

REGULAR MEETING MINUTES
City Council of the City of Bath, Maine
Wednesday, August 6, 2003 7:00pm
City Council Chambers, Bath City Hall

Present: Councilors Hall, Winglass, Blake, Wyman, Hart, Daigle, Rogers, Mitchell and Chairman James.

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

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

C. Presentations: 7:02 PM #51

Al Smith, Community Development Coordinator and Jack Hart, Recreation Director, gave an update on the Lambert Park project. Mr. Smith stated that the project consisted of revamping of the sewer and water lines, installation of street curbing, renovation of 70 units, an expansion of ballfields and the construction of a new Community Center. Mr. Hart explained the timeline of the project with the estimated completion at the end of September. There will be a Lambert Park Fun Day on August 16. The Vocational Department at the high school and the Public Works Department were commended for the excellent work they had performed on the project.

D. Committee Reports: 7:20 PM #533

Councilor Blake informed the Council of the County Commissioners' Meeting on August 14 to discuss the plans for the proposed new jail.

E. Time Devoted to Residents to Address the City Council: 7:21 PM #579

No one from the public spoke at this time.

F. Correspondence/Petitions: 7:21 PM #587

There was no correspondence or petitions.

G. Manager's Report: 7:22 PM #608

Chairman James welcomed Mr. Bubier back after his absence due to health issues. The City Manager stated that he was very pleased to be back on the job and expressed his gratefulness to the Council and City Staff on the excellent job they all did to keep the City's business on track.

H. Public Hearings: 7:30 PM

Public Hearing #1:

Ordinance: Amendments to Land Use Code - Article 2 and Sections 1.04, 3.06, 6.04, 6.05, 6.06, 7.07, 8.18, 10.02, 10.05, 10.06, 10.26, 11.03, 11.19, 11.28, 11.34, 12.08 and 12.14 (first passage) 7:30 PM #864

Councilor Blake motioned to waive the reading of the Ordinance, seconded by Councilor Mitchell. All in favor.

Chairman James read the following portion of the 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 FURTHER AMENDED AS FOLLOWS:

ARTICLE 2 AND SECTIONS 1.04, 3.06, 6.04, 6.05, 6.06, 7.07, 8.18, 10.02, 10.05, 10.06, 10.26, 11.03, 11.19, 11.28, 11.34, 12.08 AND 12.14

Motion by Councilor Mitchell, second by Councilor Winglass to put this Ordinance on the floor for discussion.

Jim Upham, City Planner, spoke regarding the reasons this Ordinance had been brought before Council for action.

ROLL CALL VOTE: (second passage)

Yeas: Hall, Winglass, Blake, Wyman, Hart, Rogers, Mitchell

Nays: None

Abstention: Daigle

Ordinance Passed 7-0-1

Chairman James stated the Ordinance would become effective in 21 days.

Public Hearing #2:

Special Amusement License Approval for the Café Crème located at 56 Front Street.

Motion by Councilor Hart, second by Councilor Wyman to put this item on the floor for discussion.

Yeas: 8

Nays: 0

License Application Passed Unanimously 8-0

I. Consent Agenda: 7:40 PM #1157

Acceptance of minutes to the July 2 and 16, 2003 Council Meeting.

Motion by Councilor Wyman, second by Councilor Mitchell to accept minutes as presented.

VOTE on Consent Agenda:

Yeas: 8

Nays: 0

Consent Agenda passed unanimously. 8-0

J. Ordinances, Resolutions and Orders: 7:40 PM

Item J4 – Going out of Business License for Bath Jewelry located at 34 Front Street #1171

Motion by Councilor Mitchell, second by Councilor Wyman to put this item on the floor for discussion.

Chairman James explained the application.

VOTE on License:

Yeas: 8

Nays: 0

Passed unanimously. 8-0

Item J5 – Proclamation for the USS Chafee #1209

Chairman James read the following Proclamation:

PROCLAMATION

WHEREAS, The USS CHAFEE is a Bath built ship, constructed by the engineers, designers and shipbuilders of Bath Iron Works shipyard, known for being the best shipbuilders in the world, with oversight by the renowned staff of the Supervisor of Shipbuilding Conversion and Repair, Bath, Maine,

WHEREAS, The USS CHAFEE has onboard a count of officers and crew of dedicated and loyal United States Navy men and women,

WHEREAS, The City Councilors on behalf of the good citizens of the City of Bath wish to salute all persons involved in the protection of our way of life here in the United States;

THEREFORE, I, John James IV as Chairman of the City Council of Bath, Maine, and on behalf of that body of governors, for and in spirit of the City of Bath Citizens do hereby proclaim that a Key to the City of Bath

Be given to the Officers and Crew of the good ship

USS CHAFEE

In order to recognize and inform them of their status as
Honorary Citizens of the City of Bath, Maine.

Motion by Councilor Wyman, second by Councilor Hart to put this item on the floor for discussion.

VOTE on Proclamation:

Yeas: 8

Nays: 0

Passed unanimously. 8-0

Item J6 – Ordinance: Zoning Map Amendment changing Map 21, lot 227 from C5- Marine Business Zone to R5-Waterfront Activity Zone (first passage) #1264

Chairman James 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 JUL Y 19,2000, BE AND HEREBY IS

AMENDED IN ACCORDANCE WITH THE SKETCH PLAN ATTACHED HERETO AND MADE APART HEREOF. THIS CHANGE SHALL BE INCORPORATED INTO AND BE PART OF THE OFFICIAL ZONING MAP OF THE CITY OF BATH. THE SPECIFIC ADJUSTMENT IS:

Changing the zoning on the parcel of land designated as map 21, lot 227 from C5 - Marine Business Zone to R5 -Waterfront Activity Zone.

Motion by Councilor Wyman, second by Councilor Mitchell to put this Ordinance on the floor for discussion.

Jim Upham, City Planner, explained these amendment changes.

Richard Klingaman representing SSC Ventures Inc. explained the reasons behind the request for the amendments.

Chairman James requested the record show there were no letters of opposition to this Ordinance.

ROLL CALL VOTE: (first passage)

Yeas: Hall, Winglass, Blake, Wyman, Hart, Daigle, Rogers, Mitchell

Nays: None

Ordinance Passed Unanimously 8-0

Chairman James set second passage of this Ordinance for September 3, 2003 at 7:03 PM.

Item J7 – Ordinance: Pine Tree Waste Contract (first passage) #1690

Chairman James read the following Ordinance:

**ORDINANCE
APPROVING PINE TREE WASTE CONTRACT**

WHEREAS, the City of Bath and Pine Tree Waste have reached an agreement for continuation of curbside trash pickup, recycling pickup and other specialty collections, and

WHEREAS, the term of the Contract exceeds One (1) year, and

WHEREAS, the Charter of the City of Bath, pursuant to Section 1102, requires that Contracts involving payment of monies out of appropriations of more than One (1) fiscal year be approved by Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Bath that the Contract with Pine Tree Waste, commencing May 1, 2003 and running through April 30, 2006, and attached hereto, be and hereby is approved and the City Manager is authorized to execute same on behalf of the City of Bath.

Motion by Councilor Winglass, second by Councilor Mitchell to put this Ordinance on the floor for discussion.

Lee Leiner, Deputy Public Works Director, gave highlights of the contract explaining the cost was up by 2.7% with services remaining the same.

ROLL CALL VOTE: (first passage)

Yeas: Hall, Winglass, Blake, Wyman, Hart, Daigle, Rogers, Mitchell

Nays: None

Ordinance Passed Unanimously 8-0

Chairman James set second passage of this Ordinance for September 3, 2003 at 7:04 PM.

Item J8 – Ordinance: Amendment Chapter 5 – Business Licenses, Section 17. License Fee Schedule (first passage) #2304

Chairman James read the changes to the Ordinance.

A complete copy of this Ordinance is on file with the agenda materials for the August 6, 2003 Council Meeting in the City Clerk's Office.

Motion by Councilor Mitchell, second by Councilor Blake to table this Ordinance until a workshop can be held regarding the changes.

VOTE TO TABLE:

Yeas: 7

Nays: 0

Abstention: 1 (Daigle)

Tabling Passed 7-0-1

Item J9 – Ordinance: Amendment Chapter 17, Vehicles & Traffic, Article 8. Penalties, Section 17-351 Penalties for parking violations (first passage) #2748

Chairman James read the changes to the Ordinance.

A complete copy of this Ordinance is on file with the agenda materials for the August 6, 2003 Council Meeting in the City Clerk's Office.

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

It was the concensus of the Council that the signage for the parking lots needs to be improved.

ROLL CALL VOTE: (first passage)

Yeas: Hall, Winglass, Blake, Wyman, Hart, Daigle, Rogers, Mitchell

Nays: None

Ordinance Passed Unanimously 8-0

Chairman James set second passage of this Ordinance for September 3, 2003 at 7:06 PM.

Item J10 – Resolution: Changing Fees for Downtown Directories, Garzebo Rental and Going Out of Business License #3095

Chairman James read the Resolution.

RESOLUTION

WHEREAS, the City Council of the City of Bath may provide for the use of City owned property, and

WHEREAS, the City Council at its discretion may charge fees for the use of said property, and

WHEREAS, the City of Bath may, when it deems it appropriate, adjust the fees for use of City owned property.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Bath that the following fees be and hereby are adjusted:

Downtown Directory (New)	<u>\$30.00</u>
Downtown Directory (Renewal)	<u>\$10.00</u>
Gazebo Rental -Resident	<u>\$25.00</u>
Gazebo Rental- Non-Resident	<u>\$100.00</u>

The City Council of the City of Bath further resolves that the license fee required to be set by the municipal officers accompanying an application for a close out sale pursuant to 30-A M.R.S.A. § 3781 is hereby established at \$35.00.

Denis Hebert, Superintendent of Cemeteries and Parks, explained the administration of the parks/gazebo rentals.

Motion by Councilor Wyman, second by Councilor Mitchell to put this Resolution on the floor for discussion.

VOTE:

Yeas: 7

Nays: 0

Abstention: 1 (Daigle)

Resolution Passed 7-0-1

Item J11 – Resolution: Adjusting Drain Layer License Fees #3409

Chairman James read the Resolution.

**RESOLUTION
ADJUSTING DRAIN LAYERS LICENSE FEE**

WHEREAS, the City Council of the City of Bath, in Section 14-35(a) of the Code, provides for a license fee for drain layers who connect building sewers to the common sewers, and

WHEREAS, the City Council has provided that the license fee for drain layers may be adjusted from time to time.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Bath that the current drain layers license fee of \$100.00 be and hereby is increased to \$150.00.

Motion by Councilor Wyman, second by Councilor Mitchell to put this Resolution on the floor for discussion.

VOTE:

Yeas: 8

Nays: 0

Resolution Passed Unanimously 8-0

Councilor Daigle left the meeting at 8:52 PM.

Item J12 – Resolution: Addition to Cemetery Fees #3587

Chairman James read the Resolution.

**RESOLUTION
ADDITION TO CEMETERY FEES**

WHEREAS, Provisions in Chapter 6 of the Ordinances of the City of Bath in Section 6.17 (C) provide for the addition of fees by Resolution of Council, and

WHEREAS, upon review and recommendations of staff, the time is appropriate to add such fees.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Bath that the following described fees be hereby added effective August 15, 2003 :

Pursuant to the authority under Section 6.17(C), fees for winter burials are added to existing test and fees as follows:

Section 6.17 (A) (1) (a)... Grave openings for adults (not including outer-burial containers [vaults or liners]), authorized by the Superintendent after the cemeteries are closed to vehicular traffic in the winter months will be Six hundred dollars (\$600.00); Saturday, Sunday or legally authorized days of cemetery closure, will be seven hundred fifty dollars (\$750.00).

Motion by Councilor Wyman, second by Councilor Mitchell to put this Resolution on the floor for discussion.

VOTE:

Yeas: 6

Nays: 0

Resolution Passed Unanimously 6-0

Councilor Rogers left chambers and returned after the vote was taken.

Item J13 – Winter Burial Policy #3752

Chairman James read the Policy.

WINTER BURIAL POLICY

Winter burials are defined as burials performed after the cemeteries are closed to vehicular traffic due to winter conditions and a definite need is demonstrated to the satisfaction of the Superintendent.

All services will be scheduled by the Cemeteries and Parks office as soon as possible after notification by the funeral director, but will be subject to winter conditions and manpower availability.

Winter burials will take place only in areas that are pre-designated by the Superintendent prior to the winter season. These areas will be staked in the late fall to facilitate finding a grave beneath the snow. The fees for winter burials*, to be approved by Resolution of the City Council, are recommended to be as follows:

\$600.00 Monday through Friday

\$750.00 Weekends and Holidays

These fees are authorized by City Council Resolution under Section 6.17(C) of the Cemeteries and Parks Ordinance.

*These burials will not be subject to a frost charge.

Motion by Councilor Wyman, second by Councilor Mitchell to put this Item on the floor for discussion.

VOTE:

Yeas: 7

Nays: 0

Policy Passed Unanimously 7-0

**Item J14 – Rules Addition by Resolution for Cemetery regarding Regulations for Beth Israel
Congregation Lot – 6 North #3898**

It was the consensus of Council that the reading of the entire Resolution be waived.

Chairman James read the following portion of the Resolution:

RULES ADDITION BY RESOLUTION

WHEREAS, the Provisions of Chapter 6 Section 6.2 of the Cemeteries and Parks Ordinances of the City of Bath provide that the Superintendent may adopt rules and regulations as in his judgment may be necessary for the governance of cemeteries, subject to approval in advance by the City Council, and

WHEREAS, a portion of the cemetery designated as 6 North has been designated for the Beth Israel Congregation, and

WHEREAS, it is appropriate to promulgate rules and regulations for the use of this area,

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Bath that the following described rules be hereby effective August 15, 2003:

**REGULATIONS FOR BETH ISRAEL CONGREGATION LOT 6 NORTH
7/17/03**

A complete copy of this Resolution is on file in the City Clerk's Office with the agenda materials for the August 6, 2003 Council Meeting.

Motion by Councilor Mitchell, second by Councilor Wyman to put this Resolution on the floor for discussion.

VOTE:

Yeas: 7

Nays: 0

Resolution Passed Unanimously 7-0

Item J15 – Resolution: Amending terms of Conveyance of the Elmhurst Association property #3962

Chairman James read the following Resolution:

**RESOLUTION
AMENDING TERMS OF CONVEYANCE**

WHEREAS, the City of Bath, by Deed dated November 8, 1984, conveyed certain premises located on Centre Street and being designated as Parcel No.1 on Plan of "Hyde Park Terrace," said Plan being recorded in the Sagadahoc County Registry of Deeds in Plan Book 8, Page 1A, and

WHEREAS, that Deed contained restrictions requiring that the premises continue to be utilized by the Grantee, Elmhurst Association, for the purpose of providing services to the mentally disadvantaged, and

WHEREAS, the City of Bath, in order to protect its reversionary interest in the property, placed a limit on use of the, property for security for financing, said limit being Fifty Thousand Dollars (\$50,000.00), and

WHEREAS, the City of Bath has been contacted by the Elmhurst Association, now known as Elmhurst, Inc., indicating their desire to replace the existing structure with a new facility, and .

WHEREAS, this will involve financing with the premises as security that will exceed the Fifty Thousand Dollar (\$50,000.00) limit.

NOW, THEREFORE, BE IT RESOLVED by the City of Bath that the Fifty Thousand Dollar (\$50,000.00) limit on financing imposed upon the original transfer of the Centre Street property to Elmhurst be removed and that the City Manager be authorized to execute appropriate documentation for recording in the Sagadahoc County Registry of Deeds in order to provide record evidence that the financing condition has been removed.

Motion by Councilor Blake, second by Councilor Rogers to put this Resolution on the floor for discussion.

VOTE:

Yeas: 7

Nays: 0

Resolution Passed Unanimously 7-0

K. Old Business: 9:01 #4044

Councilor Hart asked for an update on the Wyoming and the Fisher-Mitchell murals projects.

Councilor Winglass reported on the status of the Wyoming project at the Maine Maritime Museum. He stated that the project had proven to be more expensive than first thought and had been put on hold for the time being.

Councilor Winglass explained the Fisher-Mitchell murals would be replaced under the viaduct, as soon as the refurbishing on them had been completed.

L. New Business: 9:03 PM #4129

Councilor Blake reported on the meeting of Main Street Inc. regarding the painting of parking spaces in the downtown area that is to be completed in mid-August.

L-16: Appointment of one member to the Old Customs House Board of Directors.

Councilor Mitchell of the Interview Committee nominated Daniel Donovan to the Old Customs House Board of Directors with the term to expire in August 2006. **All in favor. 7-0**

L-17: Appointment of one member to the Board of Assessment Review.

Councilor Mitchell of the Interview Committee nominated John Conover to the Board of Assessment Review with the term to expire in July 2006. **All in favor. 7-0**

Waive rules to strike workshop from the agenda. **All in favor. 7-0**

Councilor Wyman motion to waive rules to add an Order for the labor contract for the firefighters to the agenda, second by Councilor Winglass. **Vote was 6 –1 (Hall). Motion Passed.**

Motion by Councilor Hart, second by Councilor Mitchell to put the Order on the floor for discussion.

Chairman James read the following Order:

**ORDER
APPROVING FIREFIGHTERS CONTRACT**

BE IT HEREBY ORDERED BY THE CITY COUNCIL OF THE CITY OF BATH THAT THE BARGAINING AGREEMENT WITH THE BATH FIREFIGHTERS UNIT, ATTACHED HERETO AND MADE A PART HEREOF, BE APPROVED FOR THE PERIOD OF TIME COMMENCING JULY 1, 2003 AND EXTENDING THROUGH JUNE 30, 2004, AND THAT THE CITY MANAGER BE AUTHORIZED TO EXECUTE SAID CONTRACT ON BEHALF OF THE CITY OF BATH.

Roger Therriault, City Solicitor, explained the contract details.

VOTE:

Yeas: 4

Nays: 2 (Hall, Winglass)

Abstention: 1 (Rogers)

Order Passed 4-2-1

The meeting adjourned at 9:20 PM with a motion made by Councilor Winglass and seconded by Councilor Mitchell. 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.