

# **AGENDA CITY COUNCIL OF THE CITY OF BATH, MAINE**

## **Regular Meeting**

**Wednesday, March 3, 2021 @ 6:00 p.m.  
Remote Meeting**

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

A. Pledge of Allegiance

B. Roll Call

C. Public Hearing:

- 1) Ordinance: Contract Rezoning at 8 State Road (*second passage*)
- 2) Ordinance: Chapter 15 Streets – Article 4, Street Addressing Ordinance (*second passage*)

D. 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.)

\*3) Minutes of the previous Council Regular Meeting of February 3, 2021 and Items F4 and F5  
(Motion to Accept as Presented)

E. Time Devoted to Residents to Address the City Council

F. Ordinances, Resolutions and Orders

\*4) Order: Exercising the River Herring fishing rights at Winnegance Lake to be administered by the Winnegance River Herring Commission as per Harvest Plan.

\*5) Order: Exercising the River Herring fishing rights at Whiskeag Creek to “Rod and Line”

6) Order: To approve bid and contract with Hagar Enterprises for 2021 street paving project

G. Petitions & Communications

H. City Manager’s Report

I. Committee Reports

J. Unfinished Business

K. New Business

L. Councilor Announcements

EXECUTIVE SESSION:

Discuss Personnel Matter per 1 MRSA §405(6)(A)

ADJOURN

## 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 16.30, as follows:

### **SECTION 16.30 8 STATE ROAD CONTRACT ZONE, NUMBER 2**

#### **District Designation**

The property designated for contract rezoning is the property located on State Road, being identified as Lot 65, on City of Bath Tax Map 31 dated April 1, 2018.

#### **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 proposed approximately 3,800 sq. ft. structure along the 1.1 acre parcel. The proposed structure and associated infrastructure will be utilized as a car wash, with drive through bays which is an allowed use in the C-4 Zoning District
3. Contract rezoning is allowed on the parcel per section 8.10 (D) of the Land Use Code.
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 lot and dumpster enclosure is proposed to be constructed in the yard area, necessitating contract zoning.
5. Without the creation of a contract zone, the minimum rear setback is 30 feet from the rear lot line. The structure is proposed to be constructed within 30 feet from the rear lot line, necessitating contract zoning.
6. The rezoning of the parcel is consistent with the Comprehensive Plan of the City of Bath.
7. The project is consistent with the mandatory conditions set forth in Land Use Code Section 18.20 paragraph D, 1.

8. The applicant is proposing the following voluntary, Discretionary Conditions in exchange for Contract Rezoning:

- Work to meet the City's goal of increased pedestrian access to services by installing a sidewalk along the property to connect with future expected development.
- In addition to applicable zoning requirements the applicant will incorporate additional lighting along the front of the property to enhance the site.
- Install a catch basin and related improvements to assist in stormwater management both on and offsite.
- Improve the appearance of the State Road gateway with enhanced lighting and landscaping.

### **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 structures and other site improvements depicted on the Site Plan approved, with conditions, by the Bath Planning Board on January 5, 2021.

This contract zone is intended to relax the following space and bulk standards of the Route 1 Commercial Contract Zoning District (C-4):

1. Minimum Rear Setback (reduce the requirements from 30 feet to 20 feet, as depicted on the approved site plan).
2. Minimum Front, Rear, and Side Yard Areas (reduce the requirement from 20 feet to 10 feet, as depicted on the approved site plan).

### **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 Trademark Properties, LLC, by the Bath Planning Board on January 5, 2021 including the following conditions:

- The applicant receives City of Bath City Council approval of contract rezoning
- The applicant obtains an easement for the private sewer line from the City of Bath

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#### 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 proposed approximately 3,800 sq. ft. structure along the 1.1 acre parcel. The proposed structure and associated infrastructure will be utilized as a car wash, with drive through bays which is an allowed use in the C-4 Zoning District
3. Contract rezoning is allowed on the parcel per section 8.10 (D) of the Land Use Code.
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- The applicant obtains an easement for the private sewer line from the City of Bath

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

Wednesday, February 3rd, 2021 6:00 PM

Remote Meeting

Present: Councilor Ambrosino, Councilor Bailey, Councilor Paulhus, Councilor Nordmann, Councilor Leonard, Vice Chairperson DeChant, Councilor Bauer arrived at 6:05, Councilor Dingley and Chairperson Park.

Also, in attendance, the City Manager, Peter Owen, City Solicitor, Roger Therriault, City Clerk, Darci Wheeler, Assistant City Manager, Marc Meyers, City Planner, Ben Averill, Fire Chief, Lawrence Renaud, City Assessor Brenda Cummings.

Chairperson Park led the Pledge of Allegiance, City Clerk Darci Wheeler called the Roll.

C: Public Hearing:

- 1) New Liquor License for Riverside Bar and Grille & Midcoast Pizza and More located at 737 Washington Street (*approval*)

THE MUNICIPAL OFFICERS OF THE CITY OF BATH WILL CONDUCT A PUBLIC HEARING FOR APPROVING:

the **LIQUOR LICENSE APPLICATION** FOR:

**Riverside Bar and Grille & Midcoast Pizza and More  
737 Washington Street  
James Whorff, Contact Person  
John Brigance, Contact Person**

SAID PUBLIC HEARING WILL BE HELD ON **WEDNESDAY, FEBRUARY 3, 2021 AT 6:01 P.M.** VIA REMOTE MEETING, AND ALL PERSON(S) MAY APPEAR TO SHOW CAUSE WHY SAID APPLICATIONS SHOULD OR SHOULD NOT BE APPROVED.

City Clerk Wheeler explained that both establishments already have separate liquor licenses and due to Covid they have come together with a combined license application, with the State's guidance.

**ROLL CALL VOTE:**

**YEAS: Councilors Ambrosino, Bailey, Paulhus, Nordmann, Leonard, DeChant, Bauer and Dingley**

**NAYS: None**

**Passed unanimously, 8-0**

**D. Consent Agenda 6:38pm**

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**\*2) Minutes of the previous Regular Meeting of January 6, 2021 (Motion to Accept as Presented)**

Motion made by Councilor Nordmann to accept as presented, seconded by Councilor Bauer

**ROLL CALL VOTE:**

**YEAS: Councilors Dingley, Bauer, DeChant, Leonard, Nordmann, Paulhus, Bailey, and Ambrosino**

**NAYS: None**

**Passed unanimously, 8-0**

**E. Time Devoted to Residents to Address the City Council: 6:09pm NONE**

**F. Ordinances, Resolutions and Orders 6:10pm**

**3) Order: To approve Ambulance purchase**

**ORDER APPROVING PURCHASE**

BE IT HEREBY ORDERED BY THE CITY COUNCIL OF THE CITY OF BATH, THAT THE BID OF SUGARLOAF AMBULANCE RESCUE VEHICLES OF WILTON, MAINE, SUPPLIER FOR A 2021 TYPE III AMBULANCE, FOR THE TOTAL BID PRICE NOT TO EXCEED \$263,008.45, BE AND HEREBY IS APPROVED AND THE CITY MANAGER IS AUTHORIZED TO EXECUTE SUCH DOCUMENTS AS MAY BE NECESSARY, APPROPRIATE, OR CONVENIENT TO COMPLETE THE PURCHASE ON BEHALF OF THE CITY OF BATH. THIS PURCHASE IS FUNDED FROM THE FIRE DEPARTMENT CAPITAL FUND ACCOUNT #050504515.

Motion made by Councilor Bailey to accept as presented, seconded by Councilor Ambrosino.



Fire Chief Renaud stated that this is a replacement of an ambulance that has exceeded its life expectancy.

**ROLL CALL VOTE:**

**YEAS: Councilors Ambrosino, Bailey, Paulhus, Nordmann, Leonard, DeChant, Bauer, and Dingley**

**NAYS: None**

**Passed unanimously, 8-0**

- 4) Order: To approve Local Project Agreement with Maine Department of Transportation

**ORDER APPROVING LOCAL PROJECT AGREEMENT  
MAINE DEPARTMENT OF TRANSPORTATION**

WHEREAS, the City of Bath has entered into a Local Project Agreement with the Maine Department of Transportation with federal funding through the U.S. Highway Administration (FHWA); and

WHEREAS, this Project is for the purpose of funding the construction of the Commercial Street Sidewalk; and

WHEREAS, the City of Bath has acquired appropriate title and easements to the subject property; and

WHEREAS, the original Agreement was executed by and between the City of Bath and the Maine Department of Transportation on September 8, 2011; and

WHEREAS, the Project Agreement has been modified on five separate occasions including the most recent Modification #5; and

WHEREAS, the current iteration of the Project calls for a total expenditure of \$527,000.00, to be funded by the FHWA in the amount of \$421,600.00 (80%) and by a local share of \$105,400.00 (20%) provided by the City of Bath; and

WHEREAS, the City of Bath's share is being funded by the appropriation of Tax Increment Financing funds; and

WHEREAS, this Order approves the modification of funds to increase the total amount of the Project as noted; and

WHEREAS, it is the further intent to authorize the expenditure of the allocated funds for the Project.

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Bath that the initial approval of the Project is hereby ratified, that the amount of the Project is increased to \$527,000.00 as allocated above, and that the City of Bath is hereby authorized to expend the total amount of the Project including the City's local share. The City Manager is hereby authorized to sign such documentation and provide such assurances as may be necessary and appropriate to build and fund the Project.

Motion made by Councilor Bauer to accept as presented, seconded by Councilor Ambrosino.

City Manager Peter Owen explained the background of this order.

Dan Wood Volunteer with Maine First Ship gave his thanks to this project.

Dan Sortwell, Treasurer of Bath Farmers Market, resident of Wiscasset thanked those involved with staying the course.

**ROLL CALL VOTE:**

**YEAS: Councilors Dingley, Bauer, DeChant, Leonard, Nordmann, Paulhus, Bailey, and Ambrosino**

**NAYS: None**

**Passed unanimously, 8-0**

5) Ordinance: Contract Rezoning at 8 State Road (*first passage*)

**ORDINANCE**

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Motion made by Councilor Ambrosino to accept as presented, seconded by Councilor Leonard.

City Planner Ben Averill spoke regarding the project and its background. Kevin Clark, Sitalines Representative was available to answer questions regarding the project.

### **ROLL CALL VOTE:**

**YEAS: Councilors Ambrosino, Bailey, Paulhus, Nordmann, Leonard, DeChant, Bauer, and Dingley**

**NAYS: None**

**Passed unanimously, 8-0**

- 6) Ordinance: Chapter 15 Streets – Article 4, Street Addressing Ordinance (*first passage*)

## **ARTICLE 4. STREET ADDRESSING ORDINANCE (12/02/1998)**

Section 15-404. Naming Standards.

### **A. Exemption from Numbering Criteria for Public Buildings on Single-Purpose Streets**

Property serving a public non-profit purpose(s), and designated as tax-exempt by the Assessor, with a building[s] served by a street developed solely for access to the property and not providing access to any other property, may be numbered without strict application of the numbering criteria in this section, as long as the Assessor determines that the following conditions are met:

1. The assignment of an alternate street number satisfies the overriding purpose of this Street Addressing Ordinance to provide for the rapid and accurate location of properties and structures in order to provide emergency response, as set forth in Section 15-401 of this Ordinance, and that the numbering of the structure/property clearly locates the property without ambiguity or confusion.
2. The Property Owner shall document the exemption to this Ordinance from

requirements in Section 15-405 and a notarized statement to that effect shall be recorded in the Sagadahoc County Registry of Deeds, clearly identifying the parcel by Book and Page, address, and Property Owner at the time of the exemption. A copy of this document shall be permanently retained in the Assessor's Records.

Any exemption issued under this Section shall be based on the conditions that exist at the time the exemption is issued. Any change in the conditions that give rise to the exemption will cause the exemption to be reexamined and redetermined to confirm that the property/structure(s) continue to be eligible for the exemption, and will not create any circumstances that would create confusion or an inability to accurately locate properties and structures for the purpose of providing emergency response.

Motion made by Councilor DeChant to accept as presented, seconded by Councilor Leonard.

City Assessor Brenda Cummings spoke regarding the change to the ordinance regarding the request of the address at the new Morse High School.

Eric Varney, resident of Bath and principal of Morse High School gave the reason for the request of retaining the 826-street number.

Isaac Ensel, resident of Bath and student at Morse High School spoke regarding what the number represents to the students.

#### **ROLL CALL VOTE:**

**YEAS: Councilors Dingley, Bauer, DeChant, Leonard, Nordmann, Paulhus, Bailey, and Ambrosino**

**NAYS: None**

**Passed unanimously, 8-0**

G Petitions & Communications 6:59pm NONE

H. City Manager's Report 6:59pm NONE

I. Committee Reports 7:00pm

Councilor Leonard reported that Patten Free Library in support of Black History Month is hosting a series of projects. Bike and Ped Committee is planning for National Bike Month from May 15<sup>th</sup> thru June 5<sup>th</sup>.

Councilor Bailey reports that the Transportation Committee will be having a workshop for the Residential Parking Permit Program on February 17<sup>th</sup>. The City Bus is currently operating at reduced capacity and routes during the pandemic. The JEDI group met again and moving toward getting an action plan into place.

Councilor Nordmann stated that Bath Housing has begun Covid vaccinations. Winnegance Herring Commission is looking for funds to help rebuild the fishway. He plans to write a letter to bring to Council at a later meeting for support of the council.

Councilor Dingley reports the Solid Waste Advisory Committee met and are in the process of preparing a composting education campaign.

Councilor DeChant stated that Main Street Bath's promotions committee is rolling out the 2<sup>nd</sup> phase of #fortheloveofbath and gave description of how it will be working.

Councilor Bauer is reporting for Economic Development. They have been processing Façade Grants and spoke about Bridge Loans for the local businesses.

Councilor Leonard stated that there has been a small change in the processes of the Appointment Review Committee. Applicants will need to attend a meeting to ensure that the scope of the work aligns with them.

Councilor Park mentioned that the second round of bridge loans applications are now on the City website. Main Street Bath has unanimously voted to cancel Heritage Days. Summer music events will continue with safety protocols in place. Beacon Park earned the Innovation Award.

J. Unfinished Business NONE

K. New Business 7:22pm

- 7) Appointment of Timothy Pratt term to expire 1/2023 to Personnel Service Commission
- Appointment of Jake Derector term to expire 7/2023 to Board of Assessment Review
- Appointment of Courtney McDonald term to expire 2/2022 to the Sidewalk Vending Committee
- Appointment of Eugene L. Wiemers term to expire 04/2021 to the Bath Development Corporation
- Reappointment of Barbara Lee Gaul term to expire 2/2026 to the Bath Housing Authority
- Reappointment of Brian D. Hatch term to expire 1/2024 to the Personnel Service Commission
- Reappointment of Heather Precopio term to expire 2/2024 to the Transportation Committee

Motion made by Councilor Ambrosino to accept as presented, seconded by Councilor DeChant

**ROLL CALL VOTE:**

**YEAS: Councilors Ambrosino, Bailey, Paulhus, Nordmann, Leonard, DeChant, Bauer, and Dingley**

**NAYS: None**

**Passed unanimously, 8-0**

L. Councilor Announcements 7:28pm

Councilor Ambrosino asked for clarity on Façade Grants and Bridge Loans.

Councilor Leonard announced that the Merrymeeting Adult Education catalog is out.

Councilor Bailey the Bath Senior Center Newsletter is out and showcases vaccine awareness.

Councilor Paulhus expressed that the Legislature Committees are in session and starting to process bills with public hearings. There are about 1600 bills to process and please reach out to him to discuss.

Councilor Park is still in contact with Midcoast and their vaccine facility is operational at the Landing Y. The Midcoast Youth Center is having a fundraiser for Valentine's Day to benefit their organization.

**EXECUTIVE SESSION:**

Discuss Personnel Matter per 1 MRSA §405(6)(A)

Chairperson Park asked for a motion to enter Executive Session at 7:35pm.

Councilor Bauer motioned, seconded by Councilor Leonard.

**VOTE ON MOTION:**

**YEAS: Councilors Dingley, Bauer, DeChant, Leonard, Nordmann, Paulhus, Bailey, and Ambrosino**

**NAYS: None**

**Passed unanimously, 8-0**

Councilor Ambrosino motioned to enter Regular Session at 7:40pm, seconded by Councilor Leonard.

Chairperson Park asked for a motion to adjourn the meeting.

Councilor Bauer motioned to adjourn, seconded by Councilor Ambrosino.

**VOTE ON MOTION:**

**YEAS: Councilors Ambrosino, Bailey, Paulhus, Leonard, DeChant, and Bauer**

**NAYS: None**

**Passed unanimously, 6-0**

Meeting adjourned at 8:47pm.

Attest:

Darci L. Wheeler  
City Clerk

1. The first part of the paper is devoted to a general discussion of the problem of the existence of a solution of the system of equations (1) for a given set of initial conditions. It is shown that the system of equations (1) has a unique solution for a given set of initial conditions if the functions  $f_i(x, y, z, t)$  are continuous and satisfy the Lipschitz condition with respect to the variables  $x, y, z$ . The second part of the paper is devoted to the construction of the solution of the system of equations (1) for a given set of initial conditions. It is shown that the solution of the system of equations (1) can be obtained by the method of successive approximations. The third part of the paper is devoted to the study of the stability of the solution of the system of equations (1) for a given set of initial conditions. It is shown that the solution of the system of equations (1) is stable for a given set of initial conditions if the functions  $f_i(x, y, z, t)$  are continuous and satisfy the Lipschitz condition with respect to the variables  $x, y, z$ .



**MEMORANDUM**

TO: Honorable City Councilors  
FROM: Darci L. Wheeler, City Clerk  
SUBJECT: River Herring Fishing Rights at Winnegance Lake & Whiskeag Creek  
DATE: 3/3/2021

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As you are aware, the City Council of Bath, and the Selectmen of West Bath and Phippsburg passed an Ordinance effective August 28, 1985 creating the "Winnegance Alewife Commission" now know as "Winnegance River Herring Commission". Therefore, the Commission will take care of the necessary action in regards to the taking of river herring from Winnegance Lake, however, it is still necessary that each town and city, at its own meeting, take action to lease the fishing rights and send copies of its action to the Commissioner of Marine Resources.

The City of Bath still has Whiskeag Creek to designate, and the past custom of the Council has been to retain the fishing rights and restrict the fishing to "rod and line" only.



### **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.*



**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.



F6

**CITY OF BATH, MAINE**

450 Oak Grove Avenue  
Bath, ME 04530



**DEPARTMENT OF PUBLIC WORKS**

Lee Leiner, P.E., Director  
[lleiner@cityofbath.com](mailto:lleiner@cityofbath.com)  
207.443.8357  
fax 207.443.8352

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**MEMORANDUM**

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**TO:** BATH CITY COUNCIL  
**FROM:** LEE LEINER, PUBLIC WORKS DIRECTOR  
**SUBJECT:** COUNCIL APPROVAL OF CONSTRUCTION CONTRACT WITH HAGAR ENTERPRISES, INC. FOR STREET PAVING  
**DATE:** FEBRUARY 25, 2021  
**CC:** PETER OWEN, BATH CITY MANAGER

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Bids were solicited from several contractors to perform street paving. The lowest responsible bid was received from Hagar Enterprises, Inc of Damariscotta, Maine. The contract amount is \$250,000.00.

The work is funded from a \$2.8 million street improvement bond approved by the voters of Bath in November 2017.

Hagar Enterprises is experienced in performing this work. Most recently they have performed street paving for the City in 2020. They have an excellent reputation and staff has a high level of confidence in their ability to perform the work in the allotted time and for the contract amount.

Staff recommends the council approve this order.

THE UNIVERSITY OF CHICAGO PRESS

CHICAGO, ILLINOIS

1963



## **ORDER**

### **APPROVING BID AND CONTRACT**

BE IT HEREBY ORDERED BY THE CITY COUNCIL OF THE CITY OF BATH, THAT A CONTRACT BY AND BETWEEN THE CITY OF BATH AND HAGAR ENTERPRISES, INC. FOR THE 2021 STREET IMPROVEMENT PROGRAM IN THE AMOUNT OF \$250,000.00 IS ACCEPTED, IT BEING THE LOWEST QUALIFIED BID SUBMITTED, AND A CONTRACT BY AND BETWEEN THE CITY OF BATH AND HAGAR ENTERPRISES, INC. IS HEREBY AUTHORIZED AND THE MANAGER IS AUTHORIZED TO EXECUTE THE CONTRACT AND ANY OTHER DOCUMENTS NECESSARY, APPROPRIATE, OR CONVENIENT TO ITS IMPLEMENTATION ON BEHALF OF THE CITY OF BATH. THIS PROJECT IS FUNDED FROM CITY CAPITAL (FUND 5) ACCOUNT 05-0520-531.

