

**REGULAR MEETING MINUTES**  
**City Council of the City of Bath, Maine**  
**Wednesday, September 1, 2004 6:00 pm**  
**City Council Chambers, Bath City Hall**

**Present:** Councilors Hall, Quimby, Blake, Wyman, Hart, Daigle, Rogers, Mitchell and Chairman Winglass

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

Presentation of a Proclamation and City Chair to Mary Jane Leopin were made for her 27 years of service to the City in the Treasurer’s Office.

Al Smith made a presentation regarding Citizen Involvement Day on September 11, 2004 at Waterfront Park and held in conjunction with Community Safety Day at the Police Station and Battle of the Bands at the Skatepark. He gave an overview of some of the highlights planned including many types of music, 40 organizations represented and awards such as for Citizen of the Year, Community Spirit award , Grass Roots Award and Project of the Year Award.

Presentation scheduled from County Sheriff Mark Westrum and County Commissioner Arthur Tainter was pulled from the Agenda.

**C. Public Hearings: 6:09 PM**

- 1) **Ordinance: Chapter 13, Refuse. Article 2. Landfill Fee Schedule, Section 13-32 Fee Schedule, A. Commercial Haulers (second passage) #105**

Chairman Winglass 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.

Motion by Councilor Daigle, seconded by Councilor Blake to put this Ordinance on the floor for discussion.

**ROLL CALL VOTE on Ordinance:**

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

**Nays: None**

**Ordinance Passed Unanimously 8-0**

- 2) **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 (second passage) #174**

Chairman Winglass 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 5. Operations

Section 17-209. Speed Limits.

Subsection (c).

Add:

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

Motion by Councilor Hart, seconded by Councilor Mitchell to put this Ordinance on the floor for discussion.

**ROLL CALL VOTE on Ordinance:**

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

**Nays: Blake, Daigle, Mitchell**

**Ordinance Passed 5-3**

Chairman Winglass called for a Workshop on September 20<sup>th</sup> regarding traffic issues around the City.

- 3) **Bond Ordinance: Renovations to the former Midcoast Health Services property (second passage) #558**

Chairman Winglass 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.

Motion by Councilor Blake, seconded by Councilor Mitchell to put this Ordinance on the floor for discussion.

Motion by Councilor Mitchell, seconded by Councilor Daigle to table this Ordinance until the October 6, 2004 Council Meeting with a Workshop on this Ordinance to take place before that meeting.

John Bubier explained the timeline of the project and the payment schedule.

**ROLL CALL VOTE on the tabling of the Ordinance:  
Yeas: Hall, Quimby, Wyman, Hart, Daigle, Mitchell**

**Nays: Blake, Rogers**  
**Tabling of Ordinance Passed 6-2**

Chairman Winglass asked that the documents be updated with Councilors recommendations and made available to Council within the next 10 days.

- 4) **Ordinance: LUC Amendment Article 2, Section 2.01, Meaning of Words – Height of Structure – all districts except Shoreland Zone (second passage) #1469**

Chairman Winglass 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.)

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

**ROLL CALL VOTE on the Ordinance:**

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

**Nays: None**

**Ordinance Passed Unanimously 8-0**

- 5) **Ordinance: LUC Amendment Article 16, Section 16.11, Texas Steamship Contract Zone (second passage) # 1531**

Chairman Winglass 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.

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

#### **ROLL CALL VOTE on the Ordinance:**

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

**Nays: None**

**Ordinance Passed Unanimously 8-0**

Chairman Winglass stated that all previously passed Ordinances would become effective in 21 days.

#### **D. Consent Agenda: 6:59 PM #1648**

6)\* Under the Consent Agenda, Councilor Mitchell made a motion to accept the minutes for the August 4, 2004 Council Meeting as presented, which was seconded by Councilor Daigle.

#### **VOTE on Consent Agenda:**

**Yeas: 8**

**Nays: 0**

**Consent Agenda passed unanimously.**

#### **E. Time Devoted to Residents to Address the City Council: 6:59 PM #1660**

No one from the public spoke at this time.

#### **F. Ordinances, Resolutions and Orders: 7:00 PM**

##### **Item F7 – Order: Appointing Tree Warden #1664**

Chairman Winglass 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 Blake, seconded by Councilor Mitchell to put this Order on the floor for discussion.

**VOTE on Order:**

**Yeas: 8**

**Nays: 0**

**Order passed unanimously.**

**G. Petitions & Communications: 7:03PM #1760**

Councilor Mitchell made the Council aware of a communication regarding a parking issue near Stinson Seafood Company causing delivery trucks to use Front Street, which is not allowed. After Council discussion, it was decided that the Police Chief had been informed of the problem and the Council would look more closely at the situation on their scheduled trolley tour of the City. A change in the parking code would be a likely remedy to the problem.

**H. City Manager's Report: 7:07 PM #1883**

The City Manager spoke on the following topics:

- Overview of upcoming plan to deal with the possibility of the Palesky Proposal passing
- Mono-lite update
- Waterfront Park float and dock project update
- Skatepark Movie Night
- School Starting
- Public Works projects update
- Possible Tax Reform proposals
- Regionalization Talks update

**I. Committee Reports: 7:21 PM #2410**

Councilor Hart gave an overview of the upcoming Citizen Involvement Day and Police Safety Day festivities to be held on September 11 in Waterfront Park and invited everyone to attend.

Council Daigle informed the Council of the recent vacancy on the Board of Education due to the resignation of Ward 5 Representative Lisa Stover on December 1, 2004. He asked that anyone interested in the position pick up an application from the City Clerk's office and the applicants would be interviewed by all of the Councilors.

Chairman Winglass read the list of Council and Board of Education positions up for election on November 2, 2004.

**J. Old Business: 7:28 PM #2610**

There was no old business taken up at this time.

**K. New Business: 7:28 PM #2612**

Councilor Wyman made a motion to waive the rules to amend the agenda to include an Order approving an application to conduct bingo from the All Officers' Spouses' Club, seconded by Councilor Mitchell. All in favor.

Chairman Winglass 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, OCTOBER 3, 2004, AT THE COSMOPOLITAN CLUB AT 894 WASHINGTON STREET, IN BATH, BE AND HEREBY IS CONSENTED TO.

Motion by Councilor Quimby, seconded by Councilor Blake to put the Order on the floor for discussion.

**VOTE on Order:**

**Yeas: 8**

**Nays: 0**

**Order passed unanimously.**

**K-8) Appointment: Two members to the Old Customs House Board of Directors. Terms to expire August 2007.**

Motion by Councilor Hall to nominate Edward True and John Voorhees to these positions, seconded by Councilor Mitchell. All in favor of the nominations.

**K-9) Appointment: Two members to the Board of Assessment Review. Terms to expire July 2007.**

Motion by Councilor Hall to nominate Doris Ford and Thomas Barrington to these positions, seconded by Councilor Mitchell. All in favor of the nominations.

**K-10) Appointment: Three members to the Zoning Board of Appeals. Terms to expire 1 member September 2006 and Two members September 2007.**

Motion by Councilor Hall to nominate William Truesdell and Thomas Watson to the three year positions and Harry Story to the two year position, seconded by Councilor Mitchell. All in favor of the nominations.

**K-11) Appointment: Two members to the Planning Board. Terms to expire September 2007 .**

Motion by Councilor Hall to nominate Robert Oxtan and William Vahey to these positions, seconded by Councilor Mitchell. All in favor of the nominations.

The meeting adjourned at 7:35 PM with a motion by Councilor Quimby, seconded by Councilor Hart. All in favor.

Attested:

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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.*