

# Infrastructure Committee

May 22, 2012

## ATTENDANCE

### Councilors:

Benjamin Sprague  
Joseph Baldacci

Susan Hawes  
Nelson Durgin

Charles Longo  
Geoffrey Gratwick

### Staff:

Cathy Conlow  
Paul Nicklas

Brad Moore  
Wendy Warren

Art Morgan

### Guests:

Elizabeth Richardson

Laverne Stockwell, SCRP

James Garrety, GM Bangor  
Mall, SCRP

Anita Deschane, SCRP

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Meeting convened at 5:00 p.m.

1. Sewer Abatement Request: 454 Garland Street, Account #5123A02

Brad explained there was excessive usage of water in an out building as outlined in his memo from May 9, 2012. This was a third request in four years (he clarified for the Committee in his memo he had stated three times in three years which was incorrect.) He explained there was not "due care" and Staff recommended not granting the abatement. He offered Mrs. Richardson the option to appeal, thus it came before this Committee.

Mrs. Richardson joined the table and explained the first year she didn't remember what the request was for. The second request was due to a thermostat that had failed. She had placed an insurance claim and took preventative measures and hired Trembley Builders to correct those issues. The third request was due to a water line elbow that had burst while away, even though the building was 55 degrees. Though she had forgotten to shut off the water to the out building, she felt she used due care. Councilor Baldacci asked her if she expected any recurring issues, to which she explained she would make sure in the future to turn off the water to the building. Councilor Baldacci requested that Brad outline the explanation for "due care". Brad briefly explained that it was a reasonable persons standard of care. Councilor Gratwick explained that the Committee receives frequent requests for abatements and believed her but the legal body had to uphold the laws. Councilor Longo reminded the Committee he was not a voting member. Councilor Hawes concurred with Councilor Gratwick and the need to stick with the Ordinance and treat everyone fairly, abide by the Ordinance. Councilor Baldacci felt she had taken reasonable steps. Councilor Sprague moved Staff recommendation to not grant the abatement.

Votes: 3-1 to deny.

Yes: Councilor Gratwick, Councilor Hawes, Councilor Sprague

No: Councilor Baldacci

2. Referral: Ordinance 12-133, Amending Chapter 268, Stormwater, of the Code of the City of Bangor, by Adding Article II, Stormwater Utility

Art stated that the first reading was April 9, 2012 and would hope to have in place by January 2013 then begin billing in April 2013. Cathy Conlow stated they could spread this over two meetings if necessary. Councilor Baldacci asked if this would be up for budget review, to which Art explained it was and was included in the packet.

He briefly noted the Clean Water Act and this Ordinance being due to the newest regulatory and financial implications the City of Bangor would be facing. He outlined the following options for consideration:

- General Fund Property Tax-\$83.00 increase to the average household.
- Stormwater Utility-to be distributed over a broader tax base, to include residential, commercial, governments, and non-profit organizations.

The utility fee would be fair and more economical for Bangor to meet the stormwater requirements.

Councilor Sprague commented that he was not at the point in the debate of general fund versus utility, but the key questions was do something versus do nothing. The meeting held on May 8, 2012 with the State and EPA was a good meeting, but he wasn't convinced the financial liability was on the City of Bangor. He asked if they could have progress without a utility fee.

Art stated this was at bare-bone minimum and also explained that if private entities had to deal with the regulators individually, it would cost them more. It would be of benefit for the City to proceed with a phase in work plan and phased in funding would allow them to focus on and deal with only two of the five impaired streams. The City needed to demonstrate controlled maintenance funding so the regulatory community couldn't step in and set the schedule of standards and amount of time the work would need to be completed. Councilor Durgin asked if the phased plan was based on the established fee and would it start in 2013, would it increase. Art explained the next renewal of permit expected to have relatively constant fees. After that they may need to adjust for potential additional regulations imposed. He stated they were still looking at sewer user fees but that was not completed yet.

Councilor Gratwick stated that it had to be done and provided Portland (Long Creek) as an example with the businesses that had to deal with the regulators individually. The City of Bangor was trying to combined communities efforts and suggested the Committee turn to the expertise of the Staff.

Councilor Longo commented Councilor Gratwick's statement about outside entities could pose a problem if nothing was done. He felt the meeting with the organizations (State & EPA) at the last meeting didn't go so well, they were a brick wall. Questions that were asked, they didn't help the City find a solution. They were cold and indifferent to the millions of dollars being spent. He was not happy about it but they would have to do it to avoid larger costs later.

Councilor Sprague asked if this solution was the only option and noted the City could be building for a battle that might not happen. He offered speculation about November elections and State and Federal could change the requirements or regulations.

Councilor Baldacci and Councilor Durgin expressed concern for the sewer rate increase of 9.5% and the stormwater utility being imposed at the same time. It was clarified for them that the City would like to start collecting fees in April 2013 before the MS4 Permit renewal.

Councilor Durgin stated it was good to phase in implementation, which also meant phasing in the cost to build a fund with a new utility and perhaps would mitigate the need for a sewer increase. He suggested holding off on the sewer fee increase.

Cathy stated that rule making didn't change with new administration. They could do nothing, but the Feds may take action against the City and it would cost significantly more, and it would be advantageous to work with the agency. Take a proactive approach. They hoped to stagger the proposed sewer, stormwater, and water fees so it didn't hit the taxpayers all at the same time.

Paul concurred this was a bare-minimum plan and explained the procedures for the necessary action of the Ordinance and proposed Order.

Councilor Sprague suggested sending out news letters to inform citizens of the regulations the City was facing and the approach to it.

Councilor Hawes stated that some business community outreach was done.

Cathy concurred there would be more outreach and public education.

Councilor Longo suggested a referendum in November on the ballot whether the people want to proceed with this or not.

Councilor Gratwick asked if a citizen didn't like the charges and had wished to appeal would they go to this Committee (268.18B3 of the Ordinance or to a court of competent jurisdiction 268.21b2). Paul explained they would first appeal to this Committee and if not satisfied with that decision, then proceeds to a court of competent jurisdiction. He also said a referendum was possible, but didn't remove the City's obligation. He also noted there were outreach materials inserted into the sewer bills and they were looking into a stormwater video.

Councilor Baldacci and Councilor Sprague agreed it would be appropriate to vote on the Order and the Ordinance at the same time, giving more time for review if brought back to the next meeting.

Councilor Gratwick requested Wendy Warren approach the table to explain the outreach she had been involved with over the past three to four years. Wendy stated they had a draft public outreach campaign; however, the public wasn't interested in engaging until there was a need. Brad had received twelve calls from mostly senior citizens who were on a fixed budget and concerned. She felt the message was too complex to go to a referendum for a yes or no vote, which Councilor Durgin concurred.

Councilor Baldacci felt it would take some time to educate the citizens.

Wendy mentioned the start of the Citizen's Review Panel made up of individuals from business and residential who meet once every month and have for the past three years.

Councilor Sprague suggested waiting six months to see how things develop.

Laverne Stockwell, new member of the CRP concurred more public education was necessary and they were waiting on the green light to educate.

James Garrity, GM for the Bangor Mall and member of CRP agreed this was a complex issue that also required research. He encouraged the Council to take extra time on this topic. He urged that a proactive approach towards the legal obligations needed to be taken.

Anita Deschane, at large member of the SCP, addressed Councilor Sprague's thoughts. At first she thought it was big brother pushing and the bar keeps getting raised. As a resident and especially a business owner she stated she was concerned because she had a lot of impervious surface, but it was fair to charge a fee across all entities than to have a property tax. She encouraged Councilors to consider the thought.

Councilor Hawes moved to table for another discussion for the next meeting in two weeks to allow for adequate time for Council to speak with Staff, Councilor Durgin seconded.

Councilor Sprague would like it placed on next Wednesday's meeting.

Councilor Hawes amended her motion to move to the next full Council meeting. Councilor Durgin seconded. Cathy requested clarification of the motion. The Order would go to full Council, and the Ordinance would come back to the next Infrastructure Meeting.

Vote: Unanimous

Motion made and seconded to adjourn at approximately 6:06 p.m.