

REGULAR MEETING MINUTES
City Council of the City of Bath, Maine
Wednesday, May 3, 2006 6:00pm
City Council Chambers, Bath City Hall

Present: Councilors Hinds, Omo, Quimby, Blake, Hart, Verville, Pagurko, Winglass and Chairman Wyman.

Also in attendance was the City Manager – William Giroux, City Solicitor - Roger Therriault and City Clerk - Mary White.

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

Presentation of the following Proclamation and a City chair was made to Police Chief Pete Lizanecz for his 27 years of service to the City of Bath.

PROCLAMATION

WHEREAS the City of Bath wishes to recognize the 27 years of service by Chief Pete Lizanecz of the Bath Police Department, and

WHEREAS Pete was born in Woking, England, the son of Paul and Peggy Lizanecz, attending schools in Norridgewock, graduating from Mt. Ararat High School and continuing on to the Command Program at Babson College, the FBI National Academy, the Maine Criminal Justice Academy, graduating Magna Cum Laude from the University of Maine Augusta with a B.S. in Administration of Justice, and

WHEREAS Pete started out as a Dispatcher in February 1979 and progressed through the ranks serving as a Reserve Officer, Patrolman, Court Officer, Detective, Sergeant and culminating his career as Police Chief from October 1998 to April 2006; and

WHEREAS some of Pete’s accomplishments include the following: Bath Police Dept. Historian, implemented Community Policing Program in 1995 of which the MCPI at the Univ. of ME in Augusta has proclaimed that no one in Maine has been more innovative or successful in implementing Community Policing programs and working with community members to improve the quality of life in their neighborhoods than Chief Lizanecz, published in “History of Law Enforcement Officers Killed In the Line of Duty (Constable William “Uncle Billy Lawrence) and “Bath’s Community Policing Experience” in the 2001 issue of the Maine Townsman, and received numerous letters of commendation attesting to his professionalism, attention to safety, patience and leadership abilities, and

WHEREAS Pete has served on numerous Boards including the Maine Chiefs of Police Board of Directors, ME Community Policing Advisory Council, ME Criminal Justice Academy Board, Elder Abuse Task Force, Bath Youth Meeting House and Skate Park, National and International Associations of Chief of Police, Community Policing Partnership, Volunteers in Policing Services, Neighborhood Policing and the Good Morning Program, and

WHEREAS Chief Pete is an Officer and a Gentleman in the true sense of the word, and his long and distinguished career of public service to the citizens of Bath was marked by his integrity and professionalism;

NOW THEREFORE BE IT PROCLAIMED by the City Council of the City of Bath recognizes the 27 years of excellent public service to the Bath citizenry and with collective heavy hearts and the thanks of a grateful community, we send him off with pride wishing him every success in his new career with the Attorney General's Office. *This 3rd Day of May, 2006.*

Senator Arthur Mayo III read a proclamation from the State Senate and House of Representatives commending Chief Lizanecz for his many outstanding accomplishments during his tenure in the Police Dept.

Public Hearings: 6:09PM

1) Public Hearing - Funding from the CDBG Economic Development Program to assist Long Reach Properties, d.b.a. Kennebec Marina/Tavern to address critical shoreline preservation work and to help in establishing a banquet facility.

Chairman Wyman opened the Public Hearing.

Al Smith, CDBG Director, introduced Gene and Kristie Nygaard, owners of the property and Joseph D LeBlanc, President of LeBlanc Associates Management Consulting.

Joseph LaBlanc explained the process of application filing and details of the shoreline stabilization work for the project. Mr. LeBlanc gave an overview of the changes proposed to the restaurant and marina facilities. One change would be adding a banquet room, which would result in additional jobs. Mr. LeBlanc stated that if this work was not done there would not be a business, as the shoreline erosion would cause the restaurant to experience serious destabilization issues resulting in closure of the business.

Gene Nygaard gave a proposed timeline for the project.

There were no other comments.

Chairman Wyman closed the Public Hearing.

Chairman Wyman read the following Resolution:

**COUNCIL RESOLUTION
City of Bath**

Whereas the City of Bath wishes to apply to the Department of Economic and Community Development for a Community Development Block Grant Program award to carry out a community development program; and

Whereas the planning process required by Maine Law and the CDBG program has been complied with, including participation in the planning process by low and moderate income families and individuals and the Municipal Entity has conducted at least one duly advertised public hearing; and

Whereas the Department of Economic and Community Development has established the Economic Development Program,

Business Assistance Grant Category

Now therefore be it resolved by the Council that William Giroux as its City Manager:

is authorized and directed to submit a Community Development Block Grant application for the program designated above in the amount of \$300,000.00 to the Department of Economic and Community Development on behalf of Long Reach Properties, LLC (Kennebec Marina & Kennebec Tavern) substantially in the form presented to this Council;

is authorized to make such assurances on behalf of City of Bath required as part of such application and,

is authorized and directed, upon acceptance of said funds to carry out the duties and responsibilities for implementing said program, consistent with the Charter of the City of Bath and the laws and regulations governing the planning and implementation of community development programs in the State of Maine.

Signed this 3rd day of May, 2006 on behalf of the City of Bath City Council

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

Edwin Rogers of 5 Old Sloop Lane and neighboring business owner stated that he was in favor of this project.

VOTE on Resolution:

YEAS: 8

NAYS: 0

Resolution passed unanimously. 8-0

2) Public Hearing - CDBG FY 2006 Public Infrastructure Grant Phase 2 - Funding to upgrade water line on Hinckley, Stacey and Shaw Streets and upgrade of sewer lines on Stacey and Hinckley Streets.

Chairman Wyman opened the Public Hearing.

Al Smith, CDBG Director, explained the details of the project and the process needed to move forward with the project.

There was no other comment.

Chairman Wyman closed the Public Hearing.

Motion by Councilor Blake, second by Councilor Pagurko to waive the reading of the following Resolution. All in favor.

CITY OF BATH CITY COUNCIL RESOLUTION

STATE OF MAINE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

WHEREAS, the City of Bath wishes to apply to the Department of Economic and Community Development for a Community Development Block Grant to carry out a community development program; and

WHEREAS, the planning process required by Maine Law and the CDBG Program have been complied with, including participation in the planning process by low and moderate income families and individuals and the community has conducted at least one duly advertised public hearing.

NOW THEREFORE, be it resolved by the Council of the Community of Bath that the City Manager

1) Is authorized and directed to submit an application for the following program and dollar amount within the State of Maine's CDBG Program:

Program: Public Infrastructure Grant Amount \$248,688

To the Department of Economic and Community Development on behalf of the Community of Bath, substantially in the form presented to this council;

2) Is authorized to make assurances on behalf of the Community of Bath required as part of such applications, and

3) Is authorized and directed, upon acceptance of said funds to carry out the duties and responsibilities for implementing and said program(s), consistent with the Charter of the Community of Bath and the laws and regulations governing planning and implementation of community development programs in the State of Maine.

Motion by Councilor Pagurko, second by Councilor Blake to put this item on the floor for discussion.

VOTE on Resolution:

YEAS: 8

NAYS: 0

Resolution passed unanimously. 8-0

3) Public Hearing - Vessel Liquor License for West Travel, Inc. dba Cruise West of Seattle, WA

Chairman Wyman opened the Public Hearing.

Chairman Wyman explained details of the license.

Chairman Wyman closed the Public Hearing.

Motion by Councilor Verville, second by Councilor Pagurko to put this item for a vote.

Vote on License:

Yeas: 8

Nays: 0

License Passed Unanimously. 8-0

D. Consent Agenda: 6:40 PM

4) *Acceptance of the Minutes to the meetings of April 5 and 19, 2006. Motion by Councilor Quimby, second by Councilor Omo to accept the Consent Agenda as presented. All in favor.

E. Time Devoted to Residents to Address the City Council: 6:40 PM

Betsy Fear of 944 Middle Street stated she had concerns with the size and appearance of the proposed Bath Port project.

F. Ordinances, Resolutions and Orders: 6:43 PM

Item 5) Election of Candidate to fill vacant Ward Five seat on the Board of Education.

Chairman Wyman explained the interviewing and election process.

City Clerk White distributed, collected and counted the ballots, witnessed by Chairman Wyman and City Manager Giroux.

The Vote was as follows:

Mark Alexandre Dauge-Roth, 933 High Street	0
Suzanne Weiss, 14 Crawford Drive	3
Mark Kosakowski, 24 Newton Road	6

Mark Kosakowski was elected to fill the vacant Ward Five seat on the Board of Education with term expiration to be December 2006.

Item 6) Arbor Week Proclamation

Chairman Wyman read the following Proclamation:

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 21-27 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 3rd day of May 2006.

It was the consensus of Council to support this proclamation.

Item 7) Order: Lease for Elmhurst, Inc.

Councilor Hinds recused himself from voting due to the fact that he works for Elmhurst, Inc.

Chairman Wyman read the following Order:

ORDER

BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF BATH THAT THE LEASE TO ELMHURST, INC. FOR CERTAIN PORTIONS OF THE BUILDING KNOWN AS SMALL SCHOOL, AS SET FORTH IN THE LEASE ATTACHED HERETO, BE AND HEREBY IS APPROVED AND THE CITY MANAGER IS AUTHORIZED TO EXECUTE SAID LEASE ON BEHALF OF THE CITY OF BATH.

Motion by Councilor Pagurko, second by Councilor Verville to put this Order on the floor for discussion.

Councilor Hart asked if the rent included heat and lights. The City Manager stated that the rent does include the heat and lights.

VOTE on Order:

Yeas: 7

Nays: 0

Order Passed Unanimously. 7-0

Item 8) Order: Lease Volunteers of America

Chairman Wyman read the following Order:

ORDER

BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF BATH THAT THE LEASE TO VOLUNTEERS OF AMERICA FOR THE OPEN SPACE IN THE BASEMENT OF THE FORMER SUPERINTENDENT'S BUILDING, SAID LEASE BEING ATTACHED HERETO, BE AND HEREBY IS APPROVED AND THE CITY MANAGER IS AUTHORIZED TO EXECUTE SAID LEASE ON BEHALF OF THE CITY OF BATH.

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

Councilor Quimby asked that for future leases the heating and electric be figured and be added to the square footage rental. City Manager William Giroux stated that he would have the Recreation Director look into that and see that this was done in the future.

VOTE on Order:

Yeas: 8

Nays: 0

Order Passed Unanimously. 8-0

Motion by Councilor Winglass to waive the rule to amend the agenda to put a Going Out of Business License for Radio Shack located at the Bath Shopping Center on the floor. The motion was seconded by Councilor Pagurko. All in favor.

Motion by Councilor Blake, second by Councilor Pagurko to put the item on the floor for discussion.

Mr. Charles Carroll, District Representative, stated that 475 of the 5000 stores across the country will be closing and since the Bath store has not been as productive as others it is slated to close. He said the Brunswick store will remain open.

VOTE:

Yeas: 8

Nays: 0

Passed Unanimously. 8-0

Item 9) Ordinance: LUC Amendment Article 16, Section 16.12 – 99 Commercial Street Contract Zone (first passage)

Chairman Wyman 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 16, by adding Section 16.12, as follows:

SECTION 16.12 - 99 COMMERCIAL STREET CONTRACT ZONE

A. District Designation

The property designated for this Contract Rezoning is the property located on Commercial Street being identified as Lot 272 on City of Bath Tax Map 26, dated April 1 , 2005.

B. Findings

The property is located in the Downtown Commercial (C1) and within the Historic Overlay districts. The City Council makes the following additional specific findings:

1. The building, presently known as the BathPort, was initially constructed in 1973 for the purpose of mixed use consisting of commercial and residential uses.
2. The applicant proposes to demolish the existing structure and replace it with a new structure.
3. Without the creation of a contract zone, the maximum height allowed in this portion of the C1 Zone is 35 feet under the provisions of Section 8.07(C) of the Land Use Code.
4. Contract Rezoning is allowed on this parcel because it is allowed in the Historic Overlay District under the provisions of Section 8.12(1) of the Land Use Code.
5. The developer has offered the following voluntary conditions in exchange for the Contract Rezoning. For the Contract Rezoning the developer will:
 - . Pay for the construction of a five-foot wide brick sidewalk, with granite curbing and fourteen downtown-style streetlights (including conduits and wiring) along Commercial Street from the north end of the Bathport lot to the south end of the waterfront park. (These must be to City specifications.)
 - . Provide eight street trees with tree grates, as approved by the City Arborist, along Commercial Street in front of the New Bathport building.
 - . Provide a public space in the lobby of the New Bathport building. The written agreement of this requirement must be acceptable to the City Solicitor as to its enforceability, and the agreement must be approved by the Planning Board. This condition must be included in the condominium declarations.
 - . Pay for the removal of six utility poles from Commercial Street, the burying of the electrical and telecom wires from the north end of Bath Port lot to the south end of the water front park, and the replacement service feeds to affected buildings. Poles to be removed are numbers 5, 6, 7, 8, 9, and 10.
 - . Grant an easement to the City for public use of an eight-foot wide pathway along the river (form and sufficiency of the easement must be approved by the City Solicitor), and pay for construction of the pathway. The pathway must include pavers and 6 park-style lights (including bases, conduits, and wiring) approved by the Planning Board.
 - . Pay for the relocating and/or remodeling of the existing Waterfront Park restroom building (as approved by the City Council) with a budget not to exceed \$20,000.

C. Zoning Provisions Affected

This Contract Rezoning is intended to only modify the maximum height allowed on this parcel, under Section 8.07(C) of the Land Use Code, by allowing the construction of the building to a height of 60 feet 9 inches with no more than a 4-foot parapet. The building that is allowed is depicted on the Site Plan approved by the Bath Planning Board on April 18, 2006.

D. Conditions of Approval

This Contract Rezoning Ordinance requires full and complete compliance with all conditions of approval, which are part of the Site Plan, Historic District, and Subdivision approvals, granted to New BathPort, LLC., by the Bath Planning Board on April 18, 2006, and with the voluntary conditions listed in Section B(5) above.

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

Daniel Eosco of 37 Bedford Street spoke to Council as a resident and downtown business owner. He listed some things that the Bathport project would bring to the City: property tax stabilization, rural sprawl, promote commercial growth in the downtown, replace a decrepid building, enhance Long Reach Marina and attract people with discretionary income to the City. He asked that the Council think about the good things this project could bring to the City as they make their decision.

Katherine McClellan, a small business owner in the City, stated that she was in favor of this project as it is much better looking then the building that is there now.

Harry Story formerly of Western Avenue said that Bathport will help the City a lot as there are two empty business spaces now in the downtown but once this project goes through these spaces will be taken up very quickly and it will promote other businesses to come to town. He stated the contractors working on the project would be spending money in the City. Mr. Story said he hoped the Council would approve the project.

John Ring, owner of a Front Street business for many years, spoke in favor of the project stating that he would like to see a nice new building there and that it was time for development on the waterfront.

Jim Upham answered a lot coverage question, stating that the allowed lot coverage in the shoreland zone is 70%. He said the building that is there now is over 70% lot coverage and the Codes Officer states that the new project is grandfathered and the proposed building will be at 72.4% coverage, which is less than the present building which is around 80+% lot coverage.

John Hall and Edwin Rogers, owners of the property, explained that the performance bond will protect against the possibility of the project not being completed. They answered questions regarding the project timeline and explained changes that had been made since the last time it came before Council. Some of the changes listed were as follows: the buildings are now all the same height (around 64 feet), building volume is down by 300,000 cubic feet, added two commercial spaces, improved view corridor and lost four residential units.

VOTE on Ordinance (first passage):

Yeas: Omo, Quimby, Blake, Hart, Verville, Pagurko, Winglass

Nays: Hinds
Ordinance Passed 7-1

Chairman Wyman set the second passage for May 24, 2006 at 6:01PM.

G. Petitions & Communications: 6:51 PM

There were no petitions or communications.

H. City Manager's Report: 6:51 PM

Mr. Giroux presented an overview of the proposed City Budget for 2006-2007. Some highlights mentioned by the Manager that influenced the line figures were as follows:

- County Budget up due to the jail construction
- School Budget up 4.2%
- City Budget up 1.4%
- Sewer Budget up 2.3%
- Capital Budget down 65%
- Expenditure cap relating to budget
- Revenues at landfill down
- Proposed mil-rate increase from \$14.50 to \$16.50/\$1,000

I. Committee Reports: 7:29 PM

Councilor Hart stated that the SCLC Committee chose the Main Sail Award recipient that will be awarded on May 17th. He reported that there is a severe problem with vandalism at the high school and that Mr. Leiner of the Landfill spoke to the group on the Recycling program. Councilor Hart gave a report on the progress of the Police radar program that he is participating in. He stated that out of 361 that passed by in a two hour period, 59 were speeding. The Police Department will be contacting the speeding vehicles. Councilor Hart reported that the Maritime Apartments Complex will be having a Safety and Fun Day on June 10th.

Councilor Pagurko reported that May 6th will be May Fair Day in Bath. It will consist of City-wide yard sales, store sales and a scavenger hunt.

Councilor Blake reported that the Parking Committee is still working on the expanding of the parking lot on the west side of Water Street by the Police Department and that the Committee will be bringing some parking changes in the downtown to Council in the near future. She stated that the Pay Per Throw Committee is being formed and hopes to have that set very soon. Councilor Blake asked that anyone interested in being on the Committee should contact her or Councilor Omo.

Councilor Omo reported on the schools' facilities meeting that he attended. They toured the High School and will be touring the Middle School. He stated there is an estimate of \$12,000,000 for capital improvements to be made to the schools.

Councilor Winglass reported on "Hazardous Waste Day" and Maine Maritime Museum's Wyoming Project.

J. Old Business: 7:45 PM

There was no old business.

K. New Business: 7:45 PM

There was no new business.

The meeting adjourned at 7:45 PM with a motion by Councilor Hart, seconded by Councilor Pagurko. All in favor.

Attest:

Mary J. White, City Clerk

Please note: These minutes are not recorded verbatim. A DVD recording of the meeting is available for review in the City Clerk's office during regular business hours.