

REGULAR MEETING MINUTES
City Council of the City of Bath, Maine
Wednesday, September 5, 2001 7:00pm
City Council Chambers, Bath City Hall

Present: Councilors Banks, James, Blake, Wyman, Hayden, Tibbetts, Rogers, Reed and Chairman Hall.

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

Chairman Hall led the Pledge of Allegiance and City Clerk White called the Roll.

C. Public Hearings:

1) Liquor License for Smitty's at 166 Front Street - 7:01 PM #106

Chairman Hall opened the Public Hearing.
There were no comments.

VOTE: on Smitty's Liquor License:

Yeas: 8

Nays: 0

VOTE: Liquor License Approved 8-0

2) Special Amusement License for Smitty's at 166 Front Street - 7:03 PM #150

Chairman Hall opened the Public Hearing.
There were no comments.

VOTE: on Smitty's Special Amusement License:

Yeas: 8

Nays: 0

VOTE: Special Amusement License Approved 8-0

D. Consent Agenda: 7:04 PM #184

Under the Consent Agenda, the Minutes for the August 1, 2001 Council Meeting were motioned for acceptance by Councilor Wyman and seconded by Councilor Banks.

VOTE:

Yeas: 8

Nays: 0

Consent Agenda passed unanimously.

E. Time Devoted to Residents to Address the City Council: 7:05 PM #198

No one from the public spoke at this time.

F. Ordinances, Resolutions and Orders: 7:06 PM

Item F4 - ORDER: Appointing City Tree Warden #217

Chairman Hall read the following Order:

**ORDER
APPOINTING CITY TREE WARDEN**

WHEREAS, the City, through the Forestry Division and Community Forestry Committee, has shown concern with the community forest as a valuable part of the Cities infrastructure and,
WHEREAS, State law Title 30A § 3282 provides municipalities the power to appoint a Tree Warden annually and,
WHEREAS, said law gives the Warden control of the care of the municipal trees and the power to enforce all laws relating to the preservation of those trees and,
WHEREAS, Bath City Council adopted a forestry ordinance May 7,1993 and,
WHEREAS, Tom Hoerth has worked in the capacity of the City Forester and has shown his abilities in the care and concern for the City's trees and,
WHEREAS, Thomas Hoerth is qualified by virtue of his experience, licensure and position as City Forester/Arborist,
NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Bath that Thomas Hoerth is hereby appointed as the City Tree Warden for one year from this date.

Motion by Councilor Banks, second by Councilor Wyman to put this Order on the floor for discussion.

VOTE: on the Appointment:

Yeas: 8

Nays: 0

VOTE: Appointment Passed Unanimously 8-0

Item F5 - PROCLAMATION: Chocolate Church Arts Center #259

Chairman Hall read the following Proclamation:

PROCLAMATION

Whereas the Chocolate Church Arts Center was founded in Bath 25 years ago to foster the enjoyment of, understanding of, and participation in the performing and visual arts;
Whereas the Chocolate Church Arts Center helps to make Bath a great place in which to live by adding to the cultural vitality of the community;
Whereas the Chocolate Church Arts Center creates opportunities for youth and furthers the breadth, depth, and quality of music, theater, and visual arts for all ages;
Whereas the Bath City Council believes strongly in the value of arts in a healthy community;
Whereas the Chocolate Church Arts Center is a leader of the performing and visual arts in the region:
Whereas arts and cultural activities also add to the economic vitality of Bath;
Whereas the Chocolate Church Arts Center is a positive example of this economic vitality, attracting many hundreds of people to Bath for each performance and exhibit and tens of thousands over the course of a year, demonstrating the strong link between cultural activities and economic development;
Now therefore the City of Bath through its City Council wishes the Chocolate Church Arts Center a happy 25th anniversary, pledges continued support, and looks forward to another 25 years of the Chocolate Church Arts Center being the region's premier performing and visual arts center.

Motion by Councilor James, second by Councilor Hayden to put this Proclamation on the floor for discussion.

Barbara Gaul, President of the Board of the Chocolate Church, thanked the Council for their continual support.

Jim Upham, City Planner, explained the importance of such an institution to the vitality of the downtown area.

Suzanne Weiss, Executive Director of the Chocolate Church, expressed her gratefulness to the Council for their support and encouragement through the years and promised the continuation of art enrichment growth in the coming years.

VOTE: on the Proclamation:

Yeas: 8

Nays: 0

VOTE: Proclamation Supported Unanimously 8-0

Item F6 - ORDINANCE: Hyde School Zone Change Request - First Passage #483

Chairman Hall read the following Ordinance:

ORDINANCE

WHEREAS, the City Council of the City of Bath, as part of the adoption of the Bath Land Use Code on July 19, 2000, effective August 9, 2000, depicted the boundaries of all Land Use Districts on a Zoning Map of the City of Bath, also dated July 19, 2000, incorporated by reference into the Land Use Code pursuant to the provisions of Section 7.02 of the said Code, and

WHEREAS, it is necessary and appropriate that the boundaries of the Land Use Districts be, from time to time, adjusted and amended, in order to create new Districts and adjust boundary lines of existing Districts,

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Bath that the Zoning Map of the City of Bath, dated July 19, 2000, be and hereby is amended in accordance with the Sketch Plan and Aerial Photograph attached hereto and made a part hereof. This change shall be incorporated into and be part of the official Zoning Map of the City of Bath. The specific adjustment is as follows:

1. The area in question, which is the westerly portion of the Hyde School campus, shall be changed in zoning designation from its current C3 - Business Park District to an R3 - Low Density Residential District.

Motion by Councilor Hayden, seconded by Councilor Reed to put this Ordinance on the floor for discussion.

Jim Upham, City Planner, explained the reason this Zone Change was coming before Council. He recommended there be no zone change but instead a Provisional Use Permit be issued instead. Mr. Upham then explained the procedure for the Provisional Use Permit.

Eric Sterling and Carl Young from the Hyde School stated they were fully in favor of the R3 change, but that the Provisional Use Permit would limit the school's ability to receive grants and funding. They gave a visual presentation of the proposed location for the farm and an alternate route for the 209 by-pass.

After a lengthy discussion, Councilor Banks made a motion to have the Ordinance tabled until the October 3, 2001 Council Meeting so further research into alternatives to the zone change could be formulated. This motion was seconded by Councilor Wyman.

VOTE: on the Tabling Motion:

Yeas: 5

Nays: 2

Abstention: 1

VOTE: Motion to Table Passed. 5-2-1

Item F7: ORDINANCE: Amendment to the LUC Article 8,Section 8.20 (H) - First Passage #1652

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 JULY 19, 2000, AND SUBSEQUENTLY AMENDED, BE HEREBY FURTHER AMENDED AS FOLLOWS:

Amend Article 8, Section 8.20 by replacing H. with the following:

H. Amendments

Any site plan and conditions, which includes Contract Rezoning approval by City Council, may be amended. If the amendment seeks to change any Space and Bulk Regulation(s) of this Code where rezoning has been allowed or to change any condition or restriction relating to the requirements of any Mandatory and/or Discretionary Conditions under items D, 1 and D, 2, above, upon which rezoning is based or dependent, then amendment by City Council of the original Rezoning Ordinance is required. If the amendment does not pertain to the specific Space and Bulk Regulations of this Code where rezoning has been allowed or does not pertain to the Mandatory or Discretionary Conditions required under items D, 1 and D, 2, above, upon which the rezoning is based or dependent, then only the procedure contained in Section 12.13 of this Code applies.

Motion by Councilor Reed, seconded by Council Rogers to put this Ordinance on the floor for discussion.

Jim Upham, City Planner, explained the reasons this amendment was needed.

VOTE: on the Ordinance: (first passage)

Yeas: Banks, James; Blake; Wyman; Hayden; Tibbetts; Rogers; Reed

Nays: None

VOTE: Ordinance Passed Unanimously 8-0

Chairman Hall set second passage for this Ordinance on September 19, 2001 at 7:01 PM.

Item F8 - ORDINANCE: Chapter 17. Vehicles and Traffic, Article 6. Stopping, Standing and Parking Section 17-259. Parking Restriction Washington Street, East Side - First Passage #1875

Chairman Hall 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 17. VEHICLES AND TRAFFIC

Article 6. Stopping, Standing and Parking Section 17-259. Parking Restrictions Washington Street East Side

Delete: From a point 60 feet north of the northerly side of Spring Street to a point across from the south side of Russell Street, 2 hour parking. From a point across from the south side of Russell Street to a point 40 feet south

of a point across from the north side of Bath Street, 2 hour parking.

Add: From a point 60 feet north of the northerly side of Spring Street and running northerly a distance of 113 feet, bus parking; from a point 173 feet north of the northerly side of Spring Street to a point 40 feet south of a point across from the north side of Bath Street, 2 hour parking.

Motion by Councilor Blake, second by Councilor Hayden to put this Ordinance on the floor for discussion.

Jim Upham, City Planner, and Joel Merry, Acting Police Chief, explained the reasons for this proposed amendment.

VOTE: on Ordinance (first passage):

Yeas: Banks, James, Blake, Wyman, Hayden, Tibbetts, Rogers, Reed

Nays: None

VOTE: Ordinance Passed Unanimously. 8-0

Chairman Hall set second passage for this Ordinance on September 19, 2001 at 7:02 PM.

Item F9 - ORDINANCE: Supplemental Appropriation Centre Street Capital Improvement Program Account - First Passage #2172

Chairman Hall read the following Ordinance:

ORDINANCE

**SUPPLEMENTAL APPROPRIATION
CENTRE STREET CAPITAL IMPROVEMENT PROGRAM ACCOUNT**

WHEREAS, the City of Bath has significant capital requirements for the Centre Street Reconstruction Project anticipated in the coming years; and

WHEREAS, the City of Bath has collected interest on unspent voter approved bond proceeds relating to the 1999 Capital Improvement Bonds; and

WHEREAS, the sum proposed to be appropriated by this Supplemental Appropriation, totaling Four Hundred Thousand Dollars (\$400,000), are deemed Tax Increment District (TIF) City project costs relating to the Bath Iron Works TIF agreements and will be exempt from the expenditure limitation pursuant to State of Maine TITLE 30-A Section 5254;

NOW THEREFORE, be it ordained by the City Council of the City of Bath that the total sum of Four Hundred Thousand Dollars (\$400,000), be and hereby be supplementally appropriated from Investment Earnings from the 1999 Capital Improvement Bonds (account CFO5-6450) to the Centre Street Capital Improvement Program (account C5002-875).

Motion by Councilor Rogers, second by Councilor Reed to put this Ordinance on the floor for discussion.

Greg L'Heureux, Finance Director, explained where the monies to fund this supplemental appropriation would come from.

VOTE: on Ordinance (first passage):

Yeas: Banks, James, Blake, Wyman, Hayden, Tibbetts, Rogers, Reed

Nays: None

VOTE: Order Passed Unanimously. 8-0

Chairman Hall set second passage for this Ordinance on September 19, 2001 at 7:05.

Item F10 - ORDER: Contract Agreement with H.C. Crooker & Sons, Inc. for the Centre Street Project #2562

Chairman Hall read the following Order:

ORDER

**APPROVING CONTRACT
CENTRE STREET RECONSTRUCTION PROJECT**

BE IT HEREBY ORDERED BY THE CITY COUNCIL OF THE CITY OF BATH, THAT A CONTRACT BY AND BETWEEN THE CITY OF BATH AND HARRY C. CROOKER & SONS, INC. FOR THE CENTRE STREET RECONSTRUCTION PROJECT IN THE AMOUNT OF \$1,294,436.62 BE AND HEREBY IS AWARDED, HARRY C. CROOKER & SONS, INC. BEING THE LOWEST BIDDER, AND THE MANAGER IS AUTHORIZED TO EXECUTE THE CONTRACT AND ANY OTHER DOCUMENTS NECESSARY TO ITS IMPLEMENTATION. THE PROJECT WILL BE FUNDED FROM AVAILABLE FUNDS FROM THE CENTRE STREET CAPITAL IMPROVEMENT PROGRAM ACCOUNT (C5002-875), THE STREET MAINTENANCE CAPITAL ACCOUNT (PWO5-540), AND THE SIDEWALK MAINTENANCE CAPITAL ACCOUNT (PWO5-541).

Motion by Councilor James, second by Councilor Reed to put this Order on the floor for discussion.

VOTE: on Order:

Yeas: 8

Nays: 0

VOTE: Order Passed Unanimously. 8-0

Item F11 - ORDER: Approving Lease and Use Agreement for Hyde Park Playground #3005

Chairman Hall pulled this item from the Agenda.

G. Petitions & Communications 8:31 PM #3027

There were no petitions or communications at this time.

H. City Manager's Report: 8:32PM #3035

City Manager Bubier spoke on the following items:

- Receipt of a Housing Grant for the South End. Thanks to Al Smith and Jim Upham.
- Centre Street Project Update.
- Bath was one of 4 other Maine communities to be named as a Main Street Community. Thanks to the efforts of City of Bath staff, BBA, and numerous community members.
- Tax Bills due out the week of September 10.

I. Committee Reports: 8:38 PM #3230

There were no Committee Reports.

J. Old Business: 8:38 PM #3234

There was no Old Business.

K. New Business: 8:39 PM #3238

K12 Appointment of 1 Member to the Bath Zoning Board of Appeals - Term expiration in September 2004.

Candidate:
William Truesdell

Councilor Banks representing the Nomination Committee nominated William Truesdell for appointment to the Zoning Board of Appeals.

No other nominations.

VOTE: on Appointment:

Yeas: 8

Nays: 0

VOTE: Appointment Passed Unanimously. 8-0

K13 Appointment of 2 Members to the Bath Planning Board - Term expirations in September 2004.

Candidates:
Robert Oxton
Marjorie Hawkes
Benet Pols
Charles Burnham

Councilor Banks representing the Nomination Committee nominated Robert Oxton and Marjorie Hawkes for appointment to the Planning Board.

No other nominations.

VOTE: on Appointments:

Yeas: 8

Nays: 0

VOTE: Appointments Passed Unanimously. 8-0

K14 Appointment of 1 Member to the Bath Community Forestry Committee - Term expiration Indefinite (three year commitment).

Candidates:
Diana Fisher
Arthur Tainter
Benet Pols

Councilor Banks representing the Nomination Committee nominated Diana Fisher for appointment to the Community Forestry Committee.

No other nominations.

VOTE: on Appointment:

Yeas: 8

Nays: 0

VOTE: Appointment Passed Unanimously. 8-0

Chairman Hall appointed Councilor Banks as Council Representative to the Sagadahoc County Corrections Committee. All in favor.

Recessed to Workshop at 8:42 PM.

Motion by Councilor Reed, second by Councilor James to go into Executive Session at 10:05 PM. All in favor

Motion by Councilor Reed, second by Councilor James to come out of Executive Session. All in favor

The meeting adjourned at 10:46 PM with a motion made by Councilor Rogers and seconded by Councilor Wyman. All in favor.

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.