

# **SPECIAL MEETING AGENDA**

**Bath City Council  
Wednesday, January 18, 2017  
Council Chamber  
Bath City Hall**

---

I. Order: Declaring the Ward 7 Council Seat be vacant and that a Special Election to fill the remainder of the term for the Ward 7 Council Seat, until the first Wednesday in December of 2019, be held on February 21, 2017 and posting of Warrant for Special Election.

II. Order: That the hourly schedule for the office of the Registrar of Voters shall be from 8:30am to 4:30pm Monday through Friday prior to the Special Municipal Election to be held Tuesday, February 21, 2017 except for Saturday, February 18, 2017 from 10:00am to 1:00pm at the City Clerk's Office, 55 Front Street.

III. Order: Appointing for the Special Municipal Election to be held on Tuesday, February 21, 2017

<u>Ward</u>	<u>Warden</u>	<u>Ward Clerk</u>
7	Aaron Park	Carla Burnham

ADJOURN



# Memorandum

To: Honorable Chairman and All Members Bath City Council

CC: William D. Giroux, City Manager  
Mary J. White, City Clerk

From: Therriault & Therriault, City Solicitors

Date: January 9, 2017

Re: Vacancy in the Office of City Councilor

---

The purpose of this Memorandum is to address the issues created by the untimely and unexpected death of Leverett "Tink" Mitchell, Councilor from Ward 7, whose term would have expired in December, 2019. The first responsibility of the Council is to declare the seat vacant pursuant to the provisions of Section 209 of the City Charter. That Section, in pertinent part, provides as follows:

...The office of Councilor shall become vacant upon his death, resignation, removal..., all as determined by the Council.

Therefore, the Council has the initial obligation of declaring the seat vacant. Upon declaring the seat vacant, it is the Council's responsibility to call a special election in order to fill the vacancy. Section 209 of the Charter states as follows:

If a seat on the Council becomes vacant, the Council shall call a special election to fill the vacancy for the unexpired term. If the remainder of the unexpired term is less than six (6) months, the Council shall appoint a qualified person to fill the vacancy.

Chapter 9 of the Charter deals with nomination and elections. Section 901 designates the first Tuesday following the first Monday in November each year for regular City elections. There are no provisions in the Charter regarding special elections such as is required to fill a vacancy on the Council. Section 902 provides that:

[e]xcept as otherwise provided by this Chapter, the provisions of the general election laws of the State shall apply to all election officials provided for Charter and all elections held under the Charter.

Title 30-A, Chapter 123, Subchapter 1, Section 3602, dealing with municipal officials, contains very similar language to the Bath City Charter as to when vacancies occur in a municipal office. 30-A M.R.S., Chapter 121, Subchapter 3, deals specifically with City

elections. Section 2551 requires that a Warrant be issued for a City election. Section 2553 requires that persons seeking the office are required to be nominated by nominating petitions and this is consistent with Section 903 of the Charter. Section 2554 addresses ballot, specimen ballots, and instructions, which is also addressed in Section 907 of the Charter. Subsection 4, of Section 2528, deals with nomination papers and the time frames generally applicable to elections where the candidates are nominated by nominating petitions. The general rule is that nomination papers must be made available to perspective candidates 40 days before the deadline for filing the nomination papers. The deadline for filing the nomination petitions is 45 days prior to the election date. The key language, however, in Section 2528 is in Subsection 4(E) where it states as follows:

Notwithstanding this subsection, when the municipal officers determine to fill a vacancy under section 2602, which must be filled by election, the municipal officers may designate a shorter time period for the availability of nomination papers, but not less than 10 days before the filing deadline, and may designate a shorter time period for the final date for filing nomination papers, but not less than the 14<sup>th</sup> day before election day.....

Primarily based on the availability of the election location at the cafeteria at the Bath Middle School, the Clerk is suggesting an election date of Tuesday, February 21, 2017. Nomination papers would need to be submitted to the Clerk's Office no later than the close of business on Monday, February 6, 2017. This meets the minimum time frame of 14 days before the election cited in Section 2528(4)(E). The nomination papers would be available beginning January 19, 2017, and this meets the 10-day availability requirement, again, in Section 2528(4)(E).

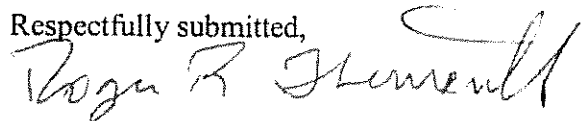
To implement this schedule, Council would have to call a Special Meeting for Wednesday, January 18, 2017 to approve the Order declaring the seat vacant and setting the election, approving an Order regarding the hourly schedule for the office of Registrar of Voters, and a Warrant for calling a Special Municipal Election. Drafts of those documents, along with a draft of the advertisement for nomination papers, are attached.

The time frame being suggested, therefore, is as follows:

- January 18, 2017 – Council Meeting;
- January 19, 2017 – Petitions Available;
- February 6, 2017 – Final Date for Submitting Nomination Papers; and
- February 21, 2017 – Election Day.

As always, if there are any questions, please do not hesitate to contact us.

Respectfully submitted,



Roger R. Therriault, Esq.

RRT/amm  
Attachments

# ORDER

I.

In City Council  
January 18, 2017

WHEREAS, the City Council of the City of Bath, pursuant to Section 209 of the Charter, has the authority and obligation to determine vacancies in the office of Councilor; and

WHEREAS, the untimely and unfortunate passing of City Councilor from Ward 7, Leverett "Tink" Robert Mitchell, renders the office vacant;

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Bath that the Ward 7 Council Seat be and hereby is declared vacant and that a Special Election to fill the remainder of the term for the Ward 7 Council Seat, until the first Wednesday in December of 2019, be held on February 21, 2017, and

BE IT FURTHER ORDERED by the City Council of the City of Bath, that:

A Warrant be prepared and issued to notify and summons the Inhabitants of Ward Seven of the City of Bath, qualified to vote, that a Special Municipal Election will be held at Bath Middle School Cafeteria, 6 Old Brunswick Road, on the 21<sup>st</sup> day of February, in the year of our Lord Two Thousand Seventeen, at 8 o'clock in the forenoon, then and there, to cast their votes at the Special Municipal Election for:

**WARD 7 City Councilor to be Elected:**

One to be Elected for a term to expire the first  
Wednesday in December 2019

and, BE IT FURTHER ORDERED, that said polls are to be kept open until 8 o'clock in the afternoon of said day and then be closed.

.....

CITY OF BATH MAINE  
IN CITY COUNCIL  
*January 18, 2017*  
RECEIVED READ AND ACCEPT  
 TABLED  GRANTED  PASSED  FAILED  
REFERRED TO:  
ATTEST *Mary White*  
CITY CLERK



I

City of Bath  
**WARRANT FOR CALLING A  
SPECIAL MUNICIPAL ELECTION  
Tuesday, February 21, 2017**

Municipality of Bath

Voting District: Ward 7

**GREETINGS: Citizens of Bath, Maine**

Be It Hereby notified to the inhabitants of Ward 7 in the City of Bath, qualified to vote, that the municipal election will be held at the respective Ward Room 7, being the 21<sup>st</sup> day of said month, in the Year of our Lord Two Thousand Seventeen, at 8' O'clock in the forenoon, then and there, to cast their votes at the Special Municipal Election in their Ward for:

**WARD 7 City Councilor to be Elected:**

One to be elected for a term ending the first Wednesday in December 2019

**Voting Place Name and Location:**

Ward 7 Bath Middle School Cafeteria 6 Old Brunswick Road

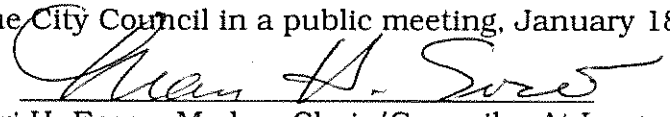
Polls Open at 8:00am

Polls Close at 8:00pm

A person may register to vote on or before election day.

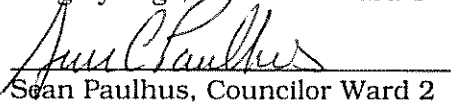
Pursuant to Title 21-A, Section 759(7), absentee ballots will be processed at the Bath Middle School at the following times: 5:00pm, and 8:00pm.

Approved by vote of the City Council in a public meeting, January 18, 2017.

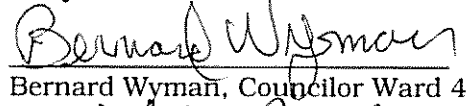


Mari H. Eosco, Madam Chair/Councilor At Large

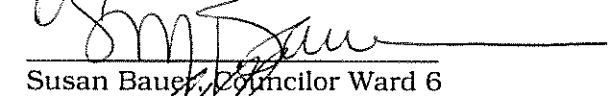
\_\_\_\_\_  
Gregory Page, Councilor Ward 1

  
Sean Paulhus, Councilor Ward 2

\_\_\_\_\_  
Terry Nordmann, Councilor Ward 3

  
Bernard Wyman, Councilor Ward 4

Attest:   
Mary J. White, City Clerk

  
\_\_\_\_\_  
David Corneau, Councilor Ward 5  
\_\_\_\_\_  
Susan Bauer, Councilor Ward 6  
\_\_\_\_\_  
James Omo, Councilor At Large

Date: 1-18-2017





# ORDER

II.

Be It Ordered by the City Council of the City of Bath, that the hourly schedule for the office of the Registrar of Voters shall be from 8:30am to 4:30pm Monday through Friday prior to the Special Municipal Election to be held Tuesday, February 21, 2017 except for Saturday, February 18, 2017 from 10:00am to 1:00pm at the City Clerk's Office, 55 Front Street.

Voters from Ward 7 may register on the Day of the Election from 8:00 AM – 8:00 PM at the polls at the Bath Middle School Cafeteria, 6 Old Brunswick Road.

CITY OF BATH MAINE  
IN CITY COUNCIL  
*January 18, 2017*  
RECEIVED READ AND ACCEPT  
 FAILED  DEBATED  PASSED  FAILED  
REFERRED TO \_\_\_\_\_  
ATTEST *[Signature]*  
CITY CLERK



# ORDER

III.

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

that the following be appointed for the Special Municipal Election to be held on Tuesday, February 21, 2017

<u>Ward</u>	<u>Warden</u>	<u>Ward Clerk</u>
7	Aaron Park	Carla Burnham

CITY OF BATH MAINE  
IN CITY COUNCIL  
*James W. White* 1/9/2017  
RECEIVED HEAD AND ACCEPT  
 TABLED  DEPORTED  PASSED  FAILED  
REFERRED TO:  
ATTORNEY: *James W. White*  
CITY CLERK

