

REGULAR MEETING MINUTES
City Council of the City of Bath, Maine
Wednesday, August 4, 2004 6:00 pm
City Council Chambers, Bath City Hall

Present: Councilors Hall, Quimby, Blake, Wyman, Hart, Daigle, Rogers, Mitchell

Absent: Chairman Winglass

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

Presentation of a Proclamation was made to the USS Nitze from the citizens of Bath in recognition of their contributions to the construction of the Bath YMCA playground. Accepting for the USS Nitze were Lieutenant Commander Stephen Murray, Ensign Patrick Hamann and Chief Petty Officer Sylvia Rhodes.

Representative Thomas Watson gave a brief address to Council regarding the upcoming referendum issue to be voted on in November 2004 regarding tax reform. Mr. Watson suggested that Council form a small working group that would gather information from the Council, City Manger, School Superintendent, department heads, Finance Committee and business community to come up with a report discussing the computation of the cost to City, where to cut the budget and identifying other sources of revenue. This report should be done in the form of a Public Hearing so the citizens of Bath can be educated as to what consequences the City would incur should this referendum pass.

C. Public Hearings: 6:35 PM

1) Ordinance: LUC Zoning Map Amendment for a parcel of land designated as Map 9, Lot 15, from GC- Golf Course to R3 – Low-density Residential, changing the Zoning on portions of the parcel of land designated as Map 16, Lot 18, from GC – Golf Course to R3 – Low-density Residential, and changing a portion of the parcel of land designated as Map 16, Lot 18, from R3 – Low-density Residential to GC – Golf Course (second passage) #992

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 9, LOT 15, FROM GC - GOLF COURSE TO R3 - LOW-DENSITY RESIDENTIAL, CHANGING THE ZONING ON PORTIONS OF THE PARCEL OF LAND DESIGNATED AS MAP 16, LOT 18, FROM GC - GOLF COURSE TO R3 - LOW-DENSITY RESIDENTIAL, AND CHANGING A PORTION OF THE PARCEL OF LAND DESIGNATED AS MAP 16, LOT 18, FROM R3 - LOW-DENSITY RESIDENTIAL TO GC - GOLF COURSE.

A motion was made by Councilor Rogers, seconded by Councilor Mitchell to waive the reading of the Ordinance.

VOTE on Waiving Read of Ordinance:

Yeas: 6

Nays: 1 (Hall)

Waiving of Reading Passed. 6-1

A motion was made by Councilor Rogers, seconded by Councilor Quimby to put this on the floor for discussion.

Jim Upham, City Planner, explained the reasons this LUC change had been brought before Council.

There was no public comment.

ROLL CALL VOTE on Ordinance:

Yeas: Hall, Quimby, Wyman, Hart, Daigle, Rogers, Mitchell

Nays: None

Ordinance Passed Unanimously 7-0

Vice Chair Blake stated this would become law on August 25, 2004.

**2) Ordinance: LUC Amendment Article 8, Section 8.01, C and Article 10, Section 10.34
(second passage) #1089**

A motion was made by Councilor Mitchell, seconded by Councilor Daigle to waive the reading of the Ordinance. All in favor.

A complete copy of this Ordinance is on file in the Bath City Clerk's Office with the Agenda Materials for the August 4, 2004 Council Meeting.

Jim Upham, City Planner, explained that at the July 7, 2004 Council Meeting the Council had asked him to take the Ordinance back to the Planning Board to get some changes to the "Yard Area" portion of the document. At the Planning Board's Public Hearing, the Board had voted to table the Ordinance and had asked Mr. Upham to come up with some more specific standards for what the buffer would look like. Mr. Upham stated that the urgent timetable for the passage of the Ordinance was no longer necessary and asked the Council to defeat this item and asked that related Item F11 be pulled from the agenda.

ROLL CALL VOTE on Ordinance:

Yeas: None

Nays: Hall, Quimby, Wyman, Hart, Daigle, Rogers, Mitchell

Ordinance Failed Unanimously 0-7

**3) Public Hearing Regarding Increase in Fares and Modifications to Route for the City Bus.
#1330**

Vice Chair Blake asked that City Planner Jim Upham come and explain to Council the proposed changes.

Mr. Upham explained that the proposed change in the route would eliminate Court Street and add Coastal Plaza to the route. This would not change the time of the run for the bus but would give riders the ability to access the Concord Trailways Bus.

Mr. Bubier, City Manager, explained the fares would be raised from \$.60 to \$1.00. This would help to make the bus account to break even.

D. Consent Agenda: 6:53 PM #1493

4)* Under the Consent Agenda, Councilor Rogers made a motion to accept the minutes for the July 7, 2004 Council Meeting as presented, which was seconded by Councilor Quimby.

VOTE on Consent Agenda:

Yeas: 7

Nays: 0

Consent Agenda passed unanimously.

E. Time Devoted to Residents to Address the City Council: 6:53 PM #1512

Katherine McClellan of 708 Washington Street spoke to Council regarding an incident that occurred at the Sheriffs' Office and was reported to the City Manager on February 9, 2004 and an head injury accident of February 14, 2004, and claiming she had been discriminated against by several City and County departments. Ms. McClellan was instructed to contact the City Manager's Office and make an appointment with him to discuss the details of the two situations.

F. Ordinances, Resolutions and Orders: 7:04 PM

Item F5 – Order: Fare Increase and Adoption of Route Modification for City Bus #1860

Vice Chair Blake read the following Order:

**ORDER
BATH CITY BUS**

WHEREAS, the City of Bath operates the Bath City Bus and is responsible for determining appropriate fares and routes, and

WHEREAS, the fares and routes from time to time need to be reviewed and modifications and adjustments made, and

WHEREAS, the City Council has conducted a public hearing earlier in this meeting regarding a fare increase and route modifications,

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Bath as follows:

1. A fare increase from \$0.60 to \$1.00 per ride is hereby approved to become effective on August ____, 2004.
2. The route modifications attached hereto and incorporated herein are approved, said modifications to become effective on August _____, 2004.

A motion was made by Councilor Quimby, seconded by Councilor Hart to put this item on the floor for discussion.

After a brief discuss, Council decided to fill in the date in the Order with the date of September 7, 2004

VOTE on Order:

Yeas: 7

Nays: 0

Order passed unanimously.

Item F6 – Order: Accepting Transfer of Drug Assests #1974

Vice Chair Blake read the following Order:

ORDER

WHEREAS, an approval of transfer of funds forfeited under the provisions of 15 M.R.S.A. Section 5824 is required by the Legislative Body of the municipality,
NOW THEREFORE, BE IT ORDERED BY the City Council of the City of Bath, as the Legislative Body of said City, that the transfer in essentially the form attached hereto is approved and its Chairman is authorized to sign said approval on behalf of the City of Bath.

A motion was made by Councilor Quimby, seconded by Councilor Daigle to put this Order on the floor for discussion.

VOTE on Order:

Yeas: 7

Nays: 0

Order passed unanimously. 7-0

Item F7 – Resolution: Setting Landfill Tipping Fees

This item was pulled from the agenda by the Vice Chairman.

Item F8 – Ordinance: Chapter 13, Refuse. Article 2. Landfill Fee Schedule, Section 13-32 Fee Schedule, A. Commercial Haulers (first passage) #2060

Vice Chair Blake 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 13. REFUSE
Article 2. Landfill Fee Schedule

Section 13-32 Fee Schedule

A. Commercial Haulers

Add the following:

The City Manager shall have the authority to adjust the tipping fee per ton of material on a short-term basis, not to exceed thirty (30) days, in order to be responsive to market conditions concerning the disposal of solid waste. Any adjustment by the City Manager shall be effective upon its promulgation and shall remain in effect for no longer than thirty (30) days unless confirmed by Resolution of the City Council within the thirty (30) day period.

A motion was made by Councilor Mitchell, seconded by Councilor Daigle to put this Ordinance on the floor for discussion.

Peter Owen, Public Works Director, explained why he feels this change is necessary to keep the refuse flow at a minimum and still cover expenses.

ROLL CALL VOTE on Ordinance:

Yeas: Hall, Quimby, Wyman, Hart, Daigle, Rogers, Mitchell

Nays: None

Ordinance Passed Unanimously 7-0

Vice Chair Blake set second passage of this Ordinance for September 1, 2004 at 6:01 PM.

Item F9 – Ordinance: Chapter 17, Vehicles and Traffic, Article 5. Operations, Section 17-209. Speed Limits, Subsection (c) add 20 Miles per hour – Mill Pond Drive, Kennebec Circle, Ranger Circle (first passage) #2359

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 5. Operations

Section 17-209. Speed Limits.

Subsection (c).

Add:

20 miles per hour - Mill Pond Drive, Kennebec Circle, and Ranger Circle

A motion was made by Councilor Mitchell, seconded by Councilor Hart to put this Ordinance on the floor for discussion.

City Solicitor Therrault explained why and how the State approved this change and said that the Council

now needs to adopt the change to the City Ordinance.

ROLL CALL VOTE on Ordinance:

Yeas: Hall, Quimby, Wyman, Hart, Daigle, Rogers

Nays: Mitchell

Ordinance Passed 6-1

Vice Chair Blake set second passage of this Ordinance for September 1, 2004 at 6:02 PM.

Item F10 – Bond Ordinance: Renovations to the former Midcoast Health Services property (first passage) #2789

A motion was made by Councilor Mitchell, seconded by Councilor Hart to waive the reading of the Ordinance.

ROLL CALL VOTE on Waiving the Reading of the Ordinance:

Yeas: Hart, Rogers, Mitchell

Nays: Hall, Quimby, Wyman, Daigle

Waiving of the Reading Failed 3-4

Vice Chair Blake read the following Ordinance:

**ORDINANCE
AUTHORIZING PERMANENT FINANCING**

AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS/NOTES FOR THE CITY OF BATH, MAINE, IN AN AMOUNT UP TO, BUT NOT TO EXCEED, \$550,000.00 FOR THE PURPOSE OF CONTINUING CONSTRUCTION, RENOVATIONS AND IMPROVEMENTS TO THE FORMER MIDCOAST HEALTH SERVICES PROPERTY.

IT IS HEREBY ORDAINED BY THE CITY COUNCIL., OF THE CITY OF BATH, AS FOLLOWS:

Section 1. That a sum up to, but not to exceed, \$550,000.00 is hereby appropriated for the purpose of continuing construction, renovations and improvements to the former Midcoast Health Services property.

Section 2. That, for the purpose of financing the aforesaid appropriation, authorization is hereby given to incur indebtedness by the issuance of bonds of the City of Bath, in an amount up to, but not to exceed, \$550,000.00 under, and pursuant to, the Charter of the City of Bath.

Section 3. That any and all bonds/notes issued pursuant to this Ordinance shall be payable in monthly installments.

Section 4. That the term of any bonds/notes issued under the within Ordinance shall not exceed twenty (20) years.

Section 5. That the proceeds of any bonds/notes issued pursuant to this Ordinance shall be used only for those purposes specified in Section 1 above.

Section 6. That any proceeds of the bonds/notes issued not used for the purposes specified in Section 1

shall be applied to repayment of the principal and/or interest of any such bonds/notes.

Section 7. Any suit questioning the validity of this Ordinance shall be barred unless commenced within forty-five (45) days following publication of the Ordinance, said publication in accordance with Section 809 of the Charter of the City of Bath.

Section 8. The City Treasurer with the approval of the City Manager and the Chairman of the City Council may borrow money temporarily by the issuance of notes in anticipation of the issuance of bonds/notes, subsequent to the authorization of this permanent financing by the City Council of the City of Bath.

Section 9. That the City Treasurer, with the approval of the Chairman of the City Council and the City Manager, shall determine the date or dates, maturities, denominations, interest rate or rates and any other details of each issue of bonds and/or notes issued in anticipation of this permanent financing.

Section 10. That any and all bonds and/or notes issued by the City pursuant to Chapter 6 of the Charter of the City of Bath or Chapter 8 of the Charter of the City of Bath shall be signed by the City Treasurer and countersigned by the Chairman of the City Council and the City Manager.

Section 11. That any and all bonds and/or notes issued pursuant to Chapter 8 of the Charter of the City of Bath shall be general obligation bonds of the said City.

Section 12. The City Treasurer, with the approval of the Chairman of the City Council and the City Manager, is hereby authorized to make any such bonds or notes authorized hereby subject to call for redemption with or without premium at the election of the City before the dates fixed for the final payment thereof.

A motion was made by Councilor Quimby, seconded by Councilor Wyman to put this Ordinance on the floor for discussion.

John Bubier and Roger Therrault explained the details of the financing of this project.

Mr. Bubier stated that the Council would have documentation regarding the payment issues of the non-profit now overseeing the program.

ROLL CALL VOTE on the Ordinance:

Yeas: Hall, Quimby, Wyman, Hart, Daigle, Rogers, Mitchell

Nays: None

Ordinance Passed Unanimously 7 -0

Vice Chair Blake set second passage of this Ordinance for September 1, 2004 at 6:03 PM.

Councilor Daigle asked to be excused from the meeting. His request was granted.

Item F11 - Ordinance: LUC Amendment Article 8, Section 8.01, C and Article 10, Section 10.34 (first passage)

This Item was pulled from the Agenda by the Vice Chairman.

Item F12 - Ordinance: LUC Amendment Article 2, Section 2.01, Meaning of Words – Height of Structure – all districts except Shoreland Zone (first passage) #3740

Vice Chair Blake 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 2, Section 2.01 - Meaning of Words, as follows:

Height of Structure-all districts except Shoreland Zone. The vertical distance from the mean grade level to the top surface of the roof or to the top of the structure. excluding chimneys. steeples. and similar appurtenances that have no floor area. (Note: Additions are underlined.)

A motion was made by Councilor Mitchell, seconded by Councilor Quimby to put this Ordinance on the floor for discussion.

Jim Upham, City Planner, explained the details of this Ordinance change.

ROLL CALL VOTE on the Ordinance:

Yeas: Hall, Quimby, Wyman, Hart, Rogers, Mitchell

Nays: None

Ordinance Passed Unanimously 6-0

Vice Chair Blake set second passage of this Ordinance for September 1, 2004 at 6:04 PM.

Item F13 - Ordinance: LUC Amendment Article 16, Section 16.11, Texas Steamship Contract Zone (first passage) # 3921

Vice Chair Blake 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:

By adding Section 16.11 - Texas Steamship Contract Zone, as follows:

SECTION 16.11 - TEXAS STEAMSHIP CONTRACT ZONE

A. District Designation

The property designated for this contract zoning amendment is the property located on Bowery and Front Streets being identified as Lot 227 on City of Bath Tax Map 21, dated April 1, 2004.

B. Findings

The City Council finds that: (1) The project consists of 12 dwelling units in a total of 5 residential buildings plus other accessory buildings and structures, an access drive, and parking for the residents. (2) The project is consistent with the mandatory conditions set forth in Land Use Code Section 8.20 paragraph 0, 1. (3) The applicant is proposing to make design and safety improvements to the site and off-site that are not normally required by the Bath Land Use Code. These include installation of curbing and a pedestrian walkway along that portion of the western property line along Front Street, construction of stormwater drainage improvements on portions of Bowery and Front Streets, and landscaping and hillside slope maintenance around the sides and back of the sewage pumping station on Front Street.

C. Zoning Provisions Affected

This contract zoning amendment is intended to change the Setback, Yard Area, and Building Height requirements pursuant to Section 8.11 to the Setbacks, Yard Areas, and Building Height as approved in the Site Plan Approval granted to SSC Ventures, Inc., by the Bath Planning Board on August 3, 2004.

D. Conditions of Approval

The approval is subject to all conditions of approval, which are part of the Site Plan Approval, granted to SSC Ventures, Inc., by the Planning Board on August 3, 2004.

A motion was made by Councilor Hart, second by Councilor Mitchell to put this Ordinance on the floor for discussion.

Jim Upham, City Planner, gave an overview of the project which prompted this Ordinance change.

Mr. Klingaman of SSC Ventures Inc. showed site plans and explained the details of the project.

ROLL CALL VOTE on the Ordinance:

Yeas: Hall, Quimby, Wyman, Hart, Rogers, Mitchell

Nays: None

Ordinance Passed Unanimously 6-0

Vice Chair Blake set second passage of this Ordinance for September 1, 2004 at 6:05 PM.

Councilor Rogers asked to be excused from the meeting at this time. His request was granted.

G. Petitions & Communications: 8:15 PM #4617

Councilor Quimby passed on a communication from a Richardson Street resident that was requesting that Richardson Street and Western Avenue could have some sort of signage limiting the access of heavy-load trucks for through traffic.

H. City Manager's Report: 8:17 PM #4670

The City Manager spoke on the following topics:

- Upcoming meeting on tax reform
- Train service from Brunswick to Rockland

I. Committee Reports: 8:20 PM #4805

There were no committee reports.

J. Old Business: 8:21 PM #4820

In response to issues raised by an address to Council of a resident prior in the meeting, Councilors Hall and Mitchell stated they were in full support of the Bath Fire Department and the services they provide the City.

K. New Business: 8:24 PM #4908

Councilor Hart read the following letter to the Council:

August 4, 2004

Dear Fellow Councilors

On September 11,2004 Bath Community Police/Partnership (CP2) is holding its annual Bath Safety Day.

This event will include many organizations like; American Red Cross, Bath Fire, DARE, Me. Dept. Inland Fisheries, Maine Warden Service, Mid Coast Hospital, State Police, A TV and Snowmobile Assns., Maine Marine Patrol, etc.

These organizations and others come to this event to educate 300 to 400 Bath area youth and their families on how to conduct their daily lives safely. A federal organization called "Weed and Seed" helped finance this day with a contribution of \$1000.00 and that funding is no longer available. It is hoped by CP2 that City Council might help us by replacing this lost revenue.

The monies are used to purchase bike helmets, bicycles, food and various supplies needed to run the event.

I would respectfully request that we take \$1000.00 from our contingency fund, for this purpose.

Your consideration would be greatly appreciated.

Yours truly,
John C. Hart
Councilor Ward #5 Council Representative CP2

A motion was made by Councilor Wyman, seconded by Councilor Mitchell to waive the rules to vote on the consideration of \$1,000.00 from the Council contingency fund to the Bath Safety Day Event.

VOTE on Waiving the Rules:

Yeas: 5

Nays: 0

Waiving the Rules Passed Unanimously 5-0

A motion was by Councilor Hart, seconded by Councilor Wyman to take \$1,000.00 from the Council contingency fund to be given to the Bath Safety Day Event.

VOTE:

Yeas: 5

Nays: 0

Passed Unanimously 5-0

14) Appointment: Two members to the Old Customs House Board of Directors. Terms to expire August 2007.

This item was pulled from the agenda by the Vice Chairman.

Vice Chair Blake informed the public that the Skatepark is now showing movies on Thursday, Friday and Saturday nights. There is a small fee, which covers a bag of popcorn and the movie.

A motion was made by Councilor Mitchell at 8:30PM to go into Executive Session to discuss an Abatement Matter pursuant to 36 M.R.S.A., Section 841(2)(E) and a Real Estate Matter Pursuant to 1 M.R.S.A., Section 405 (6), second by Councilor Wyman. All in favor.

Councilor Wyman made a motion at 8:58 PM, seconded by Councilor Hart to come out of Executive Session with a 4-1(Hall) vote.

The meeting adjourned at 8:59 PM with a motion by Councilor Wyman, seconded by Councilor Quimby. All in favor.

Attested:

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.