CITY OF CHARLES TOWN

CITY COUNCIL
AGENDA • JUNE 3, 2024

Regular Session **COUNCIL CHAMBERS** **7:00 PM**
101 E Washington Street, Charles Town, WV 25414

CALL TO ORDER

1. MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

2. APPROVAL OF MINUTES

: **2024-566:** City Council Meeting Minutes - May 20, 2024
CityCouncilMeetingMinutes_20May2024_Draft_rmt.pdf

3. PUBLIC COMMENT

4. WARD REPORTS

5. MAYOR'S REPORT

6. COMMITTEE REPORTS

: **2024-555:** Ordinance Committee Meeting Report - May 28, 2024
Ordinance Meeting Minutes 5_28_24.pdf

: **2024-556:** Board of Parks and Recreation Meeting Report - May 29, 2024

7. CITY MANAGER REPORT

: **2024-567:** City Manager Report - June 3, 2024
City Manager Report - June 3, 2024.pdf

8. POLICE CHIEF REPORT

9. UNFINISHED BUSINESS

: **2024-539:** Public Hearing Article 745 Business and Occupation Tax

: **2024-540:** Second Reading and Consideration of an Amendment to the Codified Ordinances of the City of Charles Town, West Virginia with Regard to Part 7 Business Regulation and Taxation Code Article 745 Business and Occupation Tax
Article 745 Business and Occupation Tax Red-lined.pdf

: **2024-509:** ZMA2024-01: Second Reading and Consideration of a Zoning Map Amendment to 9.4 acres of land at the terminus of Southerly Lane.
1. Staff Report.pdf
2. Application.pdf
3. Plan.pdf

: **2024-545:** Plan for Filling Ward 4 Council Vacancy

CTCC Resignation Letter.pdf

: **2024-552:** Discussion of Possible Town Hall on Route 51 Traffic Feasibility Study and Locations

10. NEW BUSINESS

: **2024-561:** Scheduling of Special Meeting

: **2024-562: TXA2023-01 -** First Reading and Consideration of an Amendment to the Zoning Ordinance of the City of Charles Town, West Virginia with Regard to Mobile Food Vendors
1. Report.pdf

11. REFERRALS TO COMMITTEES/COMMISSIONS

12. APPROVAL OF BILLS

: **2024-568:** Payment of Bills - June 3, 2024
GENERAL FUND COUNCIL REPORT 2024 05 31 REVISED.pdf
PARKS N REC COUNCIL REPORT 2024 05 31.pdf
CAPITAL RESERVE COUNCIL REPORT 2024 05 31.pdf

13. ADJOURNMENT

14. INFORMATION ONLY - NEXT REGULAR MEETING June 17, 2024

: **2024-558:** Planning Commission Meeting Minutes - March 25, 2024
3.25.24 PC MINUTES_APPROVED.pdf

: **2024-559:** Charles Town Utility Board Meeting Minutes - May 8, 2024
2024.05.08 UB MINUTES.pdf

: **2024-560:** Signed Rules and Regulations of the Civil Service Commission
Rules and Regs Revised 0524.pdf

: **2024-563:** Business Development Incentives Handout
Business Development Incentives.pdf

: **2024-564:** Article 1759 Vacant Structures
Ord. 2024-004 Article 1759 Vacant Buildings - signed.pdf

: **2024-565:** Board of Parks and Recreation April Meeting Minutes
P&R Report_ April 2024.pdf

15. NOTICE: The Public May View the Meeting Live by Clicking on the Event Link at:

https://www.charlestownwv.us/government/agendas-and-minutes/

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 06/03/24
Department: City Council
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-566: City Council Meeting Minutes - May 20, 2024

ATTACHMENTS:

- CityCouncilMeetingMinutes_20May2024_Draft_rmt.pdf

CITY OF CHARLES TOWN

CITY COUNCIL

MINUTES • May 20, 2024

Regular Meeting **Council Chambers** **7:00 PM**

101 East Washington Street, Charles Town, WV 25414

CALL TO ORDER

Attendee Name	Title	Status	Arrived
Bob Trainor	Mayor	Present	
James Kratovil	Councilmember	Present	
Elizabeth Ricketts	Councilmember	Present	
Jeff Hynes	Councilmember	Present	
Kevin Tester	Councilmember	Present	
Julie Philabaum	Councilmember	Present	
Priscilla Rodd	Councilmember	Present	
Micheal George	Councilmember	Present	
Rikki Twyford	Councilmember	Present	

Mr. John Nissel, City Manager; Ms. Alissa Meeks, Community Development Director; Ms. Cindy Rezmer, Operations Manager; Mr. James Newman, City Planner; Ms. Liz Cook, Business Development/Downtown Coordinator; and Chief Chris Kutcher, Charles Town Police Department were also in attendance.

1. MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

2. APPROVAL OF MINUTES

2024-541: City Council Meeting Minutes - May 6, 2024

The following change was made to the May 6, 2024, meeting minutes:

Packet page 10, Agenda Item #2024-484: First Reading … Article 745 Business and Occupation Tax, third paragraph, second line: add "**as presented**" after the word "Tax" to read, "Ms. Philabaum moved to approve…Article 745 Business and Occupation Tax **as presented**."

3. PUBLIC COMMENT

Four people signed up for public comment:

Mr. George Rutherford requested that the City hold a town hall concerning the West Virginia Department of Highway's Route 51 intersection proposed project to receive input from the residents.

Ms. Claudia Soodeen and Mr. Carl Jennings both expressed their concerns regarding the City's feral cat population, especially in the vicinity of Washington Village Apartments. Ms. Soodeen provided City staff with her contact information for follow up.

Mr. Marc Petitpierre requested that the Council adopt a Gaza cease-fire resolution at the Council's next meeting.

4. WARD REPORTS

Ward #1

Mr. Kratovil had nothing to report.

Ms. Ricketts reported the following infrastructure project updates:

- Augustine Avenue Project Phase II drawings are complete and Phase I of the project is progressing; and
- Council may need to consider passing on the most recent Transportation Alternatives Program (TAP) grant for the Liberty Street Flooding Mitigation project due to construction timing challenges; and
- S. George Street sidewalk project should begin very soon; and
- Infrastructure Committee's next scheduled meeting is June 24, 2024.

Ward #2

Mr. Hynes had nothing to report.

Mr. Tester had nothing to report.

Ward #3

Ms. Philabaum had nothing to report.

Ms. Rodd had nothing to report.

Ward #4

Mr. George had provided a written ward report.

Ms. Twyford read the following statement:

"At the last meeting, Councilwoman Priscilla Rodd relayed the details of an event that occurred outside of her home recently. This event was scary, mean, and wholly unnecessary. I appreciate Ms. Rodd being willing to tell the public about it. I appreciate Chief Kutcher getting involved and giving solid direction and follow up to keep them safe. And I appreciate the support I saw other several staff/council members give Ms. Rodd during/after the meeting. To all of Charles Town and Jefferson County: Being mean is never ok. Harassment is intolerable. We should all strive to set good examples, support each other, BE KIND."

5. MAYOR'S REPORT

2024-517: Update on the Mayor's Select Committee on the Potential of a Charles Town/Ranson Joint Convention and Visitors Bureau (CVB)

Mayor Trainor reported that the Ranson City Council approved the first reading of an ordinance to dissolve their Convention and Visitor Bureau and join the Jefferson County Convention and Visitor Bureau. Should the Ranson City Council approve the second reading of the ordinance, Mayor Trainor stated that he will likely disband the Charles Town Mayor's Select Committee on the Potential of a Charles Town/Ranson Joint Convention and Visitors Bureau (CVB).

6. COMMITTEE REPORTS

2024-522: Finance Committee - May 8, 2024, Meeting

Mayor Trainor reviewed the Finance Committee report with the Council.

2024-523: Personnel Committee - May 13, 2024, Meeting

Mr. George reviewed the Personnel Committee report with the Council.

7. CITY MANAGER REPORT

2024-538: City Manager Report - May 20, 2024

Mr. Nissel reviewed the City Manager report with the Council.

Ms. Liz Cook presented an updated overview of the City's upcoming event schedule.

8. POLICE CHIEF REPORT

Chief Kutcher had nothing to report.

9. UNFINISHED BUSINESS

There was no unfinished business at this meeting.

10. NEW BUSINESS

2024-524: TX2024-01: Public Hearing on the First Reading and Consideration of a Zoning Map Amendment to 9.4 Acres of Land at the Terminus of Southerly Lane.

Mr. George moved to open the public hearing for the zoning map amendment. Mr. Tester seconded the motion, and there were no objections.

Staff announced that no one had signed up for the public hearing.

Mr. George moved to close the public hearing. Mr. Hynes seconded the motion, and there were no objections.

2024-509: TX2024-01: First Reading and Consideration of a Zoning Map Amendment to 9.4 Acres of Land at the Terminus of Southerly Lane

Ms. Philabaum moved to approve the first reading. Mr. George seconded the motion, and it passed by unanimous vote.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Julie Philabaum
SECONDER:	Micheal George
AYES:	Kratovil, Ricketts, Hynes, Tester, Philabaum, Rodd, George, Twyford

2024-518: Article 1102 Animals and Fowls - Section 1102.07 Livestock - No changes

Mr. George moved to table this agenda item indefinitely. Ms. Twyford seconded the motion, and it passed by unanimous vote.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Micheal George
SECONDER:	Rikki Twyford
AYES:	Kratovil, Ricketts, Hynes, Tester, Philabaum, Rodd, George, Twyford

2024-525: Revive Commercial Grant Revision

Mr. George moved to approve the changes to the City's Revive Commercial Grant Program as presented. Ms. Philabaum seconded the motion, and it passed by unanimous vote.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Micheal George
SECONDER:	Julie Philabaum
AYES:	Kratovil, Ricketts, Hynes, Tester, Philabaum, Rodd, George, Twyford

2024-526: Plan for Filing Ward 4 Council Vacancy

Council discussed procedures for filling the expected Council vacancy in Ward 4 due to Councilmember Twyford's recent election to the Jefferson County Schoolboard.

Ms. Twyford agreed to submit her resignation letter from Council to Mr. Nissel by May 21, 2024.

The Council agreed that upon receipt of Ms. Twyford's resignation letter, the City will advertise the vacancy at a minimum of three weeks in local newspaper(s) and on the City's website, with an application deadline of 30 days from the resignation letter's date.

Mr. Nissel will ensure that this procedure is not contrary to WV State code. He agreed to provide a documented outline of the process delineated above at the June 3, 2024, Council meeting.

2024-527: Board of Parks and Recreation Commission Membership Review

Mr. Hynes moved to schedule a public hearing on June 17, 2024, inviting Mr. Larry Vogler, at 6:30PM, per Charles Town Codified Ordinance, Article 138.03(j) – Board of Parks and Recreation Commissioners, for possible action regarding current board membership. Mr. George seconded the motion, and it passed by a 7-1 vote.

Note: Mr. Nissel agreed to reach out to Mr. Larry Vogler to determine his interest in fulfilling his term as a director on the City's Board of Parks and Recreation Commission, which expires December 31, 2026.

RESULT:	**APPROVED [7-1]**
MOVER:	Jeff Hynes
SECONDER:	Micheal George
AYES:	Kratovil, Hynes, Tester, Philabaum, Rodd, George, Twyford
NAYS:	Rickett

2024-528: Town Hall Discussion on Route 51 Traffic Feasibility Study

Mr. Nissel agreed to research dates, times, and venues in the west end of Charles Town, for a possible town hall meeting to afford residents an opportunity to provide the City with feedback regarding the Route 51/W. Washington St./Summit Point Rd./MLK Boulevard traffic feasibility study. He will report back to Council at the next regular scheduled Council meeting on June 3, 2024.

2024-529: Possible Executive Session - Zoning Enforcement

Mr. Hynes moved to enter into executive session. Ms. Philabaum seconded the motion, and there were no objections.

Note: Two issues were to be discussed in executive session. The first issue – property disposition – does not require Council action. The second issue – Zoning – requires Council action.

Mayor Trainor declared the Council in executive session.

Mayor Trainor declared the Council out of executive session.

Mr. Hynes moved to empower the City's Zoning Administrator to take the appropriate [zoning enforcement] action on the subject parcel. Mr. Tester seconded the motion, and it passed unanimously.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Jeff Hynes
SECONDER:	Kevin Tester
AYES:	Kratovil, Ricketts, Hynes, Tester, Philabaum, Rodd, George, Twyford

2024-536: Tree City USA Presentation

Ms. Katie Coon, representing the Charles Town Tree Board, presented the City with a Tree City USA flag commemorating the National Arbor Day Foundation's naming the City of Charles Town as a Tree City USA for the 12th cumulative year.

2024-537: Police Civil Service Rules Update

Mr. Tester moved to approve the updated Rules and Regulations of the Police Civil Service Commission of The City of Charles Town, West Virginia effective May 30, 2024. Mr. George seconded the motion, and it passed by unanimous vote.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Kevin Tester
SECONDER:	Micheal George
AYES:	Kratovil, Ricketts, Hynes, Tester, Philabaum, Rodd, George, Twyford

11. REFERRALS TO COMMITTEES/COMMISSIONS

There were no referrals to committees or commissions.

12. APPROVAL OF BILLS

2024-542: Payment of Bills - May 20, 2024

Mr. Kratovil moved to approve the bills for payment. Hearing no objections, Mayor Trainor declared the bills approved for payment.

13. ADJOURNMENT

Mayor Trainor asked if there was any other business to come before the Council. Hearing none, he adjourned the meeting at 8:50PM.

14. INFORMATION ONLY - NEXT REGULAR COUNCIL MEETING, June 3, 2024

2024-519: Council Select Committee on PODA (Private Outdoor Designated Area) Letter

2024-520: Charles Town Utility Board of Directors signed Oath of Office – Heidi Parker

2024-530: Public Comment Letters to Matt Mullenax - HEPMPO

2024-531: Councilmember Micheal George's Ward Report

2024-532: Jefferson Memorial Park Tennis Program Timeline

2024-533: Charles Town Police Department April Statistic Report

2024-534: Charles Town Utility Board Meeting Minutes - April 24, 2024

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City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 06/03/24
Department: City Council
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-555: Ordinance Committee Meeting Report - May 28, 2024

ATTACHMENTS:

- Ordinance Meeting Minutes 5_28_24.pdf

City of Charles Town Ordinance Committee Report - May 28, 2024

Call to Order:
17:13

Committee Members In Attendance:

Rikki Twyford and Kevin Tester

Also in attendance: John Nissel - City Manager

Agenda / Discussions:

Outdoor Dining Ordinance
We reviewed the recommendations made by City Planner, James Newman. Follow ups: John will consult with CTUB and CTPD. Rikki will consult with Liz Cook, James Newman, and several affected business owners.

- ***Recommendation to City Council:***
  - *None at this time*

Parking - Article 365
This was tabled until the next Ordinance meeting.

- ***Recommendation to City Council:***
  - *None at this time*

Adjournment:
17:54 *Note: the meeting was unexpectedly adjourned as there was a Planning Commission meeting we were not aware of.*

Next Meeting:
TBD - Potentially 6.19.24 at 18:00

2024-556: Board of Parks and Recreation Meeting Report - May 29, 2024

ATTACHMENTS:

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 06/03/24
Department: City Council
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-567: City Manager Report - June 3, 2024

ATTACHMENTS:

- City Manager Report - June 3, 2024.pdf

City of Charles Town
101 East Washington Street, P.O. Box 14, Charles Town, WV 25414
Phone: (304) 725-2311 ♦ Web: www.charlestownwv.us

City Manager Report
June 3, 2024

- Summer Intern: Georgia Brenneke a rising sophomore at Hollins University majoring in Communication Studies with a likely double major in Political Science and a minor in Business started today as our summer intern and will work with us until mid-August. Georgia will be tasked with: Working on the annual Historic Landmarks Commission report, which must be sent to the State annually. Assisting Liz Cook on her Main Street Overlay to bring active retail businesses to ground floor commercial areas and aiding in filing and organizing City files. Please stop by and give Georgia a warm welcome.
- Tennis Camps began today and so far, this summer we have registered 86 participants.
- The pool opened on Memorial Day and has seen a steady stream of customers. We have registered a total of 276 kids for our swim lessons with many more sitting on waiting lists.
- Last Wednesday the city hosted “Yard Waste Day” and we picked up a little under 400 hundred bags of yard waste. I want to give a big shout-out to Jim Wysong and his crew for all their hard work.
- We are gearing up for WV Fest and have received word that the Governor will be coming. I want to thank all the staff and volunteers in advance for all their help with the event.
- Lady Jays Catering and Restaurant did a soft opening last week in the downtown area and we are very excited to have another eatery in town. Please stop by for some of their delicious food.

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 06/03/24
Department: City Council
Category: Ordinance
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-539: Public Hearing Article 745 Business and Occupation Tax

ATTACHMENTS:

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 06/03/24
Department: City Council
Category: Ordinance
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-540: Second Reading and Consideration of an Amendment to the Codified Ordinances of the City of Charles Town, West Virginia with Regard to Part 7 Business Regulation and Taxation Code Article 745 Business and Occupation Tax

ATTACHMENTS:

- Article 745 Business and Occupation Tax Red-lined.pdf

ARTICLE 745
Business and Occupation Tax

745.01 Short title.

745.02 Purpose and intent.

745.03 Definitions.

745.04 Imposition of tax.

745.05 Natural resource production.

745.06 Manufacturing.

745.07 Selling tangible property.

745.08 Public service or utility business.

745.09 Contracting.

745.10 Amusements.

745.11 Service business or calling not otherwise classified.

745.12 Rentals and royalties.

745.13 Banking and other financial businesses.

745.14 Health maintenance organizations.

745.15 Person taxable on multiple activities; credits.

745.16 Exempt activities.

745.16A Optional Exempt Activities.

745.16B B&O Tax Credit Incentives

745.17 Tax cumulative.

745.18 Administration generally.

745.19 Returns; computation and payment of tax.

745.20 Taxpayer records.

745.21 Tax return information confidentiality.

745.22 Erroneous computation of tax.

745.23 Investigations.

745.24 Assessments.

745.25 Notice of assessment; petition for reassessment.
745.26 Hearing procedure; decision; review.
745.27 Injunction.
745.28 Unpaid tax a lien; delinquency notice filing and release.
745.29 Successor liability.
745.30 Revocation, nonrenewal of licenses and permits.
745.31 Settlement agreements and compromises.
745.32 Additional administrative provisions concerning contracting.
745.33 Claims for refunds or credit.
745.34 Interest and penalty; criminal liability.
745.35 Severability.
745.36 Repeal of the business franchise tax.
745.37 Effective date.

CROSS REFERENCES

Authority to tax - see W.Va. Code 8-13-5

Business and occupation tax - see W.Va. Code Art. 11-13

Collection of taxes - see W.Va. Code 8-13-15 et seq.

745.01 SHORT TITLE.

This article shall be known as the "City of Charles Town Municipal Business and Occupation Tax Ordinance."

(Passed 7-19-10.)

745.02 PURPOSE AND INTENT.

The purpose of this article is to impose a municipal business and occupation tax pursuant to West Virginia Code § 8-13-5 to the fullest extent allowable under the operative laws of the State of West Virginia and the United States unless a more restrictive application is required by an express limitation set forth in this article.

(Passed 7-19-10.)

745.03 DEFINITIONS.

For purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section unless a different meaning is clearly required by the context in which the term is used:

(a) Banking business. The term "banking business or financial organization" means any bank, banking association, trust company, industrial loan company, small loan company, or licensee, building and loan association, savings and loan association, credit union, finance company, investment company, investment broker or dealer, and any other similar business organization at least ninety percent (90%) of the assets of which consists of intangible personal property and at least ninety percent (90%) of the gross receipts of which consists of dividends, interest and other charges derived from the use of money or credit.

(b) Business. The term "business" means all activities engaged in or caused to be engaged in with the object of gain or economic benefit, either direct or indirect. The production of raw materials or manufactured products which are used or consumed in the main business shall be deemed a business engaged in taxable in the class for which it falls.

(c) Contracting. The term "contracting" means the furnishing of work, or both materials and work, in the fulfillment of a contract for the construction, alteration, repair, decoration or improvement of a new or existing building or structure, or any part thereof, or for the alteration, improvement or development of real property.

(d) Gross Income. The term "gross income" generally means the gross receipts of the taxpayer, other than a banking or financial business, received as compensation for personal services and the gross receipts of the taxpayer derived from trade, business, commerce or sales and the value proceeding or accruing from the sale of tangible property, real or personal, or service, or both, and all receipts by reason of the investment of the capital of the business engaged in, including interest, discount, rentals, royalties, fees, reimbursed costs or expenses or other emoluments however designated and without any deductions on account of the cost of property sold, the cost of materials used, labor costs, taxes, royalties, interest and discount paid, or sums paid to independent contractors, subcontractors or persons furnishing services or property used in the operation of any business to produce gross income, or any other expense whatsoever. "Gross income" of a banking or financial business is specified in Section 745.13 of this article.

(e) Gross proceeds of sales. The term "gross proceeds of sales" means the value actually proceeding from the sale of tangible property without any deduction on account of the cost of property sold or expenses of any kind. The words "gross income" and "gross proceeds of sales" shall not be construed to include cash discounts allowed and taken on sales; the proceeds of sale of goods, wares or merchandise returned by customers when the sale price is refunded either in cash or by credit; or the sale price of any article accepted as part payment on any new article sold, if the full sale price of the new article is included in the" gross income" or "gross proceeds of sales"; excise taxes imposed by the State; money or other property received or held by a professional person for the sole use and benefit of a client or another person or money received by the taxpayer on behalf of a bank or other

financial institution for repayment of a debt of another; and excise taxes imposed by the federal government upon the consumer, not manufacturer, and which are held in trust by the vendor as agent for the federal government.

(f) Municipality. The term "municipality" means the City of Charles Town.

(g) Person. The terms "person" and "company" are used interchangeably in this article and mean and include any individual, firm, copartnership, joint adventure, association, corporation, limited liability company, trust, estate or any other group or combination acting as a unit, and the plural as well as the singular number. The word "it" shall also include the pronouns "he" and "she".

(h) Retail sales. The terms "retail sales" and "selling at retail" mean all sales other than wholesale sales, including but not limited to sales to persons for use in any activity not subject to the tax imposed by this article, all sales of real property, and sales to consumers.

(i) Sale. The terms "sale" and "sales" mean any transfer of the ownership of or title to property, whether for money or in exchange for other property.

(j) Services. The term "service business or calling" includes all activities engaged in for other persons for a consideration, which involve the rendering of a service as distinguished from the production or sale of tangible property, but shall not include the services rendered by an employee to his employer.

(k) Tax year. The terms "tax year" and "taxable year" mean as the period commencing July 1 and ending June 30. For the purpose of this article the taxable year shall be divided into two semi-annual periods. The first period shall be from July 1st through December 31st. The second period shall be from January 1st through June 30th.

(l) Taxpayer. The term "taxpayer" means any person liable for any tax hereunder.

(m) Treasurer. The term "treasurer" means the municipality's treasurer and his or her agents, delegates or representatives.

(n) Wholesale sales. The terms "selling at wholesale" and "wholesale sales" mean only:

(1) Sales of tangible personal property for the purpose of resale in the form of tangible personal property,

(2) Sales of machinery, supplies or materials which are to be directly consumed by the purchaser in the conduct of any business or activity which is subject to the tax imposed by this article, or

(3) Sales of tangible personal property to the United States of America, its agencies and instrumentalities, or to the State of West Virginia, its institutions and political subdivisions.

(Passed 7-19-10.)

745.04 IMPOSITION OF TAX.

(a) There are hereby levied and imposed and shall be collected annual privilege taxes, against the persons, on account of the business and other activities and in the amounts to be determined by the application of rates against values or gross income or gross proceeds as set forth in Sections 745.05 through 745.14 of this article, inclusive.

(b) If any person liable for any tax under Section 745.05 or 745.06 of this article shall ship or transport its products, or any part thereof, out of the municipality without making sale of such products, the value of the products in the condition or form in which they exist immediately before transportation out of the municipality shall be the basis for the assessment of the tax imposed in those sections. Gross income included in the measure of the tax under Section 745.05 or 745.06 of this article, shall neither be added nor deducted in computing the tax levied under the other sections of this article. In determining value, however, as regards sales from one to another of affiliated companies or persons, or under other circumstances where the relation between the buyer and the seller is such that the gross proceeds from the sale are not indicative of the true value of the subject matter of the sale, the value upon which such privilege tax shall be levied shall correspond as nearly as possible to the gross proceeds from the sale of similar products of like quality or character where no common interest exists between the buyer and the seller but where the circumstances or conditions are otherwise similar.

(c) The municipal business and occupation tax is imposed on each person engaged in privileges taxable under this article if such person is engaged in purposive revenue generating activities within the municipality's limits and such person has sufficient contacts to sustain the municipality's taxing jurisdiction. By way of example (but not limitation), if a person's activities within the municipality contributes to the establishment and maintenance of a market, such contacts are considered to be sufficient to sustain the municipality's taxing jurisdiction assuming federal constitutional nexus standards are satisfied.

(Passed 7-19-10.)

745.05 NATURAL RESOURCE PRODUCTION.

(a) Upon every person engaging or continuing within the municipality in the business of severing, extracting, mining, quarrying, reducing to possession and/or producing for sale, profit or commercial use any natural resource products, the amount of such tax shall be equal of the value of the articles produced as shown by the gross proceeds derived from the sale thereof by the producer, except as hereinafter provided, multiplied by the respective rates as follows: Coal, one percent (1.00%); limestone or sandstone quarried or mined, one and one-half percent (1.50%); oil or blast furnace slag, three percent (3.00%); natural gas in excess of the value of five thousand dollars ($5,000.00), six percent (6.00%); sand, gravel or other mineral products, not quarried or mined, three percent (3.00%); timber one and one-half percent (1.50%), and other natural resource products, two percent (2.00%).

(b) The measure of this tax is the value of the entire production in the municipality, regardless of the place of sale or the fact that delivery may be made to points outside the municipality.

(c) A person exercising privileges taxable under this section and using or consuming the

natural resources so produced in his business or transferring or delivering the natural resources as any royalty paid, in kind, or the like, shall be deemed to be engaged in the business of producing natural resources and shall be required to make returns on account of the production of the business, showing the gross proceeds or equivalent in accordance with uniform and equitable rules for determining the value upon which privilege taxes shall be levied, corresponding as nearly as possible to the gross proceeds from the sale of similar products of like quality or character by other taxpayers.

(d) Persons who produce natural resources outside the municipality and who make sale of those products within the municipality shall not pay the tax imposed by this section but shall pay the tax imposed by Section 745.07 of this article for the privilege of selling such products within the municipality.

(e) A person exercising any privilege taxable under this section and engaging in the business of selling its natural resource products in the municipality shall be required to make returns of the gross proceeds of such sales and pay the tax imposed in Section 745.07 of this article for the privilege of engaging in the business of selling such natural resource products in the municipality. (Passed 7-19-10.)

745.06 MANUFACTURING.

(a) Upon every person engaging or continuing within the municipality in the business of manufacturing, compounding or preparing for sale, profit or commercial use, either directly or through the activity of others, in whole or part, any article or articles, substance or substances, commodity or commodities, or newspaper publishing (including all gross income or proceeds of sale from circulation and advertising), the amount of the tax shall be equal to the value of the article, substance, commodity or newspaper manufactured, compounded or prepared for sale, as shown by the gross proceeds derived from the sale thereof by the manufacturer or person compounding or preparing the same, except as otherwise provided, multiplied by a rate of eighteen one-hundredths percent (0.18%).

(b) The measure of the tax in this section is the value of the entire product manufactured, compounded or prepared in the municipality for sale, profit or commercial use, regardless of the place of sale or the fact that deliveries may be made to points outside the municipality. It is further provided, however, that in those instances in which the same person partially manufactures, compounds or prepares products within the municipality and partially manufactures, compounds or prepares such products outside the municipality, the measure of tax under this section shall be that proportion of the sales price of the product that the payroll costs of manufacturing within the municipality bears to the entire payroll costs of manufacturing the product.

(c) If any person shall ship or transport its products or any part thereof out of the State without making sale of such products, the value of the products in the condition or form in which they exist immediately before transportation out of the State shall be the basis for the assessment of the tax imposed. The treasurer may prescribe equitable and uniform rules of ascertaining such value; provided that, in the absence of such rules, the person manufacturing the products within the municipality shall report the value in a consistent and reasonable

manner.

(d) The dressing and processing of food intended for human consumption by a person, or the cooking and serving of food by a restaurant which food is to be sold in the municipality by such person, shall not be considered manufacturing or compounding or preparing for sale, but the sale of these products shall be reported under Section 745.07 of this article either as wholesale or retail sale, as the case may be.

(e) Persons who manufacture, compound or prepare products outside the municipality and who make sale of such product within the municipality shall not pay the tax imposed by this section but shall pay tax imposed by Section 745.07 of this article for the privilege of selling such product within the municipality.

(f) A person exercising any privilege taxable under this section and engaging in the business of selling its product in the municipality shall be required to make returns of the gross proceeds of such sales and pay the tax imposed by this section at the rate set forth in Section 745.07 of this article for the privilege of engaging in the business of selling such manufactured goods in the municipality. (Passed 7-19-10.)

745.07 SELLING TANGIBLE PROPERTY.

(a) Upon every person engaging or continuing within the municipality in the business of selling any tangible property whatsoever, real or personal, including the sale of food in hotels, restaurants, cafeterias, confectioneries and other public eating houses and wholesale sales from a rolling stockpile, except sales of any person engaging or continuing in the business of horticulture, agriculture or grazing, or selling stocks, bonds, or other evidence of indebtedness, there is hereby levied, and shall be collected, a tax equal to five one-hundredths percent (0.05%) of the gross income of the business; except, therein the case of selling at wholesale, the tax shall be equal to five one-hundredths percent (0.05%) of the gross income of the business.

(Passed 1-20-15.)

(b) Gross income or gross proceeds of sales derived from sales within West Virginia that is not taxed or taxable by any other municipality are included in the measure of municipal business and occupation tax if the sales are either directed from a location within the municipality or the taxpayer's principal West Virginia office is located in the municipality. Without limiting the generality of the foregoing, when the taxpayer has only one (1) office location and this office is located within the municipality and its activities elsewhere in

West Virginia are neither taxed nor taxable by another municipality, the gross income or gross proceeds from those activities are taxable by this municipality.

(c) Persons domiciled outside the municipality who solicit sales within the municipality and sell tangible personal property within the municipality are doing business in the municipality, irrespective of the domicile of such persons and irrespective of whether or not such persons maintain a permanent place of business in the municipality and irrespective of how a sales order is transmitted or processed. If an order is placed in connection with solicitation by a representative (regardless whether there is an employment or agency relationship or whether acting as an independent contractor) who solicits orders within the municipality, and the

tangible personal property is to be delivered in the municipality, then the gross proceeds of such sales are included in the measure of the tax imposed by this article.

(Passed 7-19-10.)

745.08 PUBLIC SERVICE OR UTILITY BUSINESS.

Upon every person engaging or continuing within the municipality in any public service or utility business, except railroad, railroad car, express, pipeline, telephone and telegraph companies, water carriers by steamboat or steamship and motor carriers, there is levied, and shall be collected, taxes on account of the business engaged in equal to the gross income of the business multiplied by the respective rates as follows: electric light and power companies, four percent (4.00%) on sales and demand charges for domestic and commercial lighting and three percent (3.00%) on sales and demand charges for all other purposes; natural gas companies, three percent (3.00%); and upon all other public service or utility business, two percent (2.00%). The measure of this tax shall not include gross income derived from commerce between the State and other states of the United States.

The measure of the tax under this section shall include only gross income received from the supplying of public service. The gross income of the taxpayer from any other activity shall be included in the measure of the tax imposed upon such other activity by the appropriate section of this article.

(Passed 7-19-10.)

745.09 CONTRACTING.

Upon every person engaging or continuing within the Municipality in the business of contracting, the tax shall be equal to two percent (2.00%) of the gross income of the business.

(Passed 4-21-15.)

745.10 AMUSEMENTS.

Upon every person engaging or continuing within the municipality in the business of operating a theater, opera house, moving picture show, vaudeville, amusement park, carnival, circus, dance hall skating rink, racetrack, radio broadcasting station or any other place at which amusements are offered to the public, the tax shall be equal to fourteen one- hundredths percent (0.14%) of the gross income of the business.

(Passed 7-19-10.)

745.11 SERVICE BUSINESS OR CALLING NOT OTHERWISE CLASSIFIED.

(a) Upon every person engaging or continuing within the municipality in any service business or calling not otherwise specifically taxed under this article, there is hereby levied, and shall be collected, a tax equal to twenty-three one-hundredths percent (0.23%) of the gross income of any such business.

(b) Gross income or gross proceeds of sales derived from services within West Virginia that is not taxed or taxable by any other municipality are included in the measure of tax under this article if the services are either directed from a location in the municipality or the taxpayer's principal West Virginia office is located in the municipality. Without limiting the generality of the foregoing, when a taxpayer has only one (1) office location and this office is located within the municipality and its activities elsewhere in West Virginia are neither taxed nor taxable by another municipality, the gross income or gross proceeds from those activities are taxable by this municipality. (Passed 7-19-10.)

745.12 RENTALS AND ROYALTIES.

Upon every person engaging or continuing within the municipality in the business of furnishing any real or tangible personal property which has a tax situs in the municipality, or any interest therein, for hire, loan, lease or otherwise, whether the return is in the form of rentals, royalties, fees or otherwise, the tax shall be thirty one-hundredths percent (0.30%) of the gross income of any such activity. The term "tangible personal property", as used herein, shall not include money or public securities.

(Passed 7-19-10.)

745.13 BANKING AND OTHER FINANCIAL BUSINESSES.

Upon every person engaging or continuing within the municipality in the business of banking or financial business, the tax shall be equal to twenty-three one-hundredths percent (0.23%) of the gross income received from interest, premiums, discounts, dividends, service fees or charges, commissions, fines, rents from real or tangible personal property, however denominated, royalties; charges for bookkeeping or data processing, receipts from check sales, charges or fees, and receipts from the sale of tangible personal property; provided, that gross income shall not include (a) interest received on the

obligations of the United States, its agencies and instrumentalities; (b) interest received on the obligations of this or any other state, territory or possession of the United States, or any political subdivision of any of the foregoing or of the District of Columbia; or (c) interest received on investments or loans primarily secured by first mortgages or deeds of trust on residential property occupied by nontransients; provided further, that all interest derived on activities exempt under (c) above shall be reported, as to amounts, on the return of a person taxable under the provision of this section.

(Passed 7-19-10.)

745.14 HEALTH MAINTENANCE ORGANIZATIONS.

The rate of tax on the activity of a health maintenance organization holding a certificate of authority under the provisions of West Virginia Code §§ 33-25A-1 et seq. shall not exceed one half of one percent (0.50%) to be applied solely to that portion of gross income received from the Medicaid program pursuant to Title XIX of the Social Security Act, the State employee programs administered by the public employee insurance agency pursuant to West Virginia

Code §§ 5-16-1 et seq., and other federal programs, for health care items or services provided directly or indirectly by the health maintenance organization that is expended for administrative expenses; and shall not exceed one-half of one percent (0.50%) to be applied to the gross income received from enrollees, or from employers on behalf of enrollees, from sources other than Medicaid, State employee programs administered by the public employees insurance agency and other federal programs for health care items or services provided directly or indirectly by the health maintenance organization: Provided, That this tax rate limitation shall not extend to that part of the gross income of health maintenance organizations which is received from the use of real property other than property in which any such company maintains its office or offices in the municipality, whether such income is in the form of rentals or royalties.

(Passed 7-19-10.)

745.15 PERSONS TAXABLE ON MULTIPLE ACTIVITIES; CREDITS.

(a) A person taxable under Section 745.07 of this article with respect to selling products at wholesale in this municipality shall be allowed a non-refundable credit against the tax imposed on such wholesale sales pursuant to Section 745.07 for any (i) manufacturing taxes paid by such person with respect to the manufacturing of products so sold at wholesale in this municipality, and/or (ii) extracting taxes paid by such person with respect to the extracting of products so sold in this municipality or ingredients of products so sold at wholesale in this municipality.

(b) For purposes of this section:

(1) "Manufacturing tax" means a gross receipts tax imposed by a municipality or other local government unit on the act or privilege of engaging in the business as a manufacturer

and includes (i) the tax imposed in Section 745.06 of this article and (ii) similar gross receipts taxes paid to other municipalities or other local government units (other than State governments) within the United States.

(2) "Extracting tax" means a gross receipts tax imposed by a municipality or other local government unit on the act or privilege of engaging in the business as a producer of natural resource products and includes (i) the tax imposed in Section 745.05 of this article and (ii) similar gross receipts taxes paid to other municipalities or other local government units within the United States (other than State governments) within the United States.

(3) "Gross receipts tax" means a tax which (i) is imposed on or measured by the gross volume of business in terms of gross receipts or in other terms and in the determination of which deductions allowed would not constitute the tax an income tax or value added tax and (ii) which is not, pursuant to law or custom, separately stated from the sales price.

(c) If imposition of the municipality's tax would place an undue burden upon interstate commerce or violate constitutional requirements, a taxpayer shall be allowed a credit to the extent necessary to preserve the validity of the tax under this article, and still apply the tax to as much of the taxpayer's activities as may be subject to the municipality's taxing authority.

(Passed 7-19-10.)

745.16 EXEMPT ACTIVITIES.

The provisions of this article shall not apply to:

(a) Insurance companies which pay the State of West Virginia a tax upon premiums; provided, that such exemption shall not extend to that part of gross income of insurance companies which is received for the use of real property, other than property in which any such company maintains its office or offices, in the municipality, whether such income is in the form of rentals or royalties; '

(b) Nonprofit cemetery companies organized and operated for the exclusive benefit of their members;

(c) Fraternal societies, organizations and associations organized and operated for the exclusive benefit of their members and not for profit; provided, that this exemption shall not extend to that part of gross income arising from the sale of alcoholic liquor, food and related services of such fraternal societies, organizations and associations which are licensed as private clubs under the provisions of West Virginia Code §§ 60-7-1 et seq.;

(d) Corporations, associations and societies organized and operated exclusively for religious or charitable purposes;

(e) Production credit associations, organized under the provisions of the federal Farm Credit Act of 1933; provided, that the exemption of this section shall not apply to corporations or cooperative associations organized under the provisions of West Virginia Code §§ 19-4-1 et seq.;

(f) Any credit union organized under the West Virginia Code; provided, that the exemptions of this section shall not apply to corporations or cooperative associations organized under the provisions of West Virginia Code §§ 19-4-1 et seq.; and

(g) Gross income derived from advertising service rendered in the business of radio and television broadcasting.

(h) Licensed new and existing childcare businesses and/or facilities operating in the City.

(Passed 7-19-10.)

745.16A OPTIONAL EXEMPT ACTIVITIES.

The City Council, by vote of 2/3 majority of the Council, reserves the right to apply, reduce, or eliminate for a specified time period and/or for a specific project, the Business and Occupation tax per the following provision(s): Any activity associated with a municipality-initiated/taxpayer-funded project that directly benefits Charles Town's residents, and in which the taxes rendered under this article could result in higher rates to those residents for existing services and/or higher project costs for the municipality.

(Passed 9-5-2023)

745.16B B&O TAX CREDIT INCENTIVES

In addition to any other tax incentive otherwise available, any business that meets the following qualifying requirements shall be entitled to a tax credit computed under the provisions of this article for:

(a) Old Town Mixed Use – Commercial (OTMU-C) District Retail, Dining, & Entertainment Tax Credit

(1) For any new *retail, dining,* and *entertainment* business that locates within the Old Town Mixed Use - Commercial (OTMU-C), as defined by the City's Zoning Ordinances, the business entity may be allowed:

A. One hundred (100%) percent credit against the business and occupation tax liability annually for the first year from the date the entity qualifies for the tax credit

B. Fifty (50%) percent credit against the business and occupation tax liability annually for the second year from the date the entity qualifies for the tax credit

C. Twenty-five (25%) percent credit against the business and occupation tax liability annually for the third year from the date the entity qualifies for the tax credit

(2) Any new qualifying business applying for a New Retail, Dining, and Entertainment tax credit inside the OTMU-C District shall:

A. Submit an official "Business Plan" to the City's Business Development Coordinator which must be dated and signed by the Community Development Director. A standard business template is provided with the City's new business packet.

B. Meet with the Community Development Director.

(3) The credit may only be taken if a qualifying business files the required business and occupation tax return on or before the required due date. When such documentation is filed on or before the required due date.

(4) *New* business is defined as the business entity never having operated or conducted business in a physical, fixed location in the City.

(5) The business must produce 50% or more of gross sales in the form of retail, dining, or entertainment to qualify for the incentive.

(6) To meet the classifications set forth for *Retail, Dining,* or *Entertainment*, the business must comply with and meet the definitions set forth by the City for the terms above in the City's zoning regulations and District Use Tables.

(b) New Retail, Dining, & Entertainment Tax Credit inside a City Commercially Zoned District.

(1) For any new *retail, dining, and entertainment* businesses that locates beyond the boundaries of the OTMU-C, but still within the corporate limits of the City's zoned commercial area(s), the business entity may be allowed:

A. Fifty percent (50%) credit against the business and occupation tax liability annually for the first year from the date the entity qualifies for the tax credit

B. Twenty-five (25%) credit against the business and occupation tax liability annually for the second year the date the entity qualifies for the tax credit

(2) Any new qualifying business applying for a New Retail, Dining, and Entertainment tax credit inside a City Commercially Zoned District shall:

A. Submit an official "Business Plan" to the City's Business Development Coordinator which must be dated and signed by the Community Development Director. A standard business template is provided with the City's new business packet.

B. Meet with the Community Development Director.

(3) The credit may only be taken if a qualifying business files the required business and occupation tax return on or before the required due date. When such documentation is filed on or before the required due date.

(4) *New* business is defined as the business entity never having operated or conducted business in a physical, fixed location in the City.

(5) The business must produce 50% or more of gross sales in the form of retail, dining, or entertainment to qualify for the incentive.

(6) To meet the classifications set forth for *Retail, Dining,* or *Entertainment,* the business must comply with and meet the definitions set forth by the City for the terms above in the City's zoning regulations and District Use Tables.

745.17 TAX CUMULATIVE.

The tax, interest and penalty imposed by this article shall be in addition to all other licenses, taxes and other revenue measures levied or collected by the municipality as a condition precedent to the right of any person to engage or continue in any business, profession, trade, calling or other activity within this municipality. A person exercising a privilege taxable under this article, subject to the payment of all licenses and charges which are conditions precedent to exercising the privileges taxed, may exercise the privilege in this municipality for the tax year upon the condition that he shall pay the tax, interest and penalty imposed by this article.

(Passed 7-19-10.)

745.18 ADMINISTRATION GENERALLY.

The administration of this article is vested in and shall be exercised by the treasurer who shall prescribe forms and may promulgate from time to time reasonable rules, publications and instructions for the making of returns, and for ascertaining, assessment, collection and administration of tax, interest and penalty imposed hereunder.

(Passed 7-19-10.)

745.19 RETURNS; COMPUTATION AND PAYMENT OF TAX.

(a) The tax levied by this article shall be due and payable in semi-annual installments on or before the expiration of one month from the end of each semi-annual period in which they accrue. The taxpayer shall, within one month from the expiration of each semi-annual period, make a return reporting the computation of tax for which it is liable for each semi-annual period; sign and mail the completed return, together with any remittance due, to the location specified by the treasurer. The treasurer may allow return and payment under this section for periods other than semi-annual periods.

(b) On or before thirty-one (31) days after the end of the tax year, each person liable for the payment of tax under this article shall make a second semi-annual return, showing the gross proceeds of sale or gross income of business, trade, calling or activity, computing the amount of tax, interest and penalty chargeable against the person in accordance with the provisions of this article and transmit with the return a remittance in the sum required by this article, covering the remainder of the tax, interest and penalty chargeable against the person for the tax year, to such location or locations specified by the treasurer. Such returns shall be verified by the oath of the taxpayer, if made by an individual, or by the individual designated by a taxpayer that is an entity to take the oath on behalf of the taxpayer.

(c) All remittances and payments of tax, interest and penalty imposed by this article shall be made to the treasurer, in lawful money of the United States or by bank draft, certified check, cashier's check, or other commercially acceptable means specified by the treasurer, to be kept, deposited and accounted for as provided by law.

(Passed 7-19-10.)

745.20 TAXPAYER RECORDS.

Each person subject to this article shall maintain sufficient records for review by the treasurer as long as the contents of such records may be material in the administration of tax imposed by this article.

(Passed 7-19-10.)

745.21 TAX RETURN INFORMATION CONFIDENTIALITY.

Except when required in an investigation or proceeding to ascertain or collect amount of tax,

interest, penalty, refund or credit due, or pursuant to an exemption in W. Va. Code § 11-10-5d, it shall be unlawful for any officer, employee or agent of the municipality to divulge or make known in any manner the tax return, or any part thereof, of any person, or disclose information concerning the personal affairs of any individual or the business of any person, or disclose the amount of income or any particulars set forth or disclosed in any report, declaration or return required to be filed with the treasurer or otherwise obtained by the municipality in an investigation undertaken by the treasurer concerning the tax imposed by this article. Any person protected by the provisions of this article may, in writing, waive the confidentiality provisions of this section for such purpose and such period as he shall therein state. This section shall not be construed to prohibit the publication or release of statistics so classified as to prevent the identification of particular reports and the items thereof. Notwithstanding the foregoing, the treasurer may permit the proper officer, or his authorized representative or agent, of the United States or the State, or any political subdivision of the State, to inspect return information to or may furnish to such officer or representative a copy of any such return or any other tax return information, provided, that such other jurisdiction grants similar privileges to this municipality or if the other jurisdiction is a party of an intergovernmental agreement authorizing the exchange of such information.

(a) Any officer, employee or agent of the municipality or any former officer, employee or agent of the municipality who shall divulge facts or information obtained from returns or tax statements other than for the purpose of administering such tax shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not more than one thousand dollars ($1,000) or imprisonment for not more than one year, or both, together with costs of prosecution.

(b) Any officer, employee or agent of the municipality or any former officer, employee or agent of the municipality who shall make unauthorized disclosure of information received from the State Tax Commissioner under authority of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not more than one thousand dollars ($1,000) or imprisonment for not more than one year, or both, together with costs of prosecution.

(c) For purposes of this article, "unauthorized disclosure" means the release to any person of any tax information obtained by the municipality from the State Tax Commissioner unless the person receiving the information is the authorized counsel of the municipality and shall be using the information only for the purpose of administering the tax imposed by this article, Sales Tax from single location businesses, or Liquor Sales Tax; or the person who filed the return has authorized, in writing, its release, thereby waiving his right to secrecy.

(Passed 7-19-10.)

745.22 ERRONEOUS COMPUTATION OF TAX.

If any taxpayer shall make any error in computing the tax, interest and penalty under this article, the treasurer shall correct such error or reassess the proper amount of tax, interest and penalty, and notify the taxpayer of his or her action by mailing the taxpayer promptly a copy of the corrected assessment, and any additional tax, interest and penalty for which such taxpayer

may be liable shall be paid within fifteen (15) days after the receipt of such statement. If the amount already paid exceeds that which should have been paid on the basis of the tax so recomputed, the excess so paid shall be immediately refunded to the taxpayer upon the request of the treasurer and shall be payable out of any funds available for the purpose. The taxpayer may, at its election, apply an overpayment as credit upon tax subsequently accruing hereunder.
(Passed 7-19-10.)

745.23 INVESTIGATIONS.

(a) For the purpose of ascertaining the correctness of a tax return, claim or assessment or for the purpose of making an estimate of any taxpayer's liability for the tax administered under this article, the treasurer shall have the power to examine or cause to be examined any books, papers, records, memoranda and other documents or data bearing upon the matters required to be included in the return and may require the attendance of the person rendering the return or the attendance of any other person having knowledge of relevant matters. In connection therewith, the treasurer may take testimony and shall have the power to administer oaths.

(b) The treasurer has the power to issue subpoenas and subpoenas duces tecum to compel the attendance of witnesses and production of documents for the purpose of ascertaining the correctness of a return or claim or for performing an assessment or for any hearing held by the treasurer. In case of the failure or refusal of a witness to appear and testify or to produce evidence, the treasurer may invoke the aid of the circuit court of Jefferson County. Upon proper showing, the treasurer may apply for an order requiring the witness to appear and give testimony and produce evidence concerning the matter in question.

(Passed 7-19-10.)

745.24 ASSESSMENTS.

(a) If any person who is required by this article to do so shall fail or refuse to make a return, either in whole or part, or if the treasurer believes the tax imposed by this article has been insufficiently returned by any taxpayer, the treasurer may proceed to assess the tax and shall notify the person assessed of the amount of the tax, additional tax, interest and penalties so assessed.

(b) The treasurer may, at any time before the assessment becomes final, amend, in whole or in part, any assessment whenever the treasurer ascertains that such assessment is improper or incomplete in any material respect. The treasurer may, at any time within the period prescribed for assessment, make a supplemental assessment whenever the treasurer ascertains that any assessment is incorrect in any material respect.

(c) The amount of tax, interest and penalties imposed by this article shall be assessed within three (3) years after the date the second semi-annual return for the year in which such tax arose is filed by the taxpayer; provided, that in the case of a false or fraudulent return filed with the intent to evade the tax or in case no return is filed, an assessment may be made at any time.
(Passed 7-19-10.)

745.25 NOTICE OF ASSESSMENT; PETITION FOR REASSESSMENT.

The treasurer shall give the taxpayer written notice of any assessment made pursuant to this article. Unless the taxpayer to whom the notice of assessment is given shall within thirty (30) days after service thereof file with the treasurer a petition for reassessment, the assessment shall become final and not subject to administrative or judicial review. A petition for reassessment must be in writing verified under oath by the taxpayer or his duly authorized agent having knowledge of the facts, setting forth with particularity the items of the assessment objected to, together with the reasons for the objections. The total amount of an assessment shall be due and payable on the day following the date upon which the assessment becomes final.

(Passed 7-19-10.)

745.26 HEARING PROCEDURE; DECISION; REVIEW.

(a) When a petition for reassessment or a petition for refund or credit is properly filed pursuant to this article within the time prescribed for such filing, the treasurer shall assign a time and a place for a hearing thereon and shall notify the petitioner of such hearing by written notice at least twenty (20) days in advance thereof. Such hearing shall be held within ninety (90) days from the date of filing the petition, unless continued by agreement of the parties or by the treasurer for sufficient cause.

(b) The hearing shall be informal and shall be conducted in an impartial manner by the Finance Committee of the municipality. The burden of proof shall be upon the taxpayer to show that the assessment or denial refund or credit is incorrect and contrary to law, in whole or in part.

(c) After such hearing, the Finance Committee of the municipality shall, within a reasonable time, give notice in writing to the taxpayer of their decision. An appeal may be taken by the taxpayer of the Finance Committee's decision to the council of the municipality.

(d) An appeal may be taken by the taxpayer to the Circuit Court of Jefferson County within thirty (30) days after service of the council's administrative decision issued pursuant to this section.

(Passed 7-19-10.)

745.27 INJUNCTION.

After any delinquency shall have continued sixty (60) days, the treasurer may proceed in the Circuit Court of Jefferson County to obtain an injunction restraining the further exercise of the privilege until full payment shall have been made of all tax, interest and penalty due under this article. In any proceeding under this section, upon judgment or decree for the municipality, the municipality shall be awarded its costs.

(Passed 7-19-10.)

745.28 UNPAID TAX A LIEN; DELINQUENCY NOTICE FILING AND RELEASE.

Any tax, interest and penalties due and payable under this article shall be a debt due the municipality and shall constitute a lien on the real and personal property of the taxpayer. The treasurer, for the more effective collection of the tax, interest and penalty imposed by this article, may file with the Clerk of the Jefferson County Commission a certified notice of lien for delinquent taxes, interest and penalty under this article for recordation. If a lien has been recorded respecting a delinquency, upon full payment of all delinquent tax, interest and penalty, the treasurer shall attest to the fact and amount of payment, and shall forward a certificate of release to the taxpayer. Upon presentment and payment of the recording fee by the taxpayer, the Clerk of the Jefferson County Commission shall record such certificate in the book in which releases are recorded.

(Passed 7-19-10.)

745.29 SUCCESSOR LIABILITY.

The tax, interest and penalty imposed by this article shall be a continuing lien upon the property of any person subject to the provisions hereof who shall sell out its business or stock of goods, or shall quit business, and such person shall be required to make the return provided for in this article within thirty (30) days after the date it sold out its business or stock of goods, or quit business, and its successor in business shall be required to withhold a sufficient amount of the purchase money to cover the amount of such tax, interest and penalty due and unpaid until such time as the former owner shall produce a receipt from the treasurer showing that all tax, interest and penalty has been paid. If the purchaser of a business or stock of goods fails to withhold purchase money as hereby provided, and the tax, interest and penalty shall be due and unpaid after the thirty-day period allowed, the successor shall be personally liable for the payment of the tax, interest and penalty accrued and unpaid on account of the operation of the business by the former owner. (Passed 7-19- 10.)

745.30 REVOCATION, NON-RENEWAL OF LICENSES AND PERMITS.

(a) The treasurer has the authority to revoke, deny and prevent any and all licenses and permits issued by the municipality in the event a licensee or permittee fails or refuses to file any return required hereby or fails or refuses to pay any delinquent tax, interest or penalty due and owing to the municipality.

(b) In the event of such a revocation or denial, the treasurer will provide written notice to the affected person at least five (5) days prior to the contemplated revocation or denial and such notice shall be served by certified mail. The notice shall indicate the time and the place of a revocation/denial review meeting, the general grounds of said contemplated

action, and shall advise the affected person of its rights to appear at said hearing in person and represented by legal counsel, and to be heard orally upon the merits of the person's defense. The treasurer may request legal advice from the City Attorney, and adopt such procedures for its decorum and the dispatch of business at such hearings as the treasurer may regard advisable. The revocation decision of the treasurer will be final.

(c) Each license or permit that has been revoked or denied pursuant to this section may be issued or re-issued upon payment of all delinquent tax, interest or penalty due and owing to the municipality and satisfaction of all relevant licensing conditions otherwise imposed by the municipality. (Passed 7-19-10.)

745.31 SETTLEMENT AGREEMENTS AND COMPROMISES.

The treasurer, with approval of the City Manager, is authorized to enter into an agreement in writing with any person relating to the liability of such person in respect of the tax, interest and penalty imposed by this article for any taxable period. If such a closing agreement is duly made and entered into, such agreement shall be final and conclusive for the periods covered except upon a showing of fraud, malfeasance or misrepresentation of a material fact. The treasurer, with approval of the City Manager, may compromise all or part of any administrative determination or civil case concerning tax, interest and penalty or otherwise arising under the provisions of this article. (Passed 7-19-10.)

745.32 ADDITIONAL ADMINISTRATIVE PROVISIONS CONCERNING CONTRACTING.

(a) Without limiting the generality of the administrative and collection powers granted to the treasurer in this article, the treasurer is also empowered to require any person engaging or continuing within the municipality in the business of contracting to furnish a list of the names, addresses and amounts paid by them to any subcontractors employed and suppliers of materials used upon any job or to do any work within the municipality. The treasurer may also require every person engaging or continuing within the municipality in the business of contracting who is a nonresident of the State to pay or guarantee the payment of the amount of the tax imposed by this article for the privilege of engaging in the business of contracting within the municipality, such payment of such tax to be based upon the amount of the building permit issued by the municipality for the work to be performed by such person, as a condition precedent to the issuance of such building permit. In lieu of such prior payment in cash of such tax any such nonresident may guarantee the payment of such privilege tax provided for herein by delivering to the municipality a bond, with good and adequate surety, payable to the municipality, and conditioned to pay such tax on or before the estimated date of the completion of the work to be performed by such person within the municipality.

(b) Any person engaging a contractor or subcontractor within this municipality shall withhold payment in sufficient amount to cover taxes assessed by this article in the final settlement of such contracts until the receipt of a certificate from the treasurer to the effect that all taxes levied and accrued under this article against the contractor have been paid. If any person fails to withhold as provided herein and the contractor or subcontractor fails to timely pay such tax, such person shall be personally liable for the payment of such taxes, and the same shall be recoverable by the treasurer by appropriate legal proceedings.

(Passed 7-19-10.)

745.33 CLAIMS FOR REFUND OR CREDIT.

(a) Any taxpayer claiming to have overpaid any tax, interest or penalty imposed by this article shall file its claim with the treasurer within three (3) years after the due date of the return in respect of which the tax was imposed, and not thereafter.

(b) If, as a result of the claim, the treasurer shall be of the opinion that the tax, interest or penalty, or any part thereof, was overpaid, the treasurer shall refund the same to the taxpayer. If the treasurer denies the claim, the taxpayer may within thirty (30) days after notice of denial file with the treasurer a petition for refund or credit, which shall be heard in accordance with Section 745.27 of this article. A taxpayer's failure to abide by express procedures contained in this section precludes taxpayer's right to any refund or credit of tax, interest and penalties paid or collected under this article. (Passed 7-19-10.)

745.34 INTEREST AND PENALTY; CRIMINAL LIABILITY.

(a) If any person fails to make the return or any semi-annual installment required by this article, or makes its return but fails to remit, in whole or in part, the proper amount of tax, there shall be added to the amount of tax unpaid, from the date such tax should have been paid, a penalty in the amount of twenty-five (25.00%) percent of the tax due for the period of such failure or delinquency. Such tax and penalty shall bear interest at the rate of twelve percent (12.00%) per annum from the due date of the payment until paid. Additionally, whoever engages in any activity contrary to the provisions of this article shall, in addition to paying the tax imposed by this article, penalty and interest, be subject to an additional penalty of fifty dollars ($50.00) for each month or fraction thereof during which he has been in default of said tax. It shall be the duty of the treasurer to collect the full amount of the tax, penalty and interest imposed. Upon the recommendation of the municipality's Finance Committee, for good cause shown, and upon the request by the person, the municipality may abate and forgive the penalty and interest, or both, in whole or in part.

(b) Interest and penalties may be collected in the same manner as the tax imposed by this article.

(c) Any person who shall willfully, and with intent to evade, refuse to pay all or any part of the tax imposed by this article shall be guilty of a misdemeanor. If the amount of the unpaid tax shall be less than one thousand dollars ($1,000), such person shall, in addition to such tax, penalties and interest as is owed, be fined not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00), and if the amount of the unpaid

tax shall be one thousand dollars ($1,000) or more, such person shall, in addition to such tax, penalties and interest as is owed, be fined not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000), or imprisoned not more than thirty days, or be both fined and imprisoned as herein provided. Each day or part thereof that any violation continues shall be deemed to constitute a distinct and separate offense and be punishable accordingly.

(d) Whoever knowingly makes a false statement in any tax form or application shall be fined not less than two hundred dollars ($200.00) nor more than one thousand dollars ($1,000). Each false statement, whether made with or without other false statements on any one or more

applications shall constitute a separate offense. And, whoever shall knowingly make a false statement in two separate "tax filings", whether or not said applications shall have been filed consecutively, and whether or not said person shall have been previously convicted thereof, shall be fined not less than five hundred dollars ($500.00) nor more than one thousand dollars ($1,000) and imprisoned not more than six months, or both.

(Passed 7-19-10.)

745.35 SEVERABILITY.

If any provision of this article is held unconstitutional or invalid, on its face or as applied, the remaining provisions of this article shall remain in full force and effect; and to this end, the provisions of this article are declared to be severable.

(Passed 7-19-10.)

745.36 REPEAL OF THE BUSINESS FRANCHISE TAX.

The Business Franchise Tax heretofore enacted by the City of Charles Town in 1970 remains repealed. (Passed 7-19-10.)

745.37 EFFECTIVE DATE.

The effective date of this article shall be July, 2010. (Passed 7-19-10.)

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 06/03/24
Department: City Council
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

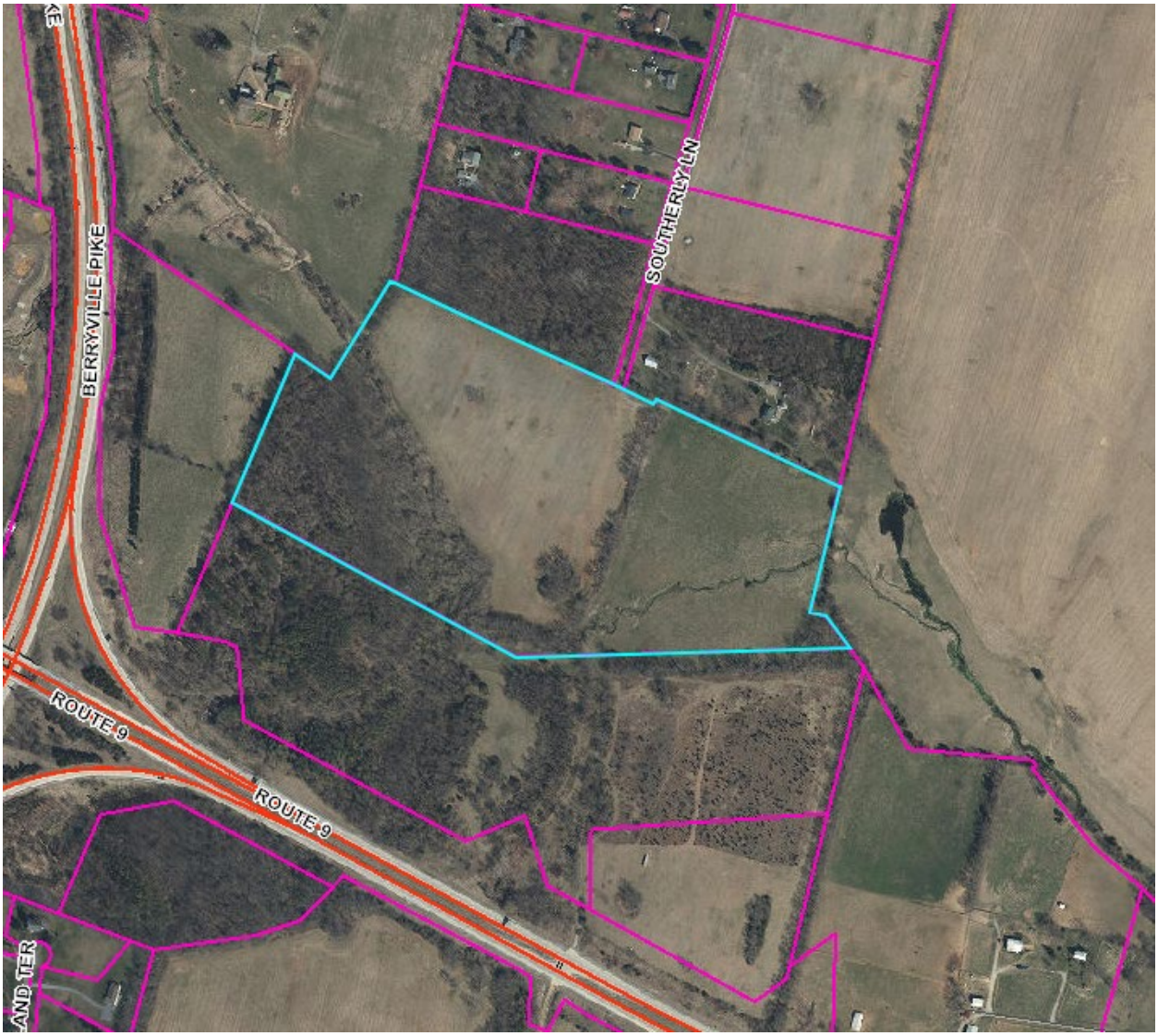
2024-509: ZMA2024-01: Second Reading and Consideration of a Zoning Map Amendment to 9.4 acres of land at the terminus of Southerly Lane.

ATTACHMENTS:

- 1. Staff Report.pdf
- 2. Application.pdf
- 3. Plan.pdf

Zoning Map Amendment
ZMA2024-01

Date: For the June 3, 2024 City Council meeting
Applicant: Gresham Smith on behalf of University Healthcare Foundation Inc
Property Owner: University Healthcare Foundation Inc.
Report by: James Newman, City Planner, Zoning/Subdivision Administrator.
Proposal: Rezoning from Neighborhood Residential to General Commercial
Property Location: End of Southerly Lane, TD: 3/ Map: 15/Pcl: 7.4
Current Zoning: Neighborhood Residential



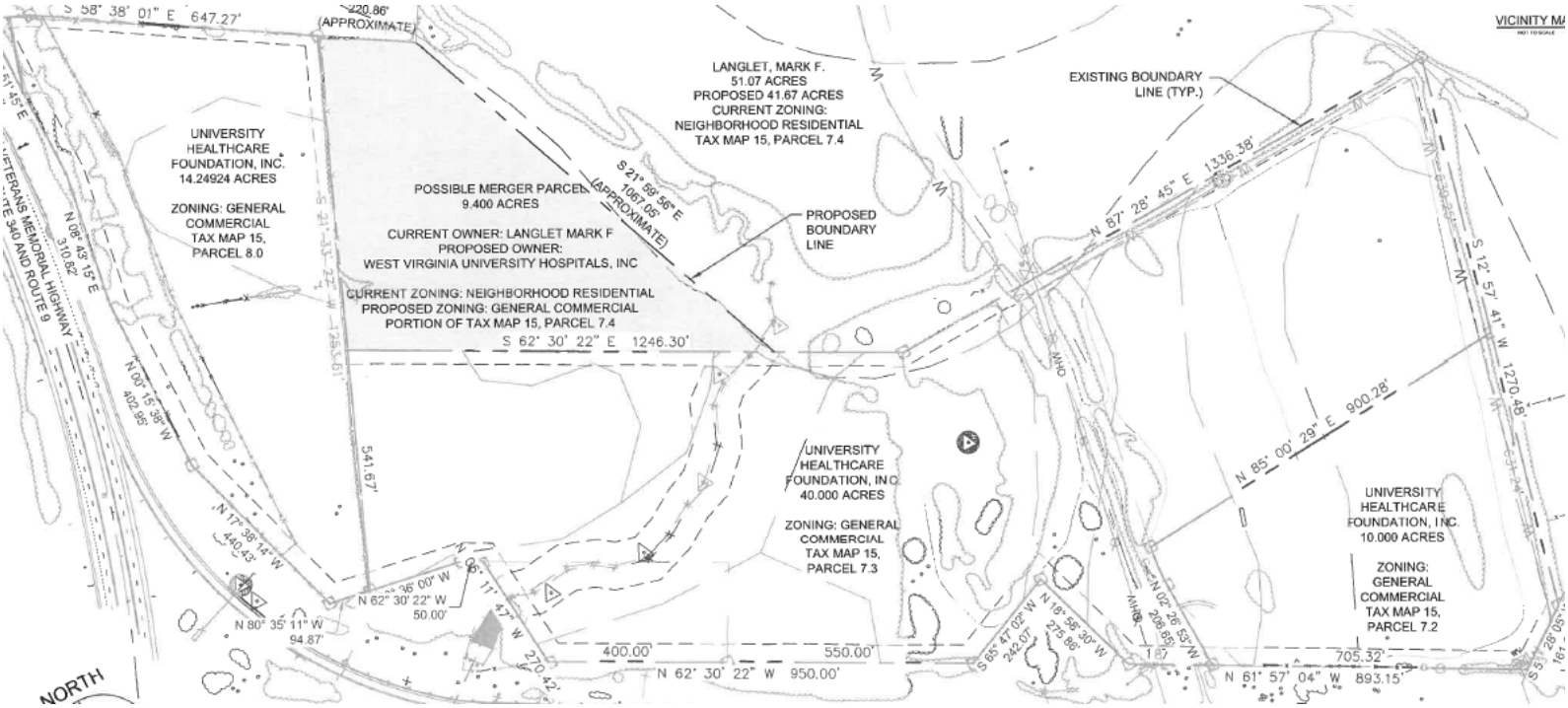
PROJECT OVERVIEW

A request to rezone approximately 9.4 acres of land from Neighborhood Residential to General Commercial

ZONING MAP



PROPOSED MERGER



PURPOSE

The proposed rezoning area is 9.4 acres. The applicant has also applied to merge this acreage with the larger southern parcel already zoned General Commercial. The applicant desires to build a medical office with parking and roadway improvements on the enlarged property.

CRITERIA

For a rezoning to be approved, two criteria must be met. City Council must find either that:

1. *The amendment is consistent with the City's Comprehensive Plan,*

   The Comprehensive Plan describes this area as being for Professional Office and Institutional District. The applicant is rezoning this property as Neighborhood Residential does not allow for Medical Office/Medical Use buildings, while General Commercial does. The intent of General Commercial is:

   *"The purpose of the GC District is to provide **locations for businesses** of a more **general nature** that may not be found in a neighborhood and **can be served with adequate water and sewer service**. The businesses proposed include retail, wholesale, and some light processing operations*."

   The purpose of the Professional Office and Institutional District in the 2040 Comprehensive Plan is:

   *"To enhance the work place environment by **providing for the establishment of offices**, **medical** and other **institutional uses**, limited accessory services for workers' convenience and public space. It is intended to **promote attractive office development** projects which are compatible with one another, as well as with adjoining residential areas. A medium to high density residential option is available when such can be achieved through innovative design and include significant natural resource protection. This future land use district is specifically designated to incentivize economic development opportunities and diversify the City's economy and strengthen its tax base to **support** its critical infrastructure and **public service needs**."*

   The proposed use of the property and the proposed rezoning are in conformance with the Comprehensive Plan, which calls for medical and office uses in that area.

2. *Or that the amendment is not consistent with the Comprehensive Plan but that there have been major changes of an economic, physical, or social nature within the area involved that were not anticipated when the Comprehensive Plan was adopted and that such major changes have substantially altered the basic characteristics of the area*

   The proposed rezoning amendment is in conformance with the Comprehensive Plan.

PLANNING COMMISSION

The Planning Commission discussed this item during a public hearing on March 25, 2024. There were no comments from the public. Following discussion by the Commission, they unanimously voted to recommend **approval**.

At the same meeting, the applicant also request a merger of the 9.4 acres with the southern parcel. The Commission, following a public hearing and discussion, unanimously approved the merger subject to the condition that the 9.4 acres first be rezoned.

CITY COUNCIL

The Planning Commission discussed this item during a public hearing on May 20, 2024. There were no comments from the public. Following discussion by, they unanimously voted to **approve** on first read.

CONCLUSION

Applicant proposes to rezone 9.4 acres of Neighborhood Residential Zoned land to General Commercial. The application is in conformance with the 2040 Comprehensive Plan. This rezoning, combined with the applicant's proposed boundary line adjustment, will result in a larger single-zoned property to support a medical office use and infrastructure.

RECOMMENDATION

Approval.

JACKSONKELLY PLLC

E-mail: thomas.motes@jacksonkelly.com
Direct Dial No.: (304) 284-4135

December 12, 2023

VIA MAIL

City of Charles Town
C/O Zoning Administrator
101 E. Washington Street
Charles Town, WV 25414

RE: Petition for Zoning Amendment

Mr. Newman:

Enclosed please find the following documents:

- Petition for Zoning Amendment;
- Plat of Subject Property; and
- City of Charles Town Zoning Map with Subject Property Highlighted.

Please let us know if you have any questions upon receipt of this petition. We have also mailed a Sketch Plan Application for subdivision of the parent tract of the property that is the subject of this Petition to the City of Charles Town. Please send all correspondence regarding this Petition to the below addresses.

Thomas Motes, Esq.
3000 Swiss Pine Way, Suite 200
Morgantown, WV 26501

Email: thomas.motes@jacksonkelly.com
Cc: andy.schlimmer@jacksonkelly.com

If you have any questions, please do not hesitate to call.

Very truly yours,

Thomas Motes, Esq.

Enclosures

TM/AS

DocuSign Envelope ID: 0B9529FB-D989-41CA-BE4A-F2C889AC52F6

Petition No._____

PETITION FOR ZONING AMENDMENT

Fee: $400

Zoning amendment petitions shall provide the following information:

1. Date December 12, 2023

2. APPLICANT'S NAME* University Healthcare Foundation, Inc., D/B/A WVU Hospitals Foundation East

   Address: 121 Administrative Dr., Suite 200, Martinsburg, WV 25404

   Telephone Number ( )_____

   Email Address _____

3. PROPERTY OWNER'S NAME Mark F. Langlet, Trustee of the Jules F. Langlet and Mary Lou Langlet Irrevocable Trust

   Address: 544 Lego Drive, Charlottesville, VA 22911

   Telephone Number ( )_____

   Email Address _____

4. LEGAL DESCRIPTION OF THE SUBJECT PROPERTY (list all parcels that apply)

   Property Address: N/A

   Tax Map # and Parcel(s): Part of Tax Map 15, Parcel 7.4

   Deed Book and Page: Deed Book 393, Page 280 (incorrectly identified as Deed Book 1030, Page 343 - said deed is the annexation order)

   Property Area in Square Feet or Acres: 9.40 acres

*Applicants include: Property owner(s), Engineer(s), Surveyor(s), or Consultant(s)

5. PROVIDE SCALED MAP, TO BE ATTACHED, OF THE PROPERTY CLEARLY SHOWING THE PROPERTY'S LOCATION AND PROPERTY AREA IN SQUARE FEET AND/OR ACRES:

Included in Attachments. Parcel Identified as "POSSIBLE MERGER PARCEL."

6. DESCRIPTION OF APPLICANT'S INTEREST IN THE PROPERTY:

The Applicant proposes to use the 9.40 acres and parcels that it currently owns, being Tax Map 10, Parcel 8, and Tax Map 15, Parcel 7.3, to construct a medical office building.

7. DESCRIPTION OF THE EXISTING (OR FORMER) USE(S) OF THE PROPERTY AND CURRENT ZONING:

The Property is currently vacant land and zoned as "Neighborhood Residential."

8. DESCRIPTION OF THE PROPOSED USE(S) OF THE PROPERTY AND REQUESTED ZONING DISTRICT:

The Property will be used to build a medical office building. We are requesting that the Property be zoned "General Commercial."

9. DESCRIBE HOW THE ZONING MAP AMENDMENT WILL BE CONSISTENT WITH THE OBJECTIVES AND POLICIES OF THE COMPREHENSIVE PLAN:

See Exhibit A, attached.

10. TIME SCHEDULE FOR DEVELOPMENT: (AS APPLICABLE)

Calendar Year 2024.

11. PARCEL HISTORY (List all pending or previously approved applications on the subject parcels inventoried above, including previous site plan applications if this application is a site plan amendment)

Application No.	Project Name and Phase	Status	Approval Date
Subdivision Application to be submitted at or near the same time as this Petition.			

NOTES

Additional exhibits may be required by the Zoning Administrator such as a lot location survey or site plan showing existing and if applicable, proposed structures, easements, watercourses, curb cuts and description of the uses of adjacent property that are necessary to describe existing or proposed conditions.

Any desire to amend or withdraw this petition must be submitted in writing to the Zoning Administrator. Also, if ownership of any part of or all of the real property subject to the petition shall change during the pendency of the petition, the Petitioner shall be required to immediately advise the Zoning Administrator in writing.

APPLICANT'S CERTIFICATION

I certify that, to the best of my knowledge, the submitted information and statements are true and correct. I also certify that I have received and read Section 1321.12 and relevant provisions of the Charles Town Zoning Ordinance outlining the Zoning Amendment procedures.

Signature of Applicant

Mark F. Langlet, as Trustee of the Jules F. Langlet and Mary Lou Langlet Irrev

42D58865E6F34A2...

Date 12/8/2023

Signature of Owner(s) (If different than Applicant)

Date 12/8/23

Please submit an original completed petition to the following:

Zoning Administrator
City of Charles Town
101 E. Washington Street
Charles Town, WV 25414

FOR CITY USE ONLY

Application Number:_____ Date Petition Received:_____

Fee: $_____ Check No._____ Receipt No._____

City Council Approval:_____ Date:_____

Comments:_____

DocuSign Envelope ID: 0B9529FB-D989-41CA-BE4A-F2C889AC52F6

EXHIBIT A

The Zoning Map Amendment will be consistent with the Historically Hip Charles Town 2040 Comprehensive Plan (the "Plan") by supporting the desired development land use classifications as indicated by the 10-Year Growth Scenario Map (the "Map"). Further, the granting of this Petition for Zoning Amendment will help the City of Charles Town (the "City") accomplish its objectives by fostering new growth on the edge of the City and expanding its tax base.

According to the Map, the desired Future Land Use Classification for the property that is the subject of this Petition for Zoning Amendment (the "Property") is Professional Office & Institutional District. The Plan defines the goal of the Professional Office & Institutional District as to "enhance the workplace environment by providing for the establishment of offices, medical and other institutional uses" and to "promote attractive development projects." The development of a medical office building directly aligns with the City's long-term vision for land use in the part of the City where the Property is located.

Additionally, the Zoning Amendment supports the objective of the Plan by encouraging growth on the edges of the City. The property targeted by this Zoning Amendment Petition provides for new development on the outer edge of the eastern part of the City, serving as a catalyst for growth to the area within the vicinity of the intersection of Routes 340 and 9.

Finally, the development of a medical office building accomplishes the Plan's objective of expanding the City's tax base. The medical office will employ a vast array of professionals – from administrative support staff to medical professionals. Medical service centers offer unique benefits to the locations they are located. Not only do the employees commute to work consistently, but patients also travel to the area for treatment. This increases consumer traffic within the area, prompting more opportunities for other businesses within the area to attract consumers. Also, medical treatment is an in-person service, which is especially appealing for development in a remote work world.

MIDDLEWAY PIKE
51
13
SUMMIT POINT RD
AUGUSTINE AVE
26
KEYES FERRY RD
9
CATTAIL RUN RD
CHARLES TOWN RD
115
CAVE RD
340
HUYETT RD
KABLETOWN RD
WHEATLAND RD
BERRYVILLE PIKE
ROPER NORTH FORK RD

Legend

- Charles Town Urban Growth Boundary
- Charles Town City Limits
- Historic Overlay District
- Jefferson County Jurisdiction

Zoning Districts

- Residential Low Density
- Residential Medium-High Density
- Neighborhood Residential
- Old Town Residential
- Old Town Mixed Use Commercial
- Neighborhood Commercial
- General Commercial

RK&K ENGINEERS

0 0.25 0.5 1 Miles

1: 16,000

Project No. 16051	Revisions
January 15, 2018	
Designed:	
Drawn: KMB	
Checked: JWC	

Charles Town Zoning Map

City of Charles Town, West Virginia

Document Path: U:\Projects\2016\16051_City_Charles_Town\2018\GIS\Charles_Town_Zoning_Map_24x36.mxd

OWNER
MARK F. LANGLET
544 LEGO DRIVE
CHARLOTTESVILLE, VA 22911

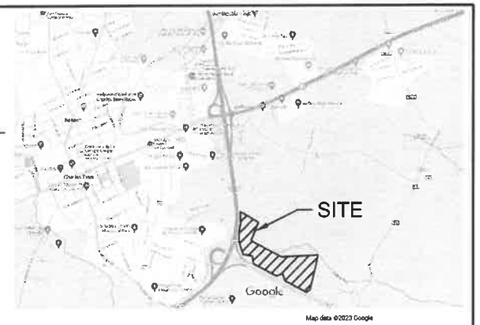
APPLICANT
WVUMedicine
121 Administrative Drive
Suite 200
Martinsburg, WV 25040
Contact: Scott Mathis
Phone: (304) 260-1453
Email: scott.mathis1@wvumedicine.org

CIVIL ENGINEER
Gresham Smith
222 Second Avenue South
Suite 1400
Nashville, TN 37201
Civil Contact: Rob Whitson, PE
Phone: (615) 770-8312
Email: rob.whitson@greshamsmith.com

ARCHITECT
Gresham Smith
222 Second Avenue South
Suite 1400
Nashville, TN 37201
Architect Contact: Laurel Nee, AIA, NCARB, EDAC
Phone: (704) 944-7989
Email: laurel.nee@greshamsmith.com

LANDSCAPE ARCHITECT
Gresham Smith
222 Second Avenue South
Suite 1400
Nashville, TN 37201
Landscape Contact: Trey Rudolph
Phone: (615) 770-8148
Email: trey.rudolph@greshamsmith.com

SURVEYOR
TRIAD ENGINEERING, INC.
1075-D Sherman Avenue
Hagerstown, MD 21740
Survey Contact: Ron Bidle, PLS
Phone: (301) 797-6400
Email: rbidle@triadeng.com



VICINITY MAP
NOT TO SCALE

S 68° 25' 50" E 96.88'
S 58° 38' 01" E 647.27'
S 58° 37' 51" E 220.86' (APPROXIMATE)
N 00° 51' 45" E 185.57'
VETERANS MEMORIAL HIGHWAY ROUTE 340 AND ROUTE 9
N 08° 43' 15" E 310.82'
N 00° 15' 38" W 402.95'
N 17° 38' 14" W 440.43'
N 80° 35' 11" W 94.87'
N 62° 30' 22" W 50.00'
N 26° 11' 47" W 270.42'
S 21° 33' 22" W 1253.51'
541.67'
S 62° 30' 22" E 1246.30'
400.00'
550.00'
N 62° 30' 22" W 950.00'

UNIVERSITY HEALTHCARE FOUNDATION, INC.
14.24924 ACRES
ZONING: GENERAL COMMERCIAL
TAX MAP 15, PARCEL 8.0

POSSIBLE MERGER PARCEL
9.400 ACRES
CURRENT OWNER: LANGLET MARK F
PROPOSED OWNER:
WEST VIRGINIA UNIVERSITY HOSPITALS, INC
CURRENT ZONING: NEIGHBORHOOD RESIDENTIAL
PROPOSED ZONING: GENERAL COMMERCIAL
PORTION OF TAX MAP 15, PARCEL 7.4

LANGLET, MARK F.
51.07 ACRES
PROPOSED 41.67 ACRES
CURRENT ZONING:
NEIGHBORHOOD RESIDENTIAL
TAX MAP 15, PARCEL 7.4

S 21° 59' 56" E 1067.05' (APPROXIMATE)

PROPOSED BOUNDARY LINE

UNIVERSITY HEALTHCARE FOUNDATION, INC.
40.000 ACRES
ZONING: GENERAL COMMERCIAL
TAX MAP 15, PARCEL 7.3

EXISTING BOUNDARY LINE (TYP.)
N 87° 28' 45" E 1336.38'
S 12° 57' 41" W 1270.48'
N 85° 00' 29" E 900.28'
N 02° 26' 53" W 206.65'
S 65° 47' 02" W 242.07'
N 18° 58' 30" W 275.86'
705.32'
N 61° 57' 04" W 893.15'
S 5° 28' 05" W 161.17'

UNIVERSITY HEALTHCARE FOUNDATION, INC.
10.000 ACRES
ZONING: GENERAL COMMERCIAL
TAX MAP 15, PARCEL 7.2

WEST VIRGINIA ROUTE 9

EXISTING PROPERTY ACCESS DRIVE

NORTH

250 0 250 500
GRAPHIC SCALE

Gresham Smith

FIGURE NO.: SP1 - SKETCH PLAN
PROJECT NO.: 45550
DATE: 11/28/2023

\\global.gsp\data\nfch_nf02\455502\01Work\01CAD\06LP\Exhibits\2023.11.22 - Langlet Property Sketch Plan\45550-Langlet Property-Sketch Plan.dwg

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 06/03/24
Department: City Council
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-545: Plan for Filling Ward 4 Council Vacancy

ATTACHMENTS:

- CTCC Resignation Letter.pdf

May 21, 2024

Dear Charles Town Residents, City Staff, Council Members, and Mayor Trainor -

It is with mixed emotions that I announce my resignation from the Charles Town City Council, effective June 30, 2024.

It has been my absolute pleasure to serve the City of Charles Town, WV as a Councilwoman for the last five years. From the two years in my first term, where among many other things, I worked hard on the Mayoral Select Committee to revise our City Charter; to the last three years, where I served as the Chair of the Ordinance Committee, met more residents than I had ever dreamed of, and made lifelong connections; it has all been dynamic, invaluable, and wholly enriching.

To my constituents: You are the reason I decided to step up and serve. It has been so rewarding to hear and learn from you. I have loved being a voice for you and making decisions that represent your desires. Please get involved in our City and be part of creating a bright future - you can make a difference.

To City staff: You have been through so many changes recently and come through them all beautifully. You have great vision and the skills to see it through. Please know that you can always still call on me for support or even just to have a cup of coffee and chat. I will miss working with you.

To my fellow council members and Mayor Trainor: You are a great team. You can all debate with the best of them, then come together for the greater good. Thank you for your kind words about not wanting to lose me from Council, but also your support in my future endeavors. My wish for your continued leadership of the City is greater unity and prosperity. Remember to look for me on the Christmas parade judging stand!

It is with great pride and optimism that I now head to the Jefferson County Board of Education. I look forward to a great working relationship with all our municipalities.

Thank you for a wonderful five years,

Rikki Twyford
Charles Town City Councilwoman
Jefferson County Board of Education Member-Elect

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 06/03/24
Department: City Council
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-552: Discussion of Possible Town Hall on Route 51 Traffic Feasibility Study and Locations

ATTACHMENTS:

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 06/03/24
Department: City Council
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-561: Scheduling of Special Meeting

ATTACHMENTS:

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 06/03/24
Department: City Council
Category: Ordinance
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-562: TXA2023-01 - First Reading and Consideration of an Amendment to the Zoning Ordinance of the City of Charles Town, West Virginia with Regard to Mobile Food Vendors

ATTACHMENTS:

- 1. Report.pdf

Text Amendment Staff Report
Mobile Food Vendors
TXA2023-01

Date: For the June 3, 2024 City Council Meeting
Applicant: City of Charles Town
Report by: James Newman, City Planner, Zoning/Subdivision Administrator.
Proposal: Subdivision and Land Development Ordinance Text Amendment

OVERVIEW

Mobile food vendors are not listed in Zoning Ordinance *Table 1322.04 Zoning District Use Table* as a permitted use, and are not currently allowed in the City except by Special Event permit. This text amendment will add use standards for mobile food trucks to the City's Zoning Ordinance.

CITY COUNCIL

At their November 6, 2023 meeting, Council requested that this item be brought to the Planning Commission for review and set up for a future public hearing.

PLANNING COMMISSION

This latest draft was brough to the Planning Commission for their January 30, 2024 work session. The Commission asked that City parks explicitly be allowed to host food trucks, and requested additional information on location parking restrictions. The Commission also discussed this item at their March 25, 2024 work session. A public hearing as held on May 28, 2024. There were no comments. After requesting a change to subsection 2..F, the Commission unanimously voted to recommend **approval**.

PROPOSED TEXT

The proposed language will be inserted into the Zoning Ordinance Article 1323 *Supplemental Regulations* as entry (L).

(L) Mobile Food Vendor

In addition to the other applicable requirements of the City of Charles Town, Mobile Food Vendors shall also be governed by the following provisions:

1. **General Guidelines**
    a. Mobile Food Vendors shall only operate during specified hours of 7am to 7pm, Monday-Sunday. Food trucks are permitted to operate at different hours from these, subject to approval of a Special Activity Permit.

    b. Only food and non-alcoholic drinks may be sold by the Mobile Food Vendor.

    c. In order to operate in the City of Charles Town, Mobile Food Vendors:
        (1) Shall obtain all applicable health department and State Fire Marshal permit(s) before applying for a City Business License and Mobile Food Vendor

Application.
(2) May not operate until all approvals are obtained through the City of Charles Town.
(3) Shall keep their Health Permit and Business License in plain sight for the public to view.

d. Food trucks are not permitted to set up seating, tents, or other items in such a manner as to negatively impact public safety. Sidewalks, handicap parking spaces, access ramps and stairs, and building entrances and exits, may not be blocked or have access impaired by a mobile food vendor. Sidewalks shall be considered blocked if there are 4 feet or less of room for passage.

e. Any electricity generators required for a Mobile Food Vendors located in the public right-of-way shall be self-contained and self-provided. Vendors shall not draw on public utilities from a public source without written authorization from the City. No utility cable shall be extended on or across any City street or sidewalk.

2. Location

a. Mobile Food Vendors are only permitted to operate in the locations as designated by the Zoning Ordinance, City Council, or Special Activity Permit. Parking and location spaces are not reserved for specific vendors.

b. Within the public right-of-way, mobile food vendors may only locate in parking spaces along the 100 block of N. Charles Street, the 100 block of N. Samuel Street, and the 100 block of S. Samuel Street.

c. Mobile food vendors may operate at City park properties and other public lands owned by the City, subject to approval of a mobile food vendor permit and the City Manager.

d. Parking a mobile vending unit on private commercially zoned property is permitted if notarized written permission is given from the property owner, and such authorization is included with the application.

e. Food trucks are permitted to operate at other locations beyond those specified in subsections b and c above, subject to approval of a Special Activity Permit.

f. A Mobile Food Vendor is not permitted to operate:
(1) Within 15 feet of any bus stop zone,
(2) Within 15 feet of a pedestrian crosswalk or intersection,
(3) Within 15 feet of a handicapped parking space.,
(4) Within any loading zone or other area where vehicles are prohibited to park.
(5) Within the public right-of-way in any residential zoning district in the City of Charles Town when not in use.

3. **Advertisement and Signage**
   a. Signage may be imprinted on the exterior body of a licensed mobile food establishment, and may additionally include the use of an attached or detached menu board. This is the only signage permitted.

   b. No banners or balloons may be attached to a mobile food unit or otherwise located on the mobile food site. No flashing or blinking or strobe lights are allowed.

4. **Noise**
   a. No Mobile Food Vendors shall make or cause to be made any unreasonable or excessive noise. No amplified music or announcements are permitted.
   b. All generators must operate at a level of sixty-five (65) decibels or lower when measured from a distance of fifteen (15) feet.

5. **Waste Material Disposal**
   a. All waste shall be removed and disposed of daily by the Mobile Food Vendor.
   b. No liquid or solid waste may be discharged from the Mobile Food Unit.
   c. Public trash receptacles shall not be used for disposal of waste that is directly generated by the Mobile Food Unit, such as grease, food scraps, food packaging material, and other waste products.
   d. Receptacles for the disposal of waste materials or other litter must be provided for customers.

6. **Approval Process:**
   a. The Zoning Administrator shall approve the issuance of a Mobile Food Vending License only if the application is complete, complies with the requirements of this Ordinance, including applicable Health Department approvals, City Business License and provided the application is accompanied by the required fee.

7. **Fees:**
   a. An application fee shall accompany each application. See the City of Charles Town Fee Schedule for the amount.

DEFINITION

Proposed amendment to Zoning Ordinance Article 1325 *Definitions*, would define the use as:

MOBILE FOOD VENDOR – A food service establishment that is self-propelled or otherwise designated to be movable from place to place, including but not limited to a licensed, motorized vehicle, mobile kitchen, cart, stand, or tent, and which operates temporarily on a premise where food items are sold to the general public.

ZONING USE TABLE

Table 1322.04, the Zoning Use Table is modified to read:

CHARLES TOWN ZONING ORDINANCE DISTRICT USE TABLE Key: P – Permitted Use S – Special Exception Use PA – Permitted Accessory Use SA – Special Exception Accessory Use		ZONING DISTRICTS						
		Residential Low Density	Residential Medium-High Density	Neighborhood Residential	Neighborhood Commercial	General Commercial	Old Town Mixed Use Commercials	Old Town Residential
ITE Code	Land Use	R-3	R-15	NR	NC	GC	OT-MUC	OT-R
RETAIL USES (ITE CODES 800 – 899)								
	Mobile Food Vendor			P	P	P	P	

Note: Recall that parking a mobile vending unit on private commercially zoned property is permitted if notarized written permission is given from the property owner, and such authorization is included with the application. The use of a food truck is only permitted on select City streets and on commercial zoned property with owner authorization. Neighborhood Residential requires that 10% of its development include commercial spaces, and those commercial lots would be allowed to have a food truck.

RECOMMENDATION

Approval

Motion: I motion to approve a first read of Text Amendment 2023-01, an amendment to the Zoning Ordinance to allow for mobile food vendors.

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 06/03/24
Department: City Council
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-568: Payment of Bills - June 3, 2024

ATTACHMENTS:

- GENERAL FUND COUNCIL REPORT 2024 05 31 REVISED.pdf
- PARKS N REC COUNCIL REPORT 2024 05 31.pdf
- CAPITAL RESERVE COUNCIL REPORT 2024 05 31.pdf

VENDOR SORT KEY	DATE	DESCRIPTION	FUND	DEPARTMENT	AMOUNT
10-42 TACTICAL LLC	5/31/24	GOLD LIEUTENANT BADGE	GENERAL FUND	POLICE DEPARTMENT	138.00
	5/31/24	NAME TAPE - NOBLE	GENERAL FUND	POLICE DEPARTMENT	13.00
				TOTAL:	151.00
BEACONSTAC	5/31/24	QR CODE SUB / LIZ	GENERAL FUND	FAIR ASSOC/FESTIVAL	180.00
				TOTAL:	180.00
CASTO & HARRIS, INC.	5/31/24	2500 LASER CHECKS YELLOW	GENERAL FUND	CITY HALL	352.30
				TOTAL:	352.30
CINTAS	5/31/24	LAUNDRY BAGS	GENERAL FUND	STREETS & HIGHWAYS	209.45
	5/31/24	LAUNDRY BAGS	GENERAL FUND	STREETS & HIGHWAYS	209.45
				TOTAL:	418.90
CITY OF CHARLES TOWN SALES TAX FUND	5/31/24	SALES TAX OVERPAYMENT TO G	GENERAL FUND	NON-DEPARTMENTAL	157,915.75
				TOTAL:	157,915.75
CITY OF CHARLES TOWN BOARD OF PARKS AN	5/31/24	FY24 P&R SUPPLEMENTAL FUND	GENERAL FUND	TRANSFERS	37,500.00
	5/31/24	OCT23-ARP24 50% HOTEL/MOTE	GENERAL FUND	TRANSFERS	57,836.62
				TOTAL:	95,336.62
CITY OF CHARLES TOWN PETTY CASH	5/31/24	CITY HALL DRAWER SHORTAGE	GENERAL FUND	CITY HALL	25.00
				TOTAL:	25.00
CITY OF CT CAPITAL RESERVE	5/31/24	JUNE23 GAMING/LOTTERY XFR	GENERAL FUND	TRANSFERS	86,366.10
	5/31/24	JUNE23 GAMING/LOTTERY XFR	GENERAL FUND	TRANSFERS	1,299.24
	5/31/24	JUNE23 GAMING/LOTTERY XFR	GENERAL FUND	TRANSFERS	21,496.79
	5/31/24	JUNE23 GAMING/LOTTERY XFR	GENERAL FUND	TRANSFERS	23.90
	5/31/24	JULY23 GAMING/LOTTERY XFR	GENERAL FUND	TRANSFERS	1,441.15
	5/31/24	JULY23 GAMING/LOTTERY XFR	GENERAL FUND	TRANSFERS	23,586.79
	5/31/24	JULY23 GAMING/LOTTERY XFR	GENERAL FUND	TRANSFERS	31.43
	5/31/24	AUG23 GAMING/LOTTERY XFR	GENERAL FUND	TRANSFERS	1,359.87
	5/31/24	AUG23 GAMING/LOTTERY XFR	GENERAL FUND	TRANSFERS	20,063.68
	5/31/24	AUG23 GAMING/LOTTERY XFR	GENERAL FUND	TRANSFERS	39.97
	5/31/24	SEP23 GAMING/LOTTERY XFR	GENERAL FUND	TRANSFERS	76,358.90
	5/31/24	SEP23 GAMING/LOTTERY XFR	GENERAL FUND	TRANSFERS	1,269.65
	5/31/24	SEP23 GAMING/LOTTERY XFR	GENERAL FUND	TRANSFERS	19,001.17
	5/31/24	SEP23 GAMING/LOTTERY XFR	GENERAL FUND	TRANSFERS	29.24
	5/31/24	OCT23 GAMING/LOTTERY XFR	GENERAL FUND	TRANSFERS	67,939.67
	5/31/24	OCT23 GAMING/LOTTERY XFR	GENERAL FUND	TRANSFERS	1,254.66
	5/31/24	OCT23 GAMING/LOTTERY XFR	GENERAL FUND	TRANSFERS	19,049.43
	5/31/24	OCT23 GAMING/LOTTERY XFR	GENERAL FUND	TRANSFERS	27.19
	5/31/24	NOV23 GAMING/LOTTERY XFR	GENERAL FUND	TRANSFERS	72,054.84
	5/31/24	NOV23 GAMING/LOTTERY XFR	GENERAL FUND	TRANSFERS	1,256.30
	5/31/24	NOV23 GAMING/LOTTERY XFR	GENERAL FUND	TRANSFERS	18,770.38

VENDOR SORT KEY	DATE	DESCRIPTION	FUND	DEPARTMENT	AMOUNT
	5/31/24	FEB24 GAMING/LOTTERY XFR	GENERAL FUND	TRANSFERS	21,224.89
	5/31/24	FEB24 GAMING/LOTTERY XFR	GENERAL FUND	TRANSFERS	23.64
	5/31/24	MAR24 GAMING/LOTTERY XFR	GENERAL FUND	TRANSFERS	91,738.19
	5/31/24	MAR24 GAMING/LOTTERY XFR	GENERAL FUND	TRANSFERS	1,527.14
	5/31/24	MAR24 GAMING/LOTTERY XFR	GENERAL FUND	TRANSFERS	24,485.39
	5/31/24	MAR24 GAMING/LOTTERY XFR	GENERAL FUND	TRANSFERS	19.19
	5/31/24	APR24 GAMING/LOTTERY XFR	GENERAL FUND	TRANSFERS	74,729.87
	5/31/24	APR24 GAMING/LOTTERY XFR	GENERAL FUND	TRANSFERS	1,445.40
	5/31/24	APR24 GAMING/LOTTERY XFR	GENERAL FUND	TRANSFERS	21,311.39
	5/31/24	APR24 GAMING/LOTTERY XFR	GENERAL FUND	TRANSFERS	14.28
	5/31/24	MAY24 GAMING/LOTTERY XFR	GENERAL FUND	TRANSFERS	74,111.14
	5/31/24	ARPA FUNDING XFR	GENERAL FUND	TRANSFERS	1,500,000.00
				TOTAL:	2,516,854.23
CREAMERS AUTO SERVICE CENTER, LLC	5/31/24	CAR#27 OIL CNG- ROTOR REPL	GENERAL FUND	POLICE DEPARTMENT	825.46
	5/31/24	CAR# 25 OIL CHANGE/TIRE RO	GENERAL FUND	POLICE DEPARTMENT	109.32
				TOTAL:	934.78
CHARLES TOWN BUILDING COMMISSION	5/31/24	JUNE23 CITY RENTS	GENERAL FUND	CITY HALL	2,550.00
	5/31/24	JUNE23 CITY RENTS	GENERAL FUND	CITY HALL	16,667.00
	5/31/24	JUNE23 CITY RENTS	GENERAL FUND	POLICE DEPARTMENT	7,840.98
				TOTAL:	27,057.98
CHARLES TOWN UTILITY BOARD	5/31/24	661 WATER DELIVERY 4/26/20	GENERAL FUND	POLICE DEPARTMENT	81.61
				TOTAL:	81.61
ENCOVA INSURANCE	5/31/24	WORKERS COMP 7/1/24-7/1/25	GENERAL FUND	CITY HALL	7,341.00
				TOTAL:	7,341.00
EXECUTIVE EMERGENCY LIGHTING LLC	5/31/24	EXECUTIVE EMERGENCY LIGHTI	GENERAL FUND	POLICE DEPARTMENT	456.00
				TOTAL:	456.00
FIRST-CITIZENS BANK & TRUST CO	5/31/24	CITY HALL COPIER	GENERAL FUND	CITY HALL	239.68
				TOTAL:	239.68
FREGUSON DBA POLLARDWATER	5/31/24	STEEL TOE SHOES SZ 11	GENERAL FUND	STREETS & HIGHWAYS	130.00
				TOTAL:	130.00
FRONTIER, INC.	5/31/24	PD RINGDOWN 5/22/24-6/21/2	GENERAL FUND	POLICE DEPARTMENT	55.34
	5/31/24	661 304-725-2381 SERV5/14-	GENERAL FUND	POLICE DEPARTMENT	29.48
	5/31/24	PD FAXLINE 5/7-6/6/24	GENERAL FUND	POLICE DEPARTMENT	370.86
				TOTAL:	455.68
CHET HINES	5/31/24	TALL FESCUE & PRAMITOL	GENERAL FUND	STREETS & HIGHWAYS	130.31
				TOTAL:	130.31

VENDOR SORT KEY	DATE	DESCRIPTION	FUND	DEPARTMENT	AMOUNT
MILLENIUM INSURANCE GROUP INC	5/31/24	JUNE24 MILLENIUM PREMIUM	GENERAL FUND	CITY HALL	1,800.00
				TOTAL:	1,800.00
MOTOROLA SOLUTIONS, INC.	5/31/24	ANN EVIDENCE LIBRY 6/24-10	GENERAL FUND	POLICE DEPARTMENT	2,809.68
				TOTAL:	2,809.68
PANSCH INVESTIGATIONS LLC	5/31/24	PRE EMPLOYMENT POLYGRAPH E	GENERAL FUND	POLICE DEPARTMENT	325.00
				TOTAL:	325.00
PEIA	5/31/24	APR2024 RHBT BILLING	GENERAL FUND	NON-DEPARTMENTAL	115.70
	5/31/24	MAY2024 RHBT BILLING	GENERAL FUND	NON-DEPARTMENTAL	115.70
				TOTAL:	231.40
PRINT CHINCH	5/31/24	FY25 B&O MAILING SERVICE	GENERAL FUND	TREASURER'S OFFICE	732.12
				TOTAL:	732.12
SOUTH CENTRAL PLANNING & DEVELOPMENT C	5/31/24	MYPERMITNOWFEES MAY2024	GENERAL FUND	CITY HALL	730.00
				TOTAL:	730.00
SPECIALTY PRINTING	5/31/24	#10 FLIP & SEAL CH ENVELOP	GENERAL FUND	CITY HALL	158.00
				TOTAL:	158.00
T-MOBILE	5/31/24	CELL SERV 4/21/24-5/20/24	GENERAL FUND	CITY MANAGER'S OFFICE	42.09
	5/31/24	CELL SERV 4/21/24-5/20/24	GENERAL FUND	TREASURER'S OFFICE	31.99
	5/31/24	CELL SERV 4/21/24-5/20/24	GENERAL FUND	ENFORCEMENT AGENCY	17.85
	5/31/24	CELL SERV 4/21/24-5/20/24	GENERAL FUND	BUILDING INSPECTION	42.09
	5/31/24	CELL SERV 4/21/24-5/20/24	GENERAL FUND	BUILDING INSPECTION	42.09
	5/31/24	CELL SERV 4/21/24-5/20/24	GENERAL FUND	PLANNING & ZONING	17.85
	5/31/24	CELL SERV 4/21/24-5/20/24	GENERAL FUND	CITY HALL	31.99
	5/31/24	CELL SERV 4/21/24-5/20/24	GENERAL FUND	CITY HALL	31.99
	5/31/24	CELL SERV 4/21/24-5/20/24	GENERAL FUND	CITY HALL	105.60
	5/31/24	CELL SERV 4/21/24-5/20/24	GENERAL FUND	POLICE DEPARTMENT	17.85
	5/31/24	CELL SERV 4/21/24-5/20/24	GENERAL FUND	POLICE DEPARTMENT	17.85
	5/31/24	CELL SERV 4/21/24-5/20/24	GENERAL FUND	STREETS & HIGHWAYS	17.85
	5/31/24	CELL SERV 4/21/24-5/20/24	GENERAL FUND	STREETS & HIGHWAYS	17.85
	5/31/24	CELL SERV 4/21/24-5/20/24	GENERAL FUND	STREETS & HIGHWAYS	23.22
				TOTAL:	458.16
THE JOURNAL,MARTINSBURG	5/31/24	PD POLICE HIRING TEST 5/5-	GENERAL FUND	POLICE DEPARTMENT	870.00
				TOTAL:	870.00
TOLL PAYMENT PROCESSING CENTER	5/31/24	J NISSEL TOLL FEE	GENERAL FUND	CITY MANAGER'S OFFICE	14.00
				TOTAL:	14.00
VITAL SIGNS PLUS, INC.	5/31/24	(6) 2 HR PARKING/WELCOME T	GENERAL FUND	CITY HALL	198.00

VENDOR SORT KEY	DATE	DESCRIPTION	FUND	DEPARTMENT	AMOUNT

========== FUND TOTALS ==========

001	GENERAL FUND	2,830,686.53
	GRAND TOTAL:	2,830,686.53

TOTAL PAGES: 4

APPROVED BY: _____

APPROVED BY: _____

SELECTION CRITERIA

SELECTION OPTIONS

VENDOR SET: 01-City of Charles Town
VENDOR: All
CLASSIFICATION: All
BANK CODE: All
ITEM DATE: 0/00/0000 THRU 99/99/9999
ITEM AMOUNT: 99,999,999.00CR THRU 99,999,999.00
GL POST DATE: 0/00/0000 THRU 99/99/9999
CHECK DATE: 5/31/2024 THRU 5/31/2024

PAYROLL SELECTION

PAYROLL EXPENSES: NO
EXPENSE TYPE: N/A
CHECK DATE: 0/00/0000 THRU 99/99/9999

PRINT OPTIONS

PRINT DATE: Check Date
SEQUENCE: By Vendor Sort
DESCRIPTION: Item
GL ACCTS: NO
REPORT TITLE: COUNCIL REPORT
SIGNATURE LINES: 2

PACKET OPTIONS

INCLUDE REFUNDS: YES
INCLUDE OPEN ITEM:NO

VENDOR SORT KEY	DATE	DESCRIPTION	FUND	DEPARTMENT		AMOUNT
ALL AMERICAN PAVING	5/31/24	JMP - PATCH WALKING TRAIL	PARKS & REC	PARKS & REC		1,000.00
					TOTAL:	1,000.00
R&L LANDSCAPES, INC.	5/31/24	2024 JMP SPRING CLEANING	PARKS & REC	PARKS & REC		2,500.00
					TOTAL:	2,500.00

========== FUND TOTALS ==========

207	PARKS & REC	3,500.00
	GRAND TOTAL:	3,500.00

TOTAL PAGES: 1

APPROVED BY: _____

APPROVED BY: _____

SELECTION CRITERIA

SELECTION OPTIONS

VENDOR SET: 03-CT BOARD OF P&R
VENDOR: All
CLASSIFICATION: All
BANK CODE: All
ITEM DATE: 0/00/0000 THRU 99/99/9999
ITEM AMOUNT: 99,999,999.00CR THRU 99,999,999.00
GL POST DATE: 0/00/0000 THRU 99/99/9999
CHECK DATE: 5/31/2024 THRU 5/31/2024

PAYROLL SELECTION

PAYROLL EXPENSES: NO
EXPENSE TYPE: N/A
CHECK DATE: 0/00/0000 THRU 99/99/9999

PRINT OPTIONS

PRINT DATE: Check Date
SEQUENCE: By Vendor Sort
DESCRIPTION: Item
GL ACCTS: NO
REPORT TITLE: COUNCIL REPORT
SIGNATURE LINES: 2

PACKET OPTIONS

INCLUDE REFUNDS: YES
INCLUDE OPEN ITEM:NO

VENDOR SORT KEY	DATE	DESCRIPTION	FUND	DEPARTMENT	AMOUNT
GREENWAY ENGINEERING, INC.	5/31/24	LIBERTY ST BID&CONSTRUCTIO	CAPITAL RESERVE	STREETS & TRANSPORTATI	3,212.50
				TOTAL:	3,212.50
WITMER PUBLIC SAFETY GROUP INC	5/31/24	SPIKE SYSTEM 2015 TROPPER	CAPITAL RESERVE	PUBLIC SAFETY	10,100.55
				TOTAL:	10,100.55

========== FUND TOTALS ==========

200	CAPITAL RESERVE	13,313.05
	GRAND TOTAL:	13,313.05

TOTAL PAGES: 1

APPROVED BY: _____

APPROVED BY: _____

SELECTION CRITERIA

SELECTION OPTIONS

VENDOR SET: 01-City of Charles Town
VENDOR: All
CLASSIFICATION: All
BANK CODE: Include: CAP1
ITEM DATE: 0/00/0000 THRU 99/99/9999
ITEM AMOUNT: 99,999,999.00CR THRU 99,999,999.00
GL POST DATE: 0/00/0000 THRU 99/99/9999
CHECK DATE: 5/31/2024 THRU 5/31/2024

PAYROLL SELECTION

PAYROLL EXPENSES: NO
EXPENSE TYPE: N/A
CHECK DATE: 0/00/0000 THRU 99/99/9999

PRINT OPTIONS

PRINT DATE: Check Date
SEQUENCE: By Vendor Sort
DESCRIPTION: Item
GL ACCTS: NO
REPORT TITLE: COUNCIL REPORT
SIGNATURE LINES: 2

PACKET OPTIONS

INCLUDE REFUNDS: YES
INCLUDE OPEN ITEM:NO

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 06/03/24
Department: City Council
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-558: Planning Commission Meeting Minutes - March 25, 2024

ATTACHMENTS:
- 3.25.24 PC MINUTES_APPROVED.pdf

CITY OF CHARLES TOWN
PLANNING COMMISSION
AGENDA • MARCH 25, 2024

Committee Meeting **CITY HALL** **6:00 PM**

101 E Washington Street, Charles Town, WV 25414

APPROVED

1. CALL TO ORDER WORK SESSION AT 6:08 PM

Present: Ann Paonessa, Chair
Jessica Derr
Zakhary Dunning

Jeff Hynes – Arrived at 6:36
Kevin Long – Arrived at 6:54

James Newman, City Staff: Zoning Administrator
Kim Crosson, City Staff: Permit Tech

2. SPECIAL WORK SESSION

2.1: TXA2023-01 – Mobile Food Vendors

Staff gave presentation.

SUMMARY OF DISCUSSION: Agreement to tie hours to the noise ordinance, ending at 10:00 pm, and to bring this back as a public hearing item.

2.2: TXA2023-09 – Neighborhood Residential Use Changes

Staff gave presentation.

Jeff Hynes – Arrived at 6:36

SUMMARY OF DISCUSSION: Collectively reviewed and discussed permitted uses and types. In agreement to keep existing and proposed permitted uses.

Kevin Long – Arrived at 6:54

3. CALL TO ORDER REGULAR MEETING AT 7:03 PM

Present: Ann Paonessa, Chair
Jessica Derr
Zakhary Dunning
Jeff Hynes
Kevin Long
James Newman, City Staff: Zoning Administrator
Kim Crosson, City Staff: Permit Tech

4. APPROVAL OF MINUTES

4.1: February 26, 2024 Minutes – Review was moved to the upcoming April Meeting

5. UNFINISHED BUSINESS

None

6. NEW BUSINESS

6.1: BR2024-02 - Norborne Glebe Phases 10B-13 Bond Initiation

Staff gave presentation

Motion to recommend approval for Performance Bond / Norborne Glebe Phase 10B

RESULT:	**Approved**
MOVER:	Hynes
SECONDER:	Derr
AYES:	Paonessa, Derr, Dunning, Hynes, Long

Motion to recommend approval for Land Disturbance Bond / Norborne Glebe Phase 10B, 11, 12 & 13

RESULT:	**Approved**
MOVER:	Hynes
SECONDER:	Dunning
AYES:	Paonessa, Derr, Dunning, Hynes, Long

6.2: SLD2023-11 – WVU Medicine Parcel and Boundary Adjustment

Staff gave presentation

Thomas Motes, Applicant's Attorney –Highlighted that the zoning amendment fits in with the two -year plan

Motion to open public hearing

RESULT:	**Approved**
MOVER:	Hynes
SECONDER:	Long
AYES:	Paonessa, Derr, Dunning, Hynes, Long

No comments

Motion to close public hearing

RESULT:	**Approved**
MOVER:	Long
SECONDER:	Hynes
AYES:	Paonessa, Derr, Dunning, Hynes, Long

Motion to approve SLD2023-11 – WVU Medicine Parcel and Boundary Adjust made by Jeff Hynes

APPROVED

Amended Motion to Approve SLD2023-11 – WVU Medicine Parcel and Boundary Adjustment conditional to the following: Merger parcel be rezoned to General Commercial prior to recordation of the merger

RESULT:	**Approved**
MOVER:	Hynes
SECONDER:	Long
AYES:	Paonessa, Derr, Dunning, Hynes, Long

6.3: ZMA2024-01 – WVU Medicine Rezoning Request

Staff presentation

Motion to open public hearing

RESULT:	**Approved**
MOVER:	Derr
SECONDER:	Long
AYES:	Paonessa, Derr, Dunning, Hynes, Long

No comments

Motion to close public hearing

RESULT:	**Approved**
MOVER:	Derr
SECONDER:	Long
AYES:	Paonessa, Derr, Dunning, Hynes, Long

Motion to recommend approval of ZMA2024-01 – WVU Medicine Rezoning Request made by Jeff Hynes

Jeff Hynes – Why are we leaving the rest of the parcels as "neighborhood residential"?

Staff – The applicant only wished to submit their portion. No further applications have been received regarding the remaining residual parcels.

Motion to approve ZMA2024-01 – WVU Medicine Rezoning Request

RESULT:	**Approved**
MOVER:	Hynes
SECONDER:	Long
AYES:	Paonessa, Derr, Dunning, Hynes, Long

6.4: SLD2024-01 – WVU Medicine Sketch Plan Completeness Review

Staff presentation

Paonessa – Can we declare a sketch plan complete for a general commercial if they are not zoned "general commercial"?

Staff - It has to go through a series of steps, the boundary line adjustment, rezoning and the sketch plan approval can be done at the same time but I will not sign off on the final approval until rezoning has been approved, the exact order of step doesn't matter as much. They were advised they can proceed with everything at their own cost and discretion.

APPROVED

Long – So there will be a public hearing for the sketch plan?

Staff – Yes

Thomas Motes, Applicant – Comfortable with the risk of multiple applications at the same time.

Derr – Question regarding if buffers and trees shown are sufficient

Staff – It is sufficient for parking lot landscaping; I do not believe it is sufficient for buffering requirement. That analysis will be done once it is deemed to be complete.

Hynes – This entire property has one way in and one way out?

Staff – Under current plans, yes. Applicant is working on obtaining access to other properties.

Motion to approve SLD2024-01 – WVU Medicine Sketch Plan Completeness Review

RESULT:	**Approved**
MOVER:	Long
SECONDER:	Derr
AYES:	Paonessa, Derr, Dunning, Hynes, Long

6.5: TXA2023-06 – Minor/Major Subdivision/Land Development Requirements

Staff gave presentation.

Derr and Staff finding of language issue to be corrected: "Separate Identical" to be corrected to "Separate Identifying"

Motion to open public hearing

RESULT:	**Approved**
MOVER:	Long
SECONDER:	Derr
AYES:	Paonessa, Derr, Dunning, Hynes, Long

No comments

Motion to close public hearing

RESULT:	**Approved**
MOVER:	Long
SECONDER:	Derr
AYES:	Paonessa, Derr, Dunning, Hynes, Long

Motion to approve TXA2023-06 Minor / Major Subdivision / Land Development Requirements subject to the following: Change "Separate Identical" to "Separate Identifying"

RESULT:	**Approved**
MOVER:	Derr
SECONDER:	Dunning
AYES:	Paonessa, Derr, Dunning, Hynes, Long

APPROVED

Hynes – Wants to reiterate a question, have we scrubbed the ordinance for the term "minor boundary line adjustment" to ensure that striking that term does not impact other requirements?

Staff – I will go ahead and do that, but the idea is that if there is a question about boundary line adjustments, I would refer back to this section about boundary line adjustments.

Hynes – We are going from minor boundary line adjust to boundary line adjustment, is there a major boundary line adjustment?

Staff – No

Hynes – So this will be for all boundary line adjustments?

Staff - Yes

6.6: TXA2024-03 Infill Development Requirements

Staff presentation

Hynes – Why don't we just say "subdivision land developments"?

Staff – I don't want infill developments to be misconstrued as belonging to this table, it is separate.

Hynes – Asked a clarifying question regarding wording pertaining to "On street parking and sidewalks on the other side of the road are not required"

Staff – Clarified that the requirement is that off street parking is required, on street parking is not.

Motion to open public hearing

RESULT:	**Approved**
MOVER:	Hynes
SECONDER:	Long
AYES:	Paonessa, Derr, Dunning, Hynes, Long

No comments

Motion to close public hearing

RESULT:	**Approved**
MOVER:	Long
SECONDER:	Hynes
AYES:	Paonessa, Derr, Dunning, Hynes, Long

Motion to recommend approval of TXA2024-03 Infill Development Requirements

RESULT:	**Approved**
MOVER:	Derr
SECONDER:	Dunning
AYES:	Paonessa, Derr, Dunning, Hynes, Long

APPROVED

7. ADJOURNMENT

Motion to adjourn

RESULT:	**Approved**
MOVER:	Hynes
SECONDER:	Long
AYES:	Paonessa, Derr, Dunning, Hynes, Long

Meeting adjourned at 7:38 pm.

APPROVED

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 06/03/24
Department: City Council
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-559: Charles Town Utility Board Meeting Minutes - May 8, 2024

ATTACHMENTS:
- 2024.05.08 UB MINUTES.pdf

Charles Town Utility Board
Regular Board Meeting
May 8, 2024

The Charles Town Utility Board held a regular meeting on May 8, 2024 at 4:00 P.M. Members of the Board present were John Nissel, Chairman; Duke Pierson, Vice Chairman; Tommy Stocks, Treasurer; Jeff Whitten, Board Member; and Heidi Parker, Board Member. Also present were Kristen Stolipher, Utility Manager; April Shultz, Assistant Utility Manager; Ashley Stottlemyer, Secretary; and Robert Rodecker, Legal Counsel.

CALL TO ORDER

The Chairman called the meeting to order at 4:00 P.M.

APPROVAL OF MINUTES

Approval of April 24, 2024 Regular Meeting Minutes

The Chairman called for changes or corrections to the April 24, 2024 regular meeting minutes.

Action: **Motion made by Mr. Whitten, second by Mr. Pierson, the Board unanimously approved the April 24, 2024 minutes as presented.**

PUBLIC COMMENT

Public comment was received from Jacquelyn Milliron.

OLD BUSINESS

Sewer Strategic Plan – Draft

Mrs. Stolipher stated she incorporated a majority of the public comments that were submitted. She included a draft for the Board to review. The Board provided discussions on the plan.

Action: **Motion made by Mr. Pierson, second by Mr. Whitten, the Board approved 3-1 the Sewer Strategic Plan with the addition of a table of contents. Mrs. Parker voted against the motion as she expressed her concern over not reviewing capacity improvement fees prior to approval.**

NEW BUSINESS

Renewal and Replacement Project Resolution No. 19 – Contractor Pay Application No. 19

Mrs. Stolipher included the contractor application for Payment No. 19 in the amount of $277,040.90 for work completed. The Board provided discussions. Dave Pedersen and Chris Eckenrode from GDF were available for questions.

Action: **Motion made by Mr. Pierson, second by Mr. Stocks, the Board unanimously approved Resolution No. 18.**

GDF Greenfield Forcemain Task Order

Mrs. Stolipher provided the task order is for the redesign effort of the Greenfield Forcemain project as it relates to the issues relating to the boring under WV-340 not to exceed $51,500.00.

Action: **Motion made by Mr. Whitten, second by Mr. Pierson, the Board unanimously approved the GDF Greenfield Forcemain task order dated April 22, 2024 as presented.**

GDF Greenfield Pump Station Upgrades Task Order

Mrs. Stolipher included the task order to assist in the rehabilitation of the mechanical and electrical upgrades for the Greenfield pump station not to exceed $25,000.00.

Action: **Motion made by Mrs. Parker, second by Mr. Pierson, the Board unanimously approved the GDF Greenfield Pump Station upgrades task order as presented.**

MANAGER REPORTS

Utility Manager Report

Mrs. Stolipher provided updates on the submission of the local Source Water Protection Grant in the amount of $35,000.00 for the Summit Point Raceway facility sanitary survey, the completion of hydrant flushing, the ongoing lead and copper inventory and the finalizing of easements for the Collections Project. She also mentioned she will be giving a presentation at Wright Denny Elementary School on May 16th for Career Day.

Action: **No action required by the Board.**

Chairman Report

The Chairman congratulated Mrs. Parker on her re-appointment to the Board.

Action: **No action required by the Board.**

Mrs. Parker stated during her interview with City Council, she was asked if she represented the County of the City. She wanted to clarify that she represented the rate payer and now that rates are equalized, she doesn't see much of a distinction between the customers and brings the perspective of a ratepayer.

APPROVAL OF BILLS

May 8, 2024

Action: **Motion made by Mrs. Parker, second by Mr. Pierson, the Board unanimously approved the payment of the bills.**

Jacqueline Milliron had requested the contract amount for the Burns Farm agreement from the last meeting be made public. After speaking with legal counsel, Mrs. Stolipher stated it is within budget, but will get the exact amount as she did not have it readily available.

ADJOURNMENT

There being no further business at this time, the Board adjourned the meeting.

Action: **Motion by Mr. Pierson, second by Mr. Whitten, the Board unanimously adjourned the meeting at 4:38 P.M.**

INFORMATION ONLY

The next meeting is scheduled for Wednesday, May 22, 2024 at 4:00 P.M. at 661 S. George Street.

John Nissel
Chairman

Ashley Stottlemyer
Secretary

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 06/03/24
Department: City Council
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-560: Signed Rules and Regulations of the Civil Service Commission

ATTACHMENTS:

- Rules and Regs Revised 0524.pdf

RULES AND REGULATIONS OF THE CIVIL SERVICE COMMISSION

REVISED: MAY 2024

RULES AND REGULATIONS OF THE POLICE CIVIL SERVICE COMMISSION OF THE CITY OF CHARLES TOWN, WEST VIRGINIA

PART I – GENERAL

1.01 AUTHORITY FOR PROMULGATION

The Rules and Regulations contained herein are promulgated pursuant to the authority vested in the Police Civil Service Commission of the City of Charles Town, West Virginia, by Section 10(1), Article 14, Chapter 8 of the Code.

1.02 EFFECTIVE DATE

The Rules and Regulations contained herein become effective when they have been approved by the Mayor and the City Council of Charles Town, West Virginia; *provided that,* if the Mayor and the City Council take no action on these Rules and Regulations within twenty (20) days from the date of submission of these Rules and Regulations to them, these Rules and Regulations shall then become effective as if approved by the Mayor and the City Council. [§8-14-10(1)]

1.03 DISTRIBUTION OF COPIES

Copies of these Rules and Regulations, as approved by the Mayor and the City Council or deemed effective as if approved, shall be available for distribution throughout the Police Department. A copy of these Rules and Regulations shall be posted in the Police Department Headquarters. Each new officer shall have the Rules and Regulations discussed during orientation by the Training Officer.

1.04 AMENDMENTS

Amendments to these Rules and Regulations may be adopted from time to time by the Commission and shall become effective on the date of their approval by the Mayor and the City Council or twenty (20) days after their submission to said Mayor and City Council if those parties fail to take action on the proposed amendments in that time, whichever date is sooner. Copies of amendments to these Rules and Regulations shall be posted in a conspicuous place at the Charles Town City Hall and at the Police Department Headquarters, for thirty (30) days from passage.

1.05 PURPOSES

The purpose of these Rules and Regulations are:

(a) To give security to the Members of the paid Police Department of the City of Charles Town against the vicissitudes that may attend political municipal elections in the absence of civil service statutes and regulations;

(b) To provide for a complete, all inclusive and non-discriminatory system for the appointment, promotion, reduction, removal and reinstatement of Members of the paid Police Department of the City of Charles Town; and

(c) To provide for an efficient, professional and competent police department to serve the City of Charles Town.

1.06 CONSTRUCTION; APPLICABILITY

(a) These Rules and Regulations shall be liberally construed to accomplish their objectives and purposes. Notwithstanding anything to the contrary herein, these Rules and Regulations shall be interpreted and applied in all cases in accordance with the requirements of Sections 6 through 24, Article 14, Chapter 8 of the Code.

(b) These Rules and Regulations apply only to positions of employment by the Police Department that clothe the holder of the position with police power of the State in being authorized to carry deadly weapons, make arrests, enforce traffic and other municipal ordinances, issue summonses for the violation of traffic and other municipal ordinances, and perform other duties which are within the scope of active, general law enforcement. These Rules and Regulations are not intended to apply to any other position of employment within said Police Department that is not clothed with such powers.

(c) Notwithstanding anything to the contrary herein, the provisions of Section 5, Article 29, Chapter 30 of the Code shall apply to Members of the paid Police Department. Each Member shall be responsible for timely providing to the Chief of Police certification of having met the minimum entry-level law enforcement qualification and training program requirements, and the Member's failure to do so shall subject the Member to automatic termination.

PART II – DEFINITIONS

2.01 DEFINED TERMS

As used in these Rules and Regulations, the term or phrase:

(a) "Appointing Officer" means the Mayor of the City of Charles Town, West Virginia, or such person to whom the Mayor may delegate the role, duties, and responsibilities of Appointing Officer from time to time.

(b) "Code of West Virginia" or "the Code" means the Code of West Virginia of 1931, as amended.

(c) "Commission" or "Police Civil Service Commission" means the Police Civil Service Commission of the City of Charles Town, West Virginia, duly constituted and

appointed under the provisions of Section 7, Article 14, Chapter 8 of the Code.

(d) "The Department" or "the Police Department" means the Police Department of the City of Charles Town.

(e) Except where reference is made to members of the Commission, "Member" or "Member of the paid Police Department" means and includes any individual employed by the Police Department of the City of Charles Town who is clothed with police power of the State in being authorized to carry deadly weapons, make arrests, enforce traffic and other municipal ordinances, issue summonses for the violation of traffic and other municipal ordinances, and perform other duties which are within the scope of active, general law enforcement. [§8-14-16(c)]

(f) "Original Appointment" means the process whereby vacancies not filled by Promotion, reinstatement, reduction or non-competitive examination (provisional appointment) are filled by persons making an original entry into the Department.

(g) "Promotion" means the process whereby persons advance from a given rank within the Department to a higher one. The term "Promotion", in the discretion of the Commission, may also mean a raise in the base pay not shared by other Members of the same rank. Incentive pay increases do not constitute a Promotion if shared by or available to all Members of the Department or available to all persons holding a given rank.

(h) "Removing Officer" means the Chief of Police of the City of Charles Town.

(i) "Removal, Discharge, Suspension, or Reduction in Rank or Pay" means any such removal, discharge, suspension, or reduction in rank or pay, regardless of the time period involved.

PART III – POLICE CIVIL SERVICE COMMISSION

3.01 ORGANIZATION OF THE COMMISSION

(a) Membership: The Commission shall consist of three (3) members, whose appointment and removal shall be in accordance with the terms of Section 7, Article 14, Chapter 8 of the Code. During the term of his or her appointment, each Commissioner must be a resident of West Virginia and a qualified voter of the City of Charles Town. A person shall not be appointed or reappointed as a Commissioner if the person: (i) has been convicted of a felony or any misdemeanor involving moral turpitude under the laws of any jurisdiction; (ii) is a relative (as defined in Section 3, Article 1, Chapter 6B of the Code) of the Mayor of the City of Charles Town or the president, chairman, or similarly situated executive official of the local fraternal order of police or the local chamber of commerce or local businessmen's organization, from which the appointment is made; (iii) holds any other office (other than the office of Notary Public) under the United States, the

State of West Virginia, or any municipality, county or other political subdivision thereof; or (iv) serves on any political committee or takes an active part in the management of any political campaign. For purposes of the foregoing clause (iii), the position of police officer, whether of the City of Charles Town or any other jurisdiction, shall be considered an office rendering the person holding such position ineligible for appointment as a Commissioner. [§8-14-7(b), (c), & (l)]

(b) President-Vice President

(1) At the first meeting of the Commission after the first day of July in each year, the three (3) members of the Commission shall elect one of their number to serve as President of the Commission and one of their number to serve as Vice President of the Commission. [§8-14-7(g)]

(2) It shall be the duty of the President of the Commission to preside over meetings of the Commission and to generally act as spokesman for the Commission. The President shall also cause a complete record of Commission actions and activities to be kept.

(3) It shall be the duty of the Vice President of the Commission to perform the duties of the President in the event of the President's absence from a meeting, or in the event of the President's death, resignation from the Commission or other permanent incapacity, until such time as a new member is appointed to the Commission and a new president is elected.

(4) In the event of the death, resignation or other incapacity of the President or Vice President of the Commission, a new President or Vice President, as the case may be, shall be elected in the manner provided for above immediately following the appointment of a new member to the Commission.

(c) Quorum: Except as hereinafter provided, two (2) members of the Commission shall constitute a quorum for the transaction of business.

(d) Meetings: The Commission shall meet at the call of any member or the Chief of Police as needed. The Commission may, in its discretion from time to time, schedule regular meetings for all or any portion of the then current fiscal year. At least three (3) business days prior to any meeting, the Commission shall post notice of the meeting in the lobby of the Charles Town Police Department and make available an agenda describing all matters requiring official action of the Commission; *provided that*, in the case of an emergency meeting called to address an unexpected event that requires immediate attention as permitted under Section 3(h), Article 9A, Chapter 6 of the Code, notice need not be posted three (3) business days prior and the Commission shall instead post notice of the emergency meeting as soon as practicable after it is called. Notice of a meeting shall state the date, time, and place of the meeting, and, in the case of notice of a special meeting, the purpose of the meeting, and, in the case of notice of an emergency meeting, the facts and circumstances of the emergency. Meetings shall be open to the

public, but the Commission may hold an executive session during any meeting consistent with the provisions of Section 4, Article 9A, Chapter 6 of the Code. Meetings may be held by telephone conference or other electronic means by which all persons participating may hear and communicate with each other.

(e) Records to be Kept; City Clerk or City Recorder to act as Clerk

(1) The Commission shall cause minutes of its own proceedings, records of its examinations, recommendations of applicants for office received by the Commission, the Chief of Police, or the Appointing Officer, and any other records of the Commission's official acts to be kept as official records of the Commission. All such records shall be kept and preserved by the Commission for a period not less than (10) years. With the exception of minutes of executive sessions, recommendations of former employers, psychiatric and psychological examinations, medical examinations and records, polygraph examinations, financial information and other information deemed by the Commission to be of a personal and confidential nature, all such records, including all written causes of removal filed therewith, shall, subject to reasonable regulation, be open to public inspection. [§8-14-10(2)]

(2) The City Clerk or City Recorder of the City of Charles Town shall be *ex officio* Clerk of the Commission and shall supply to the Commission without extra compensation, such clerical and stenographic services as may be required by the Commission. [§8-14-8]

3.02 POWERS AND DUTIES OF THE COMMISSION

The Commission shall implement and enforce these Rules and Regulations and, in connection therewith, the Commission shall:

(a) Make investigations, as a body or through a single Commissioner, concerning all matters touching the enforcement and effect of these Rules and Regulations and the civil service provisions of Article 14, Chapter 8 of the Code or concerning the action of any person in the public service with respect to the execution of such items, and in connection therewith administer oaths and affirmations and take testimony; [§8-14-10(3)]

(b) Hold such hearings as may be required by law or such hearings as it may, in its discretion, determine to be necessary, in accordance with these Rules and Regulations;

(c) Have the power to subpoena and require the attendance of witnesses, and the production by such witnesses of books and papers pertinent to investigations and inquiries within the scope of the Commission's authority, and examine them and such public records as it shall require, in relation to any matter within the Commission's investigatory authority, all in accordance with the provisions of Section 10(4), Article 14, Chapter 8 of the Code; [§8-14-10(4)]

(d) Make an annual report to the Mayor concerning its actions, these Rules and Regulations, and such other matters as specified in Section 10(5), Article 14, Chapter 8 of the Code; and [§8-14-10(5]

(e) Have all other powers expressed in the Code or these Rules and Regulations and such other powers as may be fairly implied therefrom.

PART IV – ORIGINAL APPOINTMENT

4.01 APPLICATION OF THIS PART

Vacancies not filled by Promotion, reinstatement, reduction or non-competitive examination (Provisional Appointment), shall be filled in accordance with the provisions of this Part IV. [§8-14-15]

4.02 COMMISSION TO BE NOTIFIED OF VACANCY BY APPOINTING OFFICER

The Appointing Officer shall notify the Commission of any vacancy which he or she desires to fill by Original Appointment of a probationary police officer. In conjunction with such notification, the Appointing Officer shall request that the names of persons eligible for Original Appointment be certified to him or her by the Commission pursuant to Section 4.03(a). [§8-14-15]

4.03 CERTIFICATION OF NAMES FOR APPOINTMENT

(a) Upon receipt of a request for such names from the Appointing Officer: (i) if there are then on the list of eligibles for Original Appointment three (3) or more names of persons who both submitted timely and complete applications for the vacant position and passed the physical fitness and agility examination required under Section 4.05(b), the Commission shall, subject to Section 4.03(a)(1), certify to the Appointing Officer in ranking order from such names the three (3) names ranking highest on the list of eligibles; or (ii) if there are then on the list of eligibles for Original Appointment only one (1) or two (2) names of persons who both submitted timely and complete applications for the vacant position and passed the physical fitness and agility examination required under Section 4.05(b), the Commission shall, subject to Section 4.03(a)(1), certify to the Appointing Officer such name or names, in ranking order. [§8-14-15]

(1) If a list of eligibles then exists in force and effect, the Commission may, in its discretion, either (A) certify names from the existing list of eligibles in accordance with Section 4.03(a), or (B) elect to instead establish a new list of eligibles in accordance with these Rules and Regulations and then certify names from such new list of eligibles in accordance with Section 4.03(a).

(2) If a list of eligibles then does not exist in force and effect, the Commission shall proceed to establish a new list of eligibles in accordance with these Rules

and Regulations and then certify names from such new list of eligibles to the Appointing Officer in accordance with Section 4.03(a).

(b) If the Appointing Officer objects to the Commission to inclusion of an individual's name on the list of certified names due to any reason specified in Section 4.10(a), the name of the next highest individual on the list of eligibles for Original Appointment of persons who both submitted a timely and complete application for the vacant position and passed the physical fitness and agility examination required under Section 4.05(b), if any, shall be substituted for the name objected to if the Commission sustains such objection after a public hearing, if one is requested. Such objection may be made at any time prior to the subject appointment. [§8-14-15]

4.04 APPOINTMENT; PROBATIONARY STATUS

(a) Following receipt by the Appointing Officer of the list of names certified by the Commission and before any individual is appointed from such list as a probationary police officer, the individual(s) named on such list shall undergo the following steps, the results of which shall be considered by the Appointing Officer in evaluating the merit and fitness of the candidate(s):

(1) A background investigation in accordance with the provisions of Section 10.03(b) below;

(2) A polygraph examination testing the candidate's truthfulness in accordance with the provisions of Section 10.03(c) below; and

(3) A personal interview conducted by the Appointing Officer examining the candidate's verbal communication skills, interpersonal skills, problem-solving abilities, teamwork skills, other cognitive abilities, and comprehension of the fundamental characteristics required of a police officer. The Appointing Officer may, in his or her discretion, include in such interview one or more of the following: the City Manager, the Chief of Police, members of the Commission, members of the City's Common Council, and members of the Police Department designated by the Chief of Police, and consider their respective evaluations of the candidate.

(b) Following completion of the steps specified in Section 4.04(a) above, and from the list of names certified by the Commission, the Appointing Officer shall, with sole reference to the relative merit and fitness of the candidates, determine the individual best suited to be appointed as a probationary police officer upon passing the medical examination (the "Prospective Appointee"). The Prospective Appointee shall be required to submit to a medical examination testing his or her general condition of health and fitness for the position, with drug testing conducted in accordance with SAMHSA guidelines, a physical fitness and agility examination, and a psychiatric or psychological examination, each testing his or her suitability for appointment. The medical examination shall be conducted in accordance with the provisions of Part X, below, and

the administering personnel shall be selected or approved by the Commission. [§8-14-15]

(c) If the Prospective Appointee satisfies all requirements of the medical examination specified in Section 10.03(a) below, the Appointing Officer shall appoint the Prospective Appointee as a probationary police officer. If the Prospective Appointee fails to satisfy all requirements of the medical examination, the Appointing Officer shall so inform the Commission, and the Commission shall certify a new list of names in accordance with Section 4.03(a), excluding said Prospective Appointee, and the process under this Section 4.04 shall be undertaken again, except that the steps under Section 4.04(a) need not be repeated for any individual subjected to such steps in the prior process. [§8-14-15]

(d) All Original Appointments as a police officer shall be for a probationary period of one year; *provided* that, a probationer may be discharged at any time during the probationary period for just cause in accordance with these Rules and Regulations and applicable law. If, at the end of the probationary period, the Appointing Officer is not satisfied with the conduct, performance, or abilities of the probationer, the probationer shall be notified in writing that he or she will not receive an absolute appointment and that his or her employment is terminated. [§§8-14-11 & 8-14-15]

4.05 ESTABLISHING LIST OF ELIGIBLES; CERTIFICATION; DURATION

(a) Except to the extent exempted by the Commission pursuant to the provisions of Part IVA (Reinstatement) or Part V (Provisional Appointments), below, every applicant for the position of probationary police officer shall be required to submit to a competitive written examination testing the applicant's merit and fitness to discharge the duties of the position. Such competitive written examination shall be conducted in accordance with the provisions of Part X, below, and the form and content of examination and the administering personnel shall be selected or approved by the Commission.

(b) Every applicant for the position of probationary police officer shall be required to submit to the physical fitness and agility examination required by Section 10.03(a)(2) below. [§8-14-11]

(1) In instances where names are to be certified from an existing list of eligibles pursuant to Section 4.03(a)(1)(A) above, the examination shall be conducted after the period for submitting applications has expired (unless the applicant previously passed such an examination conducted within ninety (90) days prior to the anticipated date of appointment).

(2) In instances where a new list of eligibles is to be established pursuant to Section 4.03(a)(1)(B) or 4.03(a)(2) above, the examination shall be conducted within two (2) weeks following the corresponding competitive written examination.

(c) Upon completion of the competitive written examination procedures, the

Commission shall compile a list of eligibles for Original Appointment consisting of the applicants for a position who passed the competitive written examination by achieving at least the minimum Average Examination Score required under Section 10.02(b) below, with such persons ranked on the list in the manner specified in Section 10.02(c) below.

(d) Such list of eligibles, when so ranked by the Commission, shall constitute the list of eligibles from which the Commission shall, in accordance with Section 4.03(a), certify to the Appointing Officer the names of individuals who both submitted a complete application for the vacant position and passed the physical fitness and agility examination, from which Original Appointment to the position shall be made as provided herein.

(e) The list of eligibles, as so constituted, shall continue in full force and effect until the occurrence of the earliest of the following:

(1) All names on the list are exhausted;

(2) Such list is superseded by a new list compiled after a subsequent competitive written examination. The new list shall include names and scores from competitive written examinations taken in the next preceding three (3) years, with averaging of scores in the event an applicant took multiple examinations during such three-year period; *provided that,* any score shall be stricken from the list and omitted from averaging when more than three (3) years has passed since the subject examination. The Commission may conduct examinations from time to time as it determines appropriate; or [§8-14-15]

(3) The passage of three (3) years' time from the date of the most recent competitive written examination with respect to which the list was compiled.

(f) Names shall be stricken from the eligibles list upon the Commission sustaining an objection of the Appointing Officer to inclusion of an individual on the list or upon a name having been rejected three (3) times for the same or another position in favor of a name or names below it on the list, both as provided in Section 15, Article 14, Chapter 8 of the Code, or upon the written request of the subject applicant. [§8-14-15]

4.06 APPLICATIONS

(a) An applicant for Original Appointment must timely submit a complete application to the Commission's office. Applications will be accepted only when a specific vacancy exists and is desired to be filled, as determined by the Appointing Officer. Applications may be submitted only for a specific vacancy then contemplated to be filled, and applications submitted for a prior vacancy, or when no vacancy exists, will not be considered or effective for a subsequent vacancy.

(b) Applications for Original Appointment shall be made on a form devised by the Commission. The form and content of the application may be varied from time to time

by the Commission, provided that the form must solicit the following information:

(1) Applicant's name, residence and post office address;

(2) Citizenship, age, place and date of birth of the applicant;

(3) State of health and physical capacity of the applicant for the position to be filled;

(4) Businesses, employments and residences of the applicant for the previous three (3) years; and

(5) Such other information relating to the applicant's qualifications and fitness for Original Appointment as the Commission may require. [§8-14-12(a)]

(c) The information solicited and given on the application shall be given under oath or affirmation. [§8-14-12(a)]

(d) The applicant shall also arrange for the submission to the Commission of such certificates of citizens, physicians, and other persons having pertinent knowledge concerning the applicant as shall be required by the application form or the instructions thereto. [§8-14-12(b)]

4.07 AGE REQUIREMENT

Applicants for Original Appointments as probationary police officers shall be not less than eighteen (18) years of age on the date of his or her application. [§8-14-12(c)]

4.08 NOTICE OF VACANCIES & EXAMINATIONS - ORIGINAL APPOINTMENT

(a) If, after the Appointing Officer notifies the Commission of a vacancy to be filled by Original Appointment, the Commission intends to certify names from an existing list of eligibles pursuant to Section 4.03(a)(1)(A) above, the Commission shall use reasonable good-faith efforts to notify the individuals on that list of the following:

(1) That a vacancy in the position of probationary police officer exists and is to be filled by Original Appointment;

(2) That the individual must, by a designated deadline, submit to the Commission's office a complete application in order to be considered for the position;

(3) Locations at which applications for the position may be obtained;

(4) That passing a physical fitness and agility examination is a requirement for appointment to the vacant position; and

(5) That a physical fitness and agility examination will be given on and at a date (at least one week following the notice), time, and place specified in the notice.

(b) If, after the Appointing Officer notifies the Commission of a vacancy to be filled by Original Appointment, a new list of eligibles is to be established pursuant to Section 4.03(a)(1)(B) or 4.03(a)(2) above, the Commission shall give public notice of the following items and further use reasonable good-faith efforts to notify the individuals on any existing list of eligibles of the following items:

(1) That a vacancy in the position of probationary police officer exists and is to be filled by Original Appointment;

(2) That interested persons must, by a deadline specified in the notice, submit to the Commission's office a complete application in order to be considered for the position;

(3) Locations at which applications for the position may be obtained;

(4) That passing both a competitive written examination and a physical fitness and agility examination is a requirement for appointment to the vacant position;

(5) That a competitive written examination for Original Appointment will be given on and at a date (at least one week following the latest publication of the notice), time, and place specified in the notice; and

(6) That a physical fitness and agility examination will be given on and at a date (at least one week following the latest publication of the notice), time, and place specified in the notice.

(c) In the event the Commission elects to conduct a written examination and establish a new list of eligibles at a time when no vacancy is to be filled, the Commission shall give public notice of the following:

(1) That a competitive written examination for Original Appointment to a position of probationary police officer in the Police Department will be given on and at a date (at least one week following the latest publication of the notice), time, and place specified in the notice; and

(2) That no vacancy currently exists in the Police Department, but that passing the competitive written examination will satisfy a requirement for eligibility for employment if and when a vacancy occurs.

(d) Each notice required under the above Sections 4.08(b) and 4.08(c) shall be:

(1) Published once a week for two (2) weeks in a newspaper of general circulation in the City of Charles Town, West Virginia;

(2) Posted in a conspicuous place at the City Hall and at the Police Department Headquarters;

(3) Distributed to such groups or organizations and in such manner as the Police Department or the Commission may direct; and

(4) Otherwise advertised, posted, or published in such media, sources, locations, and manner as the Police Department or the Commission may direct.

4.09 PROHIBITED INQUIRY

No question on the applications or the examinations mentioned in this Part, whether oral or written, shall be framed or designed so as to elicit from any applicant information relating to such applicant's political or religious opinions or affiliations, and no inquiry shall be made in any interview or otherwise concerning such opinions or affiliations, and any disclosure made by an applicant regarding any such opinions or affiliations shall be disregarded. [§8-14-18]

4.10 REFUSAL OF COMMISSION TO EXAMINE OR CERTIFY AS ELIGIBLE

(a) The Commission may refuse to examine an applicant, or after examination to certify as eligible an applicant, who:

(1) Does not meet the age requirement of Section 4.07 above or is found to lack any of the other established preliminary requirements for the examination or position for which he or she applied;

(2) Is physically so disabled as to be rendered unfit for the performance of the duties of the position desired;

(3) Is addicted to the habitual use of intoxicating liquors or drugs;

(4) Has been guilty of any crime or of infamous or notoriously disgraceful conduct;

(5) Has been dismissed from public service for delinquency or misconduct;

(6) Has made a false statement of any material fact, or practiced or attempted to practice any deception or fraud, in his or her application, in any such examination, or in securing his or her eligibility; or

(7) Refuses to comply with the Rules and Regulations of the Commission. [§8-14-14]

(b) The Commission may refuse to examine or to certify as eligible an applicant, based upon credible information coming into its hands by way of the application, or any other source, prior to the date on which the applicant is appointed to fill a position by the Appointing Officer.

(c) The Commission may refuse to examine or to certify as eligible an applicant who fails to appear for an examination prior to the test seal being broken or the examination otherwise officially commencing, or who fails to abide by any announced rule, procedure, or instruction of the examination process.

PART IVA – APPOINTMENTS BY REINSTATEMENT [§8-14-12(d)]

4A.01 REQUIREMENTS FOR REINSTATEMENT

An applicant for appointment to a vacancy may, at the Commission's discretion, be appointed by reinstatement without a competitive examination if he or she meets the following preliminary requirements:

(a) The applicant previously served with the Police Department of the City of Charles Town for a period of time in excess of the required probationary period;

(b) The applicant resigned from the Police Department at a time when there were no charges of misconduct or other misfeasance pending against the applicant;

(c) The applicant's resignation occurred within two (2) years immediately preceding the date of his or her application;

(d) The applicant's performance and conduct during his or her prior term of service merit reappointment.

4A.02 RANK UPON REINSTATEMENT

All appointments by reinstatement shall be to only the lowest rank in the Department next above that of probationary police officer, and compensation upon reinstatement shall be at an amount determined by the Appointing Officer, within the range set for such lowest rank. Any officer appointed by reinstatement shall be treated as a new hire for all other purposes including, without limitation, vacation, leave time, sick time, and all other employee benefits, and shall not receive credit for prior years of service, or for benefits accrued and lost upon his or her prior resignation; *provided that*, the Appointing Officer may, in his or her discretion, provide additional vacation or leave time. Nothing in this Section shall affect any rights a reinstated officer may have under any pension plan.

4A.03 SENIORITY

Officers appointed by reinstatement under the provisions of this Section shall, for Promotion

purposes, be considered newly appointed officers, except they shall retain all seniority points accrued under previous appointments. The Department may determine the seniority of officers reappointed under this Section for pay purposes.

4A.04 APPOINTMENT

If the Commission determines that an applicant may be reinstated in accordance with this Part IVA, the Commission shall, in response to the Appointing Officer's notice of a vacancy and request for certification of names, have discretion either to: (i) certify only the name of such applicant in lieu of the names otherwise required under Section 4.03, in which case the applicant will be the Prospective Appointee who the Appointing Officer shall appoint if such applicant (A) satisfies all requirements of the medical examination provided for in Section 4.04(b) and (B) undergoes with results satisfactory to the Commission the additional steps required of applicants under Section 4.04(a); or (ii) include such applicant's name on the certified list of names required under Section 4.03 in the place of the name of the lowest ranking applicant who otherwise would have been included on such list, in which case the Appointing Officer shall proceed in accordance with Section 4.04 except that Section 4A.02 shall apply if the Appointing Officer selects such applicant for reinstatement.

PART V – PROVISIONAL APPOINTMENTS BY NON-COMPETITIVE EXAMINATION [§8-14-16]

5.01 APPLICATION OF THIS PART

This Part shall apply to appointments made by the Commission after individuals are nominated by the Appointing Officer to fill a vacancy provisionally upon non-competitive examination.

5.02 NOMINATIONS FOR PROVISIONAL APPOINTMENT

(a) Whenever, in the judgment of the Appointing Officer, there are urgent reasons for filling a vacancy provisionally by non-competitive examination and there is no list of eligibles established pursuant to Section 4.05 then in effect, the Appointing Officer may nominate an individual to the Commission for provisional appointment under this Part V.

(b) Each such nomination shall contain:

(1) The urgent reasons for nominating such person rather than requesting establishment of a list of eligibles;

(2) The name of the person nominated;

(3) The expected duration of such person's tenure in the vacancy to be filled;

(4) The vacancy to be filled; and

(5) A completed application as an attachment.

5.03 NON-COMPETITIVE EXAMINATION; CERTIFICATION

(a) If the Commission, in its exclusive judgment, agrees that there are urgent reasons which justify deviation from the appointment procedures contained in Part IV of these Rules and Regulations by filling a vacancy provisionally by non-competitive examination and that no eligible list is then in effect, the Commission shall have the nominee for provisional appointment submit to evaluation and examination procedures of the type specified in Sections 4.04(b) and 4.05(a), except that the written examination shall be non-competitive and no public notice thereof need be given.

(b) If the nominee for provisional appointment (i) passes the non-competitive written examination by achieving the minimum passing score determined by the Commission, in its discretion, (ii) satisfies all requirements of the medical examination provided for in Section 4.04(b), and (iii) undergoes with results satisfactory to the Commission the additional steps required of applicants under Section 4.04(a), the Commission may certify the nominee to the Appointing Officer as qualified for provisional appointment.

5.04 PROVISIONAL APPOINTMENT

After the Commission has certified a nominee as qualified for provisional appointment, the Appointing Officer may provisionally appoint the nominee. The nominee may be appointed provisionally only until a selection and appointment after competitive written examination can be made, and in no event for a period in excess of three (3) months from the date the appointment is made by the Appointing Officer. Successive provisional appointments shall not be used to fill the same position.

PART VI – PROMOTIONS

6.01 APPLICATION OF THIS PART

Every vacancy in a position in the Police Department of the City of Charles Town shall be filled, so far as practicable, in accordance with the provisions of this Part by Promotion from among individuals holding positions in the next lower rank in the Department. The term "rank" as used in these Rules and Regulations shall have the same meaning as the term "grade" as used in Article 14, Chapter 8 of the Code. This Part VI applies only to Promotions from the rank of Patrolman to Corporal, the rank of Corporal to Sergeant, the rank of Sergeant to Lieutenant, and the rank of Lieutenant to Captain. [§8-14-17(a)]

(a) For purposes of these Rules and Regulations, the various ranks within the Department are as follow:

(1) Patrolman: Patrolman is the initial rank to which a probationary police officer is appointed following completion of his or her probationary period of one

year if the Appointing Officer is satisfied with the conduct, performance, or abilities of the probationer during the probationary period. Within the single rank of patrolman, the Chief of Police may, in his or her discretion, from time to time, designate various classes (which, at the time of adoption of these Rules and Regulations, are, in ascending order: Patrolman, Patrolman First Class, and Master Patrol Officer) and assign such classes to officers holding the rank of Patrolman based on such polices and standards as the Chief of Police may determine from time to time in his or her discretion. Assignment of an officer to a higher class shall not be subject to any examination and shall not be considered a promotion for purposes of these Rules and Regulations.

(2) Corporal: Corporal is the next rank higher than Patrolman;

(3) Sergeant: Sergeant is the next rank higher than Corporal;

(4) Lieutenant: Lieutenant is the next rank higher than Sergeant; and

(5) Captain: Captain is the next rank higher than Lieutenant, and the highest rank within the Department subject to promotion.

6.02 PERSONS ELIGIBLE FOR PROMOTION

A person shall not be eligible for Promotion from a lower rank to the next higher rank until the person has completed at least two (2) years of continuous service in the lower rank immediately prior to the competitive written examination. An officer's probationary period shall be counted as service in the rank of Patrolman for purposes of calculating continuous service. Any period of service prior to an officer's appointment by reinstatement under Part IVA shall not be counted for purposes of calculating continuous service, regardless of the length of the officer's separation from the Department. [§8-14-17(b)]

6.03 COMMISSION TO BE NOTIFIED OF VACANCY BY APPOINTING OFFICER

The Appointing Officer shall notify the Commission of any vacancy which may be filled by Promotion of an individual then holding a position of the next lowest rank. In conjunction with such notification, the Appointing Officer shall request that the Commission certify to the Appointing Officer a name from the list of eligibles (or in the event of multiple positions of the same rank, as many names from the eligibles list for such position as there are positions to be filled) for Promotion to the vacant position.

6.04 CERTIFICATION OF NAME FOR PROMOTION

Upon receipt of a request from the Appointing Officer for certification of a name (or names) from the list of eligibles, the Commission shall determine whether a new list of eligibles for Promotion to the subject position is to be established under Section 6.06(a), establish such new list of eligible if so required, and certify to the Appointing Officer the highest ranking name (or as many of the highest ranking names as there are positions to be filled) on the list of eligibles

for Promotion to the vacant position, whether existing or newly established, as the case may be (each person whose name is so certified being a "Prospective Promotee").

6.05 PROMOTIONS

Upon receipt of the Commission's certification of a Prospective Promotee's name, the Prospective Promotee shall be required to submit to a medical examination testing his or her general condition of health and fitness for the position. The medical examination shall be conducted in accordance with the provisions of Part X, below, and the administering personnel shall be selected or approved by the Commission. The medical examination will not include the additional components of drug testing, physical fitness and agility examination, and psychiatric or psychological examination. If the Prospective Promotee satisfies all requirements of the medical examination, the Appointing Officer shall promote the Prospective Promotee. If the Prospective Promotee fails to satisfy all requirements of the medical examination, that Prospective Promotee will not be promoted. The Appointing Officer shall so inform the Commission, and the Commission shall certify the next highest ranking name on the list of eligibles, and the process under this Section 6.05 shall be undertaken again with respect to the Prospective Promotee whose name is then certified.

6.06 DETERMINING/ESTABLISHING LIST OF ELIGIBLES; CERTIFICATION

(a) Upon receipt of a request from the Appointing Officer for certification of a name (or names) from the list of eligibles for Promotion to a vacant position, the Commission shall determine whether there then exists in force and effect a list of eligibles for Promotion to the vacant position. If so, that existing list of eligibles shall be used as the list of eligibles for Promotion to the vacant position if, and only if, all officers then with at least two (2) years of continuous service in the next lower rank from which the vacant position will be filled (excluding any officer who has notified the Commission in writing that the officer will not seek Promotion) either are included in the names on that existing list or were omitted from such list when it was compiled pursuant to Section 6.06(c) due to having failed to satisfy the Aggregate Promotion Score requirement set forth in Section 10.02(d) despite having submitted to a competitive written examination. Otherwise, the Commission shall establish a new list of eligibles for Promotion to the vacant position after soliciting applications and conducting a competitive written examination.

(b) Every applicant for Promotion to a position of a higher rank who meets the eligibility requirements therefor shall be required to submit to a competitive written examination testing the applicant's merit and fitness to discharge the duties of the vacant position. Such competitive written examination shall be conducted in accordance with the provisions of Part X, below, and the form and content of examination and the administering personnel shall be selected or approved by the Commission.

(c) Upon completion of the competitive written examination procedures, the Commission shall compile a list of eligibles consisting of the applicants for Promotion to a position who have satisfied the Aggregate Promotion Score requirement set forth in Section 10.02(d) below, with those persons ranked on the list in the manner specified in

Section 10.02(e) below.

(d) Such list of eligibles, when so ranked by the Commission, shall constitute the list of eligibles for Promotion to a position from which the Commission shall certify to the Appointing Officer the highest ranking name (or as many of the highest ranking names as there are positions to be filled) for Promotion to the vacant position.

(e) The list of eligibles, as so constituted, shall continue in full force and effect until the occurrence of the earliest of the following:

(1) All names on the list are exhausted;

(2) Such list is superseded by a new list compiled after a subsequent competitive written examination; or

(3) The passage of two (2) years' time from the date of the most recent competitive written examination with respect to which the list was compiled.

6.07 NOTICE OF EXAMINATIONS - PROMOTIONAL

(a) Upon the Commission determining under Section 6.06(a) that a new list of eligibles for Promotion to a position must be established, the Commission shall offer a competitive written examination to those Members who are then eligible for Promotion, and thereafter compile a new list of eligibles. When the Commission is so required to establish a new list of eligibles, the Commission shall give notice of the following:

(1) The fact that a written competitive examination will be given for Promotion to a position;

(2) The kind of position to be filled by such competitive written examination;

(3) The requirements that must be satisfied in order to take the competitive written examination and to be eligible for Promotion to the position;

(4) The date or dates, time, and place of the competitive written examination for the position. The competitive written examination shall be conducted no sooner than thirty (30) days, but no later than sixty (60) days, following the Commission's determinations that an actual vacant position exists and that a new list of eligibles for Promotion to that position must be established, and notification to the Department of the same;

(5) The last date on which applications for the position will be accepted by the Commission; and

(6) Location(s) where applicants may sign-up for the examination and obtain an application.

(b) Each such notice shall be:

(1) Personally served via in-house mail, or in such a manner as the Commission may direct, on all persons who will be eligible for Promotion to the open position; and

(2) Posted in a conspicuous place at the City Hall and at the Police Department Headquarters.

6.08 FORMS OF APPLICATIONS

(a) Applications for Promotion shall be made on a form devised by the Commission. The form and content of the application may be varied from time to time by the Commission, provided that the form must solicit the information specified in Section 4.06(b)(1) above and, if the applicant then has an Aggregate Promotion Score calculated as provided in Section 10.02(d) that satisfies the minimum requirement set forth in said Section 10.02(d), the applicant shall state whether the applicant will either (i) take the competitive written examination for Promotion to be conducted with the score on such examination averaged with prior scores to determine the applicant's Average Promotion Score under Section 10.02(d) or (ii) forgo such examination and instead use the applicant's existing Average Promotion Score under Section 10.02(d).

(b) The information solicited and given on the application shall be given under oath or affirmation.

(c) Applications for Promotion are required only when the Commission will conduct a competitive written examination and establish a new list of eligibles for Promotion from which names will be certified. Applications for Promotion are not required, and will not be accepted, when the Commission will certify names from an existing list of eligibles for Promotion.

6.09 PROHIBITED INQUIRY

No question on the applications or the examinations mentioned in this Part, whether oral or written, shall be framed or designed so as to elicit from any applicant information relating to such applicant's political or religious opinions or affiliations, and no inquiry shall be made in any interview or otherwise concerning such opinions or affiliations, and any disclosure made by an applicant regarding any such opinions or affiliations shall be disregarded. [§8-14-18]

6.10 REFUSAL OF COMMISSION TO EXAMINE OR CERTIFY AS ELIGIBLE

The Commission may refuse to examine an applicant for Promotion, or after examination to certify as eligible an applicant for Promotion, for any of the reasons specified in Section 4.10 of these Rules and Regulations.

6.11 REVIEW OF PROMOTIONAL EXAMINATIONS. [§8-14-13a]

Any applicant for Promotion to any position in the Charles Town Police Department may personally review his or her examination questions, answers and scores to all parts of any competitive written examination within five (5) days after the posting of the results of the competitive written examination in accordance with the following procedures:

(a) The person seeking such review must schedule an appointment for review with the Chief of Police.

(b) The review will be conducted in private under the supervision of at least one member of the Commission or under the supervision of the Chief of Police, if the Commission so designates.

(c) The review will be conducted in the office of the Chief of Police, or at such other location in the City of Charles Town as the Commission may designate and provide.

(d) The review will be limited to the applicant's examination questions, answers and scores.

(e) All of the examination documents must be left in the custody of the person supervising the examination review after the review has been completed.

(f) The applicant will be entitled to make handwritten notes relating to any of the examination documents which are the subject of the review. Said handwritten notes must be signed by the applicant and left in the custody of the person supervising the review. Such person will file the notes with the City Clerk, who will retain said handwritten notes for a reasonable period of time or as otherwise ordered by the Police Commission of Charles Town.

(g) Following the promotional review, the applicant, if aggrieved by the answers and/or score received on a promotional competitive written examination, may request a public hearing with the Police Civil Service Commission. Such request for a public hearing must be made by the applicant in writing, addressed to the Police Civil Service Commission, and filed with the office of the Chief of Police. The applicant must make such written request within the five day period of time as set forth in Section 13a, Article 14, Chapter 8 of the Code, which time period is hereby made of the essence. Following receipt of said written request, the Commission will appoint a date, time and place for a public hearing, conduct said hearing, and render a decision in accordance with the applicable provisions of Part VIII of these Regulations as well as the applicable provisions of Section 13a, Article 14, Chapter 8 of the Code.

(h) Following the Commission's issuance of its decision following public hearing, the Commission shall compile a list of eligibles for Promotion, taking into account any adjustment of scores resulting from the Commission's decision, in accordance with these Rules and Regulations.

(i) The Commission shall not compile a list of eligibles for Promotion to a position pursuant to Section 6.06(c), or certify to the Appointing Officer the name of any applicant for Promotion to a position, until all applicants for such position have exhausted the procedures before the Commission set forth in this Section 6.11.

PART VII – GENERAL ENTITLEMENT TO HEARING; GRIEVANCES; REMOVAL, DISCHARGE, SUSPENSION OR REDUCTION IN RANK; REDUCTION IN SIZE OF DEPARTMENT

7.01 APPLICATION OF THIS PART

(a) This Part shall govern and determine the right of an individual to a hearing before the Commission, and it shall operate to supplement the other provisions of law granting such a right.

(b) All hearings provided for in these Rules and Regulations shall be governed by the provisions relating to procedures found in Part VIII of these Rules and Regulations.

7.02 PERSONS ENTITLED TO HEARINGS

(a) Any Member or applicant aggrieved by: (i) answers and/or scores on a promotional competitive written examination; (ii) the Commission's refusal to accept said person's application for appointment or Promotion; (iii) the Commission's refusal to examine or otherwise evaluate said person; (iv) the Commission's refusal to certify said person as eligible after examination; (v) the Appointing Officer's objection to inclusion of said person's name on a certified list of eligible names; or (vi) any other act of the Commission during the appointment or promotion process operating to the detriment of such person, shall be entitled to a hearing before the Commission. Such person(s) shall file, in writing, a demand for public hearing within the time period specified in these Rules and Regulations or the Code with respect to the action which makes him/her feel aggrieved or, if no time period is so specified, within ten (10) days of such action. [§§8-14-13a(b), 8-14-14, & 8-14-15]

(b) Any Member or group of Members of the Police Department of the City of Charles Town or any other person who believes that any of the provisions of the Civil Service Act or of these Rules and Regulations have been violated by virtue of any order or instruction issued in the Police Department, or any action or act of the Commission, may petition the Commission for a hearing. The Commission shall promptly consider any such petition, and may, in its discretion, grant such person or persons a hearing upon the issues raised in the petition.

(c) No Member of the Police Department shall be Removed, Discharged, Suspended, or Reduced in Rank or Pay, except for just cause and in accordance with these Rules and Regulations. Any Member aggrieved by an action of the Department in Removing,

Discharging, Suspending, or Reducing in Rank or Pay such Member shall be entitled to a hearing. For purposes of this Part VII, the term "Discharge" shall include (i) discharge of a probationary police officer during his or her one-year probationary period, and (ii) dismissal (nonretention) of a probationary police officer at the end of his or her one-year probationary without absolute appointment. [§§8-14-11 & 8-14-20(a)]

(d) Any Member of the Police Department sought to be removed by a citizen's petition provided for in Section 19, Article 14, Chapter 8 of the Code, shall be entitled to a hearing. [§8-14-19(e)]

7.03 SPECIAL RULES APPLICABLE TO CASES OF REMOVAL, DISCHARGE, SUSPENSION, REDUCTION IN RANK OR REDUCTION IN PAY

(a) Statement of Reasons; Answer: In every case of a Member's Removal, Discharge, Suspension, or Reduction in Rank or Pay, the Removing Officer shall provide a written statement of the reasons for such action to the individual affected and provide a copy of such document to the Commission for filing. If the affected Member desires to file a written answer to the statement of reasons, he or she must submit the written answer to the Commission within ten (10) days of the receipt of the statement of reasons, and provide a copy of the answer to the Removing Officer. If the affected Member desires a public hearing, he or she must file with the Commission a written demand for public hearing which may be either a statement of demand in a written answer or a separate writing. The written demand for public hearing must be filed: (i) within five (5) days of the receipt of the statement of reasons if no answer is filed, and (ii) within five days of the filing of an answer if one is filed. [§8-14-20(a)]

(b) Hearing: If a Member demands a public hearing, a hearing shall be held in accordance with the provisions of Part VIII of these Rules and Regulations within ten (10) days of the filing of the written statement of reasons or the filing of the answer thereto, whichever shall last occur. At least five (5) days notice of the date, time and place of such hearing shall be given to the parties. The Member and the Removing Officer shall each have the right to be represented by legal counsel at the hearing. [§8-14-20(a) & (c)]

(c) Burden of Proof at Hearing: At such hearing, the burden of proof shall be upon the Removing Officer to show just cause for his or her actions. [§8-14-20(a)]

(d) Reinstatement or Other Relief: If the Removing Officer fails to show just cause for his/her action at said hearing, the Member Removed, Discharged, Suspended, or Reduced in Rank or Pay shall be reinstated with full back pay, forthwith and without any additional order, for the entire period during which he or she may have been prevented from performing his/her usual appointment and no charges shall be officially recorded against his/her record. Further, if exonerated or reinstated, the Member, if represented by legal counsel, shall be awarded any reasonable attorney fees as determined by the Commission. [§8-14-20(a)]

(e) A written record of all testimony taken at such hearing shall be kept and preserved by the Commission, which record shall be sealed and not open to public inspection if no appeal is taken from the action of the Commission. [§8-14-20(a)]

7.04 SPECIAL RULES APPLICABLE TO HEARINGS CONDUCTED BY REASON OF PETITION FOR VACATING APPOINTMENTS [§8-14-19(e)]

(a) Any three residents of the City of Charles Town may file their written petition with the Commission setting out therein the grounds upon which they believe a Member of the paid Police Department should be removed for violation of Subsection (a) of Section 19, Article 14, Chapter 8 of the Code.

(b) Notice of the filing of such petition shall be given by said Commission to the affected Member, which notice shall require the affected Member to file a written answer to the charges set out in the petition within thirty (30) days of the date of said notice.

(1) If an answer is timely filed, the affected Member may demand a public hearing by either a statement of demand in the answer or by a separate writing filed within the time permitted for filing of the answer; or the Commission may, in its discretion and without demand therefor, set a time for a public hearing on such charges. Such hearing shall be held within thirty (30) days of the filing of said answer, subject however, to any continuances which may in the discretion of the Commission be granted.

(2) If no answer is timely filed, the Commission shall enter an order declaring the appointment of the affected Member vacated.

(3) The petition and any answer shall be entered upon the Commission's records.

(c) Except to the extent inconsistent with this Subsection (c), the conduct of such hearing shall be in accordance with the provisions of Part VIII of these Rules and Regulations. A written record of all testimony taken at the hearing shall be kept and preserved by the Commission, which record shall be sealed and not be open to public inspection if no appeal is taken to the Commission's action. At the conclusion of the hearing, or as soon thereafter as possible, the Commission shall enter an order sustaining, in whole or in part, the charges made or dismissing the charges as unfounded. If the Commission sustains the charges in whole or in part, the Commission's order shall also declare the appointment of the affected Member vacated, and he or she shall then immediately be discharged from the Department and removed from the City's payroll.

7.05 REDUCTION IN SIZE OF DEPARTMENT [§8-14-20(d)]

If for reasons of economy or other reasons, the City of Charles Town shall deem it necessary to reduce the number of persons employed as Members of the paid Police Department, said reduction shall be effected by suspending the last person or persons, including probationers,

appointed to the Department. Said removal shall be accomplished by suspending the number desired in inverse order of their appointment. In the event the Police Department shall subsequently be increased in authorized strength, Members suspended under the terms of this Part shall be offered reinstatement and, if accepted, reinstated in inverse order of their suspension before any new appointment is made.

7.06 INVESTIGATIONS AND PRE-DISCIPLINARY HEARINGS UNDER ARTICLE 14A, CHAPTER 8 OF THE WV CODE

No provision of this Part VII, or rights of a Member under such provisions, is intended to affect, limit or abrogate the provisions of Article 14A, Chapter 8 of the Code, its effect or rights thereunder. Said article specifies, among other things, procedures for investigation and interrogation of police officers and the right of a police officer to be afforded a hearing before a hearing board prior to being disciplined through discharge, suspension, or reduction in rank or pay, unless there exist exigent circumstances that require the disciplinary action to precede such hearing. The provisions of Sections 2 and 3, Article 14A, Chapter 8 of the Code concerning those matters are summarized below in this Section 7.06.

(a) Investigations and Interrogations: Under Section 2, Article 14A, Chapter 8 of the Code, when any Member is under investigation and subjected to interrogation which could lead to punitive action (whether conducted by the Chief of Police or any other member of the Department), such interrogation shall be conducted under the following conditions:

(1) The interrogation shall be conducted at a reasonable hour, preferably at a time when the Member is on duty, or during his or her normal working hours, unless the seriousness of the investigation requires otherwise. If the interrogation occurs during off-duty time of the Member at any place other than his or her residence, the Member shall be compensated for such off-duty time in accordance with regular Department procedure. If the interrogation occurs during a Member's regular duty hours, the Member shall not be released from employment for any work missed due to the interrogation.

(2) Any Member under investigation shall be informed of the nature of the investigation prior to any interrogation. Such Member shall also be informed of the name, rank, and command of the officer in charge of the interrogation, the interrogating officers, and all other persons to be present during the interrogation. No more than three (3) interrogators at one time shall question a Member under investigation.

(3) No Member under interrogation shall be subjected to offensive language or threatened with punitive action. No promise of reward shall be made as an inducement to answering questions.

(4) The complete interrogation of any Member shall be recorded, either written, taped, or transcribed. Upon request of the Member or his or her counsel,

and upon advance payment of the reasonable cost thereof, a copy of the record shall be made available to him or her not less than ten days prior to any hearing.

(5) Upon the filing of a formal written statement of charges or whenever an interrogation focuses on matters which are likely to result in punitive action against any Member, then that Member shall have the right to be represented by counsel who may be present at all times during such interrogation.

Nothing herein shall prohibit the immediate temporary suspension, pending an investigation, from duty of any Member who reports for duty under the influence of alcohol or controlled substances which would prevent the Member from performing his or her duties, as defined in Chapter 60A of the Code, or under the influence of an apparent mental or emotional disorder.

(b) Hearing: Under Section 3, Article 14A, Chapter 8 of the Code:

(1) Before taking any punitive action against an accused Member, the Department shall give notice to the accused Member that he or she is entitled to a hearing on the issues by a hearing board. The notice shall state the time and place of the hearing and the issues involved and shall be delivered to the accused officer no later than ten days prior to the hearing. The hearing board shall be composed of three (3) hearing board members appointed pursuant to the provisions of Section 1(4)(a), Article 14A, Chapter 8 of the Code.

(2) When an accused Member faces a recommended punitive action of discharge, suspension or reduction in rank or pay, but before such punitive action is taken, a hearing board must be appointed and must afford the accused Member a hearing conducted in accordance with the provisions of Parts VII and VIII; *provided that,* the punitive action may be taken before the hearing board conducts the hearing if exigent circumstances exist which require it.

(3) When an accused Member faces a recommended punitive action of written reprimand or transfer for the purpose of punishment, a hearing board shall conduct a hearing pursuant to the following procedures:

(A) The hearing board shall keep an official record of the hearing. The official record shall include the testimony offered and exhibits introduced at the hearing;

(B) Both the Department and the accused Member shall be given ample opportunity to present evidence and argument with respect to any issue raised at the hearing;

(C) The hearing board may subpoena witnesses and administer oaths or affirmations and examine any individual under oath, and may require and compel the production of records, books, papers, contracts, and other

documents, in connection with any issue raised at the hearing; and

(D) The hearing board shall prepare a written order detailing any decision or action it takes as a result of the hearing. The written order shall include written findings of fact setting forth a concise statement of the hearing board's factual findings and conclusions on each issue raised at the hearing. The hearing board shall hand-deliver or promptly mail a copy of the written order to the accused Member or his or her attorney of record.

(4) A hearing board's order is binding on all parties involved unless it is overturned in the appeal process described in Section 7.06(b)(5) below.

(5) A hearing board's decision (whether resulting from a hearing under Section 7.06(b)(2) or Section 7.06(b)(3)) may be appealed to the Police Civil Service Commission by the Member adversely affected by the order or by the Chief of Police if he or she believes that the Department would be adversely affected by the hearing board's order.

PART VIII -- HEARINGS

8.01 APPLICATION OF THIS PART

Unless otherwise specified in these or other Rules and Regulations, the Rules and Regulations in this Section shall govern and apply to hearings conducted by the Commission pursuant to the authority vested in it under the laws of the State of West Virginia or regulations promulgated pursuant thereto, including without limitation these Rules and Regulations.

8.02 HEARINGS BY THE COMMISSION; PRESIDING OFFICER

Hearings shall be conducted before the Commission. The Presiding Officer at a hearing shall be designated by the Commission and may be the President of the Commission, one of the Commissioners, or such other person as the Commission may designate.

8.03 POWERS OF PRESIDING OFFICER

The Presiding Officer at every hearing may, subject to the rules set forth in this Section:

(a) Conduct generally the hearing, and in connection therewith:

(1) Administer oaths and affirmations;

(2) Issue subpoenas authorized by law, but such shall be the case only if the Presiding Officer is a member of the Commission, and otherwise the Commission shall issue all subpoenas;

(3) Rule on offers of proof and receive evidence;

(4) Permit evidentiary depositions to be taken and read as in civil actions in the Circuit Courts of this State. Discovery depositions may be taken and read only in such circumstances and for such purposes as determined permissible by opinion of the Commission's legal counsel;

(5) Regulate the course of the hearing;

(6) Dispose of procedural requests or other matters;

(7) Hold conferences for the settlement or simplification of the issues with the consent of the parties; and

(8) Take any other action in connection with such hearing authorized by law.

With regard to each of the duties and powers enumerated above, decisions by the Presiding Officer shall be subject to review by the Commission.

(b) In all cases, final orders and decisions, setting forth findings of fact and conclusions of law, shall be entered by the Commission. In no case shall a Presiding Officer enter a final order or decision.

8.04 NOTICE OF HEARING; CONTENTS OF NOTICE

(a) Unless otherwise specified in these Rules and Regulations, no hearing shall be conducted under these rules or otherwise unless the parties to the proceeding shall have been given written notice thereof at least ten (10) days prior to the hearing. Written notice shall be given by (i) personal delivery to the subject party, or (ii) deposit of the same in the United States Mail, postage paid, certified mail, addressed to the last know address of the subject party, and shall be considered delivered when so given.

(b) Each written notice of the hearing shall contain the date, time and place of the hearing and a short and plain statement of matters which are to be the subject of or asserted at the hearing.

8.05 PLACE OF HEARING

The date, time and place of each hearing shall be determined by the Commission or Presiding Officer.

8.06 REPRESENTATION AT HEARINGS

At hearings held pursuant to these Rules and Regulations, any party may represent himself/herself or be represented by an attorney at law admitted to practice in the State of West

Virginia.

8.07 WAIVER OF EVIDENTIARY PRESENTATION

(a) Parties entitled to an evidentiary hearing may waive such right in writing, but unless all parties file timely waivers, a hearing will be conducted. Parties waiving such hearing need not appear.

(b) Any party who desires to submit written pleadings, comments or information in lieu of an evidentiary presentation may submit such documents to the Presiding Officer for consideration by the Commission.

(c) Waivers must be unequivocal and request the Commission to decide the matter at issue on the pleadings and written record in the case, including any stipulations the parties might enter.

(d) When a hearing is waived under the provisions of this Section, the written record in the case shall be submitted to the Commission for decision.

8.08 PROPOSED FINDINGS, CONCLUSIONS AND ORDERS

The Presiding Officer may request the submission of proposed findings of fact, conclusions of law and orders, together with a supporting brief. Such proposals and briefs, if submitted, shall be served upon all parties and shall contain adequate references to the authorities relied upon.

8.09 HEARING

(a) All hearings conducted under these Rules shall be open to the public.

(b) The Commission shall have prepared and preserved a written record of all testimony and evidence given at a hearing.

8.10 DECISION BY THE COMMISSION

(a) Upon completion of the proceedings provided for in these Rules and Regulations, the Commission shall review and consider the case, render a decision, and enter, where appropriate, an order. Any decision and order of the Commission shall be in writing and set forth findings of fact and conclusions of law relied upon in reaching the decision.

(b) In cases where the members of the Commission are not present at a hearing, the Presiding Officer shall forward the record in the case to the Commission for decision, together with such written commentary and recommendations as the Presiding Officer deems appropriate. Such recommendations and commentary, if any, shall be made a part of the record of the case.

(c) The Commission shall see that each order is entered in the Commission's order

book and dated by the City Recorder or City Clerk.

PART IX – CHIEF OF POLICE

Notwithstanding anything to the contrary herein, these Rules and Regulations shall not apply to the position of Chief of Police (or the position of Deputy Chief of Police in the event such a position is established by the City Council of Charles Town) except to the extent Sections 6 and 17, Article 14, Chapter 8 of the Code, expressly so provide, and said sections shall be deemed expressly incorporated herein. [§§8-14-6 & 8-14-17]

PART X – CONTENT, CONDUCT, GRADING, PASSING SCORE, POSTING OF RESULTS OF EXAMINATIONS AND APPOINTMENT TO A LIST OF ELIGIBLES

10.01 APPLICATION OF THIS PART

(a) This Part shall govern and apply to the design, content, conduct, and grading of, posting of results for, and passing scores on competitive written examinations used by the Commission in establishing lists of eligibles and ranking names thereon and on non-competitive written examinations used by the Commission for purposes of certifying nominees for provisional appointment. This Part shall further govern and apply to the design, content, conduct, and required results for other examinations and forms of evaluation used in evaluating the merit and fitness of individuals for appointment or Promotion.

(b) All competitive written examinations and other examinations and forms of evaluation for appointments or Promotions to all positions shall be practical in their character, and shall relate to such matters, and include such inquiries, as will fairly and fully test the comparative merit and fitness of the individual or individuals examined to discharge the duties of employment sought by him/her or them. Any examination or form of evaluation to be used under these Rules and Regulations may either be (i) designed and prepared by or under the supervision of the Commission so as to meet the above criteria, or (ii) procured or obtained from a commercial, governmental, or non-profit entity or organization when the Commission determines the subject examination or evaluation meets the above criteria. [§8-14-13]

(c) Competitive written examinations and other examinations and forms of evaluation used by the Commission shall be administered in an order determined by the Commission. However, when a new list of eligibles for Original Appointment is to be established in order to fill a then existing vacancy (as contemplated by notice pursuant to Section 4.08(b) above), it shall be the ordinary practice of the Commission to administer the written examination first wherever practicable and, to conduct the physical fitness and agility examination on the same day or within the following two (2) weeks. Further, when a new list of eligibles is to be established at a time when no vacancy is to be filled (as contemplated by notice pursuant to Section 4.08(c) above), it shall be the ordinary

practice of the Commission to initially administer only the written examination and to later conduct the physical fitness and agility examination after a determination to fill a vacancy has been made and applications for the vacancy have been received.

(d) At least seven (7) days notice of each competitive written examination or medical examination (or component thereof) shall be given to applicants for a position. [§8-14-13]

(e) To the extent required by law, the Commission shall permit representatives of the press to visit, observe and record the events surrounding the examinations herein referred to insofar as it is possible to allow them so to do without disturbing applicants who are taking such examination. Representatives of the press may observe and be present at competitive written examinations administered under the provisions of these regulations, subject to the following restrictions: [§8-14-13]

(1) Whenever the Commission determines that the number of press representatives seeking to attend an examination is so large that their attendance will disturb the applicants taking such examination or otherwise disrupt the conduct of such examination, the Commission may choose, in a fair and random method, five (5) representatives of the press to attend and observe such examination; and

(2) Representatives of the press attending such examination shall observe such examinations in a quiet and orderly fashion and shall not approach or interfere with any applicant while the applicant is taking the test;

(3) Representatives of the press shall under no circumstances interview or record by film, video-tape, or any other electronic means any conversations or images in the area where the examinations are being conducted without prior approval of the Commission; and

(4) Representatives of the press not complying with these Rules and Regulations may be asked to leave the area of the examinations.

(f) Whenever the Commission determines that an applicant is disqualified from appointment to the list of eligibles by reason of his or her failure to pass or qualify on one of the examinations or evaluations administered in a series, the Commission shall direct that the individual cease to participate further in the evaluation process outlined herein.

(g) All examinations and other forms of evaluation shall be administered under the supervision of the Commission.

10.02 GENERAL RULES RELATING TO COMPETITIVE WRITTEN EXAMINATIONS & RANKING OF LIST OF ELIGIBLES

(a) Grading of competitive written examinations shall be by or under the supervision

of the Commission or by a third party from whom the examination was procured or obtained, if such third party offers grading. Regardless of the number of questions or the weight accorded questions, the maximum possible score on every competitive written examination shall be one hundred (100) points or, if an examination procured or obtained from a third party utilizes a different maximum possible score, scores on such examination shall be converted to a one hundred (100) point scale for purposes of these Rules and Regulations by dividing the applicant's score on such examination by the maximum possible score utilized for such examination, and multiplying that result by one hundred (100).

(b) In order for an applicant to be placed on the list of eligibles for Original Appointment, the applicant's Average Examination Score must be at least seventy (70) points, subject to Section 10.02(b)(1) below. An applicant's "Average Examination Score" shall be the average of the applicant's scores (based on a maximum possible score of 100 points on each examination) on competitive written examinations for Original Appointment held under these Rules and Regulations within a period of three (3) years next preceding the intended date of appointment; *provided that*, when such average has a fractional component so that it is not a whole number, the "Average Examination Score" shall be determined by rounding up the average to the next highest whole number when the fractional component is one-half (1/2) or greater and by rounding down the average to the next lowest whole number when the fractional component is less than one-half (1/2). [§8-14-15]

(1) Upon a determination of the Commission that (i) personnel vacancies in the Department actually do, or are likely to, negatively impact, frustrate, or jeopardize the Department's mission to serve the City, its citizens, and the public at large, (ii) the prompt hiring of additional Officers is necessary and essential to adequately serve the City, its citizens, and the public at large, (iii) a shortage of qualified applicants has frustrated or prevented the hiring of additional Officers, and (iv) lowering the minimum Average Examination Score to be placed on the list of eligible for Original Appointment will have little or no significant impact upon the quality, capabilities, skills, or performance of Officers hired, the Commission may, from time to time, order that, with respect only to applicants who shall have scored at least seventy (70) points on any competitive written examination conducted in the preceding three (3) years, the minimum Average Examination Score to be placed on the list of eligible for Original Appointment be temporarily lowered from seventy (70) points to such number of points as the Commission shall specify in its order, but in no event less than sixty (60) points. Such order shall remain in effect for the period of time specified in the order, but in no event in excess of one hundred twenty (120) days.

(c) Applicants shall be ranked on the list of eligibles for Original Appointment by, first, determining each applicant's "Aggregate Appointment Score" by adding: (i) the applicant's Average Examination Score; and (ii) the applicant's veteran's preference factor determined in accordance with the provisions of Section 1, Article 13, Chapter 6 of the Code (for the elimination of any doubt, the Aggregate Appointment Score may

exceed 100); and, second, ranking the applicants on the list of eligibles for Original Appointment in order of their respective Aggregate Appointment Scores, from highest to lowest, subject to Section 10.05. An applicant must file with the Commission a certificate of military service in order to receive the veteran's preference factor. [§8-14-15]

(d) In order for an applicant to be placed on the list of eligibles for Promotion to a position, the applicant's Aggregate Promotion Score must be at least seventy-five (75) points. An applicant's "Aggregate Promotion Score" shall be the sum of: (i) the applicant's "Average Promotion Score," being the average of the applicant's scores (based on a maximum possible score of 100 points on each examination) on competitive written examinations for Promotion to the vacant position held under these Rules and Regulations within a period of two (2) years next preceding the intended date of Promotion; *provided that*, when such average has a fractional component so that it is not a whole number, the "Average Promotion Score" shall be determined by rounding up the average to the next highest whole number when the fractional component is one-half (1/2) or greater and by rounding down the average to the next lowest whole number when the fractional component is less than one-half (1/2); and (ii) the applicant's experience/seniority factor, which shall equal one (1) point for each full year of service the applicant has as a Member of the Charles Town Police Department (for the elimination of any doubt, the Aggregate Promotion Score may exceed 100). Experience/seniority factor points will be awarded only for service as a Member of the Charles Town Police Department (service with other police departments will not be considered). [§8-14-17(b)]

(e) Applicants shall be ranked on the list of eligibles for Promotion to a position in order of their respective Aggregate Promotion Scores, from highest to lowest, subject to Section 10.05. [§8-14-17(b)]

(f) The eligibles lists, containing the names and scores of applicants passing competitive written examinations, shall be posted in the lobby of the Charles Town Police Department and in a public place at any separate office of the Commission. The Commission shall indicate on such list such appointments as may be made from the list. [§8-14-13]

(g) The Commission shall prepare and keep open to public inspection the eligible lists compiled in accordance with the terms of these Rules and Regulations. The persons on the list of eligibles shall be notified and be appointed or promoted from the list of eligibles in accordance with these Rules and Regulations.

(h) An applicant for Original Appointment who then has an Average Examination Score, calculated using competitive written examinations for Original Appointment taken within a period of three (3) years next preceding the intended date of appointment, that satisfies the minimum requirement set forth in Section 10.02(b) above, shall have the option to either (i) take a competitive written examination conducted in order to establish a new list of eligibles, or (ii) forgo such examination and instead use the applicant's

existing Average Examination Score for purposes of ranking under Section 10.02(c).

(i) An applicant for Promotion who then has an Aggregate Promotion Score, calculated using competitive written examinations for Promotion to the same position taken within a period of two (2) years next preceding the intended date of Promotion, that satisfies the minimum requirement set forth in Section 10.02(d) above, shall have the option to either (i) take a competitive written examination conducted in order to establish a new list of eligibles, or (ii) forgo such examination and instead use the applicant's existing Aggregate Promotion Score for purposes of ranking under Section 10.02(e).

10.03 GENERAL RULES RELATING TO OTHER EXAMINATIONS

(a) Medical Examinations: Before appointment or Promotion of any applicant for appointment (whether original, by reinstatement, or provisional) or Promotion to any position, the Commission or Appointing Officer shall cause each such applicant to undergo a medical examination. Such examination shall be conducted under the supervision of a board composed of two (2) doctors of medicine, appointed for such purpose by the Appointing Officer of the City. No applicant shall be appointed or promoted to any position unless such board certifies that the applicant (i) is free from any bodily or mental defect, deformity or disease which might incapacitate him or her from the performance of the duties of the position desired, and (ii) is physically fit to perform such duties, all with reference to a statement of standard duties presented to such board by the Appointing Officer. Without limitation of the foregoing, an applicant for appointment (but not an applicant for Promotion) must meet the medical requirements stated in Section 16, Article 22, Chapter 8 of the Code, being those of Chapter 2-2 of the National Fire Protection Association Standards Number 1001 – Firefighters Professional Qualifications '74, as updated from year to year. The medical examination, or any component thereof, may be given prior to the written examination or after it, at the discretion of the Commission. Notwithstanding anything to the contrary herein: (i) when the Commission elects to conduct the medical examination, or any component thereof, after the competitive written examination, the medical examination, or such component thereof (excepting the physical fitness and agility examination), will ordinarily be given only to the Prospective Appointee, the nominee for provisional appointment, or the Prospective Promotee, as applicable, and not to any other applicants; and (ii) when the Commission elects to conduct the medical examination or any part of it before the competitive written examination, the medical examination or such part of it will be given to all applicants but the competitive written examination will not be given to any applicant who fails to pass the medical examination or any part of it. Without limitation of the foregoing, the medical examination for applicants for appointment shall include the following three (3) additional components: [§§8-14-11 & 8-14-13]

(1) Drug Testing: All applicants for Original Appointment, appointment by reinstatement, and provisional appointment shall also undergo screening for use of amphetamines, cannabinoids, cocaine, opiates, and phencyclidine in accordance with guidelines promulgated by the Substance Abuse and Mental Health Service Administration. No applicant shall be appointed or promoted to

any position if the drug screening evidences the applicant's illegal use of any of such drugs.

(2) Physical Fitness and Agility Examination: All applicants for Original Appointment, appointment by reinstatement, and provisional appointment shall also undergo a physical fitness and agility examination testing the applicant's suitability for appointment to the vacant position. The minimum passing criteria for such examination shall be those of the West Virginia State Police Physical Ability Standards; *provided that*, the Commission may, from time to time in its discretion, specify additional minimum passing criteria. No applicant for appointment shall be certified as physically fit to perform the duties of the position desired, or be eligible for appointment, unless he or she meets such minimum passing criteria. The Appointing Officer shall provide the results of such examination to the board of doctors. A passing result on a physical fitness and agility examination conducted pursuant to Section 4.05(b) above shall satisfy the requirement of this paragraph if, and only if, said examination was conducted within ninety (90) days prior to the date of appointment. [§8-14-11]

(3) Psychiatric or Psychological Examination: The Commission or Appointing Officer shall require all applicants for Original Appointment, appointment by reinstatement, and provisional appointment to a position to undergo psychiatric or psychological testing designed to test an applicant's mental fitness for service in the Police Department of the City of Charles Town. Such examination shall be conducted by or under the supervision of one or more licensed psychiatrists or qualified psychologists selected and/or approved by the Commission. In order to be appointed to any position, the applicant must be deemed by the examining psychiatrist or psychologist to be fit for service on the Charles Town Police Department and the position to which the applicant aspires.

(b) Background Investigations: Background investigations shall be conducted by the Department of all applicants for Original Appointment, appointment by reinstatement, and provisional appointment. Such investigation shall have the following purposes:

(1) To verify information contained in applications;

(2) To inquire into matters relevant to the applicant's suitability for appointment; and

(3) To inquire into such other matters as the Commission may request.

(c) Polygraph Examination: A qualified operator selected and approved by the Commission will also administer a polygraph examination designed to test such applicants' truthfulness.

(d) Confidentiality to be Maintained: Results of all medical, psychiatric, psychological, polygraph, and background examinations conducted in connection with

the evaluation processes shall be kept confidential and the information contained therein shall be released only in accordance with the provisions of these Rules and Regulations.

10.04 PERSONNEL RECORDS

It shall be the duty of the Chief of Police to establish and maintain a separate personnel file for every Member of the Police Department of the City of Charles Town. In this file there shall be placed the following items regarding the Member: memoranda of all discipline reports issued; all letters of commendation or criticism or complaint received by the Department from any person; any memoranda, citation or other notice, either favorable or unfavorable; all records of any leaves of absence which are applicable toward retirement; a personal history of the person, which history shall include, among other things, a photograph, full name, home address, telephone number, marital status, number of children or other dependents, and dates of any military service; date of last employment in the Department; period of any previous employment; designation of current rank and assignment; departmental evaluations; the FBI fingerprint report; and all such other records or information as may be deemed pertinent to the Member's employment. Such files shall be kept under lock and key at all times when not in use and shall be opened for inspection to no one except the Commission, City Manager, and the Chief of Police, and to the Member upon his or her express written request.

10.05 TIE BREAKING PROCEDURES FOR PROBATIONARY AND PROMOTIONAL EXAMINATIONS.

(a) Probationary Examinations: In the event that any applicants for Original Appointment as probationary police officers have the same Aggregate Appointment Scores for purposes of ranking on the list of eligibles under Section 10.02(c), the tie shall be broken for purposes of ranking on the list of eligibles as follows:

(1) The person or persons achieving the highest Average Examination Score shall be ranked higher on the list of eligibles among those persons tied in Aggregate Appointment Scores;

(2) In the event any persons remain tied in Average Examination Scores following the application of the tie breaking procedure in subparagraph (1) above, the person or persons with the highest score on the most recent competitive written examination shall be ranked higher on the list of eligibles among those persons remaining tied in Average Examination Scores; and

(3) In the event any persons remain tied in most recent examination scores following the application of the tie breaking procedures in subparagraph (2) above, then in that event the tie in such scores shall be broken and determined by lot by the Police Civil Service Commission.

(b) Promotional Examinations: In the event that any applicants for Promotion have the same Aggregate Promotion Scores for purposes of ranking on the list of eligibles under Section 10.02(e), the tie shall be broken for purposes of ranking on the list of

eligibles as follows:

(1) The person or persons with the highest score on the competitive written examination for Promotion shall be ranked higher on the list of eligibles among those persons tied in Aggregate Promotion Scores;

(2) In the event any persons remain tied in examination scores following the application of the tie breaking procedure in subparagraph (1) above, the person or persons with the longer total continuous duration of service in the Police Department shall be ranked higher on the list of eligibles among those persons tied in examination scores;

(3) In the event any persons remain tied in total continuous duration of service following the application of the tie breaking procedure in subparagraph (2) above, the person or persons with the greater departmental seniority shall be ranked higher on the list of eligibles among those persons tied in total continuous duration of service; and

(4) In the event any persons remain tied in departmental seniority following the application of the tie breaking procedure in subparagraph (3) above, then in that event the tie in departmental seniority shall be broken and determined by lot by the Police Civil Service Commission.

PART XI – ANTI-DISCRIMINATION PROVISIONS

No applicant or candidate for appointment or promotion or any other member of the Police Department shall be discriminated against on the basis of any class or characteristic protected by applicable law of the United States, the State of West Virginia, or the City of Charles Town, as such law may be amended from time to time, including, without limitation, *Article 154 – Equal Opportunity* of the Codified Ordinances of the City of Charles Town, which protected classes and characteristics include, without limitation, race, religion, color, national origin, ancestry, sex, age, blindness, disability, genetic information, familial status, veteran status, sexual orientation, gender identity, or religious or political opinions or affiliations. [§8-14-18]

* * *

The foregoing Rules and Regulations of the Police Civil Service Commission of the City of Charles Town, West Virginia were duly prescribed by the Police Civil Service Commission of the City of Charles Town, West Virginia by action of the Commissioners at a meeting duly called and legally held on the 7 day of May, 2024.

President of the PCSC

City Clerk

The undersigned Mayor of the City of Charles Town, West Virginia hereby approves the foregoing Rules and Regulations of the Police Civil Service Commission of the City of Charles Town, West Virginia this 7th day of MAY, 2024.

Robert Trainor
Mayor

The foregoing Rules and Regulations of the Police Civil Service Commission of the City of Charles Town, West Virginia were duly approved by the City Council of the City of Charles Town by resolution at a meeting duly called and legally held on the 8 day of MAY, 2024.

20 24

City Clerk

DELEGATION

The undersigned Mayor of the City of Charles Town, West Virginia, does hereby delegate to the Chief of Police of the City of Charles Town, on an *ex officio* basis, all the role, duties, and responsibilities of Appointing Officer under the Rules and Regulations of the Police Civil Service Commission of the City of Charles Town. Such delegation shall remain in effect until hereafter withdrawn or canceled, in whole or in part, by the undersigned or his successor as Mayor in writing delivered to the Chief of Police and the Police Civil Service Commission.

Robert Trainor

Date: 7 MAY 2024

Robert Trainor
Mayor

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 06/03/24
Department: City Council
Category: Information Only
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-563: Business Development Incentives Handout

ATTACHMENTS:

- Business Development Incentives.pdf

MAIN STREET SOLUTION CENTER

BUSINESS DEVELOPMENT INCENTIVES



ABOUT THE SOLUTION CENTER

The Main Street Solution Center is a free access portal to resources for communities and organizations working to revitalize and strengthen their local economies. The Solution Center's curated resources are designed to help guide and inspire local leaders and advocates as they navigate the complexities of downtown and neighborhood business district revitalization and economic growth.

ABOUT THE PARTNERSHIP

This Main Street Solution Center publication was underwritten by Michigan Main Street and Main Street Iowa. Their generous support demonstrates a shared vision and ongoing commitment to freely share knowledge, experience, tools, and best practices to fuel revitalization and economic growth in their own communities, and in locales spanning the nation.

ABOUT THE CREATORS

Leigh Young, AICP is Senior Main Street Specialist with Michigan Main Street and a driving force behind the creation of the Main Street Solution Center. Her deep passion for planning, placemaking, community engagement, and sustainable urban development is evident in her work to advance the cause for revitalization and economic development in downtown and neighborhood business districts across Michigan.

Jay Schlinsog, CMSM is the owner of Downtown Professionals Network (DPN), a Franklin, TN-based firm specializing in innovative, market-driven downtown and business district revitalization and economic development solutions. He brings more than thirty years of experience gained while serving as chief executive with chamber and district management organizations, and through his work with communities and organizations across the United States.

Ben Muldrow is a partner at Arnett Muldrow & Associates, a consultancy renowned for its creative approach to economic development, branding, and marketing strategies for small towns and cities across the nation. He brings an innovative mindset and a deep understanding of the unique dynamics of community branding to each engagement, blending traditional community values with modern marketing techniques to help communities and districts unlock their potential.

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BUSINESS DEVELOPMENT INCENTIVES

Incentives, as part of a comprehensive approach to business development, can prove valuable in efforts to overcome barriers, to reduce the cost of starting, expanding, and operating a business, and to target businesses and uses that contribute to a district's appeal and overall sense of vibrancy. Even small, targeted, and well-administered incentives can make an impact, and clearly signal a supportive, pro-business approach is in place.

Incentives that align with local business needs, opportunities, and broader district enhancement goals and strategies are more likely to gather interest, gain support, and yield results. Use the following steps as a guide for creating or evaluating business development incentives for your district.

Identify the need for business incentives

Use conversations with existing business owners and economic development partners to identify common obstacles to starting and growing a business, or to advancing broader district business development goals. Consumer and business surveys can also be used to gauge interest and prioritize ideas for program incentives.

Tip: Involving local government officials and staff, local, regional and state economic development agencies, financial institutions, and other potential players during the early discussion and planning stages is a good way to build ownership in resulting business incentive program strategies.

Outline ideas and proposals to share with – and enlist – potential partners and funding sources

Create working concepts for proposed business development program incentives that outline:

- o The need or opportunity
- o Intended outcomes
- o Proposed funding levels and potential sources of funding
- o General criteria (e.g. eligible applicants and uses, match requirements, method of award, etc.)

Tip: Get a head start and help build the case by gathering examples of similar incentives offered in other/peer communities; and by becoming familiar with, and making connections to, the goals and shared interests of potential partners and funding sources. See a sampling of examples at the end of this document.

Q: Which of the following types of technical assistance and incentives, if available, would you be most likely to use?

Technical Assistance and Incentives	Percent
Low interest building improvement loans	33.3%
Low-interest loans for business expansion	30.4%
Free or low-cost building improvement design services	23.2%
Help to market your building or space	18.8%
Help on basic business start-up and operations topics	13.0%
One-on-one business counseling or coaching	7.2%
Help to create a succession plan or to sell your business	5.8%

Most frequent responses shown. More than one selection per respondent allowed.



Detail criteria and develop program applications, review and award procedures, marketing strategies and materials, etc.
Based on input and support gained through the previous step, detail and finalize program criteria and administrative procedures, and prepare a marketing strategy targeting eligible candidates.

Tip: Clearly define eligibility, and keep application, review, and award processes as streamlined as possible. Keeping it simple will enhance prospects for participation from small business owners who, generally, tend to be unaccustomed to elongated decision-making processes and turned off by "red tape."

Promote incentives – and results
Make a splash during the rollout, and keep the program in the public eye with scheduled reminders targeting potential applicants, and ongoing features highlighting partners, awards, progress, and impacts.

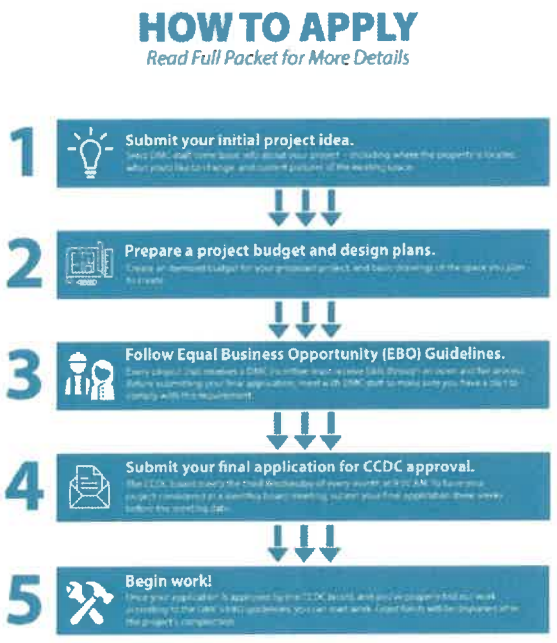
Tip: Consider different ways to highlight incentives at work through images, testimonials, signage or clings, feature stories, reveal events, etc.

Evaluate
Monitor implementation, track investments and results relative to intended outcomes, and evaluate incentives with respect to demand (e.g. number of applications submitted and awarded, allocations vs. funding requests, etc.), criteria, application and administrative procedures, and other aspects. Use the evaluation to make appropriate adjustments, where needed, and to help inspire ideas for other program components or new incentives.

Tip: Seek input, ideas, and suggestions for refinements from program participants, and share updates and results with program partners and funding sources.

As you work through the steps, remain mindful of the local business climate and political landscape. A program exclusive to or heavily emphasizing incentives for new businesses could appear to conflict with goals to support existing businesses, potentially inviting criticism and making some current business owners feel unappreciated, or even threatened. At the very least, organizations should be prepared to explain how incentives align with overarching business development and district enhancement goals.





EXAMPLES

More familiar incentives directed toward property owners undertaking façade or other building improvements can be viewed as one way to offset costs that might otherwise be fully borne by owner-occupants or passed along to tenants – thus reducing the cost of entry or occupancy for businesses. Incentives specifically designed for and targeting businesses offer another approach, and one that may allow for more creativity and a stronger focus on specific, local business barriers, needs, and opportunities. Examples include:

Columbia, SC: A Grease Trap Rebate Program helps restaurants and other places that serve food install required grease traps or grease interceptors that can cost tens of thousands of dollars. The rebate program repays up to $10,000 of the cost, and is part of the City of Columbia's Business Friendly Initiatives.
City of Columbia (SC) Business Friendly Initiatives

Memphis, TN: The Open on Main Initiative pairs emerging retailers and entrepreneurs with vacant downtown storefronts. The spaces available provide rent-free opportunities for tenants to test market and temporarily showcase their businesses on Main Street, usually for one month or longer. Meanwhile, a Retail Tenant Improvement Grant designed to support new retail, creative arts & entertainment, and food & beverage based businesses helps bridge the financial gap between property owner and tenant by providing financial assistance of up to $30,000 on qualified permanent improvements to the interior of a tenant's space.
Downtown Memphis (TN) Open on Main Initiative

Downtown Memphis (TN) Retail Tenant Improvement Program

Mesa, AZ: The Downtown Small Business Attraction Utility Rate Program offers a 25% reduction in energy and water bills for three years for new businesses that fit the U.S. Small Business Administration's definition of a small business.
Downtown Mesa (AZ) Downtown Small Business Attraction Utility Rate Program

New Orleans, LA: The Outdoor Dining Grant Program provides funding for businesses to enhance their sidewalk and curbside dining spaces. The program supports retention and expansion efforts to create a more vibrant and appealing streetscape that offers consistency throughout the district, and offers a matching grant for 50 percent, up to $3,000, for eligible costs to purchase and install outdoor dining improvements, such as outdoor furniture, trash receptacles, portable heaters, decorative planters, and decorative or atmospheric lighting.
New Orleans (LA) Outdoor Dining Grant Program

Davenport, IA: An Entrepreneur Grant offers $2,000 to $5,000 in funding for relocation expenses, operating or capital startup costs; and a Creative Storefront Signage Assistance Grant offers a 50 percent match, up to $1,000, to help cover sign design, creation, and installation costs.
Downtown Davenport (IA) Business Services and Incentives

Lansing, MI: Downtown Lansing, Inc.'s Small Business Support Grants is aimed at creating resiliency and strengthening local businesses by providing funding assistance, in the form of reimbursement grants up to $50,000, to support small businesses. Expenses eligible for reimbursement include rent or mortgage payments, utilities, payroll, equipment costs and inventory, non-permanent mobile outdoor patio or retail pop-up sales space, and general marketing or technology to assist in connecting with customers.
Downtown Lansing (MI) Small Business Support Grants

Charles Town, WV: Based on survey results, funding for a façade improvement program was reallocated to a new REVIVE! Commercial Grant Program. The grant focuses on the adaptive reuse of older historical buildings into vibrant commercial spaces, with preference given to retail and restaurant spaces, commercial kitchens, and vacant buildings. Introduced as a pilot program, the initial $38,000 allotment benefited three projects, each including a commercial kitchen. Due to the pilot program's success, city leaders subsequently committed to an annual allocation for REVIVE!
Reviving Commercial Kitchens in Charles Town by Elizabeth Cook, Charles Town Now | Main Street America

MAIN SPOTLIGHT: REVIVING COMMERCIAL KITCHENS IN CHARLES TOWN

ARTICLE PUBLISHED December 13, 2022

AUTHORS

Elizabeth Cook
Downtown Coordinator at Charles Town Now

SHARE



Renovations in progress in The Depot District. Photo courtesy of The Depot District.

Economic development in historic downtowns is complicated but incredibly rewarding. Sometimes, it is much like trying to fit a square peg in a round hole. Yes, a bit of a cliché, but in this instance, there is no better way to describe the sometimes-difficult process of finding the right entity to match with an accommodating property. Historic buildings define our character, tell our stories, and amplify our collective charm. The businesses in those buildings give us vibrancy, connection to our community, and a sense of place. It is incredibly important to meld the two in a way that benefits not only those entities but the community.

The question becomes, how?

OUR STORY IN CHARLES TOWN

The City of Charles Town has offered a façade improvement grant for quite a number of years. Since my time with the city, I noticed the decrease in applicants. The decrease was not due to lack of interest, but due to property owners utilizing the grant, and there are only so many properties. We can have all of the historically exquisite buildings we want, but if the buildings are not active with vibrant businesses, then what is the point? The City of Charles Town had incentivized creating beautiful facades, and now it was time to focus on the inside. With a façade budget that wasn't being exhausted, I sought to use some leftover funds for internal improvements.

Like many towns, Charles Town needs commercial kitchens in the worst way. The City of Charles Town's 2040 Historically Hip Comprehensive plan has a downtown first focus and a commitment to a vibrant community. Additionally, the City of Charles Town received a market study analysis completed by

overwhelmingly proved our need for more restaurant and active retail establishments. Armed with that, I began developing my ask for the City of Charles Town to fund internal improvements for older historic buildings. I call this grant, "The REVIVE! Commercial Grant Program".

Before I presented to City Council to ask for funding, I asked Partner Community Capital, a nonprofit community lender that works with small businesses specifically in Appalachia, to review my program and provide feedback. They not only loved it but signed on to be a partner. They offered to fund architectural services which would result in the drawing of renderings for the applicant. This architect would bring much needed experience and advice to applicants in the program.

My next step was to present this concept to City Council. I highlighted the goals in the comprehensive plan, the lower application rate of the façade grant, the needs identified in our market study, and the real, but significant cost of effective adaptive reuse of a space. The Charles Town City Council unanimously voted to fund a pilot of the REVIVE! Grant.

HOW DOES THE REVIVE! GRANT WORK?

This grant focuses on the adaptive reuse of older historical buildings into vibrant commercial spaces. For Charles Town, the criteria require the use to be commercial, with preference given to retail and restaurant spaces that are for-profit entities. This is a dollar-for-dollar matching grant up to $10,000. An applicant expresses interest, and then we assess the involvement of Partner Community Capital's architect. Building visits are scheduled, and then a paper application is required. The decision on funding is ultimately decided by the REVIVE! committee. They review all applications based on a list of criteria and determine the awards. Vacant buildings are considered higher priorities, as are the implementation of full commercial kitchens. The committee also assess viability, and if the proposed plan aligns with the City of Charles Towns 2040 Comprehensive plan. In 2021, a total of $38,000 was allotted for applicants. We received four applications and ultimately funded three, maxing out at $38,000 in awards.



Matt and Jessy Printz breaking ground at the North Mildred Depot. Photo courtesy of Charles Town Now.

Those three will ALL have commercial kitchens.

The first kitchen expansion to be completed, with an opening date by February 2023, will be The Caverns Ice Cream Shop, owned by Jeff and Jennifer Whitten. Their business existed prior to REVIVE!, but without the full capacity to serve and provide an indoor seating space. We are thrilled that Jeff and Jennifer made the decision to move an office out of the first floor so that indoor seating could be created. They very clearly believe in our town and will continue to contribute in positive and meaningful ways.

Natalie Greene purchased the old police station through a request for proposal process through the City of Charles Town and is opening the Liberty Street

with new businesses. This project is slated to open in 2023.

In addition, I cannot speak on REVIVE! without sharing the story of Jessy and Matt Printz.

The focus of my position with the City of Charles Town is business and economic development. I help pair business owners and investors into the right properties. Jessy reached out because she was looking for a space for her Mortgage Company. My preference, like most Main Street directors, was that she move to the second floor of a building. She began leaning towards purchasing an entire building. Enter the North Mildred Depot. This building had been for sale off and on for many years and was severely underutilized and in significant need of improvements. It is a 12,000 square foot building built in 1906. It is also on the National Register of Historic Places and sits adjacent to an active railroad track. From the outside, it looked vacant, and the renovations seemed daunting. But the Printzs saw hope and had a vision.

They purchased the North Mildred Depot in December of 2021. The REVIVE! Grant was released, and the Printzs were ready to apply. The architect funded by Partner Community Capital was Bryson VanNostrand and he brought his brilliant mind and talent to the North Mildred Depot.

After many meetings with Bryson and myself, Jessy and Matt made a decision. This building was meant to give back to our community. It is a building of 1,000 stories, with many more to tell. The Market Study, funded by Main Street West Virginia, guided the Printzs in their investment strategy, which will directly meet the needs of our community. On the first floor, the building will house one full restaurant/brewery in the rear portion, and a front retail space or bakery in the front. On the second floor, there will be three long term rentals, along with Jessy's mortgage office. Her decision to put her office on the second floor was made with intention and with her community in mind. The Printz's vision is an example of how positive adaptive reuse will contribute to the vibrant future of our downtown. Without property owners like them, and the Whittens, downtowns will struggle. This success story would not have been told without the REVIVE! Commercial Grant Program and the partnership of Partner Community Capital.

THE DEPOT DISTRICT

With the renovation of the North Mildred Depot, a new district is being created in our town: The Depot District. Historically, this is a small neighborhood

Caverns Ice Cream Shop into the Depot District. The Printzs are the first to begin redevelopment in that area, and there is already interest in other properties. The City of Charles Town is committed to helping facilitate economic growth in the Depot District.

LOOKING FORWARD

As I stated, the City of Charles Town allotted $38,000 for a pilot program. Due to the success, they since committed to a yearly budget for REVIVE!. Even more exciting, Senator Shelley Moore Capito also believed in our REVIVE! grant program. She provided a federal earmark for $250,000 to use for our REVIVE! Grant program. We are anxiously awaiting the funding so that we can begin our next round applications.



Pre-renovation façade in The Depot District. Photo courtesy of Charles Town Now.

My advice for other Main Street Directors: do not be afraid to make the ask. No one knows what a Main Street needs more than the people immersed in it daily. I offer the following thoughts on creating your ask:

1. **Identify your need.** It may not be commercial kitchens; it may be other repairs. Identify what you think your town needs most to reach success.

2. **Read the Community Comprehensive Plan.** Take notes and identify goals that directly align with your determined need.
3. **Research your cities budget and note where there could be opportunities for funding.** We allocated unused funds from the façade improvement program towards the REVIVE! Grant program.
4. **Write the grant application and define how the projects will be evaluated and awarded.**
5. **Seek partners.** Think outside the box. Having others buy in will only help with your ask.
6. **Make a presentation to your council.**

Overall, the process in the City of Charles Town was smooth, and the result was a major success. I am looking forward to facilitating more REVIVE! grant awards as our town continues to grow and attracted partners like the Whittens and The Printzs. I am happy to share our grant application or answer any questions. I can be reached at ecook@charlestownwv.us

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 06/03/24
Department: City Council
Category: Ordinance
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-564: Article 1759 Vacant Structures

ATTACHMENTS:

- Ord. 2024-004 Article 1759 Vacant Buildings - signed.pdf

ARTICLE 1759
Vacant Buildings

1759.01 Purpose and scope.

1759.02 Definitions.

1759.03 Registration of vacant buildings; enforcement.

1759.04 Maintenance of vacant buildings.

1759.05 Appeals.

1759.06 Schedule of registry fees.

1759.07 Severability.

1759.08 Transition Provisions.

1759.01 PURPOSE AND SCOPE.

This Article is enacted pursuant to W. V. Code Chapter 8, Article 12, Section 16c for the purpose of ensuring that each Vacant Building in the City is properly monitored and maintained so as to provide for public health, safety, and welfare, including being safe for entry by police officers, fire fighters, and other emergency personnel in times of emergency. This article provides for registration and inspection of Vacant Buildings.

1759.02 DEFINITIONS.

When used in this article, the following capitalized words and phrases shall have the meanings indicated:

(a) "Alternative Means of Service" means, when service of notice or process under this Article is required to be made by Certified Mail but cannot be obtained, service of the notice or process by all of the following: (i) regular U.S. mail addressed as specified in subsections (i) or (ii) of the definition of Certified Mail; (ii) publication as a Class II legal advertisement (as defined in W. Va. Code § 59-3-2); and (iii) posting on the front door or other conspicuous location on the subject Building. Service of notice or process by Alternative Means of Service shall be deemed made on the third (3rd) day following the earliest date on which such mailing, publishing, and posting have all occurred.

(b) "Building" means a structure having a roof supported by walls or columns that stands more or less permanently in one place and is utilized or intended for the shelter, housing, or enclosure of persons, animals, or personal property.

(c) "Building Code" means, collectively, the West Virginia State Fire Code, as adopted by the City under Article 1511 of the Codified Ordinances, and the West Virginia State

Building Code, as adopted and amended by the City under Article 1705 of the Codified Ordinances.

(d) "Certified Mail" means U.S. certified mail, return receipt requested, addressed to: (i) in all cases except where a Non-resident Owner has designated a Local Agent pursuant to Section 1759.03(c) of this Article, the name and last known address of the Owner according to the records of the Jefferson County Tax Office; and (ii) in the case where a Non-resident Owner has designated a Local Agent pursuant to Section 1759.03(c) of this Article, the name and address of the designated Local Agent. Service of notice or process by Certified Mail shall be deemed made upon delivery, as evidenced by the return receipt.

(e) "Non-resident Owner" means an Owner of a Vacant Building whose legal residence is outside the State of West Virginia.

(f) "Owner" means a person who individually or jointly with others:

(1) Has legal title to the property, with or without actual possession of the property;

(2) Has charge, care or control of the property as owner or agent of the owner;

(3) Is an executor, administrator, trustee, or guardian of the estate of the owner;

(4) Is the agent of the owner for the purpose of managing, controlling, or collecting rents; or

(5) Is entitled to control or direct the management or disposition of the property.

(g) "Staff" means the Vacant Buildings Official and any of his or her staff or other City employees to which the Vacant Buildings Official delegates duties.

(h) "Vacant Building" means any residential Building that has not been occupied lawfully as a residence, or any non-residential Building that has not been occupied lawfully for its ordinary expected use, during the immediately preceding six (6) consecutive months or, in the case of seasonal Buildings, such as vacation homes, one (1) year.

(1) Occupancy will be determined by the status and use of the utilities, property condition, and similar factors, including, but not limited to, the following:

(A) A Building shall not be considered occupied merely due to entry for purposes not consistent with its ordinary expected use.

(B) A Building that is unsecured and occupied by one or more unauthorized persons shall not be considered occupied lawfully for purposes of the above definition.

(2) Notwithstanding anything to the contrary above, the following shall not be considered a Vacant Building:

(A) A new Building under construction while a building permit for the construction is issued, the work is proceeding on schedule with appropriate inspection requests, and the permit is unexpired.

(3) When this Article refers to a Vacant Building with respect to filing a lien thereon, or registering the same in the Vacant Buildings Registry, or otherwise as the context requires, such reference shall include the real property upon which the Vacant Building is located.

(i) "Vacant Buildings Official" means the City Building Official designated under Article 1705 of the Codified Ordinances.

1759.03 REGISTRATION OF VACANT BUILDINGS; ENFORCEMENT.

(a) Registry. There shall be established and maintained a Vacant Buildings Registry, in which all Vacant Buildings in the City shall be registered.

(b) Notice of Requirement to Register. Prior to the last day of April in each year, the Vacant Buildings Official shall cause a Notice of Requirement to Register to be published as a Class II legal advertisement (as defined in W. Va. Code § 59-3-2) and mailed by regular U.S. mail to: the name and address of the Owner, as appearing in the Vacant Buildings Registry, of each Vacant Building then registered in such registry; and the name and last known address of the Owner, according to the records of the Jefferson County Tax Office, of each Building that Staff has determined to be, or reasonably suspects to be, a Vacant Building. The Notice of Requirement to Register shall provide notice that: (i) the Owner of any Vacant Building within the City is required to register that Vacant Building in the Vacant Buildings Registry by submission of a completed Vacant Building Registration no later than the first day of July in the subject year; (ii) upon the initial registration of a Vacant Building in such registry, or in the event of re-registration of a Vacant Building that previously was registered but later removed from the registry, payment of a registry fee in the specified applicable amount must accompany submission of the Vacant Building Registration; (iii) in the event that a Vacant Building Registration is not timely submitted with respect to a Building then or subsequently determined to be a Vacant Building pursuant to Section 1759.03(e), such Vacant Building shall be involuntary registered pursuant to Section 1759.03(e) and the Owner of the Vacant Building shall be charged a registry fee in the specified applicable amount whether or not the subject Vacant Building is then registered in the Vacant Buildings Registry pursuant to registration in a prior year; (iv) if any applicable registry fee is not timely paid, the City may bring a civil action against the Owner to collect such registry fee and/or file a lien against the subject real property for the amount of such registry fee; and (v) a Non-resident Owner of a Vacant Building is required to designate a Local Agent to accept service of process and certain notices on behalf of the Non-Resident Owner. Publication of the Notice of Requirement to Register shall state where a person may obtain a blank Vacant Building Registration, and a blank Vacant Building Registration shall be sent with any mailed Notice of Requirement to Register.

(1) Neither the failure of the Vacant Buildings Official to mail a Notice of Requirement to Register to any Owner of a Vacant Building nor the non-receipt of a Notice of Requirement to Register by any Owner of a Vacant Building will relieve the Owner of the requirements under this Article.

(c) Non-resident Owners. Each Non-resident Owner is required to provide to the Vacant Buildings Official signed and notarized document designating the name and address of a person who resides within the State of West Virginia and who the Non-resident Owner authorizes to accept service of process and notices of fees due under this section on behalf of the Non-resident Owner and who is designated as the Non-resident Owner's responsible agent for the purposes of receipt of notification in the event of an emergency affecting the public health, safety, or welfare (a "Local Agent"). Once provided, such document shall remain in effect until cancelled in writing by the Owner; *provided that*, the Owner shall be responsible for notifying the Vacant Buildings Official of any changes in the name or address of a Local Agent. Failure to provide such document by July 1 of the first year following enactment of this Article in which a Non-resident Owner owns a Vacant Building is a violation of this Ordinance subject to the General Penalty fine specified in Section 101.99 of the Codified Ordinances. Any provision herein requiring notice to or service upon an Owner shall be satisfied by notice to or service upon the Owner's designated Local Agent.

(d) Voluntary Registration. By July 1 of each year, the Owner of any Vacant Building within the City is required to register the Vacant Building in the Vacant Building Registry by submitting a completed Vacant Building Registration to the Vacant Buildings Official. A Vacant Building Registration will not be considered effective unless and until any registry fees required under Section 1759.03(g) are received by the Vacant Buildings Official.

(e) Involuntary Registration. Staff shall investigate any Building that is suspected to be a Vacant Building and determine whether it shall be considered a Vacant Building. Upon Staff's determination that a Building is a Vacant Building, Staff shall: (i) set forth in a written statement its findings supporting the determination; (ii) place the Owner of such Vacant Building on the list of persons to receive Notice of Requirement to Register pursuant to Section 1759.03(b); (iii) notify the Owner of the Vacant Building in writing by Certified Mail or Alternative Means of Service of Staff's determination that the Building is a Vacant Building that the Owner must register in the City's Vacant Buildings Registry by submission of a completed Vacant Building Registration by the following July 1, after which the City will involuntarily register the Vacant Building, with all applicable fees due; and (iv) in the event the Owner fails to register the Vacant Building by timely submitting a completed Vacant Building Registration, involuntarily register the Vacant Building in the Vacant Building Registry and assess against the Owner any registry fees required under Section 1759.03(g) whether or not the subject Vacant Building is then registered in the Vacant Buildings Registry pursuant to voluntary or involuntary registration in a prior year.

(f) Exemption from Registration. The Owner of a Vacant Building may submit in writing to the Vacant Buildings Official, for presentation to and consideration by City Council, a request for exemption from registration of such Vacant Building in the Vacant Buildings Registry due to inability to occupy the Building for a period stated and for reasons stated in the request. Upon a finding of good cause shown, City Council may exempt the Building from registration for a time specified in City Council's decision. Examples of circumstances when good cause for an exemption may exist include when the Vacant Building is being actively marketed for sale following the Owner's move to other

property, or when the Vacant Building is being offered for lease following a prior tenant's vacation of the property.

(g) Registry Fees.

(1) The voluntary registry fee set forth in Section 1759.06(a) for the applicable type of Building shall be assessed to the Owner of a Vacant Building upon its initial voluntary registration by the Owner and also in the instance that the Vacant Building is voluntarily re-registered in the Vacant Buildings Registry after previously having been registered and later removed from such registry. Thereafter, the voluntary registry fee shall not be further assessed for so long as the Owner continues to voluntarily register the Vacant Building annually. The voluntary registry fee shall be submitted with the Owner's submission of the Vacant Building Registration by which the Vacant Building is first registered (or first re-registered in the case of a prior registration and removal from the registry) and due at that time.

(2) The involuntary registry fee set forth in Section 1759.06(b) for the applicable type of Building shall be assessed to the Owner of a Vacant Building in each year that it is involuntarily registered pursuant to Section 1759.03(e). In addition to the involuntary registry fee, the Owner shall reimburse the City for all its costs incurred in notifying the Owner of Staff's determination of Vacant Building status and of the registry fee due. The Owner shall be notified in writing of the involuntary registry fee due, together with all costs reimbursable to the City hereunder, by Certified Mail or Alternative Means of Service, which amounts are due when service of the notice is deemed made under Section 1759.02(a) or Section 1759.02(d), as the case may be.

(3) The City may take the following actions in order to collect any registry fees and costs reimbursable to the City that are not paid in full within thirty (30) days of when due:

(A) After providing the Owner the notice specified below, file in the Office of the Clerk of the County Commission of Jefferson County a lien against the Vacant Building for the full amount of the delinquent registry fees and reimbursable costs, plus filing fees. Prior to filing such lien, the Vacant Buildings Official shall notify the Owner of the Vacant Building in writing by Certified Mail or Alternative Means of Service that the City may file said lien unless all delinquent amounts are paid by a date stated in the notice, which stated date shall be no less than thirty (30) days following the date on which service of the notice is deemed made under Section 1759.02(a) or Section 1759.02(d), as the case may be.

(B) Institute a civil action in the Circuit Court of Jefferson County against the Owner for the delinquent registry fees, reimbursable costs, and reasonable attorney fees and court costs incurred relative to the civil action.

(4) A registry fee paid shall be refunded if, on timely appeal, Staff's determination requiring registration as a Vacant Building is reversed.

(h) Removal from Registry. In the event a Building in the Vacant Buildings Registry becomes lawfully occupied or is removed from the subject real property, the Owner of the Building is required to provide to the Vacant Buildings Official a written notice explaining the situation, together with evidence thereof (such as a copy of a lease of the property, photographs of demolition, etc.), and requesting removal of the Building from the Vacant Buildings Registry. Upon Staff's verification of lawful occupation or removal of the Building, the Building shall be removed from the Vacant Buildings Registry. In the event Staff is unable to verify lawful occupation or removal of the Building, the Vacant Buildings Official shall notify the Owner of the Building in writing by Certified Mail or Alternative Means that Staff has determined that it is unable to verify lawful occupation or removal of the Building and that the Building shall continue to be considered a Vacant Building and remain registered in the Vacant Buildings Registry.

1759.04 MAINTENANCE OF VACANT BUILDINGS.

(a) Required Maintenance. The Owner of a Vacant Building is required to maintain the Vacant Building in accordance with all applicable provisions of the Building Code and so as not to constitute a public nuisance prohibited by Article 1101 of the Codified Ordinances.

(b) Enforcement. In the event an Owner fails to maintain a Vacant Building as required by Section 1759.04(a) as determined by the Vacant Buildings Official, the Vacant Buildings Official may notify the Owner of the Vacant Building in writing by Certified Mail or Alternative Means of Service of such determination and the specifics of the identified failure and that the City may elect to take specified actions, which may include repairs, maintenance, and/or demolition, at the Owner's cost to bring the Vacant Building into compliance with the Building Code and/or eliminate the public nuisance, as the case may be, if the Owner does not take and complete the specified actions within a specified number of days following the date on which service of the notice is deemed made under Section 1759.02(a) or Section 1759.02(d), as the case may be, which number of days shall be determined by the Vacant Buildings Official considering the urgency for the action in light of the potential harm to public health, safety, and welfare due to the condition of the Vacant Building. If the Owner fails to take and complete the specified actions within the number of days specified in such notice, the City may, in its discretion and notwithstanding any provision of Article 1101 or Article 1705 of the Codified Ordinances to the contrary, thereafter take such actions and the Owner shall be responsible for the costs of such actions, as well as all related legal and administrative costs incurred by the City. The City may bring a civil action against the Owner to collect all such costs.

(c) Alternative Enforcement. Nothing in this Section 1759.04 shall be considered to affect or limit the City's authority or actions to enforce any other provisions of the Codified Ordinances pertaining to a Vacant Building or its condition, including without limitation provisions of Articles 1101 and 1705.

1759.05 APPEALS.

An Owner adversely affected by a determination made pursuant to this Article (excepting a determination regarding a request for exemption from registration made pursuant to Section 1759.03(f)) may appeal such determination to City Council by filing with the City Clerk a written notice of appeal within thirty (30) days of the date on which service of the notice of the subject determination is deemed made under Section 1759.02(a) or Section 1759.02(d), as the case may be, after which 30 day period the right to an appeal shall expire. The decision of City Council on any such appeal, as well as a determination by City Council regarding a request for exemption from registration made pursuant to Section 1759.03(f), may be appealed by an Owner to the Circuit Court of Jefferson County within thirty (30) days of the Owner's receipt of the subject decision or determination, after which 30-day period the right to an appeal shall expire.

1759.06 SCHEDULE OF REGISTRY FEES.

(a) Voluntary Registry Fee. The following voluntary registry fee, as specified for the type of Building at issue based upon its use when last occupied, shall be charged upon the voluntary registration of a Vacant Building pursuant to Section 1759.03(d) as provided in Section 1759.03(g)(1):

(1) Less than one-year: $250

(2) At least one year but less than two years: $500

(3) At least two years but less than three years: $1,000

(4) Plus an additional $1,000 per year for each year thereafter.

(b) Involuntary Registry Fee. Any vacant property existing upon the registry, and not voluntarily registered pursuant to Article 1759.03(b), will be subject to registration fees each year in accordance with the schedule above, with the exception of the initial fee, which shall be assessed at twice the rate."

(c) Use of Registry Fees. All registry fees assessed under this Article shall, when collected, be deposited in a separate account and be used for only the following purposes, as City Council shall determine from time to time:

(1) To improve public safety efforts, especially for police and fire personnel, who most often contend with dangerous situations manifested in Vacant Buildings; and

(2) To monitor and administer this Article.

1759.07 SEVERABILITY.

If any provision of this Article is held to be invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not otherwise affect or

invalidate the other provisions hereto, all of which are hereby declared, and shall be construed, to be separate and severable.

1759.08 TRANSITION PROVISIONS.

All registry fees, fines, penalties, liens, notices, letters, communications, orders, remedies, or other enforcement actions assessed, charged, imposed, placed, filed, issued, or otherwise instituted or taken under any prior version of this Article shall remain fully effective and enforceable notwithstanding the revision of this Article and nothing herein shall be deemed to modify, negate, limit, or otherwise affect such items.

Passed on First Reading: April 1, 2024

Passed on Second Reading: May 6, 2024
(following public hearing)

Robert M. Trainor
Mayor

Attest:

John Nissel
City Manager/Clerk

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 06/03/24
Department: City Council
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-565: Board of Parks and Recreation April Meeting Minutes

ATTACHMENTS:

- P&R Report_ April 2024.pdf

City of Charles Town

Parks and Recreation Commission

April 2024 Report

I. CALL TO ORDER: *Thursday, April 25th at 6PM at City Hall*

Persons Present: *Commissioners:* Nick Zaglifa, Elizabeth Ricketts, Mike Slover, Jim Kratovil, Nathan Hartman; *Staff:* Alissa Meek, John Nissel

II. PUBLIC COMMENT- Commissioners allowed for public comment and heard from ten members of the public who all spoke about the tennis program at Jefferson Memorial Park. Seven of those who spoke are Charles Town residents.

III. APPROVAL OF MINUTES

Approved Minutes - February 22, 2024
Approved Minutes - March 4, 2024

IV. UNFINISHED BUSINESS

2024-440: Skate Park Artist RFP

This item had previously been tabled and was untabled.
Motion: Mike Slover **/ 2nd:** Jim Kratovil
Vote: unanimous
Motion to post Request for Proposals.
Motion: Mike Slover **/ 2nd:** Nick Zaglifa
Vote: unanimous

2024-441: Thrasher Engineering Pool Contract Update

Commissioners received an update from staff on financing options (bonds and loans) and the status of the Thrasher contract. This included discussion of another application for a Land Water Conservation Fund grant after the City received one grant (for pool house) but was not awarded the second grant for which we applied.

No action.

2024-442: Parks Strategic and Spending Plan

Commissioners received an update from Councilmember Ricketts about the status of the Parks Strategic and Spending Plan. The Commissioners decided the best course of action is to host 6PM meetings at the various parks before moving to City Hall for regular meetings at 7PM.

V. NEW BUSINESS

2024-443: City's Summer Tennis Swim Program Updates

Commissioners received an update from staff on the Summer 2024 Tennis Program at Jefferson Memorial Park.

No action.

2024-444: Safe Streets for All (SS4A) Grant Opportunity

This item was tabled.

Motion: Jim Kratovil / **2nd:** Mike Slover

Vote: unanimous

2024-445: Rental Prices for Pavilion and Pool

The city website had two different rental prices listed. The Commissioners had no objection to staff making the rental forms on the Evitts Run Park and Jefferson Memorial Park website pages consistent at a $100 rental for pavilions and $230 for pool rentals.

2024-446: Park Updates- Willingham Knolls, Jefferson Memorial, Skate Park, Evitts Run, Happy Retreat

Updates included: 23 trees and pollinator garden installed by volunteers at the Skate Park; power washing at Evitts Run basketball courts; wood chips replenishment being priced out for playgrounds; Blaise Shipley on the Maintenance Team will be seeking a playground inspector certification; plans for pedestrian footbridges are still moving forward; seeking additional fall/winter programming at CW Hall in partnership with County Parks and Rec; concerns about Norborne Glebe and Willingham Knolls trail.

2024-447: Location for Next Parks and Recreation Meeting

Commissioners decided to hold the May meeting at the Charles Town Skate Park, beginning at 6PM and then to reconvene at City Hall at 7PM. The meeting was moved to Wednesday 5/29/2024.

VI. ADJOURNMENT at 7:27 PM

VII. INFORMATION ONLY

Next meeting: WEDNESDAY, May 29th @6PM at the Charles Town Skate Park
Then, @7PM at City Hall