

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

Wednesday, February 3, 2016 6:00 PM  
City Council Chambers, Bath City Hall

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

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) 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. (second passage)**

Madame Chair Eosco read the following Ordinance amendment:

**AMENDMENT  
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. 15-23©, as follows:

C. Commencement of Duty, Notice: Such removal shall take place ~~begin~~ either: ...

Councilor Omo made a motion to amend the Ordinance as read. Councilor Mitchell seconded the motion.

**ROLL CALL VOTE on Amendment:**

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

**NAYS: None**

**Ordinance passed unanimously. 7-0**

Councilor Mitchell made a motion to waive the reading of the Ordinance. Councilor Omo seconded the motion.

**VOTE on Waiving Motion:**

**YEAS: 6**

**NAYS: 1 (Paulhus)**

**Waiving motion passed. 6-1**

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

Codes Enforcement Officer Scott Davis explained the Ordinance gives us a way to have the ice issue be taken care of by the building owner/occupant and if they don't take care of it within 24 hours of the directive, the City can have it taken care of at the owner's expense and secure the cost with a lien against the building.

**ROLL CALL VOTE on Amended Ordinance:**

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

**NAYS: None**

**Ordinance passed unanimously. 7-0**

Madame Chair Eosco stated that the Ordinance would become law in 21 days.

**D. Consent Agenda 6:15 PM**

**\*2) Minutes of the previous Council Meeting on January 6, 2016. (Motion to Accept as presented)**

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 6:15 PM**

Olive Whitney of 188 North Street spoke regarding the sidewalk situation on North Street. She asked why the Bike and Pedestrian Committee was involved in the decision of fixing the problem as this is not part of the Bike Path or Whiskeag Trail. She stated that aesthetics are not very nice looking and the dirt tracks into the homes.

City Manager Giroux explained the Bike and Pedestrian Committee is working on prioritizing the need for repairs to the City sidewalks and that the City doesn't have the money to do all the sidewalks at this time.

Barbara Leeman of 222 North Street spoke regarding her concerns of the condition of the sidewalk as a safety issue and stated that since last month's meeting she had gotten more signatures of neighbors on the petition regarding concerns they have with the condition of the sidewalk. She stated she didn't have a copy of this petition but would get it to the City Clerk for the record.

**F. Ordinances, Orders and Resolutions 6:25 PM**

**3) Ordinance: Approving Cable TV Franchise Agreement (first passage)**

Madame Chair Eosco read the following Ordinance:

**ORDINANCE**  
**APPROVING CABLE TV FRANCHISE AGREEMENT**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BATH THAT A CABLE TV FRANCHISE AGREEMENT, BY AND BETWEEN THE CITY OF BATH AND COMCAST OF MAINE/NEW HAMPSHIRE, INC., A COPY OF WHICH IS ATTACHED HERETO, BE AND HEREBY IS APPROVED, AND THE CITY MANAGER IS AUTHORIZED TO EXECUTE SAID AGREEMENT ON BEHALF OF THE CITY OF BATH.

*A complete copy of the agreement is on file in the Bath City Clerk's Office at 55 Front Street, Bath, Maine.*

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

City Solicitor Roger Therriault gave an overview of the details of the agreement document.

**ROLL CALL VOTE:**

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

**NAYS: None**

**Ordinance passed unanimously. 7-0**

Madame Chair Eosco stated second passage of this Ordinance would be on March 2, 2016 at 6:01 PM.

**4) Order: 1037 Middle Street**

Madame Chair Eosco read the following Order:

**ORDER**  
**1037 MIDDLE STREET**

WHEREAS, the City of Bath has acquired, through matured Tax Liens for tax years beginning in 2007 and running through 2012, title to the property designated as 1037 Middle Street; and

WHEREAS, the property has been abandoned by the prior owners; and

WHEREAS, the condition of the property, both in terms of its structure and extensive accumulation of junk and other personal property in and around the building, makes it uninhabitable; and

WHEREAS, there have been complaints from the neighbors regarding the appearance of the property; and

WHEREAS, the City needs to address the issue regarding the condition of the property.

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Bath as follows:

- The City of Bath shall take possession and secure the building against access.
- A notice to the prior owners shall be sent in writing that the prior owners shall have until May 20, 2016 to remove any personal property in, on, or about the premises that the prior owners wish to retain. Access to the property shall be arranged through the City's Codes Department.
- The City, at this point in time, authorizes demolition of the structure on the property after May 20, 2016, and reclamation of the lot, and reserves the right to determine the future disposition of the property.

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

City Manager William Giroux explained the history of the property's issues. He stated that the City would be looking into the possibility of using the property in the relief of flooding on Willow Street after some engineering studies into the matter.

Codes Enforcement Officer Scott Davis reported on the structural issues of the building.

Terese Driscoll of 43 York Street explained the history she has had as a neighbor dealing with the property issues.

William Lent of 28 York Street strongly recommended passage of this Order.

**VOTE on Order:**

**YEAS: 7**

**NAYS: 0**

**Order passed unanimously. 7-0**

**G. Petitions & Communications 6:53 PM**

Madame Chair Eosco read the 2016 Council Goals.

**H. City Manager's Report 6:56 PM**

Community Development Director Scott LaFlamme gave a brief history and update regarding the Solar Project of Midcoast Maine Program for residences and small businesses.

**I. Committee Reports 7:05 PM**

Councilor Wyman announced that the Finance Committee would be meeting on February 8<sup>th</sup> at 2PM at City Hall.

Councilor Omo reported on the River Herring Committee Meeting. He stated that Greg Gilliam of Phippsburg had been awarded the harvesting bid for this year and municipalities (Bath, West Bath and Phippsburg) would be reimbursed \$5 for each bushel sold.

Madame Chair Eosco reported that the Sagadahoc County Budget Finance Committee had held their caucus the night before and Councilor Wyman had been elected to represent the Bath area on the Committee.

**J. Unfinished Business 7:08 PM**

There was no unfinished business taken up at this time.

**K. New Business 7:08 PM**

Councilor Mitchell presented the following nominations as a slate:

**5) Appointment 1 member to the Bath Housing Authority Board of Directors for a 5-year term to expire in February 2021.**

Councilor Mitchell nominated Francis Dillon for this position on behalf of the Appointment Interview Committee.

**6) Appointment 1 member to the Bath Recreation Commission for a term ending August 2018.**

Councilor Mitchell nominated William Palmer II for this position on behalf of the Appointment Interview Committee.

**7) Appointment 1 member Bath Forestry Committee for indefinite term (with a 3-year commitment).**

Councilor Mitchell nominated Susan Landry for this position on behalf of the Appointment Interview Committee.

All were in favor of the slate of nominations.

**L. Councilor Announcements 7:11 PM**

Councilors Wyman, Paulhus and Nordmann reported on their recently attend Newly Elected Officials Workshop. They stressed that the main thing that was stated in the Workshop was the importance of elected officials having a municipal email address and not to use their own personal email address for municipal correspondence.

Councilor Paulhus announced the Bath Rotary would be conducting a “Fill the Bus” food event at Brackett’s Market on February 6<sup>th</sup> from 8AM-2 PM to benefit the Bath Food Bank and urged everyone to participate.

Madame Chair Eosco announced there would be a Council Workshop Meeting on February 17<sup>th</sup> in Second Floor Conference Room to discuss the Mass Gatherings Ordinance. She also announced that on February 7<sup>th</sup> at 1PM at the Church of the Nazarene there would be a “Chapel of the Four Chaplains” which spreads the message of interfaith selfless service.

Councilor Wyman made a motion at 7:16 PM to go into Executive Session to discuss a Personnel Matter per 1 MRSA §405(6)(A). Councilor Mitchell seconded the motion. All were in favor of the motion.

Councilor Wyman made a motion at 8:07 PM to come out of Executive Session. Councilor Omo seconded the motion. All were in favor of the motion.

The meeting adjourned at 8:07 PM with a motion by Councilor Page, 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. You can also view them on Townhallstreams.com for up to a year.*