

**REGULAR MEETING MINUTES**  
**CITY COUNCIL OF THE CITY OF BATH, MAINE**

Wednesday, April 6, 2016 6:00 PM  
City Council Chambers, Bath City Hall

Present: Councilors Brackett, Page, Paulhus, Nordmann, Wyman, Bauer, Mitchell, Omo and Madame Chair Eosco.

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

Madame Chair Eosco led the Pledge of Allegiance and City Clerk White called the Roll.

Madame Chair Eosco amended the agenda to add two items: an Executive Session to discuss Labor Negotiations and a Resolution regarding the CDBG Public Hearing.

**1) Ordinance: Chapter 10. Public Safety, Article 5. Mass Gatherings, Sec. 10-501-515 (second passage) The following Agenda Item is verbatim:**

Madame Chair Eosco: Before we get into the Public Hearing for tonight, I think we have a lot of people who are interested in the topic for the Mass Gathering ordinance. I just wanted to start out the evening talking about some of the things that might have been overlooked in the ordinance and we just want to clarify some things because we've been hearing a lot about this issue. Our Councilors have been trying their best to respond. We need Staff's help because although we play them on TV, we're not lawyers. We've heard a number of those concerns so we're going to address those this evening with a proposed amendment right off the bat addressing one of the concerns. I'll get into that in a moment. One of the things I want to talk about before we go...before we talk about the ordinance in general is that if there is a point where you want to get up and talk about some of your feelings on the ordinance, that's fantastic. We want to hear that but we also...if you have suggestions – if there's something you don't like, that's great, but please offer suggestions as well, like if you don't like the number 50, what's a number that you think would be an acceptable number. That's just an example. I just want to point out it was suggested that we're holding our cards close to our chest. Well, that's not true. This is going through the process that we go through with everything. Sometimes when we have ordinances we have workshops on them. We had a workshop – it was open to the public. We had some people from the public who came. This was at our last Council meeting. These are always advertised in the same way every time. Mary is very good at making sure we're consistent. We had it last month. It was open to the public. Nobody spoke. This is out there. We're trying to be open. We're here to listen. We want to hear your concerns. I think that there's a lot of misconception in the public. It's different than when we went in with this thinking so I hope that we can hear you, but I also hope you can hear where we're coming from and we've started moving forward. And, let's get going. We do have some clarifications that we want to make as we move forward, but we're going to start off with the proposed amendment.

City Solicitor Therriault: We need to put the ordinance on the floor before we can deal with the amendment.

Madame Chair Eosco: OK, I'm sorry. Well, we've read that already. Now we're going to jump to the ordinance itself.

Councilor Omo: I'd like to make a motion to put this on the floor.

Madame Chair Eosco: Well, we've got to go through the motion of reading it.

Madame Chair Eosco read the following Ordinance:

**CHAPTER 10  
PUBLIC SAFETY**

**ARTICLE 5. MASS GATHERINGS.**

§ 10-501. Title.

This Ordinance shall be known and may be cited as the "Bath Mass Gathering Ordinance."

§ 10-502. Authority.

This Ordinance is enacted pursuant to the authority granted in Title 22, Maine Revised Statute, Section 1601, *et seq.*, the home rule power conferred by Article VIII, part Second of the Maine Constitution, and Title 30-A, Maine Revised Statute, Sections 2101, 2109, and 3001, all as may be revised.

§ 10-503. Purpose.

It is recognized that many mass gatherings such as local sporting events, Heritage Days, and holiday parades are a part of our community, and enhance the quality of City life. It is further recognized that other types of mass gatherings seek to exercise citizens' Constitutional rights to assembly and free speech. Notwithstanding the above, mass gatherings, as defined below, whatever their duration, may create a hazard to public health and safety. It is the City's purpose by this Article to promote and permit safe mass gatherings while regulating the conduct of such gatherings in order to protect the public health and safety.

§ 10-504. Definitions.

The following definitions shall apply to terms used in this Article. Terms not defined herein shall have their customary and ordinary meanings.

A. Council. Duly elected Councilors for the City of Bath.

B. City. The City of Bath, Maine.

C. Mass Gathering. A group of fifty (50) or more persons assembled together for a meeting, festival, social gathering, entertainment, scheduled event, demonstration or other similar purpose. A mass gathering shall not include local parochial school, private school or public school sporting events or functions, nor shall it include any hearing or meeting called, organized or held by a department or agency of the United States, State of Maine, or City, nor shall it include any Fourth of July/Heritage Days Parade. The number fifty (50) is chosen in recognition of the density of areas in Bath likely to be the location of a mass gathering (i.e. downtown, waterfront, BIW area). In these areas, fifty (50) or more people have the potential to create hazards to public safety if not regulated under this Ordinance. Mass gatherings, regardless of the number of participants, shall not include gatherings or assemblages that occur totally on private property and do not require any municipal services.

D. Mass Gathering Area. Any place maintained, operated, leased, controlled or used for a group gathering or assemblage.

E. Nuisance. "Nuisance" means and includes the following:

1. Any public nuisance as that term is defined at common law or in equity jurisprudence;

2. An attractive nuisance as that term is defined at common law or in equity jurisprudence; and

3. Any condition, which violates federal, state or local health, zoning or environmental laws or regulations, or places the public in any situation that may be determined to be detrimental to their health, safety and welfare.

F. Operator. "Operator" means the person responsible for the managing of the mass gathering area. In the event that no operator exists, the owner, or, in the event of his non-availability, the lessee of the ground encompassing the mass gathering area, shall be deemed to be the operator.

G. Person. "Person" shall mean an individual, group of individuals, association, partnership or corporation, firm, association, organization, or any other entity, but shall not include the City of Bath.

H. Refuse. All combustible or noncombustible putrescible or non-putrescible solid or liquid wastes.

I. Sanitary Facilities. Toilets, privies, lavatories, urinals, drinking fountains and service buildings or rooms provided for installation and use of these units.

#### § 10-505. Permits Issuing Authority.

A. Permit Required. No person shall permit on his property, or otherwise conduct, or permit on public property, a mass gathering which may reasonably be anticipated to, will or is intended to attract a continued attendance at such gathering of fifty (50) or more unrelated persons for six or more hours until a license has been obtained from the Chief of Police.

B. Exemptions. Events which would be classified as mass gathering events, which constitute traditional types of mass gatherings that have occurred and been conducted in a manner so as not to endanger the health and wellbeing of the citizens, and which require minimal City services shall be exempt from this permitting requirement. By way of illustration only, they include such events as those organized or held by a Department or Agency of the United States, State of Maine, or City of Bath, parade events such as Fourth of July/Heritage Days, school functions or sporting events and the like. Organizations may apply for a blanket waiver for recurring events on locations that meet the criteria of this Section. (Permitting for Heritage Day activities shall continue to be provided by action of the Bath City Council.)

C. Waiver. Where a mass gathering event is proposed that will have no effect on the public health and safety, no need for City services, and shall cause no expense to the City, the Police Chief may waive the need for a mass gathering permit.

#### § 10-506. Application.

The permit application submitted pursuant to Section 10-507 shall be on the application form prescribed by the Chief of Police and shall include the following information:

A. Description of mass gathering.

- (1) The application shall include the following:
  - (a) A description of the proposed event.
  - (b) A detailed statement of how the standards in Section 10-508 will be met or how they are not applicable to the proposed event.
  - (c) The site or location or parade route proposed for the mass gathering.
  - (d) The duration of the event and its anticipated start time and ending time.

- (e) The number of expected attendees.
- (f) Any restriction on attendance at the event, such as a requirement for tickets, and how such restrictions will be enforced.
- (g) Representation that abutters notices have been provided where applicable.
- (h) Evidence that any other license requirements for the conduct of the mass gathering event have been procured and are in full force and effect.
- (i) Proof of insurance in accordance with § 10-509.
- (j) Application/operator's prior history with mass gatherings.
- (k) Any other information that is deemed appropriate and necessary by the Chief of Police to determine that the event can be conducted in a safe manner.

**B. Site Map.**

The applicant shall provide a site map of the area, at a scale of no more than 100 feet to the inch, depicting the location and size of the assemblage area(s) and showing the following information:

- (1) Traffic control:
  - (a) The location of ingress and egress for pedestrian and vehicular traffic to this site.
  - (b) The location of off-site ingress and egress roads.
  - (c) The number and location of all traffic control personnel.
  - (d) The location and size of parking areas including the number of parking spaces, including off-site parking if proposed, and if on private property, that the owner has given permission.
  - (e) The location and size of any temporary camping areas associated with the event and, if on other private property, representation that the owner of that property is permitting the camping use.
- (2) Sanitary and Health:
  - (a) The location and number of all proposed toilets.
  - (b) The location and number of all lavatory and bathing facilities.
  - (c) The location and number of water supply sources.
  - (d) The location of refuse disposal facilities and collection facilities and arrangements for disposal of the refuse off site.
  - (e) The location of the first aid facilities and emergency medical facilities.
  - (f) The location of evacuation routes.
  - (g) A copy of the evacuation plan to be used in case of an emergency.
- (3) Service Areas:
  - (a) The location of any food service areas.
  - (b) The location of any area where alcoholic beverages will be served.

§ 10-507. Application procedure; appeals.

A. Submission - Chief of Police Review. A permit application, in the format indicated in Section 10-506 above, to hold one or more mass gatherings shall be submitted to the Chief of Police sufficiently prior to the date of the contemplated mass gathering in order to allow the Chief adequate time to process and address any public safety concerns triggered by the contemplated mass gathering, but no less than seven (7) days before the date of commencement of the gathering. When considering the issuance of a permit, the Chief of Police shall seek advice from the Fire Chief, Code Enforcement Officer, Health Officer and such other officials or persons as he or she deems necessary. No permit shall issue until the Chief of Police is assured that adequate safety, traffic, sanitation, refuse, and water needs for the gathering have been addressed and satisfied. Upon satisfaction of the Chief of Police that the ordinance standards have been or will be met, a permit will be issued to the operator. In making a decision, the Chief of Police will consider prior performance of the applicant/operator in holding mass gatherings.

***Madame Chair read the proposed amendment here:***

***Spontaneous Gatherings – It is recognized that there will be occasions when spontaneous gatherings occur in the exercise of the Second Amendment rights to assemble and to free speech. These gatherings are often engendered by topical events and, by their very nature, do not involve significant preplanning. Where a gathering occurs spontaneously, the seven (7) day application time frame shall not apply. The City, however, does not waive its responsibility to manage the gathering, or to disburse the gathering, where the public safety requires.***

B. Denial. The Chief of Police shall deny a permit if he or she finds that one of any of the following conditions have not been met:

- (1) That one or more of the standards set forth in this Ordinance have not or cannot be met.
- (2) That the applicant/operator has a prior history of conducting mass gathering events that have posed a threat to the health and safety of the public either of this community or any other community.
- (3) Where the applicant/operator has a prior history regarding mass gathering events that is unsatisfactory.
- (4) Where the application for the permit, including any required attachments or submissions, has not been fully completed and executed.
- (5) Where the applicant/operator has failed to tender any fees, costs, or deposits within the time frames prescribed in this Ordinance.
- (6) Where there is a material falsehood or misrepresentation in the application or attachments and submissions.
- (7) Where the applicant is not legally competent to sue or be sued.
- (8) Where a fully executed prior application for permit for the same time and place has been received and a permit has or will be granted to the prior applicant authorizing uses or activities which do not reasonably permit multiple occupancy of the particular mass gathering site.
- (9) Where the use or activity intended by the applicant/operator would conflict with previously planned programs organized and conducted by the City of Bath and previously scheduled for the same time and place.
- (10) Where the proposed use or activities is prohibited or inconsistent with the classifications and uses of property pursuant to the City Code.
- (11) Where the use or activity intended by the applicant would present an unreasonable danger to the health or safety of the applicant, operator or other users of the property, City of Bath employees, or the general public.

- (12) The applicant/operator has not complied and cannot comply with application licensure requirements, Ordinances or Regulations of the City of Bath concerning the sale or offering for sale of any goods or services.
- (13) The use or activity intended by the applicant/operator is prohibited by law, by this Code, or by other City Ordinance.

If the Chief of Police denies a particular application, then he/she shall issue to the applicant/operator a written notice of the reasons for the denial to be delivered to the applicant/operator or his or her agent, personally or by mail service.

C. Appeal. The denial of a permit by the Chief of Police may be appealed to the City Manager. The appeal must allow the City Manager a sufficient amount of time prior to the scheduled event to process the appeal. If time permits, the Manager may schedule a meeting with the applicant/operator, the Chief of Police, and any other Department Heads or advisors deemed necessary for the City Manager to review the Chief of Police's denial of the application. After review, the City Manager may take one of the following steps:

- (1) Affirm the Chief of Police's denial; or
- (2) Direct the issuance of the requested permit; or
- (3) Deny the permit pending the applicant's completion of certain and stated actions or steps which, if followed by the applicant, will result in a permit being issued.

Any party aggrieved by the decision of the City Manager may appeal the Manager's Decision to the Superior Court pursuant to Rule 80B of the Maine Rules of Civil Procedure.

D. Fees. Administrative fees shall be determined by City Council, which fees may be amended from time to time by resolution of Council.

#### § 10-508. Standards.

All facilities required by this chapter shall comply with the regulations promulgated by Title 22 M.R.S.A. § 1601, *et seq.*, pertaining to mass gatherings and with the following standards. When off-site facilities are to be utilized in order to meet the requirements of this chapter, they shall be described, and written consent(s) from the property owners providing the facilities shall be submitted with the application indicating that they have read the application and understand the scope and nature of the mass gathering.

A. Access.

- (1) Evidence shall be provided to show that provisions for access for the ingress and egress of pedestrians and vehicular traffic shall be maintained, and that all public roadways in the proximity of the mass gathering will be adequately staffed with trained traffic control personnel to insure safety to all the public for the duration of the mass gathering.
- (2) Evidence shall be provided that sufficient safeguards have been incorporated into mass gathering plans in order to insure that City maintained streets and roads will remain accessible to public safety vehicles (police, fire and rescue) during the proposed mass gathering. Where streets and roads may be closed or restricted to traffic adequate provisions will be made for public safety vehicles and for adequate access for the public.

(3) A detailed plan for controlling traffic must be submitted, which shall include:

(a) A description of the routes which persons attending the event are likely to take.

(b) The number and assigned location of persons who will be present to direct traffic at the site both before, after, and during the event. Under no circumstances shall private citizens be assigned the duty of directing traffic on public roads.

(c) A description of what means will be available to remove disabled vehicles from locations where their presence will obstruct the free flow of traffic, including a written statement by any private towing agencies that their towing services will be available.

(d) A description of parking shall be provided, specifying the location of all roads and parking lots.

i. Width of service roads shall be at least 12 feet for one traffic lane, 24 feet for two traffic lanes, and seven feet for parallel parking lanes.

ii. There shall be at least one parking space for every four persons and the density shall not exceed 100 passenger cars or 30 buses per usable acre.

B. Grounds. Each mass gathering area will be well drained, adequately illuminated, free of refuse and debris and so arranged as to provide sufficient space, vehicles, sanitary facilities and appurtenant equipment for the number of persons reasonably anticipated to be assembled, and adequate on-site parking space will be provided.

C. Water supply.

(1) Evidence must be provided in writing from the operator concerning the source(s) of potable water. Where water is distributed under pressure and flush toilets are used, the water system shall deliver water at normal operating pressure (20 pounds per square inch minimum to all fixtures at the rate of at least 30 gallons per person per day).

(2) Where water under pressure is not available, and nonwater toilets are used, at least three gallons of water per person per day shall be provided for drinking and lavatory purposes.

(3) If the Bath Water District is to be utilized as a source of potable water, a written statement from the said Water District must be submitted to affirm that the District has the capacity to provide the necessary quantity of water without adversely affecting the supply to their normal customers.

(4) Transported water shall be obtained from an approved source, and stored and dispensed in an approved manner. "Approval" as used in this subsection means in compliance with standards adopted by the State of Maine Division of Health Engineering.

D. Sanitation. Adequate sanitation facilities will be made available, and the City will require that a minimum of one toilet per 150 persons expected to be in attendance. Where the nature of the event indicates that additional toilets may be necessary, such additional toilets shall be required as a condition of the permit. Adequate number of handicap accessible toilets shall also be provided. Further:

(1) No wastewater will be discharged except in a manner consistent with the requirements of the State Department of Human Services, Division of Health Engineering.

(2) Disposal and/or treatment of any excretion or liquid waste will be in compliance and consistent with the requirements of the State Department of Human Services, Division of Health Engineering.

(3) The toilet(s) shall not be on site more than three (3) days prior to a scheduled event and shall be removed within three (3) days of the conclusion of the event.

E. Refuse disposal. A description of the number, type, and location of refuse facilities, including a statement as to when and how the accumulated refuse will be picked up, by whom, and to what facility it will be taken for disposal. The operator will provide proof that refuse containers will be readily accessible throughout the mass gathering area, and that at least one fifty-gallon refuse container or equivalent will be provided for each 100 persons expected to attend the mass gathering. The operator shall be responsible for all fees associated with the cleanup and disposal of refuse resulting from the mass gathering.

F. Vermin control. Insects, rodents and other vermin shall be controlled by proper sanitary practices, extermination or other safe and effective control methods, and, where necessary, animal parasites and other disease transmitting nuisances shall be controlled.

G. Safety.

(1) Law enforcement.

(a) Evidence must be provided in writing that a sufficient number of certified law enforcement personnel licensed pursuant to 32 M.R.S.A. §§ 9401 - 9417, *et seq.*, will be on duty near and within the assembly site area and that the Chief of Police has approved the same. A minimum of at least one such certified security person, (not including persons concerned solely with traffic control) shall be available for each 500 persons in attendance when alcohol is not present and one for every 250 when alcohol is present on the property. Where the nature of the event indicates that additional law enforcement personnel may be required, such additional personnel may be assigned as a condition of the permit.

(b) If he deems it necessary in the interest of public safety, the Chief of Police shall have the authority to require that all security personnel shall be sworn law enforcement officers.

(2) Fire protection. Evidence must be provided in writing that the Bath Fire Chief has reviewed and approved mass gathering plans as meeting fire protection concerns. If, in his/her judgment, the conditions which exist at the mass gathering area constitute an unsafe environment, the Fire Chief shall recommend the Chief of Police deny the issuance of a mass gathering permit.



H. Medical. The applicant must demonstrate how emergency medical services will be provided, and further demonstrate coordination with the City of Bath Fire Department should their units respond to the site. All necessary personnel must be licensed by the State of Maine as licensed physician, physician assistant, registered nurse, or emergency medical technician. A transporting ambulance, duly licensed by the State of Maine, shall be available on the site during the entire time of the mass gathering. Telephone and radio communications shall be provided and kept available for emergency purposes. The operator of the mass gathering shall contact area hospitals, advise them that a mass gathering will be held, and inform them of the expected attendance at the event.

I. Sound. Reasonable precautions will be taken to ensure that the sound of the assembly will not exceed noise levels as otherwise may be regulated by the City of Bath.

J. There may be overnight assemblage, but all activities must end by 11:00 p.m. and may not recommence before 8:00 a.m. or at such other times as may be approved by the Chief of Police.

K. Complete application. The application for permit (including any required attachments and submissions) must be fully completed and executed.

L. The applicant has tendered the required application fee with the application, insurance certificate, and security deposit within the times prescribed by this Ordinance.

M. Victualers/vendors; alcoholic beverages.

(1) No operator will permit, encourage or suffer any person, firm, business, family or corporation from selling or merchandising clothes, food, goods, second-hand merchandise, etc., at a mass gathering unless that person, firm, business, family or corporation has secured a vendor or victualers license as required by the City.

(2) Any vendor or victualer found at a mass gathering without license to so operate will be removed by the police from the mass gathering, and the operator will be cited for violation of this chapter and for violation of any other applicable City Code provision.

(3) If the operator intends to sell or permit the sale of alcoholic beverages within the mass gathering area during a mass gathering, the operator shall restrict the time and location of such sale so that alcoholic beverages are sold only during the particular event and so that public safety and order will not be impaired. The operator shall comply fully with the laws of the State of Maine regulating the sale and consumption of alcoholic beverages, as well as with the City's Special Amusement Ordinance. No alcoholic beverages shall be sold at a mass gathering after 10:00 p.m. Alcoholic beverages may be sold and consumed only within a restricted area of the Facility, which does not include the parking lot. The Operator shall identify, in its Permit Application, specific restricted areas where it proposes to sell alcoholic beverages, and the means by which it anticipates to limit the consumption of alcohol to such restricted portions of the mass gathering area. Additionally, the Operator shall exercise all due diligence and exert its best efforts to prevent the unauthorized consumption of alcoholic beverages on any part of the mass gathering area outside of the restricted areas, and to prevent patrons of the mass gathering area from using, consuming, bringing in, or otherwise obtaining alcoholic beverages in any manner not authorized by this Ordinance of the Special Amusement Ordinance. Nothing in this Ordinance shall preclude the Operator from implementing more restrictive rules for the sale and consumption of alcoholic beverages. In lieu of the above-mentioned requirements in this Section, the Operator may submit a detailed alternative management plan for the sale of alcoholic beverages subject to the approval of the City Council and the Maine Bureau of Liquor Enforcement.

(4) Nothing in this Section shall be deemed a waiver of the provisions of State Law or Local Ordinances which prohibit the sale, consumption, or vending of alcoholic beverages in certain locations. (Reference is made to City Ordinances Chapter 6, Cemeteries and Parks, Article 4, Park Areas–Prohibitions, Sect. 6-28, Park Areas–Prohibited Activities, Subsection J, Alcoholic Beverages, which allow alcoholic beverages in the Library and/or Waterfront Parks in connection with specific events.)

#### § 10-509. Insurance.

The operator shall carry public liability insurance in an amount of not less than \$1,000,000.00 per person for bodily injury and for property damage with the City to be named as additional insured. Proof of insurance must be provided to the Chief of Police as part of the application before a permit can issued. The proof of insurance may be reviewed for adequacy by the City Solicitor.

#### § 10-510. Costs.

##### A. Liability.

City costs shall be those actual costs incurred by the City in connection with the mass gathering, which relates to any adverse consequences or need for City services due to the mass gathering, and which would not have been incurred by the City if such mass gathering were not held. Such costs shall include, but not be limited to, personnel costs, road signs, damage to City roads or ditches, or any other adverse consequences to any public facilities or works, such as the municipal water supply. City's actual costs shall also include the cost of hiring of sworn law enforcement personnel to oversee the City's interests in ensuring the public safety and enforcing the conditions of this chapter as well as any costs associated with additional personnel, supplies or equipment that may be necessary due to the mass gathering. City costs for personnel shall be as determined according to the City's Bargaining Agreements with its Union personnel and in accordance with City Policies for non-Union personnel.

##### B. Deposit - Fee.

The operator of the mass gathering shall provide a cash deposit to the City covering proposed City costs, which amount shall be determined by the Chief of Police. The purpose of the deposit shall be to allow the City to pay costs related to protecting the public health and safety, such as those costs associated with traffic control, medical personnel, and waste disposal or clean-up. Any remaining balance of the deposit in this account shall be returned to the applicant following completion of the mass gathering, and clean-up by the applicant of the area used for this mass gathering, compliance by the applicant with any applicable state or local law or regulation, and payment by the applicant of all proper claims against the applicant for damage to real or personal property in the municipality for which the permit is issued and arising out of facts done or omitted to be done by the applicant, his agents or employees. A permit shall not be issued until receipt of said deposit.

A non-refundable administrative fee of \$100.00 shall accompany the application for a Mass Gathering Permit. The fee or any portion of the fee may be waived where processing the application requires no or minimal staff time. The fee may be adjusted from time to time by Resolution of the City Council.

##### C. Deposit Refund.

Within 30 days after the mass gathering, the City actual costs shall be calculated, and the deposit shall be refunded to the operator to the extent it exceeds the actual City costs. If the actual City costs exceed the amount deposited, the operator shall pay the excess to the City within 10 days after being so notified.

§ 10-511. Revocation.

The Chief of Police may revoke the permit at any time if the operator has failed to comply with any of the commitments made in the application, or the requirements of this ordinance, or if the operator has failed to secure any other license or permit required by the City of Bath or any other government agency in order to hold the mass gathering on the proposed site. Except in cases of emergency, the Chief of Police shall revoke a permit only after giving notice to the operator of the reasons for the proposed revocation and providing an opportunity to be heard with respect thereto. Written notice of the reasons for the revocation shall be delivered to the operator or his or her agent, personally or mail service. The applicant/operator may appeal any revocation in accordance with Section 10-507(C).

§ 10-512. Violations and Penalties.

Any person or operator who violates any provision of this ordinance or any term of a permit issued pursuant to this chapter shall be subject to a civil penalty. It is a violation of this ordinance and deemed a nuisance herein to hold a mass gathering within the City of Bath without a permit. Operator(s) found in violation of this chapter shall be subject to a fine of not to exceed a maximum of \$1,000, plus any and all costs of the City of Bath, including the Police and Fire Departments, incurred by the City to terminate the mass gathering, safely disperse those in attendance and enforce this ordinance. Each violation shall be considered a separate offense, and each day a violation is allowed to exist shall be considered a separate offense. The provisions of this ordinance shall be enforced by the Chief of Police, the Codes Enforcement Officer, or such other municipal official or employee as the Chief of Police shall designate.

§ 10-513. Limitations on permits.

No more than one permit under this chapter shall be issued to any single operator or group, within any thirty-day (30) period, for any mass gathering unless waived by the Chief of Police.

§ 10-514. Applicability.

Notwithstanding anything to the contrary in 1 M.R.S.A. §302, the provisions of this Ordinance shall apply to any application, request or proposal for a mass gathering permit which may be pending on or after \_\_\_\_\_, the date of introduction of this Ordinance before the City Council.

§ 10-515. Severability.

The invalidity of any provision of this Ordinance shall not invalidate any other part thereof.

Councilor Wyman: I'd like to make a motion to put this on the floor.

Councilor Omo: Congratulations, and I second that.

Madame Chair Eosco: So we have this on the floor.

City Solicitor Therriault: Now we need a motion for the amendment.

Madame Chair Eosco: We need a motion for the amendment that we talked about before.

Councilor Omo: I'd like to make a motion to accept the amendment.

Councilor Mitchell: I second it.

Madame Chair Eosco: So we're only talking about the proposed amendment to the whole thing. Does anyone have any preliminary comments on that? Does anyone from the public want to talk about the amendment itself – the paragraph that we want to add in today? Any Council comment on that? So that's a roll call vote?

City Clerk White: Yes.

**ROLL CALL VOTE on AMENDMENT:**

**YEAS: Brackett, Page, Paulhus, Nordmann, Wyman, Bauer, Mitchell, Omo**

**NAYS: None**

**Ordinance passed unanimously. 8-0**

Madame Chair Eosco: I would like to start out by pointing out a couple things before we get too far into this. As you can tell by that very lengthy reading...and I just want to give some background. The intent for this is that this is for major, major events. It has nothing to do with people who get together to play croquet on the lawn or they want to do some dancing over here, or people who go down to BIW to protest. That is not the intent in any way, shape or form. This was brought to us because a couple of years ago, Bike Maine came to town, which is a very legitimate, wonderful organization, and they said "Where's your mass gathering ordinance?" They said "Oh, well, everybody else has them." Staff was scrambling because they didn't have anything with teeth to help this major event come in. If you listen to this clearly, we are talking about porta-potties. We're talking about water. We're talking about camping. These are things that... I can't think of anything that triggers anything close to this aside from Heritage Days, which already has its own process in place. It's been going on forever, and that's approved by the Council. If you listened to that whole reading, this is really gearing for major events – people who are coming from out of town – you know, big races – there are people who run races for diseases now. They are not doing it for Fields for Our Future. They are doing it for profit things for their own profits. Those are things that affect the City. They close down streets, they require resources, it affects our lives as citizens in this community.

Another triggering point in here is whether it is more than six hours. That was one that I found to be very subtle, but most often...I can't think of anything, like a gazebo concert or anything like that which would trigger the six hours. I think... it's nice if the Police know that people are getting together – it's good for them to know what's going on in town, but there are few triggering points here that would really set it off. What we talked about in our workshop at length was big events coming into town. We weren't discussing any of the small things that are currently happening. I just want to set the stage for that because I think I'm speaking for us all. That's how we started off – not to get anyone who's doing anything now because gathering is part of what makes us awesome humans. I don't ever want that to stop and I think it's not happening enough anymore because we're all behind our computers and our TVs. I think it's great when we're seeing each other face to face, and I love seeing everyone here tonight so if nothing else, it has brought people here.

Roger. do you have anything you want to start off with?

City Solicitor Therriault: I think you covered some of the major points in terms of what we are trying to do. I guess there's just two points that I would like to make and obviously answer any questions that I can. First of all, there are at least 47 – and I suspect that there are probably a good deal more municipalities that have these kinds of ordinances. This is nothing new. Our problem with this is that we were essentially acting like we had one and trying to use common sense to deal with them with nothing to back it up. No enforcement capability at all. So, if we get the wrong people in here at the wrong time, we would have been up the creek without a paddle. That was the genesis of this – to try to deal with those large types of gatherings that come here that need municipal services, that need an eye on them, and that we need to protect our people from because of the potential for hazard and disruption and safety issues. That is really where this thing came from. As I say, it's not new.

I think we've addressed the constitutionality aspects of all of this and just briefly what we can do as we regulate as we have done – the time that these events occur, the place that they occur, and the manner in which they occur. If you look at all of the standards and all of the application pieces, you will see that they are related to those specific items. What we cannot do and what I believe the ordinance does not attempt to do is in any way seek to govern the content of the mass gathering. We don't care, and we cannot care, and constitutionally we cannot care whether the Republicans, Democrats, Independents, Green Party people, whether the Ku Klux Klan – whoever it is – the motorcycle folks – they're all entitled to gather. They're all entitled to free speech and there is no way that we can attempt to censor any of that. We take them as they come, and they are all entitled to equal participation as long as they meet the ordinance – but the ordinance applies equally to all of them so I think we've done that successfully as well.

Madame Chair Eosco: That was one of the things I think we were hearing the most about – the constitutionality – and Roger responded with - and I think a number of people here may have seen that - a pretty lengthy e-mail about that. I'm not a constitutional law lawyer, so I'm not going to speak like I know with any authority on that.

Another question that has come up over and over again and Chief Field, I think you're prepared for this. People have been wondering – does Heritage Days pay for Police and all of that kind of thing? Those are specific ones, and I can say for sure – yes, Heritage Days is – it is built into the budget year after year. Chief Fields, can you come up and talk a little bit about the kinds of fees that you see coming in? I want people to hear these kinds of things so that you have all the information before we get into the conversation.

Chief Field: Sure. Thank you Madame Chair and members of the Council. There were some comments...and it's only a few thousand a year. Just in fees for the Police Dept. last year – the 2015 calendar year – it was \$29,000 that was paid by other organizations. That includes schools and all the races and Heritage Days, which is about \$5700. Excluding the schools, it is just a little over 21, 000, which would be a significant increase to my overtime line and taxes if I had to put that into my budget to cover all the costs for...just Police services. BIW, as I mentioned, pays for their details for the christenings and again, Heritage Days pays for all their police coverage as well.

Madame Chair Eosco: Thank you. That's good information. I think it's something that we all think about sometimes when we see that. Are there any Councilors – do any of you have any preliminary comments that you want to make before you start?

Councilor Bauer: I have an e-mail that I'd like to read from someone who lives in my ward, and I told him that I would read his e-mail.

Madame Chair Eosco: Can you state his name and maybe his address?

Councilor Bauer: I can tell you that it is Randall Williams of Edward Street, and he is in Germany and asked me to read this on his behalf. **(The e-mail referenced by Councilor Bauer is on file with the agenda materials for the April 6<sup>th</sup> City Council meeting in the City Clerk's Office.)**

City Solicitor Therriault: I think I can respond to the fee issue. Where Augusta got in trouble on the fees, strangely enough, is that they charged a fee, found that it was too much, and didn't reimburse the difference. That's what they found unconstitutional. Not that there was a fee. But in order to be constitutional when you charge fees and costs, there has to be a standard as to what that is. One of the things that the City cannot do under this ordinance, and in fact under most of our fee schemes, is make money. The purpose of a fee is to cover our administrative costs – and you can see that there are a number of City personnel who are involved with reviewing the application if they get to that level, and that costs the City time, and there also will be costs with things associated with the Police, Fire, Public Works and those sorts of things that the City is entitled to be reimbursed on.

There has to be a methodology, which there wasn't here, based on our Union contracts and other policies to determine what the actual cost is. The fees must be related, in order to be constitutional, to the actual cost incurred by the City relative to that event. If there aren't any costs, there aren't any fees. It's not a question of being able to select what we'd like to charge for these things. It's not like a ticket to the movies where you charge what you can. It's simply cost-related. Thank you.

Madame Chair Eosco: And those always can be waived. I understand where he's coming from, but if a non-profit is using a lot of resources, I don't think it's up to the citizens of Bath to pay for those resources just because it's a non-profit. And, I'm all about non-profits, and anyone who knows me knows that...it costs the City money, and that's something to think about. Let's go through...do any other Councilors have any preliminary thoughts before we open it up to the public? I don't see any. Ok. Before we open it up to the public, I just want to...I have some more reading here. **(Madame Chair then read the procedures for public comment at Council meetings. These are on file in the City Clerk's Office)**

With that, I am going to open it up to the public, and remember name and address.

Bruce Gagnon: Bruce Gagnon. I live at 212 Centre Street here in Bath. I didn't know about this ordinance until I read about it in the newspaper after the last City Council meeting. My question was why do this and where did this ordinance come from. You talked a bit about that. I also heard that it had to do with the sale of beer in the City Park. To me, this ordinance is confusing. It took longer to read than the United States Constitution indicating how confusing it is, being unconstitutional in various parts. Groups I work with regularly hold vigils at Bath Iron Works where we hold signs and banners calling for conversion of the shipyard to building commercial rail systems, wind turbines, tidal power systems and hospital relief ships. At christenings, we usually have a lot more than 50 people. While we usually protest about three hours, it is very conceivable that we could decide to stay longer, which would then kick us into the permit category.

As I read the proposed ordinance, if we had more than 50 people for six hours, we'd have to pay a \$100 administrative filing fee, get a million dollar liability insurance and pay for any Police coverage that the City deemed necessary. That would essentially be putting a price tag on free speech. In 1983 while living in Orlando, Florida, our local peace group was required to do a very similar thing and we took the case all the way to the United States Supreme Court. One, the City had to change their ordinance and pay our lawyers a lot of money. In order to get more information about potential costs, I called our local insurance agency and asked for the price of a \$1,000,000 insurance policy for a BIW protest. The agency called four companies that provide those kinds of policies and none of them would insure such an event, much to the surprise of our local insurance agency. So, even if we were willing to buy the insurance, which we're not, we couldn't get it anyway. And by your ordinance as it now reads, we'd be denied the right to protest if we didn't get such a policy if we decided to stay for more than six hours. The City might not like us protesting at Bath Iron Works but that does not give the City the right to create obstacles to free expression of our rights to assemble and speak out.

One thing that supposedly makes America great, we are told, is our unfettered right to have issue conversations in the public square, even if they last more than six hours. The recent Occupy movement comes to mind where people literally spent weeks in the public square and according to your reading, what I heard tonight, at 11 p.m. things shut down so Occupy, for example, would be arrested if people refused to disperse at that time. The placing of onerous fees and other obstacles in the way of citizen participation is wrong and un-American, I believe. I would suggest this ordinance be tabled with an opportunity for more public input to ensure that the City of Bath doesn't interfere with anyone's Constitutional rights just so beer can be sold in a public park. Thank you very much.

Mary Beth Sullivan: Hi, my name is Mary Beth Sullivan and I live also at 212 Centre Street. I concur with what Bruce Gagnon just presented but I did want to make one point, particularly about the amendment – the idea that spontaneous gatherings on top of topical issues, I think you say are exempt.

The concern is that our gatherings at BIW are not always spontaneous. It's absolutely conceivable to us that we would gather – we never know how many people are coming – but we would gather and then make a decision to stay longer than we originally intended. My concern is for the unintended consequences. I hear you all say this has nothing to do with what you intended, but the concern is for the unintended consequences, so I do urge that we look at it more deeply and that we sort of have more conversations with lawyers about this. Thank you.

Karen Wainberg: Hi, my name is Karen Wainberg and I also live at 212 Centre Street. I'm thinking of lying about where I live because I also said 212 Centre Street. You know, I had a lot of those points too but what I want to suggest is that... I too, have heard so many conversations about this ordinance from friends, from neighbors, through town. This is an issue of democracy and democratic process. Really, what would it hurt to open this up to a wider forum and allow our community – more people – to read this and more people to sit together in a forum to discuss it? That seems much more valuable to do and make sure that the town – more people – is in concurrence with this. It's very complicated. I've read it a couple of times and I have found it very confusing. Some things in it – there were a few things in it that were really contradictory – but that's not the main thing. The main thing is the big principles that so many of us are worried about. I ask you to table it and consider some kind of community forum. It may come out that it's passed, but at least there will have been a really good discussion in Bath. Bath is a wonderful community and I think we deserve that.

Michael Anthony: Hello, my name is Michael Anthony. Thank you all for having this hearing. I DON'T live at 212 Centre Street – I live at 81 Denny Road. I want to agree with all my friends that live at 212 Centre Street, however. I'm the founder and peer advocate with Homeless Solidarity Project. I've been living at 81 Denny Road for about a year now. Thank you all for your service to Bath and for making it a wonderful place to live. I'm here to speak in opposition to the proposed ordinance in Chapter 10, Article 5, concerning mass gatherings, and ask for your support in defending free public assembly in Bath, opposing or tabling this ordinance. A big part of my work in Homeless Solidarity Project is educating folks about the need for, and processes to engage homeless and recovering homeless folks in every day community life. We are often treated as passive consumers, rather than active producers and contributors to society. But the reality is, desperate short-sighted policies such as these are as much a cause of poverty and homelessness as low wages or high rents.

By erecting barriers to poor and working class people's efforts to organize, speak out, take leadership and take action on the issues that affect us, we are forced to depend on more economically-privileged individuals and organizations to do things for us. Then in the public dialogue we are blamed and shamed for our inability to act and are accused of being lazy when it is policies just like these all over the country and here in Maine that are hindering our abilities to act.

Let Bath be a place where our basic human rights to free speech and free public assembly are not just protected as required by the First Amendment, but celebrated and encouraged rather than hindered with fees and threatened with fines. I understand that many of the fees and restrictions can be waived by the Chief of Police but that is not good enough when determining who has the right to free assembly, who needs to pay, who needs to jump through hoops and who gets to exercise this right freely.

Poor people need to be able to self-advocate, self-organize, assemble, speak out, take leadership in their own struggle and act directly on the issues that affect us and our peers. Sometimes this means public assemblies, to raise awareness, empower one another and celebrate progresses we have made. Sometimes these are last minute but not always. Rarely do we have a hundred bucks to throw around, and our work is too important to depend on the discretion of the Chief of Police to approve our activities. All barriers to free speech and public assembly in a democratic society need to be opposed. By standing in the way of poor folks right to free assembly, you are standing in the way of poor folks addressing our needs, forcing our peers to remain dependent on the rapidly eroding state and corporate services administered by those who may or may not really understand or care about our needs or the issues we face. Please be an ally and protect poor people's right to free public assembly and oppose or table this ordinance. Thank you.

Peter Woodruff: My name is Peter Woodruff. I live at 24 South River Road in Arrowsic, but I did live in Bath for 22 years and I went to work at BIW for 33 years. I have aphasia and I cannot talk well. It's because of being exposed to manganese at the Yard, but I am here tonight to talk about organized labor strikes at BIW. I've been involved with two strikes there in my 33 years, and they last for over two months round the clock, 24 hour striking. Will this be up to the Chief of Police whether we have organized labor practice? Thank you.

Russ Long: Good evening neighbors. My name is Russ Long and I reside at 43 Meadow Way in Bath. I came to Bath approximately two years ago from the north shore of Massachusetts. I retired and I had a shopping list and I was looking for a community – I knew what I was looking for – and Bath fit the bill. This is a splendid place with wonderful people. I've never been in a community where I could walk at a waterfront park or down Front Street and see clothing, knit by the Patten Knitting Circle free for people who needed it. There are a lot of similarities that Bath shares with the City of Newburyport – beautiful Waterfront Park, brick streets, the street lamps... it's telling in a way that expresses Bath's self-respect, and it's willingness to be a cohesive, organic, social entity. It is by degrees we create firewalls that disenfranchise and marginalize people from the core that is organic about a community. This is a splendid, special place. Next time someone calls and says "Do you have an ordinance for mass gatherings?", say "Gee whiz, we don't. Try Brunswick or try one of the communities on your list of communities." We can't take care of everybody's event. If you want to primp and put lipstick on it and offer the public spaces to those outside the community to come in and... I don't know, spend their money on fees, create a layer of bureaucracy, basically make a mess for the people that live here... well, this ordinance is going to invite that. Sometimes less is more. I think this is a perfect example of where less is more. There are laws and ordinances, I believe, that cover the spectrum of issues that have been brought up and elucidated, to the amazement of people and lawyers, but I look at the language and how it shifts laterally from spontaneous event to somebody's running it, and it graduates to this big... you know, everything but the Big Top. You gotta be careful what you wish for. Hindsight is 20-20. Having a view as to where you want to go based on what your history is and where you are standing now presumes a lot of critical thinking and consideration. I think, without a doubt, that this is an un-Constitutional bit of work and I have all respect for you people who have worked on this as a team and individually. It is very difficult to craft something that is going to pass muster with everybody and I know there are priorities that you need to service the community and keep the community safe. I also think...you're the Chief? At your service, sir. You've got one of the hardest jobs in the world. I think it's a tremendous imposition on one person to exercise the wisdom of Solomon, and I know they have to do that every day. If you've ever read the Policeman's Pledge and Code of Honor, it's very special, but it's an imposition to lay that at the foot of the Chief because really, he's got other priorities to deal with. I think that... I would hope that you table this or open it up more to the public because it can be examined from a lot of different angles. I could speak for labor myself. I could speak to the fact that women would not have the vote if it wasn't for public gatherings. Organized labor wouldn't have its place with constitutional amendment. If you're building the finest ships in the world to protect the liberties and privileges that we enjoy as Americans, don't put those in a straight jacket. For the love of God, the irony would be supreme. That's all I've got to say. Love you all! And that's a conspiracy!

Michael Woodworth: My name is Michael Woodworth, 58 Pearl Street. I reiterate the sentiments that have been made so far. I've done like a 360 degree circle on this issue. You know, I questioned the Constitutionality of it. I read the City Solicitor's report and I talked to them about the questions I had. I sort of felt confident. I then spent some time with the Chief of Police, Michael Field and was encouraged that this was nothing more than putting on paper what we're already doing. After listening to this thing tonight, someone said that it took longer than the Declaration of Independence. I, too, am overwhelmed by it. I again now question the necessity of it. People say we have a great community here and we're not looking to make trouble and Madame Chair, you yourself said that these are... an ordinance for the unexpected that we haven't experienced. I just feel that this needs more input from other people in this community. One other thing I want to state is that not one comment that I can remember – correct me if I'm wrong – that was in that ordinance talks about discrimination, and I haven't heard anyone else talk about discrimination. We live in a state that is 98% white with very few...other than American Indians, here that have any organization.



That is something that I fear more than anything else. I came here from living in Brazil and I love this community. It's the best decision I ever made, to move here. I have many friends, but the thing I miss most is having a diverse cultural... thing, but I am 70 years old and this is a great place for somebody of my years with the facilities that are available to me and everything and I was able to afford to buy a home and what not, and I am on Social Security. I just think this needs more discussion. Like I said, I was against it in the beginning, then I got in favor of it before tonight. I wasn't going to say anything and I was going to prepare something that I was going to read and I wish I had it now, but I don't. I just wish that we could have some more open discussion with people who are concerned about it. Thank you. I appreciate your time.

Susan Weston: Susan Weston from 18 Allen Street. I just want to ask, I guess the obvious, I kind of thought somebody else would. It was stated several times that this was for large events, and yet we have this little tiny number of 50 in here, which is not a large event. I was just wondering if this really was aimed at big events that would require porta potties and water and traffic and all of these things, and yet the number is still 50.

Madame Chair Eosco: Do you have a number that you want to suggest?

Susan Weston: It would seem that you would want at least one of those points in there like 150 or 250 or 500 people, but 50 just seems like a very arbitrary, awfully small number where this might kick in. That was just my one thought.

Madame Chair Eosco: Well, that's one of the things where I would like people to...if you don't like the number 50, you've got to give us a number. I mean, it's a number. We're here to listen but we need suggestions too. I hear things, so...

Michael Woodworth: May I speak again?

Madame Chair Eosco: Real quick, because I want to make sure everyone has a chance.

Michael Woodworth: I think that was one of the most talked about comments that I heard, discussing this with...

Madame Chair Eosco: Was the number?

Michael Woodworth: Was the number of people. Yes. Everybody said "Hey. If I have a block party and invite 50 of my friends and live on a 10 inch street and they are all playing and we put a table out in the street, am I subject to these requirements?" Or if I have a wedding party on private property, there would be some exemptions. But, these can be construed as not being on private property and cars are all parked on public streets. I just think 100 is unreasonable. Now the Police Chief, Mr. Field, now expects me... well, you know, we work with everybody. He said we don't charge the fee from people who are protesting BIW but you know, there is nothing in this agreement – this ordinance, that would give them some recourse to say "Why are you charging me now when you didn't charge me before?" The number is too small. It should be something like over 100 people – over the big wedding, over the christening, over the 50<sup>th</sup> anniversary party, whatever we do. Something that everyone would understand and is not going to object to. Then again...

Madame Chair Eosco: Someone is going to object to everything.

Michael Woodworth: I know – you want to write in all these contingencies for group gathering and everything. Well, let's tone down the amendment so that people don't get offended by it. The first question I had when it was being read to me was how long is it going to take to fill this thing out? How many people is he going to have to talk to and hold a job? It's just over-burdening. It doesn't just cover what we've been doing. It covers everything under the sun. The only thing you didn't talk about was jay walking and an act of God! We've got to somehow tone this thing down. Please. Thank you.

Ryan Jones: Ryan Jones, 20 Windlass Court. First I'd like to take a moment to thank Peter, as a retiree, for coming out here and speaking on behalf of labor unions. If we had 100 more like you in that 3,000, we'd be a lot stronger than we are today. Not to say that we are not strong. We're one of the strongest unions out there. That is kind of why I wanted to speak tonight. If this ordinance is not going to be tabled, I would at least like to see it amended to include labor unions as one of those that is exempt from having to file this application form for the mass gathering. It would be very hard to fill out an application with any kind of start date/end date. You could give a potential start date. You wouldn't know until the day before or the day of the expiration of that contract as to whether or not you were going to have to go out on strike. Then there is no way to know how far out you need that application to go. In addition to that, not knowing how far to file, you would limit their ability to picket at the work site between 8 and 11 o'clock at night, which isn't right either. If the businesses are allowed to be open for a 24 hour period, then the workers who are on strike against that business ought to be able to picket that whole time as well. My personal opinion. I'd like to see, if this is not going to get tabled today, please take that into consideration for an amendment.

Madame Chair Eosco: I appreciate your direct suggestion. That's very helpful.

Ryan Jones: Thank you.

Russ Long: Can I say one more thing?

Madame Chair Eosco: Yes – this is your second.

Russ Long: I'll be real quick. Exceptions allow for discrimination. Period. Labor gets no pass. If a disgruntled citizen who wanted to gather with their friends and watch the sun go down and complain with their posters, if they are denied the opportunity... This is almost like a tax. I live here. I pay taxes and I use the public facilities. I walk around, but if I wanted to have something – well, not have something but found myself wanting to spontaneously participate in some sort of a social outpouring of either joy or sorrow, I wouldn't want to be hemmed in by something that could be so easily, selectively applied. If it's fair for all, it's fair for all. I think sometimes you have to step back and say... like someone said earlier, I don't agree with these people of political or social stripe, but I do have to tolerate them, and their ability to meet socially and associate and to speak freely. I think that what you have to do is decide whether you are rolling out the welcome mat and creating the bureaucracy and more fees and making it more difficult for people to feel that they're participating in their government and the governing of themselves. This is a top down thing and it won't stand muster on First Amendment rights. It's just a matter of who's got the money to fight it, and does Bath want to commit the money and resources to fighting this, something that should be tabled? I haven't heard one person stand up in the crowd and say "This is good. Do it." With that said, what's fair for one is fair for all. This is a democracy. When the tide comes in, all ships rise. It's what we're trying to work towards. Not limiting and hobbling people in the exercise of their First Amendment rights. Again, I thank you for your patience.

Susan Luebner: My name is Susan Luebner and I live at 51 Bedford Street. I came in late because I had a work commitment. I have skimmed through the ordinance and I heard Mari Eosco read it – some of it. My concern is that – and I think I would echo some of Russell's points that it's so tedious. It seems to create so much extra work for the Police Chief. I'm sure he is doing some of this already, but not to the level... The Fire Marshall... It seems to me it's just layers and layers of bureaucratic stuff on top of it. I understand in the City – I'm not directly involved in City activities in the way of the legal activities of the City. It's so complex and it's so layered that I really question that what some of the gathering ordinance that we currently have couldn't be firmed up a little more without going over to the level that this seems to be speaking to. Thank you for all your efforts on it, but as a citizen of this town, I really... do we really need that kind of level? I think we want to welcome people here and welcome people to participate because many times the City Council has said they're happy when there is a crowd here. Steve Brackett has said that. "We're glad when people show up to participate". Thank you for listening.

Madame Chair Eosco: I will close the public portion if no one is running up there. Okay. I am going to move this back over to the Councilors. You have a lot to think about. We've had a lot of interesting points. Councilor Page?

Councilor Page: I would like to call on the City Solicitor to... you're heard people's concerns. Would you like to address those? I believe most of them are covered, other than the strike one.

City Solicitor Therriault: Well, there are a couple of points that I think need to be made – perhaps three. Why are we doing this? Why are we creating this ordinance? I thought I explained that right up front, but apparently not adequately enough. The fact of the matter is that without this ordinance, we have no ability as a community to – in any way, shape or form – control these types of gatherings. We are at their mercy. We've been lucky so far. But, if someone comes in – one of these big outfits – and decides they want to camp out somewhere around here, we can do one of two things. We can allow nobody, or we can allow anybody who wants to come wandering in without any form of regulation, without any standards, without any way of dealing with their presence here regardless of how it affects our citizens, our traffic, our safety or any of that. We are wide open if we do not do something like this. The only thing we could do, and be Constitutional, is to ban it all and I don't think anybody wants to see that. That is certainly not in the spirit of the First Amendment or in the spirit of how we live around here.

We have to be prepared. Also, in terms of trying to draft something like this, it's not easy because what you are trying to do is to develop an ordinance that will hopefully deal with almost every situation that comes up. You don't know what's coming. We don't know what kind of groups may want to come in here. We've got to have something in place that will deal with whatever comes along. I think perhaps the most important observation with respect to this ordinance is that it probably won't apply in almost every case. In talking about how many and this sort of thing, well, if there are no public services involved and there is no public expense, we don't need to regulate it, regardless of the number and regardless of the time. We're looking for circumstances where the City has to become involved due to public safety issues. That's what this is all about. So, the 50. Let me comment on that just briefly. It really wasn't a number that we picked out of the air. There were two considerations as far as 50 was concerned. First of all, many of the public spaces in Bath are very confined. Fifty folks in many of those spaces is a pretty fair number of people that could have a substantial effect on the public safety. There are other areas that don't but there is potential for that, so you have to set a limit that recognizes that situation.

Secondly, the number 50 has been approved as a number that meets Constitutional standards in the Chicago parks case. We know it's a number that is Constitutionally acceptable. Having said that, you can make whatever decision you want in terms of what you think is in the best interest of this community. My interest is in having a number that works and can be supported Constitutionally. So those are some of my points. And, the suggestion that certain organizations be exempt – those are by definition content ordinances that are per se, unconstitutional. You can't allow one organization to participate and then say the other one doesn't have to. They all have to be treated the same. It doesn't matter what they do, what they espouse – they all have to meet the same standards. Again, and this is very, very important, if you don't need public services, if you don't cause the public to have any expense, we're not interested. That's the standard by which the waivers are administered. The fellow down the street with the block party – if he doesn't need any traffic control and he's not going to create any problems, then have a nice party. That's my comments.

Councilor Bauer: My neighbor here in the front row – I've been 360 around with this as well because of how many people reached out between our workshop and today and so I'm struggling to feel 100% with my vote, knowing that so many people are dissatisfied with our work – the City Staff's work. So, I ask this question. If we, at the very least, want to look at the number 50, wouldn't that entail tabling and creating another workshop date and putting it out to the public so that these folks who have a concern can feel more involved in the process?

Madame Chair Eosco: Technically we can amend it tonight and with that amendment, we would allow public comment – you know, just for instance. There are options.

Councilor Bauer: So I guess I would like to know what the other Councilors think about that.

Councilor Wyman: I think at the last meeting when this was brought on the floor, we asked for input from the public. We've gotten input from the public. Are we just going to forget about it and pass it through? If this comes to a vote, I myself will be opposed to it because I think... we've asked for input, we've got input. What's wrong with opening it up, have a Public Hearing or whatever the public wants. We sit here every meeting and we ask for their input. We've got their input. I haven't heard anybody out there get up and speak in favor of the ordinance. Most of the people we've got here don't seem to be opposed to the whole ordinance. They are just opposed to certain things on the ordinance.

Councilor Nordmann: I think some very good issues have been raised. I think Bruce Gagnon raised... I mean, he did some homework and went out and tried to find somebody who would insure him and found that... I think we certainly need time to look into that because we require insurance and if they find that insurance companies won't provide insurance, I think that's something that will take more time to investigate. Thank you very much for doing that. It's wonderful to have people show up, and every one has asked for it to be tabled and to take more time to spend either adding to or revising what's already here. I'm happy to see that we have people who demonstrate by Bath Iron Works. I think they are a good reminder of the other side of what we do at Bath Iron Works. I am proud to see the Union people here questioning whether they can continue to have their strikes and presentations. I am with Bernie on this. I feel that we need to have more time in a public forum, and with Susan as well. I would like to see that arranged, perhaps in a workshop format that Bernie suggested.

Councilor Paulhus: Thank you Madame Chair. First of all, I want to thank everybody that came to speak. It's good to see the public come out and do their homework and contact us. I did have a question before I get too far into the... our amendment that we passed – talking about spontaneous gatherings. I'm curious about what happens if, say we have a spontaneous gathering that prolongs for a much longer period of time. Would that affect anything later on? Would that trigger anything if it starts out spontaneous but then decides to want to be a lot longer.

City Solicitor Therriault: It could. That's a difficult question to answer in the abstract. Certainly it's something that Chief Field and his people would pay attention to and if it reached the point where it became a mass gathering, then it would have to be dealt with. Some of those kinds of things would not be considered mass gatherings. That really doesn't go to what the definition of a mass gathering is as much as the application process. One of the reasons that we did the amendment is that in fact there are spontaneous gatherings that shouldn't be precluded as a result of this ordinance, and the whole application process. We need to make provisions for those kinds of things to occur. Otherwise it would be even much more restrictive than it is now.

Councilor Paulhus: I also want to thank the gentleman about the unions and speaking about that, it's definitely something that I didn't think about when we first put this together. In regards to length of time and the amount of people across the City, we can have large gatherings and stuff. I know they're generally orderly and in good fashion. It is something that I think wasn't originally thought of when this was put together, and the process of getting the permit and all that.

City Manager Giroux: I would just say I don't know of any Union event over the last few this years that it would have applied to. If there were more than 50 for more than six hours – I don't remember that happening. And then provision for it needs to be made in the way of rules if it does happen. So, I don't think that applies.

Councilor Bauer: I'm sure Bike Maine, for example, has a way of procuring the required insurance but it would be very burdensome for, perhaps, most others. Am I right?

City Solicitor Therriault: The insurance issue is a matter of being responsible. In having some responsibility – I hate to bring this up but you remember not too many years ago we had a very tragic accident during the Heritage Days Parade, and they had insurance. That's the reason for having insurance. Certainly we'll take a look at it and certainly folks like the bikers and Heritage Days have insurance. Things that are normally provided under these circumstances, but that's the basis of that when you're going to do this, there is a sense of responsibility to it as well to the public who participate in it, to the people around it, to private property owners and to the City. That's where it comes from.

City Manager Giroux: It's protecting the City. We'd be named as additional insurance so that if the taxpayers get sued, we're protected.

Councilor Bauer: I understand that probably most of the concerns that these folks have are things that we have, or that you have considered and that there are provisions and waivers and sections, etc. but I still have a hard time voting for it with so much misunderstanding, if that's what it is.

Councilor Brackett: Just a few comments. Most of it concurs with what's already been said. I do appreciate members of the public coming out tonight. I have talked to a number of people one on one and had e-mail conversations with six or seven people. That's unusual for any subject that we tackle on City Council so that did raise my attention, but again, the good thing about tonight and everyone coming out is I have heard some things that I have not thought of before and from a perspective that I have not thought of. I guess my take tonight would be that we've been without one for quite a long time. I would not vote in favor of this tonight, only so that we could perhaps slow the process down, maybe have another workshop and get some more public input and see what we need to do to fine tune it. I do understand the need for an ordinance like this to protect the City and the taxpayers but given what has gone on tonight, the communication I've had and the interesting points that have been raised, I wouldn't vote in favor of this tonight. Thank you.

Councilor Omo: Thank you Madame Chair. Thank you everybody for coming out. Thank you for the e-mails that we have received the last couple of weeks. I really hope that the people who screamed the loudest about having this read listened to it and heard what was in here – didn't just listen. I believe a lot of the remarks that I have written here if you want to look scribbled all over my notebook. The majority of them – things that are in here – the other half are everybody that is wound up about the number, which I myself am. For those of you that don't know me, if you try to tread on my civil liberties or take any of my rights as being an American citizen taken away... I'm a pretty calm person but I can be otherwise. That being said, for those of you that... and I really very much appreciate those of you that got up and spoke what you felt, how you felt, told us why – I very much appreciate that and that is why we need to hear from you people. Unions, peace activists, mothers, fathers, grandparents – this is what we need to hear. It's the only way that a community can operate because if we are sitting up here night after night putting out the ad saying come to the meeting and tell us how you feel about this and nobody shows up until somebody goes “Those \*@#\*#@# downtown, have you heard what they're doing to us?” People, come on. I'm your neighbor. These folks are all your neighbors. We all live in this... the majority of us all live in this community and pay taxes here. Please. This is what we need from you. That being said, we are a community. Please don't come up and say “You guys” or “You said” because that's not how it is at all. We're nine people that sit up here and we all have our own point of views, but we're all really good at working through them and talking it out, trying to come to a consensus to bring you folks an ordinance that you think you can live with, work with, however you want to say that. We can't do it when people go “... enough of that. Could somebody please give us a good idea of what a good number would be? The Union guys – not to point you out, but you guys do great work down there and sometimes you have a beef and want to talk about it. I have been in this community since 1979, I have seen the big strikes and I have seen thousands of people down there. Right? Traffic still flowed and our Police did what they needed to do to make it work. That's not what this is about. The folks that strike down across from BIW – thank you very much. You do an amazing job and it is great to see you putting that effort in and helping educate people who need to be educated. Here again, I've seen some big protests and I've seen a lot of small protests.

The number 50 for me sticks because... maybe there was 58 down there, but it wasn't 158 and please correct me if I'm wrong, Bruce and the rest of the folks up on Centre Street, I don't think this applies to you. I understand and I heard, and I've listened and heard what you were saying. I understand where you were coming from but if you look at this and if you read this, I really don't think that this applies to you.

Bruce Gagnon: Can I respond to that?

Councilor Omo: Can I finish please? Thank you. The block parties. The only reason this would apply to a block party was if you wanted to take a section of Middle Street – let's say between Oak and North because that's where I grew up – and you want to have the whole block. Well, you're going to have to tell somebody! You're having a block party and you're cutting off the whole street. Even if there's only 49 people there – I'm sorry. I want to drive down that street and you didn't invite me to your party! You see my point? Here again, I don't think this applies to that and it's a simple phone call to the Chief of Police and yes, he is a very busy man, but he loves this community. He grew up in this community and if you called him up and said "Hey, I'm going to have a wedding, there's going to be 69 people here," he'd say "You know what? It's a quiet neighborhood Thank you for calling." Maybe that's not what he'd say – I'm just paraphrasing what I think he's going to say, but what he's going to say is "Thank you very much for letting me know and for communicating to me what's going to be going on on Crescent Street, Middle Street or wherever it's going to happen. I would like to see, and I'm really hoping that the energy that has come together in this room tonight for this ordinance – I really hope that energy can transfer to this, so please give us some constructive criticism as to how this ordinance can work. For those of you who are shaking your head right now at me and saying no, no, no, no, no, the big part of it is that when somebody like Bike Through Maine or any other big organization comes in, they call us looking for this ordinance. We didn't say "Let's make an ordinance and up everybody's... and tax them" because that's not what this is. What happens is when these big things come to town and they cost us money, we have to pay for it somehow. So, if the organization comes in and we make them pay the \$1,000 bucks to bike through here or camp through here or whatever it is they're going to do, and it only costs \$579.00, they're going to get the rest of it back, and it's not going to be coming out of the taxpayers' pockets. I hope my rambling hasn't gone on too long. Thank you very much, folks.

Madame Chair Eosco: We need to use the five minute limit on you!

Councilor Omo: That's right.

Bruce Gagnon: Could I respond to his...

Madame Chair Eosco: Hold on a minute. We're still doing Council discussion. Councilor Bauer?

Councilor Bauer: I just want to add that someone said "Send them to Brunswick." Well, we don't want to send them... we don't want to do that, I don't think! We want them in Bath! Right? Don't we want them shopping in our businesses and ...

Councilor Omo: With welcome arms to our community and all that stuff.

Councilor Bauer: Supporting our businesses and potentially buying houses and contributing to the tax base. I just wanted to throw that in.

Madame Chair Eosco: We have been going for almost two hours on this topic and we've closed the public hearing portion of the meeting and we're into the final Council comments, so I'm going to try to move this along for the sake of the meeting, so thank you.

Bruce Gagnon: He made a fallacious statement that... I'm asking to correct that.

Madame Chair Eosco: Yes. But I'm asking that we move along. We've been doing this for almost two hours, so Councilors, is somebody ready to make a motion what we're going to do here? I think that this could go a couple different ways.

Councilor Omo: I'd like to make a motion that we table this.

Councilor Bauer: Second.

City Clerk White: Do we have a date, or...

Madame Chair Eosco: Did you want to add more to that until...

Councilor Omo: Until June...

Madame Chair Eosco: Or you could say until we have a workshop.

Councilor Omo: I would like to table this until we can have a public workshop which would be advertised...

City Manager Giroux: I would just table it.

Councilor Omo: That's what I tried to do!

City Solicitor Therriault: Table it indefinitely because if you just table it, it will come up on your next agenda. So, procedurally, you have to make a motion to table it indefinitely.

Councilor Omo: I actually would like to table this until the August meeting, at the latest.

City Clerk White: The August meeting?

Madame Chair Eosco: Can he do that?

City Solicitor Therriault: Yes, you can table to a date certain.

Madame Chair Eosco: We need a second for that?

City Solicitor Therriault: Yes.

Councilor Bauer: Can I...

City Clerk White: You want to do that?

Councilor Bauer: No, I don't want to second it. I want to suggest something else.

City Clerk White: Do we have a second to the tabling to the August meeting?

Councilor Omo: I just don't want it to go away forever, is my point.

Madame Chair Eosco: Councilor Bauer, do you have another suggestion?

Councilor Bauer: Yes, because the season where these things might come up is upon us so we might need it in place, so can we schedule a workshop?

City Manager Giroux: I would say we don't have anything pending.

Madame Chair Eosco: We can do it before that. You were saying that you were in another community where they never even used it, but they have it. They just never used it because nothing hit that level.

Councilor Omo: I'd still like to make a motion to just table it. Period.

Madame Chair Eosco: So do we have a second for that motion – for no later than the August meeting?

Councilor Bauer: I second it.

Madame Chair Eosco: Did we have a second?

Councilor Bauer: I misunderstood.

Madame Chair Eosco: To no later than the August meeting or indefinite?

City Manager Giroux: The Chair can bring it back whenever she's ready to bring it back.

Madame Chair Eosco: I'm not seeing a second for the August thing.

Councilor Brackett: I'd like to make a motion that we table this indefinitely.

Councilor Page: I second it.

Madame Chair Eosco: OK. Let's see hands on this. How many want to table this indefinitely?

City Clerk White: I think we should really do a roll call vote.

**ROLL CALL VOTE on TABLE MOTION:**

**YEAS: Brackett, Page, Paulhus, Nordmann, Wyman, Bauer**

**NAYS: Omo, Mitchell**

**Table Motion passed. 6-2**

City Clerk White: It is tabled indefinitely.

**2) Ordinance: Chapter 6. Cemeteries and Parks, Article 4. Park Areas – Prohibitions, Sec. 6-28. Park Areas – Prohibited Activities (second passage)**

Madame Chair Eosco read the following Ordinance:

## **ORDINANCE**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BATH THAT THE CODE OF THE CITY OF BATH, ADOPTED FEBRUARY 2, 1977, AND SUBSEQUENTLY AMENDED, BE FURTHER AMENDED AS FOLLOWS:**

### **CHAPTER 6. CEMETERIES AND PARKS**

#### **Article 4. Park Areas - Prohibitions**

**Sec. 6-28. Park Areas - Prohibited Activities**

**Amend J, Alcoholic Beverages, as follows:**



J. Alcoholic Beverages. Alcoholic beverages shall be prohibited from all park areas and it shall be a violation of this Section to carry onto such areas or consume on such areas any such alcoholic beverage. Scheduled events as may be permitted by the City at the Library Park and/or Waterfront Park may allow the sale and consumption of alcoholic beverages in connection with that event. Such sale and consumption shall be in accordance with applicable State Liquor Laws and Regulations and Section 10-508(M)(3) of the City’s Mass Gathering Ordinance. Under circumstances where alcohol is proposed for an event in either park, then the permitting process for the event shall include an application for a Mass Gathering Permit, regardless of the number of expected participants.

Councilor Paulhus made a motion to put the Ordinance on the floor for discussion. Councilor Mitchell seconded the motion.

City Solicitor Roger Therriault explained that since the Previous Ordinance – Mass Gathering got tabled there should be a motion to delete the following from the Ordinance Amendment.

“and Section 10-508(M)(3) of the City’s Mass Gathering Ordinance. Under circumstances where alcohol is proposed for an event in either park, then the permitting process for the event shall include an application for a Mass Gathering Permit, regardless of the number of expected participants.”

Councilor Paulhus made a motion to amend the Ordinance by deleting the section as per the City Solicitor’s suggestion. Councilor Bauer seconded the motion.

There were no comments or discussion from Council or the public on this amendment.

**ROLL CALL VOTE on Amendment:**

**YEAS: Brackett, Page, Paulhus, Nordman, Wyman, Bauer Mitchell, Omo**

**NAYS: None**

**Amendment passed unanimously. 8-0**

There were no comments or discussion from Council or the public on the amended Ordinance.

**ROLL CALL VOTE Amended Ordinance**

**YEAS: Omo, Mitchell, Bauer, Wyman, Nordman, Paulhus, Page, Brackett**

**NAYS: None**

**Amendment passed unanimously. 8-0**

Madame Chair Eosco stated that this Amended Ordinance would become law in 21 days.

**3) Discuss an application being submitted to the State of Maine CDBG program for a Housing Assistance Grant. The purpose of the grant application is to allow Bath Housing Authority to acquire and rehabilitate existing multi-units into affordable housing units. Additionally, funds will also be used to offset architectural and engineering costs for the rehabilitation of the former John E.L Huse School.**

Councilor Wyman made a motion to put this Item on the floor for discussion. Councilor Paulhus seconded the motion.

Community Development Director Scott LaFlamme explained the details of the grant these funds were supposed to be used for a new Bath Housing development on Tarbox Hill. Since they couldn’t secure all the funding for the project, it fell through.

That funding is still available so it will be used towards two projects: \$300,000 back to Bath Housing Development Corporation for rehab of existing units and \$200,000 will go towards the architectural and engineering work on the Huse School Housing Project. He stated that this Public Hearing is part of the process the State requires for the acceptance of the funding. Mr. LaFlamme referenced a Resolution that would be coming up later in the meeting that would authorize the City Manager and City Staff to go ahead and obtain the funding.

Madame Chair Eosco opened the hearing to the public. Seeing no comment, she closed the public section.

The Council gave unanimous approval to go forward with the grant application process.

**4) Approval of a Liquor License for the Maine Maritime Museum Vessel “Merrymeeting”.**

Councilor Paulhus made a motion to put this Item on the floor for discussion. Councilor Omo seconded the motion.

Amy Lent, Director of the Maine Maritime Museum, explained that because the boat will be tied to the pier during the sale and consumption of the liquor this license is required by State of Maine law.

Madame Chair Eosco opened the hearing to the public. Seeing no comment, she closed the public section.

**VOTE:**

**YEAS: 7**

**NAYS: 0**

**Abstain: 1 (Councilor Page)**

**Liquor License passed. 7-0-1**

**C. Consent Agenda: 8:11 PM**

**\*5) Minutes of the previous Council Meeting of March 2, 2016. (Motion to Accept as Presented)**

Councilor Omo made a motion to accept the Consent Agenda as amended. Councilor Mitchell seconded the motion. All were in favor of the motion.

**D. Time Devoted to Residents to Address The City Council 8:11 PM**

No one spoke at this time.

**E. Ordinances, Orders and Resolutions 8:11 PM**

**6) Order: Approving Transfer of the Huse School Property and the Associated Purchase and Sales Agreement**

Madame Chair Eosco read the following Order:

**ORDER APPROVING TRANSFER OF THE  
HUSE SCHOOL PROPERTY AND THE ASSOCIATED  
PURCHASE AND SALES AGREEMENT**

WHEREAS, the City of Bath is the owner of certain property referred to as the Huse School Property; and

WHEREAS, the Huse School is under Contract for sale pursuant to a Purchase and Sales Agreement approved by the City Council on March 4, 2015, by and between the City of Bath as the Seller and Szanton Monks Properties, LLC as Buyer; and

WHEREAS, there are environmental remediation issues that need to be addressed with respect to the property; and

WHEREAS, there is funding for the environmental remediation available through Brownfield monies which are accessible by the Bath Development Corporation to fund the remediation, which funds are not available to the City of Bath; and

WHEREAS, the Bath Development Corporation is tasked with focusing on specific projects in order to provide remediation, expansion and development for commercial enterprises such as the development proposed to occur on the Huse School Property; and

WHEREAS, the Bath Development Corporation is the appropriate party to conduct the process of remediation, and securing the funding for the remediation on the Huse School property.

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Bath that the property known as the Huse School Property, being property currently under Contract for sale to Szanton Monks Properties, LLC, be conveyed to the Bath Development Corporation, subject to the terms and conditions of the above-referenced Purchase and Sales Agreement, and that the Purchase and Sales Agreement be assigned to the Bath Development Corporation, and that City Manager be and hereby is authorized to execute such Deeds, Assignments and any and all other documents necessary, appropriate, or convenient, to complete the transfer and the assignment.

Councilor Paulhus made a motion to put the Order on the floor for discussion. Councilor Wyman seconded the motion.

City Solicitor Roger Therriault explained this document authorizes the transfer of the land and the assignment of the Purchase and Sales Agreement to the Bath Development Corporation and Zantan will purchase it from Bath Development Corporation.

Community Development Director Scott LaFlamme explained this will accomplish two grant tasks. 1) Former CDBG money and Brownfield money cannot be used for this project, but the Bath Development Corporation can because they are not the recipient of the original monies. The EPA does not allow the use of these funds if the host knowingly “contaminated” the property. Using BDC as an intermediary allows the City to use the grant money. 2) It will allow the City also to apply for a Phase II grant from the Midcoast Economic Development Corp.

**VOTE:**

**YEAS: 8**

**NAYS: 0**

**Order passed unanimously. 8-0**

**7) Resolution: Support of Improvements to the Signage of the Retaining Wall at the Corner of Front and Vine Streets.**

Madame Chair Eosco read the following Resolution:

**RESOLUTION IN SUPPORT OF  
IMPROVEMENTS TO AND SIGNAGE ON THE RETAINING WALL  
AT THE CORNER OF FRONT AND VINE STREETS**

WHEREAS, the City has been contacted by Main Street Bath regarding the possibility of making improvements to and signage on the retaining wall at the corner of Front and Vine Streets; and

WHEREAS, this retaining wall is located right across from the south/west bound off-ramp from Route #1 and, as such, is an ideal location for promoting the City of Bath as a destination point; and

WHEREAS, the retaining wall was part of a 1950's project that reconstructed the area when the current viaduct was implemented and, therefore, is in need of restoration/improvement; and

WHEREAS, Main Street Bath is willing to conduct such restoration/improvements to and signage on the retaining wall at this location in order to enhance the entrance to the City.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Bath that they hereby support the efforts of Main Street Bath to restore/improve the retaining wall at the corner of Front and Vine Streets, and add signage/mural, in substantially the form attached hereto.

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

Andrew Deci, City Planner, explained the improvements saying Main St. Bath had raised \$5,000 to improve the wall at the corner of Front and Vine Sts. They ran a jury process and selected a number of artists to be considered for designing the corner mural. Chris Cart was the selected artist. The purpose of the resolution is for the Council to give approval to the project which should be completed by Heritage Days this year.

Councilor Bauer, who served on the Main St. Bath Committee, wholeheartedly endorsed the mural.

Councilor Page asked the artist, Chris Cart, if the paint would be graffiti-proof. He explained that it would be very well protected by materials, one-shot paint, and MSA varnish. The varnish is removable for damage fix and cleaning.

Councilor Omo asked Mr. Cart to speak with Public Works about the mural when removing snow.

**VOTE on Resolution:**

**YEAS: 8**

**NAYS: 0**

**Resolution passed unanimously. 8-0**

***Madame Chair Eosco previously amended the Agenda to add the following Resolution:***

Madame Chair Eosco read the following Resolution:

**BATH COUNCIL RESOLUTION  
STATE OF MAINE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

**WHEREAS**, the City of Bath wishes to apply to the Department of Economic and Community Development for a Community Development Block Grant to carry out a community development 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; and

**WHEREAS**, the City of Bath is cognizant of the requirement that should the intended National Objective of the CDBG program not be met all CDBG funds must be repaid to the State of Maine CDBG program; and

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

- 1) Is authorized and directed to submit an application for the following program(s) and dollar amount(s) within the State of Maine's CDBG Program:  
Program: Housing Assistance Grant to assist the Szanton Company with architectural and engineering costs associated with the redevelopment of the John E.L. Huse School **Amount: \$200,000**  
Program: Housing Assistance Grant to assist the Bath Housing Development Corporation in the acquisition and redevelopment of existing multifamily units throughout the City of Bath. **Amount: \$300,000**

To the Department of Economic and Community Development 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.

Councilor Wyman made a motion to motion to put the Resolution on the floor for discussion. Councilor Paulhus seconded the motion. All were in favor of the motion.

Scott LaFlame explained that this resolution will authorize the City Manager and City staff to acquire the money to pass along to the two programs. It is the formal public process to obtain the grant.

**VOTE:**

**YEAS: 8**

**NAYS: 0**

**Resolution passed unanimously. 8-0**

#### **G. Petitions & Communications 8:28M**

There were no petitions or communications.

#### **H. City Manager's Report 8:28 PM**

There was no City Manager's Report.

#### **I. Committee Reports 8:28 PM**

Councilor Mitchell – Karen Yurek, a junior from Morse High School's Student Council Liaison Committee has been sworn in to serve on the Parks and Recreation Commission. Councilor Page said the student was enthusiastic about the position.

Councilor Bauer –The Patten Free Library's annual dinner and silent auction is April 26<sup>th</sup> at 5:30 p.m.

Madame Chair Eosco – Great things are happening at Bath Housing!

Councilor Nordmann – Bike and Pedestrian Committee is still doing inventory and setting precedence for the sidewalks the committee would like to see worked on. (Committee members are walking the sidewalks throughout Bath.)

## **J. Unfinished Business 8:31 PM**

There was no unfinished business taken up at this time.

## **K. New Business 8:32 PM**

### **8) Appointment 1 member to the Bath Recreation Commission for a term to end November 2017.**

Councilor Mitchell nominated David Kaler for this position on behalf of the Appointment Interview Committee. All were in favor of the nomination.

### **9) Appointment 1 member to the Bath Development Corporation for a term to end April 2017.**

Councilor Mitchell nominated Jacob Korb for this position on behalf of the Appointment Interview Committee. All were in favor of the nomination

## **L. Councilor Announcements 8:33 PM**

Councilor Paulhus – LD 1604, “An Act to Replace a Statue in the National Statuary Hall Collection”, died.

Councilor Nordmann – Cassandra Henson, volunteer coordinator for Spectrum Generations of Brunswick, contacted Councilor Nordmann to tell him Meals-on-Wheels does service Bath and other communities in Sagadahoc and Cumberland Counties.

Councilor Page-Congratulated Madame Chair Eosco on her resolve and prowess in reading the resolutions and ordinances. He also thanked the Councilors for their resolve and the public for speaking up.

Madame Chair Eosco - recognized the fireman and police for their prompt response to the accident that sent a car over the Rte. 1 viaduct that landed on a pickup truck below.

Councilor Paulhus asked if we knew the exact date the construction is going to start on the viaduct.

City Manager Giroux said some aspects will begin in May. In October, after the tourist season, demolition by Reed & Reed will begin on the viaduct, which will be 24-hours/day.

Councilor Paulhus made a motion at 8:40 PM to go into Executive Session to discuss Real Estate Matters per 1 MRSA §405(6)(C) and a Labor Negotiation Matter per 1 MRSA §405(6)(D). Councilor Bauer seconded the motion. All were in favor of the motion.

Councilor Paulhus made a motion at 8:46 PM to come out of Executive Session. Councilor Page seconded the motion. All were in favor of the motion.

Councilor Paulhus made a motion at 8:46 PM to go past the 9:00 PM meeting adjournment time. Councilor Page seconded the motion. All were in favor of the motion.

Councilor Paulhus made a motion at 8:47 PM to go back into Executive Session to continue the discussions on the Real Estate Matters per 1 MRSA §405(6)(C) and a Labor Negotiation Matter per 1 MRSA §405(6)(D). Councilor Bauer seconded the motion. All were in favor of the motion.

Councilor Wyman made a motion at 9:45 PM to come out of Executive Session. Councilor Mitchell seconded the motion. All were in favor of the motion.

The meeting adjourned at 9:45 PM with a motion by Councilor Wyman, seconded by Councilor Mitchell. All were in favor of the adjournment.

Attest:

Mary J. White, City Clerk

*Please note: These minutes are not recorded verbatim. A DVD recording of the meeting is available for review in the City Clerk's office during regular business hours by appointment. You can also view them on [Townhallstreams.com](http://Townhallstreams.com) for up to a year.*