

**REGULAR MEETING MINUTES
CITY COUNCIL OF THE CITY OF BATH, MAINE
Wednesday, June 1, 2011 6:00 PM
City Council Chambers, Bath City Hall**

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

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

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

C. Public Hearings 6:01 PM

1) Ordinance: Moratorium on Smart Meters (second passage)

Chairman Wyman read the amended Ordinance as proposed by Councilor Sinclair.

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

Larry Bartlett of 942 Washington Street stated the Smart Meters will provide very valuable information on electrical usage for residents and was glad to see this Ordinance would not prohibit residents that want the meter to sign up for them.

Louise Sharp of 65 Denny Road spoke in favor of this Ordinance citing reports regarding the Smart Meter waves effects on health issues.

Larry Benoit, a Consultant with Bernstein and Shur Government Solutions, spoke on behalf of CMP. He stated given the recent decision by the PUC on a number of cases that have been pending, they believe that the Opt Out Program will address the vast majority of concerns, which were raised by the proposal for this Ordinance and were discussed at the last meeting. Mr. Benoit said the Opt Out provision will allow customers that already have Smart Meters to request to have them replaced with either an old analog meter or a disabled Smart Meter and this same Opt-Out will be available to customers who have not had meters installed under the PUC Order. Mr. Benoit stated the PUC has spent the past several months dealing with a number of the issues that have been raised such as safety, cyber security, and the

appropriateness of the wireless technology have all been dismissed and they have established an Opt-Out Program. Mr. Benoit respectfully urged Council not to pass the Ordinance and stated that CMP believes that the regulation of electric utility has been fully preempted by both Federal and State law and local governments do not have authority to regulate in a particular area involving technology and specifically Smart Meter and the company would be compelled to assert it's legal position in the courts if the Ordinance were enacted.

Councilor Sinclair motioned that Chairman Wyman amend the Ordinance as read. Councilor Rogers seconded this motion.

ROLL CALL VOTE on the Amendments to the Ordinance:

YEAS: Brackett, Omo, Paulhus, Rogers, Sinclair, Pagurko, Winglass

NAYS: Eosco

Amendments passed. 7-1

After a lengthy Council discussion, Councilor Rogers made a motion to call the Vote. Councilor Brackett seconded the motion.

VOTE ON THE CALL OF VOTE:

YEAS: Brackett, Omo, Rogers, Sinclair, Pagurko, Winglass

NAYS: Paulhus, Eosco

Call of Vote passed. 6-2

ROLL CALL VOTE on amended Ordinance:

YEAS: Brackett, Omo, Rogers, Sinclair, Pagurko

NAYS: Paulhus, Eosco, Winglass

Ordinance passed. 5-3

Chairman Wyman stated this Ordinance would become law in 21 days.

2) Ordinance: Chapter 3. Advertising, Article 2. Signs, Section 3.209 – Wayfinding (passage)

Chairman Wyman 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 3. ADVERTISING

Article 2. Signs

Amend Section 3.209, as follows:

3.209 Wayfinding

I.Except as permitted in II. Below, all off-premises, directional signs must conform to the location and design standards of the Bath Wayfinding System adopted, and amended from time to time, by City Council Resolution.

II.The Codes Enforcement Office may approve independent directional signs for a business or organization provided the following criteria are met:

A.The business or organization must be located one half mile or more outside the Downtown Commercial (C1) Zoning District.

- B. The business or organization is permitted more than one such sign only if the additional sign locations are associated with an intersection or directional change;
- C. The cost of construction, placement and ongoing maintenance is borne by the business or organization.
- D. A business or organization located within the one-half-mile- designation area may apply for a waiver for the installation of an independent sign subject to the conditions of this article.
- E. The design of the sign must meet the standards adopted by City Council Resolution.
 - 1. 4 feet by 12 inches in size. (12/18/02)
 - 2. Constructed to Maine DOT standards.
 - 3. Painted with a dark blue background with a red border, and ivory letters.
 - 4. Be mounted on a black post. (09/04/02)

F. Signs for Goods and Services in the Downtown

The City may erect, or have erected, signs that indicate the direction to goods and services, which are offered for sale in the downtown, provided the following standards are met:

- 1. The signs are erected on the sidewalk near the corner of Centre and Front Streets and near the corner of Front and Elm Streets and near the corner of Vine and Water Streets and near the corner of Elm and Water Streets.
- 2. The signs do not block sight distance for pedestrians or motorists.
- 3. The signs meet the requirements of 23 MRSA, Sections 1901 through 1925 (Maine Traveler Information Services Act).
- 4. The signs are Sidewalk Sandwich Signs, as defined in Section 3.204.
- 5. The City Council must approve the design and colors of the signs.
- 6. The City Council may approve additional locations.

(Note: Additions are underlined.)

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

City Planner Jim Upham explained this is part-1 of a 3-part signage program to get people off Route One into the Downtown and help them find goods and services.

ROLL CALL VOTE:

YEAS: Brackett, Omo, Paulhus, Rogers, Eosco, Sinclair, Pagurko, Winglass

NAYS: None

Ordinance passed unanimously. 8-0

Chairman Wyman stated this Ordinance would become law in 21 days.

3) Ordinance: Chapter 3. Advertising Article 2. Signs Sections 3.203, 3.204 and 3.205 - Political Signs (first passage)

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

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 3. ADVERTISING

Article 2. Signs

Section 3.204 – Definitions.

Delete the following:

II. Temporary Signs. Signs advertising sales, products, events, theatre productions or a similar activity for periods of no more than 30 days. Such are permitted in store window and are exempt from total sign area, items of information or window coverage calculations.

Section 3.205 – General standards.

Delete the following:

II. Political signs.

A. Any person desiring to post or erect any political sign, including but not limited to signs advertising a political party, the candidacy of any individual shall, prior to the installation of any such sign, obtain the permission of the owner or appropriate agent of the private property. No such signs shall be posted or erected on any publicly owned property.

B. No political sign may be installed on any privately owned lot or parcel in the city more than six (6) weeks prior to the voting date to which it pertains and shall be removed within 2 weeks of the voting date.

C. For any illegal political signs, City Employees have the right to enter private or public property for the purpose of removing said signs. Failure to remove signs may leave candidate or group responsible for the sign subject to legal action in accordance with this ordinance; each day any sign is in violation shall be seen as a separate offense.

Section 3.204 – Definitions.

Add the following:

J. Temporary signs: Signs of a limited duration and purpose, which advertise sales, products, events, theatre productions, or similar activity, including political signs. Such signs are subject to the standards in Section 3.203(V)(N) Temporary Signs.

Section 3.203 – Permits.

V. Exemptions.

The following regulated signs do not require a permit (unless otherwise specified), provided they are erected and maintained in accordance with the following specified requirements:

Add language as follows:

...

N. Temporary Signs. Temporary signs are permitted as freestanding signs, signs attached to buildings, or signs in windows, subject to the following:

1. Size: No temporary sign shall exceed sixteen (16) square feet.

2. Duration:

(a) Generally: No temporary signs shall be erected for a period longer than six (6) weeks, within a three (3) month period.

- (b) Event Signs: If the temporary sign is intended to advertise a particular event such as a sale, theatre production, or political election, then the sign may be erected six (6) weeks prior to the event and must be removed one (1) week after the conclusion of the event.
3. Location: Where the sign is to be erected on private property, the person erecting the sign shall obtain the permission of the owner or appropriate agent of the private property. No such signs shall be posted or erected on any City of Bath property.

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

Ruth Welch of Cherry Street asked to have the six-week terminology explained.

Councilor Omo stated that Section 2.(b) states that the sign can only be erected 6 weeks prior to the election and must be taken down 1 week after the election.

Rabyrne Hutton of 195 South Street read the full text of the first amendment of the United States Constitution. He expressed that this Ordinance is in violation of his rights of free speech according to this Constitutional text.

ROLL CALL VOTE :

YEAS: Brackett, Omo, Paulhus, Eosco, Sinclair, Pagurko, Winglass

NAYS: Rogers,

Ordinance passed. 7-1

Chairman Wyman stated this Ordinance would become law in 21 days.

D. Consent Agenda 7:03PM

***4) Minutes of the previous meetings of May 4, and 18, 2011. (Motion to Accept as Presented)**

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

E. Time Devoted to Residents to Address the City Council 7:03 PM

No one spoke.

F. Ordinances, Resolutions and Orders 7:05 PM

5) Resolution: City Operating Budget Component

Chairman Wyman 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, 2011 and terminating on June 30, 2012, be and hereby is adopted with a total expenditure of **\$ 8,790,340.00**, balanced with an equal amount of estimated revenue. Summary of appropriations are attached to this resolution in the following two pages.

Summary paperwork on file with the agenda materials for 6-1-11 in the City Clerk's Office.

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

VOTE :

YEAS: Brackett, Omo, Paulhus, Rogers, Eosco, Sinclair, Pagurko, Winglass

NAYS: None

Resolution passed unanimous. 8-0

6) Resolution: City Capital Improvement Budget

Chairman Wyman 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, 2011 and terminating on June 30, 2012, be and hereby is adopted with a total expenditure of **\$ 893,034.00**, balanced with an equal amount of estimated revenue. Summary of funded projects is on the following page.

Summary paperwork on file with the agenda materials for 6-1-11 in the City Clerk's Office.

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

VOTE :

YEAS: Brackett, Omo, Paulhus, Rogers, Eosco, Sinclair, Pagurko, Winglass

NAYS: None

Resolution passed unanimous. 8-0

7) Resolution: Landfill Fund Component

Chairman Wyman 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, 2011 and terminating on June 30, 2012, be and hereby is adopted with a total expenditure of **\$ 1,789,054.00** balanced with an equal amount of estimated revenue. Summary of appropriations is attached on the following page.

Summary paperwork on file with the agenda materials for 6-1-11 in the City Clerk's Office.

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

Councilor Winglass asked the City Manager to set up a Workshop for Council on the Landfill.

City Manager stated that this could possibly happen in the Fall.

VOTE :

YEAS: Brackett, Omo, Paulhus, Eosco, Sinclair, Pagurko, Winglass

NAYS: Rogers

Resolution passed. 7-1

8) Resolution: Sewer Utility Fund Budget

Chairman Wyman 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, 2011 and terminating on June 30, 2012, be and is hereby adopted with a total expenditure of \$ 1,901,950.00, balanced with an equal amount of estimated revenue. Summary of appropriations are attached to this Resolution on the following page.

Summary paperwork on file with the agenda materials for 6-1-11 in the City Clerk's Office.

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

City Manager Giroux stated the rates will rise by 5%.

VOTE:

YEAS: Brackett, Omo, Paulhus, Eosco, Sinclair, Pagurko

NAYS: Rogers, Winglass

Resolution passed. 6-2

9) Resolution: Bath City Bus Fund Budget

Chairman Wyman 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, 2011 and terminating on June 30, 2012, be and is hereby adopted with a total expenditure of \$ 104,707.00, balanced with an equal amount of estimated revenue. Summary of appropriations are attached to this Resolution on the following page.

Summary paperwork on file with the agenda materials for 6-1-11 in the City Clerk's Office.

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

VOTE:

YEAS: Brackett, Omo, Paulhus, Rogers, Eosco, Sinclair, Pagurko, Winglass

NAYS: None

Resolution passed unanimous. 8-0

10) Resolution: to Increase the LD1 Tax Levy Limit

Chairman Wyman 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 \$6,102,100.00 by the amount required by the adoption of the 2011-2012 budget (estimated increase \$115,000.00).

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

The City Manager explained that LD1 in most towns vote to override the limit the City is over. About half the time from the beginning, everyone knew that LD1 was not fair to Bath because of our large BIW TIF. He stated that most communities override LD1 because the law is so poorly written that it is very subject to challenge. If the Council doesn't override LD1 and it is challenged later on, it could cause some significant problems with the tax commitment. Mr. Giroux said the Council will not increase the budget or raise extra money by passing the Resolution.

VOTE:

YEAS: Brackett, Omo, Paulhus, Rogers, Eosco, Sinclair, Pagurko, Winglass

NAYS: None

Resolution passed unanimous. 8-0

11) Order: Establishing Tax Club for the upcoming year

Chairman Wyman read the following Resolution:

ORDER – ESTABLISHING TAX CLUB FOR 2011 - 2012

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 2011 Tax Club begins July 1, 2011, and ends August 15, 2011; with the first of twelve payments due in September, 2011.

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

City Manager Giroux explained the Tax Club allows residents to make 12 payments to make it easier for people who don't have their taxes escrowed to pay them.

VOTE :

YEAS: Brackett, Omo, Paulhus, Rogers, Eosco, Sinclair, Pagurko, Winglass

NAYS: None

Order passed unanimous. 8-0

12) Resolution: Establishing interest rate on all delinquent taxes at the rate of 7.0% per annum

Chairman Wyman 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 2011-2012 Fiscal Year.

Councilor Pagurko made a motion to put this Resolution on the floor for discussion. Councilor Omo seconded the motion.

Councilor Sinclair made a motion to amend the Resolution to change the rate from 7.0% to 5.0%. There was no second.

VOTE:

YEAS: Brackett, Omo, Paulhus, Rogers, Eosco, Pagurko, Winglass

NAYS: Sinclair

Resolution passed. 7-1

13) Resolution: Establishing interest rate on delinquent sewer bills at the rate of 7.0% per annum

Chairman Wyman 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 2011-2012 Fiscal Year.

Councilor Pagurko made a motion to put this Resolution on the floor for discussion. Councilor Sinclair seconded the motion.

Councilor Sinclair made a motion to amend the Resolution to change the rate from 7.0% to 5.0%. There was no second.

Kevin Welch of Cherry Street stated that he thought this is a very high percentage rate and it is hard for people nowadays to come up with the payments. He also thought that the City Payback should be at 7.0% instead 3.0%.

City Solicitor Therriault explained that the State has set this rate to discourage people from putting their money in an investment to get more on it than the interest they would pay on taxes and at the last minute come in and pay their taxes.

Ruth Welch of Cherry Street asked if it is possible to give people a break if they can't pay their taxes.

City Manager Giroux stated that there is a tax abatement process already in place.

VOTE:

YEAS: Brackett, Omo, Paulhus, Rogers, Eosco, Pagurko, Winglass

NAYS: Sinclair

Resolution passed. 7-1

14) Resolution: Establishing interest rate on refunds due to tax abatements at the rate of 3.0% per annum

Chairman Wyman 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, 2011 to June 30, 2012; 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 this Resolution on the floor for discussion. Councilor Omo seconded the motion.

Councilor Omo made a motion to raise the rate from 3.0% to 7.0%. Councilor Winglass seconded the motion.

City Assessor Paul Mateosian explained that it would be very expensive for the City to repay a large overpayment and cited the BIW 5.4 million-dollar tax abatement incident in 1994.

VOTE on motion:

YEAS: Omo, Pagurko, Winglass

NAYS: Brackett, Paulhus, Rogers, Eosco, Sinclair

Motion failed. 5-3

VOTE:

YEAS: Brackett, Paulhus, Rogers, Eosco, Sinclair,

NAYS: Omo, Pagurko, Winglass

Resolution passed. 5-3

15) Resolution: City of Bath's Special Purpose Fund Budget

Councilor Pagurko made a motion that the Chairman would not read the accounts. Councilor Omo seconded the motion. All were in favor.

RESOLUTION – SPECIAL PURPOSE FUND COMPONENT

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, 2011 and terminating on June 30, 2012, be and is adopted for the purpose of funding the accounts attached to this Resolution below:

A complete copy the above mentioned accounts table is on file in the agenda materials for June 1, 2011 in City Clerk's Office.

Councilor Pagurko made a motion to put this Resolution on the floor for discussion. Councilor Omo seconded the motion.

VOTE:

YEAS: Brackett, Omo, Paulhus, Rogers, Eosco, Sinclair, Pagurko, Winglass

NAYS: None

Resolution passed unanimous. 8-0

16) Order: Approving Year-end Expenditure Transfers

Chairman Wyman read the following Order:

**ORDER - APPROVING TRANSFER
YEAR END EXPENDITURE TRANSFERS**

Be It Hereby Ordered by the City Council of the City of Bath, pursuant to Section 611 (D) of the Charter of the City of Bath, that the following transfers be hereby approved:

Transfer In Account Amount

RESERVE FOR UNEMPLOYMENT	045-075	\$15,000
APPLIED MATERIALS	080-214	\$25,000

Transfer Out Account Amount

COUNCIL CONTINGENCY	012-402	\$40,000
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Councilor Rogers made a motion to put this Order on the floor for discussion. Councilor Omo seconded the motion.

City Manager Giroux explained these accounts were overspent due to unemployment paid out a year ago and the Applied Materials were sand and salt for treatment of roads due to the hard winter.

VOTE:

YEAS: Brackett, Omo, Paulhus, Rogers, Eosco, Sinclair, Pagurko, Winglass

NAYS: None

Order passed unanimous. 8-0

17) Resolution: Authorizing Borrowing in Anticipation of Taxes for FY 2011-2012

Councilor Winglass motioned to waive the reading. Councilor Omo seconded the motion. All were in favor of the waiving motion.

**RESOLUTION AUTHORIZING BORROWING
IN ANTICIPATION OF TAXES
FOR FISCAL YEAR 2011-2012**

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;

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, 2012, 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, 2012, out of money raised by taxation during the fiscal year ending June 30, 2012, 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.

City Manager Giroux explained every year the City borrows in anticipation of taxes and the Finance Director determines how much money will be needed to operate the City until tax money starts coming in the Fall. He stated that during the summer months the City borrows funds at low interest rates and works like a letter of credit. Mr. Giroux said only what funds are needed are used and the money is put back if we don't need it.

Councilor Pagurko made a motion to put this Resolution on the floor for discussion. Councilor Omo seconded the motion.

VOTE:

YEAS: Brackett, Omo, Paulhus, Rogers, Eosco, Sinclair, Pagurko, Winglass

NAYS: None

Resolution passed unanimous. 8-0

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

Chairman Wyman read the following Resolution:

**RESOLUTION ESTABLISHING SCHEDULE OF RATES FOR
SEWER SYSTEMS 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, 2011 for the October 1, 2011 billing, August 1, 2011, for the November 1, 2011 billing, and September 1, 2011, for the December 1, 2011 billing. The schedule of fees charges and special assessments shall continue in effect until further Resolution of the Council. Councilor Rogers made a motion to put this Resolution on the floor for discussion. Councilor Pagurko seconded the motion.

A complete copy of the table of fees is on file with the agenda materials for June 1, 2011 in the City Clerk's Office.

VOTE:

YEAS: Brackett, Omo, Paulhus, Rogers, Eosco, Sinclair, Pagurko, Winglass

NAYS: Rogers, Winglass

Resolution passed. 6-2

19) Supplemental Appropriation: Unanticipated Expenditures in the amount of \$1,500,000 (first passage)

Chairman Wyman 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 One Million Five Hundred Thousand Dollars (\$1,500,000.00), 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 One Million Five Hundred Thousand Dollars (\$1,500,000.00) be and hereby is supplementally appropriated from the General Fund Undesignated Fund Balance (Account GF-2500) to the Council Contingency Account (Account 012-402).

Councilor Pagurko made a motion to put this Supplemental Appropriation on the floor for discussion. Councilor Omo seconded the motion.

City Manager Giroux explained that every year since the adoption of the spending limitation the Council has appropriated the amount the City is under the spending limitation so that there is room under that limit for the next year.

Councilor Sinclair made a motion to table this item to Workshop on June 8th. Councilor Rogers seconded the motion.

VOTE on Motion:

YEAS: Rogers, Sinclair, Pagurko

NAYS: Brackett, Omo, Paulhus, Eosco, Winglass

Tabling motion failed. 3-5

ROLL CALL VOTE:

YEAS: Omo, Paulhus, Eosco, Winglass, Wyman

NAYS: Brackett, Rogers, Sinclair, Pagurko

Supplemental Appropriation passed. 5-4

Chairman Wyman set second passage of this Supplemental Appropriation for June 22, 2011 at 6:01 PM.

Chairman Set Workshop on this item for the June 8th Council Meeting.

20) Bond Ordinance: In an amount up to but not to exceed, \$214,500 for the purpose of funding the acquisition of certain equipment and vehicles and the repair/replacement of the Small School roof. (first passage)

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

BOND ORDINANCE

AUTHORIZING ISSUANCE OF GENERAL OBLIGATION BONDS FOR THE CITY OF BATH, MAINE, IN AN AMOUNT UP TO BUT NOT TO EXCEED, \$214,500 FOR THE PURPOSE OF FUNDING THE ACQUISITION OF CERTAIN EQUIPMENT AND VEHICLES AND THE REPAIR / REPLACEMENT OF THE SMALL SCHOOL ROOF

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, \$214,500, 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 Fire House generator
- 2 Police vehicles
- 1 Cemeteries truck
- Repairs / Replacement to the Small School Roof
- 1 New Trolley

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, \$214,500 under and pursuant to 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 proceeds of any bonds/notes or notes in anticipation thereof issued pursuant to this Ordinance shall be used only for those purposes specified in Section 1 above and any proceeds not used for such purposes shall be applied to repayment of the principal and/or interest of such bonds.
- Section 10. 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 11. 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 Maine Municipal Bond Bank (the "Bond Bank") in conjunction with the issuance of the bonds or notes, in the aggregate principal amount not to exceed \$214,500 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 12. 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 13. 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 Rogers made a motion to put this Bond Ordinance on the floor for discussion. Councilor Omo seconded the motion.

ROLL CALL VOTE :

YEAS: Brackett, Omo, Paulhus, Rogers, Eosco, Sinclair, Pagurko, Winglass

NAYS: None

Bond Ordinance passed unanimous. 8-0

Chairman Wyman set second passage of this Bond Ordinance for June 22, 2011 at 6:02 PM.

21) Condemnation Order: Bath Housing Authority Congress Avenue

Councilor Omo made a motion to waive the reading of the following Order. Councilor Pagurko seconded the motion. All were in favor of the waiving motion.

CONDEMNATION ORDER

The Municipal Officers of the City of Bath, being the City Council of said City, hereby consider, approve, adopt and issue this Condemnation Order with respect to a parcel of land being a portion of property adjacent and to the East of Congress Avenue, for highway purposes, as described more fully below. This Condemnation Order is issued pursuant to the requirements of 23 M.R.S.A. Section 3023. By this Order, the City intends to acquire the property described below.

1. **Public Exigency:** This taking is intended to acquire a portion of the property of the record owner listed below adjacent to Congress Avenue. The purpose of the acquisition of this property is to provide proper slopes and drainage in conjunction with the installation of sidewalks along the easterly portion of Congress Avenue. The acquisition of the property will allow the City to establish new slopes on the acquired property to provide proper drainage from Congress Avenue and the new sidewalk construction. Being for highway purposes, the project constitutes a valid public purpose. There appears to be no other reasonable alternative to acquire the property in question and the acquisition is necessary for the completion of the project.

2. **Record Owners and Property Reference:** The property described below and the subject of this Condemnation Order is a portion of the premises owned by the Bath Housing Authority. The property was acquired by the Bath Housing Authority, a Maine corporation, by the following deeds: (1) deed from Maud W. (Howard) Steussy dated September 30, 1976 and recorded in the Sagadahoc County Registry of Deeds in Book 445, Page 94; (2) deed from Louise M. Edgett also dated September 30, 1976, and recorded in the Sagadahoc County Registry of Deeds in Book 445, Page 96; and (3) deed from Louise M. Edgett dated October 19, 1977 and recorded in the Sagadahoc County Registry of Deeds in Book 476, Page 15.

3. **Property Interest to Be Condemned:** The City is proposing to acquire, in fee simple absolute, approximately 665 square feet, more or less, of land without structures.

4. **Metes and Bounds Description:** A certain lot or parcel of land situated directly East of Congress Avenue, in Bath, in the County of Sagadahoc, and State of Maine, and being bounded and described as follows, to wit: Beginning at a point which is a corner in the description of the layout of Congress Avenue at Station 33-50 and at a corner of property of the Bath Housing Authority; thence running along the easterly right of way limit of Congress Avenue North Six Degrees, Thirteen Minutes, Fifty-Nine Seconds West (N 06° 13' 59" W) a distance of Eighty-Seven Feet (87'), more or less, to the intersection of the northwesterly corner of property of Bath Housing Authority and the southwesterly corner of

property of United Church of Christ; thence running North Eighty-Three Degrees, Forty-Six Minutes, One Second East (N 83° 46' 01" E) a distance of Seven Feet (7'), more or less, to a point on the common boundary line between the property of Bath Housing Authority and property of the United Church of Christ; thence running South Nine Degrees, Five Minutes, Forty-Four Seconds East (09° 05' 44" E) a distance of Eighty-Eight Feet (88'), more or less, to a point on the northerly limit of the Congress Avenue right of way; thence running South Eighty-Three Degrees, Forty-Six Minutes, One Second West (S 83° 46' 01" W) a distance of Ten Feet (10') along the northerly limit of Congress Avenue right of way to the point of beginning. Containing 665 square feet of land, more or less.

5. Damages: The value of the property at market value for the land that is being taken for highway purposes is Fifteen Hundred Dollars (\$1,500.00).

6. Notice: Notice by United States Postal Service, postage prepaid, and via e-mail, to the owner of record has been sent. The Notice includes a copy of this Condemnation Order and Sketch Plan and the date and time of the proposed City Council Meeting at which the adoption of the Condemnation Order will be considered.

The Municipal Officers of the City of Bath, therefore, adopt this Condemnation Order vesting title in fee simple to the premises described in this Order. The purpose of this taking is to acquire property to allow the installation, maintenance and repair of slopes and drainage in connection with the improvements to Congress Avenue. This Order further requires that damages in the amount of Fifteen Hundred Dollars (\$1,500.00) be paid to Bath Housing Authority as determined by the City's Assessor as the value of the property taken and diminution of value of the owner's remaining property. The City Council further requires that this Condemnation Order be served on the owner, Bath Housing Authority, and any lien holders, and that the Order be filed with the Municipal Clerk and an attested copy be recorded in the Sagadahoc County Registry of Deeds.

It is further ordered that the Chairman of the Bath City Council be authorized to execute this Order and such other and further documentation as may be needed to affect this condemnation.

SO ORDERED this 1st day of June, 2011.

Councilor Pagurko made a motion to put this Order on the floor for discussion. Councilor Omo seconded the motion.

City Solicitor Roger Therriault explained the next four items on the agenda. He stated that this is done as a requirement of the project on Congress Avenue, which means the City needs to acquire a small piece of property to support the construction of a sidewalk, drainage and slopes, adjacent to the Bath Housing Authority Anchorage Complex and the United Church of Christ. Mr. Therriault said the Boards for these entities have met and are in agreement with the process. State Law dictates the Order and the City has to award damages when land is acquired in this way according to State Standards.

Peter Owen explained the urgency of this item was due to the fact that the State/Federal Highway Departments had notified him they would pull the funding if the project didn't go out to bid in June. He then gave an overview of the project.

Director of the Bath Housing Authority Joanne Marco spoke in favor of this Order.

VOTE:

YEAS: Brackett, Omo, Paulhus, Rogers, Eosco, Sinclair, Pagurko, Winglass

NAYS: None

Order passed unanimous. 8-0

22) **Condemnation Order: United Church of Christ Congress Avenue**

Councilor Omo made a motion to waive the reading of the following Order. Councilor Pagurko seconded the motion. All were in favor of the motion.

CONDEMNATION ORDER

The Municipal Officers of the City of Bath, being the City Council of said City, hereby consider, approve, adopt and issue this Condemnation Order with respect to a parcel of land being a portion of property adjacent and to the East of Congress Avenue, for highway purposes, as described more fully below. This Condemnation Order is issued pursuant to the requirements of 23 M.R.S.A. Section 3023. By this Order, the City intends to acquire the property described below.

1. **Public Exigency:** This taking is intended to acquire a portion of the property of the record owner listed below adjacent to Congress Avenue. It is the purpose of the acquisition of this property to provide proper slopes and drainage in conjunction with the installation of improvements along the easterly portion of Congress Avenue. The acquisition of the property will allow the City to establish new slopes on the acquired property to provide proper drainage from Congress Avenue and the new sidewalk construction. Being for highway purposes, the project constitutes a valid public purpose. There appears to be no other reasonable alternative to acquire the property in question and the acquisition is necessary for the completion of the project.
2. **Record Owners and Property Reference:** The property described below and the subject of this Condemnation Order is a portion of the premises owned by the United Church of Christ (Congregational) of Bath, a Maine corporation. The property was acquired by the United Church of Christ from Virginia Hamilton Bailey under Warranty Deed, dated April 6, 1970, and recorded in the Sagadahoc County Registry of Deeds in Book 389, Page 960.
3. **Property Interest to Be Condemned:** The City is proposing to acquire, in fee simple absolute, approximately Eighty-Five (85) square feet, more or less, of land without structures.
4. **Metes and Bounds Description:** A certain lot or parcel of land situated easterly of the current Limit of the Congress Avenue right of way, in Bath, in the County of Sagadahoc, and State of Maine, and being bounded and described as follows, to wit: Beginning at a point which is intersection of northwesterly corner of property of the Bath Housing Authority and the southwesterly corner of property of the United Church of Christ, at the intersection of this point with the easterly limit of the right of way of Congress Avenue; thence running North Six Degrees, Thirteen Minutes, Fifty-Nine Seconds West (N 06° 13' 59" W) along the easterly right of way limit of Congress Avenue a distance of Twelve Feet (12'), more or less, to a point which is a corner in the right of way of Congress Avenue; thence North Eighty-Three Degrees, Forty-Six Minutes, One Second East (N 83° 46' 01" E) along the southerly right of way limit of Congress Avenue a distance of Five Feet (5') to a point on the common boundary line between the limit of the Congress Avenue and the Grantor, United Church of Christ; thence running South Nine Degrees, Five Minutes, Forty-Four Seconds East (09° 05' 44" E) a distance of Eleven Feet (11') to a point; thence running South Eighty-Three Degrees, Forty-Six Minutes, One Second West (S 83° 46' 01" W) a distance of Seven Feet (7'), more or less, to the southeast corner of the Grantor's property, the northwest corner of property of the Bath Housing Authority, and the easterly right of way limit of Congress Avenue and the point of beginning. Containing 85 square feet of land, more or less.
5. **Damages:** The value of the property at market value for the land that is being taken for highway purposes is Two Hundred Dollars (\$200.00).
6. **Notice:** Notice by United States Postal Service, postage prepaid, to the owner of record has been sent. The Notice includes a copy of this Condemnation Order and Sketch Plan and the date and time of the proposed City Council Meeting at which the adoption of the Condemnation Order will be considered.

The Municipal Officers of the City of Bath, therefore, adopt this Condemnation Order vesting title in fee simple to the premises described in this Order. The purpose of this taking is to acquire property to allow the installation, maintenance and repair of slopes and drainage in connection with the improvements to Congress Avenue. This Order further requires that damages in the amount of Two Hundred Dollars (\$200.00) be paid to the United Church of Christ as determined by the City's Assessor at the value of the property taken and diminution of value of the owner's remaining property. The City Council further requires that this Condemnation Order be served on the owner, United Church of Christ, and any lien holders, and that the Order be filed with the Municipal Clerk and an attested copy be recorded in the Sagadahoc County Registry of Deeds.

It is further ordered that the Chairman of the Bath City Council be authorized to execute this Order and such other and further documentation as may be needed to affect this condemnation.

SO ORDERED this 1st day of June, 2011.

Councilor Omo made a motion to put this Order on the floor for discussion. Councilor Pagurko seconded the motion.

VOTE :

YEAS: Brackett, Omo, Paulhus, Rogers, Eosco, Sinclair, Pagurko

NAYS: None

Abstain: Winglass

Order passed. 7-0-1

23) Order of Dedication: Congress Avenue Improvement Project

Councilor Omo made a motion to waive the reading of the following Order. Councilor Brackett seconded the motion. All were in favor of the waiving motion.

ORDER OF DEDICATION CONCERNING CONGRESS AVENUE IMPROVEMENTS PROJECT

WHEREAS, the City of Bath is engaged in improvements to Congress Avenue; and

WHEREAS, said improvements include a culvert and drainage basin North of the right of way of Congress Avenue and on other property owned by the City of Bath; and

WHEREAS, the Transportation Enhancement Project Agreement between the City of Bath and the State of Maine Department of Transportation in Article II(I)(2)(b) and Article II(I)(6) requires the City to "maintain and operate the completed facility for its intended public purpose for a period of twenty (20) years or its useful design life, whichever is longer"; and

WHEREAS, the State of Maine Department of Transportation is requesting that the City formally dedicate the drainage and outlet on its property adjacent to the Congress Avenue right of way in accordance with the requirements of Sections I(2)(b) and I(6) of Article II of the Agreement.

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Bath that the dedication of the following Congress Avenue improvement project components, located outside the right of way of Congress Avenue, be and hereby are dedicated for the purposes indicated:

1. Dedication of a stabilized outlet with riprap and drainage at Station 29+64.
2. Dedication of a multi-use pathway beginning at Station 40+40.7 to Station 44+61.5.

In the case of future property transactions, a permanent easement shall be reserved and affixed to the property to allow for the continued repair, maintenance and replacement of the drainage facility.

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

VOTE :

YEAS: Brackett, Omo, Paulhus, Rogers, Eosco, Sinclair, Pagurko, Winglass

NAYS: None

Order passed unanimous. 8-0

24) Order: Accepting Permanent and Temporary Easement Congress Avenue

Councilor Omo made a motion to waive the reading of the following Order. Councilor Pagurko seconded the motion. All were in favor of the waiving motion.

ORDER ACCEPTING PERMANENT AND TEMPORARY EASEMENT

WHEREAS, the City of Bath is engaged in the Congress Avenue improvements project; and

WHEREAS, those improvements encroach upon land of Maine Stream Associates; and

WHEREAS, there is also necessary for the project a temporary construction Easement on other adjacent land of Maine Stream Associates; and

WHEREAS, Maine Stream Associates is agreeable to granting the City the appropriate Easements for the project.

NOW, THEREFORE, BE ORDERED by the City Council of the City of Bath that the proposed permanent Easement for installing, maintaining, repairing and replacing pavement, curbing and drainage, and a temporary Easement for construction and grading, generally in accordance with the Easement attached hereto, be and hereby is approved, and the City Manager is authorized to execute any documents necessary on behalf of the City of Bath to acquire said Easements.

Councilor Omo made a motion to put this Order on the floor for discussion. Councilor Pagurko seconded the motion.

VOTE :

YEAS: Brackett, Omo, Paulhus, Rogers, Eosco, Sinclair, Pagurko, Winglass

NAYS: None

Order passed unanimous. 8-0

G. Petitions & Communications 8:34 PM

Councilor Pagurko congratulated Police Chief Field on his recent awards citing the Mainsail Award from Morse High School and Community Builder Award from the United Way.

H. City Manager Report 8:35 PM

There was no City Manager Report.

I. Committee Reports 8:36 PM

Councilor Omo reported that the Alewife Committee had extended the fishing season by two days due to the bad weather conditions.

Councilor Pagurko reminded everyone that Bath Safety Day would be happening Saturday, June 4 at the Donald Small School from 10 AM-1PM.

J. Unfinished Business 8:38 PM

There was no unfinished business.

K. New Business 8:39 PM

25) Appointment one member Bath Community Forestry Committee with an indefinite term.

Councilor Pagurko, on behalf of the Interview Committee, nominated Kurt Spiridakis to the position on the Bath Community Forestry Committee. All were in favor of the nomination.

Councilor Pagurko made a motion at 8:40 PM to go into Executive Session to discuss a Personnel Matter per 1 MRSA §405(6)(A). Councilor Winglass seconded the motion. All were in favor of the motion.

Councilor Pagurko made a motion at 9:02 PM to come out of Executive Session. Councilor Brackett seconded the motion. All were in favor of the motion.

The meeting adjourned at 9:03 PM with a motion by Councilor Eosco, seconded by Councilor Sinclair. 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.