SPECIAL MEETING MINUTES
City Council of the City of Bath, Maine
Wednesday, December 19, 2011 6:00 pm
Council Chambers, Bath City Hall

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

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

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

I.   Ordinance: Smart Meter Moratorium (second passage)

Chairman Sinclair read the following Ordinance:

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 Order on the floor for discussion. Councilor Wyman seconded the motion.

Bruce Gagne of 212 Centre Street spoke in favor of the Ordinance Extension stating there were still too many questions not answered regarding health issues, technology compatibilities and energy conservation.

Central Maine Power Representative John Carroll handed out the correspondence that had been mailed to Bath residents the previous week. Mr. Carroll stated that the questions referenced in the Moratorium Ordinance had been taken care of and asked Council to vote down the Ordinance.

ROLL CALL VOTE:

YEAS: Brackett, Merrill, Rogers, Pagurko, Sinclair
NAYS: Paulhus, Wyman, Eosco, Winglass
Ordinance passed. 5-4

Chairman Sinclair stated this would become law in 21 days.

The meeting adjourned to Workshop at 6:26 p.m. regarding Council Representatives to Committees and Boards with a motion from Councilor Wyman. Councilor Pagurko seconded the motion. All were in favor of the motion.

Attest:

Mary J. White, City Clerk