

TOWN OF BATH COUNCIL MEETING

Tuesday, May 17, 2022

1. CALL TO ORDER: @ 5:30pm by Mayor
2. ROLL CALL: Scott Merki (X) Susan Webster (X) Chris Chapman (X) Rose Jackson (X) Elizabeth Skinner (A) Greg Forney (X) Rick Weber (A) Quorum present.
3. REVIEW OF MINUTES: Minutes of the Regular Meeting of May 3, 2022 were approved by Common Consent.
4. PERSONS BEFORE COUNCIL: None at this time.
5. COMMUNICATION FROM MAYOR: Recorder Webster presented the West Virginia First Memorandum of Understanding regarding the Opioid settlement which the Finance Committee had reviewed (see attached). West Virginia counties and municipalities that agree to the MOU are eligible to receive payment from this settlement with stipulations on the use of the funds.
MOTION: To accept the West Virginia MOU regarding the Opioid settlement as presented- Webster/Chapman – Carried.
Recorder Webster presented the Depot Interior Rehab Construction contract which was reviewed by the Finance Committee.
MOTION: To accept the Depot Interior Rehab Construction contract as presented- Webster/Forney- Carried.

COMMITTEE AND BOARD REPORTS

1. BATH DEVELOPMENT AUTHORITY: No report at this time.
2. PARKS & REC: Next meeting is May 18, 2022. The Town requests those who may be interested in serving as Town representatives on this board to complete a volunteer form found on the Town website or in the office.
3. PLANNING COMMISSION: President Landon has formed sub-committees to work on specific aspects of the responsibilities of the Planning Commission. He thanked Recorder Webster for her work on the Depot Rehab Project. Landon informed Council that the BDA is going to have a 'Sandbox' meeting to gather the heads of projects in the community to learn of the goals and needs of each project.
4. RAIL/TRAIL: Committee Co-Chairman Pete Brown has submitted progress reports to the Town office. He explained on-going work with the engineers and the WV DOH (see attached)
5. STREETSCAPE: Committee Co-Chair Pete Brown has submitted reports to the Town office (see attached). Work with Jeff Gola of Thrasher Engineering Group continues. It is Brown's understanding that Rt. 522 (Washington Street) is to be repaved by the WV DOH this summer.
6. TRAIN DEPOT: Recorder Webster advised Council that the Pre-Construction meeting for the Depot Interior Rehab Project will be Friday, May 20, 2022. The

work on the project is to begin Monday, May 23, 2022.

7. LANDMARK COMMISSION: No report at this time.
8. CLERK/RECORDER REPORT: Recorder Webster was asked to assist the Ordinance Committee on property improvement acceptance documents. She presented her work for review of Council.
9. FINANCE: Chairwoman Webster presented the following bills for approval.
 - (a) Town of Bath \$14,238.50- Motion to approve: Forney/Webster- Carried
 - (b) BS Water \$57,492.59- Motion to approve: Forney/Webster- Carried
 - (c) Tree Board \$600.00 – Motion to approve: Forney/Webster- Carried
10. TREE BOARD: No report at this time.
11. PUBLIC SAFETY: No report at this time.
12. PUBLIC WORKS: No report at this time.
13. ORDINANCE: Councilman Chapman proposed the repeal and replacement of Town of Bath Chapter 18-57. He presented for First Reading the revised Section 18-57 which establishes a general business license fee of \$20.00 (see attached).

MOTION: To accept for First Reading the repeal and replacement of Town of Bath Chapter 18, Article II, Division 2, Section 18-57 – License Fee: Chapman/Jackson- Carried.

Councilman Chapman proposed the repeal and replacement of the Town of Bath Code concerning alcoholic beverage sales to be in compliance with WV State Code (see attached).

MOTION: To accept for First Reading the repeal and replacement of Town of Bath Chapter 6, Article II, Section 6-28 concerning the beverage sales license ordinance- Chapman/Jackson- Carried.

Since both ordinances concern the raising of revenue for Bath public hearings have to be scheduled.
14. CEMETERY: No report at this time.
15. GRANT: Chairman Forney informed Council that the award of Sen. Capito's earmark grants should be made in late summer.
16. BERKELEY SPRINGS WATER WORKS: Chairman Chapman reported that the WV Board of Public Health/EPA requirement of the BSWW to collect accurate information concerning the type of plumbing in customer's home plumbing (including entering the dwelling for inspection) is being taken to the Town's Attorney for advice.
17. MOTION TO ADJOURN: Approved by Common Consent.

Attest:

Mayor Scott E. Miller

Recorder Stacy Webster

From: Paula J. Price <Paula.J.Price@wvago.gov>
Sent: Wednesday, May 11, 2022 3:39 PM
To: undisclosed-recipients:
Subject: West Virginia First MOU and Endo Release

I am writing to follow-up on a letter Attorney General Morrissey sent on April 12, 2022 asking that you review and approve the West Virginia First MOU and the Endo Release.

There are two sources of funding available to cities through the MOU. First, the direct share that can be used for approved abatement-related services is reflected in the MOU. Second, city and counties are able to request funding for approved services from the foundation for abatement purposes, including law enforcement funding.

It is imperative that we receive the approved MOU as quickly as possible because it aids in our negotiations with other defendants in the opioid suits. Then, with each settlement with entities in the opioid pharmaceutical supply chain, there will be a sign-on sheet that each city will need to approve to receive the funding from that particular settlement.

The second document is related to our settlement with opioid manufacturer Endo Pharmaceuticals. Currently, we are asking for local governments to sign-on to the Endo settlement, which is a \$26,000,000 settlement.

We need your completed sign-on to both the MOU and the Endo agreement by June 1, 2022.

You may review these documents by clicking the following link: <https://wvago.sharefile.com/share/view/s4e011892e174460ba52677efba867059>

If you have any questions, or believe you have received this email in error, please feel free to contact me or Ann Haight at (304) 558-8986.

Vaughn T. Sizemore

Deputy Attorney General

**Status of Streetscape, State Park and NBRT for Town Council
Monday May 16, 2022**

STREETSCAPE

Phase V:

• **Design Contract:**

We are still working toward five documents:

1. The DOH/Thrasher "Scope of Work" Document, including an audited overhead rate and certified labor rates. Thrasher sent all this to DOH last week. No response yet, will check with DOH and Thrasher this week. We can't make progress until this is complete.
 2. A Town Task Order that will deliver that Scope. Thrasher has a draft proposal for this; waiting for DOH to accept the rates, etc from #1 above.
 3. A formal Contract Document. See #2 above – Thrasher will provide a draft contract document. So far, there is no reason the Town cannot sign a contract while awaiting the results of #4 and #5 below. I have not seen the Draft Contract language
 4. A DOH/Town/FHWA Design Funding Agreement. We commented on a Draft Agreement last week. Fixed the Scope to be what the Town expected in the approved TA Construction Grant.
 5. A formal "Notice to Proceed from DOH". This will follow the completion of #4 above.
- **Contract Process is still Business Sensitive until an Award.**

Phase VI (DOH call for FY22 TA Grant Applications)

- **Streets/Block Faces being identified for Town Review:** (from Spring 2021 Rain Garden Public Input)
 - Balance of Lighting that may be deferred from Phase V; Mercer St ++
 - Congress St – from North Washington to Green Street
 - Union St – from North Washington to Mercer Street
 - Intent to Apply (ITA) for a Design Grant due: May 23rd
 - Application in Draft; will enter into DOH system this week (Pete & Sally)
 - Verifying potential Design Grant estimate with Thrasher (\$60K total; \$48K/\$12K)
 - Full Application for a Design Grant due: June 30th
- Pete & Sally will take care of the ITA on-line application.

Plan to Attend the Town's May 19th SandBox Session with other project leaders

NBRT

Parcel 1A:

- Joel conversation with DOH (Graley)
 - Design of the two bridges will be completed by HDR
 - A couple of items still needed from County and HDR (1 or 2 weeks)
 - Package can move forward after that – still looking for a Design/Build contract solicitation

Parcel 1B: Storm Water Management (SWM) Project (CBT Grant)

- Contractor informed to proceed with final detailed design package and cost estimate after discussion at April 5th Finance Committee meeting
- Anticipate completion of this contract work by end of June, no-cost extension has been requested from CBT.

Berkeley Springs State Park Grant & Project

Status:

- Awaiting FHWA Approval of the project – was sent to FHWA on April 8th
- Will update status this week. DOH believes it should be accepted and returned to DOH "soon."

Pete Brown
571-213-3687

Proposed New Business License Ordinance

The Code of the Town of Bath, West Virginia, Chapter 18, Article II, Division 2, Section 18-57, License fee, is hereby repealed in full and replaced with the following:

Section 18-57 License fee.

Except where a business license tax has been established elsewhere in Chapter 18 herein, licensees shall be issued a general business license for a fee of \$20.00 per year, plus any applicable additional filing fees, license fees or service fees. Nothing in this section shall be interpreted to exempt any licensee from additional requirements set forth herein that may be applicable for specific types of businesses.

Proposed New Alcoholic Beverages Ordinance

The Code of the Town of Bath, West Virginia, Chapter 6, Article II, Section 6-28, is hereby repealed and replaced as follows:

Sec. 6-28. Town license required for wine sales.

- (a) Every person licensed by the state pursuant to the provisions of article 8, chapter 60 of the Code of West Virginia, whether as a distributor or retailer of wine and who does business as such within the town shall obtain a town license as provided for in this article.
- (b) The town shall collect an annual license tax as follows:
 - (1) For a distributor's license, \$2,500 per year.
 - (2) For a retailer's license, \$150 per year.
 - (3) For a wine specialty shop, \$250 per year.
 - (4) For a wine specialty shop with tasting or sampling, \$400.
 - (5) For a wine tasting license, \$150
 - (6) For a private wine restaurant serving wine only, \$250.
 - (7) For a private wine restaurant serving wine and nonintoxicating beer only, \$400.
- (c) The license period shall begin on July 1 of each year, and end on June 30 of the following year. If the initial license is granted for less than a year, the fee shall be computed in proportion to the number of quarters remaining in the fiscal year, including the quarter in which application is made.
- (d) A retailer who more than one place of retail business shall obtain a license for each separate retail establishment. A retailer's license may be issued only to the proprietor or owner of a bona fide grocery store or wine specialty shop.

The Code of the Town of Bath, West Virginia, Chapter 6, Article II, is hereby amended as follows:

Sec. 6-29. Town license required for intoxicating liquor sales.

- (a) The town shall collect an annual license tax for retail liquor sales (class A/class B) of \$1,500.

The Code of the Town of Bath, West Virginia, Chapter 6, Article III, Sections 6-60 and 6-61, are hereby repealed and replaced as follows:

Sec. 6-60. Town license required for beer sales.

- (a) Every person licensed by the state pursuant to the provisions of article 16, chapter 11 of the Code of West Virginia, whether as a retailer, private club, wholesaler or brewer of nonintoxicating beer and who does business as such within the town shall obtain town license as provided in this article, provided that nothing contained in this article, and no license or payment under the provisions hereof, shall be taken to legalize any act which otherwise may be in violation of law, or exempt any person from any penalty prescribed for such violation. Upon the issuance of a town license, the licensee shall display it at all time in a conspicuous

place upon the premises thereby licensed. Town licenses under this article shall not be transferable. A license shall be required for each place of business and a full tax paid for each such place of business.

Sec. 6-61. Town License tax for beer sales.

There is hereby levied and imposed by annual license tax upon all brewers and dealers, as covered under section 6-60, in or of nonintoxicating beer within the town, which license period shall begin on July 1 of the following year, and if granted for a shorter period, the same shall be computed quarterly in proportion to the remainder of the fiscal year as follows:

- (1) Retail dealers shall be divided into two classes, Class A and Class B:
 - a. In the case of Class A retail dealer, the license fee shall be \$150.00 for each place of business; the license fee for social, fraternal or private clubs not operating for profit, and having been in continuous operation for five years or more immediately preceding the date of application, shall be \$150.00. Class A license issued for social, fraternal, or private clubs as herein provided, shall authorize the licensee to sell nonintoxicating beer at retail for consumption only on the licensed premises where sold. All other Class A licenses shall authorize the licensee to sell nonintoxicating beer at retail for consumption on or off the licensed premises.
 - b. In the case of Class B retailer the fee for a Class B license authorizing the sale of chilled and un-chilled beer shall be \$150.00. A Class B license shall authorize the licensee to sell nonintoxicating beer at retail in bottles, cans, or other sealed containers only, and only for consumption off the licensed premises. Sales under this license to any person at any one time must be in less quantities than five gallons. Such license may be issued only to the proprietor or owner of a grocery store. For the purpose of this section, the term "grocery store" means and includes any retail establishment commonly known as a grocery store or delicatessen, and caterer or party supply store where food or food products are sold for consumption off premises and includes a separate and segregated portion of any other retail store which is dedicated solely to the sale of food, food products and supplies for the table for consumption off the premises.
- (2) In the case of a distributor, the license fee shall be \$1,000.00 for each place of business.
- (3) In the case of a brewery with its principal place of business located in the town:
 - a. Who produces twelve thousand five hundred barrels or less of nonintoxicating beer or nonintoxicating craft beer, the license fee shall be \$500.00 for each place of manufacture.
 - b. Who produces twelve thousand five hundred one barrels and up to 25,000 barrels of nonintoxicating beer or nonintoxicating craft beer, the license fee shall be \$1,000 for each place of manufacture.
- (4) In the case of a tavern serving nonintoxicating beer only, the license fee is \$150.00

The Code of the Town of Bath, West Virginia, Chapter 6, Article IV, Section 6-89 is hereby repealed.

The Code of the Town of Bath, West Virginia, Chapter 6, Article IV, Section 6-90, is hereby repealed and replaced as follows:

Sec. 6-90. Application and fee.

- (a) Application for a license to operate a private club shall be made to the town and shall include:
- (1) The name of the applicant;
 - (2) If such applicant is an incorporated association, the names and addresses of the members of its governing board;
 - (3) If such applicant is a corporation, the names and addresses of its officers and directors;
 - (4) The place at which such applicant shall conduct its operation and whether the same is owned or leased by the applicant;
 - (5) The name of members of the applicant;
 - (6) The names of any national organizations with which the applicant is affiliated and the nature of such affiliation.

It shall be sufficient for the purpose of submitting such application to submit a copy of the application of such private club made to the state for a state license to operate such private club.

- (b) A license fee is hereby established, as follows:
- (1) Fraternal or veteran organizations, nonprofit social clubs: \$500.00.
 - (2) Private clubs other than those in subsections (b)(1) and (2) of this section with less than 1,000 members serving liquor, wine, and non-intoxicating beer: \$750.00.
 - (3) Private clubs other than those in subsections (b)(1) and (2) of this section with more than 1,000 members serving liquor, wine and non-intoxicating beer: \$1,250.00.
 - (4) The fee for any such license issued following January 1 of any year and to expire on June 30 of such year shall be one-half of the annual fee noted in subsections (b)(1), (2), (3), and (4).

BUSINESS LICENSE APPLICATION

Lic. # _____

TOWN OF BATH
271 WILKES STREET
BERKELEY SPRINGS, WV 25411
BUSINESS LICENSE APPLICATION

(date where it's applicable goes here, typically July 1, 20xx to June 30 20xx+1)

*** REQUIRED**

- * Name of Business: _____
- * Name of Owner: _____
- * Business Address: _____
- * Mailing Address (if different): _____
- * Phone: (____) _____ - _____ *Emergency Phone: (____) _____ - _____
- * Business Phone: (____) _____ - _____
- * Email Address: _____
- * W.V. State Tax Account No. _____ Issued On: ____/____/____

Business License Category					
Check Applicable Category			Retail Liquor Outlet		
	General Business Lic. (WV Code 8-13-4)	\$20.00		Class A Liquor Store Lic. (WV Code 60-3A-12)	\$1,500.00
				Class B Liquor Store Lic. (WV Code 60-3A-12)	\$1,500.00
			Private Clubs		
			Less Than 1,000 Members (WV Code 60-7-6)		\$750.00
Wine			More Than 1,000 Members (WV Code 60-7-6)		\$1,250.00
	Retail Wine Sales Lic. (WV Code 60-8-3)	\$150.00		Fraternal, Veterans, Non-profit Serving Lic. (WV Code 60-7-6)	\$500.00
	Wine Distributor Lic. (WV Code 60-8-3)	\$2,500.00			
	Wine Specialty Shop (WV Code 60-8-3)	\$250.00			
	Wine Tasting Lic. (WV Code 60-8-3)	\$150.00	Bear		
				Class A Retail Dealer Lic. (WV Code 11-16-9)	\$150.00
	Private Wine Restaurant – Wine Only (WV Code 11-16-9)	\$250.00		Class B Chilled and Un-chilled Beer Only Lic. (WV Code 11-16-9)	\$150.00
				Private Wine Restaurant – Wine & Nonintoxicating Beer Only (WV Code 11-16-9)	\$400.00

Beer					
	Beer Distributor Lic. (WV Code 11-16-9)	\$1,000.00		Brewery Producing 12,501 Barrels or More Lic. (WV Code 11-16-9)	\$1,000.00
	Brewery Producing 12,500 Barrels or Less (WV Code 11-16-9)	\$500.00			
				Tavern Serving Nonintoxicating Beer Only	\$150.00

DAYCARE OPERATORS ONLY: WV DEPT HEALTH & HUMAN RESOURCES PERMIT #: _____

*A copy of your WV Dept. of Health & Human Resources permit MUST accompany this application.

WV STATE BUSINESS REGISTRATION NUMBER: _____

*A copy of your WV State Business Registration Certificate MUST accompany this application

CONTRACTORS ONLY: WV STATE CONTRACTORS LICENSE NUMBER: _____

*A signed copy of your WV State Contractors License MUST accompany this application

FOOD SERVICE ONLY: HEALTH PERMIT NUMBER: _____

*A copy of your Health Inspection Report and Health Permit MUST accompany this application

IF YOUR BUSINESS SELLS, PRODUCES, DELIVERS, DISTRIBUTES, AND/OR SERVES ALCOHOL FOR CONSUMPTION:
WVABCC LICENSE NUMBER: _____

IF YOUR BUSINESS DESIRES TO PURCHASE GOLD, SILVER, OR OTHER PRECIOUS METALS, JEWELS OR OTHER PRODUCTS YOU MUST REPORT YOUR PURCHASES TO THE TOWN OF BATH POLICE DEPT AND COMPLY WITH ARTICLE III OF THE BUSINESSES AND BUSINESS REGULATION SECTION OF THE TOWN OF BATH MUNICIPAL CODE. Printed name: _____ Signature: _____ Date: __/__/__

Authorized Signature of Business: By signing below, I do hereby certify and declare, under the penalty of perjury, that the information furnished in this application is true, complete and accurate to the best of my knowledge.

Signature of Business Owner or Authorized Agent. Date: __/__/__ Title: _____