

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

Wednesday, January 6, 2016 6:00 PM
City Council Chambers, Bath City Hall

Present: Councilors Brackett, Page, Paulhus, Nordmann, Wyman, Bauer, Mitchell, Omo and Madame Chair Eosco.

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.

C. Public Hearing: 6:01 PM

1) 5 EVENT - LIQUOR AND SPECIAL AMUSEMENT LICENSES APPLICATIONS

FOR:

Chocolate Church Arts Center, Inc.
804 Washington Street
Thomas Watson, Contact Person

Madame Chair Eosco opened the Public Hearing.

Thomas Watson, Treasurer and member of Board of the Arts Center, stated that they were asking for this 5-event license for two reasons: to offer another convenience to their audiences and to produce a revenue stream.

Seeing no other comments, Madame Chair Closed the Public Hearing and asked for a show of hands in favor. All were in favor of the approval of the licenses.

D. Consent Agenda 6:06 PM

***2)** Minutes of the previous Council Meetings on December 2 and 16, 2015 and Items K4, K5, K6, K7 and K9. (Motion to Accept as presented)

Councilor Omo made a motion to amend Item K*6 to add “and Alternate Plumbing Inspector”. Councilor Mitchell seconded the motion. All were in favor of the amendment.

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

E. Time Devoted to Residents to Address The City Council 6:08 PM

State Representative Jennifer DeChant addressed Council stating that the first day of the Legislative Session went well. She wished everyone a Happy New Year and stated that should anyone have any questions or comments during the upcoming year regarding Legislation matters to please contact her.

Barbara Leeman of North Street spoke to Council regarding the mud that is being experienced in front of the houses on the South side of North Street. She recognized that there had been public meetings regarding this project. Ms. Leeman stated that she had gone door to door and got names of 95% of the residents on the South side of the street that were displeased in terms of how the sidewalk had turned out. She stated that the situation is dangerous due to people slipping in the mud. Ms. Leeman presented the petition that she had circulated house to house on the street to Council.

F. Resolutions, Orders and Ordinances 6:17 PM

3) Ordinance: Chapter 15. Streets, Article 2. Snow and Ice, Section 15-20 Removal of Snow and Ice, Section 15-22 Penalty and Section 15-23. Snow or Ice Threatening Use of Public Streets or Sidewalks. (first passage)

Madame Chair Eosco read a portion of 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 2. Snow and Ice

Amend Sec. 15-20, as follows:

Section 15-20. Removal of snow and ice.

(a) The tenant or occupant of any store, shop, dwelling house, manufactory, hotel or other building, or any vacant lot, bordering upon any sidewalk in the area designated as the Downtown Commercial Zone (C-I), and in case there shall be no tenant, the owner or any person having the care or control of any building or lot of land bordering upon the aforementioned streets, after the ceasing to fall of any snow, or in the daytime within four (4) hours and if in the night time before 10:00 A.M. of the following day, unless such following day be Sunday, shall cause the snow to be removed from such sidewalk. This provision shall be construed to extend to the removing of snow falling from any roof upon such sidewalk. No person shall be required to move any snow as aforesaid on Sunday.

(b) Such tenant or occupant, owner or agent, whenever ice shall have formed upon any sidewalk, shall cause the ice to be removed or to be properly covered or strewed with sand or other suitable substance. ~~Under circumstances where any building has ice attached which overhangs a public way or sidewalk, the tenants, occupant, owner or agent shall cause the removal of the ice in order to render the sidewalk a safe and convenient place for foot travelers.~~

Amend Sec. 15-22, as follows:

Section 15-22. Penalty.

Any person violating any of the provisions of Section 15-20 and Section 15-21 of this Article, in the initial instance, shall be issued a written warning. Any second or subsequent violation shall be punishable by a fine not to exceed One Hundred Dollars (\$100.00) payable to the order of the City of Bath. Each day that such violation is permitted to continue shall constitute a separate violation.

Add a new Section 15-23, as follows:

Sec. 15-23. Snow or Ice Threatening Use of Public Streets or Sidewalks.

A. Applicability: The following provisions shall apply to all property owners with buildings or structures that abut the public sidewalks and/or streets, or are in proximity to public sidewalks and/or streets such that falling ice or snow falling from the building or structure would fall on the public sidewalks and/or streets.

B. Duty to Remove: When an accumulation of snow or ice on a building or structure poses the threat of falling onto public sidewalks and /or streets, it shall be the duty of the property owner to cause the removal of such accumulations in order to make passage along sidewalks and/or streets safe and convenient and to eliminate any danger from falling ice or snow to pedestrians, vehicles, and/or personal property.

C. Commencement of Duty, Notice: Such removal shall begin either: (1) whenever a threatening condition occurs; or (2) within twenty-four (24) hours after the Code Enforcement Officer or his/her designee has verbally or in writing given notice as provided below of the condition and ordered the removal of such accumulations, whichever occurs first. Whenever snow or ice accumulates in such a manner as to hang over a street or sidewalk, such a condition shall constitute prima facie evidence that the condition is a threatening condition. A determination by the Code Enforcement Officer or his/her designee that an accumulation of snow or ice is a threatening condition shall be conclusive and not subject to challenge or appeal until after the building owner has removed the snow or ice. Notice shall be given to the owner or to an owner's agent who has maintenance responsibility for such building. The record owner of each such building shall be the owner as appears in the records at the Sagadahoc County Registry of Deeds.

D. Failure to Remove: In instances where the owner has not caused the removal of the accumulated ice and snow, then the Code Enforcement Officer or his/her designee may arrange for the removal of snow and ice accumulations which exists in violation of subsections (B) and (C) above in order to eliminate any danger to pedestrians, vehicles and/or personal property.

E. Enforcement; Penalties:

(1) This Article shall be enforced by the Code Enforcement Officer and/or his designee.

(2) The City Manager may declare a delay of enforcement of this Article. Such a declaration shall be for the purpose of giving property owners additional time to clear their ice or snow from buildings upon which ice or snow has accumulated, or for such other good cause shown. Any such declaration shall be reduced to writing as soon as

practicable thereafter, stating the reasons therefore. Such declaration shall be communicated to such representatives of the communications media as the city manager may direct.

(3) Pursuant to 30-A M.R.S.A. § 3007, after a building owner or lessee has been given one (1) notice and order under subsection (C) above and failed to comply and the City has removed the snow or ice, or when a building has been the subject of three (3) or more notices within an eighteen-month period, the Code Enforcement Officer or his/her designee may require the owner of a building to install roof guards, or take other measures approved by the Code Enforcement Officer or his/her designee, at the owner's expense to prevent the fall of snow or ice.

(4) The penalty for an offense shall be two hundred fifty dollars (\$250.00), plus attorney's fees and costs. When the City removes or arranges for the removal of snow or ice accumulations, the owner shall also be charged the costs of removal, plus a ten (10%) percent charge for administration. A separate bill for each such removal shall be submitted to the record owner of the building as soon as practicable after the charges have been incurred.

(5) Liens. In addition to other collection methods authorized by law, and the penalties provided herein, charges assessed pursuant to this Article shall be enforceable by lien for the benefit of the City. If the penalties, assessments and costs are not paid within thirty (30) days of notice to the owner of the amount due, then the non-payment shall be provided to the Tax Collector who shall collect the amount as part of the next year's ad valorem property taxes for the property. In addition, a notice of lien may be filed in the Sagadahoc County Registry of Deeds.

F. Liability: Where there is a failure of the owner after notice to remove the accumulated ice or snow from a building or structure pursuant to this Article, and the City must perform the removal, then the City shall be held harmless from any form of liability with regard to the removal.

Councilor Omo made a motion to waive reading of the remainder of the Ordinance from Section 15-23, Snow or Ice Threatening Use of Public Streets or Sidewalks, E. Enforcement; Penalties. (3) on in lieu of City Staff doing an explanation of the Ordinance change. Councilor Mitchell seconded the waiving motion.

VOTE on Waiving Motion:

YEAS: 6

NAYS: 2 (Paulhus, Bauer)

Waiving motion passed. 6-2

City Manager William Giroux explained that this is the legal way of saying if you have icicles hanging off your building you have to remove them as they could cause death or serious injury.

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

ROLL CALL VOTE:

YEAS: Brackett, Page, Paulhus, Nordmann, Wyman, Bauer, Mitchell, Omo

NAYS: None

Ordinance passed unanimously. 8-0

Madame Chair Eosco stated that second passage would be on February 3, 2016 at 6:01 PM.

G. Petitions & Communications 6:27 PM

There were no petitions or communications taken up at this time.

H. City Manager's Report 6:27 PM

There was no City Manager's Report.

I. Committee Reports 6:28 PM

Councilor Mitchell reported that the Student Council Liaison Committee at Morse High School met and announced they will be sponsoring an event in remembrance of Martin Luther King Jr. Day on January 18, 2016. He stated that any members of the public interested in participating in the event should meet at Bath City Hall auditorium at 9AM with a scheduled 10 AM walk across the Sagadahoc Bridge then a walk back to the Bath City Hall auditorium where a presentation would take place and refreshments would be served.

J. Unfinished Business 6:29 PM

There was no unfinished business taken up at this time.

K. New Business 6:29 PM

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

This Item was passed on the Consent Agenda.

***5) Annual Appointment of Tom Lister as the Alternate Codes Enforcement Officer and Plumbing Inspector for one year, pursuant to State Statutes.**

This Item was passed on the Consent Agenda.

***6) Annual Appointment of Jason Marshall as the Alternate Codes Enforcement Officer for one year, pursuant to State Statutes.**

This Item was passed on the Consent Agenda.

***7) Annual Appointments to Committees of Council Nominees.**

Bath Housing Authority Board of Directors – Mari Eosco

Midcoast Council of Governments – Jamie Omo, Leverett Mitchell, Mari Eosco

Patten Free Library Board of Directors – Susan Bauer

Recreation Commission – Gregory Page

Sidewalk Vending License Committee – Leverett Mitchell

Student Community Liaison Council – Leverett Mitchell

Welfare Review Board – Jamie Omo, Terry Nordmann, Steve Brackett

This Item was passed on the Consent Agenda.

8) Regional School Unit #1 Presentation regarding the New High School Project

Superintendent Patrick Manuel made introductions of speakers and gave a short history of the search of properties for the project site and stated the RSU #1 Board had narrowed the choices to the Wing Farm Development site or the land adjacent to the Middle School. Mr. Manuel stated that the State Department of Education would support this project if it was possible to have the RSU gain ownership from the City of the fields adjacent to the Middle School.

Tim Harkins, Chairman of RSU #1 Board of Directors, explained how this project came to be and the sub committees that were involved in this process.

Ron Lamarre of Lavallee Brensinger Architects gave an overview of the pros and cons options of both building sites and gave a timeline of the process moving forward.

Katherine Bussey of 700 High Street and a member of the Field of Our Future Committee brought forth her concerns regarding the ownership of the turf field and track, as the improvements that have been made were done by a huge community effort making it a community field not just an RSU #1 field. She stated that she hoped the Council would keep this in mind while making their decision on selling the property.

Madame Chair Eosco asked to have a show of hands if Council was comfortable with the RSU #1 moving on with the process with the State. All were in favor of the RSU moving ahead with the process.

Ethan Jones of 47 Carriage House Lane asked what were the advantages and disadvantages of having the Middle and High School campuses together.

Madame Chair Eosco stated that would be a question to run by the RSU as Council would only be dealing with the possibility of selling the land.

***9) Appointments Bath Development Corporation Board:**

AT Large Members:

Brian Mulligan April 2018

Robert Oxtan April 2018

Max Dawson April 2018

This Item was passed on the Consent Agenda.

L. Councilor Announcements 7:13 PM

Madame Chair Eosco reported that the Bath Housing Authority has a new program which helps the elderly to find out what things need to be done to their home so they can stay in their homes for as long as possible. She encouraged the public to use this program.

The meeting adjourned at 7:17 PM to a Workshop in the Second Floor Conference Room regarding Council Goals for 2016 with a motion by Councilor Wyman, seconded by Councilor Omo. 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. You can also view them on Townhallstreams.com for up to a year.