

**REGULAR MEETING MINUTES  
CITY COUNCIL OF THE CITY OF BATH, MAINE  
Wednesday, August 6, 2014 6:00 PM  
City Council Chambers, Bath City Hall**

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

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

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

Madame Chair Eosco asked for a moment of silence to remember the late Councilor Charles H. Tibbetts who had served on Council for 20 years many of them as either Chairman or Vice Chairman.

***Presentation by Daniel Lay of H.M. Payson – Report on the City Fund***

Daniel Lay of H.M. Payson addressed the Council and reported that the portfolio of the City Fund was in “terrific” shape. He said that the current asset allocation in the portfolio was at 71.26% with 3% cash, and that allocation has been reduced to about 65% balance. He explained that the emerging market portfolio was eliminated about a week ago. Mr. Lay then reviewed the summary page and said that last year they had started with \$10.25 million in the portfolio and from June 13, 2013 to July 1, 2014, they had collected roughly \$365,000 in dividends and interest over the fiscal year. That was a generation of \$1.36 million in gains, while distributing \$590,000 to the City, ending the balance of the year with \$11.36 million. The total increase in the last FY was 16.94% on 70% equity and 30% fixed. He pointed out that over a two-year period, the portfolio was up 13.5% with the equities advancing 19.5% annum.

Mr. Lay summarized that in the last two fiscal years, the portfolio started at \$9.6 million and today it is at \$11.365 million and over those two years, \$1 million has been distributed. The portfolio averages out to be about \$1.4 million/year earnings. He pointed out that the market has been very robust in the past two years but that the level of earnings are probably not what you can rely on in the future considering the unrest in the world right now. He concluded that their focus in the future would be to make sure the City has high quality holdings should be a downturn in the market.

Councilor Winglass thanked the H.M. Payson firm for the commendable job they have done with the City’s money. He said the returns are beyond what he ever expected them to be and hoped that the Council would continue to follow the lead of the Finance Dept. and the way they’ve set it up. Mr. Lay responded that in his experience, the Finance Dept. has done a great job and the policy that’s been put in place for the Finance Committee is very “buttoned down” and it’s very detailed and disciplined when it comes to spending. He concluded that a 3% spending discipline is very attainable and will help all the funds grow over the years ahead.

**C. Consent Agenda 6:18 PM**

**\*1) Minutes of the Council Meetings of July 2 and 16, 2014. (Motion to Accept as Presented)**

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

**D. Time Devoted to Residents to Address the City Council 6:19 PM**

Councilor Sinclair introduced Deborah Sullivan of 1192 High Street. Ms. Sullivan expressed her concerns regarding a safety issue at the corner of Oliver Street and High St. She stated that due to the parking of vehicles on the street in that location, it was hard to see on-coming traffic and with the school bus stop at the corner of Meadow Way as another distraction it is a dangerous situation at the intersection. Ms. Sullivan asked if everyone could work together to make the area more safe for traffic. She made a couple of suggestions to help with the situation. One suggestion was to have the homeowner on the corner move their parking more towards the back of the lot. A second suggestion was to look into the relocation of stop signs in that intersection. Ms. Sullivan stated that she wanted the homeowner that was parking in the street to know their neighbors weren't ganging up on them and a solution to make the situation safer was all that was being requested.

City Manager William Giroux stated that he would work with the City staff on a solution to this issue.

**E. Ordinances, Resolutions and Orders:**

**2. Proclamation: "Random Acts of Kindness Day"**

Bryanna Ringrose of 36 Rose Street and a senior at Morse High School explained where the concept for this special day had come from and what events had been planned to celebrate it. Ms. Ringrose handed out "Kindness Cupcakes" to everyone present at the meeting.

Councilor Lockwood made a motion to put this Proclamation on the floor for discussion. Councilor Winglass seconded the motion.

Madame Chair Eosco read the following Proclamation:

**PROCLAMATION**

**WHEREAS** Random Acts of Kindness Day is the dream of Morse High Senior Bryanna Ringrose, which evolved from a conversation with her best friend Taylor Bisson, and

**WHEREAS** their desire was to have a day in Bath where everyone could just focus on doing small acts of kindness for each other, and

**WHEREAS** both Bryanna and Taylor were on Darreby Ambler's Morse High Dream Team and Darreby and their teammates helped them figure out the steps to bring the dream to life, and

**WHEREAS** there has been an outpouring of support from the community with merchants, area non-profits, Main Street Bath and a number of individuals jumping onboard to help make this dream a reality, and

**WHEREAS** the power of kindness lies in every individual and by recognizing, understanding and actually using this power, we have the ability to send out a positive ripple that may travel for miles, and

**WHEREAS** no one, no matter how young or how small, is too little to make a difference in our own community and our world and through random acts of kindness, we can promote healthy behaviors and positive dynamics within our community, nourishing and strengthening our community with a celebration of simple kindness that encourages people to tap into their own human spirit;

**NOW THEREFORE BE IT PROCLAIMED** that August 16, 2014 shall be recognized as Bath Random Acts of Kindness Day remembering that simple day-to-day acts of kindness enable our community to be a kinder, safer and more secure place to live, work and play and to urge all citizens to participate in spreading kindness, and practicing respect, generosity, patience and consideration of others not just today, but every day of the year.

Dated this 6<sup>th</sup> day of August 2014.

**VOTE on Proclamation:**

**YEAS: 7**

**NAYS: 0**

**Proclamation passed unanimously. 7-0**

**3. Ordinance: Approving Fire Captains' Elective Bargaining Agreement (first passage)**

Madame Chair moved this item to the end of the agenda.

**4. Ordinance: Amendment Chapter 15. Streets, Article 6. Excavations and Street Openings, Section 15-36. Permit Required/Fees (first passage)**

Madame Chair Eosco read the following Ordinance:

**ORDINANCE**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BATH THAT THE CODE OF THE CITY OF BATH, ADOPTED FEBRUARY 2, 1977, AND SUBSEQUENTLY AMENDED, BE FURTHER AMENDED AS FOLLOWS:

CHAPTER 15. STREETS  
Article 6. Excavations and Street Openings

Amend Section 15-36 as follows:  
Section 15-36. Permit Required/Fees.

No person or utility shall make any excavation, modify, or fill any excavation, excluding a previously permitted location, in any public place which shall include all City sewer and storm water drainage easements without first obtaining a permit to do so from the City except as otherwise provided in this Article or the rules and regulations. Any excavation within the City's streets, sidewalks, esplanades or other public rights-of-way including City sewer and storm water drainage easements shall only be permitted in accordance with this Article or the rules and regulations. The granting of such a permit shall cover all required activities and mandate conformance with this Article and the rules and regulations. The fee for the permit required under this Section shall be set at fifty dollars (\$50.00). This fee may be subsequently amended and reestablished by Resolution of the Bath City Council.

NOTE: New language is underlined.

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

City Manager William Giroux explained why the fee change was being presented.

**ROLL CALL VOTE on Ordinance:**

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

**NAYS: None**

**Ordinance passed unanimously. -0**

Madame Chairman set second passage of this Ordinance for September 3<sup>rd</sup> at 6:01PM.

**5. Resolution: Adjustment Chapter 14-33(b) Building Sewer Permit Fee**

Madame Chair Eosco read the following Resolution:

**RESOLUTION**

**WHEREAS**, the City of Bath, from time to time, reviews and adjusts certain fees and charges; and

**WHEREAS**, it has been recommended that the fee for building sewer permits be increased from ten dollars (\$10.00) to twenty-five dollars (\$25.00) to cover the cost of inspection by the Bath Public Works Department personnel; and

**WHEREAS**, the provisions of Section 14-33(b) of the Code of the City of Bath allow the City Council to determine the permit fee for building sewer permits to be established by Resolution of the Council.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Bath that the fee for building sewer permits be increased from ten dollars (\$10.00) to twenty-five dollars (\$25.00).

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

City Manager William Giroux explained this Resolution was being proposed to ensure that people hooking into the City sewer system were doing the hook ups correctly.

**VOTE on Resolution:**

**YEAS: 7**

**NAYS: 0**

**Resolution passed unanimously. 7-0**

**F. Petitions & Communications 6:50 PM**

There were no petitions or communications.

**G. City Manager's Report 6:50 PM**

City Manager Giroux gave an update of the Willow Street Sewer project, the results from it and some possible solutions to the new problems that have arisen.

## **H. Committee Reports 7: 00PM**

Councilor Lockwood reported on the Economic Development Committee meeting which addressed the Main Street Bath's proposed playground for the downtown. After a discussion by Council on their thought on how to proceed with this matter, it was decided to wait for the forum to be held regarding the Southend proposed park be completed and then readdress this matter.

Councilor Merrill reported on the newly opened Teen Space at the Patten Free Library.

## **I. Unfinished Business 7:20 PM**

There was no unfinished business.

## **J. New Business 7:20PM**

### **6) Appointment 1 member to the Old Customs House Board of Directors with a term expiration of August 2017.**

Councilor Lockwood nominated on behalf of the Appointments Committee Andrew C. Perry for this position. All were in favor of the nomination.

## **K. Councilor Announcements 7:22 PM**

City Manager William Giroux reported that City Assessor Paul Mateosian would be retiring as of October 2, 2014. He explained that according to the City Charter the appointment of the new City Assessor would have to be a joint appointment between the City Manager and the Council; therefore, he would like to start working with the Council Appointment Committee on the hiring process so there could be a replacement in place prior to Mr. Mateosian's leaving.

Madame Chair Eosco stated that on August 16<sup>th</sup> Maine Maritime Museum will be holding a free day for the public to showcase their new blacksmith shop.

## **L. Comprehensive Plan Discussion 7:25 PM**

Councilor Wyman reported on Land Use Plan pages 31-39.

He stated that these pages of the document continue with the future land use for the Plant Memorial Home Area and the Waterfront Area. The density of units per land area will be similar to the abutting residential area so that the Plant Home will not be out of character with the neighborhood. The Comprehensive Plan will continue to allow this type of use.

The Low Intensive Working Waterfront Area will continue to be the location for industrial and commercial use. Residential use will not be allowed in this area. Uses may include waterfront-dependent and marine activities and will be allowed at the water's edge if necessary.

The High-Intensive Working Waterfront Area is the BIW shipyard area which takes advantage of Bath's deepwater setting with regulations to control noise, odors, light, vibrations, size and mass of buildings and traffic.

The Natural Resource Preservation Area abuts Merrymeeting Bay where setbacks are determined by site-specific characteristics and aesthetics. In this area, buildings may be built 150 feet back from water bodies, but not less than 75 feet.

The Historic Overlay Land Use Area contains those parts of the City that contain the City's heritage sites and buildings. In the future land use area, there will be additional regulatory review to preserve and protect these buildings. The Planning Board or a newly created Historic District Commission will have regulatory review authority.

The Special-Purpose Overlay Areas contains buildings and/or parcels of land that do not fit well into the broad view taken by the comprehensive future land-use planning process and the resulting Land Use Code. Bath has a few such buildings and/or parcels. These few situations are buildings that will not be converted to residential use, will not be removed, and have no viable non-residential use. These "islands" end up zoned residentially like the Mitchell School, 361 High Street; the Winter Street Church, 880 Washington Street; and the medical buildings at Davenport Circle.

Mobile Home Park Overlay Areas must exist because Maine State Law requires that every municipality allow these facilities. According to Maine State Law, all land within 250 feet of rivers, fresh water, and coastal wetlands and within 75 feet of streams must be regulated according to minimum guidelines adopted by the Maine Department of Environmental Protection (Maine DEP) to protect Maine waterways.

Critical Resource Areas include the Critical Natural Resource Areas, Critical Rural Areas, and Critical Waterfront Areas. All of these areas are identified and designated as "deserving maximum protection". (All of these critical areas are listed in the Comprehensive Plan on page 37. The Plan is located on the City of Bath website [www.cityofbath.com](http://www.cityofbath.com))

Buffers, Screening, Performance Standards and Design Requirements are especially important in an urban community such as Bath where homes are close together.

Implementation of the Future Land Use Plan will require updating the standards and regulations in the Land Use Code and will fall to the Planning Board with the City Council adopting the recommended amendments by the Board. The Planning Director, Finance Director, and City Manager will annually update the CIP.

Councilor Wyman made a motion at 7:35 PM to go into Executive Session to discuss the following: Title 1 M.R.S.A. §405(6)(D) Discussion Labor Negotiations (Fire Captains). Councilor Mitchell seconded the motion. All were in favor of the motion.

Councilor Wyman made a motion at 7:53 PM to come out of Executive Session. Councilor Lockwood seconded the motion. All were in favor of the motion.

***Council now took up the previously moved Item 3:***

***Ordinance: Approving Fire Captains' Elective Bargaining Agreement (first passage)***

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

**ROLL CALL VOTE on Ordinance:**

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

**NAYS: None**

**Ordinance passed unanimously. 7-0**

Madame Chair Eosco set second passage for the Ordinance for September 1, 2014 at 6:02 PM.

The meeting adjourned at 7:55 PM with a motion by Councilor Wyman, seconded by Councilor Lockwood. 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 the meeting is available for review in the City Clerk's office during regular business hours by appointment.*