner of Beale Street Grill at 215 Water Street, hoped that the Council would consider this change, as the viable lots for specific businesses are limited and they will have to decide whether to continue on with the growth of the region or step back. Mr. Quigg also thank the Council for all their hard work.

William Hahn spoke for the applicant that put in for the zone change. He stated that he had met with the neighbors and a lot of issues were raised during that meeting. Most of them were site plan issues and could be addressed. The reason that the zone change was applied for was because the Comprehensive Plan designates that district where the site on which his client wants to build is located as a Contract Highway Commercial Zone. When this zoning is revised to match the Comprehensive Plan, then there will be little difference between what is noted as C IV and what is noted in the Plan for this District.

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

Councilor Blake asked Mr. Upham there is any information on how much traffic is generated by different businesses.

Mr. Upham stated that he did not have that information with him, but there were manuals prepared by The Institute of Traffic Engineers, called the *Trip Generation* Manual that he could borrow should this go to a second vote and would supply that information at that time.

Mr. Hahn stated that he had made such a query and had been told that a 60 room hotel at the peak hour would generate 30-36 trips and restaurants seating 140 people would be just under 100 trips during their peak hour. A hotel has 1 peak hour and with a restaurant there are considerably more near peak hours.

Councilor James stated that he was concerned with what was best for the neighborhood. The zone never should have been a C II in the first place. He would like to see MDOT fix Leeman Highway/Route One to be two way turning traffic before the Council goes ahead with any change to this zone. Councilor

James would like to see the City Manager and City Planner work with the developer to find another more suitable area for this project. He also stated that if this ordinance was to pass this would be the first time that the Planning Board's decision had been overturned by the Council in 25 years. This action would reflect poorly on the Council promoting distrust in local government.

Councilor Rogers stated that it was the Council's obligation to oversee the decisions of the City's committees. He was concerned that no one had mentioned the right of the land owner in this instance, and the land owner was more or less being told who to sell his land to. He pointed out that the Council has to be careful of the negative signals it could be sending out to prospective businesses that want to locate here. Councilor Rogers asked to have the rules waived so that he could ask Mr. Hahn why he had not looked elsewhere.

The Council agreed to waive the rules and allow the question.

Mr. Hahn stated that he had looked at other sites, but he was able to negotiate the sale of this one and it fit the bill for the project.

Councilor Blake replied that she also believed that it was the duty of the Council, given them by the Charter, to oversee the decision of various committees. She also made reference to a decision by Council not to take a Planning Board recommendation concerning a project on a parcel of land at the corner of Front and Linden Streets in 1996, to the best of her recollection. Therefore, Council had seen fit before not to agree with the Planning Board's recommendation.

Councilor Williams stated that she felt that the change would give the City more control over the buffering aspect for the neighbors. The traffic could be even worse if a nursing home were to go in this area. She hoped that the neighbors would review the uses now allowed by the C II zone and compare them to the proposed project.

Councilor Tibbetts stated that in the many years since 1981 he had been on the Council, they had seen fit to not go with the recommendations of boards and commissions numerous times, including the Planning Board. He expressed some concern as to the misconception that if this proposal (hotel) did not get the go ahead that the lot would remain vacant. Councilor Tibbetts reiterated that this was not so and that no matter how the Council voted on this ordinance, the property would not be protected from being bought and built on by some other type of business that could prove to be more harmful to the neighborhood.

Chairman Hall asked for any more Council comment. Seeing none, he called for a roll call vote:

Vote on First Passage of this Ordinance:

Yeas: Williams, Blake, Wyman, Hayden, Tibbetts, Rogers, Tainter

Nays: James

Ordinance got First Passage 7-1.

Chairman Hall set the Public Hearing for Second Passage of this Ordinance for April 7, 1999 at 7:03 PM.

RESOLUTION - Authorizing the Transfer of Cable Television Franchise – 7:50 PM

Chairman Hall read the following Resolution:

CITY OF BATH
RESOLUTION AUTHORIZING THE TRANSFER OF
CABLE TELEVISION FRANCHISE

WHEREAS, Casco Cable Television, Inc. ("Casco Cable") currently owns the cable television system (the "System") operating in the City of Bath ("City") pursuant to a cable television Franchise Agreement dated December 14, 1998 and effective January 1, 1999 (the "Franchise"); and

WHEREAS, Section 11.1 (a) of the Franchise Agreement provides that approval of the City is required prior to a transfer of twenty percent or more of the ownership of Casco or a parent; and

WHEREAS, Susquehanna Pfaltzgraff Co. ("Susquehanna Pfaltzgraff") which is the ultimate parent of Casco Cable ("Casco") intends to convey to its employees up to a 30% interest in Susquehanna Pfaltzgraff; and

WHEREAS, Susquehanna Pfaltzgraffs intent in making the transfer is to allow employees to share financially in the future success of the Company and to ensure the continuity of Susquehanna Pfaltzgraff; and

WHEREAS, the transfer will not affect the control of Casco or the operation of cable system and Casco will continue to comply with all requirements of the Franchise Agreement; and

WHEREAS, Casco has requested the City to consent to the transfer of shares of its ultimate parent to its employees as described above;

NOW THEREFORE, BE IT RESOLVED by the City acting through its City Council as follows:

1. The City hereby approves and consents to the transaction described above by which such Susquehanna Pfaltzgraff will transfer up to a thirty (30%) percent interest in Susquehanna Pfaltzgraff to its employees on the condition that (a) the transaction will not directly affect the ownership of Casco Cable or its parent, Susquehanna Cable Co. ("Susquehanna Cable"), will not affect the control of Casco Cable or Susquehanna Cable, and will not affect the operation or management of the System, and (b) Casco Cable will continue to comply with all requirements of the Franchise.

A motioned was made by Councilor Wyman, seconded by Councilor Tainter to put this Resolution on the floor for discussion.

Councilor Blake noted that there was a typo in the fifth paragraph "effect" should be changed to "affect". It was so noted.

Chairman Hall asked for any public or Council comment. Seeing none, he asked for a vote.

Vote on accepting the Resolution:

Yeas: 8

Nays: 0

Unanimous to accept.

IV. RESOLUTION - Authorizing Settlement Regarding Portland Bangor Waste Oil Site in Wells, Maine – 7:55 PM

Chairman Hall read the following Resolution:

RESOLUTION AUTHORIZING SETTLEMENT

WHEREAS, the City of Bath, along with 2,900 other parties, have been identified as potentially responsible parties with respect to the cleanup and remediation of the uncontrolled hazardous waste site known as the Portland Bangor Waste Oil Site, located in Wells, Maine; and

WHEREAS, the City of Bath has an opportunity to participate in settlement of any and all claims against the City by the Maine Department of Environmental Protection, relating to the PBWO Wells Site; and

WHEREAS, the settlement funds and settlement documents are to be held in escrow by the Escrow Agent,

State Street Bank of Boston, until all settlement terms and conditions are met;

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Bath that the sum of \$1,400.00 be and hereby is authorized to be spent from the Council Contingency Fund for payment into the Escrow Account in order to satisfy and settle fully and finally all potential claims by the State of Maine through the Maine Department of Environmental Protection with regard to any liability by the City of Bath relating to the Portland Bangor Waste Oil Site in Wells, Maine;

AND BE IT FURTHER RESOLVED that the City Manager by and hereby is authorized to execute all settlement documents and any other documents that are necessary and appropriate to carry out the settlement on behalf of the City of Bath.

A motioned was made by Councilor Wyman and seconded by Councilor Williams to put this Resolution on the floor for discussion.

Chairman Hall asked for public or Council comment. Seeing none, he asked for a vote on the Resolution.

Vote on accepting the Resolution:

Yeas: 8

Nays: 0

Unanimous to accept.

RESOLUTION - Concerning Education Funding By the 119th Legislature – 8:00 PM

Chairman Hall read the following Resolution:

CITY OF BATH
RESOLUTION CONCERNING
EDUCATION FUNDING

Resolve: Concerning Education Funding By the 119th Legislature

By: Bath City Council

RESOLVED,

WHEREAS, the education of our youth is of critical importance to the future of our State, our economy and the social fabric which makes communities in Maine special places to live, to work, and to raise a family; and

WHEREAS, since the founding of our Republic, a strong public school system has been recognized as the central foundation of American democracy; and

WHEREAS, our public schools have borne the brunt of eight long years of inadequate state funding which has required that school systems address short-term problems as opposed to long-term needs and investments; and

WHEREAS, the financial needs associated with public education have been a major factor in developing overdependence of the State's tax system on the property tax; and

WHEREAS, in 1991, the total state share of 51.27% has, by 1998-99, fallen to 44%; and

WHEREAS, the total 'so-called' optional local appropriation raised from local property taxes has increased from \$99.6 million for FY '91 to \$265 million for FY '96; and

WHEREAS, for FY '91, General Purpose Aid was 34.4% of the General Fund and has fallen to 27.3% in FY '99; and

WHEREAS, a return to Majority State Funding (55%) in FY 2000 requires an additional \$171.2 million from General Fund Revenue; and

WHEREAS, directing state revenues toward education funding will assist in addressing the educational needs of our children and provide essential property tax relief to our citizens; and

WHEREAS, while the State of Maine enjoys the healthiest economy and highest State revenues since 1991 and the State Rainy Day Fund is financially secure, our State faces the Prospect of long-term economic austerity unless we invest wisely *in our* State's future development through funding and supporting our public schools,

NOW, THEREFORE, BE IT RESOLVED by the Bath City Council

THAT: We hereby call upon the Governor and our State Legislature to adopt the following funding plans and priorities.

Set a three-year plan for returning to full state funding of education 55% state share - (57 million new dollars per year for three years). In order to provide equal opportunities to learn for all Maine children; to implement Maine's Learning Results and move toward an essential programs and services model for funding K-12 education, full funding must be achieved;
Approve legislation for two \$40 million construction bond issues in each of the next two years;
Pass a \$7 million bond for the Purchase of buses in order to address the aging bus fleet problem;
Make available a minimum of \$2 million each year for funding professional development tied to Learning Results implementation;
Include in the three-year funding plan the progress toward the full funding of out-of-district placements in accordance with the law (excess of three times the secondary per pupil cost); and
Phase out the hardship Cushion as the three-year funding plan is phased in;
BE IT FURTHER RESOLVED: that copies of this resolve be sent to the Governor, appropriate members of the State Legislature and Maine School Management Association .

Motion by Councilor James and seconded by Councilor Blake to put this Resolution on the floor for discussion.

Councilor James asked to go through the Chair to have the City Manager make a comment on this Resolution.

City Manager Bubier stated that one of the top economic development tools on which to promote the City of Bath would be a strong viable Education System. In the past ten years, the State has turned the funding of education back to the communities through their property taxes. This resolve addresses this problem. He asked the Council to support this resolution.

Councilor Tibbetts asked to have following Amendments to the Resolution:
On page 2 - after Now, Therefore change "Bath School Board" to "Bath City Council"; third sentence after the first bullet change "Leaning" to "Learning"; after the forth bullet change "Leaning" to "Learning"; in the last sentence delete "and the Bath City Council" and place an "and" between Legislature and Maine. These were so noted.

Councilor Blake asked to have a typo on page 1 corrected also. The change to be made was after the fifth Whereas, change "off" to "of". This was so noted.

Chairman Hall asked for a vote on the Amendments that had been made to the Resolution.

Vote on accepting Amendment to Resolution:
Yeas: 8
Nays: 0
Unanimous to accept.

Chairman Hall asked for any other Council comments on the Amended Resolution. There were none so he called for a vote on the Amended Resolution.

Vote on accepting Amended Resolution:
Yeas: 8
Nays: 0
Unanimous to accept.

IV. APPOINTMENT - Frederick Clarke, Bath Housing Authority Board of Directors (term to expire 2/2004) – 8:15 PM

Chairman Hall explained that the ruling on residence for the Bath Housing Authority had been addressed by the City Solicitor and everything was in order.

Councilor Tibbetts made a motion to appoint Frederick Clarke to the Bath Housing Authority Board of Directors and it was seconded by Councilor Tainter.

Chairman Hall asked for a vote on this appointment.

Vote on accepting Appointment:

Yeas: 8

Nays: 0

Unanimous to accept.

Chairman Hall asked for a motion to adjourn to workshop.

Motion by Councilor James and seconded by Councilor Williams to adjourn the meeting to workshop.

Unanimous in favor

Meeting adjourned to workshop at 8:17 PM

Respectfully submitted:

Mary J. White, 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.