

REGULAR MEETING MINUTES
City Council of the City of Bath, Maine
Wednesday, June 9, 2010 6:00pm
City Council Chambers, Bath City Hall

Present: Councilors Cochrane, Paulhus, Rogers, Eosco, Sinclair, Pagurko and Chairman Wyman.
Excused: Councilor Winglass
Absent: Councilor Omo

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

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

*Presentation by Elizabeth Cantrell regarding “World Elder Abuse Awareness Day – June 15th”
Ms. Cantrell asked Council and the public to check on the elderly citizens of Bath frequently and should physical, sexual, financial, or physiological abuse be suspected get them help. She handed out brochures which contained facts, tips and help agencies.*

C. Public Hearings: 6:12 PM

1) Bond Ordinance: for the purpose of funding the purchase of the Bath Armory Property (second passage)

Chairman Wyman read the following Ordinance:

ORDINANCE AUTHORIZING PERMANENT FINANCING

THE PURPOSE OF THIS ORDINANCE IS TO AUTHORIZE THE ISSUANCE OF GENERAL OBLIGATION BONDS/NOTES OR OTHER INDEBTEDNESS FOR THE CITY OF BATH, MAINE, IN AN AMOUNT UP TO, BUT NOT TO EXCEED, \$175,000.00 FOR THE PURPOSE OF FUNDING THE PURCHASE OF THE ARMORY PROPERTY.

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, \$175,000.00 is hereby appropriated for the purpose of providing funding for the purchase of the armory property.

Section 2. That, for the purpose of financing the aforesaid appropriation, authorization is hereby given to incur indebtedness by the issuance of bonds/notes of the City of Bath, in an amount up to, but not to exceed, \$175,000.00 under, and pursuant to, the Charter of the City of Bath.

Section 3. That any and all bonds/notes issued pursuant to this Ordinance shall be payable in installments.

Section 4. That the term of any bonds/notes or other indebtedness issued under the within Ordinance shall not exceed ten (10) years.

Section 5. That the proceeds of any bonds/notes issued pursuant to this Ordinance shall be used only for those purposes specified in Section 1 above.

Section 6. That any proceeds of the bonds/notes issued not used for the purposes specified in Section 1 shall be applied to repayment of the principal and/or interest of any such bonds/notes.

Section 7. That any suit questioning the validity of this Ordinance shall be barred unless commenced within forty-five (45) days following publication of the Ordinance, said publication in accordance with Section 809 of the Charter of the City of Bath.

Section 8. 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, denominations, interest rate or rates and any other details of each issue of bonds and/or notes issued in anticipation of this permanent financing.

Section 9. That any and all bonds and/or notes issued by the City pursuant to Chapter 8 of the Charter of the City of Bath shall be signed by the City Treasurer and countersigned by the Chairman of the City Council and the City Manager.

Section 10. That any and all bonds and/or notes issued pursuant to Chapter 8 of the Charter of the City of Bath shall be general obligation securities of the said City.

Section 11. The City Treasurer, with the approval of the Chairman of the City Council and the City Manager, is hereby authorized to make any such bonds or notes authorized hereby subject to call for redemption with or without premium at the election of the City before the dates fixed for the final payment thereof. Any notes issued hereunder shall be subject to prepayment without penalty.

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

ROLL CALL VOTE:

YEAS: Cochrane, Paulhus, Rogers, Eosco, Pagurko

NAYS: Sinclair

Ordinance passed. 5-1

Chairman Wyman stated this would become law in 21 days.

2) Ordinance: LUC Amendment Article 11, Section 11.09 – Day-care Homes and Day-care Facilities for Children and Adults. (second passage)

Motion by Councilor Eosco to waive the reading of the Ordinance. Councilor Cochrane seconded the motion. All were in favor of the motion.

ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BATH THAT THE LAND USE CODE OF THE CITY OF BATH ADOPTED JULY 19, 2000, AND SUBSEQUENTLY AMENDED, BE HEREBY FURTHER AMENDED AS FOLLOWS:

Amend Article 11, Section 11.09, as follows:

SECTION 11.09 DAY-CARE HOMES AND DAY-CARE FACILITIES FOR CHILDREN OR ADULTS

In addition to all other requirements of the Code, day-care homes and day-care facilities are subject to the following standards.

A. Approval of Day-care Homes

A day-care home is allowed, as per the Land Use Table in Section 9.02, only if it has received a permit in accordance with requirements of this section. Upon receipt of a permit application, the CEO must notify by regular mail the abutters of the subject parcel of the pending application. The notice must advise the abutters that the permit will be issued if the application conforms to the standards in Item C following, and that the abutter can provide written information as to the conformance of the request with these standards within 30 days of mailing the notice. If the CEO finds that the application conforms to the standards and no information to the contrary is received during the 30-day period, the permit is to be issued.

1. If the CEO receives information that the application may not conform to the standards, the CEO will:
 - (a) notify the applicant
 - (b) refer the applicant to the Planning Board for consideration
 - (c) notify the parties providing the information of the referral

2. The Planning Board must hold a meeting in accordance with Site Plan Review requirements to consider the application for a day-care home within 45 days of the referral from the CEO. The Planning Board must determine if the applicant meets the requirements of Item C following. If the Planning Board finds that the application does meet the requirements, it will direct the CEO to issue the permit.

B. Approval of Day-care Facilities

A day-care facility is allowed only after Site Plan Approval from the Planning Board, and it must meet the requirements in Item C following.

C. Requirements for Day-care Homes and Day-care Facilities

All day-care homes and day-care facilities must conform to the following requirements:

1. A fenced outdoor play area must be provided with a minimum of 75 square feet per child. The fence must be of a material that is compatible with the neighborhood and must be at least 4 feet in height.
2. Outside play may not be allowed before 9 a.m. or after 8 p.m. on Saturdays, Sundays, and holidays and before 7 a.m. or after 8 p.m. other days.
3. Adequate lighting must be provided. If the day-care home or day-care facility is in or abuts a residential zone, security lighting must be turned off when the day-care home or day-care facility is not operating.
4. Hazardous traffic conditions may not be created when the day-care facility traffic is added to existing and foreseeable future traffic in its vicinity.
5. An adequate drop-off and pick-up site must be established for a day-care facility.
6. The design and external appearance of any building must constitute an attractive and compatible addition to its neighborhood, although it need not have a similar design, appearance, or architecture.

D. Denial of Application

If the CEO finds that the application for a day-care home does not conform to the standards, the application must be denied and the applicant notified in writing of the reasons for the denial. If the Planning Board finds that the application referred to it for a day-care home or a day-care facility does not conform to the standards, it must be denied and the applicant notified in writing of the reasons for the denial.

E. Minimum Lot Size Requirement

If located in a single-family dwelling, a day-care home is not required to meet the minimum lot size for both the day-care home and the single-family dwelling, only for the latter. A day-care home in a 2-family or multi-family dwelling, or a day-care facility located in a single-family dwelling, must meet the minimum lot area for both the day-care home or facility and the dwelling unit.

(Note: Additions are underlined, and deletions are ~~crossed out~~.)

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

ROLL CALL VOTE:

YEAS: Cochrane, Paulhus, Rogers, Eosco, Sinclair, Pagurko

NAYS: None

Ordinance passed unanimously. 6-0

Chairman Wyman stated this would become law in 21 days.

3) Supplemental Appropriation (second 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 Seven Hundred Twenty Thousand Dollars (\$1,720,000.00), 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 Seven Hundred Twenty Thousand Dollars (\$1,720,000.00) be and hereby is supplementally appropriated from the General Fund Undesignated Fund Balance (Account GF2500) to the Council Contingency Account (Account 012-402).

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

ROLL CALL VOTE:

Yeas: Cochrane, Paulhus, Rogers, Eosco, Sinclair, Pagurko,

Nays: None

Ordinance passed unanimously 6-0

D. Consent Agenda: 6:21 PM

4*) Minutes of the previous Council meetings of May 5 and 19, 2010. Motion by Councilor Pagurko, second by Councilor Paulhus to accept the minutes as presented. All were in favor of the motion.

E. Time Devoted to Residents to Address the City Council: 6:22 PM

Ms. Dwinal read to the Council a letter sent to certain citizens from the Fields of Our Future Committee regarding the turf issue on the Municipal Ballot. She stated she had been made aware this letter was produced by City manpower, delivered by the City Messenger to be ran through the postage meter at City Hall and sent out. Ms. Dwinal pointed out that the letter is on Fields of the Future letterhead but the Bath Recreation Department was to be contacted with any correspondence. She asked who authorized the mailing that could influence the outcome of the election using City manpower and funds. Ms. Dwinal also brought up that the City's web site has a link to the Fields of Our Future, with statements that could influence the outcome of the election.

She asked Council to look into this matter because it doesn't look right for the City, in any way to be trying to influence an election.

City Manager William Giroux explained the mailing did go through the City's postage meter but the cost was funded out of the Fields of Our Future account. He stated the City Ordinance states the Recreation Director is to be an advocate of the promotion of City fields. Mr. Giroux informed Council that Councilors had asked the recreation Director to be on appeal to talk about and advocate for the field. City Manager Giroux stated that to say that at this point someone has at the last minute stepped in and tried to influence the outcome of the election from a letter that was sent to only those who had already donated may be a stretch and that he was looking into this issue and to the extent that it is not a personnel matter he will advise the Council of the findings. Mr. Giroux spoke regarding the web site link stating the web site has many links to sites that the City feels are of interest to the public.

Councilor Sinclair made a motion "asking the City Manager to do an investigation and come forward at the next regular scheduled Council Meeting with a full report about exactly who knew about the communication before it went out, how many copies of it were created, how many City staff worked upon it, how many people it went to and what was the motivation behind distribution. Councilor Cochrane seconded the motion. All of the Council was in favor of the motion.

F. Ordinances, Resolutions and Orders: 6:35 PM

5) Order: Authorizing Easement for Guilford Lot

Chairman Wyman read the following Order:

ORDER **AUTHORIZING EASEMENT**

WHEREAS, the State of Maine Department of Transportation is proposing an Easement Agreement for the use and improvement of the so-called Guilford Lot; and

WHEREAS, the Department of Transportation has proposed an Easement setting forth the rights and responsibilities of the parties and delineating the City's rights to use and improve the lot.

NOW, THEREFORE, BE IT HEREBY ORDERED by the City Council of the City of Bath that the Easement relating to the City's use and improvement of the Guilford Lot be and hereby is approved and the City Manager is authorized to execute the Easement on behalf of the City of Bath.

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

Councilor Paulhus made a motion to amend the second "WHEREAS" by adding an "E". Councilor Pagurko seconded the motion. All were in favor of the motion.

VOTE on amended Order:

YEAS: 6

NAYS: 0

Order passed unanimously. 6-0

6) Order: Accepting Bid for Roundabout

Chairman Wyman read the following Order:

ORDER

BE IT HEREBY ORDERED BY THE CITY COUNCIL OF THE CITY OF BATH, THAT THE BID OF RAY LABBE & SONS, INC. FOR THE CONSTRUCTION OF THE ROUNDABOUT AT THE INTERSECTION OF CONGRESS AVENUE AND WITCH SPRING ROAD (ALSO KNOWN AS OLD U.S. ROUTE 1) IN THE AMOUNT OF \$521,943.21 IS ACCEPTED, IT BEING THE LOWEST QUALIFIED BID SUBMITTED, AND THE MANAGER IS AUTHORIZED TO EXECUTE THE CONTRACT AND ANY OTHER DOCUMENTS NECESSARY TO ITS IMPLEMENTATION ON BEHALF OF THE CITY OF BATH. THE PROJECT HAS BEEN FUNDED BY THE DEVELOPMENT FUNDS PROVIDED TO THE CITY IN CONNECTION WITH THE WALGREENS DEVELOPMENT, THE GATEWAY 1 TRAFFIC CALMING GRANT FROM THE MAINE DEPARTMENT OF TRANSPORTATION, AND THE BATH CITY STREET BOND.

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

Public Works Director Peter Owen explained the project would take about 3 months to complete. The start date would be July with completion planned in October. Mr. Owen stated they would try very hard to keep traffic disturbance to a minimum but said it would still be a mess.

VOTE:

YEAS: 6

NAYS: 0

Order passed unanimously. 6-0

7) Order: Revising Deed for Holt Property

Motion by Councilor Rogers to waive the reading of this Order. Councilor Pagurko seconded the motion. All were in favor of the motion.

ORDER **REVISING DEED**

WHEREAS, the City of Bath conveyed property to Timothy Holt, by Deed dated April 7, 2010, and recorded in the Sagadahoc County Registry of Deeds in Book 3181, Page 203; and

WHEREAS, the Deed contained the following restrictions regarding the structure known as the former Ken Holt homestead:

This conveyance is made subject to the condition that the dilapidated, uninhabitable dwelling being Ken Holt's former home shall be demolished by the Grantee not later than six (6) months from the date of this document.

WHEREAS, Timothy Holt has come forward and indicated that the structure may be salvageable and has asked for an opportunity to repair the structure rather than demolish it.

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Bath that the condition regarding demolition of the Ken Holt homestead in the above-captioned Deed to Timothy Holt be modified by eliminating the demolition language and substituting the following language:

This conveyance is made subject to the condition that the former Ken Holt homestead may be either repaired or demolished at the option of the Grantee. If the Grantee elects to demolish the structure, then it shall be demolished within the time frame set forth in the original Deed; if the Grantee elects to renovate the structure, all exterior renovations shall be completed within two (2) years of the date of this revised document.

AND BE IT FURTHER ORDERED by the City Council of the City of Bath that the City Manager be authorized to execute any and all documents, including Corrective Deeds, that are necessary and appropriate to address the change in condition noted above.

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

Councilor Pagurko made a motion to replace the word “maybe” in the second paragraph starting with “This conveyance is made...” with the words “will be”. Councilor Rogers seconded the motion. All were in favor of the motion.

VOTE:

YEAS: 6

NAYS: 0

Order passed unanimously. 6-0

8) Resolution: Approving Bath Heritage Day

Chairman Wyman read the following Resolution:

RESOLUTION

WHEREAS, the Main Street Bath Inc. is sponsoring the Bath Heritage Days; and

WHEREAS, Heritage Days provides the City of Bath with marvelous entertainment for its citizens, visitors who spend their dollars here, and an opportunity for residents to celebrate their community; and

WHEREAS, the use of City streets, public spaces, and personnel is necessary for conducting Heritage Days.

NOW, THEREFORE, BE IT RESOLVED THAT THE BATH CITY COUNCIL approves of the attached correspondence from the Main Street Bath Inc., Heritage Days Committee and directs the City Manager to fulfill the intent of the request as best meets the needs of the community.

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

VOTE:

YEAS: 6

NAYS: 0

Order passed unanimously. 6-0

9) Resolution: Approving street closing and traffic pattern proposed by the Main Street Bath in connection with Bath Heritage Days.

Chairman Wyman read the following Resolution:

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BATH, MAINE, that pursuant to the provisions of Section 17-220 of the Bath City Code, the street closing and traffic pattern proposed by the Main Street Bath Inc. in connection with the celebration of Bath Heritage Days are hereby approved. The City Manager is hereby authorized to implement these street closings and traffic pattern adjustments with appropriate signing.

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

VOTE:

YEAS: 6

NAYS: 0

Order passed unanimously. 6-0

10) Accept Election Tabulations for the State Primary/Referendum, Municipal Referendum and RSU #1 Referendum for the June 8, 2010 Elections

Councilor Pagurko made a motion to accept the Election Tabulations as presented. Councilor Cochrane seconded the motion. All were in favor of the motion.

CITY OF BATH ELECTION TOTALS

Total Registered Voters: 7628 32% of voter turnout Total who voted: 2441

STATE PRIMARY/REFERENDUM ELECTION June 8, 2010

GREEN INDEPENDENT	1	2	3	4	5	6	7	ABS	TOTALS
E. Governor									
Write In									0
F. Representative to Congress (Dist 1)									
Write In									0
State Senator (Dist 19)									
Write In:									0
Representative to the Legislature (Dist 62)									
Write In									0
Representative to the Legislature (Dist 65)									
Write In									0
<i>County Treasurer</i>									
Write In									0
Register of Deeds									
Write In									0
<i>District Attorney</i>									
Write In									0
County Commissioner									
Write In									0
DEMOCRAT	1	2	3	4	5	6	7	ABS	TOTALS
G. Governor									
McGowan, Patrick K.	17	11	14	17	28	20	31	35	173
Mitchell, Elizabeth H.	37	31	22	41	48	34	40	56	309
Richardson, John G.	4	2	2	3	7	6	4	11	39
Rowe, G. Steven	41	24	21	32	57	27	54	53	309
Scarcelli, Rosa W.	30	15	16	27	27	28	31	30	204
H. Representative to Congress (Dist 1)									
Pingree, Chellie	110	73	60	102	134	91	131	157	858
State Senator (Dist 19)									
Goodall, Seth A.	116	79	71	112	149	98	141	168	934
Representative to the Legislature (Dist 62)									
Clarke, Michael H.	48	78	69	116	151	100	143	136	841
Representative to the Legislature (Dist 65)									
Kent, Peter S.	72							31	103
<i>County Treasurer</i>									
McDermott, Kean T.	112	75	68	114	146	94	140	158	907

Register of Deeds									
DeChant, Jennifer L.	107	76	68	111	141	92	140	162	897
<i>District Attorney</i>									
County Commissioner									
REPUBLICAN	1	2	3	4	5	6	7	ABS	TOTALS
I. Governor									
Abbot, Steven W.	13	4	8	14	10	16	13	13	91
Beardsley, William H.	1	6	1	3	6	2	3	3	25
Jacobson, Matthew C.	4	7	3	6	9	6	7	7	49
LePage, Paul R.	36	26	24	17	44	38	57	48	290
Mills, S. Peter	17	12	7	18	16	13	13	30	126
Otten, Leslie B.	25	12	11	17	28	4	23	11	131
Poliquin, Bruce	15	11	6	16	13	9	14	27	111
J. Representative to Congress (Dist 1)									
Scontras, Dean Peter	70	49	49	64	79	64	84	93	552
State Senator (Dist 19)									
Kaler, David S.	102	63	58	75	103	78	104	113	696
Representative to the Legislature (Dist 62)									
Windglass, Robert J.	52	73	54	80	104	80	102	99	644
Representative to the Legislature (Dist 65)									
Thompson, Robert E.	43							13	56
<i>County Treasurer</i>									
Write In									
Register of Deeds									
Stevens, Judith E.	96	63	57	75	103	75	101	110	680
<i>District Attorney</i>									
Rushlau, Geoffrey A.	99	63	56	76	105	77	100	108	684
County Commissioner									
Dawson, Lawrence M.	102	66	57	78	107	79	104	119	712

STATE REFERENDUM

	1	2	3	4	5	6	7	ABS	Total
Question 1: People's Veto Do you want to reject the new law that lowers Maine's Income tax and replaces that revenue by making changes to the sales tax?									
YES	169	154	109	142	184	146	238	193	1335
NO	130	91	88	114	188	123	148	191	1073
Question 2: Bond Issue Do you favor a \$26,500,000 bond issue that will create jobs through investment in an off-shore wind energy demonstration site and related manufacturing to advance Maine's energy independence from imported foreign oil, that will leverage \$24,500,000 in federal and other funds and for energy improvements at campuses of the University of Maine System, Maine Community College System and Maine Maritime Academy in order to make facilities more efficient and less costly to operate?									
YES	217	173	144	190	272	176	249	271	1692
NO	81	73	55	64	95	92	136	121	717
Question 3: Bond Issue Do you favor a \$47,800,000 bond issue to create jobs in Maine through improvements to highways, railroads and marine facilities, including port and harbor structures, and specifying the allocation of \$4,000,000 of the transportation bond approved by voters in November 2009 to be used for capital rail purposes?									
YES	208	144	124	180	255	181	234	281	1607
NO	87	100	73	75	111	87	152	110	795
Question 4: Bond Issue Do you favor a \$23,750,000 bond issue to provide capital investment to stimulate economic development and job creation by making investments under the Communities for Maine's Future Program and in historic properties; providing funding for research and development investments awarded through a competitive process; providing funds for disbursements to qualifying small businesses; and providing grants for food processing for fishing, agricultural, dairy and lumbering businesses within the State and redevelopment projects at the Brunswick									

Naval Air Station that will make the State eligible for over \$39,000,000 in federal and other matching funds?										
YES	193	142	112	175	235	156	207	256	1476	
NO	104	101	86	79	126	111	176	132	915	
Question 5: Bond Issue Do you favor a \$10,250,000 bond issue to improve water quality, support drinking water programs and the construction of wastewater treatment facilities and to assist farmers in the development of environmentally sound water sources that will leverage \$33,250,000 in federal and other income?										
K. YES	202	160	124	176	248	172	228	267	1577	
L. NO	93	92	75	77	117	96	156	117	823	

MUNICIPAL ELECTION

WARDS MUNICIPAL	1	2	3	4	5	6	7	ABS	TOTAL
Bond Ordinance - Question One "Shall a Bond Ordinance be authorized in an amount up to, but not to exceed, \$300,000.00 for the purpose of funding the purchase and installation of 90,000 square feet of all weather turf at the McMann facility?"									
YES	105	93	66	113	125	101	129	129	861
NO	186	147	130	139	246	164	253	257	1522

**Regional School Unit #1
Lower Kennebec River Region School Unit
BUDGET VALIDATION ELECTION**

Question 1	TOTALS
Do you favor approving the Regional School Unit 1 budget for the upcoming school year that was adopted at the latest Regional School Unit budget meeting?	
YES	1720
NO	429

Question 2	TOTALS
Do you wish to continue the budget validation referendum process in Regional School Unit 1 for an additional three years?	
YES	1245
NO	806

11) 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, 2010 and terminating on June 30, 2011, be and hereby is adopted with a total expenditure of **\$ 8,446,950.00**, balanced with an equal amount of estimated revenue. Summary of appropriations are attached to this resolution in the following two pages.

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

VOTE:

YEAS: 6

NAYS: 0

Resolution passed unanimously. 6-0

12) 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, 2010 and terminating on June 30, 2011, be and hereby is adopted with a total expenditure of **\$ 1,265,724.00**, balanced with an equal amount of estimated revenue. Summary of funded projects is on the following page.

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

VOTE:

YEAS: 6

NAYS: 0

Resolution passed unanimously. 6-0

13) 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, 2010 and terminating on June 30, 2011, be and hereby is adopted with a total expenditure of **\$ 1,787,158**, balanced with an equal amount of estimated revenue. Summary of appropriations is attached on the following page.

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

VOTE:

YEAS: 6

NAYS: 0

Resolution passed unanimously. 6-0

14) 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, 2010 and terminating on June 30, 2011, be and is hereby adopted with a total expenditure of **\$ 1,948,191.00**, balanced with an equal amount of estimated revenue. Summary of appropriations are attached to this Resolution on the following page.

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

VOTE:

YEAS: 6

NAYS: 0

Resolution passed unanimously. 6-0

15) 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, 2010 and terminating on June 30, 2011, be and is hereby adopted with a total expenditure of **\$ 104,957.00**, balanced with an equal amount of estimated revenue. Summary of appropriations are attached to this Resolution on the following page.

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

VOTE:

YEAS: 6

NAYS: 0

Resolution passed unanimously. 6-0

16) Resolution: to Increase the LDI Tax Levy Limit

Chairman Wyman read the following Resolution:

RESOLUTION
TO INCREASE THE LDI TAX LEVY LIMIT

BE IT RESOLVED by the City Council of the City of Bath, to increase the tax levy limit of \$6,045,867.00 by the amount required by the adoption of the 2010-2011 budget (estimated increase \$0).

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

VOTE:

YEAS: 6

NAYS: 0

Resolution passed unanimously. 6-0

17) Order: Establishing Tax Club for the upcoming year

Chairman Wyman read the following Order:

ORDER
TAX CLUB FOR 2010 - 2011

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 2010 Tax Club begins July 1, 2010, and ends August 15, 2010; with the first of twelve payments due in September 2010.

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

VOTE:

YEAS: 6

NAYS: 0

Order passed unanimously. 6-0

18) 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 2010-2011 Fiscal Year.

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

VOTE:

YEAS: 6

NAYS: 0

Resolution passed unanimously. 6-0

19) 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
DELINQUENT 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, of all sewer user fees assessed during the 2010-2011 Fiscal Year.

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

VOTE:

YEAS: 6

NAYS: 0

Resolution passed unanimously. 6-0

20) 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 1,2010 to June'30, 2011; 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 item on the floor for discussion. Councilor Paulhus seconded the motion.

VOTE:

YEAS: 6

NAYS: 0

Resolution passed unanimously. 6-0

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

Chairman Wyman read the following Resolution:

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, 2010 and terminating on June 30, 2011, be and is adopted for the purpose of funding the accounts attached to this Resolution below:

As of June 1, 2010	SPECIAL PURPOSE FUNDS - CITY	Exhibit F
<u>CP03 Cemetery and Parks</u> 624 Forestry Trust-Prin & Interest 660 Cemetery Firewood 662 Bath Urban Forestry Grant 681 Forestry Committee 699 Forestry Recovery Grant 711 Timber Cruise 714 Friends of Zorach 735 Cemetery Flower Trust 736 Mausoleum/Monument Trust 753 Summer DOT 758 Druid Park 762 Holiday Tree Project 773 Vandalism & Damage <hr/> FD03 Fire and Ambulance 620 Fire Department Training 712 Homeland Security <hr/> FOR03 Forestry 710 Forestry - Community Gateway 718 Forestry - Tree Planting 771 Forestry – Post Card 884 Planning & Education	<u>REC03 Recreation</u> 656 Lacrosse 657 Soccer 671 McMann Field Renovation 673 Mens Softball League 682 Donald Small School Imp 716 Hawkes/Kimball Fields 719 Safety Committee 720 Lambert Park Community Center 733 Little League Registrations 734 Bath Babe Ruth League 737 Youth Football League 738 Youth Cheerleading 748 Artworks 905 Special Recreation Projects 930 Rec Scholarship Fund 931 Community Garden 936 Advertising Signs <hr/> SPF03 Special Purpose 615 Swimming Pool Fund 640 Wellness Program 653 Downtown Signs 827 Cable TV Capital Fund 722 Bath Clocks Maintenance 729 Workers Comp Reserve 731 Skate Park Committee	<u>GA03 General Assistance</u> 610 Almoner Fund 725 Charitable Contribution Fund 749 Messier-Costain Foundation <u>PL03 Planning Department</u> 652 Comprehensive Planning 713 Gateway Grant - Signs <u>LPCC03 LAMBERT PARK CC</u> LPCC03 <u>POL03 Police Grants</u> 403 Drug Diversion 621 OUI Grant 618 Jumpstart 617 Dare 650 Juvenile Assistance Fund 712 Homeland Security 724 Bullet Proof Vest Program 726 Seatbelt Safety Program 730 Police Drug Forfeiture 745 PD DVPSE Grant 747 PD Bike Safety 750 Chaplain's Training

759 2Townlanding
816 Maine Arts Commission Grant
935 Assessor Records Preservation

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

VOTE:

YEAS: 6

NAYS: 0

Resolution passed unanimously. 6-0

22) 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
WORKERS COMPENSATION	045-074	\$50,000
GENERAL ASSISTANCE	070-244	\$10,000
CAPITAL DEBT PAYMENT ARMORY	110-954	\$22,000**
Transfer Out	Account	Amount
COUNCIL CONTINGENCY	012-402	\$67,000

**Amount to be carried forward to FY 2011 budget.

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

VOTE:

YEAS: 6

NAYS: 0

Order passed unanimously. 6-0

23) Resolution: Authorizing Borrowing in Anticipation of Taxes for FY 2010-2011

Chairman Wyman read the following Resolution:

RESOLUTION
AUTHORIZING BORROWING
IN ANTICIPATION OF TAXES
FOR FISCAL YEAR 2009-2010

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, certain investments of City funds have been made and it would be disadvantageous to the City to cash in those investments based on advantageous interest rates and the imposition of penalties for cashing investments prior to maturity; and

WHEREAS, the City no longer receives school funding from the State of Maine, such funds now being remitted directly to RSU1; and

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

WHEREAS, the Charter of the City of Bath, under Chapter VI, Section 6.16, authorizes the Council to approve the issuance of Notes in anticipation of tax receipts in order to provide adequate cash flow for required expenditures; and

WHEREAS, further authority for borrowing in anticipation of revenue is provided under the provisions of 30-A M.R.S.A. Section 5771.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Bath that temporary borrowing is hereby authorized in anticipation of tax revenues in an amount not to exceed Four Million Five Hundred Thousand Dollars (\$4,500,000.00). Pursuant to the terms of the Charter, such anticipatory borrowing must be repaid in full by the end of the current fiscal year, June 30, 2010. The City Treasurer, with the approval of the Chairman of the City Council and the City Manager, shall determine the date or dates, maturities, denominations, interest rate or rates, and other details of each issue of Notes and shall provide for the sale thereof.

(NOTE: The intent of the City is to utilize tax anticipation funding only to provide adequate cash flow. It is further anticipated that any tax anticipation borrowing will be repaid by December 31, 2009.)

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

VOTE:

YEAS: 6

NAYS: 0

Resolution passed unanimously. 6-0

24) 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 SYSTEM FEES, USE CHARGES, AND SPECIAL ASSESSMENTS

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

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

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

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Bath, pursuant to their authority under the Code of the City of Bath, that the following rate structure, listed in the attached table, be and hereby is adopted for all fees, charges, and special assessments, to be effective July 1, 2009 for the October 1, 2009 billing, August 1, 2009, for the November 1, 2009 billing, and September 1, 2009, for the December 1, 2009 billing. The schedule of fees, charges, and special assessments shall continue in effect until further Resolution of the Council.

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

VOTE:

YEAS: 6

NAYS: 0

Resolution passed unanimously. 6-0

25) Ordinance: Supplemental Appropriation Police Boat (first passage)

Chairman Wyman read the following Ordinance:

ORDINANCE
SUPPLEMENTAL APPROPRIATION
POLICE BOAT

WHEREAS, the police boat previously utilized by the Bath Police Department was no longer seaworthy and in need of replacement, and

WHEREAS, the Bath Police Department has sold by bid, in order to raise additional funds to support the police boat replacement, the previously utilized police boat and motors, and

WHEREAS, the highest bid received, \$6,000.00, constitutes revenue in excess of those estimated in the Budget for the current year and are available for the purpose of supplemental appropriation, and

WHEREAS, the sum proposed to be appropriated by this Supplemental Appropriation, totaling \$6,000.00, will not exceed the expenditure limits for the current 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 \$6,000.00 be and hereby is supplementally appropriated to the Harbor Master Boat Account (Account POL05 565).

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

VOTE:

YEAS: Cochrane, Paulhus, Rogers, Eosco, Sinclair, Pagurko

NAYS: None

Ordinance passed unanimously. 6-0

Chairman Wyman set second passage for July 7, 2010 at 6:01 PM.

26) Bond Ordinance: Authorizing the issuance of general obligation bonds or other indebtedness of the City of Bath in an amount up to, but not to exceed, \$1,285,000.00 for the purpose of financing the purchase of certain equipment. (first passage)

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

BOND ORDINANCE

AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OR OTHER INDEBTEDNESS FOR THE CITY OF BATH, MAINE, IN AN AMOUNT UP TO, BUT NOT TO EXCEED, \$1,285,000.00 FOR THE PURPOSE OF FINANCING THE PURCHASE OF CERTAIN EQUIPMENT.

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, \$1,285,000.00 is hereby appropriated for the purpose of providing the necessary funding for the following:

- Rescue Vehicle
- Ladder Fire Truck
- Police Parking Patrol Vehicle
- Lawn Mower
- Side Walk Plow
- Dump Truck with Plow Gear

Section 2. That, for the purpose of financing the aforesaid appropriation, authorization is hereby given to incur indebtedness by the issuance of bonds or other evidence of indebtedness of the City of Bath, in an amount up to, but not to exceed, \$1,285,000.00 under, and pursuant to, the Charter of the City of Bath.

Section 3. That any and all bonds, notes and other securities issued pursuant to this Ordinance may be payable in serial form in annual installments, which need not be equal, or under such payment terms or conditions as may be in the best interest of the City, but which shall be calculated to extinguish the entire debt at maturity.

Section 4. That the term of any bonds issued under the within Ordinance shall not exceed fifteen (15) years.

Section 5. That the proceeds of any bonds issued pursuant to this Ordinance shall be used only for those purposes specified in Section 1 above.

Section 6. That any proceeds of the bonds issued not used for the purposes specified in Section 1 shall be applied to repayment of the principal and/or interest of any such bonds.

Section 7. Any suit questioning the validity of this Ordinance shall be barred unless commenced within forty-five (45) days following publication of the Ordinance, said publication in accordance with Section 809 of the Charter of the City of Bath.

Section 8. The City Treasurer with the approval of the City Manager and the Chairman of the City Council may borrow money temporarily by the issuance of notes in anticipation of the issuance of bonds, subsequent to the authorization of this bond issue by the City Council of the City of Bath.

Section 9. 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, denominations, interest rate or rates and any other details of each issue of bonds and/or notes, including bonds and/or notes issued in anticipation of this bond issue. The City reserves the right under this Ordinance, to provide for separate bonds and/or notes with varying terms, not to exceed fifteen (15) years, for the individual pieces of equipment and the Customs House repairs and renovations authorized under this Ordinance. Financing options shall also include lease purchase agreements, should it be determined that it is in the best interest of the City.

Section 10. That any and all bonds and/or notes issued by the City pursuant to Chapter 6 of the Charter of the City of Bath or Chapter 8 of the Charter of the City of Bath shall be signed by the City Treasurer and countersigned by the Chairman of the City Council and the City Manager.

Section 11. That any and all bonds and/or notes issued pursuant to Chapter 8 of the Charter of the City of Bath shall be general obligation bonds of the said City.

Section 12. The City Treasurer, with the approval of the Chairman of the City Council and the City Manager, is hereby authorized to make any such bonds or notes authorized hereby subject to call for redemption with or without premium at the election of the City before the dates fixed for the final payment thereof.

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

VOTE:

YEAS: Cochrane, Paulhus, Rogers, Eosco, Sinclair, Pagurko

NAYS: None

Ordinance passed unanimously. 6-0

Chairman Wyman set second passage for July 7, 2010 at 6:02 PM.

G. Petitions & Communications: 7:14 PM

There were no petitions or communications at this time.

H. City Manager's Report: 7:15 PM

There was no City Manager's report.

I. Committee Reports 7:15 PM

There were no committee reports.

J. Unfinished Business 7:16 PM

There was no unfinished business.

K. New Business: 7:16 PM

There was no new business.

The meeting adjourned at 7:16 PM with a motion by Councilor Pagurko, seconded by Councilor Cochrane. 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.