

**OFFICIAL MINUTES OF THE BOARD OF TRUSTEES  
FOR THE VILLAGE OF BATH  
REGULAR MEETING  
JANUARY 18, 2022**

This meeting of the Board of Trustees of the Village of Bath was held on the 18th day of January 2022 at the Court Room of the Village Hall located at 110 Liberty Street, Bath NY 14810. This meeting was called to order by Mayor Michael Sweet at 5:30 p.m.

**Present:**

Mayor:	Michael Sweet
Deputy Mayor/Trustee:	Karen Causer
Trustee:	Melanie Coots
Trustee:	Jeffrey Muller
Trustee:	Mark Bardeen
Clerk/ Treasurer:	Jacqueline Shroyer
Street Supervisor:	Thomas Gutow
Code Enforcement:	Bradley Hill
Attorney:	Aaron Mullen
Fire Chief:	Matt Glashauser
Chief of Police:	Colin Taft
Director of Utilities:	Erin Bonacci
Street Asst Superintendent:	Mike Bly

**Absent:**

**Visitors/Residents in Attendance:**

Dylan Lewis – Resident  
Dana Grover – Empire Access  
Joshua McGraw – Empire Access  
Kelly Fitzpatrick – Business Owner  
Mike Horton – Resident  
Mary Gutow – Resident

**Audit of Bills:**

Motion made by Trustee Muller, seconded by Trustee Coots to approve the payment of the Village bills in the amount of \$151,003.89. All present were in favor and the motion was carried.

**Department Head Reports:**

**Thomas Gutow, Street Superintendent:**

Street Report was received.

**Colin Taft, Chief of Police:**

Police Report was received.

K-9 dog will be here Wednesday, January 26, 2022 at 4:00 p.m. He will be named after Donald B. "Bud" Robinson Jr.

**Approve Commendation for Jackson and Recktenwald:**

Motion made by Trustee Causer, seconded by Trustee Bardeen to approve the commendation for PO Jackson and Sgt Recktenwald. All present were in favor and the motion was carried.

Chief Taft presented the Officer of the Year award to Sgt. Cody Recktenwald.

**Bradley Hill, Code Enforcement:**

Code Enforcement Report was received.

**Matthew Glashauser, Fire Chief:**

Fire Department Report was received.

**Erin Bonacci, BEGWS Director:**

BEGWS Minutes were received for the month of November and December. Monthly report was received.

**Jacqueline Shroyer, Clerk/Treasurer Report:**

Clerk/Treasurer Report was received.

**New Business:**

**Accept Resignation of Asst Director – Thomas Posella:**

Motion made by Trustee Causer, seconded by Trustee Bardeen to approve the resignation of Assistant Director of Municipal Utilities, Thomas Posella, effective January 7, 2022. All present were in favor and the motion was carried.

**Accept Resignation of PT Meter Repair Specialist – Beau Roberson:**

Motion made by Trustee Coots, seconded by Trustee Causer to approve the resignation of Part Time Meter Repair Specialist, Beau Roberson, effective immediately. All present were in favor and the motion was carried.

**Approve K-9 Training School January 11-14 – Beau Roberson:**

Motion made by Trustee Coots, seconded by Trustee Bardeen to approve the K-9 Training School for Police Officer, Beau Roberson, from January 11 – 14, 2022. All present were in favor and the motion was carried.

**Town of Bath – Fire Agreement:**

Motion made by Trustee Muller, seconded by Trustee Bardeen to approve the Town of Bath Fire Agreement for 2022 in the amount of \$248,024.14. All present were in favor and the motion was carried.

**Town of Bath Lease Agreement:**

Motion made by Trustee Muller, seconded by Trustee Causer to approve the Town of Bath Lease Agreement for 2022 in the amount of \$23,500. All present were in favor and the motion was carried.

**Town of Bath Court Security Agreement:**

Motion made by Trustee Muller, seconded by Trustee Bardeen to approve the Town of Bath Court Security Agreement for January 2022 through December 31, 2023 in the amount of \$4,500 per year. All present were in favor and the motion as carried.

**Hotel Tax:**

RESOLUTION  
VILLAGE OF BATH BOARD OF TRUSTEES  
BATH, NEW YORK

DATE APPROVED: Tuesday, January 18, 2022 INTRO. DATE: Tuesday, January 18, 2022

INTRODUCED BY: Trustee Bardeen SECONDED BY: Trustee Coots

VOTE:	Mayor Sweet	<b>Aye</b>	Nay	Abstain	Absent
	Trustee Causer	<b>Aye</b>	Nay	Abstain	Absent
	Trustee Bardeen	<b>Aye</b>	Nay	Abstain	Absent
	Trustee Coots	<b>Aye</b>	Nay	Abstain	Absent
	Trustee Muller	<b>Aye</b>	Nay	Abstain	Absent

**VILLAGE OF BATH  
BOARD OF TRUSTEES RESOLUTION**

**SUBMITTING A HOME RULE REQUEST  
FOR THE IMPOSITION OF A HOTEL TAX**

WHEREAS, the Village of Bath [Village] has secured an economic study demonstrating the erosion of the commercial base within the Village; and

WHEREAS, the Village desires to create a source of funds designated to rejuvenate the commercial base within the Village within the general fund of the Village; and

NOW, THEREFORE BE IT RESOLVED that this Board of Trustees hereby approves the terms of the attached request for Home Rule authorization pursuant to Home Rule Law section 10 on behalf of the Village granting to the Village authorization to impose a Hotel Tax by local law as provided under the requested amendment of Tax Law section 1202;

AND BE IT FURTHER, RESOLVED that the Mayor is authorized and directed to make the necessary filing(s) with the State General Assembly together with such other filings and requirements therefrom to secure the requested authorization.

Dated: January 18, 2022

**VILLAGE OF BATH  
BOARD OF TRUSTEES RESOLUTION**

**SUBMITTING A HOME RULE REQUEST  
FOR THE IMPOSITION OF A HOTEL TAX**

**REQUESTED STATURORY AMENDMENT  
TO ARTICLE 29 OF THETAX LAW**

- (1) Notwithstanding any other provision of law to the contrary, the Village of Bath is hereby authorized and empowered to adopt and amend local laws imposing a tax on persons occupying rooms in hotels or motels in such village as the legislature has or would have the power and authority to impose, in addition to any other tax imposed pursuant to this article.
- (2) For purposes of this section, the term “hotel” shall mean a building or portion of it which is regularly used and kept open as such for lodging of guests. The term “hotel” includes an apartment hotel, a motel or a boarding house, whether or not meals are served.
- (3) The rate of such tax shall not exceed two percent of the per diem rental rate for each room whether such room is rented on a daily or longer basis.
- (4) Such tax may be collected and administered by the commissioner of finance or other fiscal officer of the village of Bath as the case may be by such means and in such manner as other taxes which are now collected and administered by such officers in accordance with the village charter or as otherwise prescribed by law.
- (5) Such local laws may provide that any tax imposed shall be paid by the person liable therefor to the owner of the hotel or motel room occupied of to the person entitled to be paid the rent or charge for the hotel or motel room occupied for and on account of the Village of Bath imposing the tax, and that such owner or person entitled to be paid the rent of charge shall be liable for the collection and payment of the tax; and that such owner or person entitled to be paid the rent or charge shall have the same right in respect to collecting the tax from the person occupying the hotel or motel room, or in respect to nonpayment of the tax by the person occupying the hotel room, as if the tax were a part of the rent or charge and payable as the same time as the rent or charge; provided, however that the commissioner of finance or other official of the Village of Bath shall be joined as a party in any action or proceeding brought to collect the tax by the owner or by the person entitled to be paid the rent or charge.

- (6) Such local laws may provide for the filing of returns and the payment of the tax on a monthly basis or on the basis of any longer or shorter period of time.
- (7) This section shall not authorize the imposition of such tax upon the following:
  - (a) The State of New York or any public corporation created pursuant to agreement or compact with another state or the dominion of Canada, improvement district or other political subdivision of the state;
  - (b) The United States of America, insofar as it is immune from taxation; and
  - (c) Any corporation or association or trust or community chest, fund or foundation organized and operated exclusively for religious, charitable or educational purposes or for the prevention of cruelty to children or animals, and no part of the net earnings of which inures to the benefit of any private shareholder or individual and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation; provided, however, that nothing in this paragraph shall include an organization operated for the primary purpose of carrying on a trade or business for profit, whether or not all of its profits are payable to one or more organizations described in this paragraph.
- (8) Any final determination of the amount of any tax payable hereunder shall be reviewable for error, illegality or unconstitutionality or any other reason whatsoever by a proceeding under article seventy-eight of the civil practice law and rules if application therefore is made to the supreme court within thirty days after giving of the notice of final determination, provided such proceeding under article seventy-eight of the civil practice law and rule shall not be instituted unless:
  - (a) The amount of any tax sought to be reviewed, with such interest and penalties thereon as may be provided for by such local law or regulation shall be first deposited and there is filed an undertaking, issued by a surety company authorized to transact business in this state and approved by the superintendent of financial services of this state as to the solvency and responsibility, in such an amount as a justice of the supreme court approve to the effect that if the proceeding be dismissed or the tax confirmed the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding;
  - (b) At the option of the petitioner such undertaking may be in a sum sufficient to cover the taxes, interest and penalties stated in such determination plus the costs and charges which may accrue against it in the prosecution of the proceeding, in which event the petitioner shall not be required to pay such taxes, interest and penalties as a condition precedent to the application.
- (9) Where any tax imposed hereunder shall have erroneously or illegally or unconstitutionally collected and application for the refund thereof duly made to the proper fiscal officer or officers, and such officer or officers shall have made a determination denying such refund such determination shall be reviewable by a proceeding under article seventy-eight of the civil law and rules, provided that such proceeding is instituted within thirty days after giving notice of the denial, that a final determination of the tax due was not previously made, and under that an undertaking is filed with the proper fiscal officer or officers in such an amount and with such sureties as a justice of the supreme court shall approve to the effect that if such proceeding be dismissed or the tax confirmed, the petitioner will pay all costs and charges which accrue in the prosecution of such proceeding.
- (10) Except in the case of a willfully false or fraudulent return with intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three years from the

date of the filing of the return, provided, however, that where no return has been filed as provided by law the tax may be assessed at any time.

- (11) Revenues resulting from the imposition of the tax authorized by this section shall be paid into the treasury of the Village of Bath and shall be credited to and deposited in the general fund of the Village of Bath and may thereafter be allocated at the discretion of the board of legislators of the Village of Bath for any village purpose.
- (12) If any provision of this section or application thereof or circumstance shall be held to be invalid, the remainder of this section and the application of such provision to other persons or circumstances shall not be affected thereby.
- (13) Each enactment of such a local law may provide for the imposition of a hotel or motel tax for a period of time no longer than three years from the enactment date of its enactment shall prohibit the adoption and enactment of local laws, pursuant to the provisions of this section, upon the expiration of any other local law adopted pursuant to this section.

**Smoking Law – Set Public Hearing:**

Motion made by Trustee Causer, seconded by Trustee Coots to set the public hearing on the updated smoking law for Tuesday, February 22, 2022 at 5:30 p.m. All present were in favor and the motion was carried.

**Franchise Agreement:**

Motion made by Trustee Coots, seconded by Trustee Causer to approve the Franchise Agreement with Charter Communications, Inc. for a 10 year agreement for five percent of annual gross revenues, contingent on Erin Bonacci locating the most current Pole Attachment Agreement. All present were in favor and the motion was carried.

**IT Service Quote:**

Motion made by Trustee Coots, seconded by Trustee Bardeen to approve the quote from CPE IT Services for computer IT services for all Village computers for \$990.00 per month. All present were in favor and the motion was carried.

**Old Generator – Surplus:**

Motion made by Trustee Muller, seconded by Trustee Causer to claim the old generator as surplus and scrap it. All present were in favor and the motion was carried.

**Adjourn Regular Meeting/Executive Session:**

Motion made by Trustee Muller, seconded by Trustee Bardeen to adjourn the regular meeting of the Board of Trustees of the Village of Bath at 6:30 p.m. to go into executive session for contract purposes, and for the medical, financial, credit, or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal, or removal of a particular person or corporation. All present were in favor and the motion was carried.

**Colin Taft, Chief of Police, asked to stay in executive session. Left at 7:01 p.m.**

**Brad Hill, Code Enforcement, asked to join executive at 7:02 p.m. Left at 7:17 p.m.**

**Return to Regular Session:**

Motion made by Trustee Muller, seconded by Trustee Coots to return to regular session at 7:34 p.m. All present were in favor and the motion was carried.

**Retiree Insurance:**

Motion made by Trustee Coots, seconded by Trustee Bardeen to change our Retiree Medicare Supplement Insurance from Excellus to Aetna Plan 2. This is similar insurance with cost savings. All present were in favor and the motion was carried.

**Adjournment:**

Motion made by Trustee Bardeen, seconded by Trustee Causer to adjourn the regular meeting at 7:35 p.m. All present were in favor and the motion was carried.

Respectfully submitted by:

Jacqueline Shroyer  
Clerk/Treasurer