

**REGULAR MEETING MINUTES**  
**City Council of the City of Bath, Maine**  
**Wednesday, January 2, 2008 6:00pm**  
**City Council Chambers, Bath City Hall**

Present: Councilors Cochrane, Omo, Mulligan, Rogers, Eosco, Verville, 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.

Council made a presentation of a plaque to former Councilor Keith Hinds in recognition of his years of service to the citizenry of Bath while serving on Council. He got a standing ovation.

Al Smith, CDBG Coordinator, updated Council on what the CDBG office and committee were working on. Mr. Smith stated the housing funding provided through competition that is held by the State of Maine Department of Economic and Community Development and is Community Block Grant is from the Federal government. He said the housing assistance program does provide the opportunity for communities like Bath to run housing programs that help address the needs of the older housing stock of which Bath has a high percentage with energy deficiencies and lead problems. Mr. Smith reported that this would be continuing work that has been done in the past through grants and on a very limited basis with the housing revolving loan fund. It would also provide funding to existing homeowners that are income eligible for the program to provide low interest loans and in some cases provide deferred loans, if it is warranted, based on the income and the extent of need. The CDBG program is run as a loan so the money comes back to the City. The monies can go towards heating systems, roofs, major renovations for structural issues and energy efficiency issues. The CDBG office will be working with potential new homeowners that are income eligible and are buying a house that needs a new heating system or other applicable problems and may be at the limit they can finance through the bank or the Rural Development program. He stated that a Letter of Intent would be going to the DECD on Friday, January 18, 2008 and an application would be due in March.

Mr. Smith stated that another grant the CDBG office would be going for is the Community Enterprise Grant. It is a program that provides the opportunity for communities to work on their historic downtown buildings in terms of addressing business façade improvements. The City has used this program before on five businesses and is looking at doing four businesses this time such as the Webber Building on Centre Street, former Conley Building on Centre Street, business side of Bath Port building, Elm Street site of the Skate Park building and possibly Howie Kirkpatrick regarding the Bath Fuel building, but there would have to be a business in the building. This program allows funding up to \$25,000 per business and the business has to match the amount in some way.

**C. Public Hearings: 6:13 PM**

**1) CDBG Public Infrastructure Grant**

**Public Hearing Notice**  
**City of Bath CDBG Public Infrastructure**  
**Application**

The City of Bath City Council will hold a Public Hearing on Wednesday, January 2, 2008 at 6:01 P.M. on the third floor of City Hall in the City Council Chamber to discuss an application being submitted to the State of Maine CDBG program for a 2008 CDBG Public Infrastructure Grant. The purpose of the grant application is to address needed: water upgrades, stormwater separation, sewer repairs, and sidewalk and street improvements on 9 streets surrounding the Richardson Street and Western Avenue neighborhood area. Public comments will be solicited at this Hearing and will be submitted as part of the application. All persons wishing to make comments or ask questions about the grant application are invited to attend this Public Hearing. Comments may be submitted in writing to: CD Office 55 Front Street, Bath ME 04530 or call 443-8372 at any time prior to the Public Hearing. TDD/TTY users may call 711. If you are physically unable to access any of the City's programs or services, please call the City Clerks Office at 443-8332, so that accommodations can be made.

Al Smith, CDBG Coordinator, advised Council that a Letter of Intent had been submitted and he is now in the process of putting together the application for \$305,000 to address street issues in the Richardson and Western Avenue neighborhood. The project involves about ten streets including Cato, Evergreen, Cottage, Elsinore, Quimby, Farrin, Lilac and Plum Lane. This area was determined by a CDBG survey of the neighborhood to be of an 85% low-moderate income neighborhood and made up of homeowners with a few rentals. The Bath Public Works Department and the Bath Water District will be working together to address the sewer and water needs of these streets.

Councilors stated their support of this project.

**D. Consent Agenda: 6:20 PM**

\*2) Minutes of the previous meeting of December 5, 2007 Council Meeting and Items K10 and K11. (Motion to Accept as Presented)

Motion by Councilor Pagurko, second by Councilor Omo to accept the minutes as presented and to appoint Scott Davis as Codes Enforcement Officer/Heath Officer/Plumbing Inspector and Kenneth Desmond as Alternate Codes Enforcement Officer/Plumbing Inspector.

**VOTE:**

**YEAS: 8**

**NAYS: 0**

**Motion passed unanimously. 8-0**

**E. Time Devoted to Residents to Address the City Council: 6:20PM**

No residents spoke at this time.

**F. Ordinances, Resolutions and Orders: 6:21 PM**

2) **Ordinance: Amendment LUC Section 11.16 Kennels (first 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 11, Section 11.16, as follows:

SECTION 11.16 KENNELS

- A. Structures or pens for housing or containing animals must be located at least 200 feet from the nearest lot line, except that in the R3 Zone the structures or pens for housing or containing animals may be less than 200 feet from the nearest property line provided that the owner of the kennel resides on the premises.
- B. All pens, runs, kennels, and other facilities must be designed, constructed, and located on the site in a manner that minimizes adverse effects on surrounding properties. ~~Among the factors that must be considered are the relationship of the use to the topography, natural and planted screening, the direction and intensity of the prevailing winds, the relationship and location of residences and public facilities on nearby properties, and other similar factors.~~ The applicant must demonstrate to the Board that the facility will not be a nuisance and that the facility will comply with the noise requirements in Section 10.30. The applicant may be required to employ all or a combination of the following, along with other techniques, to assure the Board that the animals will not be a nuisance to the general public: separating the structures and pens that house and contain the animals an adequate distance from property lines and other dwellings, existing changes in topography, the construction of berms, natural and planted evergreen hedges, fences, soundproofing, and locating the buildings and the openings of outdoor runs so as to shield neighboring properties.
- C. The owner or operator of a kennel must maintain the premises in a clean, orderly, and sanitary condition at all times. Garbage, offal, feces, or other waste material may not be allowed to accumulate on the premises. The premises must be maintained in a manner so as to not provide a breeding place for insects, vermin, or rodents.
- D. Temporary storage containers for any kennel wastes containing or including animal excrement must be kept tightly covered at all times, and emptied at least once every 3 days. Containers must be made of steel or plastic to facilitate cleaning and must be located ~~at least 200 feet from the nearest lot line~~ as per Section 11.16, A and B, above.
- E. If outdoor runs are provided, they must be completely fenced in and must be paved with cement, asphalt, or a suitable material to provide for cleanliness and ease of maintenance.
- F. Any incineration device for burning excrement-soaked waste papers and/or animal organs or remains must be located at least 400 feet from the nearest residence other than the applicant's and must have a chimney vent at least 35 feet above the average ground elevation. The applicant also must provide evidence that approval from the MEDEP has been obtained for the proposed incinerator and that it meets state standards for particulate emissions, flue-gas temperature, and duration of required flue temperatures.

(note: additions are underlined, deletions are ~~crossed-out~~.)

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

Jim Upham, City Planner, explained that a citizen would like to open a kennel in North Bath. He stated that the Planning Board has been looking at the Kennel Ordinance over the past months and were ready to bring it to Council.

David Hudson of 9 Hounds Way stated that he would like to have a 6-unit kennel.

**VOTE on Ordinance:**

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

**NAYS: NONE**

**Ordinance passed unanimously. 8-0**

Chairman Wyman set second passage of the Ordinance for February 6, 2008 at 6:01PM.

**4) Resolution: Establishing Gateway 1 “Town Response Panel”**

Chairman Wyman read the following Resolution:

**RESOLUTION ESTABLISHING THE  
GATEWAY 1 “TOWN RESPONSE PANEL”**

Whereas, the Maine Department of Transportation, the State Planning Office, the Federal Highway Administration, and others are developing a Route 1 corridor plan called “Gateway 1: a Mid-coast Route 1 Preservation Strategic Plan”; and

Whereas, the Bath City Council has adopted a resolution supporting this planning process; and

Whereas, the municipalities along Route 1 from Brunswick to Prospect are participating in this planning process; and

Whereas, each municipality has established a “town response panel” to provide input to the process and to inform its elected officials of the process;

Now, Therefore, Be It Resolved by the City Council of the City of Bath that the Bath Gateway 1 Town Response Panel is hereby established and that the panel’s membership be as follows:

Two Bath residents, appointed by the City Council Chair.

A downtown property owner, appointed by the City Council Chair.

Two Route 1 property owners, appointed by the City Council Chair.

A City Council member, appointed by the City Council Chair.

A Planning Board member, appointed by the Planning Board Chair.

A member of the Bath Transportation Commission, appointed by the Commission Chair.

The President of Main Street Bath, or her/his designee.

The Bath Planning Director.

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

Jim Upham, City Planner, explained that passage of this resolution would take care of the appointment of the Local Response Panel. Gateway 1 is a long-term planning process for Route One from Brunswick to the Town of Prospect linking land use and transportation issues.

**VOTE on Resolution:**

**YEAS: 8**

**NAYS: 0**

**Resolution passed unanimously. 8-0**

**5) Order: Transfer Property at 167 Middle Street**

Chairman Wyman read the following Order:

**ORDER  
AUTHORIZING SALE OF REAL ESTATE**

WHEREAS, the property at 167 Middle Street has become tax acquired by the City of Bath by virtue of unpaid liens dating back to 1993, and

WHEREAS, in 1995 the City condemned the building located on said lot and had it demolished at City expense after going through the dangerous building process, and

WHEREAS, the City of Bath has received requests in the past that the property be put out to bid, and

WHEREAS, representations from City Department Heads has resulted in no indication that the property need be retained by the City, and

WHEREAS, it appears that the disposition of the property is appropriate at this point in time, and

WHEREAS, the City Council, pursuant to Section 7-14(B)(1) of the Code of the City of Bath has the authority to dispose of the real estate of the City of Bath.

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Bath that the property designated as Lot 038 on City of Bath Tax Map 39, be put to bid and that the City Manager be hereby authorized to execute any and all documents to effectuate said bid.

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

City Manager William Giroux explained the bidding process.

**VOTE on Order:**

**YEAS: 6**

**NAYS: 0**

**ABSTENTION: Omo, Rogers**

**Resolution passed unanimously. 6-0-2**

**6) Order: Award Sale of Landfill Recycling Truck**

Chairman Wyman read the following Order:

**ORDER  
AWARD SALE UNDER SECTIONS 7-14(A) AND 7-5  
LANDFILL RECYCLING TRUCK**

PURSUANT TO THE REQUIREMENTS OF SECTION 7-14(A) AND SECTION 7-5 OF THE CODE OF THE CITY OF BATH, THE CITY COUNCIL OF THE CITY OF BATH HEREBY

APPROVES THE SALE OF A LANDFILL RECYCLING TRUCK, SAID EQUIPMENT NO LONGER BEING USEABLE BY THE CITY. IT IS HEREBY ORDERED BY THE CITY COUNCIL OF THE CITY OF BATH THAT THE BID OF THE CITY OF AUBURN, BEING THE HIGHEST BID, IN THE AMOUNT OF \$6,000.00, FOR THE PURCHASE OF THE EQUIPMENT, BE AND HEREBY IS ACCEPTED AND THE MANAGER IS HEREBY AUTHORIZED TO EXECUTE ANY AND ALL NECESSARY DOCUMENTS IN ORDER TO CONSUMMATE THE SALE. THE SALE PROCEEDS SHALL BE CREDITED TO THE LANDFILL CAPITAL EQUIPMENT ACCOUNT (665 556).

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

Peter Owen, Public Works Director, explained that since the City has gone to single cell recycling the truck is now obsolete.

**VOTE on Order:**

**YEAS: 8**

**NAYS: 0**

**Order passed unanimously. 8-0**

**7) Order: Authorizing a Special Municipal School District Election at the Bath Middle School Cafeteria on January 29, 2008 to elect a representative for each of the 7 School District for Regional School Unit #1.**

Chairman Wyman read the following Order:

**ORDER**

In City Council  
January 2, 2008

BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF BATH, THAT:

Warrants be prepared and issued to notify and summons the inhabitants of the City of Bath, qualified to vote, that the Special Municipal School Districts Election will be held at Bath Middle School, 6 Old Brunswick Road (Districts 1-7) inclusive, on the 29th day of said January, in the year of our Lord Two Thousand Eight, at 9 O'clock in the forenoon, then and there, to cast their votes at the Special Municipal School Districts Election in their respective Districts for:

**Regional School Unit # 1 Board of Education:**

District One – one to be elected  
District Two – one to be elected  
District Three – one to be elected  
District Four - one to be elected  
District Five – one to be elected  
District Six – one to be elected  
District Seven – one to be elected

and, be it further ordered, that said polls are to be kept open until eight o'clock in the afternoon of said day and then be closed.

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

**VOTE on Order:**

**YEAS: 8**

**NAYS: 0**

**Order passed unanimously. 8-0**

**8) Order: Approving Voter Registrar's hours for the Special Municipal School District Election to be held on January 29, 2008.**

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 City of Bath Special Municipal School Districts Election to be held on Tuesday, January 29, 2008

<b>Warden</b>	<b>Ward Clerk</b>
Carol Duehring	Harriet Smith

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

**VOTE on Order:**

**YEAS: 8**

**NAYS: 0**

**Order passed unanimously. 8-0**

**9) Order: Appointing Warden and Ward Clerk for the Special Municipal School District Election to be held on January 29, 2008.**

Chairman Wyman read the following Order:

**ORDER**

Be It Ordered by the City Council of the City of Bath, that the hourly schedule for the office of the Registrar of Voters shall be from 8:30am to 4:30pm Monday through Friday prior to the City of Bath Special Municipal School Districts Election to be held Tuesday, January 29, 2008 except for Saturday, January 26, 2008 from 10:00am to Noon at the City Clerks Office, 55 Front Street.

Voters may register on the Day of the Election from 7:30 AM – 8:00 PM at the City Clerk's Office or from 9:00 AM – 8:00 PM at the polls at the Bath Middle School, 6 Old Brunswick Road.

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

**VOTE on Order:**

**YEAS: 8**

**NAYS: 0**

**Order passed unanimously. 8-0**

**G. Petitions & Communications: 6:57PM**

There were no petitions or communications

## **H. City Manager's Report: 6:57 PM**

City Manager Giroux reported on the following items:

- Snow Issues
- Wing Farm project update

## **I. Committee Reports: 7:03 PM**

Councilor Winglass, who is leaving the Main Street Bath Board this year, thanked them for all the work they do to improve the downtown and wished Mike Fear, the new president, the best of luck.

Councilor Omo reported for the School Facilities Committee that over the holidays some HVAC infrastructure work, painting and the tile floors have been finished at Morse High School.

## **J. Unfinished Business: 7:07 PM**

There was no unfinished business.

## **K. New Business: 7:12 PM**

### **\*10) Annual Appointment: J. Scott Davis as Codes Enforcement Officer, Health Officer and Plumbing Inspector for one year, pursuant to State Statutes.**

*This appointment was approved on the Consent Agenda (D2).*

### **\*11) Annual Appointment: Kenneth Desmond as Alternate Codes Enforcement Officer for the City of Bath for one year, pursuant to State Statutes.**

*This appointment was approved on the Consent Agenda (D2).*

### **12) Appointment of one member to the Personnel Service Commission, term to expire January 2011.**

Councilor Pagurko nominated James Gillies to fill this position. Councilor Winglass seconded the nomination. All in favor of the nomination.

### **13) Annual Appointments to Committees by Council Nominees:**

- Bath Housing Authority – Bernard Wyman
- MidCoast Council for Business Development & Planning -  
Brian Verville, Brian Mulligan, Kyle Rogers
- Patten Free Library – Brian Verville
- Recreation Commission – Wayne Cochrane
- Sidewalk Vending License Committee - Ruthe Pagurko
- Student Community Liaison Council – Wayne Cochrane
- Welfare Review Board – Ruthe Pagurko, Mari Eosco

Councilor Pagurko made a motion to accept the nominations for the appointments to the Committees. Councilor Omo seconded the motion. All in favor of the nominations.

Motion by Councilor Omo, second by Councilor Pagurko at 7:03 PM to go into Executive Session to discuss a Real Estate Matter per 1 M.R.S.A. §405(6)(C). All in favor.

Motion by Councilor Pagurko, second by Councilor Omo at 7:28 PM to come out of the Executive Session. All in favor.



The meeting adjourned at 7:29 PM with a motion by Councilor Omo, 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.*