

AGENDA
CITY COUNCIL OF THE CITY OF BATH, MAINE

Regular Meeting
Wednesday, April 3, 2019 6:00pm
City Council Chambers, Bath City Hall

We encourage your comments and views, and appreciate your participation in your local government.

A. Pledge of Allegiance

B. Roll Call

C. Tabulations for Special Election:

1) Acceptance of Election Tabulations for State of Maine Candidate Election for District 52 and City of Bath Municipal Candidate Election for Ward 4 held on April 2, 2019.

2) City Solicitor, Therriault administers oath of office to Councilor Elect.

D. Public Hearing:

3) New Special Amusement License for Concinnity Deli & Lounge, LLC located at 102 Front Street (*approval*)

E. Consent Agenda:

(Items as marked with an asterisk (*) on the agenda shall be considered routine matters not requiring debate. In the case of items marked with an asterisk, the motion as stated in parenthesis following the items on the agenda shall be considered to have been passed by the City Council as part of the Consent Agenda. Any Councilor wishing to have any item so marked with an asterisk 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 dealt with in the normal course of the meeting.)

*4) Minutes of the previous Bath Council Meeting of March 6, 2019.
(*motion to accept as presented*)

F. Time Devoted to Residents to Address The City Council:

G. Ordinances, Orders, and Resolutions:

5) Ordinance: Further Amendment of the Land Use Code per Article 16, By Adding Section 16.27. (*first passage*)

6) Ordinance: Amendment of Ordinance, Chapter 13. Refuse, Article 1. Garbage and Refuse, Section 13-65. Restrictions on Single-Use Carryout Bags (*first passage*)

7) Ordinance: Amendment of Ordinance, Chapter 17. Vehicles and Traffic, Article 6. Stopping, Standing and Parking, Section 17-210, One-Way Streets, Section 17-259, Parking Restrictions (*first passage*)

8) Order: Council Approval of Transfer of Forfeiture Assets (*City of Bath Police Department*).

H. Petitions & Communications:

I. City Manager's Report:

J. Committee Reports:

K. Unfinished Business:

L. New Business:

9) Re-appointment to the Solid Waste Advisory Committee

10) Appointment to the Bath Community Forestry Committee

M. Councilor Announcements:

ADJOURN

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

Wednesday, March 6, 2019 6:00 PM
City Council Chambers, Bath City Hall

Present: Councilor Bailey, Councilor Paulhus, Councilor Nordmann, Councilor Comeau was excused, Councilor Bauer, Councilor Park, Councilor Ambrosino and Madame Chair Eosco.

Also in attendance, the City Manager – Peter Owen, City Solicitor - Roger Therriault and Interim City Clerk – Mary C. Howe.

Madame Chair Eosco led the Pledge of Allegiance and Interim City Clerk Howe called the Roll.

Madame Chair Eosco started off the evening by inviting the Wyman family to come up for the presentation to honor Councilor Wyman for his 24 years of service. Madame Chair Eosco read the proclamation and presented it to Quinda Wyman along with a chair from the City of Bath. Councilor Paulhus, also, presented a memorial from Senator Vitelli that was passed by the House and Senate in honor of “Bernie”.

Madame Chair Eosco mentioned that she would be adding an Executive Session after the meeting for a real estate matter.

C. Public Hearing:

There was no public hearing for this meeting.

D. Consent Agenda: 6:07 PM

1) Minutes of the previous Council Meeting on February 6, 2019 and Special Meeting Minutes of February 12, 2019 (Motion to Accept as Presented). Items F2 and F3

Madame Chair Eosco read the orders of Items F2 and F3.

Madame Chair Eosco asked the Council if there was a motion to except the minutes of February 6th and 12th of 2019 and Items F2 and F3.

Councilor Park asked for a correction on page 7 of the February 6, 2019 minutes. The number 30-31 should have been **30/130**. The correction was noted and changed.

Councilor Bauer made the motion to accept and it was seconded by Councilor Bailey.

All were in favor of accepting the minutes and items F2 and F3.

E. Time Devoted to Residents to Address The City Council: 6:10 PM

No one spoke during this time.

F. Ordinances, Resolutions and Orders: 6:10 PM

2) ORDER – EXERCISING THE RIVER HERRING FISHING RIGHTS AT WINNEGANCA LAKE TO BE ADMINISTERED BY THE WINNEGANCA RIVER HERRING COMMISSION AS PER HARVEST AND PER ORDINANCE ADOPTED AUGUST 28, 1985.

ORDER

Be It Ordered by the City Council of the City of Bath, Maine, that the River Herring Fishing Rights at Winnegance Lake be operated by the Winnegance River Herring Commission as per Ordinance adopted August 28, 1985, and the municipal rights to take river herring will be sold by the Commission. The Harvest Plan (*Condition and Regulations*) will be submitted by the Commission setting forth in detail the exact conditions under which river herring may be taken, all in accordance with good conservation practices. This plan will be submitted to the Department of Marine Resources by the Commission with City of Bath approval.

3) ORDER – EXERCISING THE RIVER HERRING FISHING RIGHTS AT WHISKEAG CREEK TO “ROD AND LINE” ONLY.

ORDER

Be It Ordered by the City Council of the City of Bath, as follows:

that the taking of alewives at Whiskeag Creek will be restricted to “Rod and Line” only.

These orders were passed on the consent agenda.

4) ORDINANCE: APPROVING CONTRACT AGREEMENT FOR FIVE YEARS WITH PINE TREE WASTE, INC.

Madame Chair Eosco read the following ordinance, (*first passage*).

ORDINANCE APPROVING CONTRACT

WHEREAS, the City of Bath and Pine Tree Waste, Inc. currently have an Agreement that provides for the pickup of residential solid waste, recycling items, and other items as may be determined that are not residential solid waste or recycling materials; and

WHEREAS, the City of Bath and Pine Tree Waste, Inc. are both desirous of continuing the contractual relationship relating to waste pickup within the City of Bath; and

WHEREAS, the Agreement is proposed to be renewed for an additional term of Five (5) years; and

WHEREAS, the parties are proposing an Agreement effective on April 1, 2019 for a term of Five (5) years, expiring on March 31, 2024; and

WHEREAS, the Charter of the City of Bath, in Section 1102, requires that Contracts involving the payment of monies out of appropriations of more than a year must be approved by Ordinance, and such Contracts may not be made for a period of more than five years; and

WHEREAS, a copy of the Agreement is attached to this Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Bath that the City Council hereby approves the Agreement with Pine Tree Waste, Inc. relating to residential solid waste, recycling items, and other items not determined to be residential solid waste or recycling materials, for the period commencing on April 1, 2019 through March 31, 2024, and the City Manager is authorized to execute the Agreement on behalf of the City of Bath in substantially the form as attached, and to execute any other documents that may be necessary, appropriate or convenient to the implementation of the Agreement.

Madame Chair Eosco asked for a motion to put the ordinance on the floor for discussion. Councilor Park made the motion and it was seconded by Councilor Bailey.

Peter Owen, City Manager, stated that this is a contract that's been in place for over 20 years. There are some minor modifications to it. The current contract expired in June of last year and Pine Tree Waste has asked that we follow through with the contract. Mr. Owen asked for Lee Leiner, Director of Public Works, to speak about the details of the contract agreement.

Mr. Leiner stated that this contract is a mirror image of the contract that the City has had in place with Pine Tree Waste for a very long time and that there's no changes in the services provided, however, there are changes in the costs. The term of five years is the same as it was in the previous contract. The City did ask for improvements on the costs and Pine Tree Waste did make those changes. There will be changes on how Pine Tree does the collection of trash/recycling. They have a new truck that's split in half that will allow trash and recycling pickup at the same time. So, now, trash and recyclables will be picked up together on the same day. In the past, trash pickup, throughout Bath, has been five days a week. Now, it will be four days a week. Madame Chair Eosco asked when this change would happen and Mr. Leiner gave the date of April 1st. The contract does state that most of the notification responsibility will come from Pine Tree Waste and the City will add notifications as well. Madame Chair Eosco asked if there was a possibility to alter this contract in the future for decisions that were made and Mr. Leiner said, that it was and that Pine Tree has made changes for other municipalities. Councilor Bailey asked if the costs were comparable to other towns. Mr. Leiner stated that it is very difficult to compare town to town. The mileage is different, number of stops are different and the services provided vary widely. It's in line with the cost of living of what we have historically paid. Councilor Bailey asked Mr. Leiner to speak about performance evaluation and whether it's been done. She read about the complaints and what triggers a bigger issue. Mr. Leiner said that every week generates various calls on different aspects of the service and that they do get a log from the company about who called and what the issue was. Pine Tree Waste does have a customer service line where people can call in with concerns. Sometimes customers will call public works or City Hall with their questions or complaints. Pine Tree picks up from about 150,000 stops per year. The log from 2018 had 60 calls on it. Mr. Leiner considered that acceptable and Pine Tree's performance appears to be very good. Madame Chair Eosco asked if there were any other options and Mr. Leiner said that there were not. Pine Tree Waste knows the streets, when we plow and when things happen within the City and it would be a shame to lose that knowledge. Peter Owen, City Manager, stated that when we look at the entire picture, we find that Pine Tree Waste offers a good service. Madame Chair Eosco said that this will be a learning curve for people who have been putting their trash out on the same day for years. Mr. Leiner, also, mentioned that this is the first change in the schedule that he's aware of in a very long time. Madame Chair Eosco suggested that everyone help to get the word out about the change. Councilor Park stated the recycling market is so volatile and asked Mr. Leiner to address how that is taken care of in the contract. Recycling has changed a lot and we are not

proposing any changes to the materials that are collected. There probably should be instructions about cleaning and the collection of what should not be put in the bins. Unfortunately, there are some new costs associated with it and the City has not paid anything for recycling processing for a very long time. With the market the way it is, there are additional costs with the additions to the contact that covers the cost of processing the recyclables differently than it was being done just a few years ago. Councilor Park asked if the City was locked in for the next five years. Mr. Leiner stated that it is an equation that has a market component. If the market goes up, rates go up, if the market goes down, rates go down. The United States needs to seriously consider recyclables and where they are going to go. The main issue is the recycling of plastics. Mr. Leiner suggested that we all think about our purchases when going to the grocery store and how we are going to dispose of what we purchase.

Madame Chair Eosco asked for anyone from the public to comment or ask questions on this subject.

John James, of 30 Garden Street, has owned a small three unit apartment house for about four years. Mr. James mentioned that he was proud to serve with Bernie for nine years on the Council and that he was a great man and decision maker. Mr. James stated for those who might not be aware, the Solid Waste Advisory Committee is actively discussing whether or not to amend the City's ordinance regarding refuse for the smaller three to six unit apartments. The landlords believe that the tenants actively engage in the City's pay as you throw and recycling programs. The best way to engage them and to reduce the waste brought to the limited life landfill is to have the tenants put out their blue bags and recycling bins just like every other homeowner. Several months ago at the first committee meeting and due to prior commitments, the City Manager and Madame Chair Eosco were unable to attend the first half of the first meeting and did not hear directly from the landlords about their concerns and ideas. We believe the input from the landlords is an important part of that dialog and needs to take place. Mr. Leiner has not made his calculations public, regarding costs to the City and the impact to our landfill. We need to look at the numbers again, especially where apartment tenants will continue to have their blue bucket recycling picked up. With Pine Tree Waste's new two bay truck, there will be cost efficiencies there and some new numbers to be crunched. Without further dialog and discussion, regarding these issues, their costs impact and prior to any decision by the Solid Waste Advisory Committee, we were very surprised to learn that tonight the City intends to sign a five year contract with Pine Tree Waste for trash pickup and recycling. Mr. James stated, while he understood that Pine Tree Waste has been without a contract for approximately six months, he, respectfully, requests that tonight's ordinance be tabled until the Solid Waste Advisory Committee finishes its deliberations and their final recommendation is brought to the Council. Madame Chair Eosco wanted to clarify that while she attends the committee from time to time, she is not on the committee.

Daniel Beishline, of 444 Washington Street, stated that he was given notice this afternoon that the Council was addressing the ordinance approving the contract with Pine Tree Waste or at least discussing it tonight. He, respectfully, request that the Council delay the approval until the Solid Waste Advisory Committee can have a thorough vetting of the landlords' issues concerning which residents qualify for City trash pickup and who does not. Unfortunately, at our first meeting, two months ago, our City Manager was unable to hear the testimony from eight or nine landlords and at the second committee meeting; the two landlords present were not allowed to speak. I feel that the costs benefits for allowing 168 multi unit properties to share the expense of trash removal and the incentive to increase the life of the landfill by incentivizing recycling has

not been thoroughly addressed in the Solid Waste Advisory Committee to date. Affordable housing in Maine is becoming a limited commodity. In order for businesses to have a reliable workforce, affordable housing is key. I feel the City should work with landlords to keep costs reasonable by simply allowing more curbside pickup so that landlords would not have to increase rents. Mr. Beishline asked to delay any final approach to a trash pickup program until the Solid Waste Advisory Committee has made its recommendation to the Council.

Dick Hill, of 71 South Street, asked to read a note from his son who has properties at Rose Street, Washington Street and two properties at Middle Street. The reason that this does not make sense is that this is bad for the environment. There will be less recycling and composting, more trucks on the road wearing it down and emitting more carbon. It will be bad for the neighborhood as dumpsters could attract rodents and there would be more noise from the trucks. He has to keep buying locks for his dumpsters on Washington Street. People stop by at all hours of the day to dump trash. If the trash doesn't fit in the dumpster, people will leave the trash next to it and it's usually not picked up by the waste company. Mr. Hill said that he has to take care of it, so he's paying for the people who avoid paying for the blue trash bags. Mr. Hill questioned why are landlords and tenants treated differently even though we pay taxes like everyone else. Our taxes go to municipal services such as trash removal and why is this any different. It's not moral, ethical and probably not even legal. My son requests that it be tabled tonight. Mr. Hill questioned the difference between a tenant living in an apartment building as compared to someone living in a home. Mr. Hill, and his son, bought three apartment houses near the family home. He is trying to protect the family home and clean up the neighborhood. Two of the buildings his son bought have two driveways and there is no way a truck can pick up a dumpster. Tenants should not be treated as commercial.

Stephanie Luce who owns a 3 unit at 37 York Street stated that her sister formerly owned the property and always used the trash. She was never aware of the ordinance. When she received the letter about the more than 3 unit apartments not being able to use the blue trash bags she became concerned. She's trying to keep the rent affordable for her tenants. She's concerned about the expense of a dumpster and where to put it. She stated that she has about a tenth of an acre and the dumpster would end up on the front yard for tenants to look at. Ms. Luce understands that the pay as you throw system is to increase the recycling and from her understanding, a duplex is allowed twelve bags of garbage per week. Ms. Luce lived on High Street in a three unit for fourteen years. She never put out more than four or five bags for all three units. She knows her tenants put out a couple of bags per unit. She does not know why these restrictions are in place and they don't make a lot of sense. She asked that this be tabled until the Solid Waste Advisory Committee can look at the issue again.

Madame Chair Eosco reiterated that this contract can be changed according to any decisions that the committee makes because that's an ordinance change on the Council's end and that this is just continuing on what's happened so far. Madame Chair Eosco wanted to be sure that everyone understood that. Peter Owen, City Manager, stated that this is a business that's waited eight months for a contract and it's unfair to burden a business to make them keep waiting. Right now, we are paying them for last year's contract. Mr. Leiner agreed with Mr. Owen stating that Pine Tree Waste has been very flexible. Madame Chair Eosco said that she agrees that everyone has legitimate concerns; we are just trying to follow a consistent process. The committee can have those conversations and bring recommendations to the Council. Mr. Owen stated that this would be going through two passages and this could extend beyond one month. Madame Chair Eosco said that if the committee were to make a recommendation that would be

an ordinance change and that would take a couple of months as well. Councilor Bauer stated she appreciated the fact that changes can be made. We want to do good business with this company and to string Pine Tree Waste along without a contract is not good business. We have a solid committee made up of citizens and Councilors and we are talking carefully. Councilor Nordmann said that we depend on our property owners to provide housing at an affordable rate. One issue we have not addressed is that we have a landfill that is filling up and I am wondering what percentage is added to the landfill and how significant it is. That's the original reason why not to accept garbage for multiple dwellings. Taxpayers, probably, should have the same rights to the landfill and it seems like it would be a burden to find a place to put a dumpster. Maybe we need to cut some slack for the smaller apartment building owners and accommodate them as long as they stick to the limit of the number of bags. This is not a decision we have to make tonight but certainly we are sympathetic to concerns of the landlords. Councilor Nordmann believes it would be a healthier environment for Bath apartment owners to be allowed to put out their trash, rather than use a dumpster. Councilor Bauer responded that she would like to talk more with Councilor Nordmann and invited him to attend a committee meeting. Madame Chair Eosco would like to see the Solid Waste Advisory Committee continue this conversation and she may stop in for a visit at some point. Madame Chair Eosco announced that anyone who may be interested in the issues discussed tonight is encouraged to attend these meetings.

Madame Chair Eosco asked if there were any more questions about the contract.

Councilor Paulhus mentioned that it may be a good idea to give Pine Tree Waste notice that there's discussion among Councilors, committee members and landlords. He's glad to see the landlords engaged with involvement and concerns. Even if they voted tonight (first passage), there would be a final vote next month. It sounds like we need more conversations about this subject. Councilor Bailey asked Mr. Leiner if there was a change in the contract proposed in the future, would it add a financial change or terms if 168 more properties were added into the contract. Mr. Leiner said, that it would.

Madame Chair Eosco asked if there were any other questions.

ROLL CALL VOTE:

YEAS: Councilors' Bailey, Paulhus, Nordmann, Bauer, Park and Ambrosino

NAYS: None

Ordinance approving contract passed unanimously, (first passage) because the Council can modify in the future.

Madame Chair Eosco stated that you can obtain several types of compost bins if you want to limit the amount of garbage going into the trash. If you don't want to compost garbage in your yard, you can pay for a service. Anyone who's serious about limiting the amount of trash going into the landfill should really think about the other options. On Heritage Days, the City hires a company that diverts 80% of the trash that normally would go into the landfill because it's being composted and recycled. The second passage will be on April 3, 2019 at the Bath City Council Meeting. Councilor Ambrosino thanked the property owners and didn't want them to lose hope because we all want to use the services we are entitled to. It could be that we may reduce the number of bags to less than six if the average household is using less anyway. As taxpayers, we should be baring our own load, not channeling it to another. Councilor Bauer mentioned that the

decision to make the ordinance more than two units came as a result of a deliberation of a committee many years ago. They deliberated long and hard on where to draw that line. The work has been done and we are happily re-doing it but Councilor Bauer wanted to point that out. Mr. Leiner announced that the next meeting of the Solid Waste Advisory Committee is on Wednesday, March 20, 2019 at 4:00 p.m. at Bath City Hall, 2nd Floor Conference Room.

Madame Chair Eosco read the following ordinance.

5) ORDINANCE: FURTHER AMENDMENT OF THE LAND USE CODE PER ARTICLE 16, BY ADDING SECTION 16.27. (FIRST PASSAGE)

ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BATH THAT THE LAND USE CODE OF THE CITY OF BATH ADOPTED JULY 19, 2000, AND SUBSEQUENTLY AMENDED, BE HEREBY FURTHER AMENDED AS FOLLOWS:

Amend Article 16, by adding Section 16.27, as follows:

SECTION 16.27 ELWELL ENTERPRISE DISTRICT

A. District Designation

The property designated for contract rezoning is the property located on Centre Street, being identified as Lot 7, on City of Bath Tax Map 29 dated April 1, 2018.

B. Findings

The property is located in the Route 1 Commercial Contract Zone (C-4) Zoning District. The City Council makes the following additional findings:

1. Contract Rezoning is allowed in the Route 1 Commercial Contract Zone.
2. The project consists of an existing structure on a 0.3 acre parcel originally constructed in 1955. The proposed structure, with a minor addition, will be a 1,144 square foot building.
3. The structure is currently used as an office, which is an allowed use in the Route 1 Commercial Contract Zone.
4. Without the creation of a contract zone, the minimum yard area is 20 feet from the side, front, and rear of the parcel. The parking area is proposed to be constructed in the front yard area, necessitating contract zoning.
5. Without the creation of a contract zone, the minimum setback is 50 feet from the front lot line, and 30 feet from the side and rear lot lines. The parking area and proposed addition to the structure are within the front setback necessitating contract zoning. The contract zone will relax the front setback to 0 feet from the front lot line.

6. Contract rezoning is allowed on the parcel per section 8.10 (D) of the Land Use Code.
7. The project is consistent with the mandatory conditions set forth in Land Use Code Section 8.20 paragraph D1.
8. The applicant is proposing the following voluntary, Discretionary Conditions in exchange for Contract Rezoning. For the Contract Rezoning the applicant will:
 - In addition to applicable zoning requirements in section 10.27 of the Land Use Code the applicant will ensure that all lighting on the property does not exceed 0.1 foot-candles at the lot lines to minimize the impact of lighting on adjacent parcels and roadways.
 - Improve the appearance of the site with enhanced landscaping along the Centre Street side of the parcel
 - The applicant will provide increased buffering and screening in addition to the requirements of Section 10 of the Land Use Code.

C. Zoning Provision Affected

This contract zoning amendment is intended to relax the minimum setback and yard area requirements pursuant to Section 8.10 of the Land Use Code, by allowing the construction of the parking area and other site improvements depicted on the Site Plan approved, without conditions, by the Bath Planning Board on February 5, 2019.

D. Conditions of Approval

This Contract Rezoning Ordinance requires full and complete compliance with all conditions of approval, which are part of the Site Plan approval, granted to J. Ellwell, LLC, by the Bath Planning Board on February 5, 2019.

Madame Chair Eosco asked for a motion to put the ordinance on the floor.

Councilor Bauer made the motion and it was seconded by Councilor Ambrosino.

Ben Averill, Director of Planning (City Planner), thanked Madame Chair Eosco for reading the lengthy ordinance. The contract zoning is being requested to allow for the parking area to be reconfigured on that lot. The property was purchased at the end of 2018 and office use was established on the parcel. After the applicant purchased the property, the parking they created didn't make sense so they wanted to reconfigure the parking lot. Due to the size of the lot, they really didn't have much space to work with. Their request for contract zoning, as you read in the ordinance, is to relax that setback on the front lot line to zero. Regardless of any configuration that the applicant would do with zoning, they would require contract zoning. The ordinance states that the structure had a small change to it. The applicant will be removing the front porch from the structure and will rebuild. Both the front porch and parking area fall within the guidelines of contract zoning. This was reviewed by the planning board at their February meeting. They did

approve the relaxation of the setback, yard area standards and recommended that the contract zoning conditions that were read off in the ordinance as well. The applicant was not present because of an illness but Mr. Averill stated he was very willing to answer any questions. Mr. Averill, also, stated that the applicant plans to attend next month's meeting. Madame Chair Eosco asked if anyone from the public had questions.

Wendy Johanson of 520 Centre Street spoke about her property which is located on the back lot of the building in question. Her son owns 500 Centre Street which is located next to this building. Mrs. Johanson asked that this request be tabled because she needs more time to seek what her rights are. This is the third meeting and she has had very little opportunity to speak about this request. She has spoken to an attorney. This request is for additional parking lots to be placed in front of the building which will give no setback to the driveway. Mrs. Johanson, also, stated that the properties are for sale. She has an issue with the large parking area and no access to the six acres in the back. Right now, 500 and 520 Centre Street are zoned residential but this request would change it to commercial zoning. She has lived at this location for over 50 years. This will affect the runoff from that building because of the topography. The runoff from two additional parking lots will come into the middle of our driveway and there will be no place for the runoff to go. Her son owns the land of the driveway and owns the land adjacent to Congress Avenue. Mrs. Johanson asked that this be tabled until we can put a barrier or fencing up. Mr. Averill stated that notices went out to all abutters for the planning board meeting and there was a public hearing with prior notices in the former Coastal Journal. Mr. Averill said that this project had planning board review in the February meeting. The abutter notices previous to that and the actual notice in the paper for the meeting itself or public hearing was approximately two weeks prior to the public hearing. Mr. Averill stated that there is an opportunity for people to speak about an item. It's similar to a City Council public hearing. Councilor Bailey asked if these were current residential buildings or are they vacant. The parcels in question, 6 and 8 currently have structures on them. They have been used as residential structures, however, the zoning for the property we are talking about tonight, which would be to the south and southwest are zoned in the same C4 zoning district. It's zoned as residential and or zoned for several types of commercial use. Mrs. Johanson is not currently living at 520 Centre Street due medical reasons that require her and her husband to reside in Westbrook. Her son, also, does not reside at the 500 Centre Street location due to illness as well. Councilor Paulhus asked if we did table this tonight would there be any timeline we would disrupt besides the first and second passage. Mr. Averill said, no that the Council can choose to table it and take no action. All it would do is push this out and that the site plan will not be valid until Council approves on a second passage. It's an ordinance, so it would be 21 days after the second passage. Peter Owen, City Manager, mentioned the memo stated that drainage information needs to be reviewed by the public works director. Mr. Owen, asked if this will need to go back to the planning board to address the issues. Mr. Averill stated that our public works director has reviewed information from the applicant. Recommendations are being reviewed to see if they would be a viable addition to the site that was one of two conditions for approval of the site plan. Mr. Averill did not believe that this would go back to the planning board; they are now just seeking approval from Lee Leiner, Public Works Director.

Councilor Paulhus suggested because of the applicant's absence, due to illness, that this be tabled until the next meeting.

Councilor Paulhus moved to table the meeting until next month and it was seconded by Councilor Bailey.

VOTE TO TABLE THE MEETING UNTIL NEXT MONTH:

All those in favor, 6 – 0.

G. Petitions and Communications: 7:22 PM

H. City Managers Report: 7:22 PM

Peter Owen, City Manager wanted to acknowledge Mark Steele who was awarded “Officer of the Year” for the Bath City Police Department. Three other officers who received merit awards were Nick Green, John Dietlin and Eric Bryan.

There was a fire on February 27th and the Bath Police Department was the first on the scene to get people out of the building. The Bath Fire Department arrived and successfully put the fire out. Also, the Bath Public Works Department showed up to sand the roads and sidewalks after all the water was used to extinguish the fire. Mr. Owen thought this was a perfect example of interdepartmental cooperation with all three departments working well together. There was another fire on March 2nd at 827 High Street. This location was very close to the fire department. Mr. Owen mentioned the Town of Berwick’s fire fighter who lost his life fighting a fire. This is an unfortunate reminder that our public safety departments put their lives on the line for us every day.

I. Committee Reports: 7:25 PM

Councilor Bailey reported that Transportation Committee met and it was a very productive meeting. The South End Traffic study report will be out in April. She believes there will be a steering committee meeting before that report. There is still work going on at Richardson and Western. There is a new parking brochure out with great information and Councilor Bailey commended Lindsey Goudreau on getting that done. The Community Development Committee met and talked about opportunity zone and possibilities that may come with that. Councilor Bailey is hoping for a meeting between the Community Development Committee and Economic Development Committee soon.

Councilor Park reported that the Facilities Committee is pulling together a living document of all the City’s facilities’ life spans, so that way the City will have a handle on where their buildings are. We are giving thought about what will happen with Morse High School. The McMann Field project is on hold right now. We know that there are issues down there that need to be dealt with. Cheri Brunault of the Bath Community Forestry Committee has given her resignation. She will be sorely missed and has done a great job as a co-chair. On May 5, 2019, we will be doing a celebration at the Forestry Center at the nursery. We may have a tree and shrub sale on that date to celebrate the building of that new facility and support the nursery. We have a new director of Maine Street Bath. Councilor Park wanted to thank Madame Chair Eosco for all of her work as the former Interim Director. Amanda Stanley is the new director of Main Street Bath and she’s doing a tremendous job. She’s very active learning more about the City and is a great advocate for the City of Bath.

Councilor Nordmann reported that the Winnegance River Herring Committee granted the fishing rights at \$5.00 per bushel and this is for the alewives that come through the fish gate. The problem that we are still dealing with is the rising ocean levels. The higher levels affect the salinity in Winnegance Lake. When the levels increase, the alewives and river herring do not breed because they need fresh water. They have a similar issue at Center Pond in Phippsburg. They are doing a study through Acadia Civil Works to look at the Portland Tide Gage which is the king tide and how this relates to Winnegance Creek. We have to

know what the tide level is through the course of the year and that's what the study will do. There is an idea to put a siphon in to keep the sea water out or make the flood gate higher. If the flood gate is higher, there could be a problem with higher water levels to adjacent property owners and if we want to keep this resource, we will have to look at it closely.

Madame Chair Eosco reported that Economic Development met and is considering electric car charging stations in Bath.

J. Unfinished Business: 7:34 PM

There was no unfinished business at this meeting.

K. New Business: 7:34 PM

Appointment - Councilor Bailey nominated James Michael Princiotta to fill a vacancy to the Zoning Board of Appeals. Madame Chair Eosco asked if there were any other nominations and there were none. The term begins immediately and expires September 2020.

All were in favor of the appointment, 6 – 0.

Madame Chair Eosco reminded the Councilors that they would be going into Executive Session.

L. Councilor Announcements: 7:37 PM

Councilor Park gave praise to the Long Reach Swim Club for a wonderful swim meet.

Councilor Bailey announced there will be another Age Friendly Community cabin fever reliever at Concinnity Deli & Lounge tomorrow night and there will be free drinks. We are, also, putting out a calendar of stuff coming out and there's a survey in process for data analysis. We will have a report out in the spring.

Councilor Paulhus announced that March 15, 2019 is the 199th birthday of the State of Maine. March 16th is Governor William King Day. There is a State and Municipal Special Election next month to fill a vacancy for District 52 House of Representative and the Council seat for Ward 4. Please don't forget to go out and vote.

Councilor Nordmann announced that Sean Paulhus is running for the District 52 House of Representative seat. Madame Chair Eosco pointed out that Kenneth Sener is, also, running for the same seat.

Meeting adjourned at 7:40 p.m.

EXECUTIVE SESSION: REAL ESTATE MATTER

Councilor Bauer motioned to go into Executive Session and it was seconded by Councilor Park.

All were in favor of going into Executive Session, 6 – 0.

Executive Session began at 7:44 p.m.

Councilor Park motioned to end the Executive Session and it was seconded by Councilor Bauer.

All were in favor of ending the Executive Session, 6 – 0.

Executive Session ended at 8:06 p.m.

Attest:

Mary C. Howe

Mary C. Howe, Interim 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 BTV14Video on Demand.com for up to a year.

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 13. REFUSE

ARTICLE 1. GARBAGE AND REFUSE

Section 13-65. Restrictions on Single-Use Carryout Bags.

Amend as follows:

A. Prohibition. No store, as defined above, shall provide a single use carryout bag made of plastic that does not meet all the criteria as a reusable bag, as defined above, to a customer at the check stand, cash register, point of sale or other point of departure from the store, for the purpose of transporting food or merchandise out of the establishment.

B. Single-Use Paper Carryout Bags.

1 A store may make available ~~for sale~~ to a customer a single-use paper carryout bag. ~~The store may at its discretion establish a fee per paper bag. for a mandatory, minimum charge of five cents (\$0.05) per bag. The charge will increase to ten cents (\$0.10) per bag one year after this ordinance takes effect. The charge will increase to fifteen cents (\$0.15) per bag two years after this ordinance takes effect.~~

2 All monies collected by a store for single-use carryout paper bags under this section shall be retained by the store and used by the store for any lawful purpose.

~~3 All stores shall post signage at each point of sale clearly indicating the per bag charge for single-use carryout paper bags. This requirement shall not apply to restaurants.~~

~~4 Notwithstanding this section, no store may make available for sale a single use carryout paper bag unless the amount of the sale of the single use carryout paper bag is separately itemized on the sale receipt.~~

~~5 No store shall rebate or otherwise reimburse a customer any portion of the minimum charge required in subsection (b).~~

C. Customer Options. Nothing in this section shall be construed to prohibit customers from using bags of any type that the customer brings to the store for their own use or from carrying away from the store goods that are not placed in a bag provided by the store.



MEMORANDUM

TO: BATH CITY COUNCIL
FROM: LEE LEINER, PUBLIC WORKS DIRECTOR
SUBJECT: AMENDED ORDINANCE REGARDING SINGLE USE BAGS
DATE: MARCH 26, 2019
CC: PETER OWEN, CITY MANAGER

After much deliberation the Solid Waste Advisory Committee sends to the Bath City Council this recommendation that the ordinance banning the use of single use plastic bags be amended. The original ordinance contains a provision requiring all Bath businesses to charge a 5-cent fee for the use of a single use paper bag as an alternative to a single use plastic bag. This fee is scheduled to increase to 10-cents on April 22, 2019. The bag fee should no longer be mandatory but would be at the discretion of the individual business.

The Committee has learned that implementation of the bag fee has been inconsistent among Bath businesses. Reasons given by the business community for not following the ordinance include:

- A tiny fee cheapens the product and insults the customer
- Paper bags come in a wide variety of sizes
- There are few alternatives for small bags for small items
- Paper bags used for ready-to-eat food items are not easily replaced with reusable bags

The original intent of the bag ordinance was to eliminate the problems caused by single use plastic bags. The fee for paper bags was included as an incentive to help customers shift to reusable bags without banning paper bags outright. The committee believes that with an enhanced education program, the public will increase the use of reusable bags. The committee encourages customers of all businesses to change their shopping behavior to include reusable bags.

Businesses are free to choose whether to offer paper bags with or without a fee, to offer for purchase or give away any type of reusable bags or require customers to bring their own bags or other containers. Customers may bring their own bags, not use bags, or purchase a paper or reusable bag. Businesses choosing to charge a fee for paper bags may set the fee amount and will keep any revenues.

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 6. Stopping, Standing and Parking

Section 17-210. One-Way Streets.

Add the following:

LINDEN STREET Westerly, from Front Street to Washington Street

Amend Summer Street as follows:

SUMMER STREET Easterly, from ~~Washington Street~~the intersection of the east
~~driveway leading from the Patten Free Library~~ to Front Street

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 6. Stopping, Standing and Parking

Section 17-259. Parking Restrictions

Linden Street South Side

Delete the following:

From Front Street to Washington Street, No Parking.

Replace with the following:

From Front Street for a distance of 46 feet westerly, No Parking. From a point 46 feet heading 236 feet west, four hour parking.

Linden Street North Side

Delete the following:

From Front Street for a distance of 150 feet westerly, No Parking. From a point 150 feet westerly of Front Street to a point 40 feet easterly of Washington Street, 1 hour parking. From a point 40 feet easterly of Washington Street to Washington Street, No Parking

Replace with the following:

No Parking.

Washington Street East Side

Delete the following:

From Summer Street northerly for 150 feet north, no parking. From a point 150 feet north of Summer Street to a point 40 feet south of the southerly side of Oak Street, two-hour parking.

Replace with the following:

From Summer Street northerly to a point 40 feet south of the southerly side of Oak Street, two-hour parking.

Summer Street**South Side**

Delete the following:

From Commercial street to Front Street, 4 hour parking. From Front Street to the driveway to the old Bath Area Community Federal Credit Union, No Parking, with the exception of a bus loading zone in front of the Y.M.C.A. From the Old Bath Area Community Federal Credit Union to Washington Street, 30 minute parking.

Replace with the following:

From Front Street west to Washington Street, No Parking.

Summer Street**North Side**

Delete the following:

From Commercial Street to Front Street, 4 Hour Parking. From Front Street to the easterly entrance of the Patten Free Library, 2 Hour Parking. From the easterly entrance of the Patten Free Library to Washington Street, No Parking.

Replace with the following:

From Front Street west to Washington Street, four hour parking.



**CITY OF BATH
POLICE DEPARTMENT**

MICHAEL W. FIELD
CHIEF of POLICE

250 Water Street

Bath, Maine 04530

(207) 443-5563

Memorandum

To: Members of the City Council
From: Michael Field, Chief of Police 
Ref: Parking/One-Way Ordinance Changes – Linden, Summer, Washington Sts.
Date: March 28, 2019

In November 2017, the concept of making Linden Street and Summer Street one-way was brought to the Transportation Committee. The Committee agreed to move forward with planning and holding a public meeting.

On January 31st, 2018, we held a public meeting to discuss the proposal. No residents or property owners attended, but were notified.

We brought this back to the Transportation Committee at this month's meeting and voted to move it forward to the City Council.

Linden Street will be one way, westbound. Parking will change from the north side to the south side and be 4-hour spots. Summer Street will be one way eastbound. Parking will be added to the north side from the Patten Free Library to Washington Street. All parking on Summer Street will be 4-hour spots. Lastly, we will be adding 2-hour spots on Washington Street, west side, between Summer and Linden Streets. This would add approximately 24 more parking spots to the entire area.

If you have any questions, please contact me.

28

AARON M. FREY
ATTORNEY GENERAL



REGIONAL OFFICES
84 HARLOW ST. 2ND FLOOR
BANGOR, MAINE 04401
TEL: (207) 941-3070
FAX: (207) 941-3075

415 CONGRESS ST., STE. 301
PORTLAND, MAINE 04101
TEL: (207) 822-0260
FAX: (207) 822-0259

14 ACCESS HIGHWAY, STE. 1
CARIBOU, MAINE 04736
TEL: (207) 496-3792
FAX: (207) 496-3291

TEL: (207) 626-8800
TTY USERS CALL MAINE RELAY 711

STATE OF MAINE
OFFICE OF THE ATTORNEY GENERAL
6 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0006

February 22, 2019

Chief Michael Field
Bath Police Department
250 Water Street
Bath, ME 04530

RE: State of Maine vs. Roy Jackson
Sagadahoc County Superior Court Doc. No. CR-18-483 - **Criminal Forfeiture**
Required Vote of Municipal Officers/Approval of Transfer of Forfeiture Assets

Dear Chief Field:

Enclosed please find a draft Approval form for submission to the municipal officers.

Please inform the municipal officers that:

- A. 15 M.R.S.A. §5824(3) requires that, before any forfeitable item may be transferred to a State Agency, County or Municipality, the municipal legislative body must publicly vote to accept the item(s) **if subsequently ordered forfeited by the Court;**
- B. Under Rules issued by the Department of the Attorney General, a public vote must be made on each forfeiture "approval" and a "continuing resolution" of approval cannot be accepted;
- C. As with all forfeitures, an approval of a transfer by the municipal legislative body does not guarantee either that the Defendant(s) *In Rem* will in fact be forfeited or, if forfeited, that the Court will order the item(s) transferred to the approving Department, Agency, County or Municipality. The municipal legislative body's approval only signifies that, if the Defendant(s) *In Rem* are in fact ordered forfeited and, if the Attorney General and the Court agree to a transfer of all or part of the Defendant(s) *In Rem* to a Department, Agency, County or Municipality based upon the "substantial contribution" of that Department, Agency, County or Municipality, then that entity is in fact, willing to accept the Defendant(s) *In Rem* or portions thereof. In order to streamline what is otherwise a cumbersome forfeiture process, it is our practice to seek State, county or municipal approval in anticipation of the final order of forfeiture. However, final forfeiture is not guaranteed and both the municipal legislative body and the law

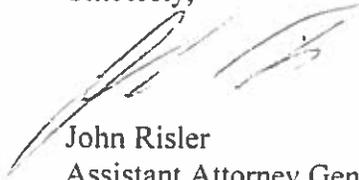
enforcement agency involved are **cautioned** that they **should not encumber** funds or property until a Final Order granting them lawful title to the property is delivered to them;

D. Under the provisions of the Forfeiture Statute, if the municipal legislative body fails to approve a transfer in a timely manner, any forfeited items shall be transferred to the State of Maine General Fund.

Assuming your municipal legislative body does grant its approval, kindly see to it that the accompanying form is signed by the appropriate person and is "embossed" with the seal of the municipality. Then, please return the **original** to me for filing, and retain a copy for your records.

My sincere thanks for your attention to this matter. Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "John Risler", is written over a faint, illegible background.

John Risler
Assistant Attorney General
CRIMINAL DIVISION

Enclosure



**CITY OF BATH
POLICE DEPARTMENT**

MICHAEL W. FIELD
CHIEF of POLICE

68

250 Water Street

Bath, Maine 04530

(207) 443-5563

Memorandum

To: Members of the City Council
From: Michael W. Field, Chief of Police
Date: March 26th, 2019
Ref: Drug Forfeiture

Please see the attached letter from the Maine Attorney General's Office in regards to a drug forfeiture case. The letter explains the process of the forfeiture, which requires your approval.

Roy Jackson was arrested on May 24th, 2018 and charged with Unlawful Trafficking of Schedule W Drugs, Cocaine, a Class B Felony. This was a result of a search warrant conducted at 9 Pleasant St. Apt. A, in Bath. Several grams of Cocaine and an amount of cash was seized. The investigation was a joint effort with Maine Drug Enforcement Agency and Bath Police Department.

Based on our Drug Detective being part of this substantial case, we are hopeful to receive a portion of the forfeited funds, if approved by the Court.

I respectfully ask the City Council to accept the attached Approval of Transfer. If you have any questions, please contact me.

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STATE OF MAINE
Sagadahoc, ss

UNIFIED CRIMINAL COURT
Docket No. CR-18-483

State of Maine	}	
	}	
v.	}	Municipality of Bath
	}	Approval of Transfer
Roy Jackson,	}	15 M.R.S.A. §5824(3) & §5822(4)(A)
Defendant;	}	
	}	
And	}	
	}	
\$3,200.00 U.S. Currency,	}	
Defendant(s) In Rem	}	

NOW COMES the municipality of Bath, Maine, by and through its municipal officers, and does hereby grant approval pursuant to 15 M.R.S.A. § 5824(3) & §5826(6) to the transfer of the above captioned Defendant(s) In Rem (\$1,600.00 U.S. Currency), or any portion thereof, on the grounds that the Bath Police Department did make a substantial contribution to the investigation of this or a related criminal case.

WHEREFORE, the municipality of Bath, Maine does hereby approve of the transfer of the Defendant(s) In Rem, or any portion thereof, pursuant to 15 M.R.S.A. § 5824(3) & §5826(6) by vote of the Bath municipal legislative body on or about

_____.

Dated: _____

Municipal Officer
Bath, Maine
(Impress municipal legislative body seal here)

L9 3:45 PM

RECEIVED
MAR 12 2019

City of Bath

Application for Appointment to City Board/Commission/Committee

CITY CLERK - BATH, ME

Full Name: Louis Anthony Ricciardone

Street Address: 38 Pleasant St Bath ME 04530

Home Tel #: 207 607 1132 e-mail address Loubrewu@yahoo.com
I live in Council Ward # 2

I wish to be considered for appointment to the:

Solid Waste Committee
(Name of Board/Commission/Committee)

Check one or both:

Full Membership Status and/or

Term Begins: _____

Associate Membership Status

Term Expires: _____

Occupation: Landscaper

Employed by: Landcrafters Work Tel #: 207 443 9789

Why do you want to be a member of this Board/Commission/Committee?

To help improve our city with Conservation and Ownership ideas and values.

Please note any prior experience, knowledge, or abilities that you have which would contribute to the activities of the Board/Commission/Committee:

I have been a Steward of our Planet since I was in the 5th grade when My Parents got Me a book called 50 ways to Save the Planet

Have you ever served on a City Board/Commission/Committee? yes.
If so, please list the Board/Commission/Committee and years of service:

I have been on the Solid Waste Committee for over a year

3/12/19
Date

Louis A. Ricciardone
Signature

L 10

RECEIVED

MAR 19 2019

City of Bath

Application for Appointment to City Board/Commission/Committee

CITY CLERK - BATH, ME

Full Name: Nancy Sterra

Street Address: 253 Centre St

Home Tel #: 522-8857 e-mail address nancy.sterra@gmail.com
I live in Council Ward # 4

I wish to be considered for appointment to the:

Forestry Committee
(Name of Board/Commission/Committee)

Check one or both:

Full Membership Status

Term Begins: _____

and/or

Associate Membership Status

Term Expires: _____

Occupation: Biologist

Employed by: The Nature Conservancy Work Tel #: 607-4841

Why do you want to be a member of this Board/Commission/Committee?

I want to give something to the city and this
Committee fits my area of expertise

Please note any prior experience, knowledge, or abilities that you have which would contribute to the activities of the Board/Commission/Committee:

35 yrs. of experience managing nature preserves,
stewardship comm. co-chair of KELT

Have you ever served on a City Board/Commission/Committee? yes

If so, please list the Board/Commission/Committee and years of service:

Arrowsic planning board (1 yr); Arrowsic Cons. Comm. (4 yrs)

March 19, 2019
Date

Nancy Sterra
Signature