

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

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

Late: Councilor Blake

Absent: Councilor Mitchell

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

Chairman Winglass opened the meeting at 6:00 PM with the Pledge of Allegiance and City Clerk White called the Roll.

There was a presentation from Dean Corner, Assistant Director of the Patten Free Library concerning the "Community Read" program. Mr. Corner handed out the book Endurance: Shackleton's Incredible Voyage by Alfred Lansing to all the Councilors. He explained the books were available at area schools, libraries and bookstores. Mr. Corner gave a brief overview of the events scheduled during the month of March that would be enhancing this book such as movies of the adventure, book discussions, poetry sharing and cooking of survival foods.

Councilor Blake took her seat during the Community Read presentation.

Senator Arthur Mayo III and Representative Thomas Watson gave an update on the state of the State relating to Bath issues. The following are some of the subjects addressed:

- Governor Baldacci's health after his car accident
- Passing of State Budget
- Tax Relief
- Education Funding
- Sales Tax Issues
- State Revenue Issues

Chairman Winglass read a Proclamation for retiring Firefighter Captain Gilbert "Gilley" C. Robinson of the Bath Fire Department expressing the City's recognition and appreciation for his 34 years of service to its citizens.

C. Public Hearings: 7:09 PM

1. Ordinance: LUC, Adding Section 16.09 – C.N. Brown – Route 1 – Contract Zone (second passage) #2241

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 JUL Y 19, 2000, AND

SUBSEQUENTLY AMENDED, BE HEREBY FURTHER AMENDED AS FOLLOWS:

By adding SECTION 16.09 -C. N. BROWN -ROUTE 1 -CONTRACT ZONE, as follows:

SECTION 16.09 C.N. BROWN -ROUTE 1 -CONTRACT ZONE

A. District Designation

The property designated for this contract zoning amendment is the property located at 150 Leeman Highway (Route 1) being identified as Lots 48 and 49 on City of Bath Tax Map 28, dated April 1, 2003.

B. Findings

The City Council finds that: (1) the project consists of demolishing the existing building on lot 49 and removing the fuel pumps and tanks on lot 48, constructing a 5,000 square foot building for restaurant and/or retail use(s), a detached 4,050 square foot canopy with 6 fuel pump islands and 12 fueling stations, and a 1,000 square foot car wash; (2) the project is consistent with the mandatory conditions set forth in Land Use Code Section 18.20 paragraph D, 1; (3) the applicant is proposing to reduce the number of curb cuts onto Leeman Highway (Route 1) and Western Avenue so that the project will result in improved traffic safety; (4) the facades of the buildings proposed to be compatible with the neighborhood and will help to create an improved Gateway image for Bath; (5) the project will have appropriate screening and landscaping in addition to that normally required by Article 10; (6) the applicant will install decorative lighting, like that on the Sagadahoc Bridge, at the Leeman Highway edge of the site; and (7) the applicant will construct a sidewalk and grassed esplanade with street trees along a portion of Western Avenue.

C. Zoning Provisions Affected

This contract zoning amendment is intended to change the Setback and Yard Area requirements pursuant to Section 8.10 to the Setbacks and Yard Areas as approved in the Site Plan Approval granted to C. N. Brown, Company, by the Bath Planning Board on December 16, 2003.

D. Conditions of Approval

The approval is subject to all conditions of approval, which are part of the Site Plan. Approval, granted to C. N. Brown, Company, by the Planning Board on December 16, 2003.

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

Motion by Councilor Wyman, second by Councilor Blake to amend the Ordinance by changing all references to Section 16.09 to read Section 16.10.

VOTE on Amendment:

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

Nays: None

Amendment Passed Unanimously 7-0

Jim Upham, City Planner, explained this project would be in compliance with the future Route One Corridor plans.

ROLL CALL VOTE on Amended Ordinance:

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

Nays: None

Amended Ordinance Passed Unanimously 7-0

Chairman Winglass stated this Ordinance would be effective in 21 days.

2. Ordinance: Chapter 17. Vehicle & Traffic, Article 1. General Provisions, Section 17-1. Definitions, (1) (18A) / Article 7. Offenses, Section 17-311. Limitation of use of motorbikes, all-terrain vehicles and snowmobiles (second passage) #2480

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 & TRAFFIC Article 1. General Provisions

Section 17-1. Definitions. Add the following:

(1) All-terrain vehicle (ATV): A motor driven, off-road, recreational vehicle capable of cross-country travel on land, snow, ice, marsh, swampland or other natural terrain. It includes, but is not limited to, a multi-track, multi-wheel or low pressure tire vehicle; a motorcycle or related 2-wheel, 3-wheel or belt-driven vehicle; an amphibious machine; or other means of transportation deriving motive power from a source other than muscle or wind. For purposes of this definition, an "all terrain vehicle" does not include an automobile, personal assistive mobility device, a truck, a snowmobile, an airmobile, a construction or logging vehicle used in performance of its common functions, a farm vehicle used for farming purposes, or a vehicle used exclusively for emergency, military, law enforcement or fire control purposes.

Change (1) authorized emergency vehicle to (1A) authorized emergency vehicle. Add the following:

(18A) Snowmobile: Snowmobile shall mean any vehicle propelled by mechanical power that is primarily designed to travel over ice or snow supported in part by skis, belts or cleats.

Article 7. Offenses Change Section 17-311 to read as follows:

Section 17-311. Limitation of use of motorbikes, all-terrain vehicles and snowmobiles.

All motorbikes, all-terrain vehicles and snowmobiles as defined, shall be prohibited from operating in any park, recreational area, school grounds, public parking lot or cemetery within the City of Bath. The operator of such motorbike, all-terrain vehicle or snowmobile shall be subject to the penalties set forth in section 17-352. Nothing herein, however, shall prevent the operation of lawfully registered motorbikes, all-terrain vehicles or snowmobiles from operating and parking in those areas of the parks, recreational areas, cemeteries, school grounds or public parking lots of the City, as are specifically designated for such purpose.

New text underlined.

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

ROLL VOTE on Ordinance:

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

Nays: None

Ordinance Passed Unanimously 7-0

Chairman Winglass stated this Ordinance would be effective in 21 days.

D. Consent Agenda: 7:19 PM #2613

3)* Under the Consent Agenda, Councilor Hart made a motion to accept the minutes for the January 7 and 21, 2004 Council Meetings, which was seconded by Councilor Rogers.

VOTE on Consent Agenda:

Yeas: 7

Nays: 0

Consent Agenda passed unanimously.

E. Time Devoted to Residents to Address the City Council: 7:20 PM #2634

No one from the public spoke.

F. Ordinances, Resolutions and Orders: 7:20 PM

Item F4 – Adoption of Amended Working Rules for Council #2639

Chairman Winglass made note of the amendments to the Working Rules, which involved meeting length and tabling motion procedures.

A complete copy of the amended Working Rules are on file in the City Clerk's Office.

Motion by Councilor Quimby, second by Councilor Hart to put the amended Working Rules on the floor for discussion.

VOTE on Amended Working Rules:

Yeas: 7

Nays: 0

Working Rules Passed Unanimously 7-0

Item F5- Order: Approving South End Park Transfer #2712

Chairman Winglass read the following Order:

ORDER APPROVING SOUTH END PARK TRANSFER

WHEREAS, as part of the Maine Department of Environmental Protection approval for the Land Level Facility at the Bath Iron Works, it is required that the Bath Iron Works Corporation to transfer to the City or Bath the premises known as the South End Storage Facility for purposes of establishing a public park, and

WHEREAS, this property has been remediated to the satisfaction of the Department of Environmental Protection in terms of certain hazardous substances on the site, and

WHEREAS, the southerly six acre portion is now been determined to have been constructed as a park and is in a condition for acceptance of title by the City, and

WHEREAS, the State of Maine has issued to the City of Bath a “Commissioner” Certification of Completion of Remedial Action Under Voluntary Response Action Plan” (VRAP), and

WHEREAS, A Declaration of Protective Covenants running with the land has been recorded by the Bath Iron Works Corporation in the Sagadahoc County Registry of Deeds in Book 2324, Page12, and

WHEREAS, copies of these two documents are attached to this Order, and

WHEREAS, the Bath Iron Works has supplied a draft Quit-Claim Deed conveying the premises to the City of Bath which is also attached to this Order.

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Bath that the transfer of the premises described as Exhibit A in the proposed Quit-claim Deed and being the southerly six acres of the facility formerly known as the South End Storage Facility, be and hereby is accepted and the City Manager is authorized on behalf of the City of Bath to execute any and all documents required to consummate this transaction.

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

Thomas Hoerth, City Tree Warden, explained there were grants being explored that would help with the funding of improvements to the park.

Councilor Hall asked that the record show that he and Councilor Quimby agreed that Bath Iron Works needed to provide the elements that were set forth at the beginning of the project.

VOTE on Order:

Yeas: Quimby, Blake, Wyman, Hart

Nays: Hall, Daigle, Rogers

Order Passed 4-3

Item F6 – Order: Ratifying Agreement with Midcoast Center for Higher Learning #4190

Chairman Winglass read the following Order:

ORDER RATIFYING AGREEMENT

WHEREAS, the City of Bath acquired title to the premises known as the Bath Memorial Hospital property, from Midcoast Hospital, and

WHEREAS, the City of Bath has formed a non-profit corporation known as the Midcoast Center for Higher Learning whose non-profit purpose is to administer the facility, and

WHEREAS, the non-profit corporation and the City of Bath have negotiated an agreement that outlines the terms and conditions for the management of the facility and administration of leases, and

WHEREAS, the Agreement has been approved by the Board of Directors of the Midcoast Center for Higher Learning and by City Staff.

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Bath that the Agreement attached hereto is hereby ratified in substantially the form as presented and the City Manager is authorized to execute the document and any other documents necessary to its implementation on behalf of the City of Bath.

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

Arthur Mayo, III, Chairman of the Board of Directors, addressed Council regarding the occupant status at the Center's Building. He explained how the possible Pilot Payment might be worked out. Mr. Mayo stated that the business owners in the downtown are noticing students from the school are shopping in Bath.

VOTE on Order:

Yeas: 7

Nays: 0

Order Passed Unanimously 7-0

Motion by Councilor Hall, second by Councilor Blake to have the Lease and Operations Agreement, Section 5. Compensation, A. Pilot: read as follows: "In Lieu of rent, the Center shall pay to the City of Bath a payment in lieu of taxes in the initial amount of \$10,000.00, said payment to be made by the first of March, 2004 and the first of March of each year of the initial term and any renewal term of this Agreement."

VOTE on Change:

Yeas: 7

Nays: 0

Change Passed Unanimously 7-0

Item F7 – Order: Regarding the Acceptance of the Sewall Private Grounds Oak Grove Cemetery Tape 1 #5352 cont'd Tape 2 #15

Chairman Winglass read the following Order:

ORDER REGARDING SEWALL PRIVATE GROUNDS

WHEREAS, Emma D. Sewall, Harold M. Sewall, and William D. Sewall, being the Arthur Sewall heirs, by Deed dated January 5, 1903, and recorded in the Sagadahoc County Registry of Deeds in Book 102, Page 457 purported to convey certain premises to the City of Bath; and

WHEREAS, said premises was at that time known and is still known as the "Sewall Burial Lot"; and

WHEREAS, jurisdiction and maintenance issues with respect to the lot have been handled on an ad hoc basis over the intervening century with burial being limited to Sewall family members and the City providing limited maintenance; and

WHEREAS, it is necessary and appropriate at this point in time to further determine the administration of the lot; and

WHEREAS, the Agreement attached to this Order entitled "Agreement Sewall Private Grounds Oak Grove Cemetery" has been approved by the members of the Sewall Cemetery Committee, designated by the Sewall heirs to act on their behalf concerning this agreement in order to further define the rights and responsibilities of the parties in the "Sewall Burial Lot",

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Bath that said Agreement be and hereby is approved in form and substance materially as presented, and that the City Manager be authorized to execute said document on behalf of the City of Bath.

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

Denis Hebert, Superintendent of Cemeteries and Parks, explained the reason this Order was being brought to Council.

John Voorhees, Attorney for the Sewall Family, thanked Denis Hebert and Roger Therrault for their work to see this transfer take place. He explained the details of the origin of this section of the Cemetery.

VOTE on Order:

Yeas: 7

Nays: 0

Order Passed Unanimously 7-0

Item F8 – Resolution: Municipal Resolution for Tax Reform Tape 2 #242

Chairman Winglass read the following Resolution:

Municipal Resolution for Tax Reform

Whereas over-reliance on property taxes to fund education and soaring real estate values have caused home owners' property taxes to increase disproportionately to other taxes in recent years; and

Whereas continued federal tax cuts are significantly diminishing aid to states and municipalities, putting further strain on property taxes; and

Whereas no Maine family, senior citizen, farmer, forester, fisherman or other Maine citizen should be forced to sell their home and land because of disproportionate use of property taxes; and

Whereas Maine has one of the narrowest sales tax bases in the country; and

Whereas the only responsible way to address these issues is through tax reform, not drastic cuts to essential state funding for health care, children and the environment; and

Whereas failure to provide Maine's citizens with meaningful property tax relief in 2004 will fuel efforts to pass a California-style tax cap at the polls that would dramatically reduce funding Maine's schools, public safety and community services;

Therefore be it resolved that the City of Bath calls upon the Maine Legislature and the Governor to modernize Maine's tax structure and promote tax fairness in 2004 in order to provide greater state aid to education, general property tax relief, and targeted tax relief for those who need it most.

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

Motion by Councilor Rogers, second by Councilor Wyman to table this Resolution to the Regular Meeting in March after the City Manager and Councilor Hall have time to rewrite the Resolution.

VOTE on Tabling Resolution:

Yeas: 7

Nays: 0

Tabling Resolution Passed Unanimously 7-0

G. Petitions & Communications: 8:48 PM Tape 2 #432

Chairman Winglass read a letter from Earle G. Shettleworth, Jr., Director of the Maine Historic Preservation Commission, stating that the Trufant Historic District was entered in the National Register of Historic Places on January 15, 2004 by the National Park Service, Department of the Interior, Washington, DC.

Councilor Rogers left Council Chambers at this time.

H. City Manager's Report: 8:50 PM Tape 2 #476

The City Manager spoke on the following topics:

- Meetings regarding developing Heritage Days
- Details regarding the Pine Tree Zones
- Administration of the Wastewater Treatment Department
- Working with the School Dept. on areas for the Vocational School to continue building their houses. Councilor Daigle asked to be able to do some research on this subject and make a report at the March Regular meeting. All in favor.

Councilor Hart made a motion to waive the Rules to extend the meeting past the 9:00 PM time, seconded by Councilor Quimby. All in favor.

Councilor Rogers returned to his seat on Council at this time.

Mr. Bubier then continued his report:

- Reported on the Downtown Centers Meeting
- Reported on the January 29th meeting of MCDBP

I. Committee Reports: 9:05 PM Tape 2 #939

Councilor Hart reported on the Meeting of the SCLC at Morse High School. He stated the students are looking into starting a Junior Main Street Program with the help of Mari Huotari. Councilor Hart reported on his recent training on Community Resolution Team facilitator training dealing with first time juvenile offenders. He report on the Waterfront Park Committee Meeting regarding the discussion on lighting, tables and benches.

J. Old Business: 9:07 PM Tape 2 #1021

There was no Old Business taken up.

K. New Business: 9:07 PM Tape 2 #1026

K9 – Appointment of one member to the Personnel Service Commission, term to expire January 2007.

Motion by Councilor Hall, second by Councilor Rogers to nominate Karla Gagnon for the position. All in favor.

Motion by Councilor Hall, second by Councilor Hart to have the Council Chairman work with the City Manager on the Manager's Contract Renewal. All in favor.

Motion by Councilor Hart, second by Councilor Quimby to go into Executive Session to discuss a Property Matter at 9:10 PM. All in favor.

Motion by Councilor Hart, second by Councilor Quimby to come out of Executive Session at 9:30 PM. All in favor.

The meeting adjourned at 9:31 PM with a motion by Councilor Wyman, second by Councilor Daigle. 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.