

SPECIAL MEETING MINUTES
City Council of the City of Bath, Maine
Wednesday, May 24, 2006 6:00 pm
Council Chambers, Bath City Hall

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

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

Motion by Councilor Winglass, second by Councilor Pagurko to move Item III to the end of the Agenda.

VOTE:

Yeas: 7

Nays: 1 (Hinds)

Item Moved. 7-1

I. Public Hearing: Public Hearing: to consider the designation of various sites in the City of Bath for inclusion in the Kennebec Valley Pine Tree Development Zone. 6:01 PM

Chairman Wyman opened the Public Hearing.

City Planner, Jim Upham, stated the Maine Department of Economic and Community Development feels that the Pine Tree Zone program leverages an aggressive combination of tax incentives to spur enterprise economic development. This would make certain State targeted businesses on designated parcels of land eligible for State tax incentives for State targeted businesses. Some of the targeted business would include financial services, manufacturing, advanced technologies for forestry and agriculture, biotechnologies, composite materials, environmental technology, information technology and precision manufacturing.

Mr. Upham explained the designated parcels were chosen based on proper zoning and location and that in certain instances, the Council could change the designated parcels to accommodate a targeted business.

Maureen Hassett, Co-owner of Customs Composite Technologies, stated that she strongly supported the Pine Tree Zone. She said this opportunity would enable her business to expand, she would be able to hire more people and this designation of parcels would make Bath competitive for prospective businesses coming to the State.

Seeing no other comments, Chairman Wyman closed the Public Hearing.

II. Resolution: to develop a Pine Tree Development Zone. 6:08 PM

Chairman Wyman read the following Resolution:

RESOLUTION

WHEREAS, the City of Bath is desirous of joining a multi jurisdictional application to develop a Pine Tree Development Zone (PTDZ), and

WHEREAS, the City has a project consisting of approximately 51 acres and located in Bath, Maine, and shown on the tax maps consisting of the following property:

Property owned by Sarah Weatherbee, located at 7 Anchor Road, and identified as tax map 24, lot 7.

Property owned by The Kennebec Company, located at 37 Wing Farm Parkway and identified as tax map 24 lot 4.

Property owned by RM Tate Distributors, located at 25 Wing Farm Parkway and identified as tax map 24 lot 6.

Property owned by WFP Realty, LLC, located at 15 Wing Farm Parkway and identified as tax map 29 lot 31.

Property owned by Dirigo Holdings, LLC, located at 65 Bowery Street and identified as tax map 20 lot 341.

Property owned by Robert and Wendy Johansen, located at 520 Centre Street and identified as tax map 29 lot 8.

Property owned by Charles F Johansen, located at 500 Centre Street and identified as tax map 29 lot 7.

Property owned by Octagon Properties, LLC, located at 432 Centre Street and identified as tax map 29 lot 6.

Properties owned by Bath Iron Works, located at 108 Centre Street and identified as tax map 27, lot 68 and located at 514 Washington Street and identified as tax map 32, lot 23.

And, properties owned by the City of Bath, located south of the section of railroad tracks that run parallel to Commercial Street and identified as tax map 27, lot 135 and located at 2 Town Landing Road and identified as tax map 20, lot 338.

WHEREAS, this property is determined by the City to be suitable for the use and development for one or more of the qualified business activities specified in the Pine Tree Development Zone statute, 30-A MRSA c 206, sub-c. 3., and

WHEREAS, the City agrees to maintain at least one pre-permitted construction and or development site on this property on a continual basis throughout the term of the zone designation but only to the extent that property so designated remains available for development, and

WHEREAS, the City of Bath agrees that the Kennebec Valley Council of Governments (KVCOG) may administer the Pine Tree Development Zone on behalf of this and other municipalities pursuant to a plan of administration to be adopted by this town and the group of municipal applicants that provides for a PTDZ Board of Directors to make policy regarding administration and implementation of the zone with one voting member selected by each participating municipality, and

WHEREAS, a PTDZ Development Plan will be adopted as part of the PTDZ application which plan includes: (1) Documentation of all municipal commitments required under subsection 2; (2) A description of how the Pine Tree Development Zone will be administered including any related interlocal cooperative agreement; (3) A description of the goals and objectives to be accomplished through the Pine Tree Development Zone; (4) A description of the resources to be committed to the Pine Tree

Development Zone by the applicant or applicants; and (5) Plans for accomplishing the goals and objectives, including a marketing plan and related time line and milestones. 30-A MRSA 5247 (4) (E) 1-5, and

WHEREAS, the municipality will not attempt to use the PTDZ or its benefits to attract business investment away from other existent or proposed locations within the state.

NOW THEREFORE, be it hereby resolved that the Kennebec Valley Council of Governments, 17 Main Street, Fairfield, Maine 04937, a Regional Council organized pursuant to 30-A MRSA Section 2301, incorporated in Maine as a Nonprofit Corporation pursuant to 13 MRSA C. 81 on March 2, 1994 and designated as a Regional Planning and Development District by Executive Order covering Kennebec, Somerset and western Waldo Counties, is hereby authorized to apply on behalf of the City of Bath- for designation of the property described above as a Pine Tree Development Zone pursuant to 30-A MRSA c 206, sub-c. 3.

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

City Manager, William Giroux, stated that Bath has been assured of inclusion as one of the municipalities to be designated for the Pine Tree Development Zone.

VOTE:

Yeas: 8

Nays: 0

Resolution passed unanimously. 8-0

Item III was moved to the end of the agenda.

IV. Order: Appointment of Warden and Ward Clerk for the State of Maine Primary Election to be held June 13, 2006. 6:14 PM

Chairman Wyman read the following Order:

ORDER

Be It Ordered by the City Council of the City of Bath, that the following be appointed for the Maine State Primary Election to be held on Tuesday, June 13, 2006:

Wards	Warden	Ward Clerk
1-7	Carol Duehring	Jackie Dwinal

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

VOTE:

Yeas: 8

Nays: 0

Order passed unanimously. 8-0

V. Order: Registrar of Voters Hours for the State of Maine Primary Election to be held June 13, 2006. 6:15 PM

Chairman Wyman read the following Order:

ORDER

Be It Ordered by the City Council of the City of Bath, that the hourly schedule for the office of the Registrar of Voters shall be from 8:30am to 4:30pm Monday through Friday prior to the State of Maine Primary Election to be held Tuesday, June 13, 2006 except for Saturday, June 10, 2006 from 10:00am to 3:00pm at the City Clerks Office, 55 Front Street.

Voters may register on the Day of the Election from 7:30 AM – 8:00 PM at the City Clerk’s Office or from 9:00 AM – 8:00 PM at the polls at the Bath Middle School, 6 Old Brunswick Road.

Motion by Councilor Hinds, seconded by Councilor Verville to put this Order on the floor for discussion.

VOTE:

Yeas: 8

Nays: 0

Order passed unanimously. 8-0

VI. Order: Issuing of Notice of Election for the State of Maine Primary Election to be held June 13, 2006. 6:16 PM

Chairman Wyman read the following Order:

ORDER

In City Council
May 24, 2006

BE IT HEREBY ORDERED BY THE CITY COUNCIL, AS FOLLOWS:

That, the Notice of State of Maine Primary Election be prepared and issued to notify and summons the inhabitants of the City of Bath, qualified to vote, that the Primary Election will be held at Bath Middle School, 6 Old Brunswick Road (1-7 inclusive), on Tuesday, June 13, 2006 for the purpose of determining the following:

(as referenced on the attached Notice of Election)

Absentee Ballots shall be processed Election Day at 10:00am, 11:00am, 1:00pm, 2:00pm, 3:00pm and 7:00pm.

The polls shall be opened at 9:00am and closed at 8:00pm.

Motion by Councilor Verville, seconded by Councilor Hinds to put this Order on the floor for discussion.

VOTE:

Yeas: 8

Nays: 0

Order passed unanimously. 8-0

VII. Order: Approving Authorization Tax Increment Financing District (FY06). 6:18 PM

Chairman Wyman read the following Order:

**ORDER
APPROVING AUTHORIZATION
TAX INCREMENT FINANCING DISTRICT (FY06)**

Be It Hereby Ordered By the City Council of the City of Bath that One Million Two Hundred Nine Thousand Four Hundred Thirty-One Dollars and 66/100 (\$1,209,431.66) be and hereby is authorized to be spent from the Tax Increment Financing District Development Program Fund Project Costs Accounts for the fiscal year commencing July 1, 2005 and terminating on June 30, 2006 for the following purposes:

Designate--	
Debt Service	744,931.66
Various Small Eco-Devo Projects	83,000.00
Eco-Devo Grants (City match)	76,000.00
Water St. Parking Expansion	90,000.00
Washington St. South Sidewalk	121,000.00
Contr. To Bath Local Dev. Corp.	75,000.00
Contr. To Maine Street Bath	20,000.00

Motion by Councilor Hinds, seconded by Councilor Pagurko to put this Order on the floor for discussion.

VOTE:

Yeas: 8

Nays: 0

Order passed unanimously. 8-0

VIII. Order: Establishing "Pay As You Throw" Committee. 6:20 PM

Chairman Wyman read the following Order:

**ORDER
ESTABLISHING "PAY AS YOU THROW" COMMITTEE**

BE IT HEREBY ORDERED BY THE CITY COUNCIL OF THE CITY OF BATH THAT THE "PAY AS YOU THROW" COMMITTEE BE AND HEREBY IS ESTABLISHED. THE PURPOSE OF THE COMMITTEE SHALL BE TO DEVELOP A PLAN FOR IMPLEMENTING A "PAY AS YOU THROW" GARBAGE COLLECTION PROGRAM FOR SUBMISSION TO THE CITY COUNCIL. THE INITIAL MEMBERS OF THE COMMITTEE, HEREBY APPOINTED, ARE AS FOLLOWS:

AARON PARK	RUTH WELCH
BRUCE GOODWIN	NANCY PERKINS
GORDON REED	JACKIE DWINAL
HALCYON BLAKE	MARY ELLEN BELL
JAMES OMO	LEE LEINER

Motion by Councilor Pagurko, seconded by Councilor Hinds to put this Order on the floor for discussion.

Gary Lewis stated that he felt that the use of the landfill should be for Bath residents only and limiting the use of the landfill to residents only would extend the life of the landfill.

City Manager Giroux stated that if anyone was interested in joining the Committee, they should contact Lee Leiner or Councilor Blake.

VOTE:

Yeas: 8

Nays: 0

Order passed unanimously. 8-0

IX. Ordinance: Chapter 17 Vehicles & Traffic, Article 6. Stopping, Standing and Parking, Section 17-259 Parking Restrictions, Front Street, Elm Street, Article 8. Penalties, Section 17-351, (c) Payment of waiver fee. (first passage) 6:24 PM

Chairman Wyman 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 6. Stopping, Standing and Parking

Section 17-259. Parking Restrictions

Front Street East Side

Delete:

“From the northerly side of the entrance to the southerly parking lot of Fleet Bank for a distance of 50 feet, Bus Stop for Bath Municipal Buses only.”

Replace with:

“From the northerly side of the entrance to the southerly parking lot of The Bank of America for a distance of 30 feet, Bus Stop for Bath Municipal Buses only.”

Delete:

“From a point 25 feet north of Arch Street to a point 10 feet south of the fire hydrant just south of Elm Street, two-hour parking.”

Replace with:

“From a point 25 feet north of Arch Street to a point 39 feet north of the fire hydrant located just south of Elm Street, two-hour parking, except for a 20 foot area located 10 feet north and 10 feet south of the fire hydrant which shall be no parking.”

Elm Street South Side

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

Councilor Blake explained the Committee's intent and the details of the changes to the Ordinance.

Brenda Nelson of 14 Green Street asked that the fine for parking in a handicapped space be decreased as she thought that the fine was too excessive.

Rainer Pithan of 38 Trufant Street requested that signage be put around the downtown on reserved parking spaces stating that they were available to everyone after business hours and on weekends.

Barbara Sargent asked the City to try to utilize the bus service more as that would help alleviate the parking issues.

Jim Upham, City Planner, reported that the City Bus service would be observing the week of June 5th through the 9th as "Commute Another Way Week" and all riders would ride free.

Betsy Fear of 944 Middle Street spoke in favor of the "Commute Another Way Week".

Victoria Jackson of 24 Washington Street stated that she felt if the schedule was revised to fit working people's schedules that ridership would increase.

ROLL CALL VOTE:

YEAS: Hinds, Omo, Quimby, Blake, Hart, Verville, Pagurko, Winglass

NAYS: None

Ordinance passed unanimously. 8-0

Chairman Wyman set second passage for June 7, 2006 at 6:01 PM.

III. Public Hearing: Ordinance: LUC Amendment Article 16, Section 16.12 – 99 Commercial Street Contract Zone. (second passage) 6:42 PM

Motion by Councilor Blake, seconded by Councilor Hinds to waive the reading of the Ordinance. All in favor.

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 Omo, seconded by Councilor Pagurko to put this Ordinance on the floor for discussion.

John Hall, Co-owner of the property, gave an overview of the project details.

Edwin Rogers, Co-owner of the property, went over some history of the project.

Harry Story of 12 Western Avenue presented the Council with signatures of Bath residents that are in favor of the project and stated that the project would add some tax base that is needed.

John Ring, Bath business owner, said that he felt there was enough business rental space in the downtown now and was in favor of the project.

Betsy Fear of 944 Middle Street stated that she would like to see continuity in the buildings along the waterfront and have a mix of business and residences and would like to see this project go through the new comprehensive plan guidelines.

David Leonard of Spring View Lane spoke regarding keeping the flow of architecture to the river and felt the size of the project is too large. Mr. Leonard asked that the Council table the Ordinance.

Brenda Nelson of 14 Green Street agreed with Mr. Leonard and felt this project will lead to the feelings of “haves and have nots” within the City.

David Comeau of 6 Matthews Avenue felt that Council should be relying on the recommendations of the committees that the Council appoint. Mr. Comeau spoke in favor of this project and asked Council to not table the Ordinance.

Kaye Pierson of 25 Spring View Lane asked that Council consider tabling the Ordinance and to keep Bath’s charm intact.

James Knight of 1513 High Street and a business owner stated that he is in favor of the project.

Richard Hill of 71 South Street read a letter from Craig Burgess who is in favor of the project. Mr. Hill stated that he was also in favor of the project and asked Council not to table the Ordinance.

Rene Rogers of 80 Court Street and business owner at the present 99 Commercial Street property stated that she would be having to move her business possibly out of Bath as there is no place to rent.

Kristie Nygaard, a neighboring business owner, brought up the issue of the lack of adequate parking that would ensue if mix-use development is used in the proposed project.

Daniel Eosco of 37 Bedford Street and a business owner stated that this project would help with limiting sprawl issues in the area and would bring affluent families in to help Bath’s economy.

William King, local business owner, spoke of the importance of having more people living in the downtown to increase commercial foot traffic to support businesses.

Nyree Thomas, a Bath resident, read a letter from Philip Germain, who was against the project.

Jayne Palmer of 300 Front Street said that she was in favor of the project, stating that buildings are the cornerstones of the downtown but the people that live and shop here make the City alive.

Amy Leonard of 24 Shaw Street said she was against the project and reiterated that she feels that architecture and scale is inappropriate for Bath's downtown.

ROLL CALL VOTE:

YEAS: Omo, Quimby, Blake, Hart, Verville, Winglass

NAYS: Hinds, Pagurko

Ordinance passed. 6-2

Chairman Wyman stated that the Ordinance change would go into effect in 21 days.

The meeting adjourned at 7:47 PM with a motion from Councilor Hinds and a second from 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.