

REGULAR MEETING MINUTES
CITY COUNCIL OF THE CITY OF BATH, MAINE
December 7, 2016
City Council Chambers, Bath City Hall

Present: Councilors Page, Paulhus, Nordmann, Wyman, Comeau, 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.

Madame Chair Eosco read and presented the following Proclamations:

Presentation of a Proclamation to the Salvation Army in recognition of their 130th Anniversary.

PROCLAMATION
Salvation Army 130th Anniversary

Whereas, The Salvation Army was established in 1865, and since its founding it has provided countless hours of help, mentorship, and assistance without discrimination to those who need it the most; and

Whereas, the Bath Salvation Army has ministered to the needs of residents since 1886 and values its charitable role in the city and 20 surrounding communities; and

Whereas, The Salvation Army has been an essential part of this community by feeding the hungry, clothing the needy, and befriending the lonely; and

Whereas, youth programs are an important part of The Salvation Army offering music and gospel arts. As well as Sunbeams and Boys Adventure Corps similar to the Girl Scouts and Boy Scouts where they earn emblems; and

Whereas, children less fortunate may experience the great outdoors at Camp Sebago enjoying swimming, boating and lifelong friendships; and

Whereas, the City of Bath commends The Salvation Army and those who support its mission for their continued dedication to helping meet the physical and spiritual needs of people; and.

NOW THEREFORE BE IT PROCLAIMED the City of Bath through its City Council wishes to commend, thank, and celebrate the Salvation Army officers, staff and volunteers, past and present for their outstanding commitment and dedication for 130 years of service to our community.

Presentation of a Proclamation to the Patten Free Library in recognition of their 125th Anniversary.

PROCLAMATION
Patten Free Library 125th Anniversary

WHEREAS, the Patten brothers, George and John, were generous subscribers to the Patten Library Association, which was founded in 1847 and over the years, other generous benefactors have contributed to the growth and development of Patten Free Library to make it what it is today, and

WHEREAS, Galen C. Moses gave \$10,000 for the construction of a new library building, with the stipulation that its use be free to all Bath citizens and since 1891, library staff has served the community to meet their information and entertainment needs; and

WHEREAS, construction began in 1889 on the new library, designed by George Harding, and was completed in 1890, at a cost of more than \$15,000 with an Open House that was held January 1, 1891 for all to attend, and

WHEREAS, libraries improve the quality of life in a community by being a vital center of learning, communication, culture, and enjoyment, creating better citizens by enabling individuals to make informed decisions about their self-governance by promoting unrestricted access to information and by serving as community centers for lifelong learning; and

WHEREAS, Patten Free Library has long been a landmark on Summer Street and was placed on the National Register of Historic Places as a Contributing Resource within the Bath Historic District on May 17, 1973; and

WHEREAS, over the years, Patten Free Library has grown both in building size and in services to accommodate the ever-changing needs and tastes of the population being served, while respecting the original historic structure and has adapted to the changes in technology that have redefined what is known as a library while maintaining the comfort and respect associated with a collection of books and the information and inspiration they contain; and

WHEREAS, Bath has been well served by its public library, which continues to make the City a better place to live, and is celebrating the conclusion of its quasiquicentennial year on this day of Wednesday, December 7, 2016;

NOW THEREFORE BE IT PROCLAIMED by the City Council of the City of Bath that the City recognizes, appreciates and respects all the wonderful work done by the trustees, corporators, staff and volunteers of Patten Free Library, recognizing the Library's Quasiquicentennial Celebration and hereby proclaiming heartiest congratulations and thanks from the entire City of Bath, Maine.

C. Public Hearings: 6:12 PM

1) Ordinance: Chapter 10 Public Safety, Article 4. Tobacco-Free Parks and Recreation Facilities, Amend Section: 10.402, Purpose, by adding (and/or vaping products and electronic nicotine delivery devices, Section 10.403, Definitions, by adding definition of vaping products, and Section 10.404, Tobacco Product Use Prohibited by adding vaping products. (first passage)

Councilor Paulhus made a motion to waive the reading of the Ordinance. Councilor Bauer 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:

**CHAPTER 10. PUBLIC SAFETY
ARTICLE 4. TOBACCO-FREE PARKS AND RECREATION FACILITIES**

Amend Section 10.402, Purpose, by adding the underlined text:

Section 10.402. Purpose. This ordinance is enacted to protect, preserve, and promote the health, safety and welfare of the residents and visitors that use the City of Bath's parks and outdoor recreation facilities. The purpose of this ordinance is to decrease exposure of individuals, and children in particular, to secondhand smoke or vapor and the associated detritus from the use of tobacco products, and/or vaping products and electronic nicotine delivery devices, as defined below.

Amend Section 10.403, Definitions, by adding the definition of "vaping products," as follows:

Vaping products means an electronic nicotine delivery device intended to mimic tobacco and containing tobacco flavoring or delivering nicotine including, but not limited to, electronic nicotine delivery systems, e-cigarettes, e-cigars, e-hookahs, vape pen, or any other product name or description and includes any battery operated devices that are used to inhale a vaporized liquid solution that frequently contains nicotine and also contains additional ingredients that are suspected of being harmful to humans. This product does not include products specifically approved by the US Food and Drug Administration (FDA) for the purpose of cessation or nicotine replacement therapy.

Amend Section 10.404, Tobacco Product Use Prohibited, by adding the underlined text:

Section 10.404. Tobacco Product Use Prohibited. It shall be unlawful for any person to use tobacco products, or vaping products, at any time, at or within twenty five (25) feet of all parks and outdoor recreation facilities owned and/or maintained by the City of Bath, including, but not limited to, the following: Library Park, Waterfront Park, South End Park, all City Boat Launch Facilities, all City Trails and/or Easements, McMann Field Complex, inclusive of all Facilities, Track, Tennis/Basketball Courts, and Fields, Donnie Small Athletic Complex, Varnum Field. There will be no designated areas in the aforementioned properties allocated for use of tobacco products.

Councilor Paulhus made a motion to put the Ordinance on the floor for discussion. Councilor Bauer seconded the motion.

Recreation Director Steve Balboni stated that this was straightforward as it was just adding vaping and e-cigarettes language to the current Ordinance limiting tobacco use at recreational facilities and making the Ordinance in line with State regulations.

ROLL CALL VOTE on Ordinance:

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

NAYS: None

Passed unanimously. 8-0

Madame Chair Eosco stated this would become law in 21 days.

D. Consent Agenda 6:16 PM

***2) Minutes of the previous meetings of November 2 and 9, 2016 and Items F3, F4, F5, F6, F7, F8 and F9. (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 6:17 PM

Shelley Little of 35 Bedford Street presented a request signed by 645 registered voters of Bath asking the City Council write the Honorable Dave Archambault, II, Chairman of Standing Rock Sioux Tribe, conveying Bath's solidarity with the Standing Rock Sioux Tribe in its opposition to the Dakota Access Pipeline.

Susan Lubner of 51 Bedford Street asked that Council to write a letter in support of the Sioux Tribe efforts in this noble cause.

Councilor Bauer asked that this item be put on the January meeting for discussion. It was agreed to do so.

Karen Wainberg of 212 Centre Street spoke regarding previous Council action in support of a similar environmental issue.

F. Orders, Resolutions and Ordinances 6:30 PM

***3) Order - setting meetings of the City Council (motion to pass Order)**

ORDER

Be It Ordered by the City Council, as follows:

That, in accordance with Section 214 of Chapter 2 of the Charter of the City of Bath, the City Council will conduct its regular meetings in the Council Room, Third Floor at City Hall, on the first Wednesday of each month at 6:00 o'clock PM and a Special Meeting/Workshop on the third Wednesday of each month at 6:00 PM in Council Chambers, as needed.

This Order was passed on the Consent Agenda.

***4) Order - adopting Robert's Rules of Order for parliamentary procedure (motion to pass Order)**

ORDER

Be It Ordered by the City Council, as follows:

That, the Rules of Parliamentary Practice comprised in Robert's Rules of Order, Newly Revised, shall govern the City Council in all cases to which they are applicable, and in which they are not inconsistent with the City Charter, and any Orders or Resolutions passed or adopted by the City Council to govern certain procedures or policies, or as may be amended by this Council.

This Order was passed on the Consent Agenda.

***5) Adoption Working Rules and Regulations for Council (motion to pass)**

CITY COUNCIL FOR THE CITY OF BATH, MAINE WORKING RULES AND REGULATIONS FOR COUNCIL

PUBLIC TO ADDRESS COUNCIL

At the beginning of each regular monthly meeting, there will be time devoted to any resident, taxpayer, or, in the case of an organization, an authorized representative of a resident or taxpayer, of the City of Bath to address the Council regarding any item that is not on the agenda for that meeting.

As each item on the agenda for any meeting is brought to the floor for discussion, the sponsor of each item or, if there is no Council sponsor, the City Manager, shall first be allowed to present their initial comments for consideration by the public and other Councilors. Following this introduction of the issue, there will be time devoted to any questions of the sponsor or the City Manager regarding the agenda item which any Councilor may have which would help to clarify the question presented by the agenda item. The Chair shall allow questions only during this time, and no debate or discussion of collateral issues shall be permitted. Once the agenda item has been explained by its sponsor or the City Manager and clarified by any questioning as provided above, there will be time

devoted for any resident, taxpayer or authorized representative of an organization, resident or taxpayer of the City of Bath to address the Council regarding this particular agenda item.

After listening to any input from the public present, the Chairman will close public comment on the issue and then provide for any debate of the issue among Councilors. The Chairman may, if the topic warrants, allow a second period of public comment no longer than two minutes per person, prior to final Council vote. Second comments by the public must be to furnish new or undisclosed information or viewpoints. The Chairman will then close public debate, provide for a second period of Council debate followed by Council vote, and then proceed to further action.

Any individual wishing to address the council, after being recognized by the Chairman, will move to the lectern to speak and give his or her name and address before beginning remarks.

If, during time of public comment, a person seeks merely to reinforce a point made by another speaker, his or her remarks should simply note concurrence with the specific point.

Any comment by the public shall be limited to the expression of opinions or concerns regarding the agenda item or direct questions pertaining to any factual question presented by the agenda item. All such questions shall be directed through the Chair. In no instance shall debate of an agenda item be allowed between members of the public and the Council. No public comment shall be allowed which has the effect of embarrassing or attacking the character of any individual or Councilor, and this rule shall be liberally construed and strictly enforced. All individuals addressing the Council shall limit their remarks to five (5) minutes or less. No individual shall be permitted to address the Council more than twice on any agenda item.

WORKSHOP SESSIONS

Workshop sessions may be scheduled by the Chairman or City Manager, for the purpose of disseminating information for Council enlightenment and evaluation or for the discussion or refinement of future agenda items.

Members of the public are invited to attend any workshop session but will not be allowed to participate in the workshop. Prior to adjourning any workshop session, Council will provide time for members of the public to address the session to provide information relevant to the subject being explored or to ask questions, through the Chair, relating to the subject of the workshop session.

ABSENCE OF CHAIRMAN

A Vice Chairman shall be elected on the first Wednesday in December pursuant to the City Charter. The Vice Chairman shall carry out the duties of the Chairman in the absence of the Chairman.

In a situation where the Chairman and the Vice Chairman of the City Council are absent, the Council shall appoint by affirmative majority vote of its members present, a temporary Chairman of the Council to serve until such time as the Chairman or Vice Chairman returns to the Chair. The temporary Chairman is to have and exercise any and all powers conferred upon the permanent Chairman of the said City Council by Charter or otherwise.

EXECUTIVE SESSIONS

All motions for Executive Sessions shall state the nature of matters to be dealt with. No topic other than that referred to in the Motion shall be discussed during executive session. All matters discussed during executive session shall be held in strictest confidence by Councilors and shall not be discussed with or divulged to any person other than a fellow Councilor or persons in attendance at the executive session. Any violation of this confidentiality requirement shall be deemed to be malfeasance of office and shall subject the offending Councilor to sanction by the Council as set forth in Section 213 of the City Charter.

AGENDA ITEMS

All agenda items shall be, under normal circumstances, submitted to the City Clerk's Office 6 days prior to any regular or special meeting. In the event that a matter shall arise which was not submitted to the Clerk's Office within the proper time frame, then that item, in proper form to be submitted to the City Council, shall be presented to the

Council Chairman and City Manager as soon as possible. The Council Chairman may present the matter to be considered by the Council, with a majority vote of Councilors present required for it to be included on the agenda.

CONSENT AGENDA

On any agenda for the City Council for the City of Bath, one item may be the Consent Agenda and may consist of-

- a. Minutes of the City Council meetings.
- b. Such items as may be marked with an asterisk (*) on the agenda for the meeting, which in the opinion of the City Council Chairman shall be considered routine matters not requiring debate.

Any Councilor wishing to have any item so marked removed from the Consent Agenda shall have the unlimited right to do so at any time prior to the vote by Council on the Consent Agenda. If such an item is removed from the Consent Agenda, it shall be considered within the normal course of the meeting.

In the case of items included, the motion to approve shall be considered to have been passed by the City Council as part of its vote to approve the Consent Agenda.

COUNCILOR COMMENTS - 5 MINUTE RULE

No individual Councilor shall speak for more than 5 minutes on any one motion before the Council. For the purpose of this rule, Councilors shall be allowed to speak for 5 minutes on any amendments proposed, as well as to the original motion. No individual Councilor shall speak more than twice on any given motion or amendment. These rules may be waived by a majority-vote of the Councilors present and such motion may be made by the Councilor wishing the additional time. Councilors are encouraged to explain the rationale for their vote during their comments. No comments shall be allowed which have the effect of embarrassing or attacking the character of any fellow Councilor or member of the public, and this rule shall be liberally construed and strictly enforced.

MEETING LENGTH

All Council meetings, workshops or executive sessions shall, except in extraordinary circumstances, adjourn at or before 9:00 P.M.

WAIVER

Any of these rules may be waived for any meeting, or portion thereof, by a majority vote of Councilors present.

TABLING MOTIONS

Although tabling motions under Robert's Rules of Order are not designated as motions which are debatable, this Council shall allow debate on a tabling motion. Any such debate, however, will be limited to the reasons for the tabling motions and shall not be a continuation of the merits of the motion or any amendments that may be offered to the motion.

This Item was passed on the Consent Agenda.

- *6) Order - Council approval on annual Blanket Letter of Approval on all renewals to operate Games of Chance and/or Beano Games (private clubs, etc.) (motion to grant approval)**

ORDER

Be It Ordered by the City Council of the City of Bath,

That, the City Clerk be authorized to send a “Blanket Letter of Approval” on all renewals to operate Games of Chance and/or Beano Games in accordance with the provisions of the State.

For the following:

Bath Area Senior Citizens
Bath Lodge of Elks
Veterans’ of Foreign Wars (VFW)
Veterans’ of Foreign Wars (VFW) Auxiliary #7738
Knights of Columbus

This Order was passed on the Consent Agenda.

***7) Order – Appointing Wardens and Ward Clerks for Municipal Elections**

ORDER

Be It Ordered by the City Council of the City of Bath, that the following Wardens and Ward Clerks be appointed for all Municipal Elections:

Ward	Warden	Ward Clerk	Term Expiration
1	Barry Compton	Margaret Gabelmann	December 2017
2	Christina Hagan	Sandra Kaler	December 2018
3	Mary Arsenault	Susan Kelley	December 2018
4	Darlene Compton	Sally Vose	December 2018
5	Cindy Gabelmann	David Kaler	December 2019
6	Timothy Richter	Samuel Trott	December 2017
7	Aaron Park	Carla Burnham	December 2019

This Order was passed on the Consent Agenda.

***8) Order – Appointing Alternate Wardens and Ward Clerks for Municipal Elections**

ORDER

Be It Ordered by the City Council of the City of Bath, that the following list of alternate Wardens and Ward Clerks be appointed for a one year term for all Municipal Elections:

Bryant	Sherry	40 Weeks Street
Edgett	William	2 Edgett Street
Friend	Jane	35 Webber Avenue
Gabelmann	Caitlin	1034 Middle Street
Gaudreau	Mary	3 Barque Road
Jones	Ethan	47 Carriage House Lane
Mason	Michael	1111 Washington Street
McDonald	Bonnie	330 Washington Street
Pope	Geoffrey	11 Oliver Street
Robitaille	Linda	26 York Street
Silva	Patricia	39 Lincoln Street
Smith	Joan	1419 Washington Street
True	Lynn	1475 Washington Street

Wright
Zelinka

Wendy
Cynthia

12 Central Avenue
714 Middle Street

This Order was passed on the Consent Agenda.

***8) Order – Appointing Alternate Wardens and Ward Clerks for Municipal Elections**

**ORDER
APPOINTING REGISTRAR OF VOTERS**

WHEREAS, Title 21-A Section 101 requires the Municipal Officers shall appoint a qualified Registrar of Voters by January 1 of each odd numbered year.

NOW, THEREFORE, be it ordered by the City Council of the City of Bath that Mary Jane White be and hereby is appointed Registrar of Voters for the City of Bath with a term to expire December 31, 2018.

This Order was passed on the Consent Agenda.

10) Order – Establishing Transportation Committee

Madame Chair Eosco read the following Order:

**ORDER
ESTABLISHING TRANSPORTATION COMMITTEE**

WHEREAS, the City of Bath has the ongoing need to address various transportation matters around the City, which include, but are not limited to, traffic calming, parking, wayfinding, as well as other traffic related matters, within the City of Bath; and

WHEREAS, the current Article 9 of Chapter 17 of the Bath City Ordinances, provides for a Parking Commission; and

WHEREAS, that Parking Commission is limited in scope to parking and parking related matters; and

WHEREAS, it is necessary to broaden the scope to all transportation and traffic issues.

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Bath that there is hereby established a Bath Transportation Committee in accordance with the Proposed Structure, attached hereto and made a part hereof. The Committee shall engage in those activities as delineated in the Structure.

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

City Manager William Giroux explained that this committee would be taking the place of the present Parking Commission.

City Planner Andrew Deci gave an overview of the structure and responsibilities of the Committee.

VOTE on Order:

YEAS: 8

NAYS: 0

Passed unanimously. 8-0

11) Ordinance – Chapter 17. Vehicles and Traffic, Delete Article 9, Parking Commission, Section 17-401 through 17-409 in its entirety. (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 17. VEHICLES AND TRAFFIC

Article 9. Parking Commission

Delete Article 9, Parking Commission, Section 17-401 through 17-409 in its entirety.

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

ROLL CALL VOTE on Ordinance:

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

NAYS: None

Passed unanimously. 8-0

Madame Chair Eosco set second passage for January 4, 2017 at 6:01pm.

12) Order – Approving Request for Proposals Former YMCA Site.

Madame Chair Eosco read the following Order:

**ORDER
APPROVING REQUEST FOR PROPOSALS
FORMER YMCA SITE**

WHEREAS, the City of Bath, when the YMCA relocated to the new facility, acquired title to the property formerly known as the YMCA property; and

WHEREAS, the buildings and structures on the premises have been demolished; and

WHEREAS, the site has undergone environmental remediation; and

WHEREAS, the City has begun to have inquiries regarding the availability of the property for development purposes.

NOW, THEREFORE BE IT ORDERED that the City Council of the City of Bath approves the offering of the property for sale and development in accordance with the Request for Proposals substantially in the form attached hereto.

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

Community Development Director Scott LaFlamme explained the process for this RFP and asked Council to let him know if they had any changes and would like to have some direction on setting a timeline for the process.

Councilor Bauer asked that an edit be done to the proposal to delete one of the mentions of “downtown” in the opening paragraph.

Council Page made a motion of a six-week timeframe form when the RFP goes public to the deadline. Councilor Paulhus seconded the motion. All were in favor of the motion.

VOTE on Order:

YEAS: 8

NAYS: 0

Passed unanimously. 8-0

G. Petitions & Communications 6:52 PM

No one spoke.

H. City Manager’s Report 6:52 PM

There was no City Manager’s Report.

I. Committee Reports 6:52 PM

Madame Chair Eosco announced there would be a Council Workshop on Wednesday, December 14, 2016 at 6:00 PM in the Second Floor Conference Room at City Hall to discuss Councilor assignments to various committees and boards.

J. Unfinished Business 6:53 PM

There was no unfinished business.

K. New Business 6:53 PM

13) Election of a Council Representative to attend the Bath Water District Board of Directors’ meetings until December 2017.

Councilor Mitchell nominated Councilor Wyman for this position. All were in favor of the nomination.

14) Appointment of a member to the Personnel Service Commission with a term ending January 2020.

Councilor Mitchell on behalf of the Council Screening Committee nominated James Gillies for this position. All were in favor of the nomination.

Councilor Omo addressed the issue of the Winter Parking Ban. He reassured the public that the Council was listening to their concerns and frustrations and that the timeframe of the ban was in consideration of the possibilities of snow becoming an issue which gives residents time to make the necessary parking arrangements for winter. It was suggested that the newly formed Transportation Committee work on this issue.

Councilor Wyman asked if something could be done about the parking violations and parking spots on corners that were safety issues in the City. City Manager Giroux stated that anyone seeing these parking issues to call the Parking Officer at the Police Department at the time so it can be taken care of and that this is another issue that should be looked into by the new Transportation Committee.

L. Councilor Announcements 7:00 PM

Councilor Bauer reported that the Patten Free Library would be holding an Open House celebrating their 125 year Anniversary on December 30th from 5pm to 8 pm.

Councilor Paulhus thanked Council for their votes for him to represent them as Vice Chairman and was looking forward to working with them in the upcoming year.

Madame Chair Eosco shared a portion of Mayor John A. Small's address from the 1915 City of Bath Annual Report remarking that the words still ring true as the Council should act in the best interest of all citizens of the City not just their ward and remember to act in a non-partisan way. She asked that each Councilor, during the Council Announcements at the January meeting, share a couple of goals they may have for Council to work on for the upcoming year. Madame Chair reported there would be a "Downtown Open House" on Friday, December 9th with stores open late and free trolley caroling and a performance and carol sing called "Sing It's Christmas" would be held at the Chocolate Church on Monday evening, December 19th.

Councilor Omo made a motion at 7:07 PM to go into Executive Session to discuss Real Estate Matters per 1 MRSA §405(6)(C)(Old YMCA Property and Wing Farm Property). Councilor Mitchell seconded the motion. All were in favor of the motion.

Councilor Page made a motion at 7:43 PM to come out of Executive Session. Councilor Wyman seconded the motion. All were in favor of the motion.

The meeting adjourned at 7:44 PM with a motion by Councilor Wyman, seconded by Councilor Page. 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.