

TOWN OF BATH COUNCIL MEETING

October 8, 2024

1. Call to ORDER: @ 5:30pm by Mayor.
2. ROLL CALL: Scott Merki (X) Susan Webster (X) Elizabeth Skinner (A) 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 September 17, 2024 and the Special Meeting of September 27, 2024 were approved by Common Consent.

At this time Mayor Merki made a statement regarding conduct during Town of Bath Council meetings. He told all in attendance that comments must be respectful, concise and considerate. The Mayor sent a letter to a participant in the last Council meeting's discussion to further clarify public meeting decorum. Other Councilors elaborated on the Mayor's remarks in support.

4. PERSONS BEFORE COUNCIL: Veta Hall read a written statement (attached) concerning the proposed ordinance (attached) that was presented to the Ordinance Committee by Fairness WV and Berkeley Springs Pride. Kate Lehman also read a written statement (attached) concerning the same ordinance that was presented to the Ordinance Committee.
MOTION: To amend the agenda to bring forward Public Comment for those who wish to address Council concerning the proposed nondiscrimination ordinance (attendee list attached)- Webster/Hickey- Carried
Members of the public present were permitted 3 minutes to comment in a respectful manner concerning this ordinance.
MOTION: To return to the regular agenda- Hickey/Schene – Carried
5. COMMUNICATIONS FROM MAYOR: Mayor Merki informed Council that the Morgan County Partnership has requested permission to do their usual Zombie Walk on October 19. This was permitted by Common Consent.
The Town trash pick-up will be Tuesday, October 15, due to the Columbus Day Holiday on Monday, October 14.
The Town Labor Crew and BSPD are preparing for the Apple Butter Festival October 11-13. Depot Chairwoman Webster is organizing Festival parking at the Depot and welcomes all volunteers.

COMMITTEE AND BOARD REPORTS

1. BATH DEVELOPMENT AUTHORITY (BDA): The next regular meeting is November 6, at 4:30 in the County Commission Room of the Courthouse. President Lisa Stine was in attendance to speak on BDA projects and On Trac. She has volunteered to help with Festival parking at the Depot.
2. PARKS & REC: The next meeting is October 16, at the County Courthouse.
3. PLANNING COMMISSION (PC): The next meeting is October 10.
4. RAIL/TRAIL (NBRT): Next meeting is October 30. Attached is the written report

submitted by Co-Chair Pete Brown. This report also includes information on the status of the BSSP issue with the WV DEP.

5. **STREETSCAPE:** Co-Chair Pete Brown has submitted a detailed progress report. The Phase V Streetscape construction project contract has been awarded to First Fruits Ridge. Progress is on track with Phase VI design grant.
6. **TRAIN DEPOT:** ‘Miss Isabella Rainsong and her Traveling Companion’ performances at the Depot have concluded. Performer and producer of this show, Ross Martin, was present to give the Depot Committee the donation of \$500.00 for the use of the Depot for the shows. This donation was very much appreciated. The TBS Executive Committee has not yet returned the lease proposal with amendments, but it is hoped to be completed soon. Chairwoman Webster is organizing the parking at the Depot lot for donations during the AB Festival and requests volunteers to assist.
7. **LANDMARK COMMISSION (HLC):** No report at this time.
8. **CLERK/RECORDER REPORT:** Clerk Corrick made known that a Notice of Building or Real Property Improvement had been submitted by David and Sarita Bowers (attached). This will be filed with the Morgan County Tax Assessor’s Office.
9. **FINANCE:** Chairwoman Webster presented the recommendation of the Finance Committee on a Request for Revision of to the Approved Budget. The recommendation was to lower the increase asked for from \$10,400.00 to \$10,000.00. The \$400.00 decrease was in the Police Judge’s Office.
MOTION: To approve the 2025 Budget Revision Resolution 2024-10-01 (attached)- Webster/Hickey. A poll vote was taken with all in approval. Councilwoman Skinner was absent.

Chairwoman Webster delivered the following bills for approval:

- (a) Town of Bath \$20,592.29- Motion to approve: Webster/MacLeod- Carried
 - (b) BSWW \$36,962.79– Motion to approve: Webster/MacLeod- Carried
 - (c) NBRT \$77.97- Motion to approve: Webster/MacLeod- Carried
 - (d) Greenway Cemetery \$3,500.00: Motion to approve: Webster/Hickey- Carried
 - (e) Hotel/Motel Distribution \$29,858.36- Motion to approve: Webster/Hickey- Carried
 - (f) Depot \$51.09- Motion to approve: Webster/Hickey
10. **TREE BOARD:** The next meeting is October 16. Member Kate Lehman submitted a written report (attached) and was present for questions and comments.
 11. **GRANT:** The next meeting is October 14. Chairwoman Hickey informed Council that the Town of Bath is the recipient of an Appalachian Forestry grant in the amount of \$4,450.00 to rebuild the Town’s website. This grant requires a Town match of the same amount. The cyber security grant for the computers for our monthly court session will be reapplied for at the appropriate time. The Federal Cops Grant has been awarded to the BSPD in the amount of \$111,000.00. This grant is to pay for 75% of a newly hired police officer for Bath for three years. The Town has a 5-year window to satisfy the grant stipulations so there

is time to complete the requirements.

The WV SHPO Remembrance Grant for the Olde English Cemetery and the German Cemetery is being implemented by the Foxglove Garden Club and the Bath DAR with the assistance of Chairwoman Hickey.

She is researching grants for playground equipment. Hickey's work is much appreciated.

12. PUBLIC SAFETY: The next meeting is October 9. BSPD Secretary Venuto reported that a DEA RX Take Back is on October 26. Interim Chief Gardener informed Council of preparations in the works for the upcoming Apple Butter Festival. At this point the BSPD has taken in \$3,645.00 in fees for 131 vendors. The Parking Enforcement Officers have new patches on their uniforms which look very good. Grant possibilities are being pursued for digital speed signs.
13. CEMETERY: The next meeting is October 22. No report at this time.
14. PUBLIC WORKS: Chairwoman MacLeod thanked the Cemetery Committee for paying its share of the cost of the new lawn mower and weed whacker.
15. ORDINANCE: The next meeting is October 17. Chairman Schene will include the Fairness WV nondiscrimination ordinance on the agenda for the next Ordinance Committee meeting. The building permit ordinance will also be discussed.
16. BSWW: The next meeting is October 9. The Town of Bath BSWW Water Tariff has been approved and will be effective as of the next water billing. Chairman O'Connell explained the request of US Silica to extend the water line from the Warm Springs Public Sewer District plant $\frac{3}{4}$ mile closer to the plant operation and Morgan County Senior Life Services building. The BSWW crew has been helping to ready the Town for the upcoming Apple Butter Festival by power washing some of the sidewalks close to the plant.
17. MOTION TO ADJOURN: Approved by Common Consent.

Attest:

Mayor Scott E. Mack

Recorder Sharon A. Webb

BATH, WEST VIRGINIA NONDISCRIMINATION ORDINANCE

BE IT ORDAINED BY THE TOWN COUNCIL OF BATH, WEST VIRGINIA AS FOLLOWS:

SECTION 1: The Municipal Code of the Town of Bath, West Virginia is hereby amended to create a new Article entitled "Unlawful Discrimination" to read as follows:

Sec. 1-1. Purpose and Intent. It is the purpose and intent of the Bath Town Council to protect and safeguard the right and opportunity of all persons to be free from all forms of discrimination, including discrimination based on real or perceived race, color, religion, national origin, sex, sexual orientation, gender identity, age, disability, marital status, familial status, or veteran status. The Council's purpose in enacting this ordinance is to promote the public health and welfare of all persons who live and work in the Town of Bath. It is important for the Town to ensure that all persons within the Town have equal access to employment, housing, and public accommodations.

Sec. 1-2. Definitions. For the purposes of this ordinance, the following terms shall have the following meanings:

- (1) **AGE.** An individual's status as having obtained forty or more years of age.
- (2) **Town CONTRACTOR.** Any person, corporation, or entity that has a contract to do business with the Town of Bath.
- (3) **DISCRIMINATE, DISCRIMINATION OR DISCRIMINATORY.** Any act, policy or practice that, regardless of intent, has the effect of subjecting any person to differential treatment as a result of that person's real or perceived race, color, religion, national origin, sex, sexual orientation, gender identity, age, disability, marital status, familial status, or veteran status.
- (4) **EMPLOYEE.** Any individual employed by or seeking employment from an employer, excluding any individual employed by his or her parents, spouse, or child.
- (5) **EMPLOYER.** A person who employs one or more employees in the Town of Bath, or any agent of such person. Employer shall include the Town of Bath and any Town Contractor.

- (6) **FAMILIAL STATUS.** Means an individual's past, current or prospective status as parent or legal guardian to a child or children below the age of eighteen (18) who may or may not reside with that individual.
- (7) **GENDER IDENTITY.** The actual or perceived gender-related identity, expression, appearance, or mannerisms, or other gender-related characteristics of an individual, regardless of the individual's designated sex at birth.
- (8) **MARITAL STATUS.** An individual's past, current, or prospective status as single, married, domestically partnered, divorced, or widowed.
- (9) **NATIONAL ORIGIN.** An individual's or his or her ancestor's place of origin.
- (10) **PUBLIC ACCOMMODATION.** Any place, store, or other establishment, either licensed or unlicensed, that supplies accommodations, goods, or services to the general public, or that solicits or accepts the patronage or trade of the general public, or that is supported directly or indirectly by government funds. The term does not include any private club, bona fide membership organization, or other establishment that is not in fact open to the public.
- (11) **RELIGION.** All aspects of religious belief, observance, and practice.
- (12) **SEXUAL ORIENTATION.** Actual or perceived homosexuality, heterosexuality, or bisexuality.
- (13) **VETERAN STATUS.** An individual's status as one who served in the active military, naval or air service.

Sec. 1-3. Civil Rights Declared. The right of an otherwise qualified person to be free from discrimination because of that person's real or perceived race, color, religion, national origin, sex, sexual orientation, gender identity, age, disability, marital status, familial status, or veteran status is recognized as and declared to be a civil right. This right shall include, but not be limited to, all of the following:

- (1) The right to obtain and hold employment and the benefits associated therewith without discrimination.
- (2) The right to the full enjoyment of any of the accommodations, advantages, facilities, or privileges of any public accommodation without discrimination.

- (3) The right to engage in property transactions, including obtaining housing for rental or sale and credit therefor, without discrimination.
- (4) The right to exercise any right granted under this ordinance without suffering coercion or retaliation.

Sec. 1-4. Exceptions. Notwithstanding the foregoing, the following are not discriminatory practices prohibited by Sec. 1-3 of this ordinance:

- (1) A religious corporation, association, or society that employs an individual of a particular religion to perform work connected with the performance of religious activities by the corporation, association, or society.
- (2) An employer who observes the conditions of a bona fide affirmative action plan or a bona fide seniority system which is not a pretext to evade the purposes of this ordinance.

Sec. 1-5. Enforcement. A violation of this ordinance constitutes a civil infraction and can be enforced by a private right of action.

- (1) There is hereby established in the Town of Bath a private right of action for individuals who are aggrieved of any of the unlawful discriminatory practices described in section 1-3 of this ordinance. Plaintiff may file a complaint in Morgan County Circuit Court, in compliance with the relevant rules of that Court, and must show through clear and convincing evidence that the defendant committed an unlawful discriminatory practice as described in section 1-3 of this ordinance.

Sec. 1-6. - Other Remedies. This ordinance may not be construed to limit any other remedies available under local, state, or federal law.

SECTION 2: This ordinance shall become effective on **[date]**.

October 8, 2024

Charlie Lucia
 Scott Evans
 Pete Hall
 Michael Moss
 WA Collins
 C.A. Blum
 M. Binches
 Jason Dub
 K. W
 JEFF DUVAL
 SAM DUVAL
 Brandon Middaugh
 Lisa Stine-Haldeman
 Clayton Dekey
 Jennifer Williams
 ROSS MARTIN
 Kate Kolbe
 Lisa Swanson
 [Signature]
 [Signature]

**Streetscape, State Park and NBRT Projects Status Report for Town Council
October 7, 2024**

STREETSCAPE

Next Committee Meeting: 9 am Thursday 10/17, Town Conference Room

Phase V Construction contract:

- Pre-Construction (virtual) meeting held by DOH (D5) on Thursday (9/19).
- Town's concerns (especially coordination with Apple Butter Festival) provided to DOH Charleston and District 5 in advance of meeting.
- Contractor (First Fruits Inc.) agreed to set-up and start work after the Festival after October 14th.
- DOH provided the Notice to Proceed on Sep 10th and adjusted the Contract end date to Dec 8, 2024
- Contractor (Vernon Wampler) visited the Town on Oct 2nd to review the work areas, Rebecca and Rodney met with Mr. Wampler. A preliminary list of questions was generated and sent to Thrasher (Gola) and District 5 (JP Burns)
- Most questions were answered on Monday 10-7
- Currently working an issue regarding the removal of the cherry tree on Independence at North Washington Streets. Rebecca advised the Town wished to retain that tree and also the additional parking space that was provided by the plans just east of the tree. Initial measurements indicate that the tree can be saved and the additional parking space can be retained by reshaping the new curb line. Thrasher was asked to prepare a sketch with information for the Contractor on how to reshape the curb line. District 5 was informed

Phase V lighting grant application: Still awaiting news on Grant Award Schedule. Town's #1 Priority

WVDOH TA Grant Phase VI design grant:

- Thrasher preparing cost estimate for Town Task Order
- Drafting Thrasher Task Order. Next will be DOH and Town Funding Agreement, DOH & FHWA authorization and DOH Notice to Proceed. (these are weeks or months away)
- A \$14,000 match will be required at the signing of the Funding Agreement, which has not yet been received for this design contract.

WVDOH TA Grant Phase VI construction grant application: Awaiting news on Grant Award Schedule. Town's #2 Priority

BERKELEY SPRINGS STATE PARK PROJECT

Current Status of DEP Consent Order:

- Awaiting WV-DEP Approval of the Town's Corrective Action Plan (Submitted with the payment of the Fine)

NBRT

Next Task Force Meeting would be Oct 23rd at 4 pm in County Commissioners Room

- Received this update from DOH Charleston (email to Joel Tuttle):
From Tim Sedosky: *"Please be assured we have not given up on this and i have been actively looking at alternatives. We are going to move forward one way or another. I have been discussing with the District as well as folks in our building. and yes, Gary has moved to another Division. Which in turn has impacted us. We'll be in touch."*
From Mark Scoular; *"Gary is no longer in the Planning Division. We are going to meet and try and figure out who will be taking the design of the bridges on to the next step. When that is decided I will let you guys know. Sorry for the delay"*

Pete Brown
Streetscape Committee

Ora Ash, Deputy State Auditor
 West Virginia State Auditor's Office
 200 West Main Street
 Clarksburg, WV 26301
 Phone: 627-2415 ext. 5114
 Fax: 304-340-5090
 Email: lgs@wvsao.gov

REQUEST FOR REVISION TO APPROVED BUDGET

Subject to approval of the state auditor, the governing body requests that the budget be revised prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists. (§ 11-8-26a)

CONTROL NUMBER
 Fiscal Year Ending: **2025**
 Fund: **1**
 Revision Number: **2**
 Pages: **1**

Town of Bath
 GOVERNMENT ENTITY

Person To Contact Regarding Request:
 Name: **Sharron Corrick**
 Phone: **304-258-1102**
 Fax: **304-258-3638**
 Email: townofbath@wvdsi.net

271 Wilkes Street
 STREET OR PO BOX
 Berkeley Springs WV 25411
 CITY ZIP CODE

Municipality
 Government Type

REVENUES: (net each acct.)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
342	Parking Meter Revenues	25,000	800		25,800
355	Street Fees	34,000	3,500		37,500
368	Contributions/Transfer from Other Entities		3,500		3,500
350	Refuse Collection (Garbage and Trash Fees)	125,000	2,600		127,600
	#N/A				
	#N/A				

NET INCREASE/(DECREASE) Revenues (ALL PAGES) 10,400

Explanation for Account # 378, Municipal Specific:
 Explanation for Account # 369, Contributions from Other Funds:

EXPENDITURES: (net each account category)

(WV CODE 7-1-9)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
440	City Hall	132,876	400		133,276
416	Police Judge's Office	3,800	400		4,200
750	Streets and Highways	130,265	7,000		137,265
800	Garbage Department	196,581	2,600		199,181
	#N/A				
	#N/A				
	#N/A				
	#N/A				
	#N/A				
	#N/A				

NET INCREASE/(DECREASE) Expenditures 10,400

APPROVED BY THE STATE AUDITOR
 BY: _____ Date _____
 Deputy State Auditor, Local Government Services Division

AUTHORIZED SIGNATURE
 OF ENTITY

10/8/2024
 APPROVAL
 DATE

RESOLUTION 2024-10-01

At a regular session of the municipal council, held October 8, 2024, the following order was made and entered:

SUBJECT: The revision of the Levy Estimate (Budget) of the Town of Bath. The following resolution was offered:

RESOLVED: That subject to approval of the State Auditor as ex officio chief inspector of public offices the municipal council does hereby direct the budget be revised PRIOR TO THE EXPENDITURE OR OBLIGATION OF FUNDS FOR WHICH NO APPROPRIATION OR INSUFFICIENT APPROPRIATION CURRENTLY EXISTS, as shown on budget revision number 2 for fund 1 a copy of which is entered as part of this record.

The adoption of the foregoing resolution having been moved by _____, and duly seconded by _____ the vote thereon was as follows:

Scott Merki	Yes or No
Susan Webster	Yes or No
Elizabeth Skinner	Yes or No
Mary Lynn Hickey	Yes or No
Rebecca MacLeod	Yes or No
Greg Schene	Yes or No
David O'Connell	Yes or No

WHEREUPON, The Town of Bath, declared said resolution duly adopted, and it is therefore ADJUDGED and ORDERED that said resolution be, and the same is, hereby adopted as so stated above, and the Town Clerk Sharron Corrick is authorized to fix his signature on the attached "Request for Revision to Approved Budget" to be sent to the State Auditor for approval.

TREE BOARD

EXPENDITURES AND ENCUMBRANCES

BATCH DATE	YEAR:	2025	Account Balance
10/8/2024			
Chart of account		AMOUNT	DESCRIPTION
4 958 215 00	Michael Merchant	\$ 2,000.00	Tree removal
	Totals:	\$ 2,000.00	