

REGULAR MEETING MINUTES
CITY COUNCIL OF THE CITY OF BATH, MAINE

Wednesday, February 12, 2014 6:00 PM
(This meeting was postponed from 2/5/14.)
City Council Chambers, Bath City Hall

Present: Councilors Brackett, Paulhus, Lockwood, Wyman, Sinclair, Mitchell, Winglass and Madame Chair Eosco.
Late: Councilor Merrill

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

Madame Chair Eosco led the Pledge of Allegiance and City Clerk White called the Roll.

Madame Chair Eosco presented a Proclamation in honor of the late City Councilor Roberta Banks to her family:

PROCLAMATION

WHEREAS the City of Bath wishes to recognize the many years of excellent public service that Roberta Banks has provided to this community, and

WHEREAS Roberta was known for doing her homework, researching and digging out the facts on every project she had been involved with, and

WHEREAS Roberta had provided countless hours on many Boards, Commissions and organizations in the City of Bath which are too numerous to mention but included the Bath City Council, the Bath Area Senior Citizens Center, the Bath Water District, Davenport Fund Trustee, Volunteers In Police Service, Midcoast Federal Credit Union Trustee, Merrymeeting Triad, the City's E911 Committee, City Finance Committee, Welfare Review Board, Sidewalk Vending Committee, Children's Home Committee, Patten Free Library Board, Southend Boat Launch Committee, Solid Waste and Recycling Committee, Student Community Liaison Council, Appointment Screening Committee, Street Advisory Committee, YMCA Committee, Youth Advocacy Committee, Community Development Block Grant Committee, and the Sagadahoc County Corrections Committee, and

WHEREAS Roberta had been a modest community activist who had not only touched individual lives but had been instrumental in building a movement for positive social change, with an unyielding passion for ensuring that seniors are safe and valued members of the community, and

WHEREAS Roberta's life had exuded the softness and gentleness of a lamb with her tender compassion for seniors and youth in conjunction with the tenacity and dogged determination of a bulldog as a fierce advocate for elders and standing up for those who are unable to, and

WHEREAS Roberta was a role model and inspiration to all volunteers, raising the bar and serving as a catalyst to inspire many people to do things they never would have considered before, accomplishing things that many of us can only aspire to.

NOW THEREFORE BE IT PROCLAIMED that Roberta Banks was the embodiment of the best attributes of all volunteers with a vision for the future and a voice for the senior community, and has left an indelible footprint on our community that will not be forgotten.

Dated this 12th day of February, 2014.

Councilor Merrill took her seat during the following presentation.

Presentation by Betsy Harrington regarding Friends of the Zorach Fountain update.

Ms. Harrington gave a brief history of the Friends of the Zorach Fountain Committee and the establishment and maintenance of the fountain. She gave Council a drawing of the proposed improvements to the Pond's landscape. Ms. Harrington asked Council for their consent and endorsement of the fundraising process to address the condition of the pond, to significantly improve the water quality and drainage of the immediate area surrounding the fountain and stated that the Council's endorsement will assist in showing the community's support when applying for grants and private donations. She stated that the work would begin in the Fall as soon as fundraising goals were met and would take several months.

Councilor Winglass made a motion to support the fundraising project. Councilor Mitchell seconded the motion. All were in favor of the motion.

C. Public Hearing: 6:08 PM

1) Ordinance –LUC Zoning Map Amendment - Maine Maritime Museum (second passage)

Councilor Wyman made a motion to waive the reading of this Ordinance. Councilor Merrill seconded the motion. All were in favor of the motion.

ORDINANCE

WHEREAS, THE CITY COUNCIL OF THE CITY OF BATH, AS PART OF THE ADOPTION OF THE BATH LAND USE CODE ON JULY 19, 2000, EFFECTIVE AUGUST 9, 2000, DEPICTED THE BOUNDARIES OF ALL LAND USE DISTRICTS ON A ZONING MAP OF THE CITY OF BATH, ALSO DATED JULY 19, 2000, INCORPORATED BY REFERENCE INTO THE LAND USE CODE PURSUANT TO THE PROVISIONS OF SECTION 7.02 OF THE SAID CODE; AND

WHEREAS, IT IS NECESSARY AND APPROPRIATE THAT THE BOUNDARIES OF THE LAND USE DISTRICTS BE, FROM TIME TO TIME, ADJUSTED AND AMENDED, IN ORDER TO CREATE NEW DISTRICTS AND ADJUST BOUNDARY LINES OF EXISTING DISTRICTS.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BATH THAT THE ZONING MAP OF THE CITY OF BATH, DATED JULY 19, 2000, BE AND HEREBY IS AMENDED IN ACCORDANCE WITH THE SKETCH PLAN ATTACHED HERETO AND MADE A PART HEREOF. THIS CHANGE SHALL BE INCORPORATED INTO AND BE PART OF THE OFFICIAL ZONING MAP OF THE CITY OF BATH. THE SPECIFIC ADJUSTMENT IS:

An amendment to the Zoning Map, changing the zoning of an 18,795 square-foot portion of lot 17 on tax map 38 from Museum District (M) to the Residential-2 District (R-2).

The affected area is more particularly described on the boundary survey and legal description submitted with the application, sealed by Bruce W. Martinson, Surveyor (#2137).

City Planner Andrew Deci explained that this was the second reading of a rezoning on a piece of property that is now in the Museum Zone but is proposed to go into an R2 Zone. He stated that this came to Council with a unanimous vote of the Planning Board.

Councilor Wyman made a motion to put the item on the floor. Councilor Winglass seconded the motion.

There were no comments from the Council or the Public regarding this item.

ROLL CALL VOTE:

YEAS: Winglass, Mitchell, Sinclair, Wyman, Lockwood, Paulhus, Merrill, Brackett

NAYS: None

Ordinance passed unanimously. 8-0

City Clerk White stated that it would become law in 21 days.

D. Consent Agenda 6:10 PM

***2) Minutes of Previous Meeting – January 8, 2014. (motion to accept)**

Councilor Wyman made a motion to accept the Consent Agenda as presented. Councilor Mitchell seconded the motion. All were in favor of the motion.

E. Time Devoted to Residents to Address The City Council 6:10 PM

No one spoke.

F. Ordinances, Resolutions and Orders 6:11PM

3) Ordinance – Approving Pine Tree Waste Contract (first passage)

Madame Chair read the following Ordinance:

**ORDINANCE APPROVING
PINE TREE WASTE CONTRACT**

WHEREAS, the City of Bath and Pine Tree Waste, Inc. have reached an agreement for continuation of curbside trash pickup, recycling pickup and other specialty collections, and

WHEREAS, the term of the Contract exceeds One (1) year, and

WHEREAS, the Charter of the City of Bath, pursuant to Section 1102, requires that Contracts involving payment of monies out of appropriations of more than One (1) fiscal year be approved by Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Bath that the Contract with Pine Tree Waste, Inc., commencing July 1, 2013 and running through June 30, 2018, and attached hereto, be and hereby is approved and the City Manager is authorized to execute same on behalf of the City of Bath.

Councilor Wyman made a motion to put the Ordinance on the floor for discussion. Councilor Mitchell seconded the motion.

Public Works Director Peter Owen stated the new contract was being recommended for renewal by City Staff and Pine Tree has provided consistent and reliable service. Mr. Owen stated after reviewing providers there wasn't another provider that could provide the equivalent service and Pine Tree provides a customer service department that is very responsive to pick-up calls. He reported that the knowledge that Pine Tree has in the pickups due to ordinance requirements is very valuable.

Deputy Public Works Director Lee Leiner spoke regarding the fees for services.

Councilor Sinclair proposed an amendment to change Sections 4b and 4c with each of which to replace the text “said fee not to exceed ... then the number following in each of those to be multiplied by 1.021”. Councilor Merrill seconded the motion.

ROLL CALL VOTE ON THE AMENDMENT:

YEAS: Brackett, Merrill, Paulhus, Wyman, Sinclair, Mitchell, Winglass

NAYS: Lockwood

Amendment passed. 7-1

ROLL CALL VOTE:

YEAS: Winglass, Mitchell, Sinclair, Wyman, Lockwood, Paulhus, Merrill, Brackett

NAYS: None

Ordinance passed unanimously. 8-0

Madame Chair Eosco set second passage for March 5, 2014 at 6:01PM.

4) Resolution – Opposing a Legislative Act seeking to impose a solid waste stabilization assessment against each licensed landfill in the State of Maine.

Councilor Mitchell made a motion to waive the reading of the following Resolution. Councilor Lockwood seconded the motion.

VOTE on Motion

YEAS: Merrill, Lockwood, Mitchell

NAYS: Brackett, Paulhus, Wyman, Sinclair , Winglass

Motion Failed. 3-5

Madame Chair Eosco read the following Resolution:

**RESOLUTION OPPOSING THE IMPLEMENTATION OF
SOLID WASTE STABLIZATION ASSESSMENTS**

WHEREAS, the City of Bath operates a licensed landfill facility that accepts waste from commercial and residential sources within the Bath Region; and

WHEREAS, the City has been advised of proposed Legislation being considered by the Maine State Legislature that would seek to impose a solid waste stabilization assessment against each licensed landfill in the State of Maine, including the Bath Landfill; and

WHEREAS, the genesis of the assessment is to address shortfalls in revenue and decreased profitability experienced by the three Waste to Energy (WTE) facilities within the State of Maine due to the expiration of more lucrative electricity supply contracts that were initially imposed by the State of Maine; and

WHEREAS, the imposition of such an assessment raises the following issues:

- The assessment places an additional, significant and substantial financial burden on local landfills to address a problem not related to the operation of the landfill and for which the landfill has no responsibility;

- The burden of the additional assessment is patently unfair. It places a burden exclusively on licensed landfills. It purportedly seeks to create a “level playing field.” The playing field has been unlevel directly due to State Policies regarding the sale of electricity. It has the effect of singling out and punishing local landfills;
- It singles out and advantages one method of waste disposal to the detriment of all other methods;
- The assessment creates an artificial increase in costs not related to landfill operations;
- The assessment requires local landfills to reexamine its tipping fee structure and to make adjustments to the extent that each individual market will allow. This significantly skews the existing market and calls into question prior market and operational decisions by licensed landfills without consideration of the assessment;
- The assessment redirects limited resources from the “reduce, reuse and recycle” hierarchy and will be detrimental to those efforts;
- The assessment postpones any solution to the problem at the WTE facilities. It ensures the status quo, and provides no incentive to address the real issues related to the efficiency and operation of the those facilities; and
- The costs associated with the assessment will represent substantial additional costs to the users of Bath’s facility and to the Bath taxpayers.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Bath that the City Council wishes to go on record as opposing any solid waste stabilization assessment that may be imposed exclusively on licensed landfills, that if any supplemental funding process be deemed a necessity that it be imposed on a more uniform and fair basis without singling out local landfills, and that the Legislature put in place a policy that will look to other alternatives in dealing with the inefficiency of the WTE plants and which supports the goals of reducing, reusing and recycling so as to remove waste from the waste stream.

Councilor Wyman made a motion to put this Resolution on the floor for discussion. Councilor Winglass seconded the motion.

City Manager William Giroux explained that this has been moved forward by Committee without the fees on municipalities. He stated that it looked like this would not be an issue for this session of the legislature so there wasn’t an urgency in passing it. Mr. Giroux said that the City was covered under the new contract with Pine Tree Waste so that if these fees did come be in another year the City would be able to pass them on to Pine Tree Waste, who would in turn be collecting them from their customers from outside of the City.

Councilor Paulhus made a motion to table this item indefinitely. Councilor Sinclair seconded the motion.

VOTE on Motion:

YEAS: Brackett, Merrill, Paulhus, Lockwood, Sinclair, Mitchell, Winglass

NAYS: Wyman

Motion passed. 7-1

G. Petitions & Communications 6:40 PM

5) Letter of Support for Municipal Funding from State

Madame Chair Eosco read the following letter.

February 5, 2014

Maine Senator, The Honorable Dawn Hill

Maine Representative, The Honorable Margaret R. Rotundo
Committee on Appropriations and Financial Affairs
c/o Office of Fiscal and Program Review
5 State House Station
Augusta, ME 04333

Subject: Support of LR 2721

Dear Senator Hill and Representative Rotundo,

The Bath City Council would like to lend its support to LR 2721, *An Act Related to the Report of the Tax Expenditure Review Task Force*. Over the past several years, the 40-year long covenant between the State of Maine and its municipalities has been broken. We urge the Legislature to support legislation that prevents further reductions in Municipal Revenue Sharing and restores the program to its original intent.

In FY 2009, the last year the Legislature honored its commitment to municipalities to share 5% of the revenues from income and sales taxes, the City of Bath received just over \$994,000. This year the City of Bath is expected to receive just over \$554,000, less than half of the \$1,168,000 it would have received under the 40-year old the revenue sharing formula. The difference of \$614,000 has been made up by reducing services and increasing property taxes on our residents. Under the proposed additional \$40,000,000 cut in revenue sharing, the City of Bath would receive \$170,492 in FY 2015, resulting in nearly \$1,000,000 in cuts to services and/or property tax increases.

A \$1,000,000 reduction in revenue sharing is the equivalent to losing approximately \$50,000,000 in valuation in the City of Bath. To put that number in perspective, it's the equivalent of a fire destroying 357 homes, a disaster by anyone's measure. While fires and natural disasters may not be preventable, this legislative action certainly is.

Additional cuts to Maine's Municipal Revenue Sharing program mean the City of Bath will be forced to make drastic cuts to municipal services **and** significantly raise taxes. Raids by the legislature on revenue sharing to balance the State's budget simply shift the revenue losses to municipalities, who have significantly fewer options to raise revenue than the State. Municipalities, including the City of Bath, are left with two choices: reduce municipal services or raise property taxes, arguably the most regressive form of taxation in the State.

Throughout the last several years the City has attempted to maintain vital services despite declining revenues and cuts to municipal revenue sharing by making cuts to the budget wherever possible and by deferring capital expenditures. The State's proposal to raise an additional \$40,000,000 from revenue sharing will result in drastic cuts to local services paired with significant tax increases. LR 2721 protects Maine's residents and municipalities from this ill-advised approach.

The City of Bath urges you to support municipal revenue sharing by rejecting further cuts to the program and working aggressively to restore the partnership between the State of Maine and its municipalities through a full restoration of the program.

Sincerely,
Mari H. Eosco, Madame Chair
Bath City Council

City Manager William Giroux reported that there was a broad support from the House and Senate to avoid the \$40,000,000 reduction in municipal revenue sharing. He stated with the present numbers Bath would lose about \$43,000 in revenue sharing.

H. City Manager's Report 6:46 PM

City Manager Giroux reported on the following items:

- The effect of the new law on revenue sharing on bonds due to municipalities regarding the High Street Grant.
- Capital Improvement Program and 2014-15 Budgets being updated from Department Heads.
- Update on improvements to the flooding situation in the Winship Green area.

I. Committee Reports 6:50 PM

Madame Chair Eosco reported that Debra Keller is the new Director of Bath Housing Authority.

J. Unfinished Business 6:51 PM

Verbatim Transcript:

Madame Chair Eosco: Next is Unfinished Business and we'll be talking about the Sharrigan property.

City Manager Giroux: I'll be happy to start that. I'll try to lead it, if you don't mind in a certain direction, but obviously we will do what Council wants to do tonight. We had an internal meeting and agreed internally that the boundaries proposed by Mr. Bannon, the Sharrigan's attorney, are really the least amount of land that is needed by them to accomplish what they need to accomplish so in other words we agree that those are the right lines. Remember how he took the original septic easement and actually shrunk it and said "We're actually willing to give up some of that and this is what we purchased from the City". We agree, so we assumed that there was nothing more to talk about. Then my thought was we would move forward and I would talk to Council in Executive Session about parameters about what Council is thinking about financially or otherwise and then meet with the Sharrigans. Mr. Bannon contacted us. He was concerned about that. He thinks that we do need to have that meeting about them. One of the reasons is because he sensed that we were probably looking to recommend some type of restrictions on the further use of that land. There was some discussion about it at the last Council meeting. He is probably right. He asked that we sit down with them before we start talking to the Council about negotiating parameters. That's kind of what I wanted to talk about in Executive Session but in the public session today what I wanted to do was have the Council

decide whether or not they wanted to waive the appraisal, so that's why there's a public session on here. Under your new land sale policy, we have to make a decision on whether to waive an appraisal. My guess is we probably wouldn't want to waive an appraisal but that's a policy decision of the Council.

I think if you wanted to have an appraisal, we probably ought to wait and order the appraisal at least after meeting with the Sharrigans and maybe after discussing what limitations might be on the land with Council because it could affect the appraised value. If we seriously limit, which could well be the case, the appraiser probably ought to know that we plan to seriously limit...I'm not sure what effect it would have on the value. So, I was planning on getting authorization to appraise. We might not move forward on it right away and I don't really think... we have a meeting scheduled with the Sharrigans and Mr. Bannon on the 24th and I think we don't need to do any other business until after that has happened. So that's what's on my mind tonight.

Madame Chair Eosco: Councilor Winglass?

Councilor Winglass: There was a note from the Sharrigan's attorney also that mentioned... I believe it said something about them being willing to pick up the cost of the appraisal. Did anyone else see that?

City Manager Giroux: It was in a letter from Mr. Bannon.

Councilor Winglass: In which case, I think he was just looking for agreement on the use of whoever to do the appraisal.

City Manager Giroux: If the Council wants them to pay for the appraisal as offered, then Roger and I would be happy to work with them to agree on who the appraiser would be. If you want to pick the appraiser, then we probably would have to pay.

Councilor Brackett: My thoughts on this whole situation is... again, I'm a little disappointed this meeting hasn't already occurred. You've set the schedule and so be it. I would rather the staff meet with the Sharrigans and their attorney and come back to us before we do anything. Appraisal-wise or anything, it just doesn't make sense to go ahead and go with an appraisal. We're just getting too many things...the meeting hasn't even happened yet. That's my thoughts.

Councilor Lockwood: At our last meeting, that's what we all assumed was happening. I don't understand why it didn't.

City Manager Giroux: Well, we had a meeting – Roger and I and Mari and Scott – I don't know if there was anyone else in there – and when we agreed on the land area, we felt that there was nothing else to discuss before coming back to the Council and the appraisal issue and some guidelines for negotiating, so that's why we didn't...

Councilor Lockwood: I thought that's what we were supposed to agree on – the land area with the...I mean that's what we were talking about.

City Manager Giroux: We agreed on the land area but to us, the next issue was the price.

City Solicitor Therriault: May I, Madame Chair?

Madame Chair Eosco: Yes.

City Solicitor Therriault: We just went through this on another piece of property and I'm not going to speak for Bill, but I'm very uncomfortable sitting down with the Sharrigans and talking...negotiating. It's clear we don't have that authority and we've got a chicken and an egg. How are we going to get that authority? Well, the authority has to come from Council. How is Council going to do that? Well, Council has to talk about it. So if we sit down with the Sharrigans – and I have no problem doing that or Bill doing that. Actually, the process is listen to what they have to say and they've already said what they have to say, so I don't know where we go from here. If we don't talk about this as a Council, there are a number of issues that Council is going to have to address. I don't feel comfortable making any determinations as to what we ought to do. That's you guys. That's above my pay grade. Somehow we've got to figure out a process here that we're comfortable with following in terms of trying to bring this thing to some sort of conclusion. If you would prefer that we...and I have no problem with this – and I'd presume Bill would not either – to listen to them and see what they wish to propose that's different than they've already proposed and we're happy to do that – but we've already brought it back to Council to have a discussion with Council about it. If I were them, I wouldn't be too anxious to do that because I wouldn't want to be negotiating against myself as far as that's concerned. Again, we get back to the chicken and the egg, so where do we go, folks?

City Manager Giroux: That was the reason for the Executive Session. We didn't feel comfortable sitting down and negotiating without guidance, but I'm happy to sit with them. There are Councilors, I think, that want us to sit with them and we'll listen to what they have to say and then we'll come back to you.

Madame Chair Eosco: Councilor Brackett?

Councilor Brackett: I guess my thoughts on that are that I didn't expect you guys to negotiate with them. As Roger said, that's not under... that's our job, I guess, to decide what happens, but I do think based on what they were told at the last meeting, they deserve an audience, and maybe it is reiterating what they already said, but...

City Manager Giroux: We've got it set up. It will happen before your next meeting. I'm not sure – depending on what happens in that meeting with them – I'm not sure if it will be ready for the March meeting.

City Solicitor Therriault: We can take the approach if you say, Madame Chair, that we take it back to Council.

Councilor Brackett: Exactly. I like that idea – not a negotiation session. Just receive feedback and bring it back.

Councilor Sinclair: And if that becomes the only reason for the meeting, then why not have Mr. Bannon come back and share whatever new information or insight he's got with us publicly? I don't see the benefit if we're not going to start coming down to discussion and parameters including cost, and if dimensions are unsettled, I don't see any point in having any private conversations. I may be missing, Councilor Brackett, the value there. I don't see it.

City Manager Giroux: When you say private conversations, are you meaning the meeting on the 24th or the Executive Session ?

Councilor Sinclair: I didn't know it was scheduled for the 24th, but whenever it was scheduled for.

City Manager Giroux: Well, you can understand how we were kind of in a quandry as to which way to go, but I'm happy to meet with them if that's what the majority wants. It doesn't appear that's what you want. I suggested that he come tonight and he mentioned that he would rather meet first. He is trying to save money for his client. Obviously, it's expensive for him to be here.

Councilor Sinclair: Does he charge different rates to meet privately – to meet with you? (Laughter) Maybe he does – it's up to him!

City Manager Giroux: I don't think we have a ton of Executive Session material that we eventually need to cover with the Council. I don't think we need to do a lot of this in private, but there are some things... I mean, when the City Council negotiates a real estate deal, they have the right to talk about it privately so... It's likely that you'll have an Executive Session on your next agenda, depending on the timing. We'll work with the Chair on that.

Madame Chair Eosco: Councilor Lockwood?

Councilor Lockwood: Going back to the minutes from the last meeting, I'm just a little confused as to where negotiation got put into the conversation. All it says is discuss the lot lines that would be workable for the Sharrigans and for the City and Scott, and that was supposed to be talked about as a group and then presented to Council saying these are the lines we came up with.

City Manager Giroux: And we've agreed on that, Councilor. We've agreed on the lines.

Madame Chair Eosco: We agreed on the lines being proposed.

Councilor Lockwood: OK.

City Manager Giroux: So that piece is done.

Councilor Lockwood: So at this meeting... I guess I'm confused. What we talked about at this meeting, it seemed like it was going to go ahead and now it's not appropriate to talk about it with them. I just don't understand what changed between...

Madame Chair Eosco: Well, they proposed lines and I think we wanted to see if those lines made sense. The Staff went and looked at the lines and said “Well yeah, actually there’s no other way to cut it up.” You could cut off a sliver here or there, which would make it convoluted. We looked at those lines and said they’re exactly like what they’re proposing are. The minimum is what they’re asking for. We agreed with that so my sense is, why do we need to meet with them if we agree already with the lines that they’re proposing? Councilor Winglass.

Councilor Winglass: OK. So, what’s left to negotiate is really a price then. That’s the only thing I’m coming up with.

City Manager Giroux: Well, a price and Mr. Bannon points out he’d like to know what perspective deed restrictions are. I could take a crack at what these might be in my opinion, but obviously those aren’t... Council won’t have commented on those if we don’t talk about that beforehand.

Councilor Winglass: Well, I think really that was something that could have been talked about and gotten together and maybe with the Sharrigans, let them... do they agree with them? Do they not agree? Is there some issue with one of these restrictions?

City Manager Giroux: Well, they would be my restrictions with no input from the Council, but...

Councilor Winglass: And that’s the problem.

City Manager Giroux: I’m happy to suggest a few and he’d like to apparently add his own ideas about what restrictions might be, so I guess I’m thinking... what I was telling you at the beginning of this discussion is that we will meet on the 24th, we’ll kick those things around to the extent we can without one party being part of the discussion. Then we’ll come back to you for your input on it. That’s kind of the direction that I’m heading unless I get a different direction from Council. I’ll plan on meeting with them on the 24th. The Council Chair will be there, and the City Attorney, and then we’ll come back to you after that. We’ll know at least what their thoughts are on restrictions and prices.

Councilor Winglass: And as far as restrictions from our side, do you just want to throw a few of those out?

City Manager Giroux: I’d be happy to give you my thoughts, Roger could give... I would suggest that there be no increase in the footprint or the cubicle volume that are there in perpetuity. Given the Council’s desire to surround this with a conservation easement and even some concern to not let this be part of the conservation easement and the fact that structures were built on the City property without permission and permits. .. They would not be allowed to increase the volume or the footprint of those structures and also, there needs to be some thought given... Normally, if you build without a permit, you pay double the permit fee for an after-the-fact permit and the Council might at some point want to consider whether or not there is some fee to be paid because structures were built on the City’s property without permission and have

been there for a long, long time. These are things I thought you might want to chat about before we sat down. I'm happy to float them out there. Some Councilors might disagree, but these are things I was hoping to chat with you about. I'm not sure how much of it... I'm hoping I didn't say more than I should outside of Executive Session. That's why I scheduled the session so that Roger could guide you through that discussion.

Councilor Winglass: Well, my point is that I think that all of us have probably had these kinds of our own private thoughts on the same issue and the same concerns and similar concerns and that there aren't a whole lot more restrictions out there that really apply in this case so that... I don't see that it needs to not be known and that the City is considering these types of actions and some price negotiations and – you know – at some point we've got to make those thoughts hard known, and the Sharrigans can either accept them or reject them.

City Manager Giroux: That will be when we have that first discussion. If you don't want to authorize an appraisal at this point, there is no need to do that. You don't have to do that tonight. There's no action probably to be taken unless other Councilors want to make some type of motion.

Madame Chair Eosco: Is there any interest in voting on an appraisal? Councilor Lockwood?

Councilor Lockwood: Are we voting on selling or not selling the property?

City Manager Giroux: No. You normally wouldn't do that until the whole deal is...

Madame Chair Eosco: We have the numbers.

Councilor Lockwood: So we'd go through all these gyrations before...

Madame Chair Eosco: My sense from the meeting before is we entertained the idea of not selling. The consensus at that time is we would look into other options. Councilor Paulhus.

Councilor Paulhus: Thank you, Madame Chair. I just will say – you know – I don't mind going through this, but my opinion hasn't changed since the last time. I still am not a big fan of doing this and I just feel I have to say that again. However this moves forward, but I still am not a fan of it.

Madame Chair Eosco: Understood. So, I don't see much interest in voting on having an appraisal done on the land at this point. From here, I'd say let's have the meeting on the 24th. We'll come back to you in March with more information. There might be an Executive Session so that we can have some discussions that are privy to the Council – its numbers and such. Does anyone else have anything to add before... Councilor Sinclair?

Councilor Sinclair: I may have missed it, but I didn't hear where we said there should be a meeting on the 24th. The whole point of the meeting was to determine lines. That's already been determined. What is happening on the 24th and why?

City Manager Giroux: Well, I mentioned – and you certainly don't have to agree that there should be a meeting. It's up to the Council as to whether there will be another meeting on the 24th. He would like to kick back and forth the restrictions primarily, and I should tell you that he feels that restrictions would have the effect of lowering the appraised value. Whether or not they would is up to the appraiser. He would like these kinds of restrictions kicked around before an appraisal is done and that they be considered – whether they would have an impact on the price or not, I'm not sure, but he clearly is angling for that – those discussions to take place before the appraisal. Those are the only discussions I know of that are worth having. They have to happen at some point. At this point, it's probably so that the restrictions we're talking about can be debated in public. I'm not sure we have to do that privately, and we should be very careful what we do, obviously, in private. There are pieces that will have to be private but...

Madame Chair Eosco: Councilor Sinclair.

Councilor Sinclair: Madame Chair, I'm glad I asked the question because I am very uncomfortable with having just a small group of people kick around the subject of different restrictions. I think that's a matter that should be discussed publicly. Mr. Bannon is clearly comfortable sending letters. He could send us a letter with his thoughts on the topic, and we could take it up at the next regular meeting publicly, unless the rest of the Council feels differently.

Madame Chair Eosco: So you're suggesting that we cancel the meeting on the 24th and that he write out his thoughts to us?

Councilor Sinclair: I don't see a point in meeting and I see a lot of arguments against it, so yes.

City Manager Giroux: Or he could come to your next meeting and discuss these things with you.

Councilor Sinclair: He could do both.

Madame Chair Eosco: Councilor Merrill.

Councilor Merrill: I would be in favor of that.

Madame Chair Eosco: Any other Councilors want to weigh in on this?

Councilor Brackett: We just need to move the process forward. We're dragging. I'd be in favor of that too. That's fine.

City Clerk White: It looks like they're in favor of canceling the meeting on the 24th.

Madame Chair Eosco: Well, it seems like a strange vote, but there's a lot of strange things going on here.

City Manager Giroux: It seems to be the Council's direction. You probably should take any public comment before taking any action.

Madame Chair Eosco: Any public comment on anything we've discussed tonight? Please come up to the lectern. State your name and your address please.

Esther Sharrigan: Esther Sharrigan. Bradford Road in Wiscasset. That meeting that was supposed to be on Monday was scheduled because the last time we were here it was agreed by Mr. Giroux and to all to get together along with the Code Enforcement Officer, my husband and I and the lawyer. They agreed on it. Now you say no. The only thing is is that we were just going to get our point out to the Staff, and most of the things there we do agree with the boundary lines, but there is certain areas there such as brooks and things that are beyond the property that our lawyer thought might have some kind of influence on the price of the land. I'm not sure. I don't see the harm in having a meeting with some of the staff members of the town and then us just to get our point across. It just seems as though everybody's making the decisions for us and then we just have to agree or not agree. What if we don't agree? Then what happens? Then we're right back to Day Zero. I mean, this has been going on since Mr. Cummings bought the land from Tony and Mary. When Mr. Higgins bought the land for the other four lots beside them, and those were all precedent-set that we were told that we couldn't buy the land because we're setting a precedent in selling land to us. What if this has already been done? What is...we bought back in the 80's. We know all those people that bought the land. Then the boundary lines have been changed. They used to be one straight line across, which was 50 by 100 feet. We just want the little piece for our bath house, which you're just telling us we can use only with a septic system. Well then what happens to the rest of the system? We're going to have an outhouse on top of the septic system and we're still on the town land. There is just no room for us. The land is only 50 by 100 feet, and the length – the 50 – is 150 feet back from the water. There is no place that we could put any of those buildings, let alone have a bathroom. The reason why we never added on to our little cottage, which is only one room – the size of a garage – is because you'd have to dig through the soil, disturb it, disturb the pine tree roots there, and the great white oak. We didn't want to do that, because then you're going to kill historic trees. Then you've got that Forestry Committee after us, so that was put in an area that was pretty easy. The ground was very easy to dig; it was just soil – no roots, no trees had to be cut down and no roots had to be cut. And, it is also more than 75 feet back from the water. So, I don't see any problem in having that meeting. I'm quite sure the rest of the members would share everything with the rest of the Council.

Madame Chair Eosco: Thank you.

Esther Sharrigan: You're welcome.

Madame Chair Eosco: The question at hand at the moment is about the meeting on the 24th. Councilor Lockwood?

Councilor Lockwood: I have no problem with you guys kicking around ideas. Sometimes this format for talking about things is a little intimidating for the parties involved. It's not a secret meeting. It's not an Executive Session, and you're going to report back to us what's happening. I don't think it's a bad idea. You're not negotiating. You're discussing different scenarios. That's it.

Councilor Mitchell: I agree entirely with you, Carolyn. I think that the meeting should take place, sort out the ideas, and they're probably going to introduce some new ideas we haven't even thought of yet. Do the meeting and come back and report to us and we'll have some more stuff to work with. I still have some reservations about part of this, and I'm thinking I still need some more information, personally.

Madame Chair Eosco: I am going to ask for a show of hands in a moment but I'd like the Councilors to weigh in if they'd like to. Councilor Merrill.

Councilor Merrill: I'm wondering if some sort of motion could be made where City staff regarding this meeting... My objection, however, is that this private meeting concerns public land. It's private. The whole city doesn't have access to it. When I hear things being said by a property owner like there's no place we could have put that building, it goes back to the initial problem with these buildings that they are not supposed to be there. When I hear things being said about digging up roots and cutting down trees, it just further emphasizes the fact that these buildings are on public land. When I shared my family's situation at our last meeting about having a foundation dug to put too close to the setbacks, that foundation is still on that land. It was our responsibility to make sure it met the codes. We pulled permits. None of this was being done in seclusion. We had an inspection. That's how we found out that the setback hadn't been met. Once we realized that, we immediately went through the process of rectifying it. These buildings were placed there without any permits on land that clearly did not belong to the property owners – abutting the city land. So, I'm all for trying to come to a resolution that best meets the needs of both parties but it's incredibly frustrating to have the property owner continually telling us what a problem they're in because they have buildings on our land, and I think keeping this out in the public where everybody has access to the conversations going on best suits the needs of the City.

Madame Chair Eosco: Any other Councilors want to weigh in on this one? So we are going to take a hand vote on whether or not we will be meeting with the Sharrigans and their attorney on the 24th. All those in favor? (Wyman, Mitchell, Lockwood) All those opposed? (Sinclair, Winglass, Paulhus, Brackett, Merrill). OK. One less meeting.

Councilor Winglass: I'm not in favor of having this meeting. I don't know why we can't discuss it right now amongst ourselves and say what we think we're looking for.

City Manager Giroux: We've kind of put everything on the table except for the actual price.

Councilor Winglass: I mean, we've got Paul here, who is our Assessor and I believe he's looked at this piece of property. He would be a good guy to ask, what he thinks.

Councilor Brackett: May I just say with all due respect to the discussion here - That all may be true but it's not a foregone conclusion that it's going to be sold. I hear what you're saying, but I don't think we're all in agreement on this Council about that situation.

Madame Chair Eosco: I think what we're doing is collecting the information to make the final decision.

Councilor Brackett: So you know – appraisals, values – that's fine – but that's kind of the cart before the horse.

Madame Chair Eosco: Councilor Lockwood?

Councilor Lockwood: I have no problem talking about it right now in public, but the Sharrigan's attorney is not present, so I don't believe that's fair to them. Coming into this David, as a... we're starting new. We weren't there in the 80's – most of us? This is the snapshot in time we are working with, so I don't understand... I don't mind talking about it. Scott's here too. What restrictions can you put on it? No issuing of burn permits or you know, there's a whole slew of restrictions you can put on it.

City Manager Giroux: I would start... I'm sorry – let's let the Council have their discussion.

Councilor Sinclair: I was just going to quickly reply because the Councilor had either asked me a question or somehow directed it to me. My response to the concern that Mr. Bannon isn't here – the answer to that is the matter is on our agenda and he knew it was on our agenda because he wrote a lengthy letter to the Council Chair about the fact that it was on the agenda and how could we possibly be discussing it? What could there possibly be to discuss because you haven't had the meeting you promised us. I don't think anyone was disadvantaged by – or would be disadvantaged by our continuing the conversation tonight if that's what the Council would like to do.

Madame Chair Eosco: Councilor Winglass.

Councilor Winglass: OK. So I for one would like to continue the conversation if for any other reason just to try to move the item along a little bit and see, as Councilor Brackett suggests, if there's even any support to go ahead with the sale of the land in which case, won't we need the attorney back for any reason, and save the Sharrigans some money. I kind of wish they had all gotten together as we directed them at the last meeting and so be it. Nobody was comfortable with that. Again, I agree with Councilor Sinclair that Attorney Bannon could be here tonight if he so chose and so, I say, move the item along for discussion here and see if there's any support. If support is waning, then we can be done with it.

City Manager Giroux: I could guide at least the basic restriction discussion quickly, and then the Council could comment on those restrictions if that's the direction you'd like to go next.

Madame Chair Eosco: I think we do need to be focusing on where we want this discussion to go ultimately. Councilor Lockwood?

Councilor Lockwood: As I said before, why do we go through this whole process before we've even talked about selling or not selling?

Madame Chair Eosco: We did talk about that last month.

Councilor Lockwood: I know, and we talked about it again earlier today but... and Councilor Winglass was just talking about whether we could talk about it and take the temperature towards selling the land.

Madame Chair Eosco: Do we want to have another discussion on whether or not we want to sell this land and if people have changed their minds... My impression is that we were gathering information before we ultimately made that decision. If the Council wants to make that decision tonight, whether or not they want to sell the land, that's a possibility.

City Manager Giroux: You could theoretically have some type of motion on whether or not you wanted to move further towards a land sale, and that would continue the process forward. Obviously, I think you can't make a final determination ... some of you could, but not all of you could make a final determination until all of the facts are together and yes, this democracy thing is a little messy sometimes, but you could decide whether to even move forward, which is kind of what Councilor Winglass is suggesting.

Madame Chair Eosco: I would love for someone to entertain a motion . I would like to find something to focus on for our discussions. Go ahead.

Councilor Merrill: I'm not sure that this...being in public, is the best time to negotiate in terms of talking about strategy or offer because we don't know how that pertains to the sale of real estate in terms of compromising the best interests of the City. One thought I had was since we have collected taxes on these buildings that are not supposed to be there, perhaps a more equitable resolution or solution would be to split the difference. The option I came up with was let them pick which building they want to keep of the two that aren't supposed to be there. Let us draw up some lines and let them pick which one they want to keep. The other one goes. It reduces the amount of land that would be sold – the least possible amount while letting them keep a building that shouldn't be there and we get rid of one that shouldn't be there. That is just something I was thinking of. I'm not in favor of selling it. I wasn't before.

Madame Chair Eosco: Would you like to put that in the form of a motion to be discussed?

Councilor Merrill: Yeah. I'll make a motion that we would allow the Sharrigan's to pick which building they would prefer to keep and reduce the amount of land to be sold to the bare minimum to allow for the setbacks for that building.

Madame Chair Eosco: Do I see a second? Seeing none, does anyone else want to make a motion that we can move towards something tonight. Councilor Sinclair.

Councilor Sinclair: I move that we decline to sell them any more real estate than they own presently and that we decline to engage in further investigation of the matter with respect to sale of property, but that we still leave open the possibility of discussing penalties later.

Madame Chair Eosco: Is there a second for that?

Councilor Merrill: I'll second.

Madame Chair Eosco: We have a motion and a second.

City Clerk White: I don't think I got all of that.

Madame Chair Eosco: What do you have?

City Manager Giroux: Let's slow down.

City Clerk White: I have no idea. Sinclair – do you want to reclaim or...

City Manager Giroux: Either write it or re-state.

Councilor Sinclair: I'll re-state it. This will probably be completely different words, but let's check with Councilor Merrill if she wants to second again.

City Clerk White: Well, can we not... not lawyer stuff. Go.

Councilor Sinclair: I move that we tell the Sharrigans that we are not interested in selling them more land.

City Clerk White: OK. Wasn't there an and?

Councilor Sinclair: You can stop there.

City Clerk White: OK.

Councilor Merrill: Second.

City Clerk White: OK. Not interested in selling more land.

Madame Chair Eosco: We have a motion and a second. Preliminary Council comment?
Any public comment?

Councilor Brackett: I'll comment that I personally won't support that. I can't. Here's my thing. This has gone on for a number of years. I don't mind telling you, I'm one of the Councilors that...I'm undecided. I have some feelings on both sides of the issue. I'm fuzzy on where the whole thing started. I would like to see or hear a timeline of like when it was purchased, when these buildings went up... Perhaps I have it in my notes somewhere, but the whole thing is fuzzy to me. To help me draw a conclusion, and like Councilor Merrill, I have to tell you it bugs me ...it doesn't sit well with me with the property owner talking about how he's going to be inconvenienced over moving a building that wasn't supposed to be there in the first place. But again, in the hope of hearing the whole thing I just need some more facts – a timeline when these things occurred, and I also... I really can't understand – I've heard it said by the attorney and by

the Sharrigans that they've tried since 07 or 08 to resolve this. I don't understand a statement like that. How can you try to resolve it when we're now in 2014. I just don't understand how we can be here. I really need some more information. I want to be fair. My gut tells me one thing but before I vote that way, I want to hear all the facts. That's just my two cents worth, so I will not vote to support what's on the floor but that's just me and that's why.

Madame Chair Eosco: Any other preliminary Council comment? Public comment? Oh. Councilor Wyman.

Councilor Wyman: I haven't been in on these other meetings but I've read a few things and I've had phone calls regarding the property and... there's been a lot of mistakes made up the line. I'd like to know more about it.

Madame Chair Eosco: Councilor Mitchell?

Councilor Mitchell: I think we're right back where we were last month. The motion on the floor only leaves one option and that is "We're not going to sell you the land and that's the end of it." At the end of our meeting or discussion on the Sharrigan land, we had agreed to put together a sub-committee and take a look at these different options and stuff. By voting this no-sale option, does that eliminate the other options that are in play here?

Madame Chair Eosco: Yes. All options are gone.

Councilor Mitchell: Then I certainly can't support it.

Madame Chair Eosco: We're still in Preliminary Council comment. OK. Public comment.

Esther Sharrigan: It's still me. Esther. I don't know if any of you know Mr. Cummings, but he used to be on this Board years ago and when his daughter Mary married Tony Grill, he wanted some land for them to build their house, which is right behind his cottage on the bay. He approached the Town or the Council to buy the land behind him so that they could put up...at that time it was a mobile home. There was a lot of conversation going on about it's going to be under these CMP lines and all that, and it ended up that they were able to move the Town lines – the electricity – and buy the land, and at that time it was \$600.00. If somebody wanted those minutes, I have a copy of those. It was two months after that that I approached the Town verbally and asked if we couldn't buy some land like Mr. Cummings did for Tony and Mary. I was told "No, we won't sell you any of the land because we will be setting a precedent, and everyone else will be wanting to buy some land." Well, it was alright for the Cummings and Tony and Mary to do it but we, at that time, weren't living in Maine. We were from Massachusetts. It just seemed to be that there was a little bit of prejudice there. It's been going on all the time and it's still going on. Somebody else just bought some land back in December. There wasn't this going on then. We just seemed to be blackballed all around. Thank you.

Madame Chair Eosco: Any other public comment? Final Council comment. Councilor Winglass.

Councilor Winglass: I would just like to hear from the Assessor about... I've spoken with him and these buildings have some value that you've been taxing.

City Assessor Mateosian: The total property is taxed on a value of \$120,000 more or less, so it's a fairly substantial tax bill. I don't have the value of the individual buildings on the top of my head but I could look them up for you. I mean, tearing down buildings will reduce the value of the property. I can't say how much.

Councilor Winglass: Well, I mean, if you tear down 2/3 of the buildings...

Assessor Mateosian: Yes, you're going to lose value.

Councilor Winglass: Maybe 2/3?

Assessor Mateosian: Well probably not. The cottage on the shore probably holds the most value. I haven't really looked at the card.

Councilor Winglass: Maybe half.

Assessor Mateosian: Yes.

Councilor Winglass: On 120?

Assessor Mateosian: Well, a lot of that value is on the land.

Councilor Winglass: Is that just on the land that they own, or the land that they are claiming?

Assessor Mateosian: Just on the lot that is 50 by 100.

Councilor Winglass: And so, realistically then, the value would go up if we sold them a little bit more land.

Assessor Mateosian: It could. Yes.

Councilor Winglass: Is there a great difference between the assessment and the...uh...

City Manager Giroux: Market value? Is that what you're asking?

Councilor Winglass: Yeah.

Assessor Mateosian: That's a very unique property, so it's hard to make a blanket statement on a very unique property. If it's made into a decent legal lot, it certainly will be valuable as opposed to if, you know, it shrinks, and it's probably less valuable.

Councilor Winglass: And what about restrictions? We have restrictions on other...

Assessor Mateosian: Yeah, I'm not sure that the restrictions... it's really a camp lot and there's no electricity down there that I know of. The current use as a camp is probably the highest and best use. I don't see it changing drastically if you leave the existing footprint to the existing buildings.

Councilor Winglass: That would be your opinion.

Assessor Mateosian: It's just a concept. Now, if there were more land and someone could tear down some of the existing buildings and put up a new camp...

Councilor Winglass: But if they were unable to due to the restrictions, it would be about a similar situation.

Assessor Mateosian: It would be a limiting factor for sure.

Councilor Winglass: So those would be the monetary changes or increases or decreases without knowing exactly...

Assessor Mateosian: Yes. I'm not standing here exactly giving you an appraisal of that property.

Councilor Winglass: No. I'm not asking you to, but I thank you for your opinion.

Madame Chair Eosco: Any other final Council comments? Councilor Paulhus.

Councilor Paulhus: Thank you, Madame Chair. I'm just going to kind of reiterate. I was against selling land from the first...when we started the whole process of getting Butler Head protected so that land isn't sold. I thought that was a bad idea a long time ago to do it. If we set aside that land, it has nothing to do with the current owners and the situation they have gone through over the last many years, but I just don't think we should be selling pieces of property up there. That was the whole point of doing the easement and protecting the area up there. That's just my feelings on it.

Councilor Winglass: Bill, how much land was it?

City Manager Giroux: That they're asking for?

Councilor Winglass: That you determined would work.

City Manager Giroux: I think it was 1/3 of an acre. Paul, I'm not sure.

Assessor Mateosian: I think it's around 16-17,000 square feet.

City Manager Giroux: About a third.

Councilor Winglass: About a third of an acre.

City Manager Giroux: It's less than what was sold last time. I think it's half.

Assessor Mateosian: Correct. That's right.

Madame Chair Eosco: Any other final Council comments? We have a motion on the floor.

City Solicitor Therriault: Madame Chairman. 15,980 square feet. It has been surveyed.

Madame Chair Eosco: OK. All those in favor of the motion. (Merrill, Paulhus, Sinclair). All those opposed. (Brackett, Lockwood, Wyman, Mitchell, Winglass)

City Clerk White: I think the Opposed wins.

Madame Chair Eosco: OK. The motion fails. (3-5) We have the option to have another motion to continue the discussion. Councilor Merrill?

Councilor Merrill: I would make a motion that we go ahead and have the property – that 1/3 of an acre appraised – including restrictions of any further building on the land that is within those boundaries so that we don't have to have an additional appraisal or any other discussions about price and that the penalty fees incurred for the use of City land over the past two or more decades equal 1/4 of the appraised price of the property to be sold.

Madame Chair Eosco: Did you get that?

City Clerk White: No!

Madame Chair Eosco: Where are you? Do you have that written down?

City Clerk White: OK. Let's start at the beginning. Have...

Madame Chair Eosco: Is that legible? Can she look at that?

Councilor Merrill: Well, it's sort of...

City Clerk White: the 1/3 acre appraised...

Councilor Merrill: Right. With the understanding that there would be a restriction on any further building.

City Clerk White: There would be a restriction?

Councilor Merrill: Right. So that it would be understood going forward that the appraisal would be for that portion of land...

City Clerk White: That no more building... that there would be no more buildings, right? OK. And then, a penalty...

Councilor Merrill: A penalty fee is for code violations equal 1/4 ...

City Clerk White: Penalty fee for code violations would equal 1/4...

Councilor Merrill: of the appraised price.

City Clerk White: Of the appraised price?

Councilor Merrill: Yeah.

City Clerk White: OK. I think so. Have the 1/3 acre appraised with the understanding that there would be a restriction and no more buildings and penalty fees for codes violations to equal 1/4 of the appraised price. Does that sound like what you want?

Councilor Merrill: Yes. If the land sells.

City Clerk White: If the land sells. Let me put that on the end.

Madame Chair Eosco: Do we have a second for that motion? Does anyone want it read back again?

Councilor Winglass: Just to... I like a lot of that motion, but I don't have the figures in my head to say how much of this 25 per cent is going to run. I have no...

Madame Chair Eosco: Well, let's put it on the floor. Let's have a second so we can discuss it.

Councilor Winglass: I can't second it then.

Madame Chair Eosco: OK. Seeing no second... your fingers are getting a workout today! How else would we like to move forward here? Does anyone else have a motion for action tonight?

Councilor Winglass.

Councilor Winglass: I will make a motion that will be extremely similar to Councilor Merrill's motion minus the 25% fee added to the...

City Clerk White: OK. So you would do the... have the 1/3 acre appraised with the understanding that there would be a restriction of no more buildings...

Councilor Winglass: Well, the way Bill had it with the bulk and ...

City Manager Giroux: Let me pipe in so you'll have it because it's simple. No increase in footprint or cubical volume of any of the buildings on the property. That's the shoreland zoning language.

Councilor Winglass: OK. But what I would add would be that a penalty will be determined and added to the price. The agreed upon appraisal when we get to that.

Madame Chair Eosco: I'm sorry. You said the penalty...

Councilor Winglass: Would be added.

City Clerk White: Would be determined... how are you determining this?

Councilor Winglass: Well, I have to understand what the penalties are. Scott had them up in the stratosphere at one point.

Codes Enforcement Officer Davis: The penalties in the ordinance are \$100 for each violation for each day that the violation exists constituting separate violations. It would be \$100 a day for the past 20 something years, since 1989 or 1990, whenever the bath house...

Madame Chair Eosco: Before we get too much into penalties, let's be sure we get the motion down and have a second so we can start discussing...

Councilor Winglass: Let's just say that a to be determined penalty. OK. Thank you.

Madame Chair Eosco: Let's go through the motion.

Councilor Winglass: And I think I would go ahead and have their... the Sharrigans pick up the tab for the appraisal and that they work with Staff to determine an equitable appraiser for both parties.

Madame Chair Eosco: And work with Staff. We're going to read this.

City Clerk White: We're going to try. And work with Staff...

Madame Chair Eosco: For a mutually agreed upon appraiser.

City Clerk White: To work with Staff...

Madame Chair Eosco: To find a mutually agreed-upon appraiser. Shall we read that back?

City Clerk White: OK. There would be no increase in the footprint or cubical volume of any of the buildings, and a penalty would be determined, and have the Sharrigans pick up the price for the appraisal and work with Staff to find a mutually agreed-upon appraiser.

Councilor Merrill: Second.

Madame Chair Eosco: Preliminary Council comments. Councilor Lockwood.

Councilor Lockwood: I understand the intent of that, but it also doesn't talk about decrease in cubical volume or addition of any new structures. If it's implied, it doesn't...

City Manager Giroux: Scott was concerned that my language might not limit the way I intended and what I told Scott was we can hash that out later. This isn't a motion to sell the property. This is kind of a motion of our intentions moving forward. It would allow the appraisal to happen but you know, it's not authorizing a sale of the property at this point in time.

Councilor Lockwood: I didn't say anything about a sale. I was talking about the intent of the motion.

Councilor Winglass: Well, I agree. I think what you're asking is that Staff consider what the Codes Officer is adding to my motion, and that this is not a final... This is not a sale agreement in any form.

Madame Chair Eosco: Well, we could have an amendment to the motion.

City Clerk White: He could fix it himself, she could agree, and they'd be happy.

Madame Chair Eosco: Would you like to amend your motion?

Councilor Winglass: I'm not sure! What's your revision, Councilor?

Madame Chair Eosco: Oh, you guys! What would you like to have the motion say?

Councilor Lockwood: It's already been agreed upon, but I just think it's very complicated for...at this level. Like you say, we're not talking about the sale. If you specify one thing, you've got to specify everything. So either specify nothing, or specify a bunch of stuff. You don't have to specify a bunch of stuff at this level.

Councilor Winglass: No additional buildings?

City Clerk White: No increase in footprint. Does that mean no buildings?

You're talking about the existing buildings, increasing the existing footprint, but you're not talking about increasing...

Madame Chair Eosco: Let's focus in on this...demolition or... we've got a motion on the floor. I'm not feeling completely confident that it's something that's going to move forward but let's have discussion about that. We can certainly have an amendment on it, and I really think that we need to focus on what our goal is here tonight. Are we going to determine tonight whether or not we're moving forward and if we're moving forward, how are we moving forward? Perhaps we can revisit this meeting on the 24th so that we can hash out some of these things. So it doesn't have to happen while we're all sitting here. We can clear out some of these things and bring a clear picture to people. But, we do have a motion on the floor. If we'd like to make an amendment on that, we can do that, but let's have a discussion on that.

City Solicitor Therriault: Madame Chair, Paul has raised an interesting issue regarding the appraisal and I think he has a point. There may be some logistical and ethical considerations

with our getting an appraisal when they are paying for it. It may be that we want to get our own appraisal and pay for it ourselves so that we have some reliance on the appraiser having done the job for us.

City Manager Giroux: It's a point that we've been concerned about, not just the ethical issue, but that we would like to hire an appraiser to go appraise our property for us to consider selling and that would be us directing the appraiser. I think there's a reason why the seller's attorney would like to be a partner in the appraisal and then give joint guidance to the appraiser. There's a concern anyway. It's a legal concern.

Madame Chair Eosco: That certainly addresses part of the motion that is on the floor. Let's go through the motions – Preliminary, Council Comment... Councilor Paulhus.

Councilor Paulhus: It seems like the motion has several different parts to it. It seems like the most important part of this whole thing is whether to get an appraisal or not. That seems to be the bigger question in this thing right now. I would say if that's the question we want to deal with, I would, you know, withdraw or strike this whole thing and say we just want to do an appraisal and then work out the rest of it. That's what it sounds like from all these discussions. We're getting way too convoluted in the wording and everything.

Madame Chair Eosco: There are a lot of issues flying around and we are trying to address them all with a big motion. Councilor Winglass, what are your thoughts?

Councilor Winglass: Well, I mean, my main points are that we include the restrictions and we want to make those clear. That's one of the goals, I would think, if this is going to get done and what those are, which I think we've discussed and cleared up. The rest of it is going to be price based on appraisal and I want to include the fact that there should be a fine that would be included in the agreed upon price. Like any sale of any piece of property, there's going to be miscellaneous add-ons or subtractions and in the end, it's going to be either agreed upon by each party or not. I think that we, as a Council, do need the information from the appraiser for a price to be considered before we, you know, and then talk about a fee that would again, just basically be agreed upon by us based on the fact that the money amount is well into the tens of thousands to get something that may or may not be acceptable to the proposed buyer. I really don't see a big difference in saving the City money on an appraisal because... maybe we could go ahead and get this appraisal done and paid for by a mutually agreed upon appraiser and if we don't like the appraisal, then you know – somebody's got to have a pretty good idea of what the property is worth. We're talking about 1/3 of an acre here.

Madame Chair Eosco: So, what I'm hearing is we're coming down to the appraisal, as Councilor Paulhus has pointed out. Would you entertain the idea of withdrawing your motion and re-wording it to talk about the appraisal specifically, and I think that when we're talking about...we don't have to have all these other things added to it at this point because I think we just need one thing to move us forward. Certainly if we want to talk about fines, that's not going to go away. I think that's a discussion we're going to be having regardless. So...

Councilor Winglass: I just think that we need to give Staff some direction that says ...maybe the Codes Officer can start to put together some concrete ideas on a fine, and the City Manager will have an idea on how to get this appraisal done, and that we're really not interested in negotiating any sort of price reduction on the restrictions.

City Manager Giroux: It may be... I know you've got a motion on the floor, but maybe if you amended your motion, or if there was a motion along the lines of what Councilor Paulhus was suggesting, that simply told Staff to order an appraisal paid for by the City and that brief guidance be given to the appraiser that the City intends to restrict any further expansion of buildings on the property. I think that's the only thing in my mind. Now you know the buyer might want more things brought up, but if we're paying for the appraisal for guidance for what we want to sell our property for, then I think we order the appraisal. These types of residential appraisals I don't think are very expensive, and maybe Paul can give us an idea of the expense. If we are just ordering a City appraisal that we were going to restrict further building on the property, let the appraiser go do it, and then you can talk about relevant penalties after.

Councilor Winglass: Ok. How much then, Paul, are we talking about?

City Manager Giroux: A residential appraisal on a third of an acre, ballpark.

City Assessor Mateosian: I don't know. This is a unique circumstance and the appraiser would look at it multiple ways. One way that the appraiser might look at it would be not what that 1/3 of an acre is worth out in the middle of the woods as a separate lot, but the value it adds to the current lot. That makes the appraisal problem a little more complicated and it might not be a standard residential \$450 appraisal.

City Manager Giroux: Even if it were \$1,500, it's not a massive amount of money. It's not like a commercial appraisal which we're used to doing for \$5,000.

Councilor Winglass: So \$1500.

Councilor Mitchell: For what it's worth, I just had an appraisal done personally, and it was just under \$500.

City Manager Giroux: So if the motion were that simple, maybe we could move it forward.

Councilor Winglass: OK, so I think that we...and we'd all like to know what we ended up paying for the appraisal because we can then look at that when we look at the prices, etc.

Madame Chair Eosco: So would you like to amend your current motion, or would you like to withdraw it or make a new motion?

Councilor Winglass: Sure. I'll withdraw that and make a motion that we go ahead and have the City appraise the land based on the information that the Council has suggested and bring us those numbers and provide them to the Sharrigans, and we'll continue the discussion after that.

City Manager Giroux: Well, we wouldn't provide it to the Sharrigans. That's the only change I would make. It's our appraisal.

City Clerk White: Have the City appraise the land on the information given to Council?

Councilor Winglass: Yes.

Madame Chair Eosco: So we have a motion. Do we have a second?

Councilor Merrill: Second.

Madame Chair Eosco: Do you want to read that back?

City Clerk White: Yes. Have the City appraise the land... have the City have an appraisal of the land done?

Councilor Winglass: Right.

City Clerk White: That's better. Of the property... OK.

Councilor Winglass: And we'll use that information and continue the discussion.

Madame Chair Eosco: So you're good with the second?

Councilor Merrill: I am, just as long as that still includes that the appraisal is based on the fact that there will be no additional property building...

Madame Chair Eosco: Would you like to add that to your motion?

Councilor Winglass: Well no, because the appraiser needs...

Councilor Merrill...if you're building a mansion out there...

Councilor Winglass: Including the...

Madame Chair Eosco: No change in the building...

Councilor Merrill: What's there is there

City Clerk White: Back to...

City Manager Giroux: This is just for the appraisers and then you'll put the restrictions on.

City Clerk White: No...change in the existing buildings?

Madame Chair Eosco: Right.

City Clerk White: Does that cover...

City Manager Giroux: We can convey that for now. That's all the appraiser needs for...

City Clerk White: OK. That's enough.

Madame Chair Eosco: Would you read that to us so... and then we'll officially get your second.

Councilor Winglass: I think, Councilor, what I'm hearing from the City Manager is that we don't really need to add that because we really want a whole appraisal of the value of the land and that I believe, as a Council, we're unwilling to move the price based on the restrictions that we are going to apply to the sale.

Madame Chair Eosco: It's your motion. How would you like it to read?

Councilor Winglass: I would just as soon have it without.

City Clerk White: Without there would be no change?

Councilor Winglass: Right.

City Clerk White: Ok. So we're going back to "The City would have an appraisal of the land done on the information given to Council". Is that how it's supposed to go?

Councilor Winglass: Yup.

Madame Chair Eosco: Ok. Do we still have a second for that? We have a second from Councilor Merrill. Preliminary Council comments? Public comment?

Esther Sharrigan: Esther back again. You were talking \$100 a day. \$100 a day times 365 days times 20 years is \$730,000. We don't have that.

Madame Chair Eosco: We're talking about a motion for an appraisal right now. We're not talking about fines.

Esther Sharrigan: I just thought I'd stick that in there. Thank you.

City Manager Giroux: I should tell her that, you know – the City Council will at some point discuss penalties. They were simply hearing from the Codes Enforcement Officer what could be done. Those are maximum penalties. I didn't hear the Council...just so that you're at ease with that, I didn't hear the Council discussing fines of \$100 a day. It was Staff saying what the ordinance says.

Madame Chair Eosco: We are into final Council comments. Councilor Sinclair.

Councilor Sinclair: Since the matter of fines has been brought up, both by the public and addressed briefly by the City Manager, it might make sense for us to discuss the subject of fines for the violations tonight and then have an understanding that we would not engage in the appraisal until after whatever fine the Council had determined would be appropriate had been paid. The reason why I suggest that is I'm concerned at the prospect of spending additional public funds to discuss the possible conveyance of public lands when we have gone some 25 years without recouping for the public that lost value of the land that the Sharrigans have occupied.

Madame Chair Eosco: Any other final Council comments? Councilor Brackett?

Councilor Brackett: I just want to say one more time I do not understand why we are talking appraisal when we're not even in agreement that we're going to sell. That's all I will say. That's all.

Madame Chair Eosco: Councilor Merrill.

Councilor Merrill: I agree with him. My only problem is that we just had a vote who didn't want to sell and there were only three people who raised their hands. So that tells me that everybody else wants to sell the land. If there's no agreed upon value there are contingencies that people think are fair. So I think the only way to figure out we have a value we think is negotiable is for us to go ahead with the appraisal but when it comes to assessing fees, if we were to lay out what the penalty was prior to appraising the land, that makes sense.

Madame Chair Eosco: Is that something we would talk about in Executive Session?

City Solicitor Therriault: I would prefer that you did.

Madame Chair Eosco: I would too.

City Manager Giroux: You think that's protected.

City Solicitor Therriault: Absolutely. On any number of different levels.

Madame Chair Eosco: Ok. We're still in final Council comment.

Councilor Winglass: We have an Executive Session scheduled on the agenda, right?

Madame Chair Eosco: We do.

City Manager Giroux: We do, and just briefly, I and the Chair's discussion earlier about that was if you do intend to discuss this property in Executive Session, that you go into that Executive Session and at some point come out because it could be an action after. Televising the action. So we don't send everybody home. We just do that one item. We have a couple of other items for Executive Session that we could do later that won't require an action after. People are hearing all of this discussion and we shouldn't cut them out of the decision.

Madame Chair Eosco: Councilor Paulhus?

Councilor Paulhus: I just kind of want to echo what Councilor Merrill said and that we did take a vote on the sale. Only three of us said not to do it. Some wanted to get more information. If that's the way the Council wants to go, getting the appraisal is the way to go because we've got to get the information. I'm not saying... I'm still not in favor of selling the land, but if the Council wants to get more information, we've got to get more information, so...

Madame Chair Eosco: Other Council comments?

Councilor Winglass: So, where are we?

Madame Chair Eosco: I know, you guys are confusing.

City Clerk White: You have a motion on the floor and seconded...

Madame Chair Eosco: We have a motion on the floor and discussion that we would talk about penalties, which would probably be something that we should do in Executive Session.

Councilor Winglass: But we could vote on the motion and agree to go into Executive Session following a ye a vote on the motion to discuss the penalties and come back out and turn the cameras back on, once we figure out what we want to do about the penalties.

Madame Chair Eosco: Councilor Lockwood?

Councilor Lockwood: I'm wondering if the Codes Enforcement Officer is prepared to talk about the penalties. It sounds like there is more than one violation. I don't know if Scott said it would be an x number of dollars per day per violation so I don't know if he's prepared to talk about that.

City Manager Giroux: It would be in Executive Session, right?

Councilor Lockwood: Right! But I'm asking if he's prepared to talk about it.

Codes Officer Davis: Oh certainly.

Madame Chair Eosco: Ready to go.

Councilor Winglass: I would like to entertain that motion then and allow for an Executive Session to follow it if it gets passed, to discuss the penalties in which case I agree it would save the appraisal of the property if the fees that we come up with are, you know, not agreed upon by the purchaser, then we could kill the whole thing.

Madame Chair Eosco: Let's move to a vote.

City Clerk White: Let me read the motion one more time so you all know what you're doing. The motion is: That the City get an appraisal of the land done and the information given to Council. That's all that the motion is right now.

Councilor Wyman: Where do these penalties come from?

City Clerk White: That's extra, for later.

Madame Chair Eosco: All those in favor of the motion that is on the floor. (Merrill, Paulhus, Lockwood, Wyman, Sinclair, Mitchell, Winglass)

City Clerk White: Wow. This whole side.

Madame Chair Eosco: All those opposed. (Brackett) Now we would...

City Manager Giroux: I think you can continue on and when you get to your Executive Session you can do that and then...

Madame Chair Eosco: And then come back out. Ok. So we will continue with our agenda, and we will go for our Executive Session then.

K. New Business 8:13 PM

6) Appointment 1 member to the Bath Bicycle and Pedestrian Committee with term expiration of May 2016

Councilor Lockwood nominated Maria Newcomb to this position. All were in favor of the nomination.

L. Councilor Announcements 8:14 PM

Councilor Winglass reported the Morse High Basketball Team is in the State tournament on Saturday February 15 at 12:30PM at the Portland Expo and urged residents to go and support the hometown team.

Madame Chair Eosco promoted the City Facebook page.

Madame Chair Eosco reported on the Council Goals:

Council Goals for 2014

Communication

Election Agendas/Department Mail
Projects /Incidents
Newsletter – Council Section
Utilize BCTV
Council Comment

Policies/Procedures

Performance Reviews
Charter/Working Rules
Tsugaru Travel

Education

Trolley Tour – BWD, BFD
New Councilor Training
School/Outreach
Non-Profits

Projects

Green
South End Park
Committee Overhaul
Parking

AV for Chamber

Vehicle Inventory List (compared to other communities)
Record Budget Meetings.

Loose Ends

BIW

Comcast

M. Comprehensive Plan Discussion 8:21 PM

• **Councilor Paulhus reported on Sections 4.1-4.4**

4.1 Demographics: It is important that Bath have a mix of ages, income levels and ethnic groups. This mix contributes to the community energy, friendliness, and the overall sense of community.

4.2 Economy: Promote an economic climate, which increases job opportunities and overall economic well-being.

4.3 Cultural and Nongovernmental Resource: Bath's arts, crafts, and cultural resources are both regional and local economic resources and contribute to our cultural enjoyment. The Patten Free Library is important to the Bath Region as a cultural and educational resource. The Maine Maritime Museum is an important economic resource for the City. Non-profit (i.e. nongovernmental) organizations such as Sagadahoc Preservation, Inc; Bath Historical Society; Main Street Bath; Chocolate Church Arts Center; Maine Maritime Museum; Elmhust and Patten Free Library add much to the community. Community celebrations such as Heritage Days help make Bath a great place in which to live.

4.4 Housing: It is important that the City of Bath have a mix of ages, income levels and ethnic groups. This mix contributes to the community energy, friendliness and the overall sense of community.

Councilor Brackett made a motion to go into Executive Session at 8:35 PM to discuss Real Estate Matter per Title 1 MRSA Section 405(6)(C) and (H). Discussion or consideration of real or personal property permanently attached to real property or interests therein or economic development and penalties for violations and discuss penalties with the Codes Enforcement Officer. (Sharrigan Property). Councilor Mitchell seconded the motion.

Councilor Wyman left his seat at this time.

VOTE on Going Into Executive Session:

YEAS: Brackett, Merrill, Paulhus, Lockwood, Sinclair, Mitchell, Winglass

NAYS: None

Motion passed. 7-0

Councilor Wyman took his seat before the Executive Session convened.

Councilor Sinclair made a motion at 8:57 PM to come out of Executive Session to waive the go past 9:00 PM Rule. Councilor Lockwood seconded the motion and all were in favor.

Councilor Winglass made a motion to go back into Executive Session at 8:58 PM to discuss Real Estate Matter per Title 1 MRSA Section 405(6)(C) and (H). Discussion or consideration of real or personal property permanently attached to real property or interests therein or economic development and penalties for violations. (Sharrigan Property). Councilor Merrill seconded the motion. All were in favor of the motion.

Councilor Wyman made a motion at 9:23 PM to come out of Executive Session and finish Item J – Unfinished Business (Sharrigan Property). Councilor Mitchell seconded the motion. All were in favor of the motion.

Continuation of Item J – Unfinished Business:

Councilor Winglass made a motion that the Council take action against the Sharrigans to assess a penalty for code violations for the past 26 years at a rate of \$100/month equaling \$31,200. Councilor Merrill seconded the motion.

ROLL CALL VOTE on Motion:

YEAS: Brackett, Merrill, Paulhus, Lockwood, Wyman, Mitchell, Winglass

NAYS: Sinclair

Motion passed. 7-1

Councilor Lockwood made a motion to go back into Executive Session at 9:31 PM to discuss Real Estate Matter per Title 1 MRSA Section 405(6)(C) and Discussion or consideration of real or personal property permanently attached to real property or interests therein or economic development. (Huse School Property) and Title 1 M.R.S.A. §405(6)(D) Discussion Labor Negotiations (All Units). Councilor Paulhus seconded the motion and all were in favor.

Councilor Merrill made a motion at 10:01 PM to come out of Executive Session. Councilor Paulhus seconded the motion and all were in favor.

The meeting adjourned at 10:02 PM with a motion by Councilor Mitchell, seconded by Councilor Merrill. All were in favor of the adjournment.

Attest:

Mary J. White, City Clerk

Please note: These minutes are not recorded verbatim. A DVD recording of a portion of the meeting is available for review in the City Clerk's office during regular business hours by appointment.