

REGULAR MEETING MINUTES
City Council of the City of Bath, Maine
Wednesday, September 3, 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: 7:03 PM #78(Tape #1)

Fire Chief Hinds explained that next year will be the 200th anniversary of Bath Fire Department and the Department will be hosting the 2004 Maine State Federation of Firefighters' Convention. He introduced Firefighter Steve Thomas who gave an overview of events that have been planned for the Convention such as a parade, dance, banquet, golf tournament and muster. Mr. Thomas introduced two other firefighters that were helping with arrangements, Chris Cummings and Ken Desmond.

D. Committee Reports: 7:12 PM #395(Tape #1)

Councilor Hart invited Council to visit the landfill to see the newly constructed cell. He stated that a Hazardous Waste Day was planned for late September.

Councilor Blake reported that the Skatepark Committee had met to discuss ideas for The Park – primarily the atmosphere, ambiance and activities in the public lobby area. The meeting was well attended and lively.

Councilor Winglass reported that the Board of Trustees of the Patten Free Library had chosen Ann Phillips to be the new Library Director.

E. Correspondence/Petitions: 7:18 PM #540(Tape #1)

Councilor Blake reported that she had received a letter from Mr. Racine in the Lambert Park area expressing concerns about the placement of the Community Policing Office. Chief Lizanecz has stated that there will be a community meeting held by the Community Policing Board to allow the community to have any questions and concerns answered.

Councilor Rogers stated he had received a letter from a resident in the West Chops Point area regarding having cable TV access available for the residents in that area. Solicitor Therriault stated that the reason the access was not made available to that area was the decision of the developer of the project, but maybe when the contract between the City and the cable TV server was up that would be the time to look into having the West Chops Point area included in the contract.

Chairman James made a plea for any interested citizens wanting to get involved in community service to take out nomination papers for the races that are up for election.

F. Time Devoted to Residents to Address the City Council: 7:26 PM #693(Tape #1)

No one spoke at this time.

G. Manager's Report: 7:26 PM #706 (Tape #1)

The City Manager spoke regarding the following topics:

- Speaking on regionalization at the MMA Convention in October
- Safety issues in various City Department buildings
- Tax Reform
- Update on Route One Study
- continuing to work closely with the Main Street Board on projects
- Update on the Midcoast Center for Higher Education Building and Programs

H. Public Hearings: 7:30 PM

Public Hearing #1: Ordinance: Zoning Map Amendment changing Map 21, lot 227 from C-5 Marine Business Zone to R5 - Waterfront Activity Zone (second passage) #863(Tape #1)

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

Jim Upham, City Planner, gave a summary of the amendment.

Chairman James opened the floor for public comment.

Ron Epstein, Attorney for Stinson Sea Food, stated that he wanted the Council to be aware of concerns regarding compatibility of residential versus Stinson Sea Food.

Chairman James closed public comment.

Chairman James asked for Roll Call Vote.

ROLL CALL VOTE on Ordinance (second passage):

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

Nays: Hall, Mitchell

Ordinance Passed 6-2.

Chairman James stated that this Ordinance would become effective in 21 days.

**Public Hearing #2: Ordinance: Approving Pine Tree Waste Contract (second passage)
#1547(Tape #1)**

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

Chairman James opened public comment.

There was no public comment.

Chairman James closed public comment.

John Bubier, City Manager, explained some of the details of the contract.

Chairman James asked for Roll Call Vote.

ROLL CALL VOTE on Ordinance (second passage):

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

Nays: None

Ordinance Passed Unanimously 8-0.

Public Hearing #3: Ordinance: Amendment Chapter 17, Vehicles & Traffic, Article 8. Penalties, Section 17-351 Penalties for parking violations (second passage) # 1650(Tape #1)

Chairman James read the following Portion of the 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 & TRAFFIC

ARTICLE 8. PENALTIES

Sec. 17-315. Penalties for parking violations.

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.

Chairman James listed the changes.

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

Chairman James opened the floor for public comment.

There was no public comment.

Chairman James closed the floor to public comment.

Chairman James asked for a Roll Call Vote.

ROLL CALL VOTE on Ordinance (second passage):

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

Nays: None

Ordinance Passed Unanimously 8-0.

Chairman James stated that this Ordinance would become effective in 21 days.

Public Hearing #4: Application for a Liquor License for Chang Jiang Buffet at 111 Centre Street (second passage) #1875 (Tape #1)

Chairman James explained the liquor license.

Motion by Councilor Blake, second by Councilor Wyman to put this Application on the floor for discussion.

Xin Guo, Restaurant Manager, explained the layout and staffing of the establishment.

VOTE on Application:

Yeas: 8

Nays: 0

Application Passed Unanimously 8-0.

I. Consent Agenda: 8:06 PM #2033 (Tape #1)

Motion by Councilor Mitchell, second Councilor Winglass to accept the Minutes to the August 6, 2003 minutes as presented.

VOTE on Consent Agenda:

Yeas: 8

Nays: 0

Consent Agenda Passed Unanimously. 8-0

J. Ordinances, Resolutions and Orders: 8:07 PM

Item J6 - Ordinance: Amendment to the LUC Zoning Map. Changing the Zoning on the parcel of land designated as Map 21, Lot 227 by adding the Historic Overlay District (first passage) #2047(Tape #1)

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 JULY 19,2000, BE AND HEREBY IS AMENDED IN ACCORDANCE WITH THE SKETCH PLAN 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:

Changing the zoning on the parcel of land designated as map 21, lot 227 by adding the Historic Overlay District.

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

Jim Upham, City Planner, explained the reasons and conditions for this amendment.

Chairman James opened the floor for public comment.

There was no public comment.

Chairman James closed the public comment.

Chairman James asked for a Roll Call Vote.

ROLL CALL VOTE on Ordinance: (first passage)

Yeas: Winglass, Blake, Daigle, Mitchell, Chairman James

Nays: Hall, Wyman, Hart, Rogers

Ordinance Passed. 5-4

Chairman James set second passage for this amendment for September 17, 2003 at 7:01pm.

Item J7 - Resolution: Use of City Park Gazebo #2506(Tape #1)

Chairman James read the following Resolution:

**RESOLUTION
USE OF CITY PARK GAZEBO**

WHEREAS, the City Council of the City of Bath has recently adjusted the fees, at its meeting on August 6, 2003, relative to the use of the gazebo in the Bath City Park; and

WHEREAS, the classifications of users and how those fees apply to those classifications are in need of clarification;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Bath that fees for use of the gazebo in the Bath City Park are to be assessed as follows:

No Charge for an event by a City of Bath non-profit organization for a non-profit purpose.

\$35.00 per event for residents.

\$100.00 per event for non-residents including out-of-town non-profit organizations.

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

VOTE on Resolution:

Yeas: 7

Nays: 1 (Hall)

Resolution Passed. 7-1

Item J8 - Resolution: Cemetery Fees #2729(Tape #1)

Chairman James read the following portion of the Resolution:

**RESOLUTION
CEMETERY FEES**

WHEREAS, Provisions in Chapter 6, Section 6-17(C) and Section 6-23(D), of the Ordinances of the City of Bath provide for adjustment of fees by Resolution of Council, and

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

NOW THEREFORE, be it resolved by the City Council of the City of Bath that the following described fees be and hereby are adjusted effective September 15, 2003:

Pursuant to the authority under Section 6-17 (C), the fees for burials are adjusted as follows:

BURIALS:

Section 6-17 (A) (1) (a)... Grave openings for adults (not including outer-burial containers [vaults or liners]), will be increased from three hundred thirty dollars (\$330.00) to three hundred eighty dollars (\$380.00); Saturday, Sunday or legally authorized days of cemetery closure, will be increased from four hundred seventy-five dollars (\$475.00) to five hundred and twenty-five dollars \$525.00).

Section 6-17 (A)(I)(b) Grave openings for cremation receptacles (not including outer-burial containers [vaults or liners]) one-half the size of a single adult grave opening or less will increase from one hundred dollars (\$100.00) to one hundred fifty dollars (\$150.00); Saturday, Sunday and legally authorized days of cemetery closure will be increased from two hundred dollars (\$200.00) to two hundred fifty dollars (\$250.00).

Motion by Councilor Mitchell, second by Councilor Hall to waive the reading of the rest of the Resolution. All in favor. *The complete Resolution is on file with the Council agenda materials for September 3, 2003 in the Bath City Clerk's Office.*

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

Denis Hebert, Superintendent of Cemeteries and Parks, explained the details of the Resolution.

Chairman James asked Mr. Hebert to bring back to Council at a later date the definition of resident versus nonresident relating to fees for burial lots. Mr. Hebert agreed to do that.

VOTE on Resolution:

Yeas: 8

Nays: 0

Resolution Passed. 8-0

Item J9 - Resolution: Solid Waste Facility Access Fees #3071(Tape #1)

Chairman James read the following Resolution:

**RESOLUTION
SOLID WASTE FACILITY ACCESS FEES**

WHEREAS, Section 13-4 of the Code of the City of Bath provides for classification of certain types of individuals and entities for purposes of assessing an access fee for a license to access the City's Solid Waste Facility; and

WHEREAS, the City Council of the City of Bath has deemed it appropriate, upon recommendation of Staff, that such access license fees be adjusted, and

WHEREAS, Section 13-4, above-referenced, provides for the amendment of the fee schedule by Resolution of Council,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Bath that the Solid Waste Facility access fees are adjusted as follows:

Commercial Disposal Access From \$75.00 per vehicle to \$150.00 per vehicle

Contractor (Yearly Permit) From \$45.00 to \$90,.00

Commercial (Single Work Site) From \$25.00 to \$40.00

Business Hauling Own Waste From \$25.00 to \$50.00

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

Motion by Councilor Mitchell, second by Councilor Wyman to change the \$45.00 fee for Contractor to \$60.00.

VOTE on Amendment to the Resolution:

Yeas: 2 (Wyman, Mitchell)

Nays: 5

Abstention: 1(Winglass)

Amendment to the Resolution Failed. 2-5-1

Motion by Councilor Winglass, second by Councilor Mitchell to table the Resolution.

VOTE on Tabling Resolution:

Yeas: 6

Nays: 2

Tabling Resolution Passed. 6-2

Motion by Councilor Daigle, second by Councilor Hall to reconsider the Resolution.

VOTE on Reconsidering Resolution:

Yeas: 5

Nays: 4

Reconsidering Resolution Passed. 5-4

Motion by Councilor Hall to delete "Business Hauling Own Waste" portion from Resolution. There was no second.

VOTE on Resolution:

Yeas: 2

Nays: 6

Resolution Failed. 2-6

Item J10 - Resolution: Family Focus Access Way at 2 Davenport Circle #4201(Tape #1)

Chairman James read the following Resolution:

**RESOLUTION
FAMILY FOCUS ACCESS WAY**

WHEREAS, the City of Bath now owns the facility and properties formerly of Mid Coast Hospital, and

WHEREAS, premises now owned by Family Focus and designated as 2 Davenport Circle was once a portion of the Mid Coast Hospital property, and

WHEREAS, the Family Focus premises uses the same entry access from Washington Street for its Lessees and business invitees who access the easterly entrance to the buildings and the two parking areas on Family Focus property, and

WHEREAS, the conveyance of the premises from Mid Coast Hospital to Family Focus' predecessor in title did not properly convey the use of the common access, and

WHEREAS, the City of Bath, as the successor in interest to Mid Coast Hospital is in a position, and is legally obligated, to confirm and convey the access easement, and

WHEREAS, the City of Bath is acquiring use in common of parking areas owned by Family Focus in return for agreeing to provide winter plowing and snow removal of these lots,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Bath that a Deed in the form materially as attached hereto, be and hereby is approved and the City Manager of the City of Bath is authorized to sign the Easement Deed on behalf of the City together with such other documents as are necessary and appropriate to the completion of this transaction

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

Roger Therriault, City Solicitor, explained the details of this Resolution.

VOTE on Resolution:

Yeas: 8

Nays: 0

Resolution Passed. 8-0

Item J11 - Order: Appointing Tree Warden #4464(Tape #1)

Chairman James 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, Thomas 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 Wyman, second by Councilor Mitchell to put this Order on the floor for discussion.

Thomas Hoerth spoke to the Council giving a brief overview of his service on the Forestry Committee and as Tree Warden.

VOTE on Order:

Yeas: 8

Nays: 0

Order Passed. 8-0

Item J12 - Order: Consideration of a Bingo Application for the All Officers' Spouses' Club #4617(Tape #1)

Chairman James read the following Order:

ORDER

BE IT HEREBY ORDERED BY THE CITY COUNCIL OF THE CITY OF BATH THAT, IN ACCORDANCE WITH THE REQUIREMENTS OF 17 M.R.S.A. §313, THE APPLICATION TO CONDUCT BINGO OF THE ALL OFFICERS' SPOUSES' CLUB FROM THE BRUNSWICK NAVAL AIR STATION, TO BE HELD ON SUNDAY, SEPTEMBER 21, 2003, AT THE COSMOPOLITAN CLUB AT 894 WASHINGTON STREET, IN BATH, BE AND HEREBY IS CONSENTED TO.

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

VOTE on Order:

Yeas: 8

Nays: 0

Order Passed. 8-0

Item J13 - Order: Considering Approval of Ambulance Contract with Arrowsic, West Bath and Woolwich #4657(Tape #1)

Chairman James read the following Order:

ORDER

BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF BATH THAT AMBULANCE AGREEMENTS TO PROVIDE EMS SERVICES TO THE TOWNS OF ARROWSIC, WEST BATH AND WOOL WICH, FOR THE PERIOD RUNNING JULY 1, 2003 THROUGH JUNE 30, 2004, AS APPENDED TO THIS ORDER, ARE HEREBY APPROVED AND THE CITY MANAGER IS AUTHORIZED TO EXECUTE THESE CONTRACTS ON BEHALF OF THE CITY OF BATH.

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

Fire Chief Hinds and City Manager Bubier explained the process for ambulance fee charging.

Keith Fraser of 5 Liberty Street spoke against the present makeup of the Police and Fire Department.

VOTE on Order:

Yeas: 8

Nays: 0

Order Passed. 8-0

Item J14 - Order: Considering Approving Bid and Authorizing Ambulance Lease Purchase Agreement #5995(Tape #1)

Chairman James read the following Order:

**ORDER
APPROVING BID AND AUTHORIZING LEASE PURCHASE AGREEMENT**

WHEREAS, the City of Bath has participated, through the Maine Municipal Bond Bank, to fund the purchase of a new rescue vehicle for the Bath Fire Department, and

WHEREAS, the Maine Municipal Bond Bank has solicited bids on behalf of the City of Bath for a Lease Purchase arrangement to fund the acquisition of the rescue vehicle, and

WHEREAS, the City of Bath received on September 2, 2003 the results of the bids, and

WHEREAS, Key Municipal Finance was the apparent low bidder at an annual percentage rate of 2.934 % per annum for a three-year Lease Purchase Agreement.

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Bath that the bid of Key Municipal Finance of 2.934% for a three-year Lease Purchase Agreement to fund the acquisition of a rescue vehicle for the Bath Fire Department be and hereby is approved and the City Manager is authorized to enter into and execute on behalf of the City of Bath an Equipment Lease Purchase Agreement with Key Municipal Finance.

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

City Manager Bubier explained the details of the leasing process.

Fire Chief Hinds stated this vehicle will be replacing "Rescue 2", but "Rescue 2" will be retained.

VOTE on Order:

Yeas: 6

Nays: 1(Rogers)

Order Passed. 6-1 (*Councilor Wyman was absent during vote*)

K. Old Business: 9:50 PM #6288(Tape #1)

Councilor Hart reported that there would be a "Safety Day" held on September 13 at the Police Station on Water Street and Citizen Involvement Day will be held at the same time at the Waterfront Park.

L. **New Business: 9:51 PM** #6374(Tape #1) changed to Tape #2(8)

Item L15 - Appointment two members to the Bath Planning Board Terms to expire September 2006

Motion by Councilor Mitchell, second by Councilor Blake to appoint Gordon Reed and James Harper to fill the positions

VOTE on Appointments:

Yeas: 8

Nays: 0

Appointments Passed. 8-0

Item L16- Appointment three members to the Bath Zoning Board of Appeals Terms to expire September 2006 #13(Tape #2)

Motion by Councilor Blake, second by Councilor Hall to appoint Benet Pols, Pamela Murray and Susan Sparaco to fill the positions

VOTE on Appointments:

Yeas: 8

Nays: 0

Appointments Passed. 8-0

Motion by Councilor Blake, second by Councilor Daigle to amend the rules to let a member of the public speak. All in favor.

Keith Fraser, owner of Platinum Plus Taxi, spoke against the raising of fees for taxi owners.

Motion by Councilor Daigle, second by Councilor Mitchell to table workshop until more information from staff is available. All in favor.

There was no Executive Session.

The meeting adjourned at 10:00PM motion made by Councilor Mitchell and seconded by Councilor Hart. 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.