

**SPECIAL MEETING MINUTES**  
**City Council of the City of Bath, Maine**  
**Wednesday, June 18, 2008 6:00 pm**  
**Council Chambers, Bath City Hall**

Present: Councilors Cochrane, Rogers, Eosco, Verville, Pagurko, Winglass and Chairman Wyman  
Excused: Councilors Mulligan, Omo

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

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

**I. Public Hearing: Ordinance: LUC Section 16.16 – 11 Elsinore Avenue Contract Zone (second passage) (6:01 PM)**

Motion by Councilor Rogers, second by Councilor Pagurko to waive the reading of the Ordinance. All in favor.

**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 16, by adding Section 16.16, as follows:

**SECTION 16.16 – 11 ELSINORE AVENUE CONTRACT ZONE**

**A. District Designation**

The property designated for this Contract Rezoning is the property located at 11 Elsinore Avenue being identified as Lot 32 on City of Bath Tax Map 28, dated April 1, 2007.

**B. Findings**

The property is located in the Route 1 Commercial Contract (C4) District. The City Council makes the following additional specific findings:

1. The project consists of the construction of an addition to the existing home at 11 Elsinore Avenue, changing the use of the property from residential to office use, moving the access drive approximately 50 feet to the south, constructing a parking lot, and making other site improvements.
2. Without the creation of a contract zone, the Minimum Front Setback is 50 feet, the Minimum Front Yard Area is 20 feet, and the Minimum Side Yard Area is 20 feet.
3. Contract Rezoning is allowed on this parcel per Section 8.10 (D) of the Land Use Code.

4. The applicant has offered the following voluntary, Discretionary Conditions in exchange for the Contract Rezoning. For the Contract Rezoning the applicant will:

- Enhance the landscaping along Route 1,
- Relocate the access drive further away from Route 1,
- Improve the Route 1 gateway appearance, and
- Construct a building addition designed to balance the commercial use of the site with the adjacent residential and commercial neighborhoods.

C. Zoning Provisions Affected

This Contract Rezoning is intended to only modify the minimum Setbacks and Yard Areas required under Section 8.10 (C) of the Land Use Code, by allowing the construction of the building addition and other site improvements depicted on the Site Plan approved, with conditions, by the Bath Planning Board on May 20, 2008.

D. Conditions of Approval

This Contract Rezoning Ordinance requires full and complete compliance with all conditions of approval, which are part of the Site Plan approval, granted to Glen and Simone Flaming, by the Bath Planning Board on May 20, 2008, and with the Discretionary Conditions listed in Section B (4), above.

Chairman Wyman opened the public hearing.

Seeing no comments from the Council or public he closed the public hearing and asked the Clerk to do a roll call vote.

**ROLL CALL VOTE:**

**YEAS: Cochrane, Rogers, Eosco, Verville, Pagurko, Winglass**

**NAYS: None**

**Ordinance passed unanimously. 6-0**

Chairman Wyman stated this Ordinance becomes effective in 21 days.

**II. Public Hearing: Ordinance: Supplemental Appropriation (second passage) (6:03 PM)**

Chairman Wyman read the following Ordinance:

**ORDINANCE  
SUPPLEMENTAL APPROPRIATIONS**

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 Two Hundred Sixty Six Thousand Dollars (\$266,000) 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 Two Hundred Sixty Six Thousand Dollars (\$266,000), be and hereby be supplementally appropriated from the General Fund Balance (account GF-2500) to the Council Contingency Account (012-402).

Chairman Wyman opened the public hearing.

Seeing no comments from the Council or public he closed the public hearing and asked the Clerk to do a roll call vote.

**ROLL CALL VOTE:**

**YEAS: Cochrane, Rogers, Eosco, Verville, Pagurko, Winglass**

**NAYS: None**

**Ordinance passed unanimously. 6-0**

Chairman Wyman stated this Ordinance becomes effective in 21 days.

**III. Order: Approving Wage Re-opener – Police (6:04 PM)**

Chairman Wyman read the following Order:

**ORDER APPROVING WAGE REOPENER**

WHEREAS, the current Bargaining Agreement between the City of Bath and the Maine Association of Police employees calls for a wage re-opener for the second year, and

WHEREAS, the parties have agreed to a wage adjustment for the second year of the Contract,

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Bath that the wage scale now in effect be adjusted by adding 3.00% to the wage levels on the scale, effective July 1, 2008.

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

City Manager William Giroux explained that this is the amount stated in the Budget and that he recommended passage.

**VOTE:**

**YEAS: 6**

**NAYS: 0**

**Order passed unanimously. 6-0**

**IV. Order: Approving Wage Re-opener – Fire (6:06 PM)**

Chairman Wyman read the following Order:

**ORDER APPROVING WAGE REOPENER**

WHEREAS, the current Bargaining Agreement between the City of Bath and the Bath Firefighters Association, Local No. 1611 of the International Association of Firefighters, A.F.L. – C.I.O., employees calls for a wage re-opener for the second year, and

WHEREAS, the parties have agreed to a wage adjustment for the second year of the Contract,

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Bath that the wage scale now in effect be adjusted by adding 3.00% to the wage levels on the scale, effective July 1, 2008.

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

City Manager William Giroux explained that this is the amount stated in the Budget and that he recommended passage.

**VOTE:**

**YEAS: 6**

**NAYS: 0**

**Order passed unanimously. 6-0**

**V. Order: Approving By-Laws Amendments to the Youth Meeting House and Skatepark Corporation (6:07 PM)**

Chairman Wyman read the following Order:

**ORDER APPROVING BY-LAWS AMENDMENTS**

WHEREAS, the City of Bath established a non-profit corporation known as the Bath Youth Meeting House and Skatepark; and

WHEREAS, the City Council of the City of Bath approved certain By-Laws with respect to the management of the corporation; and

WHEREAS, the City of Bath wishes to assume a more active role in the operation and financial management of the corporation; and

WHEREAS, certain amendments to the By-Laws in Article III, Section I, Article V, Sections 1,2, and 3, and Article VIII, Sections 2,3 and 9, provide these structural changes; and

WHEREAS, the current Board of the corporation has considered and approved the proposed amendments; and

WHEREAS, the City Council of the City of Bath, by affirmative vote of Six (6) of its members, has retained the right to amend the By-Laws of the Bath Youth Meeting House and Skatepark pursuant to Article XX.

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Bath that the amendments proposed to the Bath Youth Meeting House and Skatepark By-Laws, attached hereto, be and hereby are approved.

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

City Manager William Giroux explained this would complete the merger of the Skatepark into the Recreation Department. Mr. Giroux stated this will let the City be more involved in the financial part of the operation.

**VOTE:**

**YEAS: 6**

**NAYS: 0**

**Order passed unanimously. 6-0**

**VI. Resolution: City Operating Budget Component (6:09 PM)**

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, 2008 and terminating on June 30, 2009, be and hereby is adopted with a total expenditure of **\$ 8,463,939.00**, balanced with an equal amount of estimated revenue. Summary of appropriations are attached to this resolution in the following two pages.

*A complete copy of summary is on file in the Bath City Clerk's Office with the agenda materials for the June 18, 2008 Council Meeting.*

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

**VOTE:**

**YEAS: 6**

**NAYS: 0**

**Resolution passed unanimously. 6-0**

**VII. Resolution: City Capital Improvement Component (6:10 PM)**

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, 2008 and terminating on June 30, 2009, be and hereby is adopted with a total expenditure of **\$ 2,173,877.00**, balanced with an equal amount of estimated revenue. Summary of funded projects is on the following page.

*A complete copy of summary is on file in the Bath City Clerk's Office with the agenda materials for the June 18, 2008 Council Meeting.*

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

**VOTE:**

**YEAS: 6**

**NAYS: 0**

**Resolution passed unanimously. 6-0**

**VIII. Resolution: Landfill Fund Component (6:12 PM)**

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, 2008 and terminating on June 30, 2009, be and hereby is adopted with a total expenditure of **\$4,161,350.00**, balanced with an equal amount of estimated revenue. Summary of appropriations is attached on the following pages.

*A complete copy of summary is on file in the Bath City Clerk's Office with the agenda materials for the June 18, 2008 Council Meeting.*

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

**VOTE:**

**YEAS: 6**

**NAYS: 0**

**Resolution passed unanimously. 6-0**

**IX. Resolution: Sewer Utility Fund Component (6:13 PM)**

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, 2008 and terminating on June 30, 2009, be and is hereby adopted with a total expenditure of **\$ 3,078,577.00**, balanced with an equal amount of estimated revenue. Summary of appropriations are attached to this Resolution on the following pages.

*A complete copy of summary is on file in the Bath City Clerk's Office with the agenda materials for the June 18, 2008 Council Meeting.*

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

**VOTE:**

**YEAS: 6**

**NAYS: 0**

**Resolution passed unanimously. 6-0**

**X. Resolution: Bath City Bus Fund Budget (6:14 PM)**

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, 2008 and terminating on June 30, 2009, be and is hereby adopted with a total expenditure of **\$ 101,957.00**, balanced with an equal amount of estimated revenue. Summary of appropriations are attached to this Resolution on the following page.

*A complete copy of summary is on file in the Bath City Clerk's Office with the agenda materials for the June 18, 2008 Council Meeting.*

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

**VOTE:**

**YEAS: 6**

**NAYS: 0**

**Resolution passed unanimously. 6-0**

**XI. Resolution: to Increase the LDI Tax Levy Limit (6:15 PM)**

Chairman Wyman read the following Resolution:

**RESOLUTION TO INCREASE THE LD1 TAX LEVY LIMIT**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BATH, MAINE to increase the tax levy limit of \$5,360,496 by the amount required by the adoption of the 2008-2009 budget (estimated increase \$600,000).

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

**VOTE:**

**YEAS: 6**

**NAYS: 0**

**Resolution passed unanimously. 6-0**

**XII. Order: Establishing Tax Club for the upcoming year (6:16 PM)**

Chairman Wyman read the following Order:

**ORDER – TAX CLUB FOR 2008 - 2009**

***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 enrollment in the 2008 Tax Club begins July 7, 2008, and ends August 15, 2008; with the first of twelve payments due in September, 2008.

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

**VOTE:**

**YEAS: 6**

**NAYS: 0**

**Order passed unanimously. 6-0**

**XIII. Resolution: Establishing interest rate on all delinquent taxes at the rate of 11.0% per annum (6:18 PM)**

Chairman Wyman 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 11.0% per annum, from July 1, 2008 to June 30, 2009

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

**VOTE:**

**YEAS: 6**

**NAYS: 0**

**Resolution passed unanimously. 6-0**

**XIV. Resolution: Establishing interest rate on delinquent sewer bills at the rate of 11.0% per annum (6:19 PM)**

Chairman Wyman 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 11.0% per annum, from July 1, 2008 to June 30, 2009.

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

**VOTE:**

**YEAS: 6**

**NAYS: 0**

**Resolution passed unanimously. 6-0**

**XV. Resolution: Establishing interest rate on refunds due to tax abatements at the rate of 7.0% per annum (6:20 PM)**

Chairman Wyman read the following :

**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 7.0% per annum, from July 1, 2008 to June 30, 2009; 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 Pagurko, second by Councilor Cochrane to put this Resolution on the floor for discussion.

**VOTE:**

**YEAS: 6**

**NAYS: 0**

**Resolution passed unanimously. 6-0**

**XVI. Resolution: City of Bath's Special Purpose Fund Component (6:21 PM)**

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, 2008 and terminating on June 30, 2009, be and is adopted for the purpose of funding the accounts attached to this Resolution below:

**SPECIAL PURPOSE FUNDS – CITY**

**As of June 1, 2008**

**CP03 Cemetery and Parks**

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  
 762 Holiday Tree Project

**FD03 Fire and Ambulance**

620 Fire Department Training  
 712 Homeland Security

**FOR03 Forestry**

709 Forestry - NUCFAC  
 710 Forestry - Community Gateway  
 878 Forestry - 2006 Tree Planting  
 884 Planning & Education

**REC03 Recreation**

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  
 934 ArtVan CLOSED OUT  
 936 Advertising Signs

**SPF03 Special Purpose**

615 Swimming Pool Fund  
  
 640 Wellness Program  
 653 Downtown Signs  
 680 Cheseborough Fund  
 827 Cable TV Capital Fund  
 722 Bath Clocks Maintenance  
 729 Workers Comp Reserve  
 731 Skate Park Committee  
 759 2Townlanding  
 935 Assessor Records Preservation

**Exhibit F**

**GA03 General Assistance**

610 Almoner Fund  
 725 Charitable Contribution Fund  
  
 749 Messier-Costain Foundation

**PL03 Planning Department**

652 Comprehensive Planning  
  
 713 Gateway Grant - Signs  
  
 740 Train Station Grant  
 744 Train Park Study Grant

**LLCC03 LAMBERT PARK CC**

LLCC03

**POL03 Police Grants**

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

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

**VOTE:**

**YEAS: 6**

**NAYS: 0**

**Resolution passed unanimously. 6-0**

**XVII. Order: Approving Year-end Expenditure Transfers (6:23 PM)**

**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:

<b>Transfer In</b>	<b>Account</b>	<b>Amount</b>
LANDFILL-TRANSFERS IN	LFREV-6810	\$142,000
2007 LANDFILL/STREETS BOND	110-70	\$17,000
APPLIED MATERIALS	080-214	\$55,000
PETROLEUM	080-256	\$40,000
SPECIAL DEPARTMENT EXPENSE	080-244	\$40,000
SKATE PARK	REC05-646	\$52,394
<b>Transfer Out</b>	<b>Account</b>	<b>Amount</b>
LAMBERT PARK IMPROVEMENTS	PW05-564	\$142,000
COUNCIL CONTINGENCY	012-402	\$152,000
STREETS MAINTENANCE	PW05-540	\$52,394

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

**VOTE:**

**YEAS: 6**

**NAYS: 0**

**Resolution passed unanimously. 6-0**

The meeting adjourned at 6:25 PM with a motion from Councilor Verville and a second from Councilor Pagurko. All in favor.

Attest:

Mary J. White, City Clerk

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