

**REGULAR MEETING MINUTES
CITY COUNCIL OF THE CITY OF BATH, MAINE
Wednesday, August 3, 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 were 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.

Proclamation recognizing the Random Acts of Kindness Day on August 20, 2016.

Madame Chair Eosco read the following Proclamation:

PROCLAMATION

WHEREAS Random Acts of Kindness Day is the dream of Morse High Senior Bryanna Ringrose, which evolved from a conversation with her best friend Taylor Bisson, and

WHEREAS the desire was to have a day in Bath where everyone could just focus on doing small acts of kindness for each other, and

WHEREAS this event is co-ordinated by the Morse High School Student Council Liaison Committee and there has been an outpouring of support from the community with merchants, area non-profits, Main Street Bath and a number of individuals jumping onboard to help make this dream a reality, and

WHEREAS the power of kindness lies in every individual and by recognizing, understanding and actually using this power, we have the ability to send out a positive ripple that may travel for miles, and

WHEREAS no one, no matter how young or how small, is too little to make a difference in our own community and our world and through random acts of kindness, we can promote healthy behaviors and positive dynamics within our community, nourishing and strengthening our community with a celebration of simple kindness that encourages people to tap into their own human spirit;

NOW THEREFORE BE IT PROCLAIMED that August 20, 2016 shall be recognized as Bath Random Acts of Kindness Day remembering that simple day-to-day acts of kindness enable our community to be a kinder, safer and more secure place to live, work and play and to urge all citizens to participate in spreading kindness, and practicing respect, generosity, patience and consideration of others not just this day, but every day of the year.

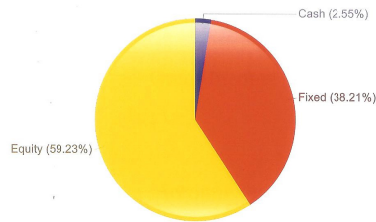
The Proclamation got unanimous backing from the Council.

Presentation by Peter Robbins of HM Payson – Annual report on the City's Investment Funds

Peter Robbins, Chief Investment Officer of HM Payson reported that the fund was up to 7% on an annual basis since inception. He highlighted the following details:

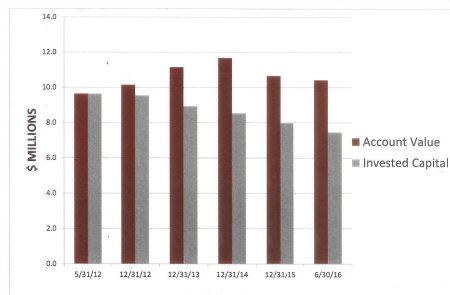
CITY OF BATH
Account Number: 5990046904

HMPayson



Description	Total Cost	Market Value	Percent	Income	Yield
Cash and Equivalents	272,462.58	272,462.58	2.55%	667.00	0.24%
Fixed Income	4,032,066.84	4,077,771.50	38.21%	104,652.50	2.57%
Equity	5,682,607.15	6,321,089.58	59.23%	141,342.34	2.24%
Total Portfolio	9,987,136.57	10,671,323.66	100.00%	246,661.84	2.31%

City of Bath Market Value vs. Invested Capital



Total Investment Gains	\$2,966,000
Net Distributions	-\$2,180,000

Beginning Value (05/31/12)	\$9,641,000
Ending Value (6/30/16)	\$10,426,000

HMPayson

City of Bath Account Activity- 7/1/2015 – 6/30/2016

Beginning Market Value - 7/1/2015	\$11,259,302
Income	
Dividends	\$152,914
Interest	\$88,980
Other Income	\$0
Additions	\$0
Withdrawals	
Account Fees	-\$36,267
Taxes Paid (on foreign equities)	\$0
Other Disbursements	-\$500,000

Change in Market Value	-\$574,944
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Ending Market Value - 6/30/2016*	\$10,389,985
(Market appreciation - July 2016)	+\$282,000

*Excluding accrued income

HMPayson

C. Consent Agenda 6:18 PM***1) Minutes of the previous Council Meeting of July 6, 2016 and Item J6. (motion to Accept as Presented)**

Councilor Wyman made a motion to accept the Consent Agenda as presented. Councilor Paulhus seconded the motion. All were in favor of the motion.

D. Time Devoted to Residents to Address the City Council 6:19 PM

No one spoke.

E. Orders, Ordinances, Orders and Resolutions 6:19 PM**2) Order: Approving Landfill Bond Referendum**

Madame Chair Eosco read the following Order:

ORDER

Be it ORDERED by the City Council of the City of Bath as follows:

Pursuant to and in accordance with Section 1014 and Section 617 of the Bath City Charter, the following proposition for the enactment of an Ordinance funding the construction and equipping of a new cell at the Bath Landfill, said Ordinance being attached hereto or included with the minutes of this meeting as Attachment A, be submitted to the voters of the City of Bath at a municipal referendum election to be held on Tuesday, November 8, 2016:

“Shall a Bond Ordinance be Enacted Authorizing General Obligation Bonds in the Amount of \$3,800,000 to Finance the Construction and Equipping of a new Cell at the Bath Landfill, together with other Related and Ancillary Improvements, including but not limited to Expansion of the Landfill Gas Mitigation System?”

The Bond question shall also contain a Treasurer’s Statement as required under 30-A MRS §5772(2-A).

ATTACHMENT A BOND ORDINANCE

Authorizing General Obligation Bonds in the Amount of \$3,800,000 to Finance the Construction and Equipping of a new Cell at the Bath Landfill, together with other Related and Ancillary Improvements, including but not limited to Expansion of the Landfill Gas Mitigation System

Be it ORDAINED by the City of Bath as follows:

- Section 1. That the City Treasurer is hereby authorized, in the name of and on behalf of the City, to borrow up to \$3,800,000 for the purpose of funding the construction and equipping of a new cell at the Bath Landfill, together with other related and ancillary improvements, including but not limited to expansion of the landfill gas mitigation system (the “Project”).
- Section 2. That under and pursuant to the City Charter and 30-A MRSA §5772 and all other authority thereto enabling, to evidence such borrowing, there is hereby authorized the issue and sale of the City’s general obligation bonds, at one time and from time to time, in an amount not to exceed \$3,800,000, the proceeds of which, including premium, if any, and investment earnings thereon, may be used and are hereby appropriated to pay the costs of the Project.
- Section 3. That the City Treasurer is hereby authorized to issue temporary notes of the City in anticipation of the forgoing bond issue.
- Section 4. That any and all bonds or notes in anticipation thereof issued pursuant to this Ordinance are issued pursuant to Section 1014 and Chapter 8 of the City Charter and shall be signed by the City Treasurer and countersigned by the Chair of the City Council and the City Manager, sealed with the seal of the City, and attested by its Clerk.
- Section 5. That any and all bonds issued pursuant to this Ordinance shall be payable in annual installments, which need not be equal, pursuant to Section 807 of the City Charter.
- Section 6. That the term of any bonds issued pursuant to this Ordinance shall not exceed 22 years.
- Section 7. That the City Treasurer shall determine the date or dates, maturities (not to exceed the maximum term specified above), denominations, interest rate or rates and any other details of any bonds or any notes in anticipation thereof to be issued pursuant to this Ordinance, such approval to be conclusively evidenced by her execution thereof.
- Section 8. That the bonds or notes in anticipation thereof issued pursuant to this Ordinance shall be general obligations of the City, backed by the full faith and credit and taxing power of the City.
- Section 9. That pursuant to 30-A M.R.S.A. §5772(6), the City Treasurer is hereby authorized to make any bonds or notes in anticipation thereof issued pursuant to this Ordinance subject to call for redemption with or without premium prior to the stated maturity date at the election of the City.
- Section 10. That the City Treasurer be and hereby is authorized and directed to covenant and certify in the name of and on behalf of the City that no part of the proceeds of the issue and sale of the bonds or notes authorized to be issued hereunder or the Project financed therewith shall be used directly or indirectly in a manner that would cause such bonds or notes to be "private activity bonds" or “arbitrage bonds” within the meaning of Sections 141 and 148 of the Internal Revenue Code of 1986, as amended (the “Code”).
- Section 11. That the City Treasurer is hereby authorized to take all such action as may be necessary to designate any bonds or notes in anticipation thereof issued pursuant to this Ordinance (to the extent such designation is available) as qualified tax-exempt obligations for purposes of Section 265(b) of the Code.

- Section 12. That the term “cost” or “costs” as used herein and applied to the Project, or any portion thereof, includes, but is not limited to: (1) the cost to design, construct, renovate, refurbish, improve, acquire, replace, furnish and equip the Projects; (2) the cost of land, easements and other real property interests, landscaping and site preparation, utility extensions, all appurtenances and other fixtures, facilities, buildings and structures either on, above, or under the ground which are used or usable in connection with the Projects; (3) the cost of feasibility studies, surveys, environmental studies and assessments, engineering, plans and specifications, legal and other professional services associated with the Projects; (4) issuance costs, including premiums for insurance, capitalized interest and other financing charges, fees and expenses relating to the financing transaction.
- Section 13. That in the event the City Treasurer elects to issue such bonds through the Maine Municipal Bond Bank (the “Bond Bank”), that the City Treasurer and the Chair of the City Council and the City Manager be and hereby are authorized, on behalf of the City, to enter into a loan agreement with the Bond Bank in conjunction with the issuance of the bonds, in the aggregate principal amount not to exceed \$3,800,000 with a term not to exceed the term of the bonds, said loan agreement to be in the usual and ordinary form utilized by the Bond Bank in connection with the applicable loan program, which is hereby approved, and to contain such other terms and provisions, not contrary to the general tenor hereof, as the City Treasurer may approve, her approval to be conclusively evidenced by the execution thereof.
- Section 14. That the City Treasurer is authorized to do or cause to be done all such acts and things, and to execute and deliver any and all contracts, agreements, certificates, and other documents as may be necessary or advisable, including but not limited to an Arbitrage and Use of Proceeds Certificate and a Continuing Disclosure Certificate, to carry out the provisions of this Ordinance in connection with the issuance and delivery by the City of the bonds or notes in anticipation thereof.
- Section 15. That if the City Treasurer, Chair of the City Council, City Manager, or Clerk are for any reason unavailable to approve, execute and deliver the bonds or notes in anticipation thereof issued pursuant to this Ordinance, any loan agreement or any related financing documents, the person or persons then acting in any such capacity, whether as an assistant, a deputy, or otherwise, is authorized to act for such official with the same force and effect as if such official had himself or herself performed such act.
- Section 16. That if any of the officers or officials of the City who have signed or sealed the bonds or notes hereinbefore authorized shall cease to be such officers or officials before the bonds or notes so signed and sealed shall have been actually authenticated or delivered by the City, such bonds or notes nevertheless may be authenticated, issued, and delivered with the same force and effect as though the person or persons who signed or sealed such bonds notes had not ceased to be such officer or official; and also any such bonds or notes may be signed and sealed in the name of and on behalf of the City by those persons who, at the actual date of the execution of such bonds or notes, shall be the proper officers and officials of the City, although at the nominal date of such bonds or notes any such person shall not have been such officer or official.
- Section 17. That during the term any of the bonds authorized hereby are outstanding, the City Treasurer is hereby authorized, in the name and on behalf of the City, to issue and deliver refunding bonds on either a current or advance refunding basis, to refund some or all of the bonds then outstanding, and to determine the date, form, interest rate, maturities (not to exceed the maturity of the original bonds to be refunded) and all other details of such refunding bonds, including the form and manner of their sale and award. The City Treasurer is hereby further authorized to provide that any of such refunding bonds hereinbefore authorized be made callable, with or without premium, prior to their stated date(s) of maturity, and each refunding bond issued hereunder shall be signed by the City Treasurer and countersigned by the Chair of the City Council and the City Manager, sealed with the seal of the City, and attested by its Clerk.
- Section 18. That the following provisions required by Section C(4)(e) of the State of Maine Revolving Loan Fund Rules, Chapter 595, Department of Environmental Protection and Maine Municipal Bond Bank (the “SRF Regulations”), and governing the loan to be made to the City under the State Revolving Loan Fund Program be and hereby are adopted:
- (1) That a Project Account shall be created for the Project which shall be separate from all other accounts of the City. If operating revenues are to be used to retire the debt, a sub-account will be established.
- (2) That the Project Account shall be maintained in accordance with standards set forth by the Maine Municipal Bond Bank and in accordance with generally accepted government account standards.
- (3) That a final accounting shall be made to the Bond Bank of the total cost of the Project upon completion of the Project performance certification as set out in Section G(3) of the SRF Regulations and the City acknowledges that the Bond Bank reserves the right at its sole discretion to be provided with a cost certification of the Project as built.

- (4) That an annual audit of the City, prepared by a certified public accountant or licensed public accountant be provided to the Bond Bank for the term of the loan.
- (5) That the City shall maintain insurance coverage on the Project in an amount adequate to protect the Bond Bank's interest for the term of the loan with the Bond Bank named as loss payee.
- (6) That the City will comply with any special conditions specified by the Department of Environmental Protection's environmental determination until all financial obligations to the State have been discharged.
- (7) That the City certify to the Bond Bank that it has secured all permits, licenses and approvals necessary and that it has a dedicated source of revenue for repayment.
- (8) That the City establish a rate, charge or assessment schedule in order to pay principal and interest. Such rate change or schedule shall provide total operations and debt service coverage at a level at which the coverage for the Bond Bank is sufficient.
- (9) That the City must demonstrate the ability to pay reasonably anticipated costs of operating and maintaining the financed Project.
- (10) That the City abide by the SRF Regulations, as revised and amended and relevant State statutes of the State of Maine.

Section 19. That in accordance with Sections 221 and 1014 of the City Charter, this Ordinance shall become effective upon a favorable vote of a majority of those voting thereon at a referendum election to be called by the City Council.

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

City Manager William Giroux explained there had been a Council Workshop on June 15th regarding this Bond Ordinance and why it was needed. He stated that the Workshop was on "Townhall Streams" for viewing.

Public Works Director Peter Owen explained that this is not an expansion of the Landfill but is the Phase III portion of the footprint plan that was presented to the DEP in 2002.

Jim Atwell of Sevee & Maher Engineers, Inc. gave a more detailed explanation of the Phase II to Phase III construction.

VOTE on Order:

YEAS: 8

NAYS: 0

Order passed unanimously. 8-0

3) Order: Approving Paving Contract

Madame Chair Eosco read the following Order:

**ORDER
AUTHORIZING ANNUAL PAVING BID**

WHEREAS, the City of Bath has sent out a request for proposals for the 2016/2017 City of Bath road paving projects; and

WHEREAS, the bid response date was July 28, 2016; and

WHEREAS, the bid response of Hagar Enterprises, Inc. was the lowest bid received at \$262,848.00.

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Bath that the bid of Hagar Enterprises, Inc. for the 2016/2017 fiscal year City of Bath paving program at a bid price of \$262,848.00 be and hereby is awarded and the City Manager is authorized to execute contract documents and other

documents related to the project. This project is being funded from the Public Works Street Maintenance Account PW-05-0520-531.

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

Public Works Director Peter Owen explained due to the lower price for paving the City will be able to do considerably more paving than previously expected. He did give an overview of Hagar Enterprises and what the proposed construction projects would consist of, which was not just paving.

VOTE on Order:

YEAS: 8

NAYS: 0

Order passed unanimously. 8-0

4) Ordinance: Public Works, Wastewater and Cemeteries & Parks Contract (first passage)

Madame Chair Eosco read the following Ordinance:

**ORDINANCE
APPROVING CONTRACT
Public Works Employees, Cemeteries and Parks Employees
and Water Pollution Control Facility Employees**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BATH THAT, PURSUANT TO THE REQUIREMENTS OF §1102 OF THE CHARTER OF THE CITY OF BATH, A BARGAINING AGREEMENT BY AND BETWEEN THE CITY OF BATH AND THE BATH PUBLIC WORKS EMPLOYEES, BATH CEMETERIES AND PARKS DEPARTMENT EMPLOYEES, AND THE BATH WATER POLLUTION CONTROL FACILITY EMPLOYEES, LOCAL NO. S-89 OF DL-4 THE INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS, IAMAW, AFL-CIO, COMMENCING JULY 1, 2016 AND EXTENDING THROUGH JUNE 30, 2019, A COPY OF WHICH IS ATTACHED HERETO, BE AND HEREBY IS APPROVED, AND THE CITY MANAGER IS AUTHORIZED TO EXECUTE SAID CONTRACT ON BEHALF OF THE CITY OF BATH.

A complete copy of the bargaining agreement is on file in the Bath City Clerk's Office with the Agenda Materials for the 8/3/2016 meeting.

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

City Manager William Giroux gave an overview of the process by which the contract had gone through. He stated the biggest change was to the employee health insurance, which should save the City and employees money. Mr. Giroux stated that employees would be getting a 2% raise starting in January for the next 3 years.

ROLL CALL VOTE:

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

NAYS: None

Ordinance passed unanimously. 8-0

Madame Chair Eosco set second passage for September 7, 2016 at 6:00 PM.

5) Ordinance: Police Contract (first passage)

Madame Chair Eosco read the following Ordinance:

ORDINANCE APPROVING POLICE CONTRACT

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BATH THAT, PURSUANT TO THE REQUIREMENTS OF §1102 OF THE CHARTER OF THE CITY OF BATH, THE BARGAINING AGREEMENT BY AND BETWEEN THE CITY OF BATH AND THE MAINE ASSOCIATION OF POLICE, REPRESENTING THE UNIT MEMBERS OF THE BATH POLICE DEPARTMENT, FOR THE PERIOD BEGINNING JULY 1, 2016 AND RUNNING THROUGH JUNE 30, 2019, A COPY OF WHICH IS ATTACHED HERETO, BE AND HEREBY IS APPROVED, AND THE CITY MANAGER IS AUTHORIZED TO EXECUTE SAID CONTRACT ON BEHALF OF THE CITY OF BATH.

A complete copy of the bargaining agreement is on file in the Bath City Clerk's Office with the Agenda Materials for the 8/3/2016 meeting

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

City Manager William Giroux explained this contract had gone through the same process as the previous Public Works Contract and contained the same employee health insurance change and raises.

ROLL CALL VOTE:

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

NAYS: None

Ordinance passed unanimously. 8-0

Madame Chair Eosco set second passage for September 7, 2016 at 6:01PM.

F. Petitions & Communications 6:53 PM

Madame Chair Eosco read the following letter from the Maine Historic Preservation Commission stating that the John E.L. Huse Memorial School had been entered in the Nation Register of Historic Places:



PAUL R. LEPAGE
GOVERNOR

MAINE HISTORIC PRESERVATION COMMISSION
55 CAPITOL STREET
65 STATE HOUSE STATION
AUGUSTA, MAINE
04333

KIRK F. MOHNEY
DIRECTOR

26 July 2016

Councilors
City of Bath
55 Front Street
Bath, Maine 04530

Re: John E. L. Huse Memorial School, Map 25, lot 046 (part)
City of Bath, owner

Dear Councilors:

The Maine Historic Preservation Commission is pleased to inform you that the **John E. L. Huse Memorial School (former)** was entered in the National Register of Historic Places on July 11, 2016 by the National Park Service, Department of the Interior, Washington, DC. A certificate signifying this recognition will be forwarded to you at your request.

If the Commission may be of further assistance to you in preserving this historic property, please do not hesitate to contact us.

Sincerely,

Kirk F. Mohney
Director

G. City Manager's Report 6:53 PM

City Manager William Giroux reported that the John E.L. Huse Property sale had been closed on and construction on the development had already started.

H. Committee Reports 6:56 PM

Councilor Nordmann reported that the Bicycle and Pedestrian Committee would be meeting on August 17th and would welcome any suggestions of topic for their agenda.

I. Unfinished Business 6:57 PM

Councilor Paulhus gave an update on Richardson Street traffic improvements. He thanked the Police and Public Works Departments for their help with the improvements.

J. New Business 7:00 PM

***6) Appointment of William Giroux and Scott LaFlamme as General Assembly Representatives for the City of Bath to the Midcoast Economic Development District.**

These appointments were done under the Consent Agenda.

7) Appointment of 2 members to the Old Customs House Board of Directors with terms to expire in August 2019.

On behalf of the Appointments Committee, Councilor Mitchell nominated John Voorhees and David Hudson to these positions. All were in favor of the nominations.

8) Appointment of 1 member to the Bicycle and Pedestrian Committee with a term to expire in May 2019.

On behalf of the Appointments Committee, Councilor Mitchell nominated Carl Zeis to this position. All were in favor of the nomination.

K. Councilor Announcements 7:02 PM

Councilors Bauer and Paulhus reported on the recent visit of the contingency of 18 visitors from the City's Sister City, Tsugaru City, Japan. Councilor Bauer stated that there was a wonderful welcoming party held at the Maine Maritime Museum that included a boat cruise on the river and the visitors felt very welcome and at home here in Bath. Councilor Paulhus stated that he got to spend time with the group at the State House and the City received gifts from the group that need to be added to the Sister City display. He said he fully supports the program and hoped that this exchange will continue for many years to come as it is beneficial to both communities.

Councilor Page congratulated and thanked Main Street Bath, the MSB Design Committee and all those responsible for the fabulous mural at the beginning corner of Front Street. He also reported August 13th there will be an event with dining and dancing in the City Park hosted by Main Street Bath.

Councilor Nordmann reported the Maine Maritime Museum will be honoring Eimskip USA, an Icelandic shipping company which has a shipping relationship with Maine. At the Museum on August 24th the company will receive the award and there will be an Icelandic dinner menu served. He stated he hoped that the public would attend and learn more about Iceland.

Madame Chair Eosco reported that Bath Citizen Involvement Day and Main Street Autumn Fest will be held on October 8th. She stated there will be tables in Waterfront Park where the public can learn about the non-profits in the area and hopefully some will volunteer to help them out.

The meeting adjourned at 7:09 PM with a motion by Councilor Paulhus, 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.