

REGULAR MEETING MINUTES
City Council of the City of Bath, Maine
Wednesday, July 11, 2007 6:00pm
City Council Chambers, Bath City Hall

Present: Councilors Hinds, Omo, Mulligan, Rogers, Eosco, Verville, Pagurko and Chairman Wyman.
Excused: Councilor Winglass

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

Bradford Walfield of Fields of our Future Committee gave a presentation regarding the proposed renovations to McMann Field and Tainter Fields 1 and 2. Mr. Walfield listed the following as reasons to go forward with the project: more activity opportunities, strengthening the athletic programs in the school system, less injuries and more practice times. He explained that McMann Field was going to be stripped and the sod removed would be used to redo the Tainter Fields and McMann Field would be recovered with artificial turf. Mr. Walfield explained prices and future maintenance of the fields that would be required for the project.

The Council voted unanimously in support of the Committee continuing with this project.

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

Chairman Wyman changed the agenda to take up the appointment of the Bath Harbor Master at this time.

Councilor Pagurko motioned to appoint Dana Houston of the Bath Police Department as Harbor Master for a 5-year term. Councilor Omo seconded the motion. All were in favor of the appointment.

C. Public Hearings:

1) Ordinance: Chapter 13. Refuse, Article 1. Garbage and Refuse Section 13-43. Collection requirements (7). (second passage) 6:16 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 13. REFUSE
Article 1. Garbage and Refuse

Section 13-43. Collection requirements.

Add the following to (7) Pay-as-you-throw Program.

The fees for purchase of officially designated bags used in the operation as the Pay-As-You-Throw (PAYT) program shall be placed in a Special Purpose Fund designated by City Council for use in connection with landfill related expenses, including but not limited to remediation and closeout costs, and shall not be placed in the City's General Fund.

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

ROLL CALL VOTE:

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

NAYS: None

Ordinance passed unanimously. 7-0

2) CDBG Marnee's Cookies 6:20 PM

Chairman Wyman read the following notice and then opened the Public Hearing:

The City of Bath City Council will hold a Public Hearing to provide information about and to receive citizen comments on a CDBG FY 2007 Economic Development Business Assistance grant awarded by the Department of Economic and Community Development to Marnee's Cookies. The \$150,000 funding match will assist the business with the purchase and installation of equipment and with operating capital. The business will create at least six (6) jobs. The public hearing will be held Wednesday, July 11, 2007 at a City Council meeting in the City Council Chambers of City Hall at 6:00 pm.

Al Smith, Community Development Coordinator, spoke to Council. He explained that the project had now completed the Phase II development phase and now Marnee would be able to enter into a contract and keep going on with her cookie factory and retail sales of cookies. Mr. Smith stated this public hearing is to gather further input from the public regarding the project. He explained that this would be a State grant for \$150,000.00 and would be matched by the business. These funds are to be used for equipment purchasing and some operating capital. The business will be located at 23 Elm Street.

3) Reallocation Existing Pine Tree Zone Acres 6:23 PM

Chairman Wyman opened the public hearing.

Paul Mateosian, Assistant City Manager, gave a brief explanation of the Pine Tree Zone Acres program. He stated that out of the 500 acres designated for this program Bath allocated 60 acres and the City Council now has the authority to reallocate these acres where needed. This reallocation would consist of the 1.5 acres of the Conley Building moving that footprint over to where Marnee's Cookie factory would be on Elm Street.

There was no public input.

Chairman Wyman closed the public hearing.

D. Consent Agenda: 6:25 PM

4)* Minutes of the previous Council meetings of June 6, 13 & 20, 2007.

Motion by Councilor Omo, second by Councilor Pagurko to accept the minutes as presented. All in favor.

E. Time Devoted to Residents to Address the City Council: 6:26 PM

No one spoke at this time.

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

5. Resolution: CDBG application for Marnee's Cookies

Chairman Wyman read the following Resolution:

**CITY OF BATH
CITY COUNCIL RESOLUTION**

WHEREAS, the City of Bath has applied to the Department of Economic and Community Development for a Community Development Block Grant to carry out a community development infrastructure improvements 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 City Council of the City of Bath that the City Manager:

- 1) Is authorized and directed to submit a Phase II development packet for the following program and dollar amount within the State of Maine's CDBG Program:
Program: Economic Development Business Assistance Grant
Amount: \$150,000.00
- 2) Is authorized to make assurances on behalf of the City 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 City of Bath and the laws and regulations governing planning and implementation of community development programs in the State of Maine.

Signed this 11th day of July 2007 on behalf of the City of Bath.

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

VOTE:

YEAS: 7

NAYS: 0

Order passed unanimously. 7-0

6. Resolution: Reallocate Existing Pine Tree Zone Acres

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

**City of Bath, Maine
Resolution to Reallocate Existing Pine Tree Zone Acres**

WHEREAS, the City of Bath, Maine proposes to add one parcel of land in the City of Bath to the list of previously designated Military Redevelopment Zone properties located in the City and to subtract the same number of acres from other previously designated lots so that the total acreage of all of the existing Military Redevelopment Zone parcels in Bath remain the same; and

WHEREAS, The parcel(s) to be added (the “Newly Designated Property) are described as follows:

21 Elm St, Map 26 Lot 233 (.15 acres); and

WHEREAS, The parcel(s) from which the acreage will be subtracted (“Existing Designated Parcels”) are described as follows:

<u>Address</u>	<u>Map and Lot Number</u>	<u>Size in Acres</u>
108 Centre St	Map 27 Lot 68	1.2

NOW THEREFORE, it is hereby resolved by majority vote of the City Council that:

1. The City of Bath hereby removes acreage from the Military Redevelopment Zone designation from the Existing Designated Parcels; and
The City of Bath hereby designates for inclusion in the Military Redevelopment Zone the Newly Designated Property; and
2. One or more of the qualified business activities specified in the Military Redevelopment Zone statute, 30-A MRSA c 206 sub-c. 4, is a permissible and suitable activity on the Newly Designated Property under zoning or other land use regulations adopted by the City of Bath or the City of Bath hereby determines that one or more of the qualified business activities is a permissible and suitable activity on the Newly Designated Property; and
3. The Newly Designated Property is declared hereby to be a designated growth area in the City of Bath; and
4. The City of Bath agrees to maintain at least one pre-permitted construction or development site available within the zone on a continual basis throughout the term of the zone designation, but only to the extent that property so designated in the zone remains available for development; and
5. The City of Bath, authorizes the Mid Coast Council for Business Development and Planning, 7 Park St, Bath, Maine 04530, the administrator of the Midcoast Military Redevelopment Zone (MMRZ), to apply on its behalf to the Maine Department of Economic and Community Development to amend the Midcoast Military Redevelopment Zone as described above; and
6. The City of Bath hereby adopts the MMRZ development plan and amendments thereto to remove Pine Tree Zone designation from the De-Designated Property and to include in the MMRZ the Newly Designated Property and subject to such further changes and revisions as the MMRZ governing body may approve, provided that such changes or revisions shall not be inconsistent with the tone or tenor of these resolutions; and
7. The City of Bath hereby authorizes the City Manager to notify the MMRZ administrator of this amendment and request that the MMRZ administrator notify the Commissioner of the Department of Economic and Community Development of this amendment, pursuant to Maine Department of Economic and Community Development, 19 100 CMR 19-100-100.5 and further authorizes the City Manager to execute a letter of transmittal to the zone administrator as required by Maine Department of Economic and Community Development, 19 100 CMR 19-100-100.5 and containing the certification required therein; and
8. The City Council hereby finds and determines that the purpose of this amendment is to more effectively encourage business investment in Bath in order to provide new employment opportunities, improve existing employment opportunities, improve and broaden the tax base and improve the general economy of the state; and
9. The City of Bath or the administrative body of the MMRZ will not use the Pine Tree Development zone benefits to encourage or facilitate the transfer of existing positions or property of a qualified business or affiliated business to a qualified business activity from a nonqualified activity elsewhere in the State.

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

VOTE:

YEAS: 7

NAYS: 0

Resolution passed unanimously. 7-0

7. Resolution: Brownfield Catherine Davis Property

Chairman Wyman read the following Resolution:

**City of Bath
BROWNFIELD CLEANUP REVOLVING LOAN FUND
COUNCIL RESOLUTION**

WHEREAS, the City of Bath is the recipient of Brownfields Cleanup Revolving Loan Funds (BCRLF) and authorized to make certain loans from these funds (Loan Funds); and

WHEREAS, these funds are to be used to undertake cleanup of Brownfields sites by making low interest loans to parties willing to undertake cleanup of these sites; and

WHEREAS, the Old Shipyard Land LLC holds an option agreement on real property located in Bath and consisting of Map 21, Lots 231, 232, and 235 and has requested assistance with their remediation plan, which must be done prior to development of the site. The loan approval is contingent upon Old Shipyard Land, LLC exercising its option in order to provide the City of Bath an appropriate mortgage lien to secure the loan.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL THAT William Giroux, City Manager is authorized to carry out the duties and responsibilities to execute the loan and related documents, consistent with the City Charter of the City of Bath and the laws and the regulations governing the Brownfields Cleanup Revolving Loan Fund Program.

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

Al Smith, Community Development Coordinator, introduced Steve Dyer of Ransom Environmental, a consultant on the project.

Mr. Dyer stated that the work on the Old Shipyard site started about three years ago, through the Assessment Program. The site has small levels of contaminated soil. The loan would be utilized to take care of these soils and dispose of them properly. He stressed that this would be a loan and not a grant on the applicant's part. Mr. Dyer explained the placement of fencing to protect the public from the site.

Roger Therriault, City Solicitor, asked that an amendment be done. He stated that, since the Old Shipyard Land LLC has not exercised its option on the property the land is still owned by two other trusts. To provide mortgage lien coverage on the property that would have to be done. There is a timing issue with the developer and there have been discussions of other methods of securing the loan, such as stock pledges. In order to allow that to occur, he recommended that in the third paragraph after the word "loan" that the following language be added "for upon the provision of other adequate security acceptable to the City of Bath" which would allow the City staff to negotiate some other form of security that is adequate to secure the loan other than a mortgage.

Motion by Councilor Verville, second by Councilor Pagurko to amend the Resolution according to Mr. Therriault's suggestion.

VOTE on Amendment:

YEAS: 7

NAYS: 0

Amendment passed unanimously. 7-0

VOTE on amended resolution:

YEAS: 7

NAYS: 0

Resolution passed unanimously. 7-0

8. Order: Appointment of the Parks & Recreation Director

Chairman Wyman read the following Order:

ORDER

PURSUANT TO SECTION 404 OF THE CHARTER OF THE CITY OF BATH, THE CITY COUNCIL OF THE CITY OF BATH HEREBY CONFIRMS THE CITY MANAGER'S APPOINTMENT OF STEVEN J. BALBONI AS DIRECTOR OF THE PARKS AND RECREATION DEPARTMENT OF THE CITY OF BATH, SAID APPOINTMENT TO BE EFFECTIVE JULY 12, 2007.

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

City Manager Giroux asked Council to amend the Order to change the date to August 13, 2007.

Motion by Councilor Pagurko, second by Councilor Hinds to amend Order to read "EFFECTIVE AUGUST 13, 2007".

VOTE on Amendment:

YEAS: 7

NAYS: 0

Amendment passed unanimously. 7-0

VOTE on Amended Order:

YEAS: 7

NAYS: 0

Order passed unanimously. 7-0

G. Petitions & Communications: 6:40 PM

There were no petitions or communications.

H. City Manager's Report: 6:40 PM

The City Manager reported on the following items:

- Maine Municipal Association Winning Bidder for City Staff Insurance Coverage
- Introduction to Cool Communities Presentation to be held at the August 1, 2007 Council Meeting.

I. Committee Reports: 6:42 PM

Councilor Omo reported on the meeting of the Regionalization Committee held at Westport Island, Maine.

J. Unfinished Business: 6:44 PM

There was no unfinished business.

K. New Business: 6:44 PM

9) 5 Yr. Appointment of Dana Houston, Bath Police Department as the Bath Harbor Master

This item was taken up at the beginning of the meeting.

10) Recommendations of Arthur Mayo III and Gerald Dunlap to be considered for appointment to the Midcoast Regional Redevelopment Authority Board of Trustees.

Councilor Pagurko made a motion to have Arthur Mayo III and Gerald Dunlap put forth for consideration for the Midcoast Regional Redevelopment Authority Board of Trustees. Councilor Hinds seconded the motion. All were in favor.

Councilor Omo made a suggestion that the City Manager look into the possibility of hiring a mechanic that would do the light repairs and oil changes to City vehicles at the Public Works Garage.

Mr. Giroux said that could be something to look at during the next budget season.

City Planner, Jim Upham, made the announcement that the information center at the Train Station is now open and thanked Dana Snow and the Public Works Department for helping in the restoration of the building and grounds.

Motion by Councilor Pagurko to go into Executive Session to discuss a Real Estate Matter per 30-A MRSA §405(6)(C) at 6:49 PM. Motion was seconded by Councilor Omo. All in favor.

Motion by Councilor Pagurko to come out of Executive Session at 7:07 PM. Councilor Omo seconded the motion. All in favor.

The meeting adjourned at 7:08 PM with a motion by Councilor Pagurko, seconded by Councilor Omo. 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.