CITY OF CHARLES TOWN

ORDINANCE COMMITTEE
AGENDA • JULY 26, 2023

Committee Meeting **CITY HALL** **6:00 PM**
101 E Washington Street, Charles Town, WV 25414

1. CALL TO ORDER

2. APPROVAL OF MINUTES

3. UNFINISHED BUSINESS

: **2023-655** Finalize 171 - Municipal Court
Article 171.pdf
62-4-17 Suspension of licenses for failure to appear in court payment plan failu (1).pdf

4. NEW BUSINESS

: **2023-656** Article 745.16A
FinanceCommitteeReport_12Jul2023.pdf

: **2023-657** Ordinance 545 - Fireworks

5. ADJOURNMENT

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

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

Ordinance Committee
101 East Washington Street
Charles Town, WV 25414

SCHEDULED

AGENDA ITEM (ID #)

Meeting: 07/26/23
Department: Ordinance Committee
Category: Ordinance
Initiator:

2023-655 Finalize 171 - Municipal Court

Finalize 171 - Municipal Court

ATTACHMENTS:
- Article 171.pdf
- 62-4-17 Suspension of licenses for failure to appear in court payment plan failu (1).pdf

ARTICLE 171
Municipal Court

171.01 Jurisdiction, powers and duties
171.02 Docket; Chief of Police
171.03 Search Warrants
171.04 Arrest Warrants
171.05 Failure of accused person to appear for trial
171.06 Continuances
171.07 Judgment of guilty includes judgment for costs
171.08 Enforcement of penalties and costs
171.09 Payment of court costs
171.10 Suspension of execution of judgments
171.11 Appeals
171.12 Contempt of Court
171.13 Jury trials
171.14 Community service in default of fine payment
171.15 Severability

CROSS REFERENCES

General rights of appeal - see W. Va. Code 8-24-1
Juries - see ADM. Art. 177

171.01 JURISDICTION, POWERS, AND DUTIES

The Municipal Court Judge has criminal jurisdiction over violations of the ordinances of the City and exercises all of the powers and duties set forth in the Charles Town City Charter and the West Virginia Code.

171.02 DOCKET; CHIEF OF POLICE

The Chief of Police is directed to maintain an orderly docket containing a record of each case brought before the Municipal Court Judge and the resulting judgment. Unless the City Manager, with the approval of Council, appoints some other person, the Chief of Police shall be ex officio Clerk of the Municipal Court.

171.03 SEARCH WARRANTS

(a) Any member of the Police Department without an affidavit, or any citizen upon a sworn affidavit, may make a complaint that an offense has been committed. It will then be the function of the Judge of the Municipal Court to issue a warrant, if proper under the law.

(b) If, upon proper complaint, the Municipal Court Judge issues a search warrant(s), they shall be in connection with the violation of any provision of the Codified Ordinances or other City ordinance.

171.04 ARREST WARRANTS

(a) Any member of the Police Department without an affidavit, or any citizen upon a sworn affidavit, may make a complaint that an offense has been committed. It will then be the function of the Judge of the Municipal Court to issue a warrant, if proper under the law.

(b) Proceedings before the Municipal Court Judge are conducted by warrant of arrest in the name of the City or by summons, except in the event of contempt of court, or when an offense for which the Municipal Court Judge has jurisdiction is committed in the presence of said judge or a City police officer. In this event, either the judge or the officer may apprehend or cause the offender to be apprehended.

(c) When a person arrested without a warrant is brought before the Municipal Court Judge, a complaint shall be filed or sworn, a warrant issued and executed, and the same warrant shall be returned to the Municipal Court Judge no later than the commencement of hearing.

171.05 FAILURE OF ACCUSED PERSON TO APPEAR FOR TRIAL

(a) If a warrant or summons is executed and returned, and the accused person fails to appear within one hour after the time designated for the trial, the case may proceed to be heard and determined as if the accused were present.

(b) After hearing the evidence, and at their sole discretion, the Municipal Court Judge may issue an order for an officer to arrest the accused person and bring that individual to the court at a designated time to hear judgment in the case.

171.06 CONTINUANCES

Continuances may be granted as justice requires.

(a) If a continuance is granted at the request of the accused, they may be required to enter into a recognizance, payable to the City, with approved security, in a sum determined by the Municipal Court Judge. This continuance is conditional upon the individual appearing at the time and place named in the order of continuance to answer further as to the alleged offense. Failing compliance, the accused may be committed to jail until a hearing may be resumed, but such imprisonment shall not continue longer than five days.

(b) If the continuance is requested by a person other than the accused, the accused may be allowed to depart until the time appointed for the trial upon entering into recognizance, payable and conditioned as in Section 171.06(a). The requirement for entering into recognizance may be waived at the discretion of Municipal Court Judge.

(c) In the case of default in any provision of recognizance, such default will be noted on the docket. Additionally, in the event that full payment of security is not made, an action in the name of the City may be made in any court of competent jurisdiction to recover the amount of the penalty against the accused and any additional surety.

171.07 JUDGMENT OF GUILTY INCLUDES JUDGMENT FOR COSTS

If judgment is given against the accused in a final hearing, such judgment will include:

a. Fine(s) as directed by City Charter and West Virginia Code,
b. Any costs incurred by the City, including the police department
c. Hearing costs of $50,
d. Fees as required by State or local statute.

171.08 ENFORCEMENT OF PENALTIES AND COSTS

The Municipal Court Judge shall have power to require immediate payment or issue executions for all fines, penalties, and costs imposed.

****Discussion for July Ordinance Meeting. See State Code in email attachment.*

ORIGINAL TEXT: In default of such payment, the judge may commit the defaulting party to jail for no more than ten days.

SUBSEQUENT DISCUSSION: I DON'T AGREE. IF THE ORIGINAL OFFENSE DOESN'T HAVE A JAIL PROVISION, THEN JAIL SHOULDN'T BE AN OPTION. *WV §62-1C-17b. Failure to appear; penalties*. For reference.

QUESTIONS FOR ADAM FROM DISCUSSION: By state code, what are we required to do? Do we still have to collect / remit fees if we commit to jail instead? Also, how does this relate to contempt as a separate charge?

171.09 PAYMENT OF COURT COSTS

(a) If the Municipal Court Judge rules in favor of the person accused, the accused may recover their related costs. In this event, the Judge will direct the City to remit payment to the acquitted party. The judge may also require the City to reimburse the court for any witness fees and any other applicable fees as may be required by state or local statute.

(b) If the Municipal Court Judge rules against the person accused and the costs incurred by the City cannot be collected from them, they shall also be reported by the Municipal Court Judge to the City Manager for payment. The Judge may also require the City to reimburse the court for any witness fees and any other applicable fees as may be required by state or local statute.

171.10 SUSPENSION OF EXECUTION OF JUDGMENT

Execution of judgment may be suspended by the Municipal Court Judge upon such terms as may be imposed by Judge and agreed to by the party convicted.

171.11 APPEALS

(a) Every person sentenced under this article by the Municipal Court Judge to imprisonment or to the payment of a fine of ten dollars ($10.00) or more shall be allowed an appeal de novo to the County Circuit Court, with the condition that the person appealing will enter into an appeal bond with surety equal to all ordered fines, fees, and costs and abide by any judgment rendered by County Circuit Court.
(b) Any such appeal must be perfected no later than twenty business days from the date after which the sentence is imposed.
(c) If such appeal is taken, the appeal bond and supporting documentation in the case shall be promptly delivered by the City to the Clerk of the Court to which such appeal is taken. If the judgment be against the accused, it shall include the costs incurred in the proceedings before the Municipal Court Judge as well as in the appellate Court.

171.12 CONTEMPT OF COURT

Contempt of Court may be charged against an individual for any of the following:
(a) Contemptuous or insolent behavior toward the Judge while engaged in a trial or judicial proceeding;
(b) Any breach of the peace or willful disturbance in the presence of the Judge or so near as to obstruct or interrupt a trial or judicial proceeding;
(c) Violence or threats of violence to the Judge or any party traveling to, attending, or returning from any judicial proceeding before the Court which is intended to obstruct, interrupt, or influence such a proceeding;
(d) Flagrant misbehavior of any officer of the City acting in their official capacity with respect to any action, judicial proceeding, or order of the Court;
(e) Willful resistance by any party to any lawful process or order of the Court. The Judge may, if necessary, issue a warrant of arrest for such person, who shall be given an opportunity to be heard.
In the event such person is found guilty of contempt, the person shall be fined not more than fifty dollars ($50.00) for the first offense. For a second offense pertaining to the same matter the person shall be fined not more than one hundred dollars ($100.00). For the third or any subsequent offense pertaining to the same matter the person shall be fined not more than one hundred dollars ($100.00), or imprisoned not more than ten days, or both. An appeal to the Circuit Court of such conviction shall confirm to section 171.11.

171.13 JURY TRIALS

In all cases where required by the Charter or Statutes of the State of WV, the Municipal Court Judge shall empanel a jury to hear the evidence and decide the case. The Court shall establish and present rules for the selection and empaneling of jurors in such cases. All costs incurred in connection with jury trials shall be payable by the party against whom judgment is rendered.

171.14 COMMUNITY SERVICE IN DEFAULT OF FINE PAYMENT

In lieu of imposing a fine, the Municipal Court Judge may, at their sole discretion, sentence the convicted party to perform community service in an amount commensurate with the fine imposed. Fees and court costs will still be assessed against the convicted party.
Where community service work is ordered as a substitute on a sentence of incarceration, an eight-hour work day shall extinguish one day of any sentence of incarceration.
The minimum wage established by the prevailing federal minimum wage in effect at the time sentencing is imposed shall be used to compute the amount of community service work necessary to extinguish the fine. At the discretion of the court, the sentence credits may run concurrently or consecutively.

Any community service ordered under this section shall be performed for government entities or charitable or nonprofit entities. The individual so sentenced will be supervised by the Chief of Police or their designee.
If safe and practicable, it is preferred that the scope of community service activities serve to recompense the community and offset the damage to property and wellbeing caused by the convicted party. If such associated community service opportunity is not available, the scope of community service task(s) is at the discretion of the Judge and/or the Chief of Police.

171.15 SEVERABILITY
The provisions of this article shall be liberally construed to accomplish its objective and purposes. 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.

West's Annotated Code of West Virginia
Chapter 62. Criminal Procedure (Refs & Annos)
Article 4. Recovery of Fines in Criminal Cases (Refs & Annos)

W. Va. Code, § 62-4-17

§ 62-4-17. Suspension of licenses for failure to appear in court; payment plan; failure to pay fines will result in late fee and judgment lien

Effective: June 10, 2022

Currentness

(a) Upon request and subject to the following requirements, the circuit clerk shall establish a payment plan for a person owing costs, fines, forfeitures, restitution, or penalties imposed by the court, so long as the person signs and files with the clerk an affidavit stating that he or she is financially unable to pay the costs, fines, forfeitures, restitution, or penalties imposed:

(1) A $25 administrative processing fee shall be paid at the time the payment form is filed or, in the alternative, the fee may be paid in no more than five equal monthly payments;

(2) Unless incarcerated, a person must pay in full the costs, fines, forfeitures, restitution, or penalties or enroll in a payment plan upon the entry of the order assessing the costs, fines, forfeitures, restitution, or penalties; and

(3) If the person is incarcerated, he or she must pay in full the costs, fines, forfeitures, restitution, or penalties or enroll in a payment plan within 90 calendar days after release.

(b) The Supreme Court of Appeals shall develop a uniform payment plan form and financial affidavit for requests for the establishment of payment plan pursuant to subsection (a) of this section. The forms shall be made available for distribution to the offices of circuit clerks and circuit clerks shall use the payment plan form and affidavit form developed by the Supreme Court of Appeals when establishing payment plans.

(c)(1) The payment plan shall specify: (A) The number of payments to be made; (B) the dates on which such payments are due; (C) the amount due for each payment; (D) all acceptable payment methods; and (E) the circumstances under which the person may receive a late fee, have a judgment lien recorded against them, or have the debt sent to collections for nonpayment.

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(2) The monthly payment under the payment plan shall be calculated based upon all costs, fines, forfeitures, restitution, or penalties owed within the court, and shall be two percent of the person's annual income divided by 12, or $10, whichever is greater: *Provided*, That if this calculation results in a payment plan lasting more than five years, the monthly payments shall be set by dividing the total amount owed by 60.

(3) The court may review the reasonableness of the payment plan, and may on its own motion or by petition, waive, modify, or convert the outstanding costs, fines, forfeitures, restitution, or penalties to community service if the court determines that the individual has had a change in circumstances and is unable to comply with the terms of the payment plan.

(d)(1) The clerk may assess a $10 late fee each month if a person fails to comply with the terms of a payment plan, and if any payment due is not received within 30 days after the due date, and the person:

(A) Is not incarcerated;

(B) Has not brought the account current;

(C) Has not made alternative payment arrangements with the court; or

(D) Has not entered into a revised payment plan with the clerk before the due date.

(2) If, after 90 days, a payment has not been received, the clerk may do one or both of the following: (A) Record a judgment lien as described in subsection (f) of this section; or (B) consign the delinquent costs, fines, forfeitures, restitution, or penalties to a debt collection agency contained on the Tax Commissioner's list of eligible debt collection agencies established and maintained pursuant to § 14-1-18c of this code, an internal collection division, or both: *Provided*, That the entire amount of all delinquent payments collected shall be remitted to the court and may not be reduced by any collection costs or fees: *Provided, however*, That the collection fee may not exceed 25 percent of the delinquent payment amount. The clerk may send notices, electronically or by U.S. mail, to remind the person of an upcoming or missed payment.

(e)(1) If after 180 days of a judgment a person fails to enroll in a payment plan and fails to pay his or her costs, fines, forfeitures, restitution, or penalties, the clerk may assess a $10 late fee and shall notify the person of the following:

(A) That he or she is 180 days past due in the payment of costs, fines, forfeitures, restitution, or penalties imposed pursuant to a judgment of the court;

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(B) That he or she has failed to enroll in a payment plan;

(C) Whether a $10 late fee has been assessed; and

(D) That he or she may be the subject of a judgment lien or have his or her debt sent to a collection agency if the overdue payment of costs, fines, forfeitures, restitution, or penalties is not resolved within 30 days of the date of the notice issued pursuant to this subsection.

(2) If after 30 days from the issuance of a notice pursuant to subdivision (1) of this subsection, a payment has not been received, the clerk may do one or both of the following:

(A) Record a judgment lien as described in subsection (f) of this section; or

(B) Consign the delinquent costs, fines, forfeitures, restitution, or penalties to a debt collection agency contained on the Tax Commissioner's list of eligible debt collection agencies established and maintained pursuant to § 14-1-18c of this code, an internal collection division, or both: *Provided*, That the entire amount of all delinquent payments collected shall be remitted to the court and may not be reduced by any collection costs or fees: *Provided, however*, That the collection fee may not exceed 25 percent of the delinquent payment amount.

(f) To record a judgment lien, the clerk shall notify the prosecuting attorney of the county of nonpayment and shall provide the prosecuting attorney with an abstract of judgment. The prosecuting attorney shall file the abstract of judgment in the office of the clerk of the county commission in the county where the defendant was convicted and in any county wherein the defendant resides or owns property. The clerk of the county commission shall record and index these abstracts of judgment without charge or fee to the prosecuting attorney, and when recorded, the amount stated to be owed in the abstract constitutes a lien against all property of the defendant: *Provided*, That when all the costs, fines, fees, forfeitures, restitution, or penalties for which an abstract of judgment has been recorded are paid in full, the clerk of the municipal court shall notify the prosecuting attorney of the county of payment and provide the prosecuting attorney with a release of judgment, prepared in accordance with the provisions of § 38-12-1 of this code, for filing and recordation pursuant to the provisions of this subdivision. Upon receipt from the clerk, the prosecuting attorney shall file the release of judgment in the office of the clerk of the county commission in each county where an abstract of the judgment was recorded. The clerk of the county commission shall record and index the release of judgment without charge or fee to the prosecuting attorney.

(g) Any driver's license suspension entered by the Division of Motor Vehicles prior to July 1, 2016, for the failure to appear or otherwise respond in court or for nonpayment of costs, fines, forfeitures, restitution, or penalties is null and void. A person whose driver's license was suspended on or after July 1, 2016, but prior to July 1, 2020, solely for the nonpayment of costs, fines, forfeitures, restitution, or penalties, if otherwise eligible, shall have his or her license reinstated:

(1) Upon payment in full of all outstanding costs, fines, forfeitures, restitution, or penalties and a $25 reinstatement fee paid to the Division of Motor Vehicles; or

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(2) Upon establishing a payment plan pursuant to subsection (a) of this section and the payment of a $25 administrative fee. The clerk shall notify the Division of Motor Vehicles that a payment plan is in effect, and upon receipt of the notification, the division shall waive the reinstatement fee.

(h) If a person charged with a criminal offense fails to appear or otherwise respond in court after having received notice to do so, the court shall notify the Division of Motor Vehicles thereof within 15 days of the scheduled date to appear unless such person sooner appears or otherwise responds in court to the satisfaction of the court. Upon such notice, the Division of Motor Vehicles shall suspend the person's driver's license or privilege to operate a motor vehicle in this state until such time that the person appears as required.

Credits

Acts 1993, c. 56; Acts 2020, c. 227, eff. July 1, 2020; Acts 2021, c. 81, eff. July 8, 2021; Acts 2022, c. 76, eff. June 10, 2022.

W. Va. Code, § 62-4-17, WV ST § 62-4-17
Current with legislation of the 2023 Regular Session approved through March 15, 2023. Some statute sections may be more current, see credits for details.

End of Document

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Ordinance Committee
101 East Washington Street
Charles Town, WV 25414

SCHEDULED

AGENDA ITEM (ID #)

Meeting: 07/26/23
Department: Ordinance Committee
Category: Ordinance
Initiator:

2023-656 Article 745.16A

Article 745.16A - referred to by Finance.
Finance Report Attached - Article 745.16a is included in Attachment 2 of report.

Proposed Motion:

The Finance Committee reviewed a proposed change to Charles Town Codified Code Article 745 – Business and Occupation Tax. Specifically, the insertion of a new section to the ordinance – 745.16A – OPTIONAL EXEMPT ACTIVITIES. This proposed section provides general activity and circumstance guidance for the City Council to consider when determining if the City's B&O rates should be reduced or eliminated, for a specified time period for projects, contracts, or businesses benefiting the City.

Recommendations to the City Council: Review the proposed changes to Article 745, included as attachment (3), and refer it to the Ordinance Committee with specific Council guidance.

ATTACHMENTS:

- FinanceCommitteeReport_12Jul2023.pdf

City of Charles Town Finance Committee Report
12 July 2023 Meeting

Drafted by: Bob Trainor - Chairman

Call to Order ooa 10:08AM

1. **Persons present:** Finance Committee Members Ms. Julie Philabaum, Mr. Jeff Hynes, and Mr. Bob Trainor; Finance Director, Ms. Breanna Andrews; and Community Development Director – Interim City Clerk, Ms. Alissa Meeks

2. Unfinished Business

2.1: Parks and Recreation Budget Discussion – The Committee discussed the advantages of an updated FY2024 Parks and Rec budget to facilitate the City's budget planning and accounting procedures.

Recommendations to the City Council: Request that the Board of Parks and Recreation prepare and submit to the Council their FY2024 budget.

2.2: Red-Line Travel Policy – Purchase Card use and Per Diem Issuance – The Committee discussed updates to the City's Employee Handbook (Rev 10 Feb 2022) regarding the policy for Travel Expenses (4.11 – Travel Expenses section), specifically, guidelines for emergency travel.

Recommendations to the City Council: Forward recommendations, attachment (1), to Personnel Committee for review.

3. New Business

3.1: Chairman Report & Updates

- Information Technology improvements – discussed staff efforts to update the City's website as well as upgrading out of warranty computer hardware.
- Temporary personnel options for the Finance Director position.

Recommendations to the City Council: None at this time, information only.

3.2: Account Balances as of June 30, 2023

Staff presented to the Committee the City's account balances as of 30 Jun 2023, included as attachment (2).

Recommendations to the City Council: None at this time, information only.

3.3: Business & Occupation Tax – Proposed Exemption Provision in Article 745

Background:

Agenda item 2022-136 – B&O Tax Waiver Request, was an agenda item at the regular October 17, 2023 City Council meeting. The waiver request was for Alvarez Contractors Inc., who are working on behalf of the Charles Town Utility Board on the Waste Treatment Plant Renewal and Replacement Project. At that time, Mr. Hynes moved to refer the B&O Tax Waiver request to the Finance Committee, Mr. George seconded the motion and t passed unanimously.

The Finance Committee took up this issue at their regular December 6, 2022 meeting and tabled the specific request pending approval of a Charles Town policy to govern consideration of B&O tax reduction or elimination for projects that have a widespread benefit to the City and/or its residents.

Update:

The Committee reviewed a proposed change to Charles Town Codified Code Article 745 – Business and Occupation Tax. Specifically, the insertion of a new section to the ordinance – ***745.16A – OPTIONAL EXEMPT ACTIVITIES***. This proposed section provides general activity and circumstance guidance for the City Council to consider when determining if the City's B&O rates should be reduced or eliminated, for a specified time period for projects, contracts, or businesses benefiting the City.

Recommendations to the City Council: Review the proposed changes to Article 745, included as attachment (3), and refer it to the Ordinance Committee with specific Council guidance.

3.4: Signature Cards – Update with new committee member

New Finance Committee member, Ms. Julie Philabaum, filled out the required paperwork for signature authorization, which is expected within 2 or 3 weeks.

Recommendations to the City Council: None at this time, information only.

3.5 FY2023 General Operating, Coal Severance, and Capital Budget preliminary final balance.

Staff presented the Committee with the City's FY2023 preliminary budget balances thru 30 June 2023, available electronically as attachment (4a thru 4c).

Recommendations to the City Council: None at this time, information only.

3.6 FY2024 General Fund Revision #1

Staff presented the Committee with the first General Budget revision for FY2024, available electronically as attachment (5a). Generally, the revision increases the budget carryover, anticipated decreases in gaming and video lottery income due to the US-340 road closures this fall, and updates various expenditure estimates.

Recommendations to the City Council: Review and approve the General Fund Revision #1 for FY2024 that will be included in the City Council's 17 July 2023 meeting agenda.

3.7 FY2024 Coal Severance Revision #1

Staff presented the Committee with the first Coal Severance revision for FY2024, available electronically as attachment (5b)., increasing the total revenues to $140,702.

Recommendations to the City Council: Review and approve the Coal Severance Revision #1 for FY2024 that will be included in the City Council's 17 July 2023 meeting agenda.

3.8 Part Time Inspector Funding Request

Staff briefed the Committee on the City's Community Development Department's plan to use contracted building inspector services to cover inspections when the City Building Inspector is absent. The request to add $10.5K to the Operating Budget's Building Inspections – 436 category is included in Revision #1 of the General Fund.

Recommendations to the City Council: Review and approve this request as part of the General Fund Revision #1 for FY2024 that will be included in the City Council's 17 July 2023 meeting agenda.

4. Information Items

The next Finance Committee meeting is tentatively scheduled for 9 August 2023 at 10:00AM

5. Tabled Items

Update Banking Signature Cards – This item was tabled until after the Council elections and a new City Manager is seated.

6. Pending Items

There are no pending items.

7. The meeting was adjourned ooa 12:05PM

4.11 **Travel Expenses**

The purpose of this policy is to define employee travel rules and the authority for incurring and approving travel expenses.

Travel expenses are the reasonable and necessary expenses incurred by employees when traveling on approved City business trips. City travel is limited to business activities for which other means of communication are inadequate and for which prior approval of the employee's supervisor has been received.

Personal Vehicles

All employees using their own vehicle for City business must maintain insurance coverage as required by law and a valid driver's license. Travel between the employee's home and primary office is not considered to be City business.

Employees are not authorized to use personal vehicles for City business travel without written authorization from the City Manager. Employees will be reimbursed for personal vehicle use at the standard IRS mileage rate. The City Manager or his/her designee must authorize any deviation from this policy.

Travel Expenses

The City Council sets parameters on the expenditure of City funds to ensure that public funds are spent in an appropriate manner. Advance written approval from your supervisor is required before travel arrangements are made. The City pays a per diem rate for meals and incidental expenses and the actual amounts incurred for all other appropriate expenses when employees are on travel assignments. The per diem rate for meals and incidental expenses will be based on the current US General Services Administration (GSA) rate schedule for the destination at the time of travel. Any travel that requires lodging that is more costly than the pre-approved GSA rate must receive written approval from the City Manager or his/her designee before scheduling the lodging. The employee must demonstrate that lodging in the area is not available at or below the pre-approved GSA rate. Employees may receive an advance payment of the per diem for meals and incidentals with the approval of the supervisor at least one week prior to the date of travel. If any portion of the travel is cancelled or postponed after the employee has received an advance for per diem, the proportional share of per diem resulting from the cancellation or postponement must be repaid to the City within two weeks of the original travel date. Should there be a need for emergency travel for employees, the one week minimum per diem request period is not applicable. When possible, the City shall accommodate the approved emergency travel advance per diem payment request up to 48 hours prior to the date of travel. In the event that the advanced per diem payment request cannot be processed by the employee's date of travel, the employee shall be required to keep all receipts related to meals and incidental expenses. The City shall reimburse the employee for all actual meals and incidental expenses, not to exceed the GSA per diem allowance rates for the travel location and date. City purchase/credit cards shall not be used for meals and incidental expenses.

If you have any questions about appropriate expenses covered by the City, please discuss with the City Manager or his/her designee. Examples of typical expenses include the following:

- Airline tickets.
- Meals and incidentals.
- Lodging.
- Car rental, bus, taxi, parking.

• Associated gratuities.
• Other expenses necessary to achieve the business purposes.

Family Members
The City will pay the travel expenses of spouses or other family members only when their presence is deemed necessary to the business purpose of the trip and when approved in advance in writing by the City Manager.

4.12 **Business Expenses**
The purpose of this policy is to define approved non-travel employee business expenses and the authority for incurring and approving such expenses.
Approved business expenses are the reasonable and necessary expenses incurred by employees to achieve legitimate business purposes.
If you have any questions regarding approved expenses or the authority to incur such expenses, please discuss with the City Manager or his/her designee.
Technical and Training Seminars/Conferences
The City pays for expenses associated with attendance at work related classes and seminars that enhance job-related skills. Prior written approval must be obtained from the employee's supervisor. Please note that the City will not pay the employee the per diem meal rate for meals that are included as part of the conference, seminar, or training session.
Employee Reporting
Employees are to report their approved expenses on the standard Expense Report Form and must include a description of the expense, its business purpose, date, place, and the participants.
4.13 **Use of City Credit and Purchase Cards**
Every employee in the possession of a City credit or purchase card will adhere to the strictest guidelines of responsibility for the proper protection and use of that card.
Employees must adhere to all relevant rules, regulations, and policies established for the use of such cards by the City and the WV State
Auditor's office. City card purchases under $250 do not require prior approval. City card purchases over this amount must receive prior approval from your supervisor or the City Manager.
All sales receipts generated by use of the City's card must be turned in monthly to the accounting department using the appropriate P-Card accounting form.
City cards are not to be used for personal reasons. Use of the City card is restricted to approved, business-related expenses.
Any unauthorized purchases made with a City card will be the cardholder's responsibility. Any such purchase will be reimbursed to the City by the employee within 30 days.
Lost or stolen City cards must be reported immediately to your supervisor. Failure to follow this policy may result in disciplinary action up to and including termination. Infractions are also subject to other discipline as outlined in the WV Auditor's program rules.

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City of Charles Town Bank and Investment Accounts
As of June 30, 2023

Revised: July 11, 2023

Account	Fund	March 31, 2023 Account Balance	*June 30, 2023 Account Balance*	Near-Term Expenditures	UNRESTRICTED FUNDS Unencumbered Balance	RESTRICTED FUNDS Unencumbered Balance	Comments
Charles Town Building Commission	Bldg Commission	$ 154,617	$ 229,830	$ -	$ -	$ 229,830	Near-term expenditures (i.e. debt service) are paid from the BC fund and directly reimbursed through monthly lease payments from General Fund. Other funds restricted to BC purposes.
Residual Fund	Residual	$ 625,353	$ 677,514	$ -	$ 677,514	$ -	Savings account/emergency fund for the city. No planned expenditures.
Sales Tax	Sales Tax	$ 2,688,812	$ 3,138,925	$ 1,600,000	$ 1,538,925	$ -	$1.6 million committed to debt service (CWH and Annex reimb) and general operating costs for fiscal year 2024
Federal Equitable Fund	Investigative	$ 93,179	$ 99,629	$ -	$ -	$ 99,629	Funds restricted for limited police activities per DOJ guidelines.
General Fund	General	$ 5,472,671	$ 4,712,111	$ 3,212,111		$ 1,500,000	General fund for operations; assumes complete draw down in near-term. $1.5 million ARPA funding held in General Fund for grant matching
Coal Severance Tax Revenue Fund	Coal Severance	$ 119,327	$ 126,373	$ -	$ -	$ 126,373	Special revenue fund used for select projects; saving for longer-term park project.
CWH Landlord, LLC	CWH Landlord	$ 631,464	$ 632,645	$ 125,000	$ 507,645	$ -	Unrestricted revenues from the sale of federal historic tax credits; near-term expenditures are to begin design of city hall renovations.
American Rescue Plan Account	ARPA Fund	$ 8,883	$ 8,895	$ -	$ 8,895	$ -	Funds from the 2021 American Rescue Plan Act; both tranches have been transferred to the General Fund as of 01/06/2023 to execute the Standard Allowance Revenue Loss Replacement election Council made in April 2022. Balance is banking interest generated since account inception.
Housing Rehab Program	CDBG	$ 63,479	$ 63,513	$ -	$ -	$ 63,513	Funds restricted to housing rehab services.
Investigation Account - CTPD	Investigative	$ 43,897	$ 31,096	$ -	$ -	$ 31,096	Funds for police use -- Federal Equitable Recorded unde separate bank account
Employees Fund CTPD	Employees Fund	$ 962	$ 964	$ -	$ -	$ 964	Funds for police use
Capital Reserve Fund	Capital Reserve	$ 2,471,724	$ 2,726,939		$ -	$ 2,726,939	Near term funding for capital projects approved in FY24 CIP budget (minus capital expenses already paid, and repaving expenses paid from other account).
Summit Broker Buster - Repaving	Capital Reserve	$ 909,148	$ 954,034		$ -	$ 954,034	Savings account for future road resurfacing projects; all street improvements budgeted for FY2023 have been paid
EPA/RLF Fund	Capital Reserve	$ 174,340	$ 182,084	$ -	$ 182,084	$ -	EPA project completed but account remains open because it is a depository for federal overtime funds for drug task force (those funds later transferred to GRF) and is used to manage cash flow for reimbursable grants.
Board of Park & Recreation	Parks & Rec	$ 88,640	$ 81,803	$ 81,803	$ -	$ -	Operating account for the city's parks programs
Board of Park & Recreation - CIP	Parks & Rec	$ 4,541	$ 5,145		$ -	$ 5,145	Account dedicated to Parks & Rec Donations/Contributions for future Parks CIP (tennis courts, pool, etc.)
Debt Service Reserve (B.C.)	Bldg Commission	$ 47,724	$ 47,730	$ -	$ 47,730	$ -	Established in 2010 at the same time the Building Commission established the Sinking Fund for a 1999 bond issuance. Bond has been repaid, funds to be consolidated with Repaving fund by end of calendar year 2023
1999 Series Revenue Bond Interest & Sinking Fund (B.C)	Bldg Commission	$ 304,890	$ 304,928	$ -	$ 304,928	$ -	Account includes original deposit of $52k to establish fund and additional deposits from street fees and interest earnings. Now that bond is paid, funds are "unrestricted" and can be combined with the Repaving fund.
Board of Trustees Police Pension Relief Fund	Police Pension	$ 47,853	$ 50,905	$ 50,905	$ -	$ -	Funds used to support pension beneficiaries (includes regular contributions from the general fund to this account and accident report pymts).

Attachment (2)
Page 1 of 2

City of Charles Town Bank and Investment Accounts
As of June 30, 2023

Revised: July 11, 2023

Account	Fund	March 31, 2023 Account Balance	*June 30, 2023 Account Balance*	Near-Term Expenditures	UNRESTRICTED FUNDS Unencumbered Balance	RESTRICTED FUNDS Unencumbered Balance	Comments
Bond Escrow Fund	Bond Escrow	$ 182,721	$ 183,063	$ -	$ -	$ 183,063	Account is used to deposit funds from developers and held until projects are completed. Current funds are for the Samuel Street Station and Tate Manor projects.
Total Bank Accounts		$ 14,134,223	$ 14,258,124	$ 5,069,819	$ 3,267,720	$ 5,920,585	
					$ -		
Fidelity Police Pension Fund #6846	Police Pension	$ 470,735	$ 479,414	$ -	$ -	$ 479,414	Investment fund for restricted use; future pension payments
Fidelity City Residual Fund #9959	Residual	$ 667,834	$ 687,509	$ -	$ 687,509	$ -	Investment fund for budget stabilization.
					$ -		
Total Bank Accounts plus two Investment Accounts		$ 15,272,792	$ 15,425,047	$ 5,069,819	$ 3,955,229	$ 6,399,999	

Attachment (2)
Page 2 of 2

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.

745.16A OPTIONAL EXEMPT ACTIVITIES.

The City Council reserves the right to modify the provisions of this article, if approved by the majority of the City Council, by reducing or eliminating, for a specified time period and/or for a specific project, the Business and Occupation tax in the following scenarios:

(a) Any activity associated with a municipality initiated/ taxpayer funded project that directly benefits a significant portion of Charles Town's residents, and in which the taxes rendered under this article would likely result in higher rates to those residents for existing services as well as higher project costs for the municipality; and

(b) To promote long-term business growth within the city limits, in which estimated resulting increased revenues and services resulting is deemed beneficial to Charles Town and residents. Long term business growth is defined in the following ways:

a. The business and/or organization must be committed to maintaining operations in Charles Town for at least 5 years.

~~a.~~ The business and/or organization must contribute, at minimum, 10 new employment opportunities for the local job market.

b. The business and/or organization must contribute to the local sales and service tax collections at a rate that is proportionately higher than the estimated business and occupation tax collections for the exemption period.

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(Passed 7-19-10.)

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

Ordinance Committee
101 East Washington Street
Charles Town, WV 25414

SCHEDULED

AGENDA ITEM (ID #)

Meeting: 07/26/23
Department: Ordinance Committee
Category: Ordinance
Initiator:

2023-657 Ordinance 545 - Fireworks

Initial discussion on Ordinance 545 - Fireworks

ATTACHMENTS: