

**REGULAR MEETING MINUTES
CITY COUNCIL OF THE CITY OF BATH, MAINE
Wednesday, October 5, 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.

Chairman Wyman presented James Upham, former City Planner, a City Chair and read the following Proclamation:

PROCLAMATION

WHEREAS the City of Bath wishes to recognize the 15 years of distinguished service by James P. Upham to the City of Bath and for 38 years of committed public service in municipal government in the State of Maine, and

WHEREAS Jim’s many achievements are too numerous to mention but include such projects as the renovation of the Train Station as a Visitors Center, upgrading of the Linwood E. Temple Waterfront Park, improvements to the South End Boat Launch, establishment of the Wing Farm Business Park, and working with developers to ensure historically sensitive and attractive designs at high visibility sites such as the Hampton Inn on Commercial St. and the Big Apple on Route 1, and

WHEREAS Jim has clocked in numerous hours on countless Boards and Committees including the Planning Board, the Comprehensive Plan Committee, the Gateway 1 Committee, and the Transportation Committee just to name a few, as well as spearheading the formation of the Bicycle and Pedestrian Advisory Committee, and,

WHEREAS Jim has provided invaluable support in guidance to staff and the Planning Board, encouraging public participation and involvement in the approval of a number of commercial enterprises in the City, and has “sailed through” numerous amendments to ordinances and the Land Use Code, and

WHEREAS Jim has played an instrumental part in ensuring that the City’s transportation needs are adequately met, overseeing and administering the City bus system and the trolley in addition to implementing a roundabout at the intersection of Rt. 1 and Congress Avenue to facilitate and improve the traffic pattern there, and

WHEREAS planners often set sail across the tide of public opinion, handling with ease the “flood” of objections that typically accompany any new project, and provide an anchor to keep the citizenry from floating away in a sea of issues, and

WHEREAS Jim’s foresight, planning expertise and vision for his community have made the City of Bath a better place to live, work and play

NOW THEREFORE BE IT PROCLAIMED that James P. Upham has provided 15 years of good planning to the citizenry of Bath and has improved the quality of life for us all, that his long and productive career has been marked by his integrity and professionalism, and we hereby send him off with gratitude and sincere wishes that he will have more time to sail off into the sunset.

C. Public Hearings 6:06 PM

1) Ordinance: LUC Amendment to the Zoning map changing the zoning on lots 13 and 14 Tax Map 38 from M Zone to R2 Zone. (second passage)

ORDINANCE

WHEREAS, THE CITY COUNCIL OF THE CITY OF BATH, AS PART OF THE ADOPTION OF THE BATH LAND USE CODE ON JULY 19, 2000, EFFECTIVE AUGUST 9, 2000, DEPICTED THE BOUNDARIES OF ALL LAND USE DISTRICTS ON A ZONING MAP OF THE CITY OF BATH, ALSO DATED JULY 19, 2000, INCORPORATED BY REFERENCE INTO THE LAND USE CODE PURSUANT TO THE PROVISIONS OF SECTION 7.02 OF THE SAID CODE, AND

WHEREAS, IT IS NECESSARY AND APPROPRIATE THAT THE BOUNDARIES OF THE LAND USE DISTRICTS BE, FROM TIME TO TIME, ADJUSTED AND AMENDED, IN ORDER TO CREATE NEW DISTRICTS AND ADJUST BOUNDARY LINES OF EXISTING DISTRICTS,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BATH THAT THE ZONING MAP OF THE CITY OF BATH, DATED JULY 19, 2000, BE AND HEREBY IS AMENDED IN ACCORDANCE WITH THE SKETCH PLAN ATTACHED HERETO AND MADE A PART HEREOF. THIS CHANGE SHALL BE INCORPORATED INTO AND BE PART OF THE OFFICIAL ZONING MAP OF THE CITY OF BATH. THE SPECIFIC ADJUSTMENT IS:

An amendment to the Zoning Map changing the zoning on lots 13 and 14 on tax map 38 from M Zone to R2 Zone.

City Planner Andrew Deci explained that these are residential lots and the present Ordinance doesn't allow for home expansion use such as bed and breakfast or small home occupations. This amendment to the Land Use Code would allow these home expansions.

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

Councilor Pagurko made a motion to put this 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

Ordinance passed unanimously. 8-0

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

D. Consent Agenda 6:12 PM

*2) Minutes of the previous meetings of September 7 and 21, 2011. (Motion to Accept as Presented)

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

E. Time Devoted to Residents to Address the City Council 6:12 PM

Jennifer Geiger of Main Street Bath spoke regarding Autumn Fest and Erika Benson, City Manager's Assistant spoke regarding Citizen Involvement Day giving a brief history and an overview of events these to be held October 8th starting at 10am – 1pm. Ms. Geiger reported that the Visitors' Center had welcomed 18,340 visitors during the summer season and asked that anyone interested in participating in the "Old Fashioned Christmas" celebration to get in touch with the Main Street Office.

F. Resolutions, Orders and Ordinances 6:18 PM

3) Proclamation for Bath Food Bank Day October 14, 2011.

Chairman Wyman presented the following Proclamation to representatives of the Bath Food Bank:

PROCLAMATION

WHEREAS hunger and poverty have no bounds and are rampant social issues, not only in our City and State but in the entire country, and

WHEREAS the City of Bath is committed to raising awareness about the need to combat hunger and would like to commend the Bath Food Bank and all their volunteers for their selfless and Herculean efforts in this area, and

WHEREAS the Food Bank volunteers have donated hundreds of hours expecting nothing in return except the satisfaction of knowing they are helping their neighbors in need and striving to alleviate hunger in the homes of hardworking Mainers who are simply struggling to make ends meet in a difficult economic time, and

WHEREAS this unique institution is in the best tradition of American volunteerism and has brought together public agencies, private industry, churches, organizations and concerned individuals in a concerted drive to meet a basic human need and to throw out a lifeline to those in need, and

WHEREAS hunger diminishes the capacity of children to learn, exacerbates the ill health conditions of seniors and saps the strength of the working poor, and

WHEREAS the Bath Area Food Bank was established in 1988 to serve the Bath, Maine area and is sponsored by a dozen area churches and is supported solely by volunteers and donations, and

WHEREAS it has been requested that a day be designated during this Hunger Action Month for the community to collect food at local areas on this day and that area restaurants and businesses ask patrons if they would like to donate \$1 to the Food Bank.

NOW THEREFORE, I, Bernard A. Wyman Jr., do hereby proclaim October 14th as Bath Food Bank Day and encourage Bath citizens to observe this day and to participate in any way possible to assist our Food Bank and to help protect this valuable asset to our community.

4) Resolution - Authorize Brownfield Cleanup Revolving Loan Funds to cleanup properties owned by Latium Management Corporation properties located at 135 and 141 Leeman Highway.

Chairman Wyman read the following Resolution:

City of Bath
BROWNFIELD CLEANUP REVOLVING LOAN FUND COUNCIL
RESOLUTION

WHEREAS, the City of Bath is the recipient of Brownfield Cleanup Revolving Loan Funds (BCRLF) and authorized to make certain subgrants from these funds (Loan Funds); and

WHEREAS, these funds are to be used to undertake cleanup of Brownfield sites by making both loans and certain subgrants to nonprofit parties willing to undertake cleanup of these sites; and

WHEREAS, the Latium Management Corporation Properties is the owner of title for real property located in Bath Maine. The Subject Property encompasses two parcels identified by the City of Bath Assessor Office as Lots 53 and 54 on Tax Map 28 which correspond to 141 and 135 Leeman Highway, respectively, in the City of Bath.

NOW THEREFORE BE IT RESOLVE BY THE CITY COUNCIL THAT William D. Giroux, City Manager, is authorized to carry out the duties and responsibilities to execute the subgrant and related documents, consistent with the City Charter of the City of Bath and the laws and the regulations governing the Brownfield Cleanup Revolving Loan Fund Program.

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

Community Development Director Al Smith gave an overview of the history of the property and the process of this project.

Councilor Brackett left his seat at this time.

VOTE:

YEAS: 7

NAYS: 0

Resolution passed unanimously. 7-0

5) Order – Prepare Election Warrant to notify inhabitants of the City of Bath of a State Referendum Election to be held on Tuesday, November 8, 2011 (motion to pass Order)

Chairman Wyman read the following Order:

ORDER

In City Council
October 5, 2011

BE IT HEREBY ORDERED BY THE CITY COUNCIL, AS FOLLOWS:

That, the Notice of State of Maine Referendum Election be prepared and issued to notify and summons the inhabitants of the City of Bath, qualified to vote, that the Referendum Election will be held at Bath Middle School, 6 Old Brunswick Road, on Tuesday, November 8, 2011 for the purpose of determining the following questions:

Questions to be Voted on:

Question 1: People's Veto

Do you want to reject the section of Chapter 399 of the Public Laws of 2011 that requires new voters to register to vote at least two business days prior to an election?

Question 2: Citizen Initiative

Do you want to allow a slot machine facility at a harness racing track in Biddeford or another community within 25 miles of Scarborough Downs, subject to local approval, and at a harness racing track in Washington County, with part of the profits from these facilities going to support specific state and local programs?

Question 3: Citizen Initiative

Do you want to allow a casino with table games and slot machines in Lewiston, with part of the profits going to support specific state and local programs?

Question 4: Constitutional Amendment

Do you favor amending the Constitution of Maine to change the years of redistricting the Maine Legislature, congressional districts and county commissioner districts after 2013 from 2023 and every 10th year thereafter to 2021 and every 10th year thereafter?

A person may register to vote and/or enroll in a political party on or before election day. Pursuant to Title 21-A, Section 759(7), absentee ballots will be processed on November 8, 2011 at the Bath Middle School, 6 Old Brunswick Road at the following times: starting at 10:00AM, 1:00PM, 4:00PM and 7:00PM. Any and all remaining absentee ballots will be processed at 8pm.

The polls shall be opened at 8:00am and closed at 8:00pm.

Councilor Brackett took his seat at this time.

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

VOTE:

YEAS: 8

NAYS: 0

Resolution passed unanimously. 8-0

6) Order - Prepare Election Warrant to notify inhabitants of the City of Bath of a Municipal Election to be held on Tuesday, November 8, 2011 to vote for the following: One Councilor from each: Ward 1, Ward 6 and At Large (three year terms) (motion to pass Order)

Chairman Wyman read the following Order:

ORDER

In City Council
October 5, 2011

BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF BATH, THAT:

Warrants be prepared and issued to notify and summons the inhabitants of the City of Bath, qualified to vote, that the Municipal Candidate Election (Wards One, Six and At Large) will be held at Bath Middle School, 6 Old Brunswick Road, on the Tuesday following the first Monday of November, the same being the 8th day of said month, in the year of our Lord Two Thousand Eleven, at eight o'clock in the forenoon, then and there, to cast their votes at the Municipal Election in their respective Wards for:

City Councilors to be Elected:

Ward One One to be Elected for a three year term

Ward Six One to be Elected for a three year term

Ward At Large One to be Elected for a three year term

and, be it further ordered, that said polls are to be kept open until eight o'clock in the afternoon of said day and then be closed.

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

VOTE:

YEAS: 8

NAYS: 0

Resolution passed unanimously. 8-0

7) Order - Prepare Election Warrant to notify inhabitants of City of Bath of the RSU #1 School Districts 2, 3 and 7 Board of Directors' Election to be held on Tuesday, November 8, 2011 to vote for the following: One Director to be elected from each: District 2, 3 and 7 (three year terms)(motion to pass Order)

Chairman Wyman read the following Order:

ORDER

In City Council
October 5, 2011

BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF BATH, THAT:

Warrants be prepared and issued to notify and summons the inhabitants of the City of Bath RSU #1 School Districts 2, 3 and 7, qualified to vote, said Election will be held at Bath Middle School, 6 Old Brunswick Road, on the Tuesday following the first Monday of November, the same being the 8th day of said month, in the year of our Lord Two Thousand Eleven, at eight o'clock in the forenoon, then and there, to cast their votes for:

Board of Directors for RSU #1 to be Elected:

District 2 - One to be Elected for a three year term

District 3 - One to be Elected for a three year term

District 7 - One to be Elected for a three year term

and, be it further ordered, that said polls are to be kept open until eight o'clock in the afternoon of said day and then be closed.

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

VOTE:

YEAS: 8

NAYS: 0

Order passed unanimously. 8-0

8) Order - Appointment of Wardens and Ward Clerks for the November 8, 2011 Election (motion to pass Order)

Chairman Wyman read the following Order:

ORDER

Be It Ordered by the City Council of the City of Bath, that the following be appointed for the Maine State Election and the City of Bath Municipal Candidate Election to be held on Tuesday, November 8, 2011.

<u>Ward</u>	<u>Warden</u>	<u>Ward Clerk</u>
1	Barry Compton	Joan Ingersoll
2	Pamela Murray	Christina Hagan
3	Mary Arsenault	Diana McIntire
4	Darlene Compton	Melody Atwood
5	Cindy Gabelmann	Sandra Kaler
6	Brenda Cummings	Timothy Richter
7	Aaron Park	Carla Burnham

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

VOTE:

YEAS: 8

NAYS: 0

Order passed unanimously. 8-0

9) Order - Setting hourly schedule of the Office of Voting Registrar (motion to pass Order)

Chairman Wyman read the following Order:

ORDER

Be It Ordered by the City Council of the City of Bath, that the hourly schedule for the office of the Registrar of Voters shall be from 8:30am to 4:30pm Monday through Friday prior to the State of Maine Referendum Election and City of Bath Municipal Candidate Election to be held Tuesday, November 8, 2011 except for Saturday, October 29, 2011 from 11:00am to 2:00pm at the City Clerks Office, 55 Front Street.

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

VOTE:

YEAS: 8

NAYS: 0

Order passed unanimously. 8-0

10) Order – Authorizing BIW Tax Increment Financing District FT 2012

Chairman Wyman Read the following Order:

ORDER

APPROVING AUTHORIZATION

BIW TAX INCREMENT FINANCING DISTRICT (FY 2012)

Be It Hereby Ordered By the City Council of the City of Bath that nine hundred fourteen thousand and five hundred thirteen and 00/100 (\$914,513) be and hereby is authorized to be spent from the Tax Increment Financing District Development Program Fund Project Costs Accounts from the fiscal year commencing July 1, 2011 and terminating on June 30, 2012 for the following purposes:

TIF REVENUE	
INCREMENT	\$902,359
TRANSFER IN FROM RESERVE	<u>\$12,154</u>
TOTAL REVENUE	<u>\$914,513</u>

EXPENSES	
DEBT SERVICE	\$656,413
CONTRIBUTION TO BATH LOCAL DEVELOPMENT CORPORATION	\$133,900
CONTRIBUTION TO MAIN STREET BATH	\$27,000
ECONOMIC DEVELOPMENT PROJECTS ACCOUNT	\$50,000
ECONOMIC DEVELOPMENT CITY MANAGER	\$25,000
ENGINEERING BATH PED SAFETY	\$2,200
TRAIN STATION FUNDING-TRANSFER	<u>\$20,000</u>
TOTAL	<u>\$914,513</u>

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

City Manager William Giroux explained the funding history and process.

VOTE:
YEAS: 7
NAYS: 1 - Pagurko
Order passed. 7-1

11) Order – Authorizing Wing Farm Tax Increment Financing District FY2012

Chairman Wyman read the following Order:

**ORDER
APPROVING AUTHORIZATION
WING FARM TAX INCREMENT FINANCING DISTRICT (FY 2012)**

Be It Hereby Ordered By the City Council of the City of Bath that one hundred seventy eight thousand and five hundred fifty dollars and 00/100 (\$178,550) be and hereby is authorized to be spent from the Tax Increment Financing District Development Program Fund Project Costs Accounts from the fiscal year commencing July 1, 2011 and terminating on June 30, 2012 for the following purposes:

REVENUE	
INCREMENT	<u>\$205,142</u>
TOTAL REVENUE	<u>\$205,142</u>
EXPENSES	
DEBT SERVICE PAYMENT	<u>\$178,550</u>
TOTAL EXPENSES	<u>\$178,550</u>

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

Finance Director Juli Millet explained the funding for this item.

VOTE:

YEAS: 8

NAYS: 0

Order passed unanimously. 8-0

12) Order – Authorizing Downtown Tax Increment Financing District FY 2012

Chairman Wyman read the following Order:

**ORDER
APPROVING AUTHORIZATION
DOWNTOWN TAX INCREMENT FINANCING DISTRICT (FY 2012)**

Be It Hereby Ordered By the City Council of the City of Bath that one hundred twenty eight thousand and eight hundred thirty six dollars and 00/100 (\$128,836) be and hereby is authorized to be spent from the Tax Increment Financing District Development Program Fund Project Costs Accounts from the fiscal year commencing July 1, 2011 and terminating on June 30, 2012 for the following purposes:

REVENUE	
INCREMENT	\$112,510
TRANSFER IN FROM RESERVE	<u>\$16,326</u>
TOTAL REVENUE	<u>\$128,836</u>
EXPENSES	
DEBT SERVICE PAYMENT	<u>\$128,836</u>
TOTAL EXPENSES	<u>\$128,836</u>

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

VOTE:

YEAS: 8

NAYS: 0

Order passed unanimously. 8-0

13) Order – Approving Real Estate Acquisition – CHR

Chairman Wyman read the following Order:

ORDER APPROVING REAL ESTATE ACQUISITION

WHEREAS, the City of Bath has redesigned the parking area on the west side of Water Street adjacent to the Bath Police Facility for the purpose of adding additional parking; and

WHEREAS, the City has previously acquired property to provide additional land for the redesign; and

WHEREAS, the City has now come to an agreement with CHR Realty to acquire an additional 2,765 square feet of property for the purchase price of \$5,530.00 (\$2.00 per square foot).

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Bath that the City accept conveyance of a strip of land from the east end of the CHR Realty property as depicted on the attached Plan, that the purchase be funded from tax increment financing revenues, and that the City Manager be authorized to execute such appropriate documents as may be necessary in order to acquire the property.

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

City Manager Giroux explained the history and plan for the property.

VOTE:

YEAS: 8

NAYS: 0

Order passed unanimously. 8-0

14) Bond Ordinance – Authorizing issuance of general obligation refunding bonds for the City of Bath in an amount up to, but not to exceed \$4,315,000 for the purpose of refunding outstanding debt of the City. (first passage)

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

BOND ORDINANCE

AUTHORIZING ISSUANCE OF GENERAL OBLIGATION REFUNDING BONDS FOR THE CITY OF BATH, MAINE, IN AN AMOUNT UP TO, BUT NOT TO EXCEED, \$4,315,000 FOR THE PURPOSE OF REFUNDING OUTSTANDING DEBT OF THE CITY.

RECITALS

WHEREAS, on or about February 1, 2001, the City of Bath issued its 2001 General Obligation Bonds in the stated principal amount of \$6,620,000 to finance the costs of the Bath Middle School, certain ADA improvements, a new garage facility and a contribution to the Bath Area Family YMCA (the “2001 Bonds”); and

WHEREAS, in 2009 and 2010, the City of Bath issued entered into a variety of borrowings and issued promissory notes therefore (the “Prior Notes”) to finance the costs of certain improvements including the purchase of the Bath Armory, renovations to the Customs House, purchase of a landfill compactor, a rolloff truck, a progator tractor, and a fire truck pumper (the “Prior Notes” and together with the 2001 Bonds, the “Prior Obligations”); and

WHEREAS, due to a drop in interest rates since the Prior Obligations were issued, the City desires to refund and refinance the outstanding principal the Prior Obligations through issuance of its general obligation refunding bonds;

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, \$4,315,000, plus the sale premium of the bonds/notes authorized in Section 2 below, is hereby appropriated for the purpose of refunding the Prior Obligations and of paying interest and redemption premium thereon and the costs of issuance therefore.

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, in the stated principal amount of up to, but not to exceed, \$4,315,000 under and pursuant to the City Charter and 30-A MRSA §5772.

Section 3. That any and all bonds/notes 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 twelve (12) 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 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 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 some or all of the bonds/notes 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 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/notes.

Section 10. That the bonds/notes 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 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 refunding of the Prior Obligations and the issuance and delivery by the City of the bonds/notes.

Section 12. That if the City Treasurer, Chairman of the City Council, the City Manager, or Clerk are for any reason unavailable to approve and execute the bonds/notes or any related financing documents, as authorized by this Ordinance, the person or persons then acting in 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 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 Ordinance on the floor for discussion. Councilor Pagurko seconded the motion.

Finance Director Julie Millett explained the reasons and process for this financing.

ROLL CALL VOTE:

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

NAYS: None

Ordinance passed unanimously. 8-0

Chairman Wyman set second passage for November 2, 2011 at 6:01 pm.

15) Bond Ordinance – Authorizing issuance of general obligation refunding bonds for the City of Bath in an amount up to, but not to exceed \$500,000 for the purpose of funding demolition of the old YMCA building. (first passage)

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

Chairman Wyman read the following Bond Ordinance:

BOND ORDINANCE

AUTHORIZING ISSUANCE OF GENERAL OBLIGATION REFUNDING BONDS FOR THE CITY OF BATH, MAINE, IN AN AMOUNT UP TO, BUT NOT TO EXCEED, \$500,000 FOR THE PURPOSE OF FUNDING DEMOLITION OF THE OLD YMCA BUILDING

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, \$500,000, plus the sale premium of the bonds/notes authorized in Section 2 below, is hereby appropriated for the purpose of funding the demolition and removal of the old YMCA building and of paying the costs of issuance therefore.

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, \$500,000 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 eleven (11) 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 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 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, the City Manager, or Clerk are for any reason unavailable to approve and execute the bonds/notes or any related financing documents, as authorized by this Ordinance, the person or persons then acting in 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 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 Omo made a motion to put this Ordinance on the floor for discussion. Councilor Paulhus seconded the motion.

City Manager Giroux explained the reasons for going forth with borrowing the funding.

Councilor Winglass made a motion to amend the \$500,000 amounts in the Bond Ordinance to \$450,000. Councilor Pagurko seconded the motion.

ROLL CALL VOTE on amendment:

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

NAYS: None

Amendment passed unanimously. 8-0

ROLL CALL VOTE on Amended Ordinance:

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

NAYS:

Ordinance passed unanimously. 8-0

Chairman Wyman set second passage for November 2, 2011 at 6:02 pm.

G. Petitions & Communications 7:43 PM

There were no petitions or communications.

H. City Manager Report 7:43 PM

Discussed the following topics:

- Fireworks Ordinance Workshop to follow the Special Meeting on November 9th to be televised and have public comment.
- Armory Workshop October 19th at 6PM to be televised and have public comment.

I. Committee Reports 8:03PM

Councilor Eosco reported on the Bike and Pedestrian Committee and the ADA accessibility issues around the City. She made the public aware of the 10th annual Main Street Bath Dinner to be held on October 17th.

Councilor Omo reported that the Skatepark Board was requesting to open a non-profit account through the City. Council agreed to this request.

J. Unfinished Business 8:08 PM

Councilor Winglass reported on the tour that he and Councilor Pagurko took of the new Woolwich School complex.

K. New Business 8:10 PM

16) Appointment one member to the Bath Planning Board with term to expire September 2014.

Councilor Pagurko, on behalf of the Interview Committee, nominated Carolyn Lockwood to the position on the Bath Planning Board. The nomination passed.

Councilor Winglass made a motion at 8:13 PM to go into Executive Session to discuss Personnel Matters per 1 MRSA §405(6)(A). Councilor Pagurko seconded the motion. All were in favor of the motion.

Councilor Sinclair made a motion at 8:57 PM to come out of Executive Session to take a vote on extending the meeting past 9:00 PM. Councilor Omo seconded the motion. All were in favor of the motion.

Councilor Sinclair made a motion to extend the meeting past 9:00 PM. Councilor Omo seconded the motion. All were in favor of the motion.

Councilor Rogers made a motion at 8:58 PM to go back into Executive Session to discuss Personnel Matters per 1 MRSA §405(6)(A). Councilor Pagurko seconded the motion. All were in favor of the motion.

Councilor Rogers made a motion at 9: 05 PM to come out of Executive Session. Councilor Pagurko seconded the motion. All were in favor of the motion.

The meeting adjourned at 9:05 PM with a motion by Councilor Pagurko, 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.