

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

Wednesday, September 6, 2023, 6:00 PM

Councilors Present: Julie Ambrosino, Phyllis Bailey, Mary Ellen Bell, Roo Dunn, Jennifer DeChant, Susan Bauer, Miriam Johnson, and Elizabeth Dingley

Councilors Absent: Terry Nordmann

City Staff Present: Marc Meyers, City Manager; Darci Wheeler, City Clerk; Juli Millett, Finance Director/Assistant City Manager; Pete Compagna, BCTV; Emily Ruger, Director of Community & Economic Development; Steve Balboni, Director of Parks and Recreation; Jonathan Carpenter, Facilities Director; Andrew Booth, Police Chief; and Jennifer Curtis, City Planner.

A. Pledge of Allegiance

B. Roll Call

C. Public Hearing: 6:06pm

- 1) **PUBLIC HEARING:** Amendment to Chapter 17, Vehicles and Traffic, Parking Appendix, Washington Street, East Side (*second passage*)

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 HEREBY FURTHER AMENDED AS FOLLOWS:

CHAPTER 17. VEHICLES AND TRAFFIC

Parking Appendix

Washington Street, East Side

Current Language:

“...From a point 40 feet north of the northerly side of North Street to a point which is 225 feet north of northerly side of Cummings Street, No restrictions. From a point 225 feet north of the northerly side of Cummings Street to Bowery Street, No Parking. From Bowery Street to Curtis Place, No Restrictions. From Curtis Place to Harward Street, No Parking.”

Change to:

“From a point 40 feet north of the northerly side of North Street to a point 195’ north of the southern terminus of Bowery Street (just south of 1149 Washington Street), no restrictions. From this point north to Harward Street, No Parking.”

Motion made by Councilor Ambrosino to put the hearing to the floor. Councilor Bauer seconded.

Chief Andrew Booth gave background on the Ordinance and comment was made by Councilor Bailey that the Transportation Committee was involved.

Kenneth Borgendale, 1198 Washington Street was not in favor of the amendment.

Councilors Ambrosino and Dunn asked clarification questions regarding location and procedure of striping streets.

YEAS: Councilors Ambrosino, Bailey, Dunn, Bauer, and Johnson

NAYS: Councilors DeChant and Dingley

- 2) **PUBLIC HEARING:** LUC Amendment Article 8 District Regulations, Section 8.26, Housing Density Allowances (*second passage*)

ARTICLE 8: DISTRICT REGULATIONS

...

SECTION 8.26 HOUSING DENSITY ALLOWANCES

Notwithstanding other requirements of this Code, the following requirements apply to certain housing projects.

A. Affordable housing density

1. **Definition.** For the purposes of this section, "affordable housing development" means:

A. For rental housing, a development in which a household whose income does not exceed 80% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority of the units that the developer designates as affordable without spending more than 30% of the household's monthly income on housing costs.

B. For owned housing, a development in which a household whose income does not exceed 120% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority of the units that the developer designates as affordable without spending more than 30% of the household's monthly income on housing costs.

2. **Density bonus.** In the R-1, R-2, C-1, and C-2 zoning districts, an affordable housing development is allowed to have a unit density of 2 1/2 times the density that is otherwise allowed in that location, and the minimum on site parking requirement for affordable housing developments is 2/3 of a parking space per

dwelling unit, rounded down to whole spaces. The development must be served by a public, special district or other centrally managed water system and a public, special district or other comparable sewer system. The development must comply with minimum lot size requirements in accordance with Title 12, chapter 423-A of the Maine Revised Statutes, as applicable.

3. Long-term affordability. Before approving an affordable housing development, the City shall require that the owner of the affordable housing development have executed a restrictive covenant, recorded in the appropriate registry of deeds, for the benefit of and enforceable by a party acceptable to the City, to ensure that for at least 30 years after completion of construction:

A. For rental housing, occupancy of all of the units designated affordable in the development must remain limited to households at or below 80% of the local area median income at the time of initial occupancy.

B. For owned housing, occupancy of all of the units designated affordable in the development must remain limited to households at or below 120% of the local area median income at the time of initial occupancy.

4. Shoreland zoning requirements. An affordable housing development must comply with shoreland zoning requirements established by the Department of Environmental Protection under Title 38, chapter 3 of the Maine Revised Statutes and municipal shoreland zoning ordinances

5. Subdivision requirements. This section may not be construed to exempt a subdivider from the requirements for division of a tract or parcel of land in accordance with State subdivision law.

B. Extra Dwelling Units Allowance

1. A. On a property in any zoning district that allows housing and does not contain an existing dwelling unit on it, up to two dwelling units can be added to the property, except as follows:

a. Up to four dwelling units can be added to a property that does not contain an existing dwelling in the R1, R2, R4, R6, C1, and C2 zones, or if the property is served by public, special district, or other centrally managed water system, and public, special district, or other comparable sewer system.

2. Up to two dwelling units can be added to a property that has one dwelling unit on it. One of the new units can be within or attached to the original dwelling unit, and one of the new units can be detached from the original dwelling unit.

3. If more than one dwelling unit has been constructed on a lot as a result of the allowance under this section or as an accessory dwelling unit (see section 11.40), the lot is not eligible for any additional increases in density not allowed by this Code.

4. If a dwelling unit that was in existence after July 1, 2023 is demolished, resulting in a vacant lot, the lot is eligible to be developed per this section of the Code.
5. Dwelling units created under this code section must meet the water and sewer requirements applicable to all development, including 12 M.R.S. §423-A (the minimum lot size law).
6. The setback requirements for dwelling units created under this section are the same as for single family houses.
7. For dwelling units created under this code section that are served by a well, the water must be documented to be potable, and acceptable for domestic use, either before or after being put through a water treatment system, prior to the unit being occupied.
8. A housing structure developed under this section must comply with shoreland zoning requirements established by the Department of Environmental Protection under Title 38, chapter 3 and municipal shoreland zoning ordinances.
9. This section may not be construed to interfere with, abrogate or annul the validity or enforceability of any valid and enforceable easement, covenant, deed restriction or other agreement or instrument between private parties that imposes greater restrictions than those provided in this section, as long as the agreement does not abrogate rights under the United States Constitution or the Constitution of Maine.

Motion made by Councilor Ambrosino to waive reading. Councilor Johnson seconded. The motion passed with four (4) yeas and three (3) nays

Motion made by Councilor Bauer to put the hearing to the floor. Councilor Dunn seconded.

Jennifer Curtis, Director of Planning, provided background on the item and Chair Bell requested Public Comment, to which there was none. Councilors Dunn, Bailey, and DeChant made initial councilor comment. Debora Kellar, Director of Bath Housing, provided comment. Councilors Bailey and Dunn finished with final council comment.

Chairperson Bell called for a roll call vote. The order passed with seven (7) yeas and zero (0) nays.

YEAS: Councilors Dingley, Johnson, Bauer, DeChant, Dunn, Bailey, and Ambrosino

NAYS: None

- 3) **PUBLIC HEARING:** LUC Amendment Article 11 Performance Standards; Specific Activities and Land Uses, Section 11.40, Accessory Dwelling Unit (*second passage*)

ARTICLE 11 PERFORMANCE STANDARDS; SPECIFIC ACTIVITIES AND LAND USES

[Below are our Accessory Dwelling Unit requirements, with amendments to make them consistent with LD 2003.]

SECTION 11.40 ACCESSORY DWELLING UNIT [added March 23, 2022]

In addition to all other requirements of the Code, [add "and MRS 12, chapter 423-A, the Minimum Lot Size law,] accessory dwelling units are subject to the following standards:

A. General Requirements for Accessory Dwelling Units

1. One accessory dwelling unit shall be permitted per parcel that has a single-family dwelling or two-family dwelling, in the primary building or as an accessory building. An accessory dwelling unit must be clearly accessory to the principal dwelling unit(s) on the parcel. The accessory dwelling unit is exempt from density calculations for the property.
2. The size of an accessory dwelling unit must meet the minimum size for a dwelling unit as set by the ~~City's adopted building code~~ State Building Code standards of at least 190 square feet in area, and be no larger than 850 square feet. For principal dwelling units 1,000 square feet or smaller, an accessory dwelling unit may be no greater than 80% of the size of the principal dwelling unit, as measured in square feet. An accessory dwelling unit may have no more than two bedrooms.
3. An accessory dwelling unit must meet one or more of the following conditions:
 - a. Be fully constructed within the existing footprint of any legal primary residence or accessory building; or
 - b. Share a common wall with the principal residence, providing yard setbacks; or
 - c. Be constructed as a new accessory building (detached) containing an accessory dwelling unit, providing yard area and lot setback requirements can be met for the zone.
 - d. If an accessory dwelling unit is added to a two family dwelling, the setbacks for the new construction are the same as for a single family dwelling.
4. When an ADU is significantly visible from one or more public ways, the building design shall:

- a. Be clearly subordinate to the principal structure(s) in scale and position in relationship with the street and principal structure(s), including locating the entrance to the ADU in a primary structure in such a subordinate position through locating it farther from the street, inside a common foyer, or on the side or rear of the primary building.
 - b. Not include outside stairways or fire escapes above the ground floor unless required by life and safety codes.
5. ~~Accessory dwelling units shall comply with all dimensional requirements of the underlying zone except for lot coverage and lot area per dwelling unit requirements. All ADUs shall comply with all dimensional requirements of the underlying zone, except that ADUs located entirely outside of the shoreland zone are not required to meet dimensional requirements for lot coverage and lot area per dwelling unit.~~
 6. ~~Each accessory dwelling unit shall have one on-site parking space in addition to the parking required for the principle dwelling. Tandem parking is permitted. The additional parking space can be located off-site if there is an approved shared parking agreement in accordance with Article 11.34.~~
 6. For an accessory dwelling unit constructed on a lot with a single-family dwelling unit on it, no additional on-site parking is required for the accessory dwelling unit.
 7. Shoreland zoning. An accessory dwelling unit must comply with shoreland zoning requirements established by the Department of Environmental Protection under Title 38, chapter 3 and municipal shoreland zoning ordinances.
 8. An accessory dwelling unit must meet the water and sewer requirements applicable to all development, including MRS 12, section 423-A, (the minimum lot size law).
 9. For accessory dwelling units that are served by a well, the water must be documented to be potable, and acceptable for domestic use, either before or after being put through a water treatment system, prior to the unit being occupied.
 10. Subdivision requirements. This section may not be construed to exempt a subdivider from the requirements for division of a tract or parcel of land in accordance with the State subdivision law.
 11. An accessory dwelling unit may be located within a preexisting non-conforming primary or accessory structure provided that the structure meets the requirements in Article 6 of this code. The design of an accessory dwelling unit located in a non-conforming primary or accessory structure shall take into consideration to the extent practicable the privacy of adjacent properties as

determined by the physical characteristics surrounding the accessory dwelling unit, including landscape screening, fencing, and window and door placement.

12. The height of a detached accessory dwelling unit shall not exceed the height of the primary structure.
13. An accessory dwelling unit shall not be used as rental property for less than 90 days.
14. Accessory dwelling units require a permit from the Codes Enforcement Officer. If the creation of an accessory dwelling unit creates a subdivision, the project will require subdivision approval before the building permit can be issued.

~~B. Approval of Attached Accessory Dwelling Unit~~

~~An attached accessory dwelling unit is allowed, as per the Land Use Table in Section 9.1.8.1, only if it has received a permit from the Code Enforcement Office. An attached accessory dwelling unit must meet the requirements of Article 11.40 A in accordance with the requirements of this section.~~

~~C. Approval of Detached Accessory Dwelling Unit~~

~~A detached accessory dwelling unit is allowed as per the Land Use table in Section 9.1.8.2 only after site plan approval from the Planning Board, and it must meet the requirements contained in Section 11.40 A.~~

Motion made by Councilor Dunn to put the hearing to the floor. Councilor Johnson seconded.

Jennifer Curtis, Director of Planning, provided background on the item responding to questions and comments from Councilors Dunn and Bailey. There was no public comment.

Chairperson Bell called for a roll call vote. The order passed with seven (7) yeas and zero (0) nays.

YEAS: Councilors Ambrosino, Bailey, Dunn, DeChant, Bauer, Johnson, and Dingley

NAYS: None

- 4) **PUBLIC HEARING:** LUC Amendment Article 16 Section 16.32, 520 Centre Street Contract Zone (*second passage*)

ORDINANCE

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

Amend Article 16, by adding Section 16.32, as follows:

SECTION 16.32 520 CENTRE STREET CONTRACT ZONE

A. District Designation

The property designated for contract rezoning is located at 520 Centre Street, identified as Lot 8, on City of Bath Tax Map 29 dated April 1, 2021.

B. Findings

The property is located in the Route 1 Commercial Contract (C-4) District. The City Council makes the following findings:

1. Contract Rezoning is allowed in the Route 1 Commercial Contract District (C4)
2. The project consists of a proposal to develop a four-story building which will contain 18 two-bedroom apartments and an office. Future phases could contain additional multi-family housing dwelling units.
3. Contract rezoning is allowed on the parcel per section 8.10 (D) of the Land Use Code.
4. Without the creation of a contract zone, the minimum front setback is 50 feet, the minimum yard area is 20 feet, and the maximum building height is 40 feet.
5. The proposed structure would encroach into the minimum front setback and the minimum front and side yard areas, and the maximum building height requirements would be exceeded without contract rezoning.
6. The rezoning of the parcel is consistent with the Comprehensive Plan and there are no other applicable City plans.
7. The project is consistent with the mandatory conditions set forth in Land Use Code Section 8.20 paragraph D. 1.
8. The applicant states that they feel the project itself is a discretionary enhancement to the City "...as it helps the City move toward its comprehensive plan goals encouraging housing development different than what exists, including housing attractive to young professionals and encouraging and promoting affordable, decent housing opportunities in Bath" offered in exchange for Contract Rezoning.
9. The Planning Board did not require any discretionary enhancements.

C. Zoning Provision Affected

This contract zoning amendment is intended to relax the minimum setback, yard area, and height requirements pursuant to Section 8.10 of the Land Use Code, by allowing the construction of the structures and other site improvements depicted on the Site Plan approved with conditions, by the Bath Planning Board on July 11, 2023.

This contract zone is intended to relax the following space and bulk standards of the Route 1 Commercial Contract Zoning District (C-4):

1. Minimum Front Setback (reduce the requirement from 50 feet to 15 feet as depicted on the approved site plan).
2. Minimum Front Yard Area (reduce the requirement from 20 feet to 15 feet, as depicted on the approved site plan).
3. Minimum Side Yard Area (reduce the requirement from 20 feet to 10 feet as depicted on the approved site plan)
4. Maximum height (increase from 40 feet to 50 feet)

D. Conditions of Approval

This Contract Rezoning Ordinance requires full and complete compliance with all conditions of approval, which are part of the Site Plan and Subdivision approval, granted to Bath Housing Development Corporation, by the Bath Planning Board on July 11, 2023, including the following conditions:

- That the crosswalk location be approved by the City Planner with input from the Director of Public Works and the Bike and Pedestrian Committee.
- That the snow storage area be indicated on the Site Plan and the Subdivision Plan.

Motion made by Councilor Ambrosino to put the hearing to the floor. Councilor Dunn seconded.

Jennifer Curtis, Director of Planning, provided background on the item responded to questions and comments from Councilor Dunn. Debora Kellar, Director of Bath Housing, provided comment. There was no public comment.

Chairperson Bell called for a roll call vote. The order passed with seven (7) yeas and zero (0) nays.

YEAS: Councilors Dingley, Johnson, Bauer, DeChant, Dunn, Bailey, and Ambrosino

NAYS: None

- 5) **PUBLIC HEARING:** LUC Amendment Article 2, Definitions, Section 2.02, Definitions (*second passage*)

ARTICLE 2: DEFINITIONS

SECTION 2.02 DEFINITIONS

Sleeping Unit. A bedroom contained within a Supportive Housing facility with sleeping beds for of a maximum of two occupants.

Supportive Housing. Housing that facilitates the movement of a target population to permanent housing within a period not to exceed 24 months following initial occupancy, and that is linked to on-site or off-site services that assist the supportive housing occupant in retaining other long-term housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. Supportive Housing shall include spaces in a building where group sleeping accommodations are provided in one room, or in a series of closely associated rooms, for persons not members of the same family group, under joint occupancy and single management.

Motion made by Councilor Ambrosino to put the hearing to the floor. Councilor Bailey seconded.

Jennifer Curtis, Director of Planning, provided background and responded to questions and comments from Councilors DeChant, and Johnson. Larry Bartlett, applicant, provided comment. Councilor DeChant finished with final council comment.

Chairperson Bell called for a roll call vote. The order passed with seven (7) yeas and zero (0) nays.

YEAS: Councilors Ambrosino, Bailey, Dunn, DeChant, Bauer, Johnson, and Dingley

NAYS: None

- 6) **PUBLIC HEARING:** LUC Amendment Article 8, District Regulations, Section 8.01, High-Density Residential District – R1 *(second passage)*

ARTICLE 8: DISTRICT REGULATIONS

SECTION 8.01 HIGH-DENSITY RESIDENTIAL DISTRICT – R1

C. Space and Bulk Regulations

MINIMUM LOT AREA	
1. Residential uses	6,000 square feet
2. <u>Supportive Housing uses</u>	<u>6,000 square feet</u> 10,000 square feet
3. Nonresidential uses	minimum lot area for each use
4. Mixed or multiple uses	

Motion made by Councilor Bauer to put the hearing to the floor. Councilor Bailey seconded.

Jennifer Curtis, Director of Planning, provided background on the item and there was no council or public comment.

Chairperson Bell called for a roll call vote. The order passed with seven (7) yeas and zero (0) nays.

YEAS: Councilors Dingley, Johnson, Bauer, DeChant, Dunn, Bailey, and Ambrosino

NAYS: None

- 7) **PUBLIC HEARING:** LUC Amendment Article 10, General Performance Standards, Section 10.06, Parking and Loading, Section 10.34, R1 Setback Plan (*second passage*)

ARTICLE 10: GENERAL PERFORMANCE STANDARDS

SECTION 10.06 PARKING AND LOADING

A. Off-street Parking, Number of Spaces Required

LAND USE CATEGORY	PARKING REQUIREMENT
32.0 Supportive Housing	
<u>32.1 With Less than 4 sleeping units</u>	<u>2 spaces per sleep unit</u>
<u>32.2 With 4 to 6 sleeping units</u>	<u>1.75 spaces per sleeping unit</u>

SECTION 10.34 R1 SETBACK PLAN

- A. This Section applies to new or expanded uses, other than single- and two-family uses, and supportive housing facilities in the R1 Zone.

Motion made by Councilor Dunn to put the hearing to the floor. Councilor Ambrosino seconded.

Jennifer Curtis, Director of Planning, provided background on the item and responded to comments from Councilor DeChant. There was no public or final council comment.

Chairperson Bell called for a roll call vote. The order passed with seven (7) yeas and zero (0) nays.

YEAS: Councilors Ambrosino, Bailey, Dunn, DeChant, Bauer, Johnson, and Dingley

NAYS: None

- 8) **PUBLIC HEARING:** LUC Amendment Article 11, Performance Standards, Specific Activities and Land Uses, Section 11.42, Supportive Housing (*second passage*)

ARTICLE 11: PERFORMANCE STANDARDS, SPECIFIC ACTIVITIES AND LAND USES

SECTION 11.42 SUPPORTIVE HOUSING

The Review Authority may allow a supportive housing facility provided the applicant demonstrates that all the conditions for residential uses as contained in Article 10 are met.

- A. A supportive housing facility shall be owned and operated by a non-profit corporation registered by the State of Maine.
- B. Supportive housing facilities may include as accessory uses offices of staff who periodically are in the facility to serve the needs of the residents.
- C. Overnight guests shall not be allowed to stay with residents.
- D. The age of the residents of a supportive housing facility shall be a minimum of 18 years upon the date of initial occupancy, and a maximum of 24 upon the date of ending occupancy.
- E. A supportive housing facility shall consist of the following:
 - 1. Sleeping units, each with sleeping beds for a maximum of two occupants.
 - 2. A kitchenette for shared use by occupants
 - 3. Toilet facilities and shower facilities for shared use by occupants.
 - 4. A lounge for shared use by occupants.

Motion made by Councilor Dunn to put the hearing to the floor. Councilor Bailey seconded.

Jennifer Curtis, Director of Planning, provided background on the item and responded to initial questions and comments from Councilors Johnson, Bailey, Dunn, and DeChant. Marc Meyers, City Manager, and Larry Bartlett, the applicant, provided additional comments. There was no public comment. Councilors Johnson, Bailey, Dunn, DeChant, Bell, and Ambrosino continued conversation.

Councilor Johnson proposed amendment to strike subsection D regarding age. Councilor DeChant seconded the motion. Discussion continued between Councilors Bailey, Ambrosino, Dunn, DeChant and Bauer along with Mr. Bartlett.

Michael Plaisted, 19 Allen Street, in opposition of amendment.

Final Council comments with participation of Councilors Bauer and Dunn. Councilor Johnson withdrew motion. Jennifer Curtis asked for clarity of what Council is requesting. Councilor Bauer made a motion to table 60 days for staff to

create general amendment to article 11 with second by Councilor DeChant. Five (5) yeas and two (2) nays.

- 9) **PUBLIC HEARING:** Authorizing up to \$1,500,000 of the City's General Obligation Bonds to Finance McMann Athletic Complex Maintenance Building and Stormwater Upgrades (*second passage*)

BOND ORDINANCE

AUTHORIZING UP TO \$1,500,000 OF THE CITY'S GENERAL OBLIGATION BONDS TO FINANCE MCMANN ATHLETIC COMPLEX MAINTENANCE BUILDING AND STORMWATER UPGRADES

IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF BATH, AS FOLLOWS:

- Section 1. That a sum of up to, but not to exceed, \$1,500,000, plus the sale premium of and investment earnings on the bonds authorized in Section 2 below, is hereby appropriated for the purpose of funding McMann Athletic Complex maintenance building and stormwater upgrades.
- Section 2. That, for the purpose of funding the aforesaid appropriation, the City Treasurer, with the approval of the Chair of the City Council and the City Manager, is hereby authorized, in the name of and on behalf of the City, to issue the City's bonds or notes in anticipation thereof, in the stated principal amount of up to, but not to exceed, \$1,500,000, plus sale premium, under and pursuant the City Charter and Title 30-A, Section §5772 of the Maine Revised Statutes.
- Section 3. That any and all bonds or notes in anticipation thereof issued pursuant to this Ordinance are issued pursuant to 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.
- Section 4. That any and all bonds issued pursuant to this Ordinance shall be payable in annual installments, which need not be equal, the total amount of which shall extinguish the entire debt at maturity pursuant to the requirements of 30-A M.R.S.A. Section 5772(3), pursuant to Section 807 of the City Charter.
- Section 5. That the term of any bonds issued pursuant to this Ordinance shall not exceed sixteen (16) years.
- Section 6. That the City Treasurer, with the approval of the Chair of the City Council and the City Manager, 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 the execution thereof.
- Section 7. That the City Treasurer, with the approval of the Chair of the City Council and the City Manager, is hereby authorized to make any bonds or notes in anticipation thereof issued pursuant to this Ordinance subject to prepayment and call for redemption with or without premium prior to the stated maturity date at the election of the City.
- Section 8. 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 9. 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 10. 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 11. That if the City Treasurer, Chair of the City Council, City Manager, or Clerk are for any reason unavailable to approve and execute 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 12. 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 16 years from the date of issuance of the original bonds) 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 13. That any suit questioning the validity of this Ordinance shall be barred unless commenced within forty-five (45) days following publication of the Ordinance in accordance with Section 805 of the City Charter.

Motion made by Councilor Ambrosino to waive reading. Councilor Bauer seconded. The motion passed with six (6) yeas and one (1) nays

Motion made by Councilor Bauer to put the hearing to the floor. Councilor Ambrosino seconded.

Steve Balboni, Director of Parks and Recreation provided background on the item. There was no public or council comment.

Chairperson Bell called for a roll call vote. The order passed with seven (7) yeas and zero (0) nays.

YEAS: Councilors Ambrosino, Bailey, Dunn, DeChant, Bauer, Johnson, and Dingley

NAYS: None

10) **PUBLIC HEARING:** Supplemental Appropriation in the amount of \$525,000 (*second passage*)

ORDINANCE
SUPPLEMENTAL APPROPRIATION

WHEREAS, the City Council of the City of Bath desires to fund the McMann Athletic Complex maintenance building and stormwater upgrades and

WHEREAS, the amount available for the project is \$450,000 and the lowest bid for the project is \$2,375,463 plus engineering (est.\$2,475,000); and

WHEREAS, surplus funds in the General Undesignated Fund Balance Account, are available to fund a portion of the project and such funds constitute revenue in excess of those estimated in the Budget for the current fiscal year and are available for that purpose; and

WHEREAS, the sum to be appropriated by this Supplemental Appropriation totals Five Hundred Twenty-Five Thousand Dollars (\$525,000.00); and

WHEREAS, the City Manager has certified that there are available revenues for appropriation to at least the extent of Five Hundred Twenty-Five Thousand Dollars (\$525,000.00), pursuant to the requirements of Section 611(A) of the Charter of the City of Bath; and

WHEREAS, this sum will not exceed the expenditure limits for the current fiscal year pursuant to Section 617 of the Charter of the City of Bath.

NOW THEREFORE, be it ordained by the City Council of the City of Bath that the total sum of Five Hundred Twenty-Five Thousand Dollars (\$525,000.00) be and hereby is supplementally appropriated from the General Undesignated Fund Balance (Account G01-2520-00) to the McMann Maintenance Building (Account E05-0514-546).

Motion made by Councilor Johnson to put the hearing to the floor. Councilor Bailey seconded.

Marc Meyers, City Manager, provided background on the item and responded to questions and comments from Councilors Johnson and Dunn. Debora Kellar, Director of Bath Housing, provided comment.

Chairperson Bell called for a roll call vote. The order passed with seven (7) yeas and zero (0) nays.

YEAS: Councilors Dingley, Johnson, Bauer, DeChant, Dunn, Bailey, and Ambrosino

NAYS: None

D. Consent Agenda: 7:40pm

(Items as marked with an asterisk () on the agenda shall be considered routine matters not requiring debate. In the case of items marked with an asterisk, the motion as stated in parenthesis following the items on the agenda shall be considered to have been passed by the City Council as part of the Consent Agenda. Any Councilor wishing to have any item so marked with an asterisk removed from the Consent Agenda shall have the unlimited right to do so at any time prior to the vote by Council on the Consent Agenda. If such an item is removed from the Consent Agenda, it shall be dealt with in the normal course of the meeting.)*

*11) Minutes of the previous Regular Meeting of August 2, 2023, Council Meeting, and Special Meeting of August 16, 2023. *(Motion to Accept as Presented)*

Motion from Councilor Bauer to accept the minutes, as presented. Seconded by Councilor Dunn. The motion passed with seven (7) yeas and zero (0) nays

E. Time Devoted to Residents to Address the City Council

Tim Pratt (10 Garden Street) provided comments regarding Property Tax Revaluation

Betty Taylor (106 North Street) provided comments regarding dangerous intersection

Joe Hahn (937 High Street) provided comments regarding dangerous intersection

Brady-Anne Winn (131 North Street) provided comments regarding dangerous intersection

Ruth Baker (161 High Street) provided comments regarding traffic calming and flooding

Councilor Dingley commented that traffic calming needs are desired

David Torres (115 North Street) provided comments regarding traffic calming

Betty Taylor (106 North Street) provided additional comments regarding dangerous intersection

F. Resolutions, Orders and Ordinances: 8:03pm

12) **RESOLUTION:** Authorizing Transfer of American Rescue Plan Funds to Bath YMCA for Daycare Expansion

RESOLUTION – AUTHORIZING TRANSFER OF AMERICAN RESCUE PLAN FUNDS

BE IT RESOLVED by the City Council of the City of Bath, as follows:

That \$100,000 be transferred from Support Public Health Response – Air Exchangers to Equity Focused Services – Day Care. And that \$100,000 Grant be awarded to YMCA – Bath for Day Care Expansion.

Chair Bell recommended that Council table the item until the first November meeting. Councilor DeChant motioned to table the item until November, Councilor Dunn seconded. Councilor Dunn stated that this would give the YMCA additional time to contact surrounding communities for contributions. Bill Haggett, CEO of Bath YMCA, spoke regarding the resolution and Councilor Dingley suggested that the vote happen in favor of the Resolution. Further Council comments from Councilors Dunn and Bauer. The vote to table passed with four (4) yeas and three (3) nays.

13) **ORDER:** Approving McMann Athletic Complex maintenance building and stormwater treatment Contract

ORDER
APPROVING BID

BE IT HEREBY ORDERED BY THE CITY COUNCIL OF THE CITY OF BATH THAT THE BID OF BENCHMARK FOR THE MCMANN COMPLEX MAINTENANCE BUILDING AND STORMWATER UPGRADES IN THE AMOUNT OF \$2,374,811.00 IS ACCEPTED, AND AN AGREEMENT BY AND BETWEEN THE CITY OF BATH AND BENCHMARK IS AUTHORIZED AND THE CITY MANAGER IS AUTHORIZED TO EXECUTE SAID AGREEMENT AND ANY OTHER DOCUMENTS NECESSARY TO ITS IMPLEMENTATION ON BEHALF OF THE CITY OF BATH.

Councilor Dunn motioned to put the order to the floor, for discussion, and this was seconded by Councilor Ambrosino.

Marc Meyers, City Manager, provided background information on the order responding to questions from Councilor Dunn.

Chairperson Bell called for a roll call vote. The order passed with seven (7) yeas and zero (0) nays.

14) **ORDER:** Approving Contract for Septic System Installation for Springview Condominium Association

ORDER APPROVING CONTRACT FOR SEPTIC SYSTEM INSTALLATION FOR
SPRINGVIEW CONDOMINIUM ASSOCIATION

WHEREAS, The septic system for the Springview Condominium Association is over 20 years old and failing.

WHEREAS, The Maine Department of Environmental Protection Small Community Grant Program (SCG) provides financial support to homeowners and commercial entities to replace failing septic systems.

WHEREAS, The City applied for a grant to the SCG program on behalf of Springview Condominium Association's and was awarded the grant.

WHEREAS, The City released an Request for Proposals to solicit bids from contractors to install a new septic system at Springview Condominiums.

WHEREAS, the City received proposals from contractors in response to the Request for Proposals on Thursday, August 31, 2023 and staff reviewed and recommend the most advantageous bid.

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Bath to approve the contract with _____ for _____ dollars (\$ _____) for installation of a new septic system for Springview Condominium Association.

Councilor Dunn motioned to put the order to the floor, for discussion, and this was seconded by Councilor Bauer.

Director of Community and Economic Development Emily Ruger provided more additional and specific information about the contract, and responded to questions from Councilors Bauer, Dunn, Ambrosino, and Bailey.

Chairperson Bell called for a roll call vote. The order passed with seven (7) yeas and zero (0) nays.

15) **ORDINANCE:** LUC Amendment Article 9, Uses, Section 9.02, Land Use Table (*first passage*)

ARTICLE 9: USES

SECTION 9.02 LAND USE TABLE

LAND USE CATEGORY	ZONING DISTRICTS																			
	R1	R2	R3	R4 & R6	R5	C1	C2	C3	C4	C5	NC	I	GC	PH	M	RP	NRPO	TMC	S	
32.0 Supportive Housing																				
32.1 With less than 4 sleeping units	C	N	N	N	N	N	C	N	S	N	N	N	N	N	N	N	N	N	N	N
32.2 With 4 to 6 sleeping units	S	N	N	N	N	N	S	N	S	N	N	N	N	N	N	N	N	N	N	N
32.3 More than 6 sleeping units	N	N	N	N	N	N	N	N	S	N	N	N	N	N	N	N	N	N	N	N
LAND USE CATEGORY	R1	R2	R3	R4 & R6	R5	C1	C2	C3	C4	C5	NC	I	GC	PH	M	RP	NRPO	TMC	S	

Councilor Bell read the ordinance; Councilor Dunn motioned to move the order to the floor for discussion. Councilor Ambrosino seconded.

Director of Planning Jennifer Curtis provided background on the order.

Councilors Bailey, Dunn, and DeChant asked questions, which were fielded by Jennifer Curtis and City Manager Marc Meyers

No public comment. No final Council comment.

Chairperson Bell called for a roll call vote. The order passed with seven (7) yeas and zero (0) nays.

YEAS: Councilors Ambrosino, Bailey, Dunn, DeChant, Bauer, Johnson, & Dingley

NAYS: None

G. Petitions & Communication: None

H. City Manager's Report: 8:39pm

City Manager Marc Meyers stated there is a public information section on our website, as well as BCTV, Facebook, and BCTV on demand regarding the Property Revaluation and the appeals process. Tax bills have been mailed out and due October 16.

I. Committee Reports: 8:42pm

**Councilor Johnson
Transportation Committee
Chief Booth is collecting data for Ms. Taylors earlier concerns**

**Councilor Ambrosino
Forestry Committee
Mushroom Walk on September 26**

J. Unfinished Business

16) Elm Street Clock Discussion

Facilities Director, Jonathan Carpenter discussed his briefings with clock manufacturers and best solutions. He responded to questions and comments from Councilors Dunn and Dingley.

At 8:56pm Councilor Ambrosino made motion to go past 9pm with second by Councilor Dunn. All were in favor.

Conversation continued with Councilor DeChant stating her change of opinion, along with comments from Councilors Dingley, Bauer, Bell, and Dunn.

K. New Business

21) **Appointments and Reappointments**

~Appointment of Russell Davidson to Economic Development Committee
term to expire July 2026

Motion made by Councilor Dunn to accept the appointments and reappointments as a slate, and comments added regarding committee involvement.

Councilor Ambrosino seconded the motion.

(7) Yays and (0) Nays

L. Councilor Announcements

Councilor Bailey
Boards and Committees Openings
Board of Assessment Review

Councilor Ambrosino
Presentation to Come from Tsugaru
Torii Gate dedication
September 30th at 11am

Councilor DeChant
Democrat Caucus held previously
David Sinclair will be candidate for HD50

9:10 PM Councilor Ambrosino motioned for Council to enter Executive Session. Councilor Bauer seconded. All in favor.

EXECUTIVE SESSION:

Real Estate Matters per 1 MRS §405(6)(C)

Motioned by Councilor Bauer and seconded by Councilor Dunn to leave Executive Session.

Meeting adjourned at 9:28pm.

Motioned by Councilor Bauer and seconded by Councilor DeChant.

Attested:
Darci Wheeler, City Clerk

Please note: These minutes are action minutes. The entire meeting can be viewed at www.cityofbath.com