

**TOWN OF BATH COUNCIL MEETING**  
September 17, 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 September 3, 2024 were approved.
4. PERSONS BEFORE COUNCIL: Ye Town of Bath DAR Regent, Gail Potter, presented Council with a proclamation to commemorate Constitution Week – September 17-23 (attached) and spoke on the United States Constitution's importance in the world.  
MOTION: To approve the Constitution Week proclamation as presented - Webster/MacLeod- Carried  
Community Garden President Melissa Schod reported on the activities in the garden and requested that the garden be allowed to be planted on the Town property next to the Town Hall again next year.  
MOTION: To allow the Community Garden to be planted and maintained on the Town lot at Town Hall again next year- MacLeod/O'Connell- Carried  
Beth Luetkemeyer, owner of Kneaded Therapy in the Town of Bath presented a statement (attached) in opposition to the BS Pride proposed nondiscrimination ordinance (attached).  
Recorder Webster informed all that she had requested that the proposed BS Pride non discrimination ordinance be posted on the Town website when it was originally presented to Council. This had not been done.  
MOTION: To post the BS Pride proposed non discrimination ordinance on the Town of Bath website for public access- Webster/Schene- Carried  
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/Schene- Carried  
Members of the public present were permitted 3 minutes to express their opinions in a respectful manner concerning this ordinance. Council is awaiting Town Attorney Richard Gay's written opinion letter for guidance.
5. COMMUNICATIONS FROM MAYOR: Mayor Merki announced that the Town Labor/Sanitation Crew is in training on Wednesday, September 25. Trash pick up for the week of September 23 is moved to Tuesday and Thursday due to this training. Planting at the Depot lot will be Thursday September 19 and Saturday September 21. This is a Warm Springs Watershed Association project (attached) with Town Labor Crew assistance.

**COMMITTEE AND BOARD REPORTS**

1. BATH DEVELOPMENT AUTHORITY (BDA): The next regular meeting is October 4, at 4:30 in the County Commission Room of the Courthouse.

2. **PARKS & REC:** The next meeting is September 18. Councilman O'Connell reported on the progress being made at the Dave Henry Memorial Park on Biser Street.
3. **PLANNING COMMISSION (PC):** The next meeting is October 10.
4. **RAIL/TRAIL (NBRT):** Next meeting is September 25. Attached is the written report submitted by Co-Chair Pete Brown. He included a report on the BSSP DEP violation actions and was present for further explanation.
5. **STREETSCAPE:** Co-Chair Pete Brown has submitted a detailed progress report. The Phase V Streetscape project contract has been awarded awarded to First Fruits Ridge. Progress is on track with Phase VI.
6. **TRAIN DEPOT:** 'Miss Isabella Rainsong and her Traveling Companion' will be performed at the Depot on September 19 and 20. 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 Depot donations during the AB Festival and requests volunteers to assist.
7. **LANDMARK COMMISSION (HLC):** The next meeting is September 26 at 2pm.
  
8. **CLERK/RECORDER REPORT:** Clerk Corrick reminded all of the WV State Auditors Training of October 1 & 2, and that sign up is needed by September 27. She requested that the October Council meetings be moved to October 8 & 22 to accommodate the Auditor's training schedule.  
**MOTION:** To move the October meetings to October 8 & 22 as requested-  
MacLeod/Schene- Carried
9. **FINANCE:** Chairwoman Webster delivered the following bills for approval:
  - (a) Town of Bath \$29,422.30- Motion to approve: Webster/Schene- Carried
  - (b) BSWW \$124,417.51- Motion to approve: Webster/Schene- Carried
  - (c) NBRT \$2,779.17- Motion to approve: Webster/Skinner- Carried
  - (d) Greenway Cemetery \$24.75: Motion to approve: Webster/Schene- Carried
  - (e) Hotel/Motel Distribution \$605.25- Motion to approve: Webster/Schene-Carried
10. **TREE BOARD:** The next meeting is October 14. Member Kate Lehman told Council that free trees are being made available to the public on September 24.
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 and the BSPD is in progress. The Federal Cops Grant application outcome will be known by September 30. 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.
13. **CEMETERY:** The next meeting is September 24. Chairwoman Skinner reported that the mowing season has ended. She is working on educational signage to be installed at Union General Barstow's grave site with the WV Civil War Trails program and other historians.
14. **PUBLIC WORKS:** Chairwoman MacLeod reported that the Labor Crew experienced a

- medical emergency last week. Their response was responsible and showed team work.
15. ORDINANCE: The next meeting is September 19. Chairman Schene explained that the newly enacted 1% Bath municipal sales tax is set to begin collection on January 1, 2025. Councilman O'Connell is working with the State Tax Department on the GIS mapping.
  16. BSWW: The next meeting is October 9. Chairman O'Connell explained that the Town approved billing amount of \$124,417.51 was large due to changes in the process of moving funds within the company. Approximately half of that amount was moved in house to the Repair & Maintenance account to be used for appropriate expenses. The Town of Bath BSWW Water Tariff has been approved and is moving through the WV Public Service Commission required protocol.
  17. PUBLIC COMMENT: Mayor Merki reminded all that the Berkeley Springs Presbyterian Church is celebrating their 150<sup>th</sup> year in Berkeley Springs on October 6. All are invited.
  18. MOTION TO ADJOURN: Approved by Common Consent.

Attest:

Mayor Scott E. Mub

Recorder Severin Webster

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

**WHEREAS:** September 17, 2024, marks the two hundred and thirty-seventh anniversary of the drafting of the Constitution of the United States of America by Constitutional Convention: and

**WHEREAS:** It is fitting and proper to accord official recognition to this magnificent document and its memorable anniversary; and to the patriotic celebrations which will commemorate the occasion; and

**WHEREAS:** Public Law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17 through 23 as Constitution Week,

**NOW, THEREFORE WE,** by virtue of the authority vested in us as the Town of Bath do hereby proclaim the week of September 17 through 23 as

### CONSTITUTION WEEK

**AND** ask our citizens to reaffirm the ideals of the Framers of the constitution had in 1787 by vigilantly protecting the freedoms guaranteed to us through this guardian of our liberties, remembering that lost rights may never be regained.

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Scott Merki  
Mayor

Attest: \_\_\_\_\_  
Susan Webster  
Recorder

## 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]**.

September 17, 2024

Scott Gillies

K. Lee

~~John Doe~~  
Lisa Swann

Jim Cook

Scott Walker

J. Curtis Perry

Chris Schene

Jeff Dural

Connor Daley

Jennifer Williams

Pete Brown

Oliver Carter

Carly Swain

Sam Dwal

Paul Johnson

Jane Young-Kushnig

Mary Ann Thomas

Gal Potter

my school

Clayton

~~Richard~~

Vicki Haepp

Lynda McLean

Joyce Joyce

~~John~~

Wes Reinhold

Ben Top

Tara

Richard

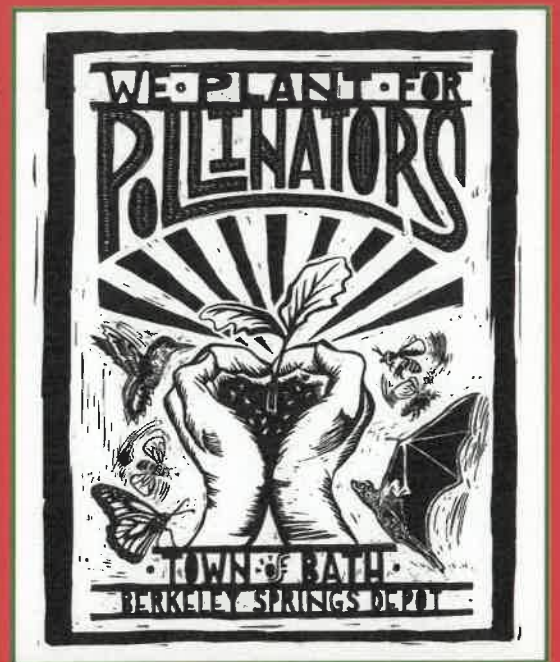


# WE PLANT FOR POLLINATORS

Join Us for a Green  
Initiative at the  
Berkeley Springs Depot

## Volunteer:

Help us renew the depot lot  
by planting native wildflowers



## When:

Saturdays

September 14 and 21  
9:30am to 11:30am

Thursdays

September 12 and 19  
3:00pm to 4:30pm

Free t-shirts for volunteers

## What to Bring:

Trowel, gloves, water bottle

## Why:

We are transforming the former rail yard into a thriving habitat by planting native perennial plants to naturally remediate soil and attract pollinators. Your efforts will help transform this area for the community.

**Contact:** Rebecca MacLeod  
pendle35@gmail.com

Sponsored by the Town of Bath and WSWA. Funded by a Chesapeake Bay Trust Green Streets, Green Jobs, Green Town Grant and the Town and County Hotel Occupancy Tax.



**Streetscape, BSSP and NBRT Projects Status Report for Town Council  
September 17, 2024**

**STREETSCAPE**

Next Committee Meeting: 9 am Thursday 9/19, Town Conference Room

**Phase V Construction contract:**

- Contract was awarded on Aug 27, 2024 to First Fruits Excavating, Inc of Ridgeley, WV. Contract amount is: \$533,982.50.
- Pre-Construction (virtual) meeting set by DOH (D5) for Thursday (9/19) from 10:30 to 11:30 am
- List of Town's concerns (especially coordination with Apple Butter Festival) provided to DOH Charleston and District 5
- Next Steps (based on 9/19 meeting: Establish Start Date, Decide on Apple Butter Work-Around, Inform adjacent business/property owners, Start Work, Complete Work.
- I'll provide this timeline after the Pre-Construction Meeting.

**Phase V lighting grant application:** 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
- Next Steps: Draft Thrasher Task Order, 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:**

- Town Check and proposed Corrective Action Plan were formally (and also via e-mail) sent to DEP on September 4<sup>th</sup>, within the DEP 30-day requirement. DEP is reviewing the plan now.
- Continuing to verify with DOH programs office that all of the Funding Agreement funds of \$653,950.21 have been spent and none are available to recover the DEP Fine costs. Recent DOH letter did not include a specific funding value.
- Still to come: Mayor must sign a U.S Army Corps of Engineers "Compliance Certification Form" that certifies that the work authorized by the Permit has been completed in accordance with the permit. This will wait until DOH has formally announced "Completion" – Item #22 on Final Inspection covers the environmental issue and Consent Order
- At Susan's request, sent Dan James (Morgan County Prosecutor) the files from the Town's response to the DEP Consent Order, from its initiation, the Town's meeting with DEP, the final Order and the final response sent to DEP on Sep 4<sup>th</sup>. This is in support of the County's response to a Consent Order received from DEP regarding the fish-kill that occurred (but was not related to the work in the State Park) around the same time as the spill related to the Park work.

**NBRT**

- Awaiting DOH information on the program plans going forward. Gary Graley is no longer leading this effort. Have asked DOH to update their strategy.
- Planting continues in the storm water management system at the Depot
- Next Meeting would normally be 9-25-24 – will confirm if info will be available for this

Pete Brown  
Streetscape Committee



BERKELEY SPRINGS WATER WORKS  
EXPENDITURES AND ENCUMBRANCES

		YEAR:	2025	General Account
BATCH DATE	9/17/2024			
VENDOR ACCT #	VENDOR NAME	AMOUNT	DESCRIPTION	
	Miss Utility	\$ 79.05	August 2024	
	Potomac Edison	\$ 3,995.14	August Master Bill	
	Town Of Bath	\$ 182.06	Oct 2024 EE Paid Dental/Vision	
	Town Of Bath	\$ 5,875.18	Sept 2024 Health Ins	
	US Bank	\$ 7,704.85	P Cards Aug 2024	
	WV Dept Health		Samples	
	Reserve for Debt	\$ 19,112.94	Bond Coverage	
	Transfer to R&R	\$ 18,750.01	Sept Contribution	
	Depreciation	\$ 1,500.00	Monthly Deposit	
	WVCORP	\$ 875.50	Quarterly Workers Comp	
	WVCORP	\$ 3,401.00	Quarterly P&L Insurance	
	GHS	\$ 500.00	Crane Use	
	Southern Corrosion	\$ 62,441.78	Water Tank Maintenance	
	<b>TOTAL</b>	<b>\$ 124,417.51</b>		

GREENWAY

EXPENDITURES AND ENCUMBRANCES

YEAR:		2025
BATCH DATE		
Chart of account	Vendor	AMOUNT
	DESCRIPTION	Bank
		Balance
	AC&T	\$ 24.75
	Invoice 51920E	Porta Pot
	<b>Totals:</b>	<b>\$ 24.75</b>

Hotel-Motel

EXPENDITURES AND ENCUMBRANCES

		YEAR:	2025						
BATCH DATE		9/17/2024							
VENDOR ACCT #	VENDOR NAME	AMOUNT	DESCRIPTION						
	Warm Springs Watershed	\$ 303.00	Annual Meeting Ad & Postcards						
	Ye Towne of Bath Chapter NSDAR	\$ 302.25	Clean Up of the Old English Cemetery						
	Total	\$ 605.25							

