

**REGULAR MEETING MINUTES
City Council of the City of Bath, Maine
Wednesday, May 4, 2005 6:00pm
City Council Chambers, Bath City Hall**

Present: Councilors Hinds, Quimby, Blake, Wyman, Daigle, Mitchell and Chairman Winglass.
Absent : Councilors Hart, Pagurko

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

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

Chairman Winglass expressed the sympathies of the Council and the City of Bath to the family of former Councilor John Coombs on his passing.

A presentation of a Proclamation and a City Chair was given to David Driver and Alan Douglass for their 22 years of service each to the City of Bath with the Bath Fire Department.

Margaret Bliss and Barbara Sargent of the Friends of Zorach Fountain Committee gave the Council a brief history, an update on the status of repair and a timeline of the relocation to Library Park of the fountain "Spirit of the Sea"

Mari Houtari announced that in keeping with the project the Heritage Days theme would be "Spirit of the Sea".

C. Public Hearings: 6:37 PM

1) Ordinance: LUC Amendment Repeal existing Article 13 and replace with new Article 13 (second passage) #1133

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:

Repeal existing Article 13 and replace it with new Article 13

A complete copy of this document is on file with the Council Agenda materials for the 5/4/2005 meeting in the City Clerk's Office.

Motion by Councilor Quimby, second by Councilor Hinds to put this Ordinance on the floor for discussion.

Jim Upham, City Planner, asked that the Ordinance be tabled.

Motion by Councilor Blake, second by Councilor Daigle to table this Ordinance until the June 1, 2005 Council Meeting.

ROLL CALL VOTE:

Yeas: Hinds, Quimby, Blake, Wyman, Daigle, Mitchell

Nays: None

Tabling Motion passed unanimously. 6-0

2) Ordinance: LUC Article 2 – Definitions, Section 2.02 (second passage) #1238

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 -Definitions, Section 2.02, as follows:

Street: For the purpose of determining frontage and access requirements only; a way established or maintained under public authority; a private way meeting the standards contained in Section 13.14. B. 2. (e), approved by the Planning Board, and recorded at the Registry of Deeds; a way shown on a plan of a subdivision duly approved by the Planning Board; a way shown on a plan recorded in the Registry of Deeds prior to September 23, 1971; a way that is existing at the date of adoption of this Section, which meets the standards contained in Section 13.14. B. 2. (e).

Street Bottle-neck That segment of a dead-end street system. which must serve as both ingress and egress.

Street, Continuing A street having two ends: each end connecting with a different continuing street or loop street.

Street, Loop A street that has two ends, each end connecting with the same the connections are less than 500 feet apart the street is considered a dead-end street system.

(Note: additions are underlined, and deletions are.)

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

Jim Upham, City Planner, asked that the Ordinance be tabled as it was related to the previous Ordinance.

Motion by Councilor Mitchell, second by Councilor Hinds to table this Ordinance until the June 1, 2005 Council Meeting.

ROLL CALL VOTE:

Yeas: Hinds, Quimby, Blake, Wyman, Daigle, Mitchell

Nays: None

Tabling Motion passed unanimously. 6-0

3) Ordinance: LUC Article 11 – Section 11.36 Manufacturing, Processing, Creation, Renovation, or Assembling of Goods, Merchandise, or Equipment in the downtown Commercial District (second passage) #1272

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 11, Section 11.36, as follows:

SECTION 11.36 MANUFACTURING, PROCESSING, CREATING, RENOVATING, OR ASSEMBLING OF GOODS, MERCHANDISE, OR EQUIPMENT IN THE DOWNTOWN COMMERCIAL DISTRICT

This Standard applies to land Use category 4.1 if located in the C1 zoning district.

A. May not be located on the ground floor unless on the ground floor at least 30 percent of the gross floor area of the use is devoted to, available to, and physically arranged to accommodate walk-in, retail sales of the product of the business.

B. Notwithstanding A, above, a Category 4.1 use may be located on the ground floor of a mixed use building, which must include a Category 2 use, a Category 3 use, or a Category 10.1 use, provided the Category 4.1 use occupies no more than 50% of the around floor and does not occupy more of the storefront than is necessary for safe personal egress. The storefront means that portion of the building that abuts a street, a City owned parking lot or the Kennebec River and is 15 feet in depth from that street, City owned parking lot or Kennebec River.

C. The non-Category 4.1 use of the building must be physically separated from the Category 4.1 use of the building.

D. May only be conducted in a building, which existed on July 19, 2000.

(Note: Additions are underlined, and deletions are .)

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

Jim Upham, City Planner, explained an amendment that needed to be made to the Ordinance.

Motion by Councilor Quimby, second by Councilor Mitchell to amend Paragraph B, last sentence to read “The *storefront* means that portion of the building that abuts a street, a City owned parking lot or the Kennebec River and is at least 15 feet in depth from that street, City owned parking lot or Kennebec River.”

ROLL CALL VOTE on Amendment:

Yeas: Hinds, Quimby, Blake, Wyman, Daigle, Mitchell

Nays: None

Amendment passed unanimously. 6-0

ROLL CALL VOTE on Amended Ordinance:

Yeas: Hinds, Quimby, Blake, Wyman, Daigle, Mitchell

Nays: None

Amended Ordinance passed unanimously. 6-0

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

4) Approval of a Liquor License for the Solo Bistro at 128 Front Street #1415

NOTICE

THE MUNICIPAL OFFICERS OF THE CITY OF BATH WILL CONDUCT A PUBLIC HEARING FOR APPROVING:

A FULL TIME MALT, SPIRITUOUS, AND VINOUS LIQUOR APPLICATION FOR:

SOLO BISTRO
128 FRONT STREET
BY
WILLIAM L. NEILSON AND PIA B. NEILSON, MANAGERS

SAID PUBLIC HEARING WILL BE HELD ON **WEDNESDAY, MAY 4, 2005 AT 6:05 P.M.** IN THE COUNCIL CHAMBERS, 3RD FLOOR, AT CITY HALL, BATH, MAINE, AND ALL PERSON(S) MAY APPEAR TO SHOW CAUSE WHY SAID APPLICATION SHOULD OR SHOULD NOT BE APPROVED.

William Neilson answered questions regarding hours of operation and advised the Council that hours of operation would be from lunchtime to around 11PM.

VOTE:

Yeas: 6

Nays: 0

Liquor License passed unanimously. 6-0

D. Consent Agenda: 6:49 PM #1531

5)* Under the Consent Agenda acceptance of the Minutes to the meetings of April 6 and 20, 2005. Motion by Councilor Mitchell, second by Councilor Quimby to accept the minutes as presented. All in favor.

E. Time Devoted to Residents to Address the City Council: 6:50 PM #1550

William Edgett of 2 Edgett Street addressed Council against the construction of the proposed Tedford Shelter project behind the United Church of Christ.

F. Ordinances, Resolutions and Orders: 6:55 PM

Item 6 Proclamation Arbor Week #1715

Chairman Winglass read the following Resolution:

ARBOR WEEK PROCLAMATION

WHEREAS, In 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees, and

WHEREAS, this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska, and

WHEREAS, Arbor Day is now observed throughout the nation and the world (more often as a weekly observance), and

WHEREAS, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce oxygen and provide habitat for wildlife, and

WHEREAS, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products, and

WHEREAS, trees in our city increase property values, enhance the economic vitality of business areas, and beautify our community, and

WHEREAS, trees, wherever they are planted, are a source of joy and spiritual renewal,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BATH, MAINE, HEREBY PROCLAIMS THE WEEK OF MAY 15-21 AS

ARBOR WEEK

in the City of Bath, and we urge all citizens to celebrate Arbor Week and to support efforts to protect our trees and woodlands, and

FURTHER, We urge all citizens to plant trees to gladden the heart and promote the well-being of this and future generations.

DATED this 4th day of May 2005.

Motion by Councilor Blake, second by Councilor Hinds to put this Proclamation on the floor for discussion.

VOTE on Proclamation:

Yeas: 6

Nays: 0

Proclamation passed unanimously 6-0

Kathleen Robert McClellan of 708 Washington Street announced the organization of the 7th Chapter of Maine Apartment Owners' and Managers' Association. She explained the organization is a committee devoted to promoting responsible landlords and is the Bath/Brunswick Housing Association serving all of Lincoln, Sagadahoc and eastern Cumberland Counties. The next meeting of the organization will be held on June 6, 2005 at the Taste of Maine in Woolwich.

Item 7 A Family for ME Proclamation #1826

Chairman Winglass read the following Proclamation:

PROCLAMATION

WHEREAS, approximately 2,699 children in Maine are in the care of the Department of Human Services; and

WHEREAS, nearly all of these children have special needs because of physical, mental or emotional disabilities, because they must be placed with other siblings, because they are children of color or because they are school-aged; and

WHEREAS, these children need extra patience and support to help them overcome past and present hardships; and

WHEREAS, many of these children are cared for by one of 1,251 licensed foster families; and

WHEREAS, approximately 270 children are currently in foster homes where they expect to be adopted; and

WHEREAS, families are able and willing to care for children who have special needs; and

WHEREAS, in 2004, 294 children who have special needs were placed into adoptive families in Maine, and

WHEREAS, it is important to stress that a disability, low income or being single does not disqualify individuals from adopting; and

WHEREAS, approximately 216 children are waiting for adoptive families currently in the State of Maine, and

WHEREAS, children waiting for adoptive parents, and families who are caring for these children or have decided to adopt these children require and deserve public and agency support.

NOW, THEREFORE, BE IT RESOLVED, THAT WE, the Bath City Council of Bath, Maine, do hereby declare May 2005 as Foster Care Awareness Month in Bath, Maine. In recognition of this event, we encourage community agencies, religious organizations, businesses and others to celebrate foster care, to honor families that grow through foster care, to further an awareness of the changes and issues in foster care and to focus attention on those who live in the shadow of an uncertain future while they await “forever families”.

Dated this 4th day of May 2005.

Motion by Councilor Quimby, second by Councilor Hinds to put this Proclamation on the floor for discussion.

VOTE on Proclamation:

Yeas: 6

Nays: 0

Proclamation passed unanimously 6-0

Item 8 Resolution Setting Fee Schedule for the Bath Sewer Rates #1913

Chairman Winglass read the following Resolution:

**RESOLUTION ESTABLISHING SCHEDULE OF RATES
FOR SEWER SYSTEM FEES, USE CHARGES,
AND SPECIAL ASSESSMENTS**

WHEREAS, Sections 14-28, 14-30, 14-51(b), 14-52(a), and 14-54 of the Code of the City of Bath specifies that the City Council from time to time shall establish by Resolution, upon recommendation from the City Manager, a schedule of rates for the sewer system fees and use charges together with surcharges which may be applicable, as well as special assessments, and

WHEREAS, it is apparent that an increase in the rate structure is necessary in order to fund the waste water treatment system, and

WHEREAS, such an increase is recommended by the City Manager,

NOW THEREFORE be it resolved by the City Council of the City of Bath, pursuant to their authority under the Code of the City of Bath, that the following rate structure, listed in the attached table, be and hereby is adopted for all listed fees, charges, and special assessments, beginning July 1, 2005, and continuing until further Resolution of the Council:

Table ES-I Proposed Rate Structure

	Existing	Proposed
Implement Immediately		
New sewer connection fee	\$500	\$2,000
Betterment fee	No Fee	\$500
Impact fee	No Fee	To be determined on a case by case basis.
Septage disposal (per 1,000 gallons) (1)	\$95	\$110
Holding tank (per 1,000 gallons) (1)	\$95	\$110

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

VOTE on Resolution:

Yeas: 6

Nays: 0

Resolution passed unanimously 6-0

Item 9 Resolution: Amendments LUC Fee Schedule of Requests for Permits #2240

Chairman Winglass read the following Resolution:

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BATH THAT THE FEE SCHEDULE FOR REQUESTS FOR PERMITS ASSOCIATED WITH THE LAND USE CODE, ADOPTED SEPTEMBER 6, 2000, BE AMENDED AS FOLLOWS:

Change the fees for subdivision review to the following:

Subdivision -Sketch Plan Review	\$100.00 per lot or unit
Subdivision - Request for Subdivision Approval	\$250.00 per lot or unit

This amendment would become effective when the revised Article 13 of the Land Use Code becomes effective.

Motion by Councilor Daigle, second by Councilor Pagurko to put this Item on the floor for discussion.

VOTE on Resolution:

Yeas: 6

Nays: 0

Resolution passed unanimously 6-0

Item 10 Ordinance: LUC Amendment Article 16, Section 16.06, A, Former Bath Hospital and 2 Davenport Circle (first passage) #2309

Chairman Winglass stated this item was being pulled from the agenda to a workshop at a later date.

It was requested that the City Clerk notify residents of the area by notice when this item was to be brought up in Workshop.

Item 11 Ordinance: LUC Article 16, Section 16.12, 1172 Washington Street Contract Zone (first passage) (first passage) #2360

A complete copy of this Ordinance is on file with the agenda materials for the May 4, 2005 Council Meeting in the Bath City Clerk's Office.

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

Jim Upham, City Planner, explained the project that was being proposed and the amendment.

ROLL CALL VOTE on Ordinance:

Yeas: Hinds, Quimby, Blake, Wyman, Daigle, Mitchell

Nays: None

Ordinance Passed Unanimously 6-0

Chairman Winglass set second passage of the Ordinance for June 1, 2005 at 6:01 PM.

Jerzy Karcz of 17 Beacon Street thanked the Planning Board for scrutinizing of this project and asked Council to do the same. He asked where he would find out why he is paying a sewer surcharge. He was directed to go to the City Finance Director's Office.

Deborah Simard, proposed owner of the property, thanked everyone for their hard work on the overlay.

Item 12 Approval of Conduit Permit to place conduit southwesterly and northeasterly of the Western Avenue Ext. #3105

Motion by Councilor Quimby, second by Councilor Hinds to put this Item on the floor for discussion.

VOTE on Application:

Yeas: 6

Nays: 0

Application Passed unanimously 6-0

G. Petitions & Communications: 7:35 PM #3140

Announcement of May Fair Weekend to be observed on May 7, 2005 throughout the City with yard sales, entertainment and various community events.

H. City Manager's Report: 7:37 PM #3165 – Tape #1 (#6 – Tape #2)

John Bubier, City Manager, gave a brief update on the status of the BRAC Committee closure List regarding BNAS.

Mr. Bubier presented an overview of the proposed City Budget for 2005-2006. Some highlights mentioned by the Manager that influenced the line figures are as follows:

- LD 1 relating to the Budget
- Re-evaluation relating to the Budget
- Spending Limitations Cap
- Listed Budget Components:
City Operation Budget increase at 2.79%; Sewer Utility increase of less than 1%; School increase at 4.08%; Capital Budget and how it would be funded

- County Budget

Mr. Bubier stated that due to the City's re-evaluation project and the unset County Budget the tax rate is not known at this time.

I. Committee Reports: 8:06 PM #783

None.

J. Old Business: 8:06 PM #787

None.

K. New Business: 8:06 PM #789

- 13) Appointment of three members to the Bath Economic Development Committee, term expirations indefinite.**

Councilor Mitchell nominated Peter Robohm, Herbert Kresser, Jr. and John Fox, Jr. to fill the three positions. Councilor Blake seconded the nominations. All in favor.

The meeting adjourned at 8:09 PM, motion made by Councilor Wyman and seconded by Councilor Hinds. All in favor.

Attest:

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.