

**REGULAR MEETING MINUTES
CITY COUNCIL OF THE CITY OF BATH, MAINE
Wednesday, August 5, 2015 6:00 PM
City Council Chambers, Bath City Hall**

Present: Councilors Brackett, Page, Paulhus, Wyman, Mitchell, Omo
Excused: Madame Chair Eosco and Councilor Bauer

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

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

Vice Chairman Brackett 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 15, 2015 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 this day, but every day of the year.

Dated this 5th day of August, 2015.

Ms. Ringrose read a poem that she had written about "Random Acts of Kindness Day" in Bath and handed out homemade cupcakes to Council.

C.Public Hearings: 6:10 PM

1) Ordinance: LUC Amendment to Amend Article 16, Contract Zoning Districts, by adding the following Section: Article 16 Contract Zoning Districts, Section 16:23 – Sewall Retail District (Second Passage)

Councilor Omo made a motion to waive the reading of the Ordinance. Council Mitchell seconded the motion. All were in favor of the motion.

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:

Amend Article 16, Contract Zoning Districts, by adding the following Section:

ARTICLE 16: CONTRACT ZONING DISTRICTS

SECTION 16.23 - SEWALL RETAIL DISTRICT [Section added _____]

A. District Designation

The property designated for contract rezoning is the property located near 137 Leeman Highway; being identified as portions of lots 53 & 54-1 on tax map 28 on the tax maps dated April 1, 2014. The property is known as the former Dunkin' Donuts.

B. Findings

Mark Sewall proposes to demolish all extant structures located near 137 Leeman Highway and construct a one-story, approximately 2,000 square foot retail building and supporting infrastructure. The City Council makes the following additional specific findings:

- 1.The building is adjacent to Route 1 and is located within the Route 1 Commercial Contract Zoning District (C-4). The purpose of the Route 1 Commercial Contract District is to provide a location for the highway-oriented businesses needed by residents of the City, the region, and the traveling public. The goal of the district is to encourage better appearances and improved highway safety.
- 2.The proposed use is classified as a 'Sales or Rental of Goods, Merchandise, or Equipment, Low-volume Traffic Generation with Less than 5,000 square feet of gross floor area.' The use is allowable within the C-4 zoning district with site plan approval.
- 3.Contract zoning is enabled in the C-4 zoning district, as identified in §8.20B1 of the Land Use Code.
- 4.The rezoning is consistent with the Comprehensive Plan of the City of Bath.

C.Zoning Provisions Affected

This contract zone is intended to relax the following space and bulk standards of the Route 1 Commercial Contract Zoning District (C-4):

1. Minimum Front, Rear, and Side Setbacks (Reduce the requirement from 50 feet to 0 (Zero) feet, as depicted on the approved site plan)
2. Minimum Front, Rear, and Side Yard Areas (Reduce the requirement from 20 feet to 0 (Zero) feet, as depicted on the approved site plan)

D.Conditions of Approval

This contract zone is approved subject to the following conditions:

1. This contract zone is subject to all conditions of approval that are part of the Site Plan approval, granted to the applicant, by the Planning Board on May 5, 2015.
2. The applicant has offered the following voluntary and discretionary conditions in exchange for the contract rezoning:
 - a. The project shall be developed in conformance with the plans, elevations, renderings, and documents reviewed and approved by the Planning Board on May 5, 2015, including:
 1. The erection of roadside lighting fixtures, compliant with the design that exists along Route 1 and the Sagadahoc Bridge.
 2. The construction of sidewalks and erection of bike racks, along and beside Quimby Street and Leeman Highway.
 3. The construction of a decorative retaining wall along Court Street and enhanced plantings along the existing retaining wall, from Quimby Street to Floral Street along Court Street.
 - b. Prior to the issuance of any building permits, the applicant shall provide \$25,000 to the City of Bath for the improvement of the Route 1 Corridor.

Councilor Paulhus made a motion to put this item on the floor for discussion. Councilor Omo seconded the motion.

City Planner Andrew Deci explained this Ordinance would create a Contract Zoning District between Quimby Street, Court Street, Route One and Chandler Drive that would relax the set back requirements allowing the owner of the property to redevelop a retail location and detailed the benefits to the City that Mr. Sewall would be providing in exchange for this action.

Councilor Omo asked to go on record that he would like the existing retaining wall not owned by Mr. Sewall and not in the redevelopment plans be inspected and any structural issues be taken care of by the City at the same time.

Seeing no commits from the Public, Vice Chairman Brackett closed the Public Hearing.

Councilor Paulhus seconded the comment from Councilor Omo regarding the existing retaining wall.

City Manager Giroux stated that he had taken note of the request.

ROLL CALL VOTE:

YEAS: Page, Paulhus, Wyman, Mitchell, Omo

NAYS: None

Ordinance Passed Unanimously. 5-0

Vice Chairman Brackett stated this Ordinance would become law in 21 days.

2) Ordinance: LUC Amendment, Article 8: District Regulations, Section 8.08 - Mixed Commercial and Residential District C2. (Second Passage)

Councilor Omo made a motion to waive the reading of the Ordinance. Council Mitchell seconded the motion. All were in favor of the motion.

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:

Amend Article 8, District Regulations, as follows:

ARTICLE 8: DISTRICT REGULATIONS

SECTION 8.08 MIXED COMMERCIAL AND RESIDENTIAL DISTRICT - C2 [Section number amended May 16, 2001]

A. Purpose

The Mixed Commercial and Residential District is a mix of high-density residential and small-scale business activities that are oriented primarily to neighborhood goods and services. The intent is that this district accommodate a mix of uses, both residential and commercial, at a neighborhood scale.

B. Uses Allowed

Uses allowed are as indicated in the Land Use Table (see Section 9.02).

C. Space and Bulk Regulations [amended September 22, 2010]

MINIMUM LOT AREA	
1. All single uses	6,000 square feet
2. Mixed or multiple uses	6,000 square feet for each use
MINIMUM LOT AREA PER DWELLING UNIT	
1. All uses	6,000 square feet
MINIMUM LOT WIDTH PER LOT	
1. All uses	60 feet

MINIMUM SETBACK	
1. Front	15 feet
2. Side	10 feet
3. Rear	15 feet
4. From waterbodies	25 feet
MINIMUM YARD AREAS	
1. Front	6 feet
2. Side	6 feet
3. Rear	6 feet
4. From waterbodies	25 feet
MAXIMUM LOT COVERAGE	
All uses	60 percent
MAXIMUM BUILDING HEIGHT	
1. All uses	40 feet

D. Contract Rezoning [**amended** _____]

Contract rezoning is allowed in the C2 District (see Section 8.20).

* * *

SECTION 8.20 CONTRACT REZONING [Section number amended May 16, 2001]

A. Authority and Purpose [amended June 21, 2006]

Pursuant to the authority delegated to municipalities under 30-A M.R.S.A. Section 4352(8), contract rezoning is hereby authorized to permit rezoning of the property defined in Item B following, when projects can better meet certain community objectives contained in the Comprehensive Plan due to additional flexibility being allowed, to encourage innovative design, or where it has been determined that there exists an unusual nature, condition, or location relative to the property being considered for rezoning. In these circumstances, the City Council may find it necessary and appropriate to impose, by agreement with the applicant, certain conditions or restrictions relating to the physical development and/or operation of the property that are generally not applicable under conventional zoning regulations.

B. Description of Property

This Section applies only to properties located in the following Zoning Districts: [amended December 24, 2008]

1. Route 1 Commercial Contract District,
2. Special Purpose Commercial Contract Overlay District,
3. Industrial/Shipyard District,
4. Downtown Commercial District, and [added June 21, 2006]
5. Trufant Marsh Contract District,
6. Marine Business District, and [added January 8, 2003]
7. Museum District [added September 22, 2010]
8. Plant Home Zone [added December 28, 2011]
- ~~8.9. Mixed Commercial and Residential District [added _____]~~

...

Note: Additional language is identified by being underlined.

Councilor Wyman made a motion to put this item on the floor for discussion. Councilor Omo seconded the motion.

Bath City Planner Andrew Deci explained that this Ordinance change does not make a contract zone but would allow process of contract zoning in the City's C2 Zoning District this which is necessary in order for the redevelopment of the Huse School to happen.

Seeing no public comments, Vice Chairman Brackett closed the Public Hearing.

ROLL CALL VOTE:

YEAS: Omo, Mitchell, Wyman, Paulhus, Page

NAYS: None

Ordinance Passed Unanimously. 5-0

Vice Chairman Brackett stated this Ordinance would become law in 21 days.

3) Ordinance: LUC Amendment, Article 16: Contract Zoning Districts, Section 16.24 – Huse School District (Second Passage)

Councilor Omo made a motion to waive the reading of the Ordinance. Council Mitchell seconded the motion. All were in favor of the motion.

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:

Amend Article 16, Contract Zoning Districts, by adding the following Section:

ARTICLE 16: CONTRACT ZONING DISTRICTS

SECTION 16.24 – HUSE SCHOOL DISTRICT [Section added ____, 2015]

A. District Designation

The property designated for contract rezoning is the property located at 39 Andrews Road; being identified as lot 46 on tax maps 25/28 on the tax maps dated April 1, 2013. The property is known as the former John E.L. Huse Memorial School site.

B. Findings

Huse School Apartments, LP proposes to renovate the extant structure located at 39 Andrews Road and construct a new addition to provide a total of up to 59 apartments on site, with supporting infrastructure. The City Council makes the following additional specific findings:

1. The building is located within the Mixed Commercial and Residential District (C2).
2. The proposed use is classified as a 'Multi-Family Dwelling.' The use is allowable within the C2 zoning district with site plan approval.

3. The rezoning is consistent with the Comprehensive Plan of the City of Bath and the Bath Housing Assessment and associated Housing Revitalization Goals adopted by the City Council.

C. Zoning Provisions Affected

This contract zone is intended to relax the following space and bulk standards of the Mixed Commercial and Residential District (C2).

1. Minimum Lot Area Per Dwelling Unit (Reduce the requirement from 6,000 square feet to 1,800 square feet, as depicted on the approved site plan)
2. Minimum Rear Yard Area (Reduce the requirement from 15 feet to 10 feet, as depicted on the approved site plan)

D. Conditions of Approval

This contract zone is approved subject to the following conditions:

1. This contract zone is subject to all conditions of approval that are part of the Site Plan approval, granted to the applicant, by the Planning Board on June 2, 2015.
2. The applicant has offered the following voluntary and discretionary conditions in exchange for the contract rezoning:
 - i. The design and construction of a playground to the north of the subdivided lot, as indicated on the approved site plan. The playground shall be completed prior to the issuance of a certificate of occupancy by the Code Enforcement Officer.
 - ii. Resurfacing the existing basketball court, as indicated on the approved site plan. The work shall be completed prior to the issuance of a certificate of occupancy by the Code Enforcement Officer.
 - iii. The design and construction of new walking paths from the Donald Small School to the east and west sides of the Huse School apartments, as indicated on the approved site plan. The walking paths shall be completed prior to the issuance of a certificate of occupancy by the Code Enforcement Officer.
 - iv. Installation of new public bicycle racks on the property, for the use of any visitors to the site or the "Donnie Small Athletic Complex."
 - v. Improvement and maintenance of walking paths connecting the site to the adjacent Bath Area Family YMCA site.

Councilor Wyman made a motion to put this item on the floor for discussion. Councilor Paulhus seconded the motion.

City Planner Andrew Deci explained the Szanton Company was asking for this Contract Zoning District to help with increasing the density requirements for the Huse School property. Mr. Deci gave a list of public benefits that the Szanton Company were giving the City of Bath in exchange for this action.

Seeing no public comments, Vice Chairman Brackett closed the Public Hearing.

Councilor Paulhus asked to go on record as stating that the playground area that the Szanton Company was proposing for public use was going to be a great addition to the City.

ROLL CALL VOTE:

YEAS: Page, Paulhus, Wyman, Mitchell, Omo

NAYS: None

Ordinance Passed Unanimously. 5-0

Vice Chairman Brackett stated this Ordinance would become law in 21 days.

D. Consent Agenda 6:22 PM

***4) Minutes of the previous meetings of July 1 and 15, 2015 Council Meetings and Items K*8 and K*9. (motion to Accept as Presented)**

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

E. Time Devoted to Residents to Address the City Council 6:23 PM

No one spoke.

F. Ordinances, Orders and Resolutions 6:23 PM

5) Order: Designating the Huse School Apartments Affordable Housing Development and Tax Increment Financing District and Adopting the Development Program for Such District.

Vice Chairman Brackett read the following Order:

ORDER

AN ORDER DESIGNATING THE HUSE SCHOOL APARTMENTS AFFORDABLE HOUSING DEVELOPMENT AND TAX INCREMENT FINANCING DISTRICT AND ADOPTING THE DEVELOPMENT PROGRAM FOR SUCH DISTRICT

WHEREAS, the City of Bath (the "City") is authorized pursuant to Chapter 206, Subchapter 3 of Title 30-A of the Maine Revised Statutes, as amended, to designate a specified area or areas within the City as an affordable housing development district and adopt a development program for such district; and

WHEREAS, there is a need for the development of affordable, livable housing in the City of Bath, in the surrounding region, and in the State of Maine; and

WHEREAS, the designation of the District and implementation of the Development Program will help to improve and broaden the tax base in the City and improve the economy of the City and the region by attracting business development to the City; and

WHEREAS, the City has held a public hearing on the question of establishing the District, in accordance with the requirements of 30-A M.R.S.A. § 5250, upon at least ten (10) days prior notice published in a newspaper of general circulation within the City; and

WHEREAS, the City desires to designate *The Huse School Apartments Affordable Housing Development and Tax Increment Financing District* (the “District”) and adopt a development program for the District (the “Development Program”); and

WHEREAS, it is expected that approval will be obtained from the Maine State Housing Authority (“MaineHousing”) approving the designation of the District and the adoption of the Development Program for the District;

NOW THEREFORE, BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF BATH, MAINE:

Section 1. The designation of the District and pursuit of the Development Program will contribute to the expansion of affordable housing opportunities in the City of Bath and will contribute to the betterment of the health, welfare and safety of the inhabitants of the City, and therefore constitutes a good and valid public purpose.

Section 2. Pursuant to Chapter 206, Subchapter 3 of Title 30-A of the Maine Revised Statutes, as amended, the City hereby designates *The Huse School Apartments Affordable Housing Development and Tax Increment Financing District* and hereby adopts the Development Program for the District described as more particularly set forth in the documents presented to the City Council in conjunction with this Order.

Section 3. Pursuant to the provisions of 30-A M.R.S.A. § 5250-A, the percentage of captured assessed value to be retained in accordance with the Development program is hereby established as set forth in the Development Program.

Section 4. The City Manager be, and hereby is, authorized, empowered and directed to submit the proposed designation of the District and the proposed Development Program for the District to MaineHousing for review and approval pursuant to the requirements of 30-A M.R.S.A. Chapter 206, Subchapter 3; and further is authorized and directed to execute a Credit Enhancement Agreement consistent with the provisions of *The Huse School Apartments Affordable Housing Development and Tax Increment Financing District* Development Program as presented and approved herein and to create the accounts and take all the actions described in such agreement consistent with the Development Program.

Section 5. The City Manager be and hereby is authorized and empowered at his direction from time to time to make such revisions to the Development Program for the District as he deems reasonably necessary or convenient in order to facilitate the process of review and approval of the District by MaineHousing, or for any other reason, so long as such provisions are not inconsistent with these resolutions or the basic structure and intent of the Development Program. The City Manager is also hereby authorized and directed to submit any reports to MaineHousing regarding the District and Development Program throughout the term of the District.

Section 6. The foregoing designation of the District and the adoption of the Development Program for the District shall automatically become final and shall take full force and effect upon receipt by the City of approval of the proposed District by MaineHousing without requirements of further action by the City, City Council or any other party.

Section 7. The City hereby finds and determines that:

- a. At least twenty-five percent (25%), by area, of the real property within the District, as hereinafter designated, is suitable for residential use, blighted area or is in need of rehabilitation or redevelopment; and

b.The total area of the District does not exceed two percent (2%) of the total acreage of the City, and the total area of all development districts within the City, and the total area of all development districts within the City does not exceed five percent (5%) of the total acreage of the City; and

c.The original assessed value of the District plus the original assessed value of all existing affordable housing development districts within the City does not exceed five percent (5%) of the total value of the City.

d.The District and pursuit of the Development Program will contribute to the expansion of affordable housing opportunities within the municipality or to the betterment of the health, welfare or safety of the inhabitants of the City. The City has considered all evidence, if any, presented to it with regard to any substantial detriment to another party's existing property interests in the City and has found and determined that such interested party's property interests in the City are outweighed by the contribution made by the District or Development Program to the availability of affordable housing within the City or to the betterment of the health, welfare or safety of the inhabitants of the City.

Section 8. The City Manager is authorized to file the yearly reports required by Title 30-A M.R.S.A. § 5250-E and otherwise to take all lawful actions required in the administration of the District and Development Program.

Councilor Wyman made a motion to put this Order on the floor for discussion. Councilor Omo seconded the motion.

Community Development Coordinator Scott LaFlamme explained the process that led to the Order before Council.

The City's Representative on TIF's from the law firm of Bernstein Shur, Shana Cook Mueller, explained that there had been a few changes to the TIF document since the last meeting on July 15, 2015 but none of the changes were of a technical nature. She stated that one of the changes was related to the configuration of the units and that was shown in the Attachment 7-Development Program from the developer. Ms. Mueller explained how the TIF numbers were derived from the requirements of Maine State Housing in order to get the points needed.

The developer's attorney, Edward J. Kelleher, of DrummondWoodsum handed out a copy of a memo/Attachment 7 – Development Program to Council.

The CEO of the Szanton, Company Nathan Szanton, explained in more detail construction, makeup of the units and qualifications of occupants of the units to be developed.

There was a brief discussion on the TIF percentage requirements to municipalities for affordable housing loans through Maine State Housing for Federal Tax Credits.

VOTE on Order:

YEAS: 5

NAYS: 0

Order passed unanimously. 5-0

6) Order: Approve Purchase of Snow Blower

Vice Chairman Brackett read the following Order:

**ORDER
APPROVING PURCHASE**

BE IT HEREBY ORDERED BY THE CITY COUNCIL OF THE CITY OF BATH, THAT THE BID OF DONOVAN EQUIPMENT CO., INC., AS SUPPLIER FOR A 2015 RPM TECH SNOW BLOWER MODEL LM 220, FOR THE BASE BID PRICE OF \$138,921.00, BEING THE LOWEST QUALIFIED BID SUBMITTED, BE AND HEREBY IS APPROVED AND THE CITY MANAGER IS AUTHORIZED TO EXECUTE SUCH DOCUMENTS AS MAY BE NECESSARY TO COMPLETE THE PURCHASE ON BEHALF OF THE CITY OF BATH. THE FUNDS FOR THIS PURCHASE ARE DESIGNATED AS PART OF A BORROWING ORDINANCE APPROVED BY COUNCIL ON JUNE 3, 2015, AND WILL BE PAID OUT OF THE PW REPLACEMENT VEHICLE ACCOUNT 05 0520 533.

Councilor Wyman made a motion to put this Order on the floor for discussion. Councilor Paulhus seconded the motion.

Public Works Director Peter Owen explained the details of the snow blower. He stated that the cost was less than budgeted and planned to keep the old one as a backup.

VOTE on Order:

YEAS: 5

NAYS: 0

Order passed unanimously. 5-0

G. Petitions & Communications 7:00 PM

There were no petitions or communications.

H. City Manager's Report 7:00PM

7) RSU #1 High School Project

Superintendent of RSU #1 Patrick Manuel gave a history of the process and an overview of the proposed sites for this project.

I. Committee Reports 7:11 PM

There were no committee reports.

J. Unfinished Business 7:11 PM

There was no unfinished business.

K. New Business

The following were appointed under the Consent Agenda.

***8) Appointment of Jason Marshall as an Alternate Codes Enforcement Officer for term ending January 2016, pursuant to State Statutes.**

***9) Appointment of William Giroux and Scott LaFlamme as General Assembly Representatives for the City of Bath to the Midcoast Economic Development District.**

L. Councilor Announcements 7:12 PM

Councilor Omo spoke in reference to the recent issue of non-dumping of overflow dumpsters within the City and asked the public to let Council know of any instances of this happening.

Councilor Omo made a motion at 7:13 PM to go into Executive Session to discuss the following: a Real Estate Matter per 1 MRSA §405(6)(C)(High School Project) . Councilor Mitchell seconded the motion. All were in favor of the motion.

Councilor Omo made a motion at 8:33 PM to come out of Executive Session. Councilor Mitchell seconded the motion. All were in favor of the motion.

The meeting adjourned at 8:34 PM with a motion by Councilor Omo, seconded by Councilor Wyman. 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.