

**REGULAR MEETING MINUTES**  
**City Council of the City of Bath, Maine**  
**Wednesday, September 3, 2008 6:00pm**  
**City Council Chambers, Bath City Hall**

Present: Councilors Cochrane, Omo, Rogers, Eosco, Pagurko, Winglass, Chairman Wyman  
Absent: Councilor Verville

Also in attendance were 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.

Steve Balboni, Parks & Recreation Director and William Milam gave a brief presentation regarding the Bath Trails organization. The following is a handout highlighting the groups mission and goals:

Bath Trails is a partnership of Bath City government, local schools, non-profits, individual hikers and bicycle riders, and private businesses, with a mission set on the creation, connection, and maintenance of a network of multi-use trails for recreation, transportation, and a healthier community.

Today there are a number of formal and informal trails, sidewalks, walkways, and other bicycle and pedestrian pathways located in Bath. These pathways connect the south end of the city to the north, weaving through the downtown, neighborhoods, historic districts, and to schools and recreational facilities. There are also trails winding through many undeveloped parcels, both publicly and privately owned. Among them are trails to and within Bath's highly important natural areas such as Thorne Head, Sewall Woods, and Butler Head. Plans have existed for a number of years to connect the Androscoggin River Multi-use trail in Brunswick to Bath and the Kennebec River. A variety of groups have created, maintained, and promoted various parts of what could ultimately become an extensive Bath trails system. Bath Trails' hope is to connect and formalize many of these trails to ultimately create an accessible network of trails to be celebrated by citizens and visitors alike.

Within the 9.2 square miles of the City of Bath we are hoping to create/inventory/promote/maintain 20-30 miles of multi-use trails through the city connecting LKRL T properties, YMCA, Southend Park (11 acre park which will include a 1/3 of a mile walking path and fishing pier on the Kennebec River, property donated by BIW), a new park located under the Sagadahoc Bridge (planning stages, also a new home for the Farmers Market), Waterfront Park, Riverwalk (future), Library Park, McMann Athletic Complex (playing fields and walking track), Androscoggin Bike Path (future), schools, elderly housing and the many highlights of the city including museums and the downtown.

**Goals:**

- Create a multi-use trail (over 4 miles long) connecting Thorne Head Preserve and Bath YMCA to include a handicap access trail and a mountain bike course.
- Inventory and map all existing trails.
- Identify connections needed and locations for new trails.
- Identify sources and apply for funding to support efforts.
- Establish a base of community support and community awareness of trails.
- Develop a master plan for Bath Community Trails.
- Provide benefits of health, habitat protection, recreation, historic and environmental education, transportation, and scenic enjoyment.

Bath Trails' 501(c)3 sponsor, The Lower Kennebec Regional Land Trust has as its mission the

conservation of the natural, historic, scenic and recreational resources of the Kennebec Estuary. Two of its preserves form the core of the natural areas to be incorporated into the Thorne Head to Bath YMCA trail. The proposed trail crosses over 170 acres of LKRLT holdings, 450 acres of city property, and 80 acres in private or other non-profit ownership. These parcels have approximately 3 miles of tidal frontage on the Kennebec River and its Whiskeag Creek tributary highly valuable tidal wetlands habitat for wildlife. Thorne Head is protected by, a conservation easement held by Maine Department of Inland Fisheries and Wildlife and Sewall Woods is destined to become a demonstration forest for multi-use including forest harvesting, recreation, and wildlife habitat protection. Much of the proposed trail across city and private land is adjacent to tidal and fresh water portions of Whiskeag Creek, home of several threatened species of plants and fish, so integrating protection for these resources is essential to the trails success.

**C. Public Hearings: 6:17 PM**

**1) Ordinance: LUC Amendment Article 12, Section 12.13 – application amendment (second passage)**

Chairman Wyman read the following Ordinance:

**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 12, Section 12.13, by adding sub-section C, as follows:

**C. Any amendments to the design of an approved project, where specific design approval was part of the initial application, must include as part of the submission requirements for possible amendment, a copy of the original approved design as well as the proposed design.**

(Note: Additions are underlined.)

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

Chairman Wyman opened the Public Hearing. Seeing no public comment, he closed the public hearing.

**VOTE ON ORDINANCE**

**YEAS: Cochrane, Omo, Rogers, Eosco, Pagurko, Winglass**

**NAYS: None**

**Ordinance passed unanimously. 6-0**

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

**2) Ordinance: Chapter 5. Businesses, Article 6. Taxicabs – Amendments (second passage)**

Motion by Councilor Pagurko to waive the reading of this Ordinance. Councilor Rogers seconded the motion. All were in favor of the waiving of the reading.

*A complete copy of this Ordinance is on file in the Bath City Clerk's Office at 55 Front Street with the agenda materials for September 3, 2008.*

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

Chairman Wyman opened the Public Hearing. Seeing no public comment, he closed the public hearing.

**VOTE ON ORDINANCE**

**YEAS: Cochrane, Omo, Rogers, Eosco, Pagurko, Winglass**

**NAYS: None**

**Ordinance passed unanimously. 6-0**

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

**3) Ordinance: Chapter 13. Refuse, Article 1. Garbage and Refuse, Section 13-9 Vehicle transportation refuse to be covered. (second passage)**

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

**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**

Delete:

Section 13-9. Vehicle transportation refuse to be covered.

Replace with the following:

Section 13-9. Vehicle transportation of refuse.

A. Security of Load. Any vehicle, including City owned vehicles, that may be operated upon any public way within the City of Bath, which is conveying refuse, shall have that refuse covered, confined, loaded, closed, or sealed in a manner as to prevent any overflow, spillage, or leakage of the refuse material. The owner and/or operator of the vehicle shall use such material and method of securing the load such that will ensure its security.

B. Party Responsible. Responsibility for securing the load shall be with the owner and with the operator of the vehicle.

C. Clean Up. Any material that has fallen or spilled from the vehicle onto a public way or adjoining private property, shall be removed or cleaned up immediately by the owner and/or operator of the vehicle. All costs of removal or clean up and proper disposal of the material shall be borne by the owner and/or operator.

D. Penalties and Costs.

1. Warning. If the owner and/or operator is not a habitual offender and the unsecured load has caused minimal or no spillage, then a written warning may be issued at the discretion of the issuing officer.
2. Penalty. A violation of this Section is a civil violation and is subject to a penalty of not less than One Hundred and Fifty Dollars (\$150.00) nor more than One Thousand Dollars (\$1,000.00). Such penalty shall be imposed for any violation that is determined to be more serious, due to frequency or magnitude of spillage, than a violation that would merit only a warning.
3. Clean Up Costs. In addition to the penalty above, the owner and/or operator of the vehicle, jointly and severally, shall be responsible for any costs of clean up and proper disposal of any spillage material.
4. Enforcement Costs. The City of Bath shall be reimbursed all of its enforcement costs, including, but not limited to its reasonable attorney's fees, court costs and staff costs.
5. License Suspension/Revocation. If the owner and/or operator of the vehicle is a commercial entity with a license to dispose of refuse material at the Bath City Landfill, that license may be suspended or revoked by the Codes Enforcement Officer. Any appeal of a suspension or revocation order may be made to the City Manager.

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

Chairman Wyman opened the Public Hearing. Seeing no public comment, he closed the public hearing.

**VOTE ON ORDINANCE**

**YEAS: Cochrane, Omo, Rogers, Eosco, Pagurko, Winglass**

**NAYS: None**

**Ordinance passed unanimously. 6-0**

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

**4) Liquor License for the Kismet Inn at 44 Summer Street – Owner Shadi Towfighi**

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

Chairman Wyman opened the Public Hearing. Seeing no public comment, he closed the public hearing.

**VOTE ON LIQUOR LICENSE:**

**YEAS: 6**

**NAYS: 0**

**Liquor License passed unanimously. 6-0**

**D. Consent Agenda: 6:25 PM**

**5 & 6)\*** Minutes of the previous meeting of August 6, 2008 Council Meeting and appointment of Thomas Hoerth as City Tree Warden. All were in favor.

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

No residents spoke at this time.

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

**7) Order: Approving Wage Re-opener – Bath Public Works Department, Bath Cemeteries and Parks Department and the Bath Water Pollution Control Facility**

Chairman Wyman read the following Order:

**ORDER  
APPROVING WAGE REOPENER**

WHEREAS, the current Bargaining Agreement between the City of Bath and the Bath Public Works Department, Bath Cemeteries and Parks Department, and the Bath Water Pollution Control Facility, Local No.S-89 of DL-4 the Industrial Union of Marine and Shipbuilding Workers of America, IAMAW, AFL-CIO, employees calls for a wage reopener for the second year, and

WHEREAS, the parties have agreed to a wage adjustment for the second year of the Contract,

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Bath that the wage scale now in effect be adjusted by adding 3.00% to the wage levels on the scale, effective July 1, 2008.

Motion by Councilor Rogers, seconded by Councilor Pagurko to put this item on the floor for discussion.

City Manager, William Giroux, explained that this is the same agreement that the Police and Fire Unions have agreed to.

**VOTE ON ORDER**

**YEAS: 6**

**NAYS: 0**

**Order passed unanimously. 6-0**

**8) Order: Contract 2008 CSO Abatement Project No. 2 Park Street Sewer**

Chairman Wyman read the following Order:

**ORDER  
APPROVING BID AND CONTRACT**

BE IT HEREBY ORDERED BY THE CITY COUNCIL OF THE CITY OF BATH, THAT THE BID OF HARRY C. CROOKER & SONS, INC. FOR THE 2008 CSO ABATEMENT PROJECT NO. 2, PARK STREET SEWER, IN THE AMOUNT OF \$670,850.00 IS ACCEPTED, IT BEING THE LOWEST QUALIFIED BID SUBMITTED, AND A CONTRACT BY AND BETWEEN THE CITY OF BATH AND HARRY C. CROOKER & SONS, INC. IS HEREBY APPROVED AND THE MANAGER IS AUTHORIZED TO EXECUTE THE CONTRACT AND ANY OTHER DOCUMENTS NECESSARY TO ITS IMPLEMENTATION ON BEHALF OF THE CITY OF BATH. THE PROJECT HAS BEEN FUNDED BY THE PROCEEDS OF FUNDING PROVIDED BY THE STATE OF MAINE UNDER ITS REVOLVING LOAN PROGRAM.

Motion by Councilor Pagurko, seconded by Councilor Rogers to put this item on the floor for discussion.

Peter Owen, Public Works Director, explain the history behind this Order. He stated this Order was due to the 100-year storm that took place three years ago that brought forth the flooding issues in the Park Street area. Council had previously approved the funding. Mr. Owen gave a timeline of the project, with an expected completion date by October of this year.

**VOTE ON ORDER**

**YEAS: 6**

**NAYS: 0**

**Order passed unanimously. 6-0**

**9) Order: Property Transfer 167 Middle Street**

Chairman Wyman read the following Order:

**ORDER  
APPROVING BID AND TRANSFER**

BE IT HEREBY ORDERED BY THE CITY COUNCIL OF THE CITY OF BATH THAT THE BID OF DONALD E. LEAVER FOR THE PURCHASE OF PROPERTY AT 167 MIDDLE STREET, DESIGNATED AS LOT 038, ON CITY OF BATH TAX MAP 39, IN THE AMOUNT OF \$20,200.00 IS ACCEPTED, IT BEING THE HIGHEST QUALIFIED BID SUBMITTED, AND THE MANAGER IS AUTHORIZED TO EXECUTE A MUNICIPAL QUIT-CLAIM DEED TRANSFERRING THE PROPERTY, UPON PAYMENT OF THE BID AMOUNT, AND IS FURTHER AUTHORIZED TO EXECUTE SUCH OTHER DOCUMENTS NECESSARY TO THE TRANSFER.

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

City Manager William Giroux explained that the he had looked at the design of the house to be constructed on the lot and a title search had been completed. He was satisfied with the results and would ask Council to approve this transfer.

**VOTE ON ORDER**

**YEAS: 5**

**NAYS: 0**

**ABSTENSTIONS: 1 (Rogers)**

**Order passed. 5-0-1**

**G. Petitions & Communications: 6:38 PM**

There were no petitions or communications.

**H. City Manager's Report: 6:38 PM**

City Manager spoke regarding the following items:

- Council Workshops to be held on September 17, 2008

**I. Committee Reports: 6:42 PM**

Councilor Winglass updated Council that the Southend Park project is nearly finished.

Councilor Pagurko reminded Council that Citizen Involvement Day and Autumn Fest would be taking place on October 11<sup>th</sup> and gave a brief overview of the planned activities.

**J. Unfinished Business: 6:45 PM**

Public Works Director Peter Owen gave an update on the progress of the sidewalk project for the south end.

**K. New Business: 6:53 PM**

10) Appointments of Richard Davis and Eleanor Holland to the Bath Zoning Board of Appeals with terms to expire in September 2011. All were in favor.

11) Appointments of Carolyn Lockwood, Donald Rogers and James Hopkinson to the Bath Planning Board with terms to expire in September 2011.

**Vote on Appointments:**

**Yeas: Cochrane, Omo, Rogers, Pagurko**

**Nays: Eosco, Winglass**

Councilor Pagurko made a motion at 6:55 PM to go into an Executive Session to discuss an abatement per 36 MRSAS841(2)(E). Councilor Omo seconded the motion. All were in favor of the motion.

Councilor Pagurko made a motion at 7:19 PM to come out of Executive Session. Councilor Omo seconded the motion. All were in favor of the motion

The meeting adjourned at 7:19 PM with a motion by Councilor Pagurko, seconded by Councilor Eosco. All were in favor of the motion.

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.*