

**SPECIAL MEETING MINUTES
City Council of the City of Bath, Maine
Wednesday, June 15, 2005 6:00pm
City Council Chambers, Bath City Hall**

Present: Councilors Hinds, Quimby, Blake, Wyman, Hart, Daigle, Pagurko, Mitchell and Chairman Winglass.

Also in attendance was the City Manager - John Bubier, Acting City Solicitor - Michael Therriault and City Clerk - Mary White.

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

I. Public Hearing Ordinance: LUC Amendment Repeal existing Article 13 and replace with new Article 13 (second passage) 6:01 PM #1402

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:

Repeal existing Article 13 and replace it with new Article 13.

A complete copy of this document is on file with the Council Agenda materials for the June 15, 2005 meeting in the City Clerk's Office.

Motion by Councilor Hinds, second by Councilor Mitchell to put this Ordinance on the floor for discussion.

Motion by Councilor Blake, second by Councilor Quimby to waive the reading of the Ordinance. All in favor.

Jim Upham, Planning Director, gave an overview of the process and amendments.

Chairman Winglass opened the public hearing. Seeing no comment, he closed the public hearing.

ROLL CALL VOTE on the Amendments:

Yeas: Hinds, Quimby, Blake, Wyman, Hart, Daigle, Pagurko, Mitchell

Nays: None

Amendments passed unanimously. 8-0

ROLL CALL VOTE on the Amended Ordinance:

Yeas: Hinds, Quimby, Blake, Wyman, Hart, Daigle, Pagurko, Mitchell

Nays: None

Amended Ordinance passed unanimously. 8-0

II. Public Hearing: Ordinance: LUC Article 2 – Definitions, Section 2.02 (second passage) 6:07 PM #1528

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 2 -Definitions, Section 2.02, as follows:

Street: For the purpose of determining frontage and access requirements only; a way established or maintained under public authority; a private way meeting the standards contained in Section 13.14. B. 2. (e), approved by the Planning Board, and recorded at the Registry of Deeds; a way shown on a plan of a subdivision duly approved by the Planning Board; a way shown on a plan recorded in the Registry of Deeds prior to September 23, 1971; a way that is existing at the date of adoption of this Section, which meets the standards contained in Section 13.14. B. 2. (e).

Street Bottle-neck That segment of a dead-end street system. which must serve as both ingress and egress.

Street, Continuing A street having two ends: each end connecting with a different continuing street or loop street.

Street, Loop A street that has two ends, each end connecting with the same the connections are less than 500 feet apart the street is considered a dead-end street system.

(Note: additions are underlined, and deletions are.)

Motion by Councilor Blake, second by Councilor Pagurko to put this Ordinance on the floor for discussion.

Motion by Councilor Hinds, second by Councilor Mitchell to waive the reading of the Ordinance. All in favor.

Jim Upham, Planning Director, gave an overview of the process and amendments.

Chairman Winglass opened the public hearing. Seeing no comment, he closed the public hearing.

ROLL CALL VOTE on Ordinance:

Yeas: Hinds, Quimby, Blake, Wyman, Hart, Daigle, Pagurko, Mitchell

Nays: None

Ordinance passed unanimously. 8-0

III. Public Hearing: regarding the CDBG Program to assist Elmhurst, Inc. in the construction of an ADA designed facility at 400 Centre Street in Bath and the Phase II application for the Community Enterprise Grant Program within the State of Maine's CDBG Program to create a Business Façade Improvement deferred loan to assist businesses with exterior improvements. 6:09 PM #1604

Chairman Winglass opened the public hearing regarding the Elmhurst project.

Al Smith, Community Development Director, explained the procedures that the City goes through to apply for these grants. Darlene McKinnon, Executive Director of Elmhurst, answered questions regarding the design plan of the building and parking lot, construction process and the funding of the project.

Seeing no other comments, Chairman Winglass closed the public hearing regarding the Elmhurst project.

Chairman Winglass opened the public hearing regarding the Business Façade Improvements.

Al Smith, Community Development Director, explained the funding for this program, the possible locations and process of the work to be done.

Seeing no more comments, Chairman Winglass closed the public hearing.

IV. Resolution: Authorizing the submission of a Phase II application for the Public Facilities Grant Program within the State of Maine's CDBG Program to assist Elmhurst, Inc. in the construction of an ADA designed facility at 400 Centre Street in Bath. This application will be submitted to the DECD/OCD on behalf of the City of Bath. 6:26 PM #2206

CITY OF BATH CITY COUNCIL RESOLUTION

WHEREAS, the City of Bath has applied to the Department of Economic and Community Development for a Community Development Block Grant to carry out a community development facilities improvement program; and

WHEREAS, the planning process required by Maine Law and the CDBG Program have been complied with, including participation in the planning process by low and moderate income families and individuals and the community has conducted at least one duly advertised public hearing.

NOW THEREFORE, be it resolved by the City Council of the City of Bath that the City Manager:

- 1) Is authorized and directed to submit a Phase II application for the Public Facilities Grant Program within the State of Maine's CDBG Program to assist Elmhurst, Inc. in the construction of an ADA designed facility at 400 Centre Street in Bath. This application will be submitted to the DECD/OCD on behalf of the City of Bath, substantially in the form presented to this council,
- 2) Is authorized to make assurances on behalf of the City of Bath required as part of such applications, and
- 3) Is authorized and directed, upon acceptance of said funds to carry out the duties and responsibilities for implementing and said program(s), consistent with the Charter of the City of Bath and the laws and regulations governing planning and implementation of community development programs in the State of Maine.

Signed this 15th day of June 2005 on behalf of the City of Bath.

Motion by Councilor Blake, second by Councilor Pagurko to put this Resolution on the floor for discussion.

Motion by Councilor Blake, second by Councilor Mitchell to waive the reading of the Resolution. All in favor.

VOTE:

Yeas: 7

Nays: 0

Abstention: 1 (Hinds)

Resolution passed unanimously. 7-0-1

V. Resolution: Authorizing the submission of a Phase II application for the Community Enterprise Grant Program within the State of Maine's CDBG Program to create a Business Façade Improvement deferred loan to assist businesses with exterior improvements. This application will be submitted to the DECD/OCD on behalf of the City of Bath. 6:28 PM #2262

CITY OF BATH CITY COUNCIL RESOLUTION

WHEREAS, the City of Bath has applied to the Department of Economic and Community Development for a Community Development Block Grant to carry out a community development enterprise program; and

WHEREAS, the planning process required by Maine Law and the CDBG Program have been complied with, including participation in the planning process by low and moderate income families and individuals and the community has conducted at least one duly advertised public hearing.

NOW THEREFORE, be it resolved by the City Council of the City of Bath that the City Manager:

- 1) Is authorized and directed to submit a Phase II application for the Community Enterprise Grant Program within the State of Maine's CDBG Program to create a Business Façade Improvement deferred loan to assist businesses with exterior improvements. This application will be submitted to the DECD/OCD on behalf of the City of Bath, substantially in the form presented to this council;
- 2) Is authorized to make assurances on behalf of the City of Bath required as part of such applications, and
- 3) Is authorized and directed, upon acceptance of said funds to carry out the duties and responsibilities for implementing and said program(s), consistent with the Charter of the City of Bath and the laws and regulations governing planning and implementation of community development programs in the State of Maine.

Signed this 15th day of June 2005 on behalf of the City of Bath.

Motion by Councilor Blake, second by Councilor Mitchell to put this Resolution on the floor for discussion.

Motion by Councilor Blake, second by Councilor Mitchell to waive the reading of the Resolution. All in favor.

VOTE:

Yeas: 8

Nays: 0

Resolution passed unanimously. 8-0

VI. Order: Approving Contract for 2005 Street Paving Program with Harry C. Crooker and Sons, Inc. 6:30 PM #2295

Chairman Winglass read the following Order:

ORDER

**APPROVING CONTRACT 2005
STREET PAVING PROGRAM**

BE IT HEREBY ORDERED BY THE CITY COUNCIL OF THE CITY OF BATH, THAT A CONTRACT BY AND BETWEEN THE CITY OF BATH AND HARRY C. CROOKER & SONS, INC. FOR THE 2005 STREET PAVING PROGRAM IN THE AMOUNT OF \$498,555.00 BE AND HEREBY IS AWARDED, HARRY C. CROOKER & SONS, INC. BEING THE LOWEST BIDDER. THE MANAGER IS AUTHORIZED TO EXECUTE THE CONTRACT AND ANY OTHER DOCUMENTS NECESSARY TO ITS IMPLEMENTATION. THE PROJECT WILL BE FUNDED FROM AVAILABLE FUNDS FROM THE STREETS BOND IMPROVEMENT PROGRAM ACCOUNT (CIPO2-875) AND A BROWNFIELD GRANT.

Motion by Councilor Quimby, second by Councilor Pagurko to put this Order on the floor for discussion.

Al Smith, Community Development Director, explained the funding process.

VOTE:

Yeas: 8

Nays: 0

Order passed unanimously. 8-0

VII. Resolution: Adoption of the School Department Budget component for the fiscal period beginning July 1, 2005 and extending to June 30, 2006. 6:31 PM #2363

A complete copy of this Resolution is on file with the Agenda materials for the June 15, 2005 Council Meeting in the City Clerk's Office.

Motion by Councilor Hart, second by Councilor Hinds to put this Resolution on the floor for discussion.

Councilor Quimby explained the process by which the School Budget had been produced.

Motion by Councilor Mitchell, second by Councilor Pagurko to move the vote.

VOTE:

Yeas: 8

Nays: 0

Resolution passed unanimously. 8-0

VIII. Resolution: Approve and appropriate, for the purposes indicated in accordance with the School Special Purpose Funds. 7:32 PM #2418

Chairman Winglass read the following Resolution:

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BATH, MAINE, THAT, THE CITY OF BATH'S PORTION OF THE SCHOOL DEPARTMENT'S BUDGET OF SPECIAL PURPOSE FUNDS FOR THE FISCAL YEAR COMMENCING ON JULY 1, 2005, AND TERMINATING ON JUNE 30, 2006, BE AND HEREBY ARE APPROPRIATED FOR THE PURPOSES INDICATED UP TO THE TOTAL REVENUES OF \$2,574,076. SUMMARIES OF THESE ESTIMATED REVENUES ARE ATTACHED TO THIS RESOLUTION AS EXHIBIT "D".

A complete copy of the Exhibit "D" is on file with the Agenda materials for the June 15, 2005 Council Meeting in the City Clerk's Office.

Motion by Councilor Quimby, second by Councilor Pagurko to put this Resolution on the floor for discussion.

VOTE:

Yeas: 8

Nays: 0

Resolution passed unanimously. 8-0

IX. Resolution: City Operating Budget Component 6:35 PM #2464

Chairman Winglass 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, 2005 and terminating on June 30, 2006, be and hereby is adopted with a total expenditure of \$9,085,541.00, balanced with an equal amount of estimated revenue. Summary of appropriations are attached to this resolution as Exhibit "A".

A complete copy of Exhibit "A" is on file with the Agenda Materials for the June 15, 2005 Council Meeting in the City Clerk's Office.

Motion by Councilor Hart, second by Councilor Mitchell to put this Resolution on the floor for discussion.

Motion by Councilor Mitchell, second by Councilor Hinds to move the vote.

VOTE:

Yeas: 7

Nays: 1 (Daigle)

Resolution passed. 7-1

X. Resolution: City Capital Improvement Budget 6:37 PM #2529

Chairman Winglass 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, 2005 and terminating on June 30, 2006, be and hereby is adopted with a total expenditure of \$1,681,609.00 balanced with an equal amount of estimated revenue. Summary of funded projects are attached to this Resolution as Exhibit "B".

A complete copy of Exhibit "B" is on file with the Agenda Materials for the June 15, 2005 Council Meeting in the City Clerk's Office.

Motion by Councilor Hinds, second by Councilor Mitchell to put this Resolution on the floor for discussion.

VOTE:

Yeas: 8

Nays: 0

Resolution passed unanimously. 8-0

XI. Resolution: Sewer Utility Fund Budget 6:37 PM #2575

Chairman Winglass 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, 2005 and terminating on June 30, 2006, be and is hereby adopted with a total expenditure of \$1,789,185.00, balanced with an equal amount of estimated revenue. Summary of appropriations are attached to this Resolution as Exhibit "C".

A complete copy of Exhibit "C" is on file with the Agenda Materials for the June 15, 2005 Council Meeting in the City Clerk's Office.

Motion by Councilor Pagurko, second by Councilor Hinds to put this Resolution on the floor for discussion.

VOTE:

Yeas: 8

Nays: 0

Resolution passed unanimously. 8-0

XII. Resolution: Bath City Bus Fund Budget 6:38PM #2609

Chairman Winglass 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, 2005 and terminating on June 30, 2006, be and is hereby adopted with a total expenditure of \$68,315.00, balanced with an equal amount of estimated revenue.

Motion by Councilor Blake, second by Councilor Pagurko to put this Resolution on the floor for discussion.

VOTE:

Yeas: 8

Nays: 0

Resolution passed unanimously. 8-0

XIII. Order: Establishing Tax Club for the upcoming year 6:40 PM #2644

Chairman Winglass read the following Order:

**ORDER
TAX CLUB FOR 2005 - 2006**

BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF BATH, MAINE, 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 membership in said Tax Club be limited to those taxpayers who were members in the 2004 Tax Club with accounts paid in full, without a history of delinquency and/or lien, and

That enrollment in the 2005 Tax Club is only during the month of July with payments being accepted and applied only to 2005 taxes.

Motion by Councilor Daigle, second by Councilor Hart to put this Order on the floor for discussion.

Motion by Councilor Mitchell, second by Councilor Blake to move the vote.

VOTE:

Yeas: 8

Nays: 0

Order passed unanimously. 8-0

XIV. Resolution: Establishing interest rate on all delinquent taxes at the rate of 7.75% per annum. 6:43 PM #2786

Chairman Winglass read the following Resolution:

**RESOLUTION
ESTABLISH INTEREST RATE ON 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 7.75% per annum, from July 1, 2005 to June 30, 2006.

Motion by Councilor Pagurko, second by Councilor Blake to put this Resolution on the floor for discussion.

VOTE:

Yeas: 8

Nays: 0

Resolution passed unanimously. 8-0

XV. Resolution: Establishing interest rate on delinquent sewer bills at the rate of 7.75% per annum. 6:45 PM #2831

Chairman Winglass read the following Resolution:

**RESOLUTION
ESTABLISH INTEREST RATE ON SEWER BILLS**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BATH, MAINE, as follows:

That the interest rate due and payable for all delinquent sewer bills shall be set at the rate of 7.75% per annum, from July 1, 2005 to June 30, 2006.

Motion by Councilor Hinds, second by Councilor Hart to put this Resolution on the floor for discussion.

VOTE:

Yeas: 8

Nays: 0

Resolution passed unanimously. 8-0

XVI. Resolution: Establishing interest rate on refunds due to tax abatements at the rate of 3.75% per annum. 6:46 PM #2860

Chairman Winglass read the following Resolution:

**RESOLUTION
ESTABLISH INTEREST RATE ON REFUNDS DUE TO OVERPAYMENT OF TAXES**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BATH, MAINE, 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 3.75% per annum, from July 1, 2005 to June 30, 2006, 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.

Motion by Councilor Blake, second by Councilor Pagurko to put this Resolution on the floor for discussion.

VOTE:

Yeas: 8

Nays: 0

Resolution passed unanimously. 8-0

XVII. Resolution: City of Bath's Special Purpose Fund Budget 6:48 PM #2924

Chairman Winglass 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, 2005 and terminating on June 30, 2006, be and is adopted for the purpose of funding the accounts attached to this Resolution as Exhibit "D".

A complete copy of Exhibit "D" is on file with the Agenda Materials for the June 15, 2005 Council Meeting in the City Clerk's Office.

Motion by Councilor Quimby, second by Councilor Mitchell to put this Resolution on the floor for discussion.

VOTE:

Yeas: 8

Nays: 0

Resolution passed unanimously. 8-0

XVIII. Ordinance: Supplemental Appropriations (first passage) 6:55 PM #3231

Chairman Winglass read the following Ordinance:

**ORDINANCE
SUPPLEMENTAL APPROPRIATION
Council Contingency**

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 year are available for this purpose; and

WHEREAS, the sum proposed to be appropriated by the Supplemental Appropriation, totaling Four Hundred Thousand Dollars (\$400,000) 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 Four Hundred Thousand Dollars (\$400,000), be and hereby be supplementally appropriated from the General Fund Balance (account GF2500) to the Council Contingency Account (012-402).

Motion by Councilor Mitchell, second by Councilor Hinds to put this Ordinance on the floor for discussion.

David Williams, Finance Director, explained the reason this Ordinance is necessary to build the base for the following year's expenditure limitations.

Roll Call Vote:

Yeas: Hinds, Quimby, Blake, Wyman, Hart, Daigle, Pagurko, Mitchell

Nays: None

Ordinance first passage unanimous. 8-0

Chairman Winglass stated that second passage would be on June 29, 2005 at 6:01 PM.

The meeting adjourned at 7:03 PM, motion made by Councilor Hinds and seconded by Councilor Pagurko. All in favor.

Attest:

Mary J. White, City Clerk

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