

TOWN OF BATH COUNCIL MEETING

June 18, 2024

1. Call to ORDER: @ 5:30pm by Mayor.
2. ROLL CALL: Scott Merki (X) Susan Webster (X) Elizabeth Skinner (X) Greg Schene (X) Rebecca MacLeod (X) Mary Lynn Hickey (X) Dave O'Connell (X) Quorum present.
3. REVIEW OF MINUTES: Minutes of the Regular Meeting of June 4, 2024 were approved by Common Consent.
Mayor Merki opened the meeting with the Town of Bath Municipal Sales Tax Ordinance 2024-05-17 Public Hearing. This hearing was a formal proceeding held in order for the Council to receive opinions and take questions from all interested parties on the proposed action of Council to enact a 1% Sales Tax on allowable goods and services in the Town of Bath. The Hearing was properly noticed. The sign-in sheet is attached.
All in attendance were permitted to speak. Concerns were expressed pertaining to difficulties of the current economic stress and fear that business will be lost to competition outside of Bath. Discussion ensued and questions were asked and answered.
When all had spoken Mayor Merki ended the Public Hearing.
4. PERSONS BEFORE COUNCIL: John Paul De Marinis, representing Morgan County Jeepers, submitted a Facilities Use Form (attached) requesting that the parking meters on the west side South Washington Street along the Berkeley Springs State Park be reserved from 4:30 to 8:30 on the following Saturdays: July 13, August 10, September 14, October 26 and December 14.
MOTION: To permit the Jeepers in the Park Facilities Use Application as presented – Webster/Hickey- Carried
5. COMMUNICATION FROM MAYOR: The Mayor informed Council that he had signed a letter (attached) supporting the FY 2023 Active Transportation Infrastructure Investment Program for the Morgan County Commission.

COMMITTEE AND BOARD REPORTS

1. BATH DEVELOPMENT AUTHORITY (BDA): The next meeting is July 3 at 4:30 in the County Commission Room of the Courthouse. There will be an update on the On Trac program.
2. PARKS & REC: The next meeting is June 19. No report at this time.
3. PLANNING COMMISSION (PC): The next meeting is June 11. The meeting will be with the Bath Development Authority.
4. RAIL/TRAIL (NBRT): The next meeting is June 26. Pete Brown explained the DEP Consent Order issued under the Water Pollution Control Act of West Virginia to the Town of Bath and the accompanying Resolution 2024-06-02 (both attached). This action has been taken by the WV DEP due to the violation committed by the W. F.

Carper, Mayor Merki recommended Officer Gardner to serve in the position of Interim Chief of Police.

MOTION: To approve BSPD Officer Gardner to the position of Interim Chief of Police-Hickey/O'Connell- Carried

- 13. CEMETERY: The next meeting is June 25. Chairwoman Skinner reported that the work on the mausoleum has been slow due to excessive heat. Seasonal work is continuing.
- 14. PUBLIC WORKS: Next meeting is July 2. Chairwoman MacLeod reminded all that the garbage rate increase will go into effect on the June 30 billing. The Labor Crew is continuing to paint curbs. MacLeod will be attending the ADA Conference in Charles Town.

- 15. ORDINANCE: The next meeting is July 11. Chairman Schene presented for Second Reading Town of Bath Municipal Sales Tax Ordinance 2024-05-17 (attached).

MOTION: To approve for Second Reading Town of Bath Municipal Sales Tax Ordinance 2024-05-17 – Hickey/O'Connell- Carried

This ordinance will go into effect on January 1, 2025.

Councilman Schene explained a project he has undertaken to solicit donations for a synthetic ice rink for recreational use of the Town.

- 16. BSWW: The next meeting is June 19. The Public Easement Meeting for property owners affected by the Rt. 522 Water Line Extension was held June 11, 2024 from 4pm until 7pm at the Pines. Presently two property owners have signed on. The Public Hearing for the BSWW Tariff increase will be July 2, 2024. Chairman O'Connell explained his concentration on the BSWW financial health and the upcoming FY2025 budget preparations. He is studying revenue flow, debt service, administration, plant and distribution operations. The water treatment plant needs approximately \$1.5 million in upgrades. O'Connell is focusing on reliability, capacity and growth.

- 17. MOTION TO ADJOURN: Approved by Common Consent.

Attest:

Mayor Scott E. Merki Recorder S. Hubster

NOTICE OF PUBLIC HEARING TOWN OF BATH

REGARDING

AN ORDINANCE AUTHORIZING A TOWN OF BATH MUNICIPAL SALES AND SERVICE TAX AND A MUNICIPAL USE TAX AND TO BE THE "TOWN OF BATH MUNICIPAL SALES TAX ORDINANCE"

Notice is hereby given by the Town of Bath that it will hold a public hearing on June 18, 2024 at 5:30 p.m. at Town Hall, 271 Wilkes St., Berkeley Springs, West Virginia 25411.

The purpose of this public hearing is to discuss the Town of Bath's proposed ordinance titled "AN ORDINANCE AUTHORIZING A TOWN OF BATH MUNICIPAL SALES AND SERVICE TAX AND A MUNICIPAL USE TAX, CREATING A NEW ARTICLE IMPOSING A MUNICIPAL SALES AND USE TAXES AT A RATE OF ONE PERCENT, AND TO BE THE "TOWN OF BATH MUNICIPAL SALES TAX ORDINANCE" pursuant to the provisions of West Virginia Code §8-13C-4(b), as amended.

The information gathered and presented at this public hearing will be utilized by the Town in its discussion and determination on whether to adopt the ordinance: (a) imposing a municipal sales and service tax for the privilege of selling tangible personal property or customer software and for the privilege of furnishing certain selected service, a vendor doing business in this Town shall collect from the purchaser the taxes imposed by this section and pay the amount of taxes collected to the tax commissioner at the same time and in the same manner as the consumers sales and service tax imposed by article fifteen, chapter eleven of the Code of West Virginia, 1931, as amended, are paid to the tax commissioner. The rate of tax shall be one percent of the sales price, as defined in section [2] of the article of the tangible personal property, custom software or taxable service purchased or leased; and (b) levying an excise tax on the use in this city of tangible personal property, custom software and the results of taxable services, to be collected and paid to the tax commissioner as agent for the Town in the same manner that state use tax is collected under article fifteen-a and article fifteen-b, chapter eleven of the Code of West Virginia, 1931, as amended, and remitted to the tax commissioner. The rate of tax shall be one percent of the purchase price, as defined in section [2] of the article, of the tangible personal property, custom software or taxable service used within the Town.

The Town of Bath's proposed Municipal Sales Tax Ordinance will be available for public inspection in the Town Hall, 271 Wilkes St., Berkeley Springs, West Virginia 25411, beginning on May 21, 2024, during normal business hours, Monday through Friday (excluding holidays).

All interested citizens are invited to attend the public hearing on June 18, 2024 at 5:30 p.m. and to present oral or written comments concerning the Town's proposed Municipal Sales Tax Ordinance at that time. Written comments may also be addressed to Sharron Corrick, Municipal Clerk, Town of Bath, 271 Wilkes St., Berkeley Springs, West Virginia 25411.

The first reading of the ordinance approving the Town of Bath's Municipal Sales Tax Ordinance will take place at the regularly scheduled Council meeting at 5:30 p.m. on June 4, 2024. The second reading of the ordinance will take place immediately after the public hearing at the regularly scheduled Council meeting at 5:30 p.m. on June 18, 2024. If adopted, this ordinance will take effect upon passage. Readings of the ordinance will take place at Town Hall, 271 Wilkes St., Berkeley Springs, West Virginia 25411.

Dated May 23, 2024.

Scott Merki, Mayor
Susan Webster, Recorder
Sharron Corrick, Clerk
5-29-24m



EVENT / USE OF TOWN PROPERTY APPLICATION

TOWN OF BATH
271 WILKES STREET, BERKELEY SPRINGS, WV 25411

Phone (304) 304-258-1102 Fax (304) 258-2638

townofbath@wvdsi.net

OFFICIAL USE ONLY	
Fiscal Year	_____
Festival License	_____
Business License	_____
License Fee \$	_____
Date Issued	_____

Please Print or Type

NAME OF EVENT: Jeepers IN the PARK

DATE(S) OF EVENT: June 6, July 13, August 10, Sept 14, Oct 26 Dec 14

REQUESTING GROUP OR ORGANIZATION: _____

BEGINNING AND ENDING TIMES: 4:30 - 8:30

PROPERTY REQUESTED: TOWN PARK

PURPOSE OF USE: Morgan County Jeepers IN the PARK

STREET/METER CLOSURES REQUESTED WITH DETAILS: June 6 July 13 Aug 10 Sept 14 Oct 26 Dec 14

WILL ADMISSION BE CHARGED OR PRODUCT SOLD: NO

NUMBER OF VENDORS AT EVENT/FESTIVAL: _____

NAME OF RESPONSIBLE PERSON: John Paul P. Mannino

MAILING ADDRESS: 30 HOWARD ST Apt #2

TELEPHONE NUMBER: 304 839-2962

EMAIL: _____

DATE APPLICATION SUBMITTED: 6-4-2024

SIGNATURE: John P. Mannino

Application will be submitted to Town Council. All applicants are invited to attend the Town Council and speak on their behalf. If requesting any street/meter closures, applicants must appear at Town Council before the event for approval.

Application is: Approved

Denied

Approved Subject to Following:

Town Flat Fee: \$ _____

Festival License Fee Due:

\$ _____ \$15.00 w/ Business License

\$ _____ \$35.00 w/o Business License

\$ _____ Total Due

Proof of Insurance on File

Pay Now
using our QR
Code!



Signature of Approval: _____ Date: _____

Mayor
Scott Merki

Recorder
Susan J. Webster



Council Members
Tom Hall
Mary Lynn Hickey
Rebecca MacLeod
Greg Schene
Elizabeth Skinner

Town of Bath

271 Wilkes Street, Berkeley Springs, WV 25411
Phone 304-258-1102 Fax 304-258-2638

Kenan Hall
Agreement Specialist
Office of Acquisition and Grants Management
Federal Highway Administration
U.S. Department of Transportation
1200 New Jersey Avenue, SE.
Washington, DC, 20590

June 18, 2024


RE: FY 2023 Active Transportation Infrastructure Investment Program (ATIIP)

To whom it may concern:

On behalf of the Town of Bath (Berkeley Springs) accept this letter of support for the Morgan County Commission application to the FHWA ATIIP for Planning and Design funds for a connector trail that would serve as an active transportation spine in the community. This project is intended to start the planning process to create a trail that would connect Cacapon State Park, Berkeley Springs State Park, the Town of Bath (Berkeley Springs), and Chesapeake & Ohio Canal National Historical Park. This trail would act as a critical spine in Morgan County, WV that would connect several key tourist destinations in the region and serve a significant underserved population.

The Town of Bath has a population just shy of 1,000 and tourism and recreation are two of the main contributors to our local economic development. We are known for our wonderful springs, arts and culture, quaint shops and beautiful surroundings, and as a town, we are committed to improving walkability and improving access not only in town but also to our town. This project is intended to help improve the rural communities in Morgan County by improving accessibility and mobility, and we welcome the chance to be a part of this project.

Thank you for your consideration.


Scott Merki, Mayor

The Nation's Oldest Health Spa
Since 1748

Mayor
Scott Merki

Recorder
Susan J. Webster



Council Members
Tom Hall
Mary Lynn Hickey
Rebecca MacLeod
Greg Schene
Elizabeth Skinner

Town of Bath

271 Wilkes Street, Berkeley Springs, WV 25411
Phone 304-258-1102 Fax 304-258-2638

Town of Bath

Resolution 2024 – 06-02

Whereas; the Town of Bath is the “Permittee” for the Berkeley Springs State Park Improvement Project: U333-BER/SP-1.00 Federal TAP-2018(240) as designated by the US Army Corps of Engineers verification letter LRP-2022-0544 of January 20, 2023 that authorized the in Warm Springs Run; and

Whereas; the WV Department of Environmental Protection (WVDEP) holds the “Permittee” responsible for proper execution of the permit requirements, subsequently issued a Notice of Violation and a Consent Order with a fine due to sediment spill as a result of actions taken during the project; therefore

Be it resolved by the Town of Bath Town Council that the Mayor of the Town of Bath is authorized to sign and execute the Consent Order 10251 dated May 31, 2024, which is an attached to this Resolution, and the actions that are required by the Order, and are binding on the Town of Bath, its successors and assigns.

Given under my hand and the Seal of the
Town of Bath, County of West Virginia,
In the Town of Bath this 18th day of June 2024.

By the Mayor of the Town of Bath



Revised
6/6/24
S

west virginia department of environmental protection

Environmental Enforcement
601 57th Street SE
Charleston, WV 25304
Telephone: (304) 926-0470 Fax: (304) 926-0488

Harold D. Ward, Cabinet Secretary
dep.wv.gov

May 31, 2024

Town of Bath
Attn: Scott Merki, Mayor
271 Wilkes Street
Berkeley Springs, WV 25411

CERTIFIED RETURN RECEIPT REQUESTED

9489 0090 0027 6628 8845 09

Dear Mayor Merki:

Enclosed is revised CONSENT ORDER NUMBER 10251. This action is based upon the investigation and recommendation of the West Virginia Department of Environmental Protection's (WVDEP) Environmental Enforcement unit in response to Town of Bath violating WV State Code at Berkeley Springs State Park in Berkeley Springs, Morgan County, West Virginia. This revision is based upon your meeting with WVDEP personnel. This administrative settlement is being offered on behalf of the director of the Division of Water and Waste Management.

Please review, sign and return the original copy of the revised ORDER to me within five (5) working days of receipt. Subsequently, WVDEP will initiate the public notice process.

Brad M. Wright
Chief Inspector

Enclosure

- cc: Jeremy W. Bandy, Director, DWWM (via e-mail)
David C. Simmons, Assistant Chief Inspector, EE (via e-mail)
Laura McGee, Environmental Resources Program Manager, EE (via e-mail)
Cindy Blugerman, Environmental Resources Specialist, EE (via e-mail)
Amaris Elliott, Environmental Resources Associate, EE (via e-mail)
Robin C. Dolly, Environmental Inspector Supervisor, EE/WW (via e-mail)
Michael K. Kanehl, Environmental Inspector Specialist, EE/WW (via e-mail)
Katelyn Crispino, Environmental Inspector, EE/WW (via e-mail)

Promoting a healthy environment.



west virginia department of environmental protection

Division of Water and Waste Management
601 57th Street SE
Charleston, WV 25304
Phone: (304) 926-0470
Fax: (304) 926-0488

Harold D. Ward, Cabinet Secretary
dep.wv.gov

**CONSENT ORDER
ISSUED UNDER THE
WATER POLLUTION CONTROL ACT
WEST VIRGINIA CODE CHAPTER 22, ARTICLE 11**

To: Town of Bath
Scott Merki, Mayor
271 Wilkes Street
Berkeley Springs, WV 25411

Date: May 31, 2024

Order No: 10251

INTRODUCTION

This Consent Order is issued by the Director of the Division of Water and Waste Management (hereinafter "Director"), under the authority of West Virginia Code 22-11-1 et seq. to the Town of Bath.

FINDINGS OF FACT

In support of this Order, the Director hereby finds the following:

1. The Town of Bath conducted a project to repair a stone wall in Warm Springs Run, located in Berkeley Springs State Park, Morgan County, West Virginia. On January 20, 2023, the United States Army Corps of Engineers (USACE) authorized the Town of Bath to conduct the project under the Nationwide Permit (LRP-2022-0544).
2. On October 27, 2023, West Virginia Department of Environmental Protection (WVDEP) personnel conducted an inspection of the site in response to a complaint. During the inspection, WVDEP personnel noted that the project work area was not dry, and the water in the work area was not being pumped out to a dewatering device. Furthermore, compost filter sock was not being properly utilized for erosion and sediment control, contrary to the requirement outlined in the aforementioned USACE authorization. In addition, the following violations were observed and documented:

Promoting a healthy environment.

- a. 47CSR2 Section 3.2.a – The Town of Bath caused conditions not allowable by creating distinctly visible settleable solids in waters of the State. Specifically, sediment from the project was allowed to escape the barrier which had been erected to redirect Warm Springs Run around the work area. At the end of the temporary concrete barrier was an opening which allowed sediment from the work area to flow into Warm Springs Run.
- b. 47CSR11 Section 2.2.a – The Town of Bath failed to provide immediate notification of the discharge of pollutants into waters of the State. Specifically, the Town of Bath failed to report the sediment spill into Warm Springs Run.

As a result of the aforementioned violations, Notice of Violation (NOV) No. W23-33-062-KEC was issued to the Town of Bath.

3. On April 11, 2024, WVDEP personnel and representatives of the Town of Bath met to discuss the terms and conditions of this Order.

ORDER FOR COMPLIANCE

Now, therefore, in accordance with West Virginia State Code 22-11-1 et seq., it is hereby agreed between the parties, and ORDERED by the Director:

1. The Town of Bath shall immediately take all measures to initiate compliance with all pertinent laws and rules.
2. Within thirty (30) days of the effective date of this Order, the Town of Bath shall submit for approval a proposed plan of corrective action and schedule, outlining action items and completion dates for how and when the Town of Bath will achieve compliance with all pertinent laws and rules. The plan of corrective action shall make reference to Order No. 10251. The plan of corrective action shall be submitted to:

**Chief Inspector
Environmental Enforcement - Mail Code #031328
WVDEP
601 57th Street SE
Charleston, WV 25304**

Upon approval, the plan of corrective action and schedule shall be incorporated into and become part of this Order, as if fully set forth herein. Failure to submit an approvable plan of corrective action and schedule or failure to adhere to the approved schedule is a violation of this Order.

3. Because of the Town of Bath's violations, the Town of Bath shall be assessed a civil administrative penalty of three thousand three hundred sixty dollars (\$3,360) to be paid to the West Virginia Department of Environmental Protection for deposit in the Water Quality Management Fund within thirty (30) days of the effective date of this Order. Payments made pursuant to this paragraph are not tax-deductible for purposes of State or

federal law. **Payment shall include a reference to the Order No. and shall be mailed to:**

**Chief Inspector
Environmental Enforcement - Mail Code #031328
WV-DEP
601 57th Street SE
Charleston, WV 25304**

OTHER PROVISIONS

1. The Town of Bath hereby waives its right to appeal this Order under the provisions of West Virginia State Code 22-11-21. Under this Order, the Town of Bath agrees to take all actions required by the terms and conditions of this Order and consents to and will not contest the Director's jurisdiction regarding this Order. However, the Town of Bath does not admit to any factual and legal determinations made by the Director and reserves all rights and defenses available regarding liability or responsibility in any proceedings regarding the Town of Bath other than proceedings, administrative or civil, to enforce this Order.
2. The Director reserves the right to take further action if compliance with the terms and conditions of this Order does not adequately address the violations noted herein and reserves all rights and defenses which he may have pursuant to any legal authority, as well as the right to raise, as a basis for supporting such legal authority or defenses, facts other than those contained in the Findings of Fact.
3. If any event occurs which causes delay in the achievement of the requirements of this Order, the Town of Bath shall have the burden of proving that the delay was caused by circumstances beyond its reasonable control which could not have been overcome by due diligence (i.e., force majeure). Force majeure shall not include delays caused or contributed to by the lack of sufficient funding. Within three (3) working days after the Town of Bath becomes aware of such a delay, notification shall be provided to the Director/Chief Inspector and the Town of Bath shall, within ten (10) working days of initial notification, submit a detailed written explanation of the anticipated length and cause of the delay, the measures taken and/or to be taken to prevent or minimize the delay, and a timetable by which the Town of Bath intends to implement these measures. If the Director agrees that the delay has been or will be caused by circumstances beyond the reasonable control of the Town of Bath (i.e., force majeure), the time for performance hereunder shall be extended for a period of time equal to the delay resulting from such circumstances. A force majeure amendment granted by the Director shall be considered a binding extension of this Order and of the requirements herein. The determination of the Director shall be final and not subject to appeal.
4. Compliance with the terms and conditions of this Order shall not in any way be construed as relieving the Town of Bath of the obligation to comply with any applicable law, permit, other order, or any other requirement otherwise applicable. Violations of the

terms and conditions of this Order may subject the Town of Bath to additional penalties and injunctive relief in accordance with the applicable law.

5. The provisions of this Order are severable and should a court or board of competent jurisdiction declare any provisions to be invalid or unenforceable, all other provisions shall remain in full force and effect.
6. This Order is binding on the Town of Bath, its successors and assigns.
7. This Order shall terminate upon the Town of Bath's notification of full compliance with the "Order for Compliance" and verification of this notification by WVDEP.

Scott Merki, Mayor
Town of Bath

Date

Public Notice begin:

Date

Public Notice end:

Date

Jeremy W. Bandy, Director
Division of Water and Waste Management

Date

Mayor
Scott Merki

Recorder
Susan J. Webster



Council Members
Tom Hall
Mary Lynn Hickey
Rebecca MacLeod
Greg Schene
Elizabeth Skinner

Town of Bath

271 Wilkes Street, Berkeley Springs, WV 25411
Phone 304-258-1102 Fax 304-258-2638

Town of Bath

Resolution 2024-06-01

This resolution is to authorize submission to the West Virginia Division of Highway of Transportation Alternatives Program grant applications for Construction of streetscape infrastructure in the Town of Bath.

Whereas; the Town of Bath requires supplementary funds to rehabilitate and install sidewalks and associated pedestrian safety features such as lighting to provide for the accessibility and economic resilience of the community, and

Whereas; the Town of Bath Streetscape Committee has been encouraged by WVDOH to apply for these supplementary funds,

Be it resolved by the Town of Bath Town Council that the Mayor of the Town of Bath is authorized to execute said applications along with any agreements or documents on behalf of the Town of Bath to obtain these grant funds, and to plan and budget for the eventual installation of the projects these grants will assist with funding its installation.

Given under my hand and the Seal of the
Town of Bath, County of West Virginia,
In the Town of Bath this 18th day of June 2024.

By the Mayor of the Town of Bath

**Brief Sheet for Town Council Meeting of June 18, 2024
Submittal of Two Streetscape FY24 TA Grant Applications**

Purpose:

To inform the Council of the Content of the two TA Grant Applications being submitted for the FY24 round of Grants. On-Line submittal is required by June 26th. The Streetscape Committee is preparing and submitting these Applications.

Projects for the Grant Applications:

- Streetscape Lighting P-V Construction: (\$100K Grant plus \$25K Town Match)
 - Completes the Phase V Project by purchase and installation of 7 streetlights; 4 on Independence and 3 on Wilkes Streets
 - Bids were opened June 11th for the main part of Phase V – the apparent low bid is within the current Phase V budget
 - Thrasher cost estimate for this is; \$111K (includes the 13% DOH Admin/Contingency)
 - Installation drawings are essentially complete at 80-90% level.
 - Town Streetscape Account has about \$45K now – so the \$25K match could be provided to DOH sooner than the larger Match for Phase VI Construction.
 - No current issues with the Application
- Streetscape Phase VI Construction: (either \$380K Grant plus \$95K Match for a \$475K Project or \$400K Grant plus \$100K Match) for a \$500K Project)
 - Attached chart shows where this work (plus the Phase V streetlights) is located
 - Have asked DOH (Mark Scoular) regarding our submittal of (2) Applications and increasing the Phase VI Construction Grant from \$380K to \$400K
 - The extra funding could permit the streetlights on Mercer St to be installed in Phase VI
 - Timeline: Phase VI Design Grant only recently awarded (April); drawings unlikely to complete until late 2024 or early 2025. Town needs to raise the Match funds (\$95K or \$100K) may take over a year to do this.

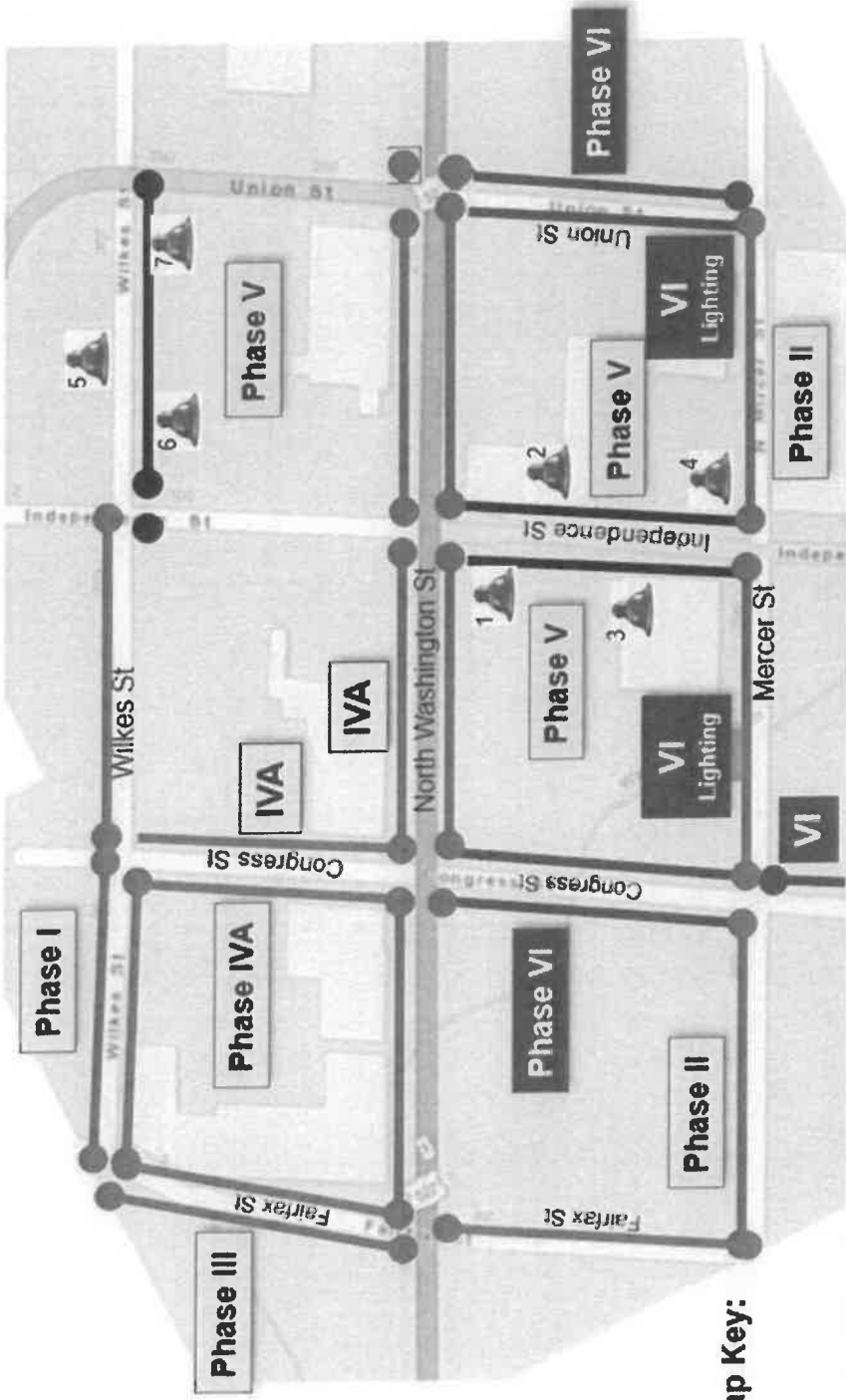
Of Note:

- WVDOH District 5 has been notified of the Town's (2) Grant Applications
 - This was done via e-mail and there were no priorities or cost estimates included in that notice
 - This is a requirement of the DOH Application process/web site

Recommendations:

- Submit both Applications – by the June 26th cut-off date
- Pending feedback from Mark Scoular, adjust the Priority of each Application, and the Grant amount requested for Phase VI Construction to get the best possible outcome from DOH evaluations.

Streetscape Program - Six-Block Core



Map Key:

- Phases I, II, III & IVA Completed Sidewalk, Drainage, Lighting & ADA Corners
- Phase V – Design Complete; Construction Contract DOH Letting of 6-11-2024; Independence & Wilkes Sts
- Phase V Lighting P-V Construction – FY24 Construction Grant Application: (7) New Streetlights
- Phase VI – Design Grant Awarded – FY24 Construction Grant Application
After Phase VI – Sidewalks not yet planned

BERKELEY SPRINGS WATER WORKS

EXPENDITURES AND ENCUMBRANCES

General Account

BATCH DATE	YEAR:	2024						
VENDOR ACCT #	VENDOR NAME	AMOUNT	DESCRIPTION					
	Miss Utility	\$ 38.25	May 2024					
	Town of Bath	\$ 3,400.00	May & June Admin					
	WVC Corp	\$ 875.50	Quarterly Workers Comp					
	WVC Corp	\$ 3,401.00	Quarterly P&L Ins					
	U Bank	\$ 6,917.84	P Cards May 2024					
	Reserve for Debt	\$ 27,041.93	Bond Coverage					
	Depreciation	\$ 1,500.00	Monthly Deposit					
	Replace & Repair	\$ 2,172.76	May 2024					
	TOTAL	\$ 45,347.28						

**BERKELEY SPRINGS WATER WORKS
EXPENDITURES AND ENCUMBRANCES**

		YEAR:	Repair & Replace Account						
		2024							
BATCH DATE		6/18/2024							
VENDOR ACCT #	VENDOR NAME		AMOUNT	DESCRIPTION					
	Core & Main		\$ 14,000.00	Data Collector / Transceiver					
	Mikes Service Center		\$ 1,149.08	2018 F150					
	Shives Electric		\$ 7,611.81	Raw Water pumps & Fans					
			TOTAL				\$ 22,760.89		

GREENWAY

EXPENDITURES AND ENCUMBRANCES

YEAR:		2024
BATCH DATE	6/18/2024	
Chart of account		
		AMOUNT
	DESCRIPTION	Bank
		Balance
14 230 000 00	Dustin Percy	\$ 3,600.00
14 230 000 00	AC&T	\$ 99.00
	06/03/24 - 06/16/24	
	Mowing	
	Porta Pot	
	Totals:	\$ 3,699.00

TREE BOARD

EXPENDITURES AND ENCUMBRANCES

YEAR: 2024

6/18/2024

BATCH DATE

Chart of account

1 958 215 00

Tree Works

AMOUNT

\$ 1,600.00

DESCRIPTION

Tree on Wilkes

Account

Balance

Totals:

\$ 1,600.00

**TOWN OF BATH
ORDINANCE 2024-05-17
MUNICIPAL SALES AND USE TAXES**

Table of Contents

§ 1. Town of Bath Findings.....	1
§ 2. Definitions.....	2
§ 3. Imposition of Municipal Sales and Service Tax.	5
§ 4. Imposition of Municipal Use Tax.	5
§ 5. Calculation of Tax on Fractional Parts of Dollar.	6
§ 6. State and Local Tax Bases.	6
§ 7. Exceptions.....	6
§ 8. Credit Against Municipal Use Tax.....	7
§ 9. Tax cumulative.....	8
§ 10. Local Rate and Boundary Data Base; Changes.	8
§ 11. State level administration.....	9
§ 12. Administrative procedures.	9
§ 13. Criminal Penalties.....	10
§ 14. Automatic Updating.....	10
§ 15. Deposit of Taxes Collected in General Revenue Fund.	10
§ 16. Severability and Savings Clause.....	11
§ 17. Effective Date.	11
§ 18. Notification of Tax Commissioner.....	11

§ 1. Town of Bath Findings.

(a) The Town of Bath, a Class IV Municipality in Morgan County, Berkeley Springs, West Virginia, hereby finds and declares that the adoption by the Town of Bath for its municipal sales and service tax and its municipal use tax provisions of the Code of West Virginia, 1931, as amended, relating to imposition, administration, collection, and enforcement of the State

consumers sales and service tax codified in W. Va. Code §11-15-1 *et seq.*, the State use tax codified in W. Va. Code §11-15A-1 *et seq.*, and the Streamlined Sales and Use Tax Act codified in W. Va. Code §11-15B-1 *et seq.* will:

- (1) simplify collection of the Municipality's sales and use taxes,
- (2) simplify preparation of municipal sales and use tax returns by taxpayers, and
- (3) improve enforcement of the Municipality's sales and use taxes.

(b) The Town of Bath therefore declares that this ordinance shall be construed to accomplish the foregoing purposes.

§ 2. Definitions.

(a) Terms used in this ordinance or in the administration, collection, and enforcement of the taxes imposed by this ordinance and not otherwise defined in this ordinance shall have the meanings ascribed to them in articles 9, 10, 15, 15A, and 15B, chapter 11 of the Code of West Virginia, 1931, as amended.

(b) As used in this ordinance:

(1) "Business" includes all activities engaged in or caused to be engaged in by any person with the object of gain or economic benefit, direct or indirect, and all activities of the state and its political subdivisions, which involve sales of tangible personal property or the rendering of services when those service activities compete with or may compete with the activities of other persons.

(2) "Town" or "this Town" means the Town of Bath, Berkeley Springs, West Virginia.

(3) "Code of West Virginia" or "W. Va. Code" means the Code of West Virginia, 1931, as amended from time to time by the West Virginia Legislature.

(4) "Municipality" or "this Municipality" means the Municipality of the Town of Bath, Berkeley Springs, West Virginia.

(5) "Person" means any individual, partnership, association, corporation, limited liability company, limited liability partnership, or any other legal entity, including this state or its political subdivisions or an agency of either, or the guardian, trustee, committee, executor or administrator of any person.

(6) "Purchase" means any transfer, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, for a consideration;

(7) "Purchase price" means the measure subject to the taxes imposed by this ordinance and has the same meaning as sales price;

(8) "Purchaser" means a person who purchases tangible personal property, custom software, or a service taxed by this ordinance.

(9) "Sale," "sales," or "selling" have the meaning ascribed to those terms in article fifteen-B, chapter eleven of the Code of West Virginia.

(10) "Sales and use taxes" means the taxes imposed by sections 3 and 4 of this ordinance.

(11) "Sales price" has the meaning ascribed to that term in article fifteen-B, chapter eleven of the Code of West Virginia.

(12) "Sales tax" means the tax levied by section 3 of this ordinance.

(13) "Service" or "selected service" have the meaning ascribed to those terms in article fifteen-B, chapter eleven of the Code of West Virginia.

(14) "State sales tax" means the tax levied by article fifteen, chapter eleven of the Code of West Virginia, as amended.

(15) "State use tax" means the tax levied by article fifteen-A, chapter eleven of the Code of West Virginia, as amended.

(16) "Tax" means the taxes imposed by this ordinance and includes additions to tax, interest, and penalties levied under article 10, chapter 11 of the Code of West Virginia, 1931, as amended.

(17) "Tax Commissioner" means the Chief Executive Office of the Tax Division of the Department of Revenue of this state, as provided in W. Va. Code §11-1-1.

(18) "This state" means the State of West Virginia.

(19) "Ultimate consumer" or "consumer" means a person who uses or consumes services, tangible personal property, or custom software.

(20) "Use" for purposes of the tax imposed by section 4 of this ordinance means and includes:

a. The exercise by any person of any right or power over tangible personal property or custom software incident to the ownership, possession, or enjoyment of the property, or by any transaction in which possession of or the exercise of any right or power over tangible personal property, custom software, or the result of a taxable service is acquired for a consideration, including any lease, rental, or conditional sale of tangible personal property or custom software;

or

b. The use or enjoyment in this state of the result of a taxable service. As used in this definition, "enjoyment" includes a purchaser's right to direct the disposition of the property or the use of the taxable service, whether or not the purchaser has possession of the property.

The term "use" does not include the keeping, retaining, or exercising any right or power over tangible personal property, custom software or the result of a taxable service for the purpose

of subsequently transporting it outside the Town of Bath for use thereafter solely outside the Town of Bath.

(21) "Use tax" means the tax imposed by section 4 of this ordinance.

(22) "Vendor" means any person engaged in the Town of Bath in furnishing services taxed by this ordinance or making sales of tangible personal property or custom software. "Vendor" and "seller" are used interchangeably in this ordinance.

§ 3. Imposition of Municipal Sales and Service Tax.

For the privilege of selling tangible personal property or customer software and for the privilege of furnishing certain selected service, a vendor doing business in the Town of Bath shall collect from the purchaser the taxes imposed by this section and pay the amount of taxes collected to the tax commissioner at the same time and in the same manner as the consumers sales and service tax imposed by article 15, chapter 11 of the Code of West Virginia, 1931, as amended, are paid to the tax commissioner. The rate of tax shall be 1% of the sales price, as defined in section 2 of this ordinance of the tangible personal property, custom software, or taxable service purchased or leased.

§ 4. Imposition of Municipal Use Tax.

An excise tax is hereby levied and imposed on the use in the Town of Bath of tangible personal property, custom software, and the results of taxable services, to be collected and paid to the tax commissioner as agent for the Town of Bath in the same manner that state use tax is collected under article 15A and article 15B, chapter eleven of the Code of West Virginia, 1931, as amended, and remitted to the tax commissioner. The rate of tax shall 1% of the purchase price, as

defined in section 2 of this ordinance, of the tangible personal property, custom software, or taxable service used within the Town of Bath.

§ 5. Calculation of Tax on Fractional Parts of Dollar.

The tax computation under section 3 and section 4 of this ordinance shall be carried to the third decimal place and the tax rounded up to the next whole cent whenever the third decimal place is greater than 4 and rounded down to the lower whole cent whenever the third decimal place is 4 or less. The vendor may elect to compute the tax due on a transaction on a per item basis or on an invoice basis provided the method used is consistently used during the reporting period but the method used shall be the same as that used for purposes of computing the state sales or use tax.

§ 6. State and Local Tax Bases.

The taxable base of the taxes imposed by sections 3 and 4 of this ordinance shall be identical to the sales and use tax base of this state except as provided in section 7 of this ordinance, unless otherwise prohibited by federal law, as required by W. Va. Code §11-15B-34.

§ 7. Exceptions.

The taxes imposed by this ordinance do not apply to:

- (1) The sale or use of motor fuel, as defined in article 14C, chapter 11 of the Code of West Virginia, 1931, as amended.
- (2) The sale or use of motor vehicles upon which the tax imposed by W. Va. Code §11-15-3c is paid.
- (3) The purchase or use of any tangible personal property, custom software, or service that the Town of Bath is prohibited from taxing under the laws of this state or of the United States.

(4) The sales tax imposed by section 3 of this ordinance does not apply to any transaction that is exempt from the tax imposed by article 15, chapter 11 of the Code of West Virginia.

(5) The use tax imposed by section 4 of this ordinance does not apply to any purchase upon which the sales tax imposed by section 3 has been paid.

§ 8. Credit Against Municipal Use Tax.

(a) A person is entitled to a credit against the use tax imposed by section 4 of this ordinance on the use of a particular item of tangible personal property, custom software, or results of a taxable service equal to the amount, if any, of sales tax lawfully paid to another municipality for the acquisition of that property, custom software, or service: *Provided*, that the amount of credit allowed may not exceed the amount of use tax imposed by section 4 of this ordinance on the use of the tangible personal property, custom software, or results of the taxable service in the Town of Bath.

(b) For purposes of this section:

(1) "Sales tax" includes a sales tax or compensating use tax imposed on the sale or use of tangible personal property, custom software, or the results of a taxable service by the Town of Bath in which the sale occurred; and

(2) "Municipality" includes municipalities of this state or of any other state of the United States.

(c) No credit is allowed under this section for payment of any sales or use taxes imposed by this state or any other state. For purposes of this paragraph, "state" includes the fifty states of the United States and the District of Columbia but does not include any of the several territories organized by Congress.

§ 9. Tax cumulative.

The taxes imposed by this ordinance are in addition to other taxes imposed on the sale or use of tangible personal property, custom software, or taxable services including, but not limited to, the State consumers sales and service tax imposed by article 15, chapter 11 of the W. Va. Code; the State use tax imposed by article 15A, chapter 11 of the W. Va. Code; the public utility tax imposed by the Town of Bath pursuant to W. Va. Code §8-13-5a.; the amusement tax imposed by the Town of Bath pursuant to W. Va. Code §8-13-6.; the tax on sales of alcoholic liquors and wine imposed by the Town of Bath pursuant to W. Va. Code §8-13-7.; the hotel occupancy tax imposed by the Town of Bath pursuant to article 18, chapter 7 of the W. Va. Code; and the special district excise taxes imposed by a county pursuant to W. Va. Code §7-22-1 *et seq.* or a municipality pursuant to W. Va. Code §8-38-1 *et seq.*

§ 10. Local Rate and Boundary Data Base; Changes.

(a) The tax commissioner is required by W. Va. Code §11-15B-35 to maintain a database for all jurisdictions levying a sales or use tax in this state. The Town of Bath shall furnish the tax commissioner with information the tax commissioner requires for that database that will allow the tax commissioner to maintain a database that assigns each five-digit and nine-digit zip code within the Town of Bath to the proper rate of tax. If any nine-digit zip code area includes area outside the Town of Bath, the single state and local rate assigned to that area in the tax commissioner's database will be the lowest rate applicable to that area: *Provided*, that, when sales occur at and are sourced to a physical location of the seller located in the Town of Bath in that nine-digit zip code area, the seller shall collect the tax imposed by section 3 of this ordinance.

(b) Whenever boundaries of the Town of Bath change, whether by annexation or de-annexation, the Town of Bath shall promptly notify the tax commissioner in writing of the change

in boundaries; provide the tax commissioner with the nine-digit zip code or codes for the area annexed or de-annexed; and any other information the tax commissioner may require to maintain the database. An ordinance annexing property into the Town of Bath, or an ordinance removing property from the corporate limits of the Town of Bath may not take effect any sooner than the 1st day of a calendar quarter that begins 60 days after Town of Bath provides written notice to the tax commission of a change in the boundaries of the Town of Bath.

(c) The nine-digit database shall be maintained by the Town of Bath until such time as the tax commissioner allows use of a different system to determine whether a location is within or outside the corporate limits of the Town of Bath.

§ 11. State level administration.

(a) The tax commissioner is responsible for administering, collecting, and enforcing the taxes imposed by this ordinance as provided in W. Va. Code §8-13C-6 and §11-15B-33.

(b) The tax commissioner may retain from collections of the taxes imposed by this ordinance the fee allowed by W. Va. Code §11-10-11c or by any other state law or legislative rule.

(c) The tax commissioner shall deposit all the proceeds from collection of the taxes imposed by this ordinance, minus any fee for collecting, enforcing and administering taxes retained under this section, in the subaccount for the Town of Bath established in "municipal sales and services tax and use tax fund," an interest-bearing account created in the state treasury pursuant to W. Va. Code §8-13C-7. All moneys collected and deposited in the subaccount for the Town of Bath shall be remitted at least quarterly by the State Treasurer to the Town of Bath treasurer, as provided W. Va. Code §8-13C-7.

§ 12. Administrative procedures.

Each and every provision of the West Virginia Tax Procedure and Administration Act set forth in article 10, chapter 11 of the Code of West Virginia applies to the administration, collection, and enforcement of the sales and use taxes imposed pursuant to this ordinance, except as otherwise expressly provided in article 13C, chapter 8 of the Code of West Virginia, with like effect as if that act were applicable only to the taxes imposed by this ordinance and were set forth in extenso in this ordinance, as provided in W. Va. Code §8-13C-6.

§ 13. Criminal Penalties.

Each and every provision of the West Virginia Tax Crimes and Penalties Act set forth in article 9, chapter 11 of the Code of West Virginia applies to the administration, collection, and enforcement of the Town of Bath sales and use taxes imposed pursuant to this ordinance with like effect as if that act were applicable only to the taxes imposed pursuant to this ordinance and were set forth in extenso in this ordinance, as provided in W. Va. Code §8-13C-6: *Provided*, that the criminal penalties imposed upon conviction for a criminal violation of this ordinance may not exceed the maximum penalties allowed by law for a similar violation of the ordinances of the Town of Bath.

§ 14. Automatic Updating.

Any amendments to articles nine, ten, fifteen, fifteen-A and fifteen-B, chapter eleven of the Code of West Virginia shall automatically apply to the municipal sales and use tax imposed pursuant to this ordinance, to the extent they are applicable to the taxes imposed by this ordinance.

§ 15. Deposit of Taxes Collected in General Revenue Fund.

When the Town of Bath treasurer receives periodic distributions of municipal sales and use taxes from the State Treasurer, the Town of Bath treasurer shall promptly deposit the amount received in the general revenue fund or account of the Town of Bath.

This ordinance shall become effective upon its adoption by the Town of Bath on June 18, 2024. However, the Town of Bath hereby suspends imposition and collection of the municipal sales and use taxes imposed by this ordinance until January 1, 2025, or such later first day of July as required by the legislative rule codified in W. Va. Code St. R. §110-28-1 *et seq.*

§ 16. Severability and Savings Clause.

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. The Town of Bath declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the article be enforced.

§ 17. Effective Date.

This ordinance shall become effective upon its adoption by the Town of Bath on June 18, 2024. However, the Town of Bath hereby suspends imposition and collection of the municipal sales and use taxes imposed by this ordinance until January 1, 2025, or such later first day of July as required by the legislative rule codified in W. VA. Code At. R. §110-28-1 *et seq.*

§ 18. Notification of Tax Commissioner.

Upon adoption of this ordinance by the Town of Bath, the Town of Bath Recorder shall forthwith send to the tax commissioner a certified copy of this ordinance, the rate and the boundary

database required by section 10 of this ordinance, a map showing the boundaries of the Town of Bath, a description of the boundaries of the Town of Bath; and such other information as the Tax Commissioner may need to administer, collect, and enforce the taxes imposed by this ordinance.

This Ordinance shall be effective from the date of its enactment.

This Ordinance is read this ___ day of _____, 2024 as the first reading thereof.

This Ordinance is read and enacted this ___ day of _____, 2024 after a second reading hereof.

Passed, Approved and Entered of record by the Council of the Town of Bath this ___ day of _____, 2024.

Town of Bath, Morgan County, West Virginia

Scott Merki, Mayor

(MUNICIPAL SEAL)

ATTEST:

Susan Webster, Recorder