

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

Present: Councilors Hinds, Omo, Mulligan, Eosco, Rogers, Verrill, 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 by Police Chief Michael Field and Chairman Bernard Wyman to Bath Police Department's "Officer of the Year" Patrol Officer Andrew Booth, "Civilian Employee of the Year" Patricia Hutton and "Volunteer of the Year" Roberta Banks.

C. Public Hearings: 6:09 PM

1) Ordinance: Amendment City Code, Chapter 8. Fire Prevention, Article II, Section 8-102 (second 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 solid fuel to produce heat or energy.

This Ordinance to be reviewed by City Council on or before March 1, 2008.

(Note: Additions are underlined, and deletions are ~~crossed out~~.)

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

Jim Upham, City Planner, explained why he and Scott Davis, City Codes Enforcement Officer, had brought this to Council. He stated that due to the studies at this time it has been proven that these devices cause public health risks and they would like to see them banned at this time with the possibility that the outdoor boilers may be reinstated should they be proven to test out at a safe level.

Ed Freedman of Bowdoinham thanked Council for taking action on this issue. He told Council of an instance in Bowdoinham where a citizen was being pushed out of town due to a neighbor using one of these devices.

Jeff Welt of Brunswick stated that he lives down wind of three of these devices and they cause a risk to lifestyle and health.

Cathleen McGee of Bowdoinham told Council that she applauded them for going through with this action. She explained how these devices could impact health issues.

ROLL CALL VOTE:

YEAS: Hinds, Omo, Mulligan, Rogers, Eosco, Verville, Pagurko, Winglass

NAYS: None

Ordinance Passed Unanimously. 8-0

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

2) Ordinance: Chapter 5 – Business, Article 14. Sidewalk Vending (second passage)

Councilor Hinds made a motion to waive the reading of this Ordinance. Councilor Pagurko seconded this motion. 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 March 7, 2007 Council Meeting

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

Mike Fear, a Bath retailer, Sidewalk Vending Committee member and Main Street Bath Board Member, spoke to Council regarding the change to the Ordinance that allowed anything to be sold in the vending carts. He stated that he is concerned about the impact to the current downtown restaurateurs and asked Council to change the Ordinance back to the original version.

Matthew Attwood of 215 Oak Street stated he had a problem with having a restaurateur on the Board and felt they should abstain from the vote. He explained the overhead costs and challenges to the operation of vending carts. Mr. Atwood asked that Council take into consideration a reduced fee for residents and asked that the Council allow mobile vendors to sell a variety of products.

ROLL CALL VOTE:

YEAS: Hinds, Omo, Mulligan, Rogers, Eosco, Verville, Pagurko, Winglass

NAYS: None

Ordinance Passed Unanimously. 8-0

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

D. Consent Agenda: 7:45 PM

3) Motion by Councilor Pagurko, second by Councilor Rogers to accept the minutes for the February 7 and 21, 2007 Council Meetings. All in favor.

E. Time Devoted to Residents to Address the City Council: 7:46 PM

No residents spoke at this time.

F. Ordinances, Resolutions and Orders: 7:46 PM

4) Order: 2007 Dog Warrant for Unlicensed Dogs

Chairman Wyman read the following Order:

Order

Be It Ordered by the City Council of the City of Bath, that, a warrant for prosecuting unlicensed dog owners-keepers be prepared and issued in accordance with the provisions of Title 7 MRSA Section 3943.

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

City Clerk White explained that an effort had been made by letter and telephone to contact all unlicensed dog owners prior to the meeting to make sure they knew they needed to come in and license their dog. She stated that the number of unlicensed dogs had come down this year to 73 compared to last year's 211. Ms. White contributed this drop in unlicensed dogs to the excellent efforts of Ann Harford, the Animal Control Officer, to get the owners in to obtain the licenses. She explained this process was important to make sure that the dogs have a current rabies vaccination as Bath has a rabies problem.

VOTE on Order:

YEAS: 8

NAYS: 0

Order passed unanimously. 8-0

5) Order: Exercising the Alewife fishing rights at Winnegance Lake to be administered by the Winnegance Alewife Commission as per Harvest Plan

Chairman Wyman read the following Order:

ORDER

Be It Ordered by the City Council of the City of Bath, Maine, that the Alewife Fishing Rights at Winnegance Lake be operated by the Winnegance Alewife Commission as per Ordinance adopted August 28, 1985, and the municipal rights to take alewives will be sold by the Commission. The Harvest Plan (Condition and Regulations) will be submitted by the Commission setting forth in detail the exact conditions under which alewives may be taken, all in accordance with good conservation

practices. This plan will be submitted to the Department of Marine Resources by the Commission with City of Bath approval.

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

VOTE on Order:

YEAS: 8

NAYS: 0

Order passed unanimously. 8-0

6) Order: Exercising the Alewife fishing rights at Whiskeag Creek to “Rod and Line” only

Chairman Wyman read the following Order:

ORDER

Be It Ordered by the City Council of the City of Bath, as follows:
that, the taking of alewives at Whiskeag Creek will be restricted to “Rod and Line” only.

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

VOTE on Order:

YEAS: 8

NAYS: 0

Order passed unanimously. 8-0

7) Resolution: Establishing Sidewalk Vending Fees

Chairman Wyman read the following Resolution:

**RESOLUTION
ESTABLISHING SIDEWALK VENDING FEES**

WHEREAS, the City Council of the City of Bath has enacted Chapter 5. Article 14, regulation sidewalk vending; and

WHEREAS, Section 5-419 provides for processing fees and license fees to be established by Resolution of the Bath City Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Bath that a processing fee of Fifty Dollars (\$50.00) shall be accompanying the submission of any application for a sidewalk vending license. Upon granting of the license, that a license or spot fee shall be assessed which shall be as follows:

Fifty Dollars (\$50.00)	Elm Street Location
One Hundred Dollars (\$100.00)	Customs House Location
One Hundred Dollars (\$100.00)	Waterfront Locations
One Hundred Dollars (\$100.00)	All Other Locations

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

After a brief discussion, the Council directed the City Manager to have the Sidewalk Vending Committee look into the licensing of the Farmer's Market Vendors as they had not been licensed before.

Motion by Councilor Omo to change the fees as follows:

- Waterfront Park - \$300.00
- Customs House - \$200.00
- Elm Street - \$100.00
- Other Locations – not defined

No Second to this motion. Motion Failed

Motion by Councilor Pagurko to change the fees as follows:

- Waterfront Park - \$200.00
- Customs House - \$100.00
- Elm Street - \$50.00
- Other Locations – \$200.00

No Second to this motion. Motion Failed

Motion by Councilor Verville to amend the fees to \$200.00 for all locations. Councilor Winglass seconded the motion.

VOTE on Amendment:

YEAS: 7

NAYS: 1 (Rogers)

Resolution passed. 7-1

VOTE on Amended Resolution:

YEAS: 7

NAYS: 1 (Rogers)

Resolution passed. 7-1

8) Ordinance: Floral Street (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:

CHAPTER 17. VEHICLES AND TRAFFIC
Article 6. Stopping, Standing and Parking

Section 17-259. Parking Restrictions

Floral Street

Delete:

West Side From Centre Street to Court Street Extension, No Parking

East Side From the intersection of Court Street Extension running northerly to a point 430 feet south of Centre Street, No Parking. From a point 430 feet of Centre Street running northerly to the intersection with Centre Street, Unrestricted Parking

Replace With:

Both Sides No Parking

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

Police Chief Michael Field stated that he had not received any complaints on parking and only two complaints on speeding.

VOTE on Ordinance:

YEAS: Omo, Rogers, Pagurko

NAYS: Hinds, Mulligan, Eosco, Verville, Winglass

Ordinance failed. 3-5

9) Acceptance of Drug Assets Forfeiture

Chairman Wyman read the following Memorandum:

On October 13th, 2006, the Bath Police Department executed a search warrant at the home of William Tinkham in North Bath. As a result of the search warrant, drugs, paraphernalia and \$475 dollars in cash were recovered. Mr. Tinkham was charged with Trafficking in Schedule Z drugs, Marijuana.

Due to the investigative work of Drug Detective David Beauregard, a criminal drug conviction was secured. As part of the court process, the defendant is forfeiting \$475 dollars in cash.

The transfer of the funds to the City of Bath requires approval by the City Council. If possible, I ask that the attached document be reviewed and signed at the next City Council meeting so we can return it to the Sagadahoc County District Attorney's Office.

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

VOTE to Accept:

YEAS: 8

NAYS: 0

Passed unanimously. 8-0

10) Order: 2 Town Landing Lease

Chairman Wyman read the following Order:

ORDER

BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF BATH THAT THE LEASE TO US WINDBLADES, LLC FOR A PORTION OF THE 2 TOWN LANDING BUILDING, IN SUBSTANTIALLY THE FORM 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 Verville, second by Councilor Pagurko to put this item on the floor for discussion.

William Giroux, City Manager, gave a brief overview of the history of this how the company came to this site.

Steve Von Vogt of US Windblades LLC, stated that the company was a new startup company that uses a new high-tech process to make small windblades for the replacement market in the Midwest.

VOTE on Order:

YEAS: 8

NAYS: 0

Order passed unanimously. 8-0

11) Ordinance: Chapter 13. Refuse, Article 1. Garbage and Refuse, Section 13-1. Definitions, Section 13-43. Collection requirements (first passage)

Motion by Councilor Hinds to waive the reading of the Ordinance. The motion was seconded by Councilor Pagurko. All in favor.

There is a complete copy of this Ordinance on file in the Bath City Clerk's Office with the agenda materials for the March 7, 2007 Council Meeting.

Lee Leiner, Deputy Public Works Director, explained how this Ordinance relates to the Pay As You Throw program.

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

Gordon Reed, a member of the Pay As You Throw Committee, spoke to Council regarding what feedback they had received on the fee structure and program process.

It was the consensus of the Council that the comments have been primarily favorable.

ROLL CALL VOTE:

YEAS: Hinds, Omo, Mulligan, Rogers, Eosco, Pagurko

NAYS: Verville, Winglass

Ordinance Passed. 6-2

Chairman Wyman stated second passage of the Ordinance would be held on April 4, 2007 at 6:01PM.

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 Viaduct Closure
- Midcoast Center for Higher Education Tour on March 21, 2007 at 6PM
- City of Bath Unions' Negotiations

It was the consensus of the Council that the City Manager should conduct the initial negotiation meetings with the three City Unions.

I. Committee Reports: 7:45 PM

Councilor Mulligan reported on the Sagadahoc County Commissioners budget discussions.

J. Unfinished Business: 7:48 PM

There was no old business.

K. New Business: 7:48 PM

12) Member to the Old Bath Customs House Board of Trustees term to expire August 2007

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

Motion by Councilor Pagurko to go into Executive Session to discuss Personnel Matter per 1 MRSA §405(6)(A) at 7:50 PM. Motion was seconded by Councilor Hinds. All in favor.

Motion by Councilor Pagurko to come out of Executive Session at 8:03 PM. Councilor Hinds seconded the motion. All in favor.

The meeting adjourned at 8:03 PM.

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.