

REGULAR MEETING MINUTES
City Council of the City of Bath, Maine
Wednesday, June 7, 2006 6:00pm
City Council Chambers, Bath City Hall

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

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 from Reverend Gregory Vinson and Daniel Eosco, Co-Chairs of the Heritage Days Committee. Rev. Vinson and Mr. Eosco gave an overview of the schedule and layout of events, asked to have permission for street closures and to allow the hanging of a banner promoting Heritage Days from City Hall.

Councilor Omo made a motion to grant permission for the street closures and the hanging of the banner, seconded by Pagurko. All in favor.

C. Public Hearings: 6:10 PM

- 1) **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. (second passage)**

Motion by Councilor Hinds, second by Councilor Pagurko 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 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

Delete:

“The farthest space from Front Street, handicapped parking, the remaining spaces, two-hour parking.”

Replace with:

“The space closest to Front Street, handicapped parking, the remaining spaces, two-hour parking.”

Article 8. Penalties

Sec. 17-351. Penalties for parking violations.

(c) Payment of waiver fee.

Amend as follows:

Amend the Penalty Schedule as follows:

2A. Overtime Parking – Downtown Business District Only

a.	The first violation within a quarter six-month period	Warning
b.	The second violation within a quarter six-month period	\$ 5.00
c.	The third violation within a quarter six-month period	\$ 10.00
d.	The fourth violation within a quarter six-month period	\$ 15.00
e.	The fifth violation within a quarter six-month period	\$ 20.00
f.	The sixth or more violation within a six-month period	\$ 25.00

19.	Use of Immobilization Device	\$ 40.00 <u>\$ 75.00</u>
20.	Handicapped Parking	\$100.00 <u>\$200.00</u>

Add the following Paragraph after the Penalty Schedule:

Late Charges: Any person receiving a parking citation shall, within 30 calendar days from the date of issuance, pay the waiver fee as prescribed in Section 17-351. Failure to pay the waiver fee within the 30 calendar days of issuance of the parking citation will result in a late charge of double the original amount imposed on each violation not paid.

- (e) Warning for Overtime Parking – Downtown Business District: For the first overtime parking violation occurring in the Downtown Business District, as defined below, a warning shall be issued. Any subsequent violation occurring after the warning during any ~~quarter~~ six month period, also as defined below, shall be subject to the waiver fee as set forth in Subsection 2A under Subsection (c) of this Section (17-351). The Downtown Business District shall be defined as that area within the following boundaries: south of Oak Street, west of Kennebec River, north of Vine Street, and east of Washington Street. ~~Quarter~~ Six month period shall be defined as any of the time frames inclusive from: January through ~~March~~, ~~April through~~ June, July through ~~September~~, and ~~October through~~ December.

ROLL CALL VOTE:

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

NAYS: None

Ordinance passed unanimously. 7-0

Chairman Wyman stated that the Ordinance would become effective in 21 days.

D. Consent Agenda: 6:12 PM

2) *Acceptance of the Minutes to the meetings of May 3, 17 and 24, 2006. Motion by Councilor Quimby, second by Councilor Omo to accept the Consent Agenda as presented. Motion by Councilor Hinds to delete the words “to Workshop” on the next to last sentence on Minutes of May 24, second by Councilor Quimby. All in favor. Councilor Pagurko asked that a typographical error on her name be corrected on the first page of the May 3 Minutes. City Clerk White stated she would make that correction.

E. Time Devoted to Residents to Address the City Council: 6:14 PM

No one spoke at this time.

F. Ordinances, Resolutions and Orders:

Item 3) Ordinance: LUC Amend Article 8. Section 8.20 Contract Rezoning. Article 8. Section 8.07 Downtown Commercial District and Article 12. Section 12.07 Approval Void. (second passage) 6:14PM

Councilor Hinds made a motion to put this Ordinance on the floor for discussion. The motion was seconded by Councilor Pagurko. All in favor.

Councilor Hinds made a motion to waive the reading of the Ordinance. Councilor Blake seconded the

motion. All in favor.

A complete copy of the Ordinance is on file in the City Clerk's Office with the agenda materials for the June 21, 2006 Council Meeting.

Jim Upham, City Planner, explained in detail the Ordinance changes.

Councilor Winglass made a motion to eliminate all cross outs dealing with #6 Historic Overlay. The motion was seconded by Councilor Pagurko.

VOTE on Amendment:

YEAS: Blake, Hart, Winglass

NAYS: Hinds, Omo, Quimby, Pagurko

Amendment Failed. 3-4

VOTE on Ordinance:

YEAS: Hinds, Omo, Quimby, Blake, Pagurko

NAYS: Hart, Winglass

Ordinance was passed. 5-2

Chairman Wyman set second passage for June 21, 2006 at 6:01 PM

Item 4 Resolution: Adjusting Cemetery Fees 6:45 PM

Chairman Wyman read the following Resolution:

**RESOLUTION
CEMETERY FEES**

WHEREAS, Provisions in Chapter 6 of the Ordinances of the City of Bath provides for an adjustment of fees by Resolution of Council, and

WHEREAS, upon review and recommendations of staff, the time is appropriate to adjust such fees.

NOW THEREFORE, be it resolved by the City Council of the City of Bath that the following described fees be and hereby are adjusted effective July 1,2006

Pursuant to the authority under Section 6-17, the fees for burials are adjusted as follows:

BURIALS:

Section 6-17 (A) (1) (a) Grave openings for adults (not including outer burial containers [vaults or liners]), will be increased from three hundred eighty dollars (\$380.00) to four hundred forty dollars (\$440.00); Saturday, Sunday or legally authorized days of cemetery closure, will be increased from five hundred and twenty-five dollars (\$525.00) to six hundred dollars (\$600.00).

DISINTERMENT - increase from three hundred thirty dollars (\$330.00) to four hundred forty dollars (\$440.00). Saturday, Sunday or legally authorized days of cemetery closure; increase from four

hundred seventy-five dollars (\$475.00) to five hundred twenty-five dollars (\$525.00).

Pursuant to the authority under Section 6-23, the fees for lots are adjusted as follows:

LOT SALES:

Section 6-23 (A) (1) Adult lots (3' 4" X 10') sold to residents of Bath, Maine shall be increased from five hundred thirty five dollars (\$535.00) of which three hundred seventy four dollars and fifty cents. (\$374.50) is for perpetual care to six hundred thirty five dollars (\$635.00) of which four hundred forty four dollars and fifty cents (\$444.50) is for perpetual care.

Section 6-23 (A) (2) Adult lots sold to non-residents of Bath, Maine shall be increased from seven hundred and twenty five dollars (\$725.00) to, one thousand dollars (\$1,000.00) which includes seven hundred dollars (\$700.00) for perpetual care.

Section 6-23 (A) (5) Cremation lots (3'X 5') sold to residents of Bath, Maine shall be increased from one hundred ninety dollars (\$190.00) which includes one hundred thirty three dollars (\$133.00) for perpetual care to three hundred forty dollars (\$340.00) which includes two hundred thirty eight dollars (\$238.00) for perpetual care.

Pursuant to the authority under Section 6-17 (C) Foundations

MONUMENT FOUNDATIONS - increase from \$.35/sq. inch to \$.45/sq inch

FOUNDATION CAPS - increase from \$.10/sq. inch to \$.15/sq. inch

FOUNDATION REMOVAL - increase from \$.18/sq. inch to \$.20/sq. inch

CRUSHED ROCK FOUNDATION- increase from \$.15/sq. inch to \$.20/sq. inch (Military markers are provided with a crushed rock foundation free of charge)

Pursuant to the authority under 6-26 (B) Perpetual Care and trust funds

OTHER TRUST FUNDS (flower and monument) - minimum increase from \$600.00 to \$800.00

Other charges;

LINER BOXES - increase from \$250.00 to \$280.00

MINIMUM MAN-HOUR RATE - from \$8.00 to \$10.00

MINIMUM CHARGE FOR ANY WORK DONE- from \$26.00 to \$35.00

TRUCK USAGE CHARGE - (one hour minimum) from \$ 19.00/hr. to \$23.00/hr.

LOADER/BACKHOE CHARGE - (1 hour minimum) from \$57.00/hr. to \$60.00/hr.

MONUMENT CLEANING - from \$.12/sq inch of the base to \$.15/sq in of the base.

SHRUB REMOVAL - 2 shrubs with roots reseed - increase from \$60.00 to \$75.00

SERVICING VAULT COVERS - increase from \$45.00 to \$50

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

Denis Hebert, Superintendent of Parks and Cemeteries, explained the details of perpetual care and changes in fees.

Councilor Blake suggested that verbiage be added to the Ordinance to change fee on a regular basis in conjunction with the "Cost of Living".

City Manager Giroux stated that he would bring this Ordinance back to Council at a later date with such verbiage.

Richard Chipman of 12 Charles Street asked if the fees charged went into the City's general fund. City Solicitor Roger Therriault responded that the fees do go into the General Fund but the perpetual care fees go into a trust fund.

VOTE on Order:

YEAS: 7

NAYS: 0

Order was passed unanimously. 7-0

Item 5 Order: Approving Adoption of Cemetery Rules and Regulations 7:02 PM

Chairman Wyman read the following Order:

**ORDER
APPROVING ADOPTION OF
RULES AND REGULATIONS**

WHEREAS, the Code of the City of Bath, in Section 6-2, allows the Superintendent of Parks and Cemeteries, also designated as the Superintendent of Burials and Burial Grounds, to adopt Rules and Regulations as in his judgment may be necessary for the government of the cemeteries owned by the City subject to the condition that they be approved in advance by City Council; and

WHEREAS, the Superintendent has proposed the addition of a Rule regarding cremation lot sections; and

WHEREAS, the text of that Rule is attached hereto.

NOW, THEREFORE BE IT ORDERED by the City Council of the City of Bath that the addition of the Rule relating to cremation lot sections be and hereby is approved by the City Council in accordance with the provisions of Section 6.2 of the Code of the City of Bath to become effective upon approval by Council.

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

Denis Hebert explained the reasons for the need to change the “up keep” verbiage.

VOTE on Order:

YEAS: 7

NAYS: 0

Order was passed unanimously. 7-0

**Item 6 Ordinance: Approving Amendment to Article 3. Section 6-23 Cemetery Lots (first passage)
7:08 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 6. CEMETERIES AND PARKS

Article 3. Cemetery Lots

Section 6-23.

Be amended in accordance with the attached text. Additional language is identified by being underlined; language being deleted is noted as lined out. Note that changes in the pricing correspond to the previously approved Resolution.

A complete copy of the attached text is on file in the City Clerk's Office with the agenda materials for the June 21, 2006 Council Meeting.

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

VOTE on Ordinance:

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

NAYS: None

Ordinance was passed unanimously. 8-0

Chairman Wyman set second passage of the Ordinance for June 21, 2006 at 6:02 PM.

Item 7 Order: Approving Easement – Front Street SSC Ventures Inc. Property 7:10 PM

Chairman Wyman read the following Order:

**ORDER
APPROVING EASEMENT**

WHEREAS, the City of Bath has become aware that a curb originally designed to be installed on the easterly side of Front Street adjacent to SSC Ventures, Inc. property has been installed as a stonewall by the abutting owner; and

WHEREAS, the stonewall encroaches upon and exists on City property; and

WHEREAS, a stonewall is not a usual and customary structure within a right of way; and

WHEREAS, the maintenance and repair of the stonewall is appropriately the responsibility of the adjacent property owner; and

WHEREAS, a formal Easement addressing permission to maintain the stonewall on City property and defining the responsibility for maintenance and repair of the stonewall is necessary and appropriate.

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Bath that the Easement attached hereto is hereby approved and the City Manager is authorized to execute the Easement on behalf of the City of Bath.

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

Jim Upham, City Planner, gave a detailed explanation of the need for this easement.

Motion by Councilor Quimby, second by Councilor Hinds to table this Order until more information can be obtained from Mr. Klingaman.

VOTE on Tabling Motion:

YEAS: 7

NAYS: 0

Tabling Motion was passed unanimously. 7-0

Item 8 Resolution: Establishing Crosswalk on Washington Street at the South End Park 7:18 PM

Chairman Wyman read the following Resolution:

RESOLUTION

BE IT HEREBY RESOLVED by the City Council of the City of Bath that, pursuant to the authority of Council to designate crosswalks at areas other than at intersections by Resolution of Council, a crosswalk be and hereby is designated on Washington Street at the entrance to the South End Park. The designation of this crosswalk shall be placed on record at the Clerk's Office and the area appropriately marked.

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

VOTE on Resolution:

YEAS: 7

NAYS: 0

Order was passed unanimously. 7-0

**Item 9 Ordinance: Chapter 4. Animals Article 1. Dogs, Section 4.07. Prohibitions and Penalties (g)
(second passage) 7:20 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 4. ANIMALS

Article 1. Dogs

Section 4.07. Prohibitions and Penalties

Amend Subsection (g) as follows:

(g) Leash requirements. The owners of all dogs within a City park area or designated recreation areas shall at all times control such dog(s) by means of a leash. Failure to do so shall be punished by a fine of not more than Fifty Dollars (\$50.00). This leash requirement shall not apply to the South End Park but other provisions regarding dogs, including the requirements of Subsection (h) below, shall remain applicable.

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

Mr. Hebert explained why this Ordinance change was being brought before Council. He stated that should there be a problem with this change in the Southend Park, he would be back to Council to have this change reversed.

VOTE on Ordinance:

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

NAYS: None

Ordinance was passed unanimously. 7-0

Chairman Wyman set second passage for June 21, 2006 at 6:03 PM.

G. Petitions & Communications: 7:32 PM

Chairman Wyman shared a communication regarding proposed bocce ball courts at the Senior Citizens Center. He stated that anyone wishing to have more information should call Jean Anthony at 443-5424.

H. City Manager's Report: 7:33 PM

William Giroux, City Manager, spoke on the following topics:

- Acquisition of Water Rights to the Kennebec River at Chops Point

I. Committee Reports: 7:36 PM

Councilor Hart reported that the SCLC had their last meeting of the year and they were losing 4 seniors from the committee due to graduation. He also reported that Community Policing Committee held a Safety Fun Day at Bath Middle School and the Fun Day scheduled for the Maritime Apartments for June 10 has been cancelled.

Councilor Blake reported on the Pay as You Throw Committee and said they hope to have a presentation for Council ready by early fall.

Councilor Omo, Chairman of the Heritage Days Boat Parade, stated that anyone interested in participating in the Boat Parade on July 2nd should contact him.

Councilor Winglass commented that the YMCA had just celebrated their 100th Anniversary and that Bath has the second oldest YMCA in the country.

J. Old Business: 7:41 PM

There was no old business.

K. New Business: 7:42 PM

There was no new business.

Councilor Winglass made a motion at 7:42 PM to go into Executive Session to discuss labor negotiations pursuant to 1 MRSA, Section 405 (6) (D). The motion was seconded by Councilor Pagurko. All in favor.

Councilor Hinds made a motion at 8:25 PM to come out of Executive Session. The motion was seconded by Councilor Pagurko. All in favor.

The meeting adjourned at 8:26 PM with a motion by Councilor Quimby, 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.