

AGENDA
CITY COUNCIL OF THE CITY OF BATH, MAINE

Regular Meeting

Wednesday, September 1, 2021, 6:00pm

Council Chambers

3rd Floor, City Hall

We encourage your comments and views and appreciate your participation in your local government

A. Pledge of Allegiance

B. Roll Call

Presentation of City Chair and Proclamation to City Manager Peter Owen for 21 years and 10 months of dedicated service for the City of Bath..

C. Public Hearing:

1) Remote Meeting Participation Policy (public hearing)

D. Consent Agenda:

(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.)*

*2) Minutes of the previous Council meetings of August 4, 2021, and August 18, 2021 (Motion to Accept as Presented)

E. Time Devoted to Residents to Address the City Council:

F. Resolutions, Orders, and Ordinances:

3) Order: Approving Remote Meeting Participation Policy

G. Petitions & Communications:

H. City Manager's Report:

I. Committee Reports:

J. Unfinished Business:

K. New Business:

L. Councilor Announcements:

Executive Session:

Discuss Real Estate Matters per 1 MRSA §405(6)(C)

ADJOURN

PROCLAMATION

WHEREAS, the City of Bath wishes to recognize the 21 years 10 months of service by City Manager, Peter H. Owen, and,

WHEREAS, Peter was born in 1956 in Yokosuka, Japan, the son of the late Martyn and Candace Owen, graduated with the class of 1980 from the State University of New York, Syracuse, with a degree in wood products engineering and graduated in 1983 from the University of Maine, Orono, with a degree in civil engineering and became a certified Professional Engineer in 1988;

WHEREAS, Peter was hired by the Bath Public Works Department to the position of Public Works Director on October 22, 1999, was appointed Interim City Manager on July 7, 2017, and City Manager on January 3, 2018;

WHEREAS, Peter retired from the City of Bath on August 20, 2021, seeing numerous accomplishments, including the following:

- Storm water outfall project in 1999
- Reconstruction of Centre Street in 2004 (Part 1) and 2010 (Part 2)
- Construction of the South End Park in 2007
- Installation of gas flare at the Bath Landfill in 2007
- Sidewalk Project on Washington Street in 2009
- Construction of the multi-use path on Congress Avenue in 2011
- Reconstruction of North Street (Part 1) in 2015
- Upgrade of Wastewater Treatment Plant in 2018
- American Public Works Association - Board of Directors
- Bath Area Family YMCA – Board of Directors
- Rotary Club of Bath – Member
- Maine Municipal Legislative Policy Committee – Member
- City of Bath boards/committees/commissions – Member of 11 committees

WHEREAS, Peter continued project-based work as City Manager, coordinating the upcoming Commercial Street Sidewalk Project and Riverwalk Project. Looking to the future, he initialized marketing and branding initiatives to help unify Bath and nurtured the City's connections with community partners;

WHEREAS, Peter led the City through the 2020 COVID-19 pandemic and was actively engaged in economic development, supporting bridge loans for small businesses and modifying the downtown to increase public safety and enhance business opportunities;

WHEREAS, Peter H. Owen's long and productive career of public service to the citizens of Bath was marked by his forward-thinking and professionalism;

NOW, THEREFORE, be it proclaimed by the City Council of the City of Bath that the City recognizes the 21 years and 10 months of public service by City Manager Peter Owen to the citizenry of the community.

Dated this 1st day of September 2021.

Aaron Park, Chairperson
Bath City Council

PUBLIC HEARING NOTICE

City of Bath City Council

The City Council of the City of Bath shall hold a Public Hearing on Wednesday, September 1, 2021, at 6:00 pm, at City Hall, 55 Front St., Bath, Maine. The purpose of this meeting is regarding a Remote Meeting Policy for the City of Bath City Council.

REMOTE PARTICIPATION POLICY

Bath City Council

Pursuant to 1 M.R.S. Section 403-B, the Bath City Council (the "Council") adopts this policy for remote participation in public meetings and proceedings.

PURPOSE

The purpose of this policy is to provide a framework for when remote participation is allowed for members of the Council as well as members of the public and to outline acceptable methods of remote communication.

A. LIMITED IN SCOPE

The Council members are expected to be physically present except when being physically present is not practicable, including the following circumstances:

1. The existence of an emergency or urgent issue that requires the full Council to meet remotely.
2. For individual members of the Council:
 - a. Illness or other physical condition; or
 - b. Temporary absence from the jurisdiction where traveling to the meeting would cause the member to face significant difficulties to attend in person.

B. REMOTE PARTICIPATION REQUIREMENTS

1. Remote Methods of Participation
 - a. The remote method of participation may be through telephonic or video technology that allows for the simultaneous reception of information and may include other means when such means are necessary to provide reasonable accommodation to a person with a disability. Methods of participation cannot be text-only, i.e., email, text messages, and chat functions.
2. Notice Requirements
 - a. Notice of the proceeding must be provided in accordance with 1 M.R.S. § 406.
 - b. When the public may attend via remote methods the notice must include how the public can participate remotely, as well as the physical location of the meeting for those that would like to attend in person (except in cases of an emergency under Section A(1) above.
3. Meeting Materials
 - a. All documents and materials considered by the Council must be made available to the public who attend remotely, to the same extent they are made available to member of the public who attend in person.
4. Members of the Council

- a. A member who participates in a public proceeding by remote methods is present for purposes of a quorum and voting.
 - b. All votes taken during any public proceeding when one or more members of the Council are participating by remote means shall be by roll call vote that can be seen and heard if using video technology and heard if using only audio technology.
 - c. A member who will be participating remotely shall notify the Chair as far in advance as possible.
5. Members of the Public
- a. Members of the public must be given the opportunity to participate remotely when a member of the Council is participating remotely.
 - b. The Council may not determine that public attendance at a proceeding will be limited solely to remote methods except under the conditions in Section A(1) above.

D2

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

Wednesday, August 4, 2021, 6:00 PM
Regular Meeting

Present: Councilor Ambrosino, Councilor Bailey, Councilor Paulhus was absent, Councilor Nordmann, Councilor Leonard, Vice Chairperson DeChant arrived at 6:02pm, Councilor Bauer was absent, Councilor Dingley, and Chairperson Park.

Also, in attendance, the City Manager, Peter Owen, City Solicitor, Roger Therriault, and City Clerk, Darci Wheeler

Chairperson Park led the Pledge of Allegiance, City Clerk Darci Wheeler called the Roll.

Chairperson Park read a proclamation recognizing Kindness Day which will be held on Saturday, August 21, 2021. Jennifer McDorr, organizer of Kindness Day spoke thanking the city for the support of the event.

Chairperson Park presented Chief of Police Michael Field with a Proclamation and City Chair for his 32 years and 9 months of service with the Police Department.

Ruth Lawson-Stopps gave a presentation regarding the Age-Friendly Communities of the Lower Kennebec.

C: Public Hearing 6:34pm:

- 1) New Liquor License for New Yum Mee Restaurant, LLC located at 67 Centre Street
(approval)

N O T I C E

THE MUNICIPAL OFFICERS OF THE CITY OF BATH WILL CONDUCT A
PUBLIC HEARING FOR APPROVING:

A **SPECIAL AMUSEMENT LICENSE** FOR:

**Bruno's Wood-Fired Pizzeria
128 Front Street
Robert Whisenant, Owner**

SAID PUBLIC HEARING WILL BE HELD ON **WEDNESDAY, AUGUST 18, 2021**
AT 6:01 P.M. IN THE COUNCIL CHAMBERS, 3RD FLOOR, AT CITY HALL, BATH,
MAINE, AND ALL PERSON(S) MAY APPEAR TO SHOW CAUSE WHY SAID
APPLICATION SHOULD OR SHOULD NOT BE APPROVED.

Darci L. Wheeler
CITY CLERK

Motion made by Councilor Leonard motioned to put on floor, seconded by Councilor DeChant.

Councilor Bailey questioned if this is a restaurant currently operating in another location. Councilor DeChant reported that the building had been purchased by the medical group.

VOTE ON ORDER:

YEAS: 6

NAYS: 0

Passed unanimously, 6-0

D. Consent Agenda 6:37pm

(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.)

***2) Minutes of the Bath City Council Meeting on July 7, 2021, (*Motion to Accept as Presented*)**

Motion made by Councilor Leonard to accept as presented, seconded by Councilor Ambrosino.

VOTE ON ORDER:

YEAS: 6

NAYS: 0

Passed unanimously, 6-0

E. Time Devoted to Residents to Address the City Council: 6:38pm None

F. Resolutions, Orders and Ordinances 7:17pm

3) Order approving Interim City Manager

**ORDER
APPROVING INTERIM CITY MANAGER**

WHEREAS, the incumbent City Manager, Peter H. Owen, will be leaving the position of City Manager effective August 20, 2021; and

WHEREAS, his absence will leave the position of City Manager vacant; and

WHEREAS, it is necessary and appropriate to provide for an Interim City Manager to fill the position of City Manager; and

WHEREAS, the City Council is required to appoint a City Manager for an indefinite term in accordance with the provisions of Section 301 of the City Charter; and

WHEREAS, it has been recommended that Marc S. Meyers, the current Assistant City Manager, fill the position of Interim City Manager; and

WHEREAS, Marc S. Meyers has, on a number of occasions, in the absence of the current City Manager, filled the position as Acting City Manager.

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Bath that Marc S. Meyers is hereby appointed the Interim City Manager for the City of Bath, effective August 21, 2021, and to remain in that position until a permanent City Manager is selected, approved by Council, and assumes the position of City Manager, or until further action of the Council.

Motion made by Councilor Leonard motioned to put on floor, seconded by Councilor Bailey.

VOTE ON ORDER:

YEAS: 6

NAYS: 0

Passed unanimously, 6-0

- 4) Order for Public Hearing and Notice of Public Hearing for Expenditure Limitation Charter Amendments

ORDER

FOR PUBLIC HEARING AND NOTICE OF PUBLIC HEARING

BE IT HEREBY ORDERED BY THE CITY COUNCIL OF THE CITY OF BATH THAT THAT THE CITY COUNCIL, AS MUNICIPAL OFFICERS OF THE CITY, HAVING DETERMINED IN ACCORDANCE WITH THEIR AUTHORITY UNDER 30-A M.R.S. § 2104 (1), THAT THERE ARE CERTAIN AMENDMENTS TO THE BATH CITY CHARTER THAT SHOULD BE CONSIDERED, DOES HEREBY PROVIDE BY THIS ORDER FOR NOTICE TO BE GIVEN OF A PUBLIC HEARING RELATING TO THE PROPOSED CHARTER AMENDMENTS, SAID PUBLIC HEARING TO BE HELD ON WEDNESDAY

THE 18TH DAY OF AUGUST, 2021, AT 6:00 P.M. IN THE CITY COUNCIL CHAMBERS ON THE 3RD FLOOR OF THE BATH CITY HALL, 55 FRONT STREET, BATH, MAINE. THE CITY CLERK IS INSTRUCTED TO CAUSE A NOTICE OF THIS PUBLIC HEARING TO BE PUBLISHED IN A NEWSPAPER HAVING A GENERAL CIRCULATION WITHIN THE CITY OF BATH AT LEAST SEVEN (7) DAYS PRIOR TO THE DATE OF THE HEARING THE NOTICE SHALL CONTAIN THE TEXT OF THE PROPOSED CHARTER AMENDMENT WITH A BRIEF EXPLANATION, ALL IN ACCORDANCE WITH THE PROVISIONS OF 30-A M.R.S. § 2104 (5). SUCH NOTICE SHALL ALSO BE POSTED IN THE SAME MANNER AS REQUIRED OF ORDINANCES UNDER § 221 OF THE CHARTER OF THE CITY OF BATH. THE TEXT OF THE PROPOSED CHARTER AMENDMENTS IS ATTACHED TO THIS ORDER AND WILL BE ATTACHED TO THE NOTICE OF PUBLIC HEARING.

Motion made by Councilor Leonard to accept as presented, seconded by Councilor Bailey.

City Manager Peter Owen stated that this isn't a repeal of the expenditure limitation, it is setting the date for the Public Hearing to discuss an amendment to the Charter. Juli Millett, Finance Director and Marc Meyers, Assistant City Manager would be presenting the changes.

VOTE ON ORDER:

YEAS: 6

NAYS: 0

Passed unanimously, 6-0

- 5) Order approving bid and contract for the Western Avenue, Academy Street and Cobb Road Storm Drain and Sewer Improvements Project

ORDER

APPROVING BID AND CONTRACT

BE IT HEREBY ORDERED BY THE CITY COUNCIL OF THE CITY OF BATH, THAT THE BID OF ST. LAURENT & SON, INC FOR THE 2021 BATH

WESTERN AVENUE, ACADEMY STREET AND COBB ROAD STORM DRAIN AND SEWER IMPROVEMENTS PROJECT IN THE AMOUNT OF \$1,549,215.00 IS ACCEPTED, IT BEING THE LOWEST QUALIFIED BID SUBMITTED, AND A CONTRACT BY AND BETWEEN THE CITY OF BATH AND ST. LAURENT & SON, INC IS HEREBY AUTHORIZED AND THE MANAGER IS AUTHORIZED TO EXECUTE THE CONTRACT AND ANY OTHER DOCUMENTS NECESSARY TO ITS IMPLEMENTATION ON BEHALF OF THE CITY OF BATH. THE PROJECT SHALL BE FUNDED FROM WASTEWATER (FUND 7) ACCOUNT 07-0703-758.

Motion made by Councilor Ambrosino motioned to put on floor, seconded by Councilor Dingley.

Public Works Director, Lee Leiner introduced the Order explaining it's the 2nd phase of 3 parts. He outlined where and how the repairs would take place. Councilor DeChant asked for illustration of how long it takes for action regarding the projects that are to be done.

VOTE ON ORDER:

YEAS: 5

NAYS: 0

Passed, 5-0

Councilor Dingley abstained.

5) Order approving bid and contract for the Commercial Street East Sidewalk Project

ORDER

APPROVING BID AND CONTRACT

BE IT HEREBY ORDERED BY THE CITY COUNCIL OF THE CITY OF BATH, THAT THE BID OF J. PRATT CONSTRUCTION, INC FOR THE COMMERCIAL STREET EAST SIDEWALK PROJECT IN THE AMOUNT OF \$458,081.63 IS ACCEPTED, IT BEING THE LOWEST QUALIFIED BID SUBMITTED, AND A CONTRACT BY AND BETWEEN THE CITY OF BATH AND

J. PRATT CONSTRUCTION, INC IS HEREBY AUTHORIZED AND THE MANAGER IS AUTHORIZED TO EXECUTE THE CONTRACT AND ANY OTHER DOCUMENTS NECESSARY TO ITS IMPLEMENTATION ON BEHALF OF THE CITY OF BATH. THE PROJECT SHALL BE FUNDED FROM CAPITAL ACCOUNT 05-0520-536.

Motion made by Councilor Leonard to accept as presented, seconded by Councilor DeChant.

Public Works Director Lee Leiner stated that the design process began in 2011. Councilor Bailey asked for clarification of location and the cooperative elements of the Riverwalk project. Councilor Dingley stated the amount of the project and inquired how much sidewalk that would be paying for. City Manager Peter Owen explained the necessity of this step in the Riverwalk Project process.

VOTE ON ORDER:

YEAS: 5

NAYS: 1

Passed, 5-1

7) Ordinance amendment Chapter 14-Sewers

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 14. SEWERS

Revoke existing Chapter 14, Sewers, and replace with the attached:

Motion made by Councilor Ambrosino motioned to put on floor, seconded by Councilor Leonard.

Public Works Director, Lee Leiner explained the amendments that would be taking place with this Ordinance. Councilor Leonard stated that this sounds that it is an update to the manual for sewers.

ROLL CALL VOTE:

YEAS: Councilors Ambrosino, Bailey, Nordmann, Leonard, DeChant, and Dingley

NAYS: None

Passed unanimously, 6-0

G. Petitions & Communications NONE

H. City Manager's Report 7:20pm

City Manager Peter Owen commended all the parties that assisted with the safe rescue of the Mary E, a Maritime Museum sailboat that had capsized in the river.

I. Committee Reports 7:22pm

Councilor Ambrosino reported that the agricultural subcommittee of the Community Development Committee had been reviewing composting, and food sovereignty. The Community Development Committee is making a recommendation to the Planning Board start drafting the update for Accessory Dwelling Units.

Councilor Bailey reported that the Transportation Committee received an update by Chief Andrew Booth regarding the South End Parking Permit program and it's moving forward with hopes of a January implementation.

Councilor Leonard, Chair, reported that the Rabies Ad hoc Committee is looking for a nod by Council in the direction that the committee should go in with their work. The committee needs buy in with other communities to move forward with a widespread rabies vaccine bait drop. The next step would be to establish relationships with other communities which would involve time and cost. Councilor Dingley reported her concerns with not moving ahead with the plan to vaccinate. Councilor DeChant expressed that the city would need to collaborate with other nearby communities. Councilor Bailey stated that this committee should continue with their work and reach out to other communities. Councilor Ambrosino expressed that she agrees with contacting other communities. Councilor Leonard stated the work that the Rabies Ad hoc Committee completed what they had intended to do. Councilor Nordmann explained that a committee with stakeholders to find a way to reach out to neighboring communities establishing costs and time commitment. Councilor Leonard stated that it would take 3 to 5 years commitment of \$150,000 each year for a vaccine bait drop. Councilor Leonard stated that the Rabies Ad hoc Committee can meet again to establish next steps to move forward but it's a much more involved effort. Councilor Chair Park expressed that it is critical that other communities need to buy in, or it won't be effective. Councilor DeChant supported to move forward to get community's support. Councilor Leonard stated that the work has been completed for the Ad hoc Committee in which it was originally set up. She said that she would reconvene the committee and decide the next steps.

Chairperson Park stated that the next report is the Remote Meeting Policy in regard to Council, Planning Board and Board Committees meeting remotely. This is a discussion conversation not looking for a vote currently. Assistant City Manager Marc Meyers gave the background on needing a policy if planning on continuing remote meetings and what specifics would be needed. Councilor Leonard clarified what Council is doing with this information. Councilor

Bailey appreciated that it was available during the State of Emergency but would like to make sure that residents that move away for a period cannot serve publicly. She stated that committee participation is strong with remote participation. Councilor Ambrosino clarified that each board or committee would have to adopt some policy to meet remotely. Councilor Leonard expressed that it is a huge effort to coordinate hybrid meetings. Councilor Dingley stated that the epidemic is not over, we are headed back to April of 2020. Her preference would be zoom meetings over meeting in person. Councilor Nordmann is prepared to attend in person meetings even in his delicate health. He is prepared to wear masks if need be at any of these meetings. Councilor Bailey first preference is in person. Councilor Ambrosino appreciates the intimacy of in person but does agree there is an increased participation with zoom. Councilor DeChant states that there is no easy answer. She expresses that when elected you show up, so she understands meeting in person. She states her concern of regressing and being less secure health wise. Chairperson Park states that he would like to know costs of hybrid meetings at the next meeting.

Councilor DeChant reported that the City Manager Search Committee is ongoing and on target.

Chairperson Park showcased the Facilities report.

Councilor Nordmann reported that the Bath Housing Committee is going thru a streamlined voluntary conversion. Winnegance Herring Committee is not meeting in August.

J. Unfinished Business 8:16pm

Councilor Bailey asked about the results from the recent properties that were put out to bid. Assistant City Manager Marc Meyers reported that 17 Bailey Street has an accepted bid over the minimum bid on Friday July 30th. The bidder has 60 days of due diligence.

K. New Business 8:18pm

- 8) Appointment of Louis (Roo) Dunn to the Planning Board term to expire September 2024
- Reappointment of Louis Ricciardone to the Solid Waste Advisory Committee term to expire July 2024
- Reappointment of Herman A. Nichols to the Old Bath Customs House Board term to expire August 2024
- Reappointment of Steve Zelinka to the Board of Assessment Review term to expire July 2024

Motion made by Councilor Ambrosino to accept as presented, seconded by Councilor Bailey.

VOTE ON ORDER:

YEAS: 6

NAYS: 0

Passed unanimously, 6-0

I. Councilor Announcements 8:20pm

Councilor Nordmann had visited with a lot of people while getting his nomination paperwork and wanted to recognize a resident on Floral Street for providing a bench for people to have a seat.

Councilor DeChant announced that Main St Bath will have another Movie in the Park on August 16th. The Elton John Cover Band will be a ticketed event on Labor Day weekend. Autumn Fest will be happening on October 9th and Old-Fashioned Christmas is coming up as well. Main Street Bath will also have an Ad hoc committee regarding the future of Bath Heritage Days.

Councilor Bailey announced that the Senior Center Newsletter for August is on its way. There is an open house at the Senior Center on August 24th. The sharing table from Merrymeeting Gleaners is still taking place from 1-4 on Tuesdays. The Bath Band is extending their season into September.

Councilor Ambrosino motioned to go into Executive Session, second by Councilor Dingley.

VOTE ON ORDER:

YEAS: 6

NAYS: 0

Passed unanimously, 6-0

EXECUTIVE SESSION:

Discuss Real Estate Matter per 1 MRSA §405(6)(C)

Councilor Ambrosino motioned to enter regular session at 8:51pm, seconded by Councilor Dingley.

ADJOURN

Councilor Ambrosino motioned to adjourn at 8:52pm, seconded by Councilor Bailey.

Meeting adjourned at 8:52pm.

Attest:

Darci L. Wheeler, City Clerk

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

Wednesday, August 18, 2021, 6:00 PM

Council Chambers

3rd Floor, City Hall

Present: Councilor Ambrosino, Councilor Bailey, Councilor Paulhus was absent, Councilor Nordmann, Councilor Leonard was absent, Vice Chairperson DeChant, Councilor Bauer, Councilor Dingley, and Chairperson Park.

Also, in attendance, the City Manager, Peter Owen, City Solicitor, Roger Therriault, and City Clerk, Darci Wheeler

Chairperson Park led the Pledge of Allegiance, City Clerk Darci Wheeler called the Roll.

Chairperson Park announced that there are agenda changes. An Order to approve the Wright Pierce Contract for McMann Building has been added. Item 6 will be discussed after Executive Session. The Meeting Policy Ordinance will need a public hearing in order to be discussed so that will be on agenda for September 1st.

C: Public Hearing 6:05pm:

- 1) New Special Amusement License for Bruno's Wood Fired Pizzeria located at 128 Front Street (*approval*)

N O T I C E

THE MUNICIPAL OFFICERS OF THE CITY OF BATH WILL CONDUCT A
PUBLIC HEARING FOR APPROVING:

A **SPECIAL AMUSEMENT LICENSE** FOR:

**Bruno's Wood-Fired Pizzeria
128 Front Street
Robert Whisenant, Owner**

SAID PUBLIC HEARING WILL BE HELD ON **WEDNESDAY, AUGUST 18, 2021
AT 6:01 P.M.** IN THE COUNCIL CHAMBERS, 3RD FLOOR, AT CITY HALL, BATH, MAINE, AND ALL PERSON(S) MAY APPEAR TO SHOW CAUSE WHY SAID APPLICATION SHOULD OR SHOULD NOT BE APPROVED.

Darci L. Wheeler
CITY CLERK

Motion made by Councilor Bauer to put on floor, seconded by Councilor Bailey.

City Clerk Darci Wheeler gave background on why a Special Amusement License is issued. Councilor Bailey questioned how many days and times of day amusement is happening and if the purveyor is aware of the sound ordinance.

No Public Comment.

VOTE ON ORDER:

YEAS: 6

NAYS: 0

Passed unanimously, 6-0

2) Ordinance Amendment to Chapter 14-Sewers (*second passage*)

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 14. SEWERS

Revoke existing Chapter 14, Sewers, and replace with the attached:

Motion made by Councilor Bauer to put on floor, seconded by Councilor Ambrosino.

Public Works Director Lee Leiner reviewed the amendments to the Ordinance that was presented at the last meeting. Finance Director, Juli Millett apologized for not mentioning this in the previous meeting, but Sewer and Water Bills will now follow the same payment schedule and be due in 30 days vs. 60 days.

No Public Comment.

ROLL CALL VOTE:

YEAS: Councilors Dingley, Bauer, DeChant, Nordmann, Bailey, and Ambrosino

NAYS: None

Passed unanimously, 6-0

3) Proposed Expenditure Limitation Charter Amendments to be put on Municipal Ballot for vote at the November 2, 2021, Election (*public hearing*)

Motion made by Councilor DeChant to put on floor, seconded by Councilor Dingley.

Presentation by Assistant City Manager Marc Meyers and Finance Director Juli Millett outlining the Amendments.

No Public Comment.

- 4) Order: Approval of Proposed Expenditure Limitation Charter Amendments to be put on Municipal Ballot for vote at the November 2, 2021, Election

ORDER

BE IT HEREBY ORDERED BY THE CITY COUNCIL OF THE CITY OF BATH THAT THE CITY COUNCIL, AS MUNICIPAL OFFICERS OF THE CITY, HAVING HELD A PUBLIC HEARING ON THE PROPOSED AMENDMENTS TO THE CHARTER OF THE CITY OF BATH, AND HAVING FURTHER DETERMINED THAT THE ELECTORATE SHOULD BE GIVEN THE OPPORTUNITY TO VOTE ON THE PROPOSED AMENDMENTS, DO HEREBY ORDER THAT THE AMENDMENTS, IN SUBSTANTIALLY THE FORM ATTACHED TO THIS ORDER, BE PLACED ON A BALLOT FOR THE NEXT REGULAR MUNICIPAL ELECTION, BEING THE MUNICIPAL ELECTION SCHEDULED FOR NOVEMBER 2, 2021, SAID ELECTION DATE BEING MORE THAN THIRTY (30) DAYS FROM THE DATE OF PASSAGE OF THIS ORDER.

Motion made by Councilor Ambrosino to put on floor, seconded by Councilor Bauer.

Councilor Ambrosino asked what the language would be on the ballot. Chairperson Park showcased the ballot which is in the packet. Councilor Ambrosino had concerns that the wording may not be clear to voters. Assistant Manager Marc Meyers stated that there will be a robust campaign regarding the amendments. Councilor DeChant inquired if there will be a fiscal impact to illustrate the point. Shana XXXX from Bernstein Shur stated that the recommendation would be not to do that. Councilor Ambrosino believes that examples are necessary. Councilor Bauer suggested information covered in public meetings could be condensed into handouts to pass around. Councilor DeChant believes that it should be all out there to be transparent. Councilor Bailey requested that the public meetings are recorded and understands the need for this. Councilor Bauer agrees that the ballot content needs to be worded to get the point across.

VOTE ON ORDER:

YEAS: 5

NAYS: 1

Passed, 5-1

5) Order: Approval of Wright Pierce Contract for McMann Building

**ORDER
APPROVING CONTRACT**

BE IT HEREBY ORDERED BY THE CITY COUNCIL OF THE CITY OF BATH THAT THE CONTRACT WITH WRIGHT-PIERCE FOR DESIGN, BIDDING AND CONSTRUCTION ADMINISTRATION SERVICES FOR THE MCMANN ATHLETIC COMPLEX MAINTENANCE BUILDING IN AN AMOUNT NOT TO EXCEED \$119,750.00 IS ACCEPTED, AND THE CITY MANAGER IS AUTHORIZED TO EXECUTE SAID CONTRACT AND ANY OTHER DOCUMENTS NECESSARY TO ITS IMPLEMENTATION ON BEHALF OF THE CITY OF BATH.

Motion made by Councilor Ambrosino to put on floor, seconded by Councilor Bauer.

Parks and Recreation Director, Steve Balboni gave the introduction of the Order and the movement into the next phase. This was part of the budget process that was approved in May.

VOTE ON ORDER:

YEAS: 5

NAYS: 1

Passed, 5-1

Councilor Ambrosino motioned to go into Executive Session at 6:50pm, second by Councilor Bauer.

VOTE:

YEAS: 6

NAYS: 0

Passed unanimously, 6-0

EXECUTIVE SESSION:

Discuss Real Estate Matters per 1 MRSA §405(6)(C)
Discuss Personnel Matters per 1 MRSA §405(6)(A)

Councilor Bauer motioned to close executive session at 7:27pm, seconded by Councilor Ambrosino.

VOTE:

YEAS: 6

NAYS: 0

Passed unanimously, 6-0

6) Order: Approving Employment Contract for Interim City Manager

AGREEMENT

THIS AGREEMENT, made and entered into this ____ day of August, 2021, by and between the **CITY OF BATH**, State of Maine, a municipal corporation, hereinafter called "Employer", as party of the first part, and **MARC S. MEYERS**, hereinafter called "Employee", as party of the second part, both of whom understand as follows:

WITNESSETH:

WHEREAS, Employer desires to employ the services of said Marc S. Meyers as Interim City Manager of the City of Bath, as provided by Section 301 of the Charter of the City of Bath; and

WHEREAS, it is the desire of the Governing Board, hereinafter called "Council", to provide certain benefits, establish certain conditions of employment and to set working conditions of said Employee; and

WHEREAS, it is the desire of the Council to (1) secure and retain the services of Employee and to provide inducement for him to remain in such employment; (2) to act as a deterrent against malfeasance or dishonesty for personal gain on the part of Employee, and (3) to provide a just means of terminating Employee's services at such time as he may be unable fully to discharge his duties due to age or disability or when Employer may otherwise desire to terminate his employ; and

WHEREAS, Employee desires to accept employment as Interim City Manager of said Bath;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follows:

Section 1. Powers & Duties

Employer hereby agrees to employ said Marc S. Meyers as the Interim City Manager of the City of Bath to perform the functions and duties of the City Manager as specified in Section 302 of the Charter of the City of Bath and to perform all other legally permissible and proper duties and functions as outlined in the Charter of the City of Bath or as the Council may from time to time assign, and to exercise all powers incumbent upon the City Manager.

The Interim City Manager shall have the specific authority to appoint an Assistant Manager who shall perform such duties as may be assigned by the Manager, in the administration of the City, and shall be designated as the Acting City Manager during periods of temporary absence or disability of the Interim City Manager.

Section 2. Term

A. Pursuant to the provisions of Section 301 of the Charter of the City of Bath, the parties hereto understand that the appointment of a City Manager is for an indefinite term. The term of this contract, however, shall be for an indefinite period commencing on August 21, 2021 and running until a new permanent City Manager has been selected to the position and has assumed the position of City Manager.

B. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Council to terminate the services of the Employee at any time, subject only to the provisions set forth in Section 4 of this Agreement.

C. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Employee to resign at any time from his position with Employer, subject only to the provisions set forth in Section 4, Paragraph C, of this Agreement.

Section 3. Suspension

Employer may suspend the Employee with full pay and benefits at any time during the term of this Agreement, but only if:

- 1) a majority of Council and Employee agree, or
- 2) after a public hearing, a majority of Council votes to suspend Employee for just cause provided, however, that Employee shall have been given written notice setting forth any charges at least ten (10) days prior to such hearing by Council members bringing such charges.

Section 4. Termination and Severance Pay

A. In the event Employee and the Council reach a mutual determination that the indefinite term served by the Employee as City Manager shall be concluded, and where the Employee is able to continue to perform his duties under this Agreement, then the Employer agrees to pay to the Employee a lump sum cash payment equal to two (2) month's aggregate

salary plus accumulated vacation time; provided, however, that in the event Employee is terminated because of his conviction of any illegal act involving personal gain to him or of malfeasance, then, in that event, Employer shall have no obligation to pay the aggregate severance sum designated in this paragraph.

B. In the event Employer at any time during the term of this Agreement reduces the salary or other financial benefits of Employee in a greater percentage than an applicable across-the-board reduction for all employees of Employer; or in the event Employer refuses, following written notice, to comply with any other provision benefiting the Employee herein, or the Employee resigns following a suggestion, whether formal or informal, by the Council that he resign, then, in that event, Employee, may, at his option, be deemed to be "terminated" at the date of such reduction or such refusal to comply within the meaning and context of the herein severance pay provision.

C. In the event Employee voluntarily resigns his position with Employer, then Employee shall give Employer forty-five (45) days notice in advance, unless the parties otherwise agree.

D. Removal of the City Manager for cause, shall be in accordance with the provisions of Section 304 of the Charter of the City of Bath. Such termination or removal shall be without severance pay or other compensation except for accrued vacation time.

E. In instances where there are fundamental differences in the management of the City or the conduct of City affairs, then the Employee and the Council agree that there shall be a period of thirty (30) days during which the Employee and the Council shall be required to attempt to resolve the differences through any discussions or dispute resolution techniques that may be acceptable to the parties. During this thirty (30) day period, and in order to allow the best opportunity possible to resolve any such differences, no formal action regarding the status of the Employee will be taken by either party.

Section 5. Disability

If Employee is permanently disabled or is otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity or health for a period of four (4) successive weeks beyond any accrued sick leave, or for twenty (20) working days over a thirty (30) working day period, Employer shall have the option to terminate this Agreement, subject to the severance pay requirements of Section 4. However, Employee shall be compensated for any accrued sick leave, vacation, holidays, compensatory time and other accrued benefits.

Section 6. Salary

Employer agrees to pay Employee for his services rendered pursuant hereto an annual base salary \$_____, payable in installments at the same time as other employees of the Employer are paid. Said annual base salary shall be reevaluated and adjusted in conjunction with, and upon completion of, the performance evaluation provisions of Section 7 of this Agreement, and in accordance with the yearly budget process.

Section 7. Performance Evaluation

A. The Council shall review and evaluate the performance of the Employee at least once annually in advance of the anniversary date of this Agreement. Said review and evaluation shall be in accordance with specific criteria developed jointly by Employer and Employee. Said criteria may be added to or deleted from as the Council may from time to time determine, in consultation with the Employee. Further the Chairman of City Council shall provide the Employee with a summary written statement of the findings of the Council and provide an adequate opportunity for the Employee to discuss his evaluation with the Council.

B. Annually, the Council shall define such goals and performance objectives which they determine necessary for the proper operation of the City and in the attainment of the Council's policy objectives and shall further establish a relative priority among those various goals and objectives, said goals and objectives to be reduced to writing. They shall generally be attainable within the time limitations as specified and the annual operating and capital budgets and appropriations provided.

C. In effecting the provisions of this Section, the Council and Employee mutually agree to abide by the provisions of the applicable law.

Section 8. Hours of Work

It is recognized that the position of City Manager is a full time position designed to accomplish the business of the City. In order to fulfill the job responsibilities it is often necessary that the Employee devote substantial time outside normal business office hours of the City of Bath. It is also understood between these parties that the work schedule of the City Manager, in view of substantial time outside business hours, will be erratic and there may be instances when the City Manager will not be available during normal business hours.

Section 9. Vacation, Sick and Military Leave

Employee shall be provided with twenty (20) days of vacation the first year after execution of this Agreement. Unused vacation leave may be carried forward up to the amount accrued during the preceding year. Employee will accrue sick leave at the same rate in effect for non-Union administrative employees. Twelve (12) days of sick leave, and paid holidays, in accordance with current benefits.

Section 10. Health and Other Appropriate Coverage

Employer agrees to provide hospitalization, surgical and comprehensive medical insurance, and other insurance coverage provided other management employees, for Employee and his dependents and to pay the premiums thereon equal to that which is provided all other employees of Employer.

Section 11. Retirement

The Interim City Manager shall continue participation as part of the Maine Public Employers Retirement System.

Section 12. Dues, Subscriptions, and Professional Development

Employer agrees to budget and to pay for the professional dues and subscriptions of Employee necessary for his membership and full participation in the Maine Town and City Management Association and the International City Management Association. The Employer agrees to pay, subject to the Budget process, the travel and subsistence expenses for the Employee's attendance at the ICMA annual convention, the Maine Municipal Association's annual convention and the Maine Town and City Managers' annual conference. Employer hereby also agrees to budget for and to pay the travel and subsistence expenses of Employee for travel when required to officially represent the Employer.

Employer also agrees to budget and to pay for the travel and subsistence expenses for Employee for short courses, institutes and seminars that are necessary for his professional development and for the good of the Employer. These expenditures are subject to the budget process and their expenditure is limited to amounts budgeted by the City Council in their annual budget adoption.

Section 13. General Expenses

Employer recognizes that certain expenses of a nonpersonal and job-affiliated nature are incurred by Employee, and hereby agrees to reimburse or to pay said general expenses as practical and budgeted.

Section 14. Civic Club Membership

Employer recognizes the desirability of representation in and before local civic and other organizations, and Employee is authorized to become a member of one such civic club or organization, for which Employer shall pay all expenses.

Section 15. Indemnification

Employer shall defend, save harmless and indemnify Employee against any tort, professional liability claim or demand or other legal action, barring gross negligence, arising out of an alleged act or omission occurring in the performance of Employee's duties, within the scope of his employment as City Manager. Employer will compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered thereon, on its own behalf or in accordance with the terms of applicable liability insurance policies. Nothing herein shall be deemed to be a waiver of any indemnity or protection offered to the City Manager or the City of Bath under the Maine Tort Claims Act.

Section 16. Bonding

Employer shall bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance.

Section 17. Other Terms and Conditions of Employment

A. The Council, in consultation with the Employee, shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the City Charter or any other law.

B. All provisions of the City Charter and Code, and regulations and rules of the Employer relating to holidays and other fringe benefits and working conditions, except those benefits enumerated herein specifically for the benefit of Employee, shall apply to the Employee as they would to other employees of the Employer, as they now exist or hereafter may be amended.

Section 18. No Reduction of Benefits

Employer shall not at any time during the term of this Agreement reduce the salary, compensation or other financial benefits of Employee, except to the degree of such a reduction across-the-board for all employees of the Employer.

Section 19. Notices

Notices pursuant to this Agreement shall be given by deposit in the custody of the United States Postal Service, postage prepaid, addressed as follows:

- (1) EMPLOYER: Aaron Park, Chair
Bath City Council
55 Front Street
Bath, Maine 04530
- (2) EMPLOYEE: Marc S. Meyers, Assistant City Manager
City of Bath, Maine
55 Front Street
Bath, Maine 04530

Alternatively, notices required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as of the date of deposit of such written notice in the course of transmission in the United States Postal Service.

Section 20. General Provisions

- A. The text herein shall constitute the entire Agreement between the parties.
- B. This agreement shall be binding upon and inure to the benefit of the heirs at law and executors of Employee.
- C. This Agreement shall become effective upon execution by the parties.

D. If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect.

IN WITNESS WHEREOF, the City of Bath has caused this Agreement to be signed and executed in its behalf by Aaron Park, Chair of the Bath City Council, and duly attested by its City Clerk, and approved as to form by its City Solicitor, and the Employee has signed and executed this Agreement, both in duplicate, the day and the year above written.

CITY OF BATH

By: Aaron Park
Chair, Bath City Council
City of Bath, State of Maine

DULY ATTESTED:

By: Darci L. Wheeler
City Clerk

(Seal)

APPROVED AS TO FORM:

By: Roger R. Therriault
City Solicitor

Marc S. Meyers
Employee

Motion made by Councilor Dingley to put on floor, seconded by Councilor Bauer.

VOTE ON ORDER:

YEAS: 6

NAYS: None

Passed unanimously, 6-0

ADJOURN

Councilor Bauer motioned to adjourn at 7:28pm, seconded by Councilor Ambrosino.

Meeting adjourned at 7:28pm.

Attest:

Darci L. Wheeler, City Clerk



CITY of BATH, MAINE

Office of the City Manager

Peter H. Owen, P. E.

55 Front Street

Bath, Maine 04530

Memorandum

To: Chair Park, Vice Chair DeChant and Members of the City Council

CC:

Date: August 27, 2021

From: Marc Meyers, Interim City Manager

RE: Remote Meeting Participation Policy

The City Council will be considering a remote meeting participation policy that will allow for remote participation by members in limited circumstances, pursuant to 1 Maine Revised Statutes Section 403-B.

Under this policy, City Councilors are expected to be physically present except for the below conditions. These conditions are outlined by state statute.

Conditions

- An emergency or urgent issue that requires the full Council to meet remotely
- An illness or other physical condition
- Temporary absence from the jurisdiction where traveling to the meeting would cause the member to face significant difficulties to attend in person.

For public participation, this policy allows for public participation by remote methods when the City Council or a member of City Council is participating remotely.

The City Council will be voting to adopt this policy to allow for remote meeting participation with limited circumstances.

ORDER- ADOPTION OF REMOTE MEETING PARTICIPATION POLICY

WHEREAS, the City Council of the City of Bath, pursuant to 1 M.R.S. Section 403-B, may adopt a policy for remote participation in public meetings and proceedings; and

WHEREAS, the City Council of the City of Bath has conducted a public hearing regarding said policy; and

NOW, THEREFORE, BE IT ORDERED, by the City Council of the City of Bath, that the City has adopted a Remote Meeting Participation Policy as official policy to allow its meetings to be held with remote participation in limited circumstances.

