

**REGULAR MEETING MINUTES**  
**City Council of the City of Bath, Maine**  
**Wednesday, February 7, 2007 6:00pm**  
**City Council Chambers, Bath City Hall**

Present: Councilors Hinds, Omo, Mulligan, Rogers, 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.

**C. Public Hearings: 6:01 PM**

**1) Ordinance: LUC Amendment for Article 2 and Article 8 (second passage)**

Motion by Councilor Hinds, second by Councilor Pagurko to waive the reading of the Ordinance. All in favor.

*A complete copy of this Ordinance is on file in the Bath City Clerk's Office with the agenda materials for the February 7, 2007 meeting.*

Chairman Wyman opened the Public Hearing.

James Upham, City Planner explained the purpose behind this Ordinance amendment was to make the review of historic district applications more streamlined so that people don't have to wait for an approval which could take as long as 6-7 weeks at some instances.

Mr. Upham explained the process by which the applications would be reviewed.

**ROLL CALL VOTE:**

**YEAS: Hinds, Omo, Mulligan, Rogers, Pagurko, Winglass**

**NAYS: None**

**Ordinance Passed Unanimously. 6-0**

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

**2) A Public Service Grant Application for \$10,000 to assist Big Brother Big Sisters of Bath/Brunswick in expanding the Bath Community/School System Based Mentoring Program by creating a new after school mentoring program at the Youth Meeting Center and Skatepark.**

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

Al Smith, CDBG Coordinator, introduced Connie Hartley of the Big Brothers, Big Sisters program.

Ms. Hartley stated that she felt that there was a definite need for this program at the Skatepark, as this would make the program assessable to children all year long not just during the school year. She explained the role of the Pre-commissioning units from the Navy involvement with the program.

Amos Wright, Executive Director of the Skatepark, expressed that he felt mentoring is very important roles at the Skatepark as a good number of children spend many hours there in the afternoon and

evenings. The Big Brothers, Big Sisters program helps Skatepark staff with these time consuming mentoring needs.

Lt. Jr. Grade David Panton and Lt. Ryan Anderson stated they were very excited working with the Big Brother, Big Sister at the Skatepark and that this would be a learning experience for the Pre-com members giving them a chance to use their leadership skills and to give back to the community.

It was the unanimous decision of Council that this grant application be prepared and executed by the City Manager.

**3) A Housing Assistance Grant for \$250,000 to assist low-moderate homeowners and low-moderate first-time homebuyers to address needed housing rehab work.**

Chairman Wyman opened the public hearing.

Al Smith, CDBG Coordinator, explained the housing assistance grant would enable the City to work with existing home owners, as well as, first time home buyers helping to provide low interest loans to do renovations in their homes. The grant will help to address the need of energy efficiency in the homes cited for the project. The City would be partnering with local banks and number of local housing groups to implement the project.

It was the unanimous decision of Council that this grant application be prepared and executed by the City Manager.

**4) A Community Enterprise Grant for up to \$150,000 to address additional business façade improvements and streetscape improvements in the downtown.**

Al Smith, CDBG coordinator, explained this grant was to pick up where the previous grant left off by addressing some of the properties that haven't been dealt with yet. These funds would help business owners address those properties that have some issues related to the condition of the building. The program would consist of deferred loans using the money to leverage other money from the businesses so that the façade improvements can be fully addressed. This deferred loan would not get paid back unless the business sells within the five-year time limit. Mr. Smith stated there were partners that had helped with the business façade project such as Main Street Bath and Mid Coast Council for Business Development and Planning.

Mr. Smith explained that The Sandwich Shop, D.J.'s Fun Center, Brigg's Building, Skate Park, and Gediman's were businesses addressed in the first project. He stated that three of the businesses to be addressed with these grant funds were on the list from the previous grant. The new locations were identified by working with Main Street Bath and some downtown business people who did a tour of the downtown areas and made a list of the properties that needed repair as well as owners of properties needing repair coming forward and asking for help. These properties to be targeted in the application would show the owners were interested in having these improvements done, such as the former Conley Building. All of the buildings proposed for renovation have proved to be of sound structure. The funds would be equally distributed among the five locations.

It was the unanimous decision of Council that this grant application be prepared and executed by the City Manager.

**D. Consent Agenda: 6:24 PM**

5) Motion by Councilor Winglass, second by Councilor Pagurko to accept the minutes for the January 3 and 17, 2007 Council Meetings. All in favor.

**E. Time Devoted to Residents to Address the City Council: 6:25 PM**

No residents spoke at this time.

**F. Ordinances, Resolutions and Orders: 6:26 PM**

**6) Order: Appointing Warden and Ward Clerk for the Special Municipal Election to be held on February 20, 2007.**

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 Special Municipal Election to be held on Tuesday, February 20, 2007

<u>Ward</u>	<u>Warden</u>	<u>Ward Clerk</u>
5	Carol Duehring	Jackie Dwinal

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

**VOTE on Order:**

**YEAS: 6**

**NAYS: 0**

**Order passed unanimously. 6-0**

**7) Approving City of Bath's Pandemic Influenza Plan**

Steve Hinds, Fire Chief, explained the plan was an off chute of the plan being worked on with the County EMS Board. Chief Hinds stated there were three points to address: first was to handout information pamphlets throughout the City, work with the County EMS on the Plan and combining with the County and all county municipalities to make it a County-wide Plan.

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

**VOTE:**

**YEAS: 6**

**NAYS: 0**

**Passed unanimously. 6-0**

**8) Resolution: Establishing Schedule of Rates for Sewer System Fees, Use Charges, and Special Assessments**

Chairman Wyman 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 specify 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 wastewater 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 fees, charges, and special assessments, to be effective immediately, and continuing until further Resolution of the Council:

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

William Giroux, City Manager, explained why there had not been a rate increase since 1996. He stated that there had been a surplus fund balance until this year's emergency appropriation to work on the stormwater/sewer issues for Juniper and Park Street area.

Peter Owen, Public Works Director, stated the need for this change is due to the expenditures is exceeding the revenues at the present time.

Steve Dyer of the firm of Edward and Kelsey explained the process and findings of the fee study that was done.

**VOTE on Resolution:**

**YEAS: 6**

**NAYS: 0**

**Resolution passed unanimously. 6-0**

**9) Ordinance: Amendment City Code, Chapter 8. Fire Prevention, Article II, Section 8-102 (first passage)**

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:

Amend Chapter 8, Article II, section 8-102, by adding the following:

Sec. 8-102. Standards—Life Safety Code

(a) This article incorporates by reference chapters 1 through 32 and appendices A through G of the Code for Safety to Life From Fire in Buildings and Structures, NFPA 101, 1985 edition.

(b) Outdoor Wood Boilers and Outdoor Furnaces

(1) Purpose

Studies have been done indicating that outdoor furnaces and outdoor wood boilers pose environmental and health risks well beyond any public or private benefit. The smoke from these heating devices cause, noxious, offensive odors and the emissions are detrimental to the public health. The purpose of this Section is to prohibit the use, construction, maintenance, or operation of outdoor furnaces and outdoor wood boilers in the City of Bath.

(2) Outdoor furnaces and outdoor wood boilers prohibited

The use, construction, maintenance, or operation of an outdoor furnace or outdoor wood boiler, other than those legally in existence and operation as of January 23, 2007, is prohibited in the City of Bath.

(3) Outdoor furnaces or outdoor wood boilers defined

“Outdoor furnace” or “outdoor wood boiler” means any equipment, device, or apparatus, or any part thereof, which is installed, affixed, or situated outdoors, for the purpose of combustion of fuel to produce heat or energy.

(Note: Additions are underlined.)

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

Jim Upham, City Planner, stated that he and Scott Davis, Codes Enforcement Office, was bringing this Ordinance amendment to Council due to the negative impact of emissions to neighbors and their health from these burners.

Scott Davis, Codes Enforcement Officer, explained that these burners have been banned statewide in the state of Washington and in parts of the state of New York.

Both Mr. Upham and Mr. Davis agreed that with the technology changes being pursued with the burners it would be appropriate to revisit this issue in a year but to go through with this Ordinance at this time.

Gordon Reed of 15 Mechanic Street agreed with the prohibition for now but asked Council to revisit the issue in a year.

Motion by Councilor Hinds to amend the Ordinance by adding a sunset clause requiring Council to review it by March 1, 2008. The motion was seconded by Councilor Pagurko.

**VOTE on Amendment:**

**YEAS: Hinds, Omo, Mulligan, Rogers, Pagurko, Winglass**

**NAYS: None**

**Amendment passed unanimously. 6-0**

Motion by Councilor Winglass to amend the Ordinance by deleting the words in Section (b) (3) by adding the word "solid" in front of fuel. The motion was seconded by Councilor Hinds.

**VOTE on Amendment:**

**YEAS: Hinds, Omo, Mulligan, Rogers, Pagurko, Winglass**

**NAYS: None**

**Amendment passed unanimously. 6-0**

**VOTE on Amended Ordinance:**

**YEAS: Hinds, Omo, Mulligan, Rogers, Pagurko, Winglass**

**NAYS: None**

**Amended Ordinance passed unanimously. 6-0**

Chairman Wyman set second passage for March 7, 2007 at 6:01PM.

**10) Ordinance: Chapter 5 – Business, Article 14. Sidewalk Vending (first passage)**

Councilor Hinds motioned to waive the reading of the Ordinance. Councilor Pagurko seconded the motion. All were in favor of the motion.

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

Matthew Atwood of 215 Oak Street spoke to concerns he had with the limitation of foods that could be sold. He asked if there was a reason for this limitation.

Chairman Wyman stated that the majority of the Committee felt that with the amount of restaurants in Bath that this limitation was appropriate.

City Manager Giroux stated that there had been some restaurant owners come forward with concerns regarding the fact they have to pay taxes of \$1,500 and that these mobiles paying only \$25 within 200 feet of their establishments created an unfair competitive situation.

Mr. Atwood asked how it was not a conflict of interest for a restaurant owner to be on the committee that limits the foods that can be sold.

Roger Therriault, City Solicitor, stated that it is not a conflict because that particular member of the committee is not as member of that committee limiting what can be sold. The Council does that by passing the Ordinance.

Mr. Atwood stated that he did not see a problem with a mobile cart being able to sell hot dogs, hamburgers, lobster and crabmeat rolls to someone who doesn't want to sit down to a \$14.00 meal at a restaurant. He considered this Ordinance limiting free enterprise.

Councilor Hinds motioned the Ordinance be amended by eliminating "Section 5 (403). Limitations." Councilor Winglass seconded the motion.

**VOTE on Amendment:**

**YEAS: Hinds, Omo, Mulligan, Rogers, Pagurko, Winglass**

**NAYS: None**

**Amendment passed unanimously. 6-0**

Motion by Councilor Hinds to amend the Ordinance Section 5 (416) by adding the words "unless prohibited by weather conditions" after August. Councilor Winglass seconded the motion.

**VOTE on Amendment:**

**YEAS: Hinds, Omo, Mulligan, Rogers, Pagurko, Winglass**

**NAYS: None**

**Amendment passed unanimously. 6-0**

**VOTE on Amended Ordinance:**

**YEAS: Hinds, Omo, Mulligan, Rogers, Pagurko, Winglass**

**NAYS: None**

**Amended Ordinance passed unanimously. 6-0**

Chairman Wyman set second passage for March 7, 2006 at 6:02PM.

**11) Resolution: Establishing Sidewalk Vending Fees**

Councilor Omo made a motion to table this Item until the March 7, 2007 meeting. Councilor Rogers seconded the motion.

**VOTE on tabling motion:**

**YEAS: 6**

**NAYS: 0**

**Tabling Motion passed unanimously. 6-0**

**G. Petitions & Communications: 7:40 PM**

There were no petitions or communications.

**H. City Manager's Report: 7:40 PM**

City Manager Giroux reported on the following items:

- Update on the School's Repairs
- Sewer Issues on Juniper and Park Streets
- Gas Mitigation Issue at the Landfill
- Southend Park Update
- Waterfront Park Update
- Plan for City Owned Building
- Overview of Capital Improvement Program
- Update on Single Stream Recycling
- Wing Farm Development Update
- Economic Development Mission

**I. Committee Reports: 7:50 PM**

Councilor Omo gave a brief report from the Facilities Committee such as the possibility of renting the Huse School building to the YMCA and Recreation Department for office space/activities and hiring a "do all" maintenance person.

Councilor Winglass brought attention to the Walgreen's development occurring by Family Dollar Store/VIP.

**12) Pay As You Throw**

Lee Leiner, Deputy Public Works Director/Pay As You Throw Committee, gave a report on the Pay As You Throw program. Some Highlights were as follows:

- Increase recycling and reduce waste tonnage disposed
- Equitably fund Solid Waste Program
- Extend landfill life
- Increase revenues to support solid waste expenses

The timetable for implementation would be:

- Presentation to Council – February 7, 2007
- Open House Events – February 12 & 13, 2007
- Final Council Adoption – April/May 2007
- Public Education - May 2007
- Delivery/Distribution of Bags – August 2007
- PAYT program begins – September 2007



Gordon Reed, Committee Member, stated the PAYT Committee meetings were very well run and the committee methodically thought through all the details of the program.

Aaron Park, Committee Member, urged Council to support the program.

**J. Old Business: 8:10 PM**

There was no old business.

**K. New Business: 8:10 PM**

**13) Member to the Bath Housing Authority term to expire February 2012**

Councilor Pagurko nominated Terrance Gray to fill this position. Councilor Hinds seconded the nomination. All in favor of the nomination.

**14) Member to the Bath Recreation Commission term to expire November 2010**

Councilor Pagurko nominated Christina Sener to fill this position. Councilor Hinds seconded the nomination. All in favor of the nomination.

Chairman Wyman stated that there would be a Special Meeting on February 21, 2007 at 6:00 PM in Council Chambers to accept the results of the Special Election to be held on February 20, 2007.

The meeting adjourned at 8:13 PM with a motion by Councilor Pagurko, seconded by Councilor Hinds. 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.*