

**REGULAR MEETING MINUTES
CITY COUNCIL OF THE CITY OF BATH, MAINE
Wednesday, June 6, 2012 6:00 PM
City Council Chambers, Bath City Hall**

Present: Councilors Brackett, Merrill, Paulhus, Rogers, Wyman, Eosco, Pagurko, Winglass and Chairman Sinclair.

Also in attendance were the City Manager – William Giroux, City Solicitor - Roger Therriault and City Clerk - Mary White.

Chairman Sinclair led the Pledge of Allegiance and City Clerk White called the Roll.

Chairman Sinclair reported that the City had received the Business Friendly Community Award from Governor LePage. He explained this award recognizes that the City of Bath is a wonderful place to work and a great place to come and invest and create jobs. Chairman Sinclair stated this was an award for the entire City and thanked Andrew Deci and Justin Poirier from the City Staff that worked on behalf of the City to obtain the award.

C. Public Hearings 6:02 PM

1) Ordinance: Supplemental Appropriation: Unanticipated Expenditures in the amount of \$526,000.00 (second passage)

Chairman Sinclair read the following Ordinance:

**ORDINANCE
SUPPLEMENTAL APPROPRIATION**

WHEREAS, the City Council desires to set aside additional funds for unanticipated expenditures; and

WHEREAS, surplus funds in the General Fund Undesignated Fund Balance Account, constituting revenue in excess of those estimated in the Budget for the current fiscal year, are available for this purpose; and

WHEREAS, the sum proposed to be appropriated by this Supplemental Appropriation, totaling Five Hundred Twenty Six Thousand Dollars (\$526,000.00), will not exceed the expenditure limits for the current fiscal year pursuant to Section 617 of the Charter of the City of Bath;

NOW THEREFORE, be it ordained by the City Council of the City of Bath that the total sum of Five Hundred Twenty Six Thousand Dollars (\$526,000.00) be and hereby is supplementally appropriated from the General Fund Undesignated Fund Balance (Account GF2500) to the Council Contingency Account (Account 012-402).

Councilor Pagurko made a motion to put this Ordinance on the floor for discussion. Councilor Winglass seconded the motion.

ROLL CALL VOTE:

YEAS: Brackett, Merrill, Paulhus, Wyman, Eosco, Pagurko, Winglass

NAYS: Rogers

Ordinance passed. 7-1

Chairman Sinclair stated that the Ordinance will become law in 21 days.

2) Liquor License for Best Thai II Restaurant at 23 Elm Street.

Chairman Sinclair opened the public hearing.

Jayne Morse of Sagadahock Real Estate spoke on behalf of the owner and gave some history of his restaurant experience.

There was no other public or Council comment.

VOTE:

YEAS: Brackett, Merrill, Paulhus, Rogers, Wyman, Eosco, Pagurko, Winglass

NAYS: None

License passed unanimously. 8-0

D. Consent Agenda 6:06 PM

***3) Minutes of the Regular Council Meeting on May 2, 2012, Public Hearing on City Budget and Special Council Meetings on May 23, 2012. (Motion to Accept as Presented)**

Councilor Pagurko made a motion to accept the Consent Agenda as presented. Councilor Merrill seconded the motion. All were in favor of the motion.

E. Time Devoted to Residents to Address the City Council 6:06 PM

Stanley Bruce Fosset of 9 Pine Hill Drive spoke to Council regarding the recent flooding of June 2, 3 and 4, 2012 and its effect on the residents of the condominiums. He stated that this flooding happens at least once a year and puts the 65 resident's property at risk and asked Council to take action.

Eric Anderson of 4 Pine Hill Drive spoke to Council regarding the effects of the flooding from the storm and that it was no way to live as you have to worry about every time it rains whether you have to sand bag.

Aaron Black of 22 Pine Hill Drive asked about the status of the new piping project that was supposed to happen two years ago. He stated that the residents really need help with these flooding issues.

City Manager Giroux stated the City's part of this project was the piping on Richardson Street and not inside of the Pine Hill property and this project is not included in this year's budget.

Mr. Fosset asked for clarification of what the piping project would consist of.

City Manager Giroux stated he would be happy to sit down with Mr. Fossett and the engineers and talk regarding this matter.

Chairman Sinclair stated that he and Councilor Paulhus, Council representative for the area, would be happy to attend the meeting also.

Deborah Holzel of 25 Pine Hill Drive reported to Council there was a video on YouTube of the flooding in the area.

F. Ordinances, Resolutions and Orders 6:16 PM

4) Resolution: Authorizing up to \$2,200,000 of Revenue Obligation Securities for Hyde School Project

Councilor Rogers made a motion to waive the reading of the Resolution. Councilor Pagurko seconded the motion.

VOTE on Waiving Motion:

YEAS: Brackett, Merrill, Rogers, Wyman, Eosco, Pagurko, Winglass

NAYS: Paulhus

Motion passed. 7-1

A complete copy of this Resolution is on file with the agenda materials on file in the City Clerk's Office.

Councilor Rogers made a motion to put the item on the floor for discussion. Councilor Pagurko seconded the motion.

Hyde School Representative Jim Saffian explained the process for bonding the project.

VOTE:

YEAS: Brackett, Merrill, Paulhus, Rogers, Wyman, Eosco, Pagurko, Winglass

NAYS:

Resolution passed unanimously. 8-0

5) Acceptance of Drug Forfeiture

Councilor Pagurko made a motion to put the item on the floor for discussion. Councilor Merrill seconded the motion.

Chief Field explained what the forfeiture was comprised of and how the disposal of the guns would be taken care of.

Chairman Sinclair recused himself from this item as he has a connection to this matter.

VOTE:

YEAS: Brackett, Merrill, Paulhus, Rogers, Wyman, Eosco, Pagurko, Winglass

NAYS: None

Forfeiture Accepted unanimously. 8-0

6) Order: Authorizing the Sale of City-Owned Land at Butler Head

Chairman read Order:

**ORDER AUTHORIZING THE SALE
OF CITY-OWNED LAND AT BUTLER HEAD**

WHEREAS, Lucy E. Stinson owns property on Merrymeeting Bay, designated at Lots 17 and 18 on City of Bath Tax Map 4, and acquired by virtue of Trustees Deed, dated November 1, 1994, and recorded in the Sagadahoc County Registry of Deeds in Book 1329, Page 1; and

WHEREAS, the City of Bath owns adjacent property between the Stinson lots and the driveway to the Grill residence; and

WHEREAS, by correspondence from the Stinsons, the City has been requested to consider conveying the property to the Stinsons/Lucy E. Stinson; and

WHEREAS, the property to be conveyed, is more particularly described on the attached Map.

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Bath that, in consideration of the sum of Thirty Thousand Dollars (\$30,000.00), the property depicted and outlined on the attached Map be sold to Lucy E. Stinson, or her designee, and that the City Manager be authorized to execute a Municipal Quit-Claim Deed and such other documents as may be necessary, required or convenient to conclude the transaction.

Councilor Rogers made a motion to put the item on the floor for discussion. Councilor Pagurko seconded the motion.

Skip Stinson spoke on behalf of his wife Lucy E. Stinson and himself. Mr. Stinson explained the family history connected to the property. He stated that an Ordinance was passed putting this lot into resource protection, which changed its usability. He said that in the past year has been working with the Codes Office to look into developing the lot. Mr. Stinson explained that the development he has in mind would not impair the integrity, use or public interest in the Butler Cove Preserve. He then proceeded to explain the particulars of the location of the property and the effects the development would have on the Preserve area. Mr. Stinson remarked that he had been paying taxes on this lot for the past 10 plus years as though it was a buildable lot.

Chairman of the Bath Community Forestry Committee Thomas Barrington stated that the Committee has the responsibility of maintaining the Preserve. He stated the Committee does have concerns that the sale will compromise the integrity of the Preserve as it will establish a precedent that could lead to significant deterioration of the value of the Preserve property for the intended purposes for study of nature and recreation of all of the residents of Bath. Mr. Barrington stated this sale would only be for the benefit of one at the expense of all the other residents. He stated that the Forestry Committee would recommend not authorizing any sale of any part of the Butler Head Preserve. Mr. Barrington stated that there are about 17 parcels that could be affected by this sale.

Arlane Salamy of 25-27 Sandpiper Lane stated that she would be in support of property owners on a very limited basis to be to purchase some of the abutting land if it does not go against the conservation of the Preserve in a big way. Ms. Salamy said that she and the land owners at Butler Head want to protect and preserve the land and care about it deeply. Ms. Salamy stated she didn't see a threat from small quiet property owners such as Skip Stinson. She said that small selective purchases may make sense to sort of round things out and make things fair and square and result in more revenue for the City.

Tony Grill of Butler Head Road stated he felt the sale would be a win-win situation for the City of Bath to take the land that is abutting peoples' properties that's on the outside of the road and sell the land to the people that need to expand. He said this would give a tax revenue to the City of Bath. Mr. Grill stated he would like to see more year-round residents live there as this would help with the maintenance of the road.

Ms. Salamy stated that she is also a year round resident at Butler Head and that her family had been there since the 70's and she had been there over 10 years.

Geraldine Coombs of 2 Orchard Lane and a member of the Bath Forestry Committee stated the Committee believes that Butler Head land must be preserved as it has a lot of value for the City and should not be developed.

Mr. Stinson stated this particular property is unique in that it is surrounded by 3 private parcels and a public way. He reported that the subject parcel has a drainage ditch through the middle of it that drains runoff from Mr. Grill's property and he already has deeded right of way across the property so these details diminish the value of this property to the Preserve.

Cemeteries and Parks Superintendent Steve Balboni stated that he supported the Bath Forestry Committee's position and is concerned about the precedent that this action would set.

Councilor Merrill cited from the Management Policy for Butler Head "no development can occur on the land without Recreation Director's approval" and stated that she has concerns that if Council does approve this sale, would the action stand since the Recreation Director has stated he supported the Forestry Committee's stance on no development.

Councilor Rogers asked why staff and the Forestry Committee hadn't been involved in the discussions until now.

City Manager Giroux stated that prior discussions of this issue should have included the Recreation Director and the Forestry Committee representatives but this was in hind-sight.

Councilor Brackett made a motion to table the item to the next meeting. There was no second so the motion failed.

VOTE:

YEAS: Brackett, Rogers, Wyman, Eosco, Pagurko, Winglass

NAYS: Merrill, Paulhus

Order passed. 6-2

Chairman Sinclair asked that his vote against the Order be noted.

7) Ordinance: Moratorium on Smart Meters (first passage)

Councilor Merrill made a motion to waive the reading of this Ordinance. Councilor Pagurko seconded the motion.

VOTE on waiving motion:

YEAS: Brackett, Merrill, Wyman, Eosco, Pagurko, Wyman

NAYS: Paulhus, Rogers

Waiving motion passed. 6-2

MORATORIUM ORDINANCE PROHIBITING THE INSTALLATION OF SO-CALLED “SMART METERS”

The City Council of the City of Bath hereby Ordains as follows:

1. Authority

This ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution, the provisions of 30-A M.R.S.A. Section 301 (Home Rule), and 30-A M.R.S.A. Section 3001 (Ordinance Power).

2. Purpose

The purpose of this Ordinance is to prohibit the installation of so-called “smart meters” within the City of Bath, without the prior approval of the owner/resident, until such time as the factors listed in Paragraph 3, Statement of Necessity, below, are properly addressed by the Maine Public Utilities Commission.

3. Statement of Necessity

A number of concerns regarding the installation and operation of “smart meters” have been raised, several of which have been addressed in a Resolution previously adopted by the City Council of the City of Bath. They include the following:

- Health concerns regarding medical devices and the effect of radiofrequency and microwave radiation associated with “smart meters” upon such medical devices; and
- Cyber safety concerns with respect to electronic devices within the home resulting in potential invasion of personal privacy and the compromise of confidential and secure information; and
- A potential fire hazard.

The City Council of the City of Bath believes that these concerns have not been properly addressed, although they are items within the scope of enabling Legislation under Title 35-A M.R.S.A. Section 3143. In addition, the Commission has not adequately and finally addressed the issues of opting out and costs associated with that decision. The City Council of the City of Bath is not in favor of proceeding with installation of “smart meters” within the City of Bath until the Public Utilities Commission has fully and finally addressed the issues and concerns outlined in this Moratorium Ordinance and those expressed in Complaints currently pending before the Public Utilities Commission regarding the installation of “smart meters” and implementation of the “smart grid.” Based on these circumstances, the City Council finds that it is premature to install “smart meters” until these issues and concerns have been properly addressed, without the prior approval of the owner/resident.

4. Applicability

This Ordinance applies in order to prohibit the installation of any “smart meter” within the City of Bath, prior to receiving express authority from the property owner/resident.

5. Conflict With Other Ordinances

The provisions of this Ordinance supersede any conflicting provisions of the Ordinances of the City of Bath.

6. Moratorium on Installation of “Smart Meters”

During the time that this Ordinance is in effect, no “smart meters” shall be installed on any property within the City of Bath without the prior approval of the owner/resident of the property.

7. Effective Date and Duration

This Moratorium Ordinance will become effective on the 21st day after the final approval by City Council in accordance with the provisions of Section 221 of the Charter of the City of Bath and shall remain in effect for a period of one hundred and eighty (180) days, after which it shall be repealed, unless extended in accordance with Section 8 below.

8. Extension

Where the circumstances giving rise to the need for this Moratorium continue to exist and have not been fully resolved, this Moratorium may be extended by vote of the City Council for additional one hundred and eighty (180) day periods after appropriate notice and hearing and in accordance with the provisions of 30-A M.R.S.A. Section 4356(3).

9. Separability

If any section, subsection, or provision of this Ordinance is declared to be invalid for any reason by any competent court, such a decision shall not affect the validity of any other section, subsection, or provision of this Ordinance.

10. Violation

Any violation of the terms of this Moratorium Ordinance shall be subject to the enforcement penalties under 30-A M.R.S.A. Section 4452. The violator shall be subject to the civil penalties contained therein and the City shall have the specific authority to obtain injunctive relief to prevent any installation of “smart meters” within the City of Bath that are not approved prior to installation by the owner/resident. This provision shall be in addition to, and not in lieu of, any other violation provisions or penalty provisions of applicable City Ordinances or State Law.

Councilor Winglass made a motion to put the item on the floor for discussion. Councilor Pagurko seconded the motion.

ROLL CALL VOTE:

YEAS: Brackett, Merrill, Rogers, Pagurko, Sinclair

NAYS: Paulhus, Wyman, Eosco, Winglass

Ordinance passed. 5-4

Chairman Sinclair set second passage for the July regular meeting 2012 at 6:01pm.

8) Resolution: City Operating Budget Component

Chairman Sinclair read the following Resolution:

RESOLUTION - CITY OPERATING BUDGET COMPONENT

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BATH, MAINE, that the City Operating Budget for the fiscal year commencing on July 1, 2012 and terminating on June 30, 2013, be and hereby is adopted with a total expenditure of **\$ 9,277,847.00**, balanced with an equal amount of estimated revenue. Summary of appropriations is attached to this resolution in the following two pages.

Summary is on file with the agenda materials for the 6-6-12 meeting in the Bath City Clerk’s Office.

Councilor Pagurko made a motion to put the item on the floor for discussion. Councilor Winglass seconded the motion.

Councilor Rogers motioned to amend the budget amount to add back in the amount of \$18,500 so as to keep the third ambulance in the budget. Councilor Pagurko seconded the motion.

Fire Chief Stephen Hinds explained the history of usage of the third ambulance.

VOTE on amendment:

YEAS: Brackett, Merrill, Paulhus, Rogers, Wyman, Eosco, Pagurko, Winglass

NAYS: None

Amendment passed unanimously. 8-0

VOTE on amended Budget:

YEAS: Brackett, Merrill, Paulhus, Rogers, Wyman, Eosco, Pagurko, Winglass

NAYS: None

Resolution passed unanimously. 8-0

9) Resolution: City Capital Improvement Budget

Chairman Sinclair read the following Resolution:

RESOLUTION – CITY CAPITAL IMPROVEMENT COMPONENT

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BATH, MAINE, that the City Capital Improvement Budget as reallocated and/or appropriated for the fiscal year commencing on July 1, 2012 and terminating on June 30, 2013, be and hereby is adopted with a total expenditure of **\$808,391.00**, balanced with an equal amount of estimated revenue. Summary of funded projects is on the following page.

Summary is on file with the agenda materials for the 6-6-12 meeting in the Bath City Clerk's Office.

Councilor Wyman made a motion to put the item on the floor for discussion. Councilor Pagurko seconded the motion.

Councilor Paulhus made a motion to amend the budget by adding back \$24,000 to put towards the Richardson Street project. Councilor Merrill seconded the motion.

There was a brief Council discussion regarding previous consideration of this issue and possible causes and solutions to the flooding problem.

VOTE on amendment:

YEAS: Paulhus

NAYS: Brackett, Merrill, Rogers, Wyman, Eosco, Pagurko, Winglass

Amendment failed. 1-7

VOTE on Resolution:

YEAS: Brackett, Merrill, Paulhus, Rogers, Wyman, Eosco, Pagurko, Winglass

NAYS: None

Resolution passed unanimously. 8-0

10) Resolution: Landfill Fund Component

Chairman Sinclair read the following Resolution:

RESOLUTION – LANDFILL FUND COMPONENT

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BATH, MAINE, that the Landfill Fund Component as reallocated and/or appropriated for the fiscal year commencing on July 1, 2012 and terminating on June 30, 2013, be and hereby is adopted with a total expenditure of **\$ 1,895,050.00** balanced with an equal amount of estimated revenue. Summary of appropriations is attached on the following page.

Summary is on file with the agenda materials for the 6-6-12 meeting in the Bath City Clerk's Office.

Councilor Wyman made a motion to put the item on the floor for discussion. Councilor Pagurko seconded the motion.

Finance Director Juli Millett stated \$50,000 is in the account for the landfill closure.

VOTE:

YEAS: Brackett, Merrill, Paulhus, Rogers, Wyman, Eosco, Pagurko

NAYS: Winglass

Resolution passed. 7-1

11) Resolution: Sewer Utility Fund Budget

Chairman Sinclair read the following Resolution:

RESOLUTION – SEWER UTILITY FUND COMPONENT

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BATH, MAINE, that the Sewer Utility Fund Budget for the fiscal year commencing on July 1, 2012 and terminating on June 30, 2013, be and is hereby adopted with a total expenditure of **\$ 2,081,110.00**, balanced with an equal amount of estimated revenue. Summary of appropriations are attached to this Resolution on the following page.

Summary is on file with the agenda materials for the 6-6-12 meeting in the Bath City Clerk's Office.

Councilor Wyman made a motion to put the item on the floor for discussion. Councilor Pagurko seconded the motion.

VOTE:

YEAS: Brackett, Merrill, Paulhus, Rogers, Wyman, Eosco, Pagurko, Winglass

NAYS: None

Resolution passed unanimously. 8-0

12) Resolution: Bath City Bus Fund Budget

Chairman Sinclair read the following Resolution:

RESOLUTION – BATH CITY BUS FUND COMPONENT

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BATH, MAINE, that the Bath City Bus Fund Budget for the fiscal year commencing on July 1, 2012 and terminating on June 30, 2013, be and is hereby adopted with a total expenditure of **\$ 113,257.00**, balanced with an equal amount of estimated revenue. Summary of appropriations are attached to this Resolution on the following page.

Summary is on file with the agenda materials for the 6-6-12 meeting in the Bath City Clerk's Office.

Councilor Wyman made a motion to put the item on the floor for discussion. Councilor Pagurko seconded the motion.

Councilor Paulhus asked who was in charge of the bus service.

City Manager Giroux stated that the City Planner Andrew Deci would be the person in charge and would be happy to meet with Councilor Paulhus.

Chairman Sinclair stated that the Councilor was interested in talking about route changes and asked that he be included if a meeting was set up and stated that other Councilors that wanted to attend could do so.

City Manager Giroux directed the City Planner to set up the meeting.

VOTE:

YEAS: Brackett, Merrill, Paulhus, Rogers, Wyman, Eosco, Pagurko, Winglass

NAYS: None

Resolution passed unanimously. 8-0

13) Resolution: Bath Trolley and Transportation Budget

Chairman Sinclair read the following Resolution:

RESOLUTION – BATH TROLLEY AND TRANSPORTAION COMPONENT

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BATH, MAINE, that the Bath Trolley and Transportation Fund Budget for the fiscal year commencing on July 1, 2012 and terminating on June 30, 2013, be and is hereby adopted with a total expenditure of **\$79,836.00**, balanced with an equal amount of estimated revenue. Summary of appropriations are attached to this Resolution on the following page.

Summary is on file with the agenda materials for the 6-6-12 meeting in the Bath City Clerk's Office.

Councilor Wyman made a motion to put the item on the floor for discussion. Councilor Pagurko seconded the motion.

VOTE:

YEAS: Brackett, Merrill, Paulhus, Rogers, Wyman, Eosco, Pagurko, Winglass

NAYS: None

Resolution passed unanimously. 8-0

14) Resolution: Midcoast Center for Higher Education Budget

Chairman Sinclair read the following Resolution:

**RESOLUTION – MIDCOAST CENTER FOR HIGHER EDUCATION FUND
COMPONENT**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BATH, MAINE, that the Midcoast Center for Higher Education (MCHE) Fund Budget for the fiscal year commencing on July 1, 2012 and terminating on June 30, 2013, be and is hereby adopted with a total expenditure of **\$537,187.00**, balanced with an equal amount of estimated revenue. Summary of appropriations are attached to this Resolution on the following page.

Councilor Eosco left her seat at this time.

Councilor Pagurko made a motion to put the item on the floor for discussion. Councilor Wyman seconded the motion.

VOTE:

YEAS: Brackett, Merrill, Paulhus, Rogers, Wyman, Pagurko, Winglass

NAYS: None

Resolution passed unanimously. 7-0

15) Resolution: to Increase the LD1 Tax Levy Limit

Chairman Sinclair read the following Resolution:

RESOLUTION TO INCREASE THE LD1 TAX LEVY LIMIT

BE IT RESOLVED by the City Council of the City of Bath, to increase the tax levy limit of \$6,482,858.00 by the amount required by the adoption of the 2012-2013 budget (estimated increase \$115,000.00).

Councilor Pagurko made a motion to put the item on the floor for discussion. Councilor Paulhus seconded the motion.

Councilor Eosco took her seat at this time.

Councilor Winglass made a motion to amend the Resolution by changing the amount of \$115,000.00 to \$133,500.00. Councilor Pagurko seconded the motion

VOTE on Amendment:

YEAS: Brackett, Merrill, Paulhus, Rogers, Wyman, Eosco, Pagurko, Winglass

NAYS: None

Amendment passed unanimously. 8-0

VOTE on amended Resolution:

YEAS: Brackett, Merrill, Paulhus, Rogers, Wyman, Eosco, Pagurko, Winglass

NAYS: None

Resolution passed unanimously. 8-0

16) Order: Establishing Tax Club for the upcoming year

Chairman Sinclair read the following Order:

ORDER
TAX CLUB FOR 2012 - 2013

BE IT ORDERED by the City Council of the City of Bath, as follows:

That the Finance Director, serving as the appointed Treasurer and Tax Collector, be authorized and empowered to continue a tax payment plan known as the “Bath Tax Club”, making payments in a method, frequency, and manner set by, and in accordance with, the rules of said Tax Club as determined by the Finance Director; and

That membership shall be limited to one property, that being the taxpayer’s primary residence, and specifically not available for commercial, industrial, personal, or rental properties; and

That enrollment in the 2012 Tax Club begins July 1, 2012, and ends August 15, 2013; with the first of twelve payments due in September, 2012.

Councilor Pagurko made a motion to put the item on the floor for discussion. Councilor Paulhus seconded the motion.

Councilor Rogers made a motion to amend the Order by changing the wording in the last paragraph to read “August 15, 2012” instead of “August 15, 2013”. Councilor Pagurko seconded the motion.

Finance Director Juli Millett explained how this process works.

VOTE on amendment:

YEAS: Brackett, Merrill, Paulhus, Rogers, Wyman, Eosco, Pagurko, Winglass

NAYS: None

Amendment passed unanimously. 8-0

VOTE on Amended Order:

YEAS: Brackett, Merrill, Paulhus, Rogers, Wyman, Eosco, Pagurko, Winglass

NAYS: None

Amended Order passed unanimously. 8-0

17) Resolution: Establishing interest rate on all delinquent taxes at the rate of 7% per annum

Chairman Sinclair read the following Resolution:

**RESOLUTION – ESTABLISHING
INTEREST RATE ON DELINQUENT PROPERTY TAXES**

WHEREAS, pursuant to 36 M.R.S.A. Section 505(4), the City of Bath has the authority to specify an interest rate which shall be applied to delinquent taxes; and

WHEREAS, Section 7-101 of the Code of the City of Bath determines that the rate of interest is to be established yearly by Resolution of this Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Bath, that the interest rate due and payable for all delinquent taxes shall be set at the rate of 7.0% per annum, for taxes assessed during the 2012-2013 Fiscal Year.

Councilor Pagurko made a motion to put the item on the floor for discussion. Councilor Rogers seconded the motion.

VOTE:

YEAS: Brackett, Merrill, Paulhus, Rogers, Wyman, Eosco, Pagurko, Winglass

NAYS: None

Resolution passed unanimously. 8-0

18) Resolution: Establishing interest rate on delinquent sewer bills at the rate of 7% per annum

Chairman Sinclair read the following Resolution:

**RESOLUTION – ESTABLISHING
INTEREST RATE ON SEWER BILLS**

BE IT RESOLVED by the City Council of the City of Bath, as follows:

That the interest rate due and payable for all delinquent sewer bills shall be set at the rate of 7.0% per annum, for all sewer user fees assessed during the 2012-2013 Fiscal Year.

Councilor Pagurko made a motion to put the item on the floor for discussion. Councilor Paulhus seconded the motion.

VOTE:

YEAS: Brackett, Merrill, Paulhus, Rogers, Wyman, Eosco, Pagurko, Winglass

NAYS: None

Resolution passed unanimously. 8-0

19) Resolution: Establishing interest rate on refunds due to tax abatements at the rate of 3% per annum

Chairman Sinclair read the following Resolution:

**RESOLUTION – ESTABLISHING
INTEREST RATE ON REFUNDS DUE TO OVERPAYMENT OF TAXES**

BE IT RESOLVED by the City Council of the City of Bath, as follows:

That any taxpayer who pays an amount in excess of what is finally assessed (as in the case of a taxpayer who pays under protest, appeals the assessment, and is granted an abatement; or in the case of accidental overpayment of taxes by a mortgage company, taxpayer, or tax club member) must be repaid the amount of the overpayment, plus interest back to the date of the overpayment, at a rate of 3.0% per annum, from July 1, 2012 to June 30, 2013; and

That property tax payments can be received only for delinquent or currently due taxes; and

That payments resulting in an overpayment will be applied as much as possible to outstanding balances, then remainder repaid only to the payee.

Councilor Pagurko made a motion to put the item on the floor for discussion. Councilor Eosco seconded the motion.

VOTE:

YEAS: Brackett, Merrill, Paulhus, Rogers, Wyman, Eosco, Pagurko, Winglass

NAYS: None

Resolution passed unanimously. 8-0

20) Resolution: City of Bath’s Special Purpose Fund Budget

Councilor Pagurko made a motion to waive the reading of the Resolution. Councilor Wyman seconded the motion.

VOTE on waiving the reading:

YEAS: Brackett, Merrill, Wyman, Eosco, Pagurko, Winglass

NAYS: Paulhus, Rogers

Waiving motion passed. 6-2

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BATH, MAINE, that the City of Bath’s Special Purpose Fund as reallocated and/or appropriated for the fiscal year commencing on July 1, 2012 and terminating on June 30, 2013, be and is adopted for the purpose of funding the accounts attached to this Resolution below:

SPECIAL PURPOSE FUNDS - CITY

as of June 1, 2012

CP03 Cemetery and Parks	REC03 Recreation	GA03 General Assistance
624 Forestry Trust-Prin & Interest	656 Lacrosse	610 Almoner Fund
660 Cemetery Firewood	657 Soccer	725 Charitable Contribution Fund
675 Library Gazebo	671 McMann Field Renovation	749 Messier-Costain Foundation
681 Forestry Committee	673 Mens Softball League	
699 Forestry Recovery Grant	682 Donald Small School Imp	
711 Timber Cruise	716 Hawkes/Kimball Fields	PL03 Planning Department
714 Friends of Zorach	719 Safety Committee	652 Comprehensive Planning
735 Cemetery Flower Trust	720 Lambert Park Community Center	713 Gateway Grant - Signs
736 Mausoleum/Monument Trust	733 Little League Registrations	
253 Milled Lumber	734 Bath Babe Ruth League	
758 Druid Park	737 Youth Football League	LPCC03 LAMBERT PARK CC
762 Holiday Tree Project	738 Youth Cheerleading	LPCC03
773 Vandalism & Damage	748 Artworks	
	930 Rec Scholarship Fund	
	931 Community Garden	POL03 Police Grants
FD03 Fire and Ambulance	936 Advertising Signs	403 Drug Diversion
620 Fire Department Training	958 McMann Advertising	621 OUI Grant
712 Homeland Security		617 Dare
	SPF03 Special Purpose	618 Jumpstart
	577 Bike Path and Pedestrian Plan	650 Juvenile Assistance Fund
FOR03 Forestry	615 Swimming Pool Fund	696 State Traffic Management
710 Forestry - Community Gateway	653 Downtown Signs	712 Homeland Security

718 Forestry - Tree Planting
771 Forestry – Post Card
777 Arbor Day Grant
782 Project Canopy
884 Planning & Education

827 Cable TV Capital Fund
722 Bath Clocks Maintenance
729 Workers Comp Reserve
731 Skate Park Committee
778 Butler Head Sugarbush
759 2Townland
935 Assessor Records Preservation
964 Efficiency Maine PACE Grant
969 Police K9 Fund
970 Skatepark Campaign Fund

724 Bullet Proof Vest Program
726 Seatbelt Safety Program
730 Police Drug Forfeiture
745 PD DVPSE Grant
747 PD Bike Safety
750 Chaplain's Training
768 Speed Enforcement
780 Under Aged Drinking
939 Shields of Hope

City Manager Giroux explained the Special Purpose Funds are funds that have been set up through grants, donations or from Council and they get carried forward to the next year.

Councilor Pagurko made a motion to put the item on the floor for discussion. Councilor Merrill seconded the motion.

City Solicitor Roger Therriault explained that the amount for the pool came from a will back in the 1960's and the principal cannot be touched.

VOTE:

YEAS: Brackett, Merrill, Paulhus, Rogers, Wyman, Eosco, Pagurko, Winglass

NAYS: None

Resolution passed unanimously. 8-0

21) Resolution: Authorizing Borrowing in Anticipation of Taxes for FY 2012-2013

Councilor Rogers made a motion to waive the reading of the Resolution. Councilor Pagurko seconded the motion.

Vote on Waiving motion:

YEAS: Brackett, Merrill, Rogers, Wyman, Eosco, Pagurko, Winglass

NAYS: Paulhus

Waiving motion passed. 7-1

**RESOLUTION AUTHORIZING BORROWING
IN ANTICIPATION OF TAXES
FOR FISCAL YEAR 2012-2013**

WHEREAS, the City of Bath does not receive substantial income from ad valorem property taxes until approximately the beginning of October of any fiscal year; and

WHEREAS, the City of Bath has certain ongoing financial obligations that must be met including, but not limited to, payroll expenses and debt service payments that come due prior to the receipt of substantial tax revenues; and

WHEREAS, these factors result in cash flow issues within City Budgets; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Bath as follows:

THAT Pursuant to 30-A M.R.S.A. Section 5771 and Chapter VI, Section 6.16 of the Charter of the City of Bath, the Treasurer is hereby authorized and empowered to borrow, at one time or from time to time during the fiscal year ending June 30, 2013, singly or in series, an amount or amounts not

- exceeding \$3,000,000 in anticipation of the collection of receipts from taxes, such borrowing to be evidenced by the issuance of the City's tax anticipation notes (the "Notes").
- THAT The Notes shall be issued in the aggregate amounts not to exceed \$3,000,000 and that the interest rate, maturities, and denominations for the Notes shall be established by the Treasurer with the approval of the Chairman of the City Council and the City Manager. The Notes, and any extensions, renewals, or replacements thereof, shall be signed by the Treasurer and countersigned by the Chairman of the City Council and the City Manager, attested to by the Clerk, and shall be payable on or before June 30, 2013, out of money raised by taxation during the fiscal year ending June 30, 2013, and shall contain such terms and provisions, not inconsistent herewith, and be in such form as shall be approved by the officers and officials signing the same, which approval shall be conclusively evidenced by their execution thereof.
- THAT The Treasurer be, and hereby is authorized to prepare and distribute a Notice of Sale of the City, or other suitable document for use in soliciting bids from financial institutions and that any prior similar action taken by the Treasurer be and hereby is ratified and approved.
- THAT The Treasurer, to the extent permitted and available under the Internal Revenue Code of 1986, as amended (the "Code") be and hereby is authorized to designate the Notes as qualified tax-exempt obligations for purposes of Section 265(b) of the Code.
- THAT The Treasurer be and hereby is authorized to covenant with the purchaser of the Notes, on behalf of the City and for the benefit of the holders of the Notes, that the City shall take whatever steps, including filing any reports and rebating any excess earnings, as may be required by federal law, and shall refrain from taking any action, as may be necessary or appropriate to ensure that interest on the Notes will remain exempt from federal income taxes.
- THAT The Treasurer, Chairperson of the City Council, and Clerk be and hereby are authorized and empowered on behalf of the City to undertake all such acts and things and execute and deliver all such documents and certificates as may be necessary or convenient in connection with the issuance, sale, execution, and delivery of the Notes.
- THAT If the Treasurer, Chairperson of the City Council, or Clerk are for any reason unavailable to approve and execute the Notes or any related documents, the person or persons then acting in any such capacity, whether as an assistant, a deputy, or otherwise, is authorized to act for such official with the same force and effect as if such official had himself/herself performed such act.

Councilor Pagurko made a motion to put the item on the floor for discussion. Councilor Paulhus seconded the motion.

City Manager William Giroux explained that the City borrows money in the summer until taxes are collected in the Fall. He stated this is done at a very low interest rate.

VOTE:

YEAS: Brackett, Merrill, Paulhus, Rogers, Wyman, Eosco, Pagurko, Winglass

NAYS: None

Resolution passed unanimously. 8-0

22) Resolution: Establishing Schedule of Rate for Cemetery Fees

Councilor Wyman made a motion to waive the reading of the Resolution. Councilor Pagurko seconded the motion.

Vote on Waiving motion:

YEAS: Brackett, Merrill, Rogers, Wyman, Eosco, Pagurko, Winglass

NAYS: None

Waiving motion passed unanimously. 8-0

A complete copy of this Schedule of Rate for Cemetery Fees is on file with the agenda materials for the June 6, 2012 Council Meeting in the City Clerk's Office.

Councilor Paulhus made a motion to put the item on the floor for discussion. Councilor Pagurko seconded the motion.

City Manager William Giroux explained this change would bring the fees up to what other similar municipalities are charging.

VOTE:

YEAS: Brackett, Merrill, Paulhus, Rogers, Wyman, Eosco, Pagurko, Winglass

NAYS: None

Resolution passed unanimously. 8-0

23) Resolution: Establishing Schedule of Rates for Sewer System Fees, Use Charges and Special Assessments

Chairman Sinclair read the following Resolution:

**RESOLUTION ESTABLISHING SCHEDULE OF RATES FOR
SEWER SYSTEM FEES, USE CHARGES, AND SPECIAL ASSESSMENTS**

WHEREAS, Sections 14-28, 14-30, 14-51(b), 14-52(a), and 14-54 of the Code of the City of Bath specify that the City Council from time to time shall establish by Resolution, upon recommendation from the City Manager, a schedule of rates for the sewer system fees and use charges together with surcharges which may be applicable, as well as special assessments; and

WHEREAS, it is apparent that an increase in the rate structure is necessary in order to fund the wastewater treatment system; and

WHEREAS, such an increase is recommended by the City Manager.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Bath, pursuant to their authority under the Code of the City of Bath, that the following rate structure, listed in the attached table, be and hereby is adopted for all fees, charges, and special assessments, to be effective July 1, 2012 for the October 1, 2012 billing, August 1, 2012, for the November 1, 2012 billing, and September 1, 2012, for the December 1, 2012 billing. The schedule of fees, charges, and special assessments shall continue in effect until further Resolution of the Council.

Table is on file with the agenda materials for the 6-6-12 meeting in the Bath City Clerk's Office.

Councilor Pagurko made a motion to put the item on the floor for discussion. Councilor Merrill seconded the motion.

VOTE:

YEAS: Brackett, Merrill, Paulhus, Rogers, Wyman, Eosco, Pagurko, Winglass

NAYS: None

Resolution passed unanimously. 8-0

24) Ordinance: Chapter 14.Sewers, Article 6. Charges for Sewer Service, Section 14-52. Use Charges. (first passage)

Chairman Sinclair read the following Ordinance:

ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BATH THAT THE CODE OF THE CITY OF BATH, ADOPTED FEBRUARY 2, 1977, AND SUBSEQUENTLY AMENDED, BE FURTHER AMENDED AS FOLLOWS:

**CHAPTER 14. SEWERS
Article 6. Charges for Sewer Service**

Section 14-52. Use Charges.

Amend as follows:

(a) ...In addition, the City Council, by Resolution, is also authorized to establish an interest charge for all sewer user charges or surcharges which have not been paid. If the billing is on a monthly basis, then the interest shall be assessed thirty (30) days from the date of billing; if the billing is on a quarterly basis, then the interest shall be assessed within sixty (60) days from of the date of billing. The , said interest rate shall to be set from time to time by Resolution of the City Council.

Councilor Pagurko made a motion to put the item on the floor for discussion. Councilor Rogers seconded the motion.

Finance Director Juli Millett explained the reason for this change is to make it easier for customers to understand when bills are due such if a user gets a monthly bill it is due monthly and if the user gets a quarterly bill it is due in 60 days.

ROLL CALL VOTE:

YEAS: Brackett, Merrill, Paulhus, Rogers, Wyman, Eosco, Pagurko, Winglass

NAYS: None

Ordinance passed unanimously. 8-0

Chairman Sinclair set second passage at the next regular meeting at 6:02 pm.

25) Ordinance: Changing GA Maximums per State of Maine (first passage)

Councilor Winglass made a motion to waive the reading of the Ordinance. Councilor Pagurko seconded the motion.

VOTE on waiving motion:

YEAS: Brackett, Merrill, Rogers, Wyman, Eosco, Pagurko, Winglass

NAYS: Paulhus

Waiving motion passed. 7-1

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 8A. GENERAL ASSISTANCE

Amend Article VI, Section 6.8 (B) to read as follows:

- B) **Housing.** The administrator will provide assistance with rent or mortgage payments that are reasonable ~~and/or~~ within the allowed maximum levels and in accordance with the housing assistance limits and exceptions provided in Title 22, section 4308, subsections 1-A and 1-B. See Appendix C of this ordinance for the current year's housing maximums. It is the applicant's responsibility to find suitable housing, although the administrator may help the applicant find housing when appropriate. The administrator will inform the applicant of the allowed housing maximums to assist the applicant in his or her search for housing. The allowed maximum for any applicant will be the categorical housing maximum representing the minimum dwelling unit space necessary to adequately shelter the applicant household. Applicants requesting assistance for housing that contains more bedrooms than are necessary for the number of household members will be provided assistance according to the maximum level of the number of rooms actually needed.

Also to delete appendices to the Ordinance dealing with maximums allowances and replace with newly attached allowance summary sheets, schedules and appendices, Appendix A – Total Allowed GA Maximums. Maximums shall be effective as of July 1, 2012.

Summary is on file with the agenda materials for the 6-6-12 meeting in the Bath City Clerk's Office.

Councilor Pagurko made a motion to put the item on the floor for discussion. Councilor Rogers seconded the motion.

VOTE:

YEAS: Brackett, Merrill, Paulhus, Rogers, Wyman, Eosco, Pagurko, Winglass

NAYS:

Ordinance passed unanimously. 8-0

Chairman Sinclair set second passage at the next regular meeting at 6:03 pm.

26) Bond Ordinance: Authorizing issuance of General Obligation Bonds in the amount not to exceed \$302,000 for the purpose of funding certain vehicles, recreation track and tennis court surface and gas collection system at the Landfill. (first passage)

Councilor Rogers made a motion to waive the reading of the Ordinance. Councilor Pagurko seconded the motion.

VOTE on waiving motion:

YEAS: Brackett, Merrill, Rogers, Wyman, Eosco, Pagurko, Winglass

NAYS: Paulhus

Waiving motion passed. 7-1

BOND ORDINANCE

AUTHORIZING ISSUANCE OF GENERAL OBLIGATION BONDS IN AN AMOUNT NOT TO EXCEED \$302,000 FOR THE PURPOSE OF FUNDING CERTAIN VEHICLES, RECREATION TRACK AND TENNIS COURT SERVICES AND GAS COLLECTION SYSTEM AT THE LANDFILL

IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF BATH, AS FOLLOWS:

- Section 1. That a sum up to, but not to exceed, \$302,000, plus the sale premium of and investment earnings on the bonds/notes authorized in Section 2 below, is hereby appropriated for the purpose of funding the following:
- 1 Police vehicles
 - Repairs / Replacement of recreation track and tennis court surface
 - 1 public works truck
 - Gas collection system at the landfill
- Section 2. That, for the purpose of funding the aforesaid appropriation, the City Treasurer, with the approval of the Chairman of the City Council and the City Manager, is hereby authorized, in the name of and on behalf of the City, to issue the City's bonds/notes or notes in anticipation thereof, in the stated principal amount of up to, but not to exceed, \$302,000 under and pursuant the City Charter and 30-A MRSA §5772.
- Section 3. That any and all bonds/notes or notes in anticipation thereof issued pursuant to this Ordinance are issued pursuant to Chapter 8 of the City Charter and shall be signed by the City Treasurer and countersigned by the Chairman of the City Council and the City Manager.
- Section 4. That any and all bonds/notes issued pursuant to this Ordinance shall be payable in annual installments, which need not be equal, pursuant to Section 807 of the City Charter.
- Section 5. That the term of any bonds/notes issued pursuant to this Ordinance shall not exceed ten (10) years.
- Section 6. That the City Treasurer, with the approval of the Chairman of the City Council and the City Manager, shall determine the date or dates, maturities (not to exceed the maximum term specified above), denominations, interest rate or rates and any other details of any bonds/notes or any notes in anticipation thereof to be issued pursuant to this Ordinance, such approval to be conclusively evidenced by the execution thereof.
- Section 7. That the City Treasurer, with the approval of the Chairman of the City Council and the City Manager, is hereby authorized to make any bonds/notes or notes in anticipation thereof issued pursuant to this Ordinance subject to call for redemption with or without premium prior to the stated maturity date at the election of the City.
- Section 8. That the City Treasurer is hereby authorized to take all such action as may be necessary to designate any bonds/notes or notes in anticipation thereof issued pursuant to this Ordinance (to the extent such designation is available) as qualified tax-exempt obligations for purposes of Section 265(b) of the Code.
- Section 9. That the bonds/notes or notes in anticipation thereof issued pursuant to this Ordinance shall be general obligations of the City, backed by the full faith and credit and taxing power of the City.
- Section 10. That in the event the City Treasurer elects to issue such bonds/notes or notes in anticipation thereof through the Maine Municipal Bond Bank (the "Bond Bank"), that the City Treasurer and the Chairman of the City Council and the City Manager be and hereby are authorized, on behalf of the City, to enter into a loan agreement with the Bond Bank in conjunction with the issuance of the bonds or notes, in the aggregate principal amount not to exceed \$302,000 with a term not to exceed the term of the bonds or notes, said loan agreement to be in the usual and ordinary form utilized by the Bond Bank in connection with its General Resolution Program, which is hereby approved, and to contain such other terms and provisions, not contrary to the general tenor hereof, as the Treasurer, the Chairman of the City Council and the City Manager may approve, their approval to be conclusively evidenced by the execution thereof.
- Section 11. That the City Treasurer is authorized to do or cause to be done all such acts and things, and to execute and deliver any and all contracts, agreements, certificates, and other documents as may be necessary or advisable, including but not limited to an Arbitrage and Use of Proceeds Certificate and a Continuing Disclosure Certificate, to carry out the provisions of this Ordinance in connection with the issuance and delivery by the City of the bonds/notes or notes in anticipation thereof.

- Section 12. That if the City Treasurer, Chairman of the City Council, City Manager, or Clerk are for any reason unavailable to approve and execute the bonds/notes or notes in anticipation thereof issued pursuant to this Ordinance, any loan agreement or any related financing documents, the person or persons then acting in any such capacity, whether as an assistant, a deputy, or otherwise, is authorized to act for such official with the same force and effect as if such official had himself or herself performed such act.
- Section 13. That during the term any of the bonds authorized hereby are outstanding, the City Treasurer is hereby authorized, in the name and on behalf of the City, to issue and deliver refunding bonds on either a current or advance refunding basis, to refund some or all of the bonds then outstanding, and to determine the date, form, interest rate, maturities (not to exceed 10 years from the date of issuance of the original bonds) and all other details of such refunding bonds, including the form and manner of their sale and award. The City Treasurer is hereby further authorized to provide that any of such refunding bonds hereinbefore authorized be made callable, with or without premium, prior to their stated date(s) of maturity, and each refunding bond issued hereunder shall be signed by the City Treasurer and countersigned by the Chairman of the City Council and the City Manager, sealed with the seal of the City, and attested by its Clerk.
- Section 14. That any suit questioning the validity of this Ordinance shall be barred unless commenced within forty-five (45) days following publication of the Ordinance in accordance with Section 805 of the City Charter.

Councilor Pagurko made a motion to put the item on the floor for discussion. Councilor Merrill seconded the motion.

City Manager Giroux explained that Council is authorizing borrowing for the capital items that were included in the budget.

Councilor Winglass suggested that in the Fall one of the Workshops to be scheduled should be a review of the Landfill.

VOTE:

YEAS: Brackett, Merrill, Paulhus, Rogers, Wyman, Eosco, Pagurko, Winglass

NAYS: None

Bond Ordinance passed unanimously. 8-0

Chairman Sinclair set second passage at the next regular meeting at 6:04 pm.

27) Bond Ordinance: Authorizing issuance of General Obligation Bonds in an amount not to exceed \$651,500 for the purpose of funding Willow Street sanitary sewer and stormwater collection system modifications. (first passage)

Councilor Rogers made a motion to waive the reading of the Ordinance. Councilor Pagurko seconded the motion. All were in favor of the waiving motion.

BOND ORDINANCE

AUTHORIZING ISSUANCE OF GENERAL OBLIGATION BONDS IN AN AMOUNT NOT TO EXCEED \$651,500 FOR THE PURPOSE OF FUNDING WILLOW STREET SANITARY SEWER AND STORMWATER COLLECTION SYSTEM MODIFICATIONS

WHEREAS, on March 2, 2011, the City Council of the City of Bath adopted a Bond Ordinance (the “Prior Ordinance”) which authorized issuance of the City’s bonds in the amount of \$2,000,000 for the purpose of providing funding for sewer improvements and upgrades; and

WHEREAS, on September 14, 2011, the City issued \$1,883,600 of the bonds authorized by the Prior Ordinance through the Maine Municipal Bond Bank’s State Revolving Fund Program (the “2011 Bonds”); and

WHEREAS, the City Council now desires to authorize additional bonds of the City in the amount of \$651,500 additional sewer improvements and upgrades as set forth below;

NOW THEREFORE, IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF BATH, AS FOLLOWS:

Section 1. That a sum up to, but not to exceed, \$651,500, plus the sale premium of the bonds/notes authorized in below, is hereby appropriated for the purpose of funding Willow Street sanitary sewer and stormwater collection system modifications and of paying the costs of issuance therefore (the "Project").

Section 2. That, for the purpose of funding the aforesaid appropriation, the City Treasurer, with the approval of the Chairman of the City Council and the City Manager, is hereby authorized, in the name of and on behalf of the City, to issue the City's bonds/notes or notes in anticipation thereof, in the stated principal amount of up to, but not to exceed, \$651,500 under and pursuant the City Charter and 30-A MRSA §5772.

Section 3. That any and all bonds/notes or notes in anticipation thereof issued pursuant to this Ordinance are issued pursuant to Chapter 8 of the City Charter and shall be signed by the City Treasurer and countersigned by the Chairman of the City Council and the City Manager.

Section 4. That any and all bonds/notes issued pursuant to this Ordinance shall be payable in annual installments, which need not be equal, pursuant to Section 807 of the City Charter.

Section 5. That the term of any bonds/notes issued pursuant to this Ordinance shall not exceed twenty (20) years.

Section 6. That the City Treasurer, with the approval of the Chairman of the City Council and the City Manager, shall determine the date or dates, maturities (not to exceed the maximum term specified above), denominations, interest rate or rates and any other details of any bonds/notes or any notes in anticipation thereof to be issued pursuant to this Ordinance, such approval to be conclusively evidenced by the execution thereof.

Section 7. The City Treasurer, with the approval of the Chairman of the City Council and the City Manager, is hereby authorized to make any bonds/notes or notes in anticipation thereof issued pursuant to this Ordinance subject to call for redemption with or without premium prior to the stated maturity date at the election of the City.

Section 8. That the City Treasurer is hereby authorized to take all such action as may be necessary to designate any bonds/notes or notes in anticipation thereof issued pursuant to this Ordinance (to the extent such designation is available) as qualified tax-exempt obligations for purposes of Section 265(b) of the Code.

Section 9. That the bonds/notes or notes in anticipation thereof issued pursuant to this Ordinance shall be general obligations of the City, backed by the full faith and credit and taxing power of the City.

Section 10. That in the event the City Treasurer elects to issue such bonds/notes or notes in anticipation thereof through the Maine Municipal Bond Bank (the "Bond Bank"), that the City Treasurer and the Chairman of the City Council and the City Manager be and hereby are authorized, on behalf of the City, to enter into a loan agreement with the Bond Bank in conjunction with the issuance of the bonds or notes, in the aggregate principal amount not to exceed \$651,500, with a term not to exceed the term of the bonds/notes, said loan agreement to be in the usual and ordinary form utilized by the Bond Bank in connection with either the State Revolving Loan Fund program or its General Resolution Program, which is hereby approved, and to contain such other terms and provisions, not contrary to the general tenor hereof, as the Treasurer, the Chairman of the City Council and the City Manager may approve, their approval to be conclusively evidenced by the execution thereof.

Section 11. That the City Treasurer is authorized to do or cause to be done all such acts and things, and to execute and deliver any and all contracts, agreements, certificates, and other documents as may be necessary or advisable, including but not limited to an Arbitrage and Use of Proceeds Certificate and a Continuing Disclosure Certificate, to carry out the provisions of this Ordinance in connection with the issuance and delivery by the City of the bonds/notes or notes in anticipation thereof.

Section 12. That if the City Treasurer, Chairman of the City Council, City Manager, or Clerk are for any reason unavailable to approve and execute the bonds/notes or notes in anticipation thereof issued pursuant to this Ordinance, ant loan agreement or any related financing documents, the person or persons then acting in any such capacity, whether as an assistant, a deputy, or otherwise, is authorized to act for such official with the same force and effect as if such official had himself or herself performed such act.

Section 13. That during the term any of the bonds authorized hereby are outstanding, the City Treasurer is hereby authorized, in the name and on behalf of the City, to issue and deliver refunding bonds on either a current or advance refunding basis, to refund some or all of the bonds then outstanding, and to determine the date, form, interest rate, maturities (not to exceed 20 years from the date of issuance of the original bonds) and all other details of such refunding bonds, including the form and manner of their sale and award. The City Treasurer is hereby further authorized to provide that any of such refunding bonds hereinbefore authorized be made callable, with or without premium, prior to their stated date(s) of maturity, and each refunding bond issued hereunder shall be signed by the

City Treasurer and countersigned by the Chairman of the City Council and the City Manager, sealed with the seal of the City, and attested by its Clerk.

Section 14. That any suit questioning the validity of this Ordinance shall be barred unless commenced within forty-five (45) days following publication of the Ordinance in accordance with Section 805 of the City Charter.

Section 15. That if the bonds/notes or notes in anticipation thereof issued pursuant to this Ordinance are issued through the CWSRF Program, the following resolutions required by Section C(4)(e) of the State of Maine Revolving Loan Fund Rules, Chapter 595, Department of Environmental Protection and the Bond Bank (the "SRF Regulations"), and governing any loan to be made to the City under the State Revolving Loan Fund Program be and hereby are adopted:

- (1) that a Project Account shall be created for the Projects which shall be separate from all other accounts of the City. If operating revenues are to be used to retire the debt, a sub-account will be established.
- (2) that the Project Account shall be maintained in accordance with standards set forth by the Bond Bank and in accordance with generally accepted government account standards.
- (3) that a final accounting shall be made to the Bond Bank of the total cost of the project upon completion of the Project performance certification as set out in Section G(3) of the SRF Regulations and the City acknowledges that the Bond Bank reserves the right at its sole discretion to be provided with a cost certification of the Project as built.
- (4) that an annual audit of the City, prepared by a certified public accountant or licensed public accountant be provided to the Bond Bank for the term of the loan.
- (5) that the City shall maintain insurance coverage on the Project in an amount adequate to protect the Bond Bank's interest for the term of the loan with the Bond Bank named as loss payee.
- (6) that the City will comply with any special conditions specified by the Department of Environmental Protection's environmental determination until all financial obligations to the State have been discharged.
- (7) that the City certify to the Bond Bank that it has secured all permits, licenses and approvals necessary and that it has a dedicated source of revenue for repayment.
- (8) that the City establish a rate, charge or assessment schedule in order to pay principal and interest. Such rate change or schedule shall provide total operations and debt service coverage at a level at which the coverage for the Bond Bank is sufficient.
- (9) that the City must demonstrate the ability to pay reasonably anticipated costs of operating and maintaining the financed Project.
- (10) that the City abide by the SRF Regulations, as revised and amended and relevant State statutes of the State of Maine.

Councilor Pagurko made a motion to put the item on the floor for discussion. Councilor Merrill seconded the motion.

City Manager Giroux explained what the funding would cover.

VOTE:

YEAS: Brackett, Merrill, Paulhus, Rogers, Wyman, Eosco, Pagurko, Winglass

NAYS: None

Bond Ordinance passed unanimously. 8-0

Chairman Sinclair set second passage at the next regular meeting at 6:05 pm.

28) Bond Ordinance: Reallocating excess bond proceeds from previously issued bonds for the purpose of funding street paving, a public works vehicle and a roof. (first passage)

Councilor Eosco made a motion to waive the reading of the Ordinance. Councilor Pagurko seconded the motion. All were in favor of the waiving motion.

VOTE on waiving the reading:

YEAS: Brackett, Merrill, Wyman, Eosco, Pagurko, Winglass

NAYS: Paulhus, Roger

Waiving motion passed. 6-2

BOND ORDINANCE

REALLOCATING EXCESS BOND PROCEEDS FROM PREVIOUSLY ISSUED BONDS FOR THE PURPOSE OF FUNDING STREET PAVING, A PUBLIC WORKS VEHICLE, AND A ROOF

WHEREAS, on December 7, 2011, the City Council of the City of Bath adopted a Bond Ordinance (the “Original Ordinance”) which authorized issuance of the City’s bonds in the amount of \$450,000 to finance the costs of demolition of the old YMCA building (the “Original Project”); and

WHEREAS, the City issued the bonds authorized by the Original Ordinance as part of its \$5,275,000 2011 Series B General Obligation Bonds dated December 1, 2011 (the “2011 Series B Bonds”); and

WHEREAS, the Original Project is now expected to come in under budget and the City Council desires to amend the Original Ordinance to amend the scope of the Original Project to be financed with the proceeds of the 2011 Bonds to include additional improvements, as set forth below;

NOW THEREFORE, IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF BATH, AS FOLLOWS:

Section 1. That the description of the Original Projects in the Original Ordinance be and hereby is amended to include:

- street paving,
- the acquisition of a public works truck and
- roof repairs

as additional projects to be financed with the proceeds of the authorized bonds issued as part of the 2011 Series B Bonds;

Section 2. That in all other respects the Original Ordinance be and hereby is confirmed and ratified as if more fully set forth herein, and remains in full force and effect.

Councilor Pagurko made a motion to put the item on the floor for discussion. Councilor Merrill seconded the motion.

City Manager Giroux explained that because the City wouldn’t be doing the demo of the Nunnery which was part of this bond, other items were added in.

VOTE:

YEAS: Brackett, Merrill, Paulhus, Rogers, Wyman, Eosco, Pagurko, Winglass

NAYS: None

Bond Ordinance passed unanimously. 8-0

Chairman Sinclair set second passage at the next regular meeting at 6:06PM.

29) Order: Changing Date of Regular City Council Meeting in July from Wednesday, July 4, 2012 to Monday, July 9, 2012.

Councilor Paulhus made a motion to waive the reading of the Order. Councilor Rogers seconded the motion.

Vote on Waiving motion:

YEAS: Paulhus, Rogers

NAYS: Brackett, Merrill, Wyman, Eosco, Pagurko, Winglass

Waiving motion failed. 2-6

Chairman Sinclair read the following Order:

ORDER

WHEREAS, the date for the Regular Meeting of the Bath City Council for July comes on July 4, 2012 and

WHEREAS, July 4, 2012 is a Federal Holiday;

NOW, THEREFORE, BE IT ORDERED THAT THE BATH CITY COUNCIL approves changing the date of the Regular Meeting of the Bath City Council for Wednesday, July 4, 2012 to Monday, July 9, 2012 at 6:00 pm.

Councilor Pagurko made a motion to put the item on the floor for discussion. Councilor Rogers seconded the motion.

VOTE:

YEAS: Brackett, Merrill, Paulhus, Rogers, Wyman, Eosco, Pagurko, Winglass

NAYS: None

Order passed unanimously. 8-0

30) Order – Transfer of Huse School and Nunnery Properties

Chairman Sinclair read the following Order:

ORDER

TRANSFER OF HUSE SCHOOL AND NUNNERY PROPERTIES

WHEREAS, the City of Bath is the owner of certain properties referred to as the Huse School and the Nunnery properties; and

WHEREAS, repairs, renovations and environmental remediation issues need to be addressed with respect to the buildings on the properties; and

WHEREAS, there is funding for environmental investigation and remediation available through Brownfield monies available to the Bath Development Corporation to fund environmental activities which are not available to the City of Bath; and

WHEREAS, the Bath Development Corporation is tasked with focusing on specific projects in order to provide remediation, expansion and development of commercial enterprises within the City, and

WHEREAS, for the reasons stated, the Bath Development Corporation is the more appropriate party to conduct the process of evaluating the buildings on the properties and providing for necessary repairs, renovations and environmental remediation or conducting such other activities as may be appropriate to provide for commercial development within these buildings.

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Bath that the properties known as the Huse School and the Nunnery be transferred to the Bath Development Corporation and that the City Manager be and hereby is authorized to execute said Deed(s) and any and all other documents necessary, appropriate or convenient to complete the transfer of the properties.

Councilor Pagurko made a motion to put the item on the floor for discussion. Councilor Paulhus seconded the motion.

VOTE:

YEAS: Brackett, Merrill, Paulhus, Rogers, Wyman, Eosco, Pagurko, Winglass

NAYS: None

Order passed unanimously. 8-0

31) Order – Accepting Conveyance of Bath YMCA Property

Chairman Sinclair read the following Order:

ORDER ACCEPTING CONVEYANCE OF BATH YMCA PROPERTY

WHEREAS, the City of Bath, by Order of Council dated May 5, 2008, approved the transfer of property known as the Bath YMCA property, acquired by Warranty Deed from the Bath Area Family YMCA (f/k/a Young Men’s Christian Association), dated June 4, 2002, and recorded in the Sagadahoc County Registry of Deeds in Book 2189, Page 72; and

WHEREAS, the transfer of the property from the City of Bath to the Bath Development Corporation was accomplished by Deed dated February 28, 2011, and recorded in the Sagadahoc County Registry of Deeds in Book 3275, Page 295; and

WHEREAS, it was determined by the City of Bath, with the concurrence of the Bath Development Corporation, that it was in the interest of both parties to demolish the building in view of its dilapidated and dangerous condition and by virtue of significant environmental issues; and

WHEREAS, the demolition of the property has been completed; and

WHEREAS, the City Council has determined, for the present time, not to pursue development of the property; and

WHEREAS, there is no benefit for the Bath Development Corporation to continue to own the property; and

WHEREAS, the Bath Development Corporation, by action at its meeting May 23, 2012, has approved the transfer of the YMCA property back to the City of Bath.

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Bath that the transfer of the property above-captioned and known as the YMCA property from the Bath Development Corporation be and hereby is accepted and that the City Manager be authorized to execute any and all documents required, necessary, appropriate or convenient to complete the transfer.

Councilor Pagurko made a motion to put the item on the floor for discussion. Councilor Paulhus seconded the motion.

VOTE:

YEAS: Brackett, Merrill, Paulhus, Rogers, Wyman, Eosco, Pagurko, Winglass

NAYS: None

Order passed unanimously. 8-0

32) Order – Accepting Easement – CHR Realty

Chairman Sinclair read the following Order:

ORDER ACCEPTING EASEMENT

WHEREAS, the City of Bath is desirous of expanding the parking available on the West side of Water Street, South of the Bath Police Facility; and

WHEREAS, the City of Bath has previously acquired property from Mazerolle to facilitate the expanded parking; and

WHEREAS, the owner of property to the West of the parking area, CHR Realty, has agreed to grant to the City an Easement for the purpose of constructing parking facilities and associated appurtenances; and

WHEREAS, the City and the owner have agreed on the terms and conditions of the Easement and the City has agreed to pay the sum of \$9,600.00 together with \$200.00 toward CHR’s attorney’s fees.

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Bath that the City accept an Easement in consideration of \$9,800.00 paid to CHR Realty for the purpose of establishing parking facilities on the West side of Water Street and that the City Manager be authorized to execute such documents as may be necessary, appropriate or convenient to complete the transfer of the Easement.

Councilor Pagurko made a motion to put the item on the floor for discussion. Councilor Rogers seconded the motion.

VOTE:

YEAS: Brackett, Merrill, Paulhus, Rogers, Wyman, Eosco, Pagurko, Winglass

NAYS: None

Order passed unanimously. 8-0

33) Order – Approving Transfer of Real Estate – 26 Trufant Street to Gusto

Chairman Sinclair read the following Order:

ORDER APPROVING TRANSFER OF REAL ESTATE

WHEREAS, the City of Bath acquired property designated as 26 Trufant Street and being Lot 312 on City of Bath Tax Map 20, by virtue of taxes assessed against Mark R. Lelievre, said liens having been recorded in the Sagadahoc County Registry of Deeds in Book 1697, Page 40, and Book 1981, Page 84; and

WHEREAS, the City had previously agreed to sell to abutters Larry J. Gusto and Deborah A. Gusto a strip of land from the southwesterly portion of the property for the sum of \$7,000.00, pursuant to the provisions of the City of Bath Purchasing Ordinance, Section 7.114(B)(1)(d) and (f); and

WHEREAS, the City Council authorized the solicitation of bids for the remainder of the parcel; and

WHEREAS, bids have been received and the low bid was submitted by Larry J. Gusto and Deborah A. Gusto in the amount of \$14,092.00.

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Bath that the entire premises acquired by virtue of tax liens against Mark R. Lelievre, be transferred by Municipal Quitclaim Deed to Larry J. Gusto and Deborah A. Gusto (\$7,000.00 as agreed for the adjacent strip and \$14,092.00 bid amount for the remainder of the property) for the total sum of \$21,092.00 and further orders that the City Manger be and hereby is authorized to execute any and all documents necessary, appropriate or convenient to finalize the transfer.

Councilor Pagurko made a motion to put the item on the floor for discussion. Councilor Brackett seconded the motion.

Councilor Paulhus made a motion to amend the Order by changing the word “low” in the fourth paragraph to the word “high”. Councilor Pagurko seconded the motion. The vote was unanimous on the motion.

VOTE on amended Order:

YEAS: Brackett, Merrill, Paulhus, Rogers, Wyman, Eosco, Pagurko, Winglass

NAYS: None

Amended Order passed unanimously. 8-0

G. Petitions & Communications 8:26 PM

Councilor Eosco thanked the Public Works Department, Fire Department and everyone who helped each other get through the flooding issues throughout the City during the recent storm.

H. City Manager’s Report 8:26 PM

- No report

I. Committee Reports 8:27 PM

Councilor Eosco of Main Street Bath reported that the festivities for Heritage Days are well underway and invited everyone to make plans to visit the downtown and enjoy. She also welcomed all alumni home for the Morse High School Reunion and congratulated all the new graduates.

Councilor Winglass reported that he had been elected Chairman of the Finance Committee at their last meeting. He also shared the details of the Committee’s discussion of the breakdown of the retirement investment and the setting aside of 10% of the account yearly and letting it multiply to help pay for the landfill closure. Councilor Winglass stated that Council will still receive quarterly updates on the account and possibly in November a decision will come to Council for approval.

J. Unfinished Business 8:30 PM

There was no unfinished business.

K. New Business 8:30 PM

34) Appointment of one member to the Bath Bike and Pedestrian Committee with a term to expire in May 2015.

Councilor Pagurko nominated Nancy Perkins for this position. All were in favor of the nomination.

Councilor Paulhus made a suggestion that Council do a field trip to the Landfill and Wastewater Treatment Plant in the future. Councilor Eosco suggested that a field trip to the Parks and Cemeteries with Steve Balboni to see how much land the City is taking care of would also be helpful.

Councilor Rogers urged everyone to go to the Election on Tuesday, June 12, 2012 and vote.

Councilor Pagurko made a motion at 8:35 PM to go into Executive Session to discuss a Personnel Matter per 1 MRSA §405(6)(E). Councilor Merrill seconded the motion.

VOTE on Motion:

YEAS: Brackett, Merrill, Paulhus, Rogers, Wyman, Eosco, Pagurko

NAYS: Winglass

Motion Passed. 7-1

Councilor Paulhus made a motion at 8:51 PM to come out of Executive Session. Councilor Pagurko seconded the motion. All were in favor of the motion.

The meeting adjourned at 8:52 PM with a motion by Councilor Merrill, seconded by Councilor Rogers. All were in favor of the adjournment.

Attest:

Mary J. White, City Clerk

Please note: These minutes are not recorded verbatim. A DVD recording of the meeting is available for review in the City Clerk's office during regular business hours by appointment.