



**JOURNAL of the PROCEEDINGS
of the
CITY COUNCIL**

CITY OF CHARLESTON, WEST VIRGINIA

Regular Meeting – Monday, February 3, 2020

at 7:00 P.M.

Council Chamber – City Hall – Charleston, West Virginia

OFFICIAL RECORD

Amy Shuler Goodwin
Mayor

Miles C. Cary II
City Clerk

CALL TO ORDER

The Council met in the Chambers of the City Building at 7:00 P.M., for the first meeting in the month of February on the 3rd day, in the year 2020, and was called to order by the Honorable Mayor, Amy Shuler Goodwin. The invocation was delivered by Councilmember Reishman and the Pledge of Allegiance was led Councilmember Overstreet. The Honorable Clerk, Miles C. Cary II, called the roll of members and it was found that there were present at the time:

ADAMS**BURTON****COOK****HOOVER****KING****MCKINNEY****PERSINGER****ROBINSON****STEELE****BAILEY****CAMPBELL****FAEGRE****JENKINS****KNAUFF****MINARDI****PHARR****SHEETS****WESLEY-PLEAR****BAYS****CEPERLEY****HAAS****JONES****LAIRD****OVERSTREET****REISHMAN****SNODGRASS****MAYOR GOODWIN**

With twenty-seven members being present, the Mayor declared a quorum present.

Pending the reading of the Journal of the previous meeting, the reading thereof was dispensed with and the same duly approved.

PUBLIC SPEAKERS

1. Perry Bryant – Spoke in favor of power purchase agreements – Resolution No. 277-20.
2. Kevin Madison – From Black Sheep, asked for Council’s assistance in getting more communication and transparency from the Charleston Areas Alliance, especially concerning Downtown events.
3. Kitty Dooley – Thanked those involved in the Honorary Street Naming and dedication of Martin Luther King Jr. Way.
4. Zach Drennen – spoke in favor of power purchase agreements – Resolution No. 277-20.

CLAIMS

1. A claim of Thomas Frost, Charleston, WV;
alleges damage to property.
Refer to City Solicitor.
2. A claim of Catherine Johnston, Charleston, WV;
alleges damage to property.
Refer to City Solicitor.

PUBLIC HEARING

1. After duly being published as required, the Mayor declared the floor open for a Public Hearing on Bill No. 7861 Committee Substitute – An Ordinance with respect to approving the Woodward Branch Sanitary Replacement and Rehabilitation Project. No person from the public came to speak in reference to the Public Hearing. The Mayor declared the Public Hearing CLOSED.

COMMUNICATIONS

NONE

PROCLAMATIONS

NONE

REPORTS OF COMMITTEES

COMMITTEE ON PLANNING, STREETS AND TRAFFIC

Councilmember Hoover, Chair of the Council Committee on Planning, Streets and Traffic, submitted the following reports:

1. Your committee on Planning, Streets and Traffic has had under consideration the following bill, and reports the same to Council with the recommendation that Bill No. 7859 do pass.

Bill No. 7859 - A Bill amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 1st day of January 2006, as amended, and the map made a part thereof, by rezoning from a R-8 High Density Residential District to a C-8 Village Commercial District, a portion of that certain parcel of land located at 303 Ohio Avenue being a portion of Charleston West District, Map 25, Parcel 288, Charleston, West Virginia, as shown with the drawing attached as Exhibit A hereto.

Be it Ordained by the City Council of the City of Charleston, West Virginia:

1. The Zoning Ordinance of the City of Charleston, West Virginia, enacted the 1st day of January 2006, as amended, is hereby amended by rezoning from a R-8 High Density Residential District to a C-8 Village Commercial District the following described parcels of land:

A portion of Parcel No. 288 as shown upon West Charleston Tax Map No. 25. The portion is further described as the southernly portion of lots 11, 12, 13, 14, and the northerly portion of the alley between lots 10 through 13 in BLOCK 11 of J. BRISBEN WALKER ADDITION. Subject Parcel is commonly known as 303 Ohio Avenue, Charleston, West Virginia. Said tax map is of record in the Planning Office.

2. The Zoning Map, attached to and made a part of said Zoning Ordinance, is hereby amended in accordance with Article 29 of this ordinance.
3. All prior ordinances, or parts of ordinances, inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

Councilmember Hoover added that because this property was previously the loading dock of a Post Office, the zone had never been changed. The proposed bill will remove the presence of two zoning districts on the site making reuse and redevelopment easier for a structure that was developed and used for decades in a commercial capacity.

Councilmember Hoover moved to approve the bill. Councilmember Ceperley seconded the motion. A roll call was taken:

YEAS: Adams, Bailey, Bays, Burton, Campbell, Ceperley, Cook, Faegre, Haas, Hoover, Jenkins, Jones, King, Knauff, Laird, McKinney, Minardi, Overstreet, Persinger, Pharr, Reishman, Robinson, Sheets, Snodgrass, Steele, Wesley-Plear, Mayor Goodwin

NAYS: NONE

ABSENT: NONE

With a majority of members present recorded thereon as voting in the affirmative, the Mayor declared Bill No. 7859 passed.

Showing a portion
of Parcel 288 on
West Charleston
Tax District Map 25

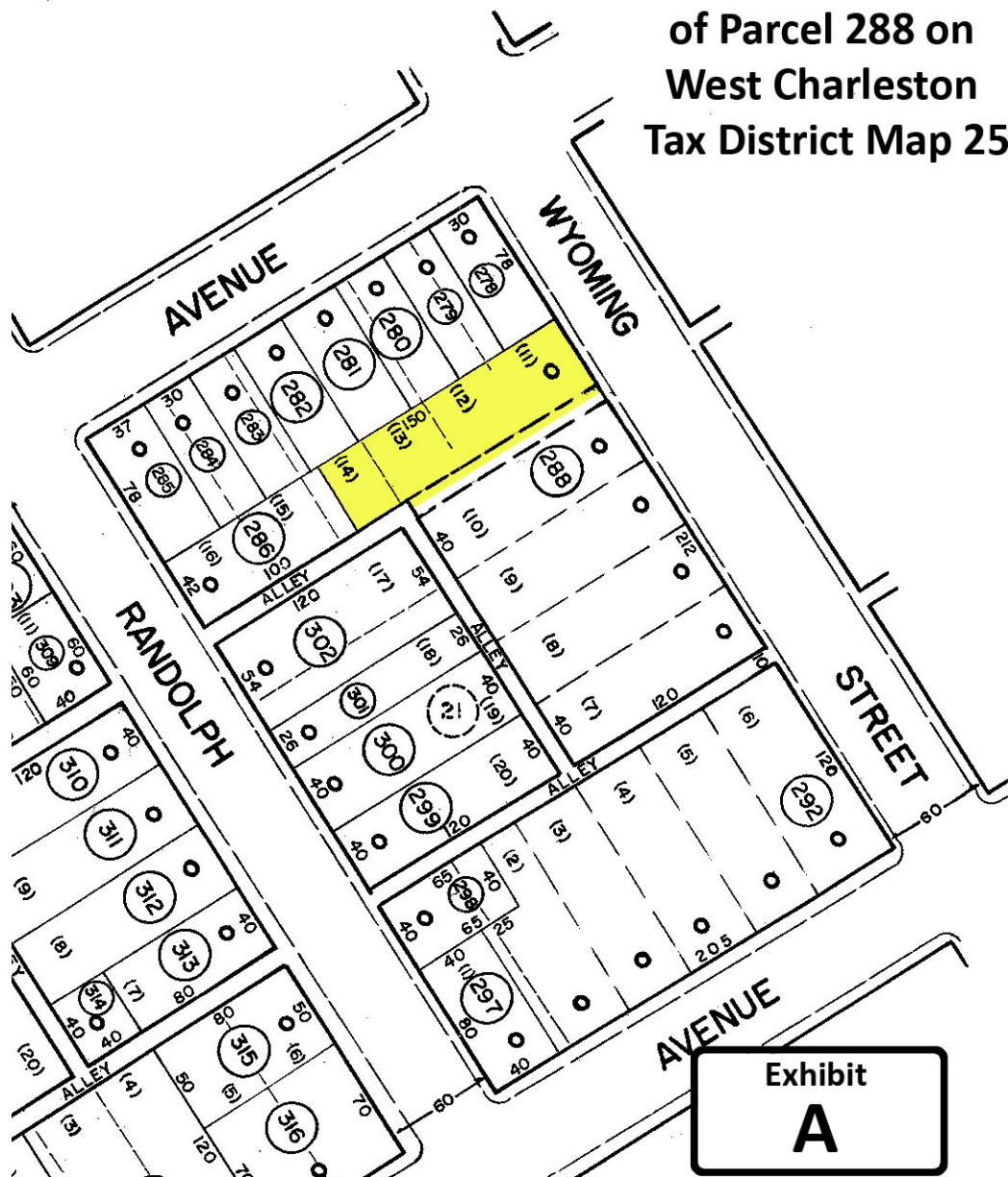
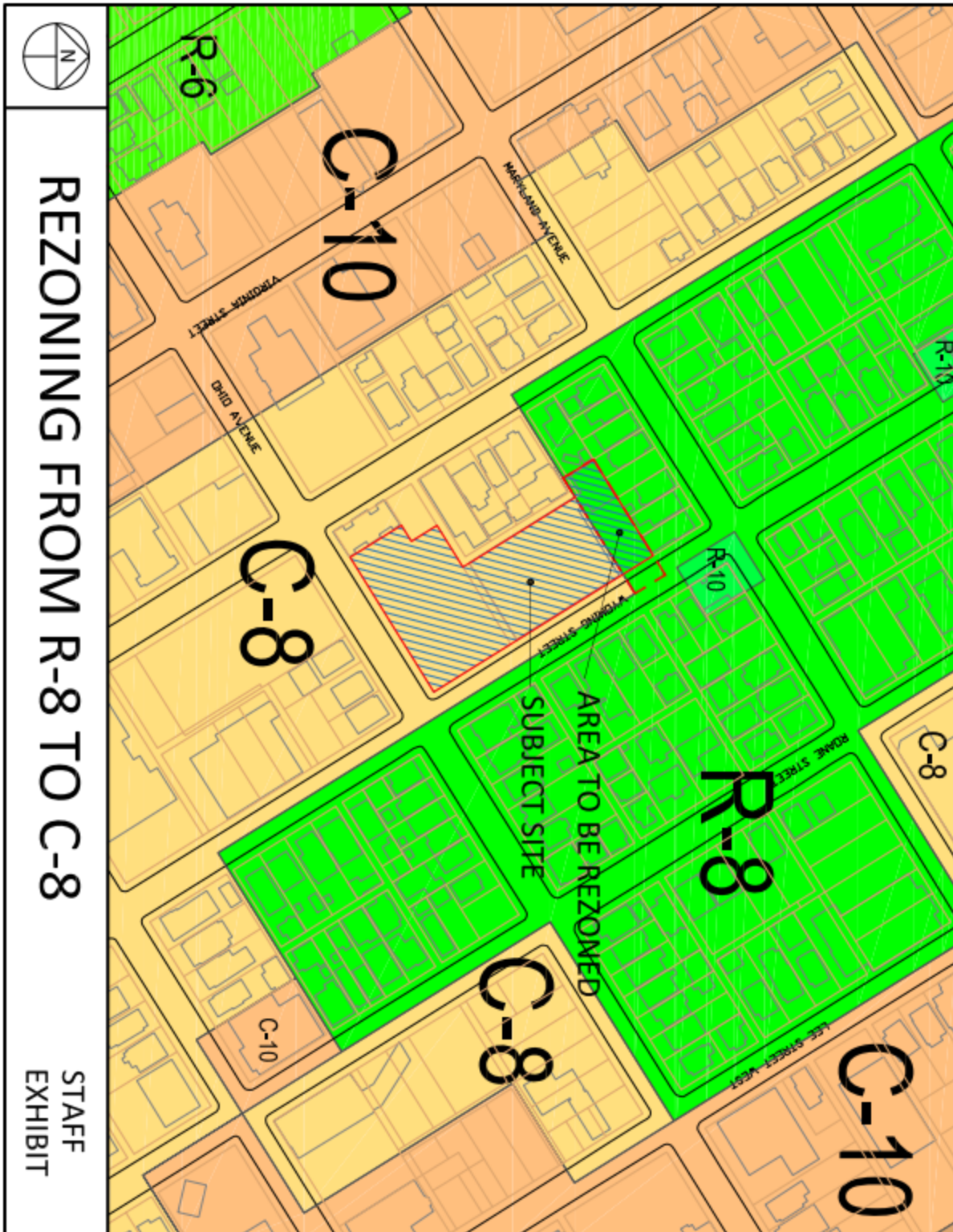


Exhibit
A



2. Your committee on Planning, Streets and Traffic has had under consideration the following bill, and reports the same to Council with the recommendation that Bill No. 7860 do pass.

Bill No. 7860 - A Bill closing, abandoning and discontinuing as a public right of way a portion of the alley that runs between and is perpendicular to Randolph Street and Wyoming Street, in Charleston West Tax District of the City of Charleston, Kanawha County, West Virginia.

BE IT ORDAINED BY THE CITY COUNCIL OF CHARLESTON, WEST VIRGINIA:

1. Being a portion of the alley that runs between and is perpendicular to Randolph Street and Wyoming Street, in the City of Charleston, West Virginia, in Charleston West Tax District of the City of Charleston, Kanawha County, West Virginia, is more particularly described as follows:

Beginning at a point on the western right of way of Wyoming Street, said point is situate N 30°02'00"W, 120.00' from the northern right of way of Ohio Avenue, thence leaving Wyoming Street, and now running with the northern line of Tax Map 25 Parcel 292, S 60°W, 120.00' to a point; thence leaving Parcel 292, and now running across said Alley, N 30°02'00"W, 10.00' to a point; thence with the southern line of Parcel 288, N 60°00'00"E, 120.00' to a point on the western right of way of Wyoming Street, S 30°02'00"E, 10.00' to the point of beginning, containing 1,200 Square Feet.

Reference is made to a plat entitled "PLAT OF SURVEY SHOWING PROPOSED ABANDONMENT OF A 10' x 120' Alley Containing 1200 SQ. FT. FOR THE PROPOSED PURCHASE BY JERICK FARMS IN. FROM THE CITY OF CHARLESTON" by Keely Surveying, dated December 11, 2019, as surveyed by Timothy L. Keely, WV Professional Surveyor No. 972, attached hereto and made a part hereof as Attachment A.

2. The Mayor of the City of Charleston be, and is hereby authorized and directed to execute, acknowledge and deliver a proper deed conveying to Jerick Farms Inc., and its successors and assigns, all right, title and interest in and to said property as described in Section 1 above, for the consideration of \$6,800.
3. All prior ordinances, or parts of ordinances, inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

Councilmember Hoover added this is the same property as referenced in the previous bill. This will allow for viable reuse of the structure.
The bill was referred to Finance for voting.

COMMITTEE ON URBAN RENEWAL AND ECONOMIC DEVELOPMENT

Councilmember Burton, Chair of the Council Committee on Urban Renewal and Economic Development, submitted the following reports:

1. Your committee on Urban Renewal and Economic Development has had under consideration the following resolution, and reports the same to Council with the recommendation that Resolution No. 283-20 do pass.

Resolution No. 283-20 - Whereas, the Charleston Urban Renewal Authority worked with the community to draft the West Side Community Renewal Plan; and

Whereas, the draft West Side Community Renewal Plan contains a history of Charleston's west side and a vision for the future of the community; and

Whereas, the draft West Side Community Renewal Plan received substantial community input and has undergone numerous revisions to address concerns raised by community members throughout the development process; and

Whereas, the City of Charleston's Urban Renewal and Economic Development Committee received a summary of the draft plan and heard community feedback regarding the plan at multiple meetings; and

Whereas, the City of Charleston's City Council held a public hearing regarding the draft plan and received negative feedback regarding the plan; and

Whereas, a speaker at the public hearing specifically requested that the City of Charleston obtain a legal opinion from the West Virginia University Land Use Clinic as to the sufficiency of the draft plan with respect to the requirements of state code; and

Whereas, the City of Charleston retained the West Virginia University Land Use Clinic to review the draft plan in light of state code and provide a legal opinion regarding the plan; and

Whereas, the legal opinion of the West Virginia University Land Use Clinic, attached to this resolution as Exhibit A, generally held that the state authorizing statute is unclear and confusing; and

Whereas, the legal opinion of the West Virginia University Land Use Clinic concluded that the draft plan is an urban renewal plan and not an urban redevelopment plan, but that nevertheless "[a] court would be slightly more likely than not to find that urban renewal plans must comply with [requirements that are specifically applicable to urban redevelopment

plans]” and that “the draft plan fails to comply with W. Va. Code § 16-18-6(g),” which requires that redevelopment plans contain “a statement of the proposed method and estimated cost of the acquisition and preparation for redevelopment of the redevelopment project area and the estimated proceeds or revenues from its disposal to redevelopers; a statement of the proposed method of financing the redevelopment project; and a statement of a feasible method proposed for the relocation of families to be displaced from the redevelopment project area.”; and

Whereas, the West Side Community Renewal Plan that is currently in effect complied with that provision of code; and

Whereas, the City recognizes that the state code related to urban renewal authorities lacks the necessary specificity to conclusively answer the questions posed by the City and the public speakers; and

Whereas, the City is cognizant of the potential for litigation and the need for adopted plans to conclusively meet state law;

Now, therefore, be it Resolved by the Council of the City of Charleston, West Virginia:

That the City Council of the City of Charleston hereby refers the draft West Side Community Renewal Plan back to the Charleston Urban Renewal Authority with the direction to review the legal opinion attached hereto and make any necessary amendments to the draft plan to satisfy the legal opinion provided.

In the alternative, the City Council of the City of Charleston asks the Charleston Urban Renewal Authority to adopt a motion requesting that the City of Charleston adopt the draft plan, with any necessary changes, as an amendment to the City’s comprehensive plan, as suggested by the West Virginia University Land Use Clinic, in order to ensure that the significant work already completed to create the draft plan is not lost due to the lack of clarity in state law.

Councilmember Wesley-Plear added that the resolution will send the draft back to CURA to decide on whether to make adjustments based on the recommendation or allow the City to include it in the comprehensive plan.

Councilmember Wesley-Plear moved to approve the Resolution. Councilmember Ceperley seconded the motion. With a majority of members present recorded thereon as voting in the affirmative, the Mayor declared Resolution 283-20 adopted.



January 6, 2020

Kevin Baker, City Attorney
City of Charleston
501 Virginia Street, East
Charleston, WV 25301

RE: West Side Community Renewal Plan

Dear Kevin:

Pursuant to the retainer agreement between the City of Charleston and the Land Use and Sustainable Development Law Clinic, this letter offers an opinion as to the sufficiency of the West Side Community Renewal Plan with respect to, and whether the plan complies with, the requirements of Chapter 16 of the West Virginia Code. In preparing this opinion, I reviewed the plan, our correspondence, the comments and concerns of the HOPE CDC in partnership with the Tuesday Morning Group and Charleston Branch NAACP (prepared by Reverend Matthew J. Watts), and Chapter 16, Article 18 of the West Virginia Code. I also conducted research on West Virginia law, secondary sources, and law from other jurisdictions, including relevant cases.

No pertinent cases were found in West Virginia. No authority directly on point was found from other jurisdictions. Research revealed some authority that helps clarify some of the issues, however, and those sources are cited herein.

I. Urban Renewal Plan or Urban Redevelopment Plan

The first issue is whether the subject plan is an “urban renewal plan” or “urban redevelopment plan” under the West Virginia Code. The Code outlines similar, but slightly different, requirements for each plan. Table 1 summarizes and compares the required elements of each plan, while Table 2 summarizes and compares the authority under each plan. Both tables are located at the end of this letter.

The plan is entitled “West Side Community Renewal Plan,” indicating that the plan should be analyzed as an urban renewal plan. However, Section 1.1 Preface states in part, that the plan “has been prepared to satisfy the requirements of § 16-18-6 Preparation and approval of redevelopment plans, that an urban renewal plan be the governing body of the municipality before an urban renewal authority undertakes an Urban Renewal Project”. Although “[a]n urban renewal plan shall be prepared and approved pursuant to the same procedure as provided in [Article 18, Chapter 16 of the West Virginia Code] with respect to a redevelopment plan (W. Va. Code, § 16-18-26), § 16-18-6 lays out requirements that appear at first blush to be specific to urban redevelopment plans, not urban renewal plans.

The Code fails to clarify what “procedures” apply to both urban renewal plans and urban redevelopment plans. Since § 16-18-6 is entitled “Preparation and approval of redevelopment plans”, the entire section could apply to renewal plans, although W. Va. Code, § 16-18-26 fails to particularly reference any particular provision. W. Va. Code, §§ 16-18-6(h), (i) and (j) appear to clearly constitute “procedures.”

Land Use and Sustainable Development Law Clinic

Phone: 304-293-4633
Fax: 304-293-7465

PO Box 6130
Morgantown, WV 26506-6130

Equal Opportunity/Affirmative Action Institution

W. Va. Code, §§ 16-18-6(b)-(g) appear to contain a mix of procedural and substantive provisions, while W. Va. Code, § 16-18-6(a) appears to provide a substantive requirement for action under a redevelopment plan. Given the lack of clarity, and the difficulty in resolving the ambiguity, an urban renewal authority, in my opinion, should comply with the requirements of W. Va. Code, §§ 16-18-6(b)-(j) with respect to urban renewal plans and urban redevelopment plans.

In light of this discussion, the reference to W. Va. Code, § 16-18-6 of the Preface to the West Side Community Renewal Plan can be seen as an acknowledgement of the overlapping requirements of an urban renewal plan and an urban redevelopment plan. Given the lack of clarity, particularly with respect to W. Va. Code, §§ 16-18-6(b)-(g), provisions that may prove key in analyzing compliance with the Code, this letter will review compliance with the provisions of W. Va. Code, §§ 16-18-6(b)-(g), as well as compliance with the separate provisions that clearly only apply to urban renewal plan.

II. Urban Redevelopment Plan

“Redevelopment plan” means a plan for the acquisition, clearance, reconstruction, rehabilitation, or future use of a redevelopment project area. W. Va. Code, § 16-18-3(r). Prior to recommending a redevelopment plan to the governing body for approval, an authority shall submit such plan to the planning commission of the community in which the redevelopment project area is located for review and recommendations as to its conformity with the general plan for the development of the community as a whole. W. Va. Code, § 16-18-6(e).

Under W. Va. Code, § 16-18-6(d) a redevelopment plan must include:

- (1) The boundaries of the redevelopment project area, with a map showing the existing uses and conditions of the real property therein;
- (2) A land use plan showing proposed uses of the area;
- (3) Information showing the standards of population densities, land coverage and building intensities in the area after redevelopment;
- (4) A statement of the proposed changes, if any, in zoning ordinances or maps, street layouts, street levels or grades, building codes and ordinances;
- (5) A site plan of the area; and
- (6) A statement as to the kind and number of additional public facilities or utilities which will be required to support the new land uses in the area after redevelopment.

In addition to the planning commission’s recommendations, the redevelopment plan must also include:

- (1) a statement of the proposed method and estimated cost of the acquisition and preparation for redevelopment of the redevelopment project area;
- (2) the estimated proceeds or revenues from its disposal to redevelopers;
- (3) a statement of the proposed method of financing the redevelopment project; and,
- (4) a statement of a feasible method proposed for the relocation of families to be displaced from the redevelopment project area.

W. Va. Code, § 16-18-6(g).

The renewal authority must also consider “whether the proposed land uses and building requirements in the redevelopment project area are designed with the general purpose of accomplishing, in conformance with the general plan, a coordinated, adjusted and harmonious development of the community and its environs which will, in accordance with present and future needs, promote health, safety, morals, order, convenience, prosperity and the general welfare, as well as efficiency and economy in the process of development”. W. Va. Code, § 16-18-6(f). This consideration includes “adequate provision for traffic, vehicular parking, the promotion of safety from fire, panic and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the provision of adequate transportation, water, sewerage and other public utilities, schools, parks, recreational and community facilities and other public requirements, the promotion of sound design and arrangement, the wise and efficient expenditure of public funds, the prevention of the recurrence of insanitary or unsafe dwelling accommodations, slums, or conditions of blight, and the provision of adequate, safe and sanitary dwelling accommodations. W. Va. Code, § 16-18-6(e).

III. Urban Renewal Plan

An “urban renewal plan” means “a plan, as it exists from time to time, for an urban renewal project, which plan (1) shall conform to the general plan for the community as a whole, except as provided for disaster areas, and (2) shall be sufficiently complete to indicate such land acquisition, demolition and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the area of the urban renewal project, zoning and planning changes, if any, land uses, maximum densities, building requirements, and the plan’s relationship to definite local objectives representing appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements.” W. Va. Code, § 16-18-26.

“An urban renewal project may include undertakings and activities for the elimination (and for the prevention of the development or spread) of slums or blighted, deteriorated, or deteriorating areas and may involve any work or undertaking for such purpose constituting a redevelopment project or any rehabilitation or conservation work, or any combination of such undertaking or work.” W. Va. Code, § 16-18-25.

The urban renewal plan may include “(1) carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements; (2) acquisition of real property and demolition, removal, or rehabilitation of buildings and improvements thereon where necessary to eliminate unhealthful, insanitary or unsafe conditions, lessen density, reduce traffic hazards, eliminate obsolete or other uses detrimental to the public welfare, or to otherwise remove or prevent the spread of blight or deterioration, or to provide land for needed public facilities; (3) installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out the objectives of the urban renewal project; and (4) the disposition, for uses in accordance with the objectives of the urban renewal project, of any property or part thereof acquired in the area of such project”. Id. Disposition must be as prescribed for property in redevelopment area. Id.

“Where real property acquired by a community is to be transferred in accordance with the urban renewal plan, any contract for such transfer and the urban renewal plan (or such part or parts of such contract or plan as the authority may determine) may be recorded in the land records of the county in such manner as to afford actual or constructive notice thereof.” W. Va. Code, § 16-18-26. West Virginia Code § 16-18-5(f) also grants broad authority to an urban renewal authority to acquire real property in the urban renewal area prior to approval of an urban renewal plan, or approval of any modifications of the plan. West Virginia Code § 16-18-5(f). The urban renewal authority may demolish and remove any structure on the property, and pay all costs related to the work. The local governing body must approve payment of costs and bears the responsibility of any losses if the property is not made part of the urban renewal project. Id.

IV. Conformance with the “General Plan”

Both an urban renewal plan and an urban redevelopment plan must “conform to the general plan of the community as a whole”, with the exception of disaster areas for an urban renewal plan. W. Va. Code, § 16-18-2; W. Va. Code, §§ 16-18-6(c), (e), (f) and (i); W. Va. Code, § 16-18-25; and, W. Va. Code, §§ 16-18-26. The “general plan” or “general plan of the community as a whole” referred to in these sections is the comprehensive plan. See, e.g., Daniel R. Mandelker, *The Comprehensive Planning Requirement in Urban Renewal*, 116 Penn. L. Rev. 25 (1967). The comprehensive plan was referred to as a general plan in the era in which Chapter 16, Article 18 of the West Virginia Code was adopted, and the West Virginia Code did not refer to “comprehensive plan” until the 1960’s, after the adoption of the provisions at issue.

The element of conformance with the comprehensive plan suggests that the urban renewal plan and urban redevelopment plan should be more specific than the comprehensive plan itself. The comprehensive plan itself is very general and implementing ordinances should conform with, or be consistent with, the comprehensive plan. See, e.g., W. Va. Code, §§ 8A-4-2 (Subdivision and Land Development Ordinance), 8A-5-7 (subdivision or land development), 8A-6-2 (final plat approval), 8A-7-2 (zoning maps), 8A-7-8 (amendments to the zoning ordinance), 8A-7-9 (amendments to the zoning ordinance).

V. Analysis

If considered a redevelopment plan, or if renewal plans must conform to the requirements of W. Va. Code, §§ 16-18-6(b)-(g), the draft plan likely is deficient. Most problematic for the West Side Plan would be Subsection (g). Subsection (g) requires projections of costs and revenues to carry out the plan, as well as sources of revenues. The West Side Plan does not include these items. Although some forms of financing are discussed generally in Section 8 of the plan, the financing is not specifically laid out. Section 8.1 of the plan states, in part, that:

The plan does not identify specific parcels for either acquisition or demolition nor does it contemplate the need for relocation of any families. These activities are not precluded, but not initially anticipated. Rather, the plan identifies concepts for transforming the community through the built environment. The redevelopment project area is comprised of approximately 226 acres. As such, it is impossible to estimate the potential cost of implementing the concepts presented in this plan over such a large plan area. It is reasonable to say that the cost would be many millions of dollars. Redevelopment activities and funding sources will therefore need to come from a wide and creative variety of sources.

An argument exists, however, that W. Va. Code, §§ 16-18-6(b)-(g) constitute substantive, rather than procedural, requirements, and therefore do not apply to urban renewal plans. The question then becomes whether W. Va. Code, §§ 16-18-6(h), (i) and (j) apply to urban renewal plans as “procedure[s] for preparation and approval of an urban renewal plan, required to be followed with respect to an urban renewal plan. W. Va. Code, § 16-18-26. In my opinion, these provisions are procedural, with one possible exception.

Subsection (h) lays out the procedure in detail for the hearing and notice for the hearing. Subsection (i) sets out required findings to be made prior to the governing body approving a redevelopment plan. Although some of these findings involve substantive determinations, the reference to a finding indicates a procedural requirement, in my opinion.

Subsection (j) provides a process for modification of the redevelopment plan. The first clause refers to modification by the authority, and requires consent by the redeveloper(s) of property leased or sold in the redevelopment area after approval of the plan but before the modification. This provision is likely not required of an urban renewal plan, as the requirement does not apply to the approval or preparation of the

plan, unless modification is considered part of the continuing “preparation” process. Arguments can be made on both sides of these issues. Where the “proposed modification will substantially change the ... plan”, subsection (j) requires approval of the modification by the governing body with a process similar to approval of the original plan. This requirement appears to clearly be procedural.

If the West Side Plan is considered a renewal plan and we disregard the procedural issues, W. Va. Code, § 16-18-26 requires that the renewal plan “be *sufficiently complete* to indicate such land acquisition, demolition and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the area of the urban renewal project, zoning and planning changes, if any, land uses, maximum densities, building requirements, and the plan’s relationship to *definite* local objectives representing appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements”. (emphasis added). No guidance could be found to further define this requirement. However, inclusion of the terms “sufficiently complete to indicate land acquisition [and other steps] as may be proposed to be carried out”, and “the plan’s relationship to definite local objectives” indicate some level of specificity is required in the renewal plan. The difference between “general” and “specific” remains unclear.

Only one related case was located to assist in this interpretation. The court in *Paris v. Community Development Agency*, 167 Cal.App.3d 489, 497 (1985) stated that “[n]ecessarily some of the statements in a redevelopment plan will be general and tentative, and formal amendment of the plan is not required for a subsequent administrative interpretation and filling in of details”. The ruling was made in the context of a plan that stated that commercial uses would be allowed in the redevelopment area, but listed examples and included limitations on the commercial uses allowed. Theatres were not mentioned and the appellant wished to build a theatre, but the development agency would not allow the use.

The plan must also be for an “urban renewal project”. W. Va. Code, § 16-18-26. An urban renewal project is broadly defined as including “undertakings and activities for the elimination (and for the prevention of the development or spread) of slums or blighted, deteriorated, or deteriorating areas and may involve any work or undertaking for such purpose constituting a redevelopment project or any rehabilitation or conservation work, or any combination of such undertaking or work.” W. Va. Code, § 16-18-25. Merriam Webster defines “project” as “a *specific plan or design*”. <https://www.merriam-webster.com/dictionary/project> (emphasis added). That the plan must be for a “project” also suggests a certain level of specificity.

VI. Conclusions and Recommendations

The West Virginia Code provisions on urban renewal plans and urban redevelopment plans leave much to be desired. One cannot predict with any degree of certainty what the West Virginia Supreme Court may rule if considering these issues. However, my conclusions are as follows:

- (1) The draft West Side Community Renewal Plan should be considered an urban renewal plan, and should meet the requirements for urban renewal plans, not the requirements of an urban redevelopment plan,
- (2) A court would be slightly more likely than not to find that urban renewal plans must comply with W. Va. Code, §§ 16-18-6(b)-(j). Although application of these requirements to urban renewal plans would cause some redundancies, application makes more sense than not applying the provisions. The draft plan fails to comply with W. Va. Code, §§ 16-18-6(g), and
- (3) Even assuming that W. Va. Code, §§ 16-18-6(b)-(j) do not apply to urban renewal plans, the draft plan lacks the specificity to meet the requirements of W. Va. Code, § 16-18-26(2) that the

renewal plan “be *sufficiently complete* to indicate such land acquisition, demolition and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the area of the urban renewal project, zoning and planning changes, if any, land uses, maximum densities, building requirements, and the plan’s relationship to *definite* local objectives representing appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements.” (emphasis added)

Bolstering this conclusion is the requirement that the renewal plan conform to the City’s comprehensive plan. The comprehensive is very general, so to conform to the comprehensive plan, the redevelopment plan should be more specific. In addition, the fact that the plan must be attached to an urban renewal project implies a degree of specificity that is lacking in the present draft.

Finally, the only applicable case law finds that “some” generality is acceptable in a redevelopment plan. This holding implies that the bulk of the plan should be specific.

I recommend the following:

- (1) That the City of Charleston, pursuant to the procedures contained in Chapter 8A of the W. Va. Code, adopt the draft West Side Community Renewal Plan, with any necessary changes, as an amendment to the City’s comprehensive plan. The draft plan reads much like a comprehensive plan and would position the city well to adopt a more specific urban renewal plan once a renewal project is identified.

Although the draft plan states, at Section 8.1, that best practices for community renewal documents have changed since 2008, and that individual parcel level plans are difficult to implement, the West Virginia Code dictates plans that contain a level of specificity that may not be parcel level, but require a smaller scale than the 260 acres covered by the draft West Side Community Renewal Plan. Under the scheme prescribed by the Code, the broader brush used in the draft plan should be limited to the comprehensive plan.

- (2) The City should consider working with the West Virginia Municipal League to have Article 18, Chapter 16 of the West Virginia Code amended to clarify the ambiguities contained in the Article. Amendments could also possibly be directed towards giving urban renewal authorities more flexibility in adopting renewal plans and redevelopment plans.

If you have any further questions or need more information, please contact me.

Sincerely,

/s/Jesse J. Richardson, Jr.

Jesse J. Richardson, Jr.
Lead Land Use Attorney

Table 1. Required Plan Elements.

Urban Redevelopment Plan	Urban Renewal Plan
Must conform with comprehensive plan	Must conform with comprehensive plan (except with respect to disaster areas)
Boundaries	
Present land use map	
Proposed land use map	
Standards of population densities, land coverage and building intensities in the area after redevelopment	Land uses, maximum densities, building requirements, and the plan's relationship to definite local objectives representing appropriate land uses
A statement of the proposed changes, if any, in zoning ordinances or maps, street layouts, street levels or grades, building codes and ordinances	Zoning and planning changes, if any
Site Plan of the area	
A statement as to the kind and number of additional public facilities or utilities which will be required to support the new land uses in the area after redevelopment	Improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements
A statement of the proposed method and estimated cost of the acquisition and preparation for redevelopment of the redevelopment project area;	Indicate such land acquisition, demolition and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the area of the urban renewal project
The estimated proceeds or revenues from its disposal to redevelopers	Shall be sufficiently complete to indicate such land acquisition, demolition and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the area of the urban renewal project, zoning and planning changes, if any, land uses, maximum densities, building requirements, and the plan's relationship to definite local objectives representing appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements
A statement of the proposed method of financing the redevelopment project	“ “
A statement of a feasible method proposed for the relocation of families to be displaced from the redevelopment project area	“ “

Table 2. Authority under the Plans.

Redevelopment Project	Urban Renewal Project
Acquisition of slum areas or blighted areas or portions thereof, including lands, structures, or improvements the acquisition of which is necessary or incidental to the proper clearance, development or redevelopment of such slum or blighted areas or to the prevention of the spread or recurrence of slum conditions or conditions of blight	Acquisition of real property and demolition, removal, or rehabilitation of buildings and improvements thereon where necessary to eliminate unhealthful, insanitary or unsafe conditions, lessen density, reduce traffic hazards, eliminate obsolete or other uses detrimental to the public welfare, or to otherwise remove or prevent the spread of blight or deterioration, or to provide land for needed public facilities
Clearance of slum areas or blighted areas or portions thereof by demolition or removal of existing buildings, structures, streets, utilities or other improvements thereon	Acquisition of real property and demolition, removal, or rehabilitation of buildings and improvements thereon where necessary to eliminate unhealthful, insanitary or unsafe conditions, lessen density, reduce traffic hazards, eliminate obsolete or other uses detrimental to the public welfare, or to otherwise remove or prevent the spread of blight or deterioration, or to provide land for needed public facilities
Installation, construction, or reconstruction of streets, utilities, and site improvements essential to the preparation of sites for uses in accordance with a redevelopment plan	Installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out the objectives of the urban renewal project
Sell, lease or otherwise make available land in such areas for residential, recreational, commercial, industrial or other use or for public use or to retain such land for public use, in accordance with a redevelopment plan	The disposition, for uses in accordance with the objectives of the urban renewal project, of any property or part thereof acquired in the area of such project
	Carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements
Preparation of a redevelopment plan, the planning, survey and other work incident to a redevelopment project and the preparation of all plans and arrangements for carrying out a redevelopment project	

COMMITTEE ON FINANCE

Councilmember Jenkins, Chair of the Council Committee on Finance, submitted the following reports:

1. Your committee on Finance has had under consideration the following resolution, and reports the same to Council with the recommendation that Resolution No. 282-20 do pass.

Resolution No. 282-20 - Authorizing the Mayor or City Manager to submit applications to the West Virginia State Police Commission on Drunk Driving Prevention during the spring, summer and fall 2020 grant cycles for funds in the amount of \$15,000 each and administer any funds awarded. Funds will be utilized for DUI checkpoints and road patrols by the Charleston Police Department.

Now, therefore, be it Resolved by the Council of the City of Charleston, West Virginia:

That the Mayor or City Manager is authorized to submit grant applications to the West Virginia State Police Commission on Drunk Driving Prevention during the spring, summer and fall 2020 grant cycles for funds in the amount of \$15,000 each and administer any funds awarded. Funds will be utilized for DUI checkpoints and road patrols by the Charleston Police Department.

Councilmember Jenkins added that the grant will be used to set up DUI check points. Including the three periods of the grant, the total will be \$45,000.

Councilmember Jenkins moved to approve the Resolution. Councilmember Ceperley seconded the motion. With a majority of members present recorded thereon as voting in the affirmative, the Mayor declared Resolution 282-20 adopted.

2. Your committee on Finance has had under consideration the following resolution, and reports the same to Council with the recommendation that Resolution No. 284-20 do pass.

Resolution No. 284-20 - Authorizing approval of Amendment No. 6 in the FY 2019-2020 General Fund Budget as indicated on the attached list of accounts.

Be it Resolved by the Council of the City of Charleston, West Virginia:

That Amendment No. 6 in the FY 2019-2020 General Fund Budget as indicated on the attached list of accounts is approved.

Councilmember Jenkins added that the amendment will transfer money between funds to reflect the change in the contract of services with the City that is no longer with Prestera and will instead be directly paying Kanawha Valley Collective. It will also shift funds from the contribution from Huntington Bank to be used on the Martin Luther King Jr. Community Center. It also recognizes the contribution from AT&T of \$45,000 to be used for depilated homes demolitions, purchasing new mattresses for fire stations and after school programs.

Councilmember Jenkins moved to approve the resolution. Councilmember Ceperley seconded the motion. A roll call was taken:

YEAS: Adams, Bailey, Bays, Burton, Campbell, Ceperley, Cook, Faegre, Haas, Hoover, Jenkins, Jones, King, Knauff, Laird, McKinney, Minardi, Overstreet, Persinger, Pharr, Reishman, Robinson, Sheets, Snodgrass, Steele, Wesley-Plear, Mayor Goodwin

NAYS: NONE

ABSENT: NONE

With a majority of members present recorded thereon as voting in the affirmative, the Mayor declared Resolution 284-20 adopted.

General Fund FY 2019-2020 Budget Amendment No. 6 - February 3, 2020

Account No.	Department	Account Description	Amount
001 804 00 000 5 568	Other Health Programs	Other Contributions	(55,000)
001 412 00 000 2 230	City Manager	Contracted Services	55,000

To reallocated funds due to change in the contract for homeless outreach services.

001 368 11 0000	Revenue	Contributions from Others	(60,000)
001 979 00 900 4 458	Parks & Recreation	Capital Outlay - Major Improvements	60,000

To rollover the contribution from Huntington Bank to be used for improvements to the Martin Luther King Jr. Community Center.

001 368 06 0000	Revenue	Contributions from Others	(45,000)
001 436 00 000 2 230	Building Commission	Contracted Services	32,000
001 706 00 000 3 341	Fire	Materials & Supplies	8,000
001 409 00 000 5 568	Mayor's Office	Other Contributions	5,000

To recognize contribution for AT&T to be used for dilapidated home demolition, purchasing new mattresses for the fire stations, and after school programs.

3. Your committee on Finance has had under consideration the following resolution, and reports the same to Council with the recommendation that Resolution No. 285-20 do pass.

Resolution No. 285-20 - Authorizing and directing the Finance Director to establish Fund 019, Tourism and Promotions Fund, a Special Revenue Fund, to account for revenues received from transfers from other funds and other available sources of funding to be used for marketing, direct advertising, business development, and public relations promoting travel and tourism within the city and the city's image and brand identity.

Be it Resolved by the Council of the City of Charleston, West Virginia:

The Finance Director is authorized and directed to establish Fund 019, Tourism and Promotions Fund, a Special Revenue Fund, to account for revenues received from transfers from other funds and other available sources of funding to be used for marketing, direct advertising, business development, and public relations promoting travel and tourism within the city and the city's image and brand identity.

Councilmember Jenkins added that this was part of the previously approved Budget Amendment No. 5, assigning funds from the water crisis settlement. This will go to a Tourism and Promotions Fund.

Councilmember Jenkins moved to approve the Resolution. Councilmember Ceperley seconded the motion. With a majority of members present recorded thereon as voting in the affirmative, the Mayor declared Resolution 285-20 adopted.

4. Your committee on Finance has had under consideration the following resolution, and reports the same to Council with the recommendation that Resolution No. 286-20 do pass.

Resolution No. 286-20 - Authorizing and directing the Finance Director to establish Fund 020, Business Development and Economic Incentives Fund, a Special Revenue Fund, to account for revenues received from transfers from other funds and other available sources of funding to be used for economic development initiatives that promote business formation, expansion, and retention, focusing particularly on small business initiatives.

Be it Resolved by the Council of the City of Charleston, West Virginia:

The Finance Director is authorized and directed to establish Fund 020, Business Development and Economic Incentives Fund, a Special Revenue Fund, to account for revenues received from transfers from other funds and other available sources of funding to be used for economic development initiatives that promote business formation, expansion, and retention, focusing particularly on small business initiatives.

Councilmember Jenkins added this this was also part of the previously approved Budget Amendment No. 5, assigning funds from the water crisis settlement. This fund will receive \$751,312.

Councilmember Jenkins moved to approve the Resolution. Councilmember Ceperley seconded the motion. With a majority of members present recorded thereon as voting in the affirmative, the Mayor declared Resolution 286-20 adopted.

5. Your committee on Finance has had under consideration the following resolution, and reports the same to Council with the recommendation that Resolution No. 287-20 do pass.

Resolution No. 287-20 - Authorizing and directing the Finance Director to establish Fund 021, Community Participation Grant Program Fund, a Special Revenue Fund, to account for revenues received from transfers from other funds and other available sources of funding to be used for issuing grants to eligible organizations for projects and programs that enhance and strengthen the various neighborhoods and communities of Charleston. Expenditures from the fund are subject to program guidelines established by the City Manager.

Be it Resolved by the Council of the City of Charleston, West Virginia:

The Finance Director is authorized and directed to establish Fund 021, Community Participation Grant Program Fund, a Special Revenue Fund, to account for revenues received from transfers from other funds and other available sources of funding to be used for issuing grants to eligible organizations for projects and programs that enhance and strengthen the various neighborhoods and communities of Charleston. Expenditures from the fund are subject to program guidelines established by the City Manager.

Councilmember Jenkins added this was also part of the previously approved Budget Amendment No. 5, assigning funds from the water crisis settlement. This fund will receive \$130,000 with the understanding that each Councilmember will receive \$5,000 to put back into the community through the policies and procedures set forth by the City Manager. Councilmembers must partner with a local 501(c)(3).

Councilmember Jenkins moved to approve the Resolution. Councilmember Ceperley seconded the motion. With a majority of members present recorded thereon as voting in the affirmative, the Mayor declared Resolution 287-20 adopted.

COMMUNITY PARTICIPATION GRANT PROGRAM GUIDELINES

I. PURPOSE

The Community Participation Grant Program is established to promote flexibility and public input regarding the decision-making process for reinvesting a portion of the City's water settlement funds back into the Charleston community.

II. General Terms and Conditions

1. Each Council Member is apportioned a one-time sum of \$5,000 to be spent in accordance with these program guidelines.
2. Members may consolidate some or all of their apportioned funds with one another to facilitate larger projects in the community.
3. Members may spend their apportioned funds by requesting that a financial contribution be made only to charitable organizations, as defined by §501(c)(3) of the Internal Revenue Code.
 - 3.1. Such organizations may not engage in the following activities:
 - 3.1.1 attempt to influence legislation as a substantial part of its activities;
 - 3.1.2 participate in any campaign activity for or against candidates for public office; or
 - 3.1.3 be organized or operated for the benefit of private interests.
4. Members may request the expenditure of their apportioned funds by submitting the attached form to the City Manager. The City Manager reserves the right to refuse a request if, in his/her opinion, and in consultation with the City Attorney, the fulfillment of the request would be in violation of applicable federal, state, or local laws.
5. Members must adhere to the applicable provisions of the West Virginia Governmental Ethics Act, W. Va. Code § 6B-1-1, *et seq.*, and Members may not use apportioned funds for personal gain.
6. All expenditures of funds under this program will be in the name of the City of Charleston only.
7. Members may request to spend all or some portion of their apportioned funds at any time; however, the expenditure of such funds must be in increments of \$500. Payments to an organization will be in the form of a duly-issued City check. No reimbursements to Members for contributions made with private funds will be authorized.
8. The City Manager will keep accurate records of all apportioned funds and their expenditures. Members may request an accounting of his/her fund balance at any time.

6. Your committee on Finance has had under consideration the following resolution, and reports the same to Council with the recommendation that Resolution No. 288-20 do pass.

Resolution No. 288-20 - Authorizing the Mayor or City Manager to enter into a contract with Progressive Electric, Inc. in the amount of \$29,435 for the purchase and installation of an electric generator for the City Service Center, 915 Quarrier Street, East, where the cost of the purchase will be expensed to the Parking System's operational budget.

Be it Resolved by the Council of the City of Charleston, West Virginia:

The Mayor or City Manager is authorized to enter into a contract with Progressive Electric, Inc. in the amount of \$29,435 for the purchase and installation of an electric generator for the City Service Center, 915 Quarrier Street, East, where the cost of the purchase will be expensed to the Parking System's operational budget.

Councilmember Jenkins added that two bids were received, with only one being responsive.

Councilmember Jenkins moved to approve the Resolution. Councilmember Ceperley seconded the motion. With a majority of members present recorded thereon as voting in the affirmative, the Mayor declared Resolution 288-20 adopted.

Purchase and Installation of a New Generator for the Parking System

Project No. 2019-002

Bid Opening: January 14, 2020 @ 11:00am

	Progressive Electric		
	PO Box 3695		
	Charleston WV, 25336		
	P: (304) 345-1253		
	rrhodes@wewireu.com		
Project Total	\$29,435.00		
Local Vendor Preference (4%)	(1,177.40) \$28,257.60		
Project Completion	90 days		
Successful Bidder with Local Preference Consideration			

7. Your committee on Finance has had under consideration the following resolution, and reports the same to Council with the recommendation that Resolution No. 289-20 do pass as amended.

Resolution No. 289-20 as Amended - Authorizing the Mayor or City Manager to acknowledge and approve an Allonge to Note, permitting a maturity date extension to December 1, 20202, on a \$350,000 loan issued by the Charleston Urban Renewal Authority to Charleston Renaissance Development Corporation, dated June 4, 1991, and where Religious Coalition for Community Renewal, Inc. is the successor in interest to the original loan and the principal amount outstanding on the loan is approximately \$39,000.

Be it Resolved by the Council of the City of Charleston, West Virginia:

The Mayor or City Manager is authorized to acknowledge and approve an Allonge to Note, permitting a maturity date extension to December 1, 20202, on a \$350,000 loan issued by the Charleston Urban Renewal Authority to Charleston Renaissance Development Corporation, dated June 4, 1991, and where Religious Coalition for Community Renewal, Inc. is the successor in interest to the original loan and the principal amount outstanding on the loan is approximately \$39,000.

Councilmember Jenkins added that the resolution was amended in Committee to correct the maturity extension date to “2022.” This will apply to the Smith Station housing.

Councilmember Jenkins moved to approve the Resolution. Councilmember Ceperley seconded the motion. With a majority of members present recorded thereon as voting in the affirmative, the Mayor declared Resolution 289-20 adopted as Amended.

8. Your committee on Finance has had under consideration the following bill, and reports the same to Council with the recommendation that Bill No. 7860 do pass.

Bill No. 7860 - A Bill closing, abandoning and discontinuing as a public right of way a portion of the alley that runs between and is perpendicular to Randolph Street and Wyoming Street, in Charleston West Tax District of the City of Charleston, Kanawha County, West Virginia.

BE IT ORDAINED BY THE CITY COUNCIL OF CHARLESTON, WEST VIRGINIA:

1. Being a portion of the alley that runs between and is perpendicular to Randolph Street and Wyoming Street, in the City of Charleston, West Virginia, in Charleston West Tax District of the City of Charleston, Kanawha County, West Virginia, is more particularly described as follows:

Beginning at a point on the western right of way of Wyoming Street, said point is situate N 30°02'00"W, 120.00' from the northern right of way of Ohio Avenue, thence leaving Wyoming Street, and now running with the northern line of Tax Map 25 Parcel 292, S 60°W, 120.00' to a point; thence leaving Parcel 292, and now running across said Alley, N 30°02'00"W, 10.00' to a point; thence with the southern line of Parcel 288, N 60°00'00"E, 120.00' to a point on the western right of way of Wyoming Street, S 30°02'00"E, 10.00' to the point of beginning, containing 1,200 Square Feet.

Reference is made to a plat entitled "PLAT OF SURVEY SHOWING PROPOSED ABANDONMENT OF A 10' x 120' Alley Containing 1200 SQ. FT. FOR THE PROPOSED PURCHASE BY JERICK FARMS IN. FROM THE CITY OF CHARLESTON" by Keely Surveying, dated December 11, 2019, as surveyed by Timothy L. Keely, WV Professional Surveyor No. 972, attached hereto and made a part hereof as Attachment A.

2. The Mayor of the City of Charleston be, and is hereby authorized and directed to execute, acknowledge and deliver a proper deed conveying to Jerick Farms Inc., and its successors and assigns, all right, title and interest in and to said property as described in Section 1 above, for the consideration of \$6,800.

2. All prior ordinances, or parts of ordinances, inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

Councilmember Jenkins added the bill will ensure that the old West Side Post Office can be redeveloped and properly used. The right-of-way to the alley was appraised will be sold for \$6,800.

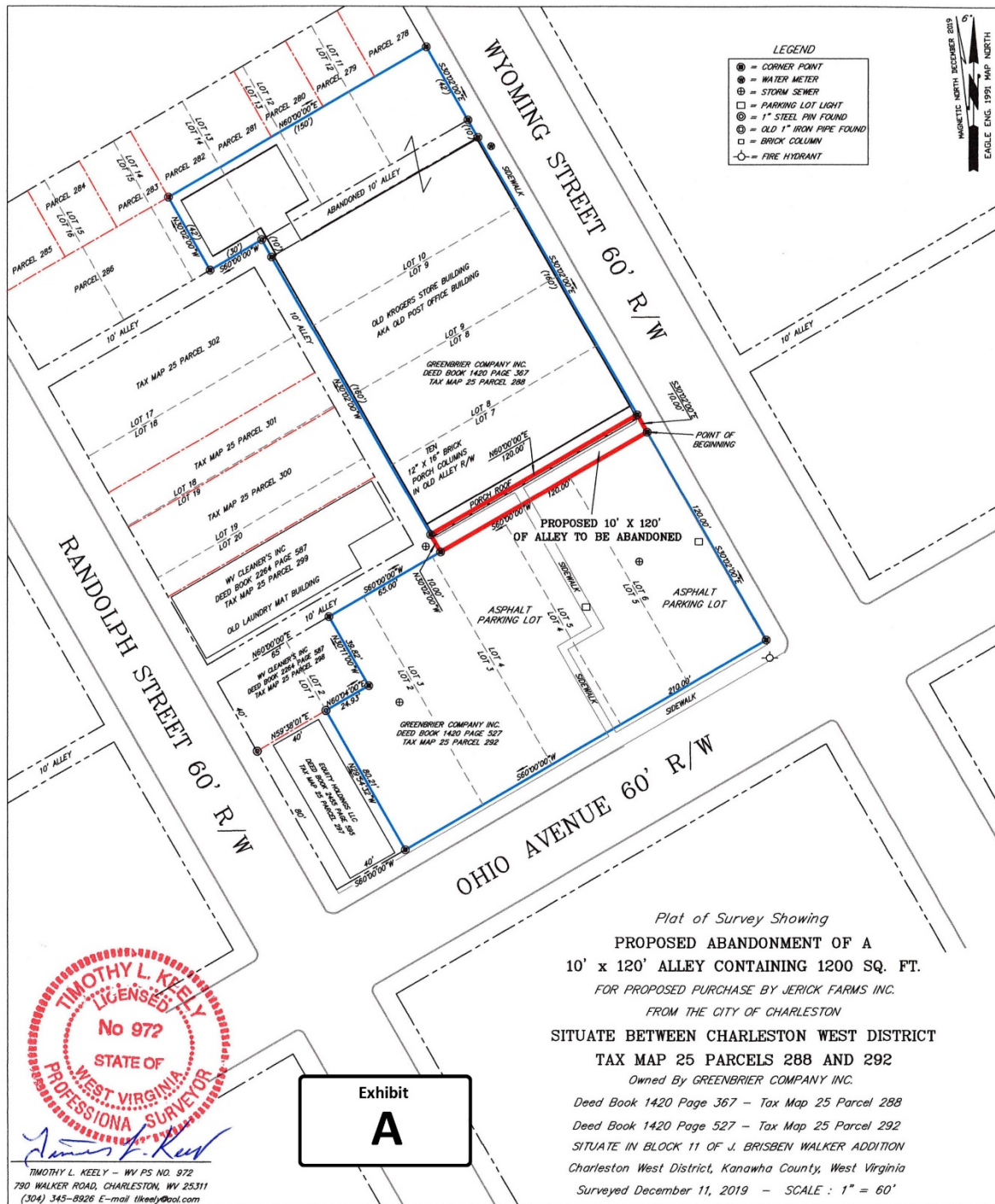
Councilmember Jenkins moved to approve the bill. Councilmember Ceperley seconded the motion. A roll call was taken:

YEAS: Adams, Bailey, Bays, Burton, Campbell, Ceperley, Cook, Faegre, Haas, Hoover, Jenkins, Jones, King, Knauff, Laird, McKinney, Minardi, Overstreet, Persinger, Pharr, Reishman, Robinson, Sheets, Snodgrass, Steele, Wesley-Plear, Mayor Goodwin

NAYS: NONE

ABSENT: NONE

With a majority of members present recorded thereon as voting in the affirmative, the Mayor declared Bill No. 7860 passed.



9. Your committee on Finance has had under consideration the following bill, and reports the same to Council with the recommendation that Bill No. 7861 Committee Substitute do pass.

Bill No. 7861 Committee Substitute - AN ORDINANCE WITH RESPECT TO APPROVING THE WOODWARD BRANCH SANITARY SEWER REPLACEMENT AND REHABILITATION PROJECT.

WHEREAS, the Sanitary Board is pursuing a sewer replacement and rehabilitation project in the Woodward Branch area of the City of Charleston which is necessary to correct older, failing sewer collection lines and is necessary for the health and welfare of the citizens of the City of Charleston (the “Woodward Branch Project”); and

WHEREAS, Chapter 24, Article 2, Section 11(l) of the Code of West Virginia, 1931, as amended, provides that the Council of the City of Charleston shall read the proposed construction and the proposed rates, fees and charges at two meetings, with at least two weeks between each meeting, with a public hearing to be conducted with or following the second reading, and that enactment of the proposed construction and the proposed rates, fees and charges shall follow an affirmative vote of the governing body and shall be effective no sooner than forty-five days following the action of the governing body; and

WHEREAS, the Woodward Branch Project consists of two separate Phases and consists of work including the planning, design, acquisition and construction of certain extensions, additions, betterments and improvements to its existing sewerage system, including but not limited to, the replacement and or rehabilitation of existing sewers in the areas of: Phase 1: 26th Street (between 7th Avenue and Washington Street West); Washington Street West (East and West from intersection with 26th Street and Woodward Drive); Woodward Drive (from intersection with Washington Street West to Headley Drive); Woodhaven Drive; Woodpath Lane; and Wilmore Lane; and Phase 2: ~~Larchmont Drive; Spring Drive; Thompson Circle; Ledge Hill Drive; an unnamed alley between Woodward Drive; Blackwell Drive; Larchmont Drive; Savary Drive; and Zabel Drive; and streets intersecting Woodward Drive including Blackwell Drive, Savary Drive; Zabel Drive; and Spring Drive; Thompson Circle; Diana Court; and Ledge Hill Road;~~

provided, that the work will further include all necessary appurtenances; further provided, that to the extent that funds remain available, extensions, additions, betterments and improvements to the remaining portion of the existing sewer system; and

WHEREAS, the Sanitary Board is not proposing an increase in its rates, fees and charges to support the Woodward Branch Project, thus the rates, fees and charges previously approved by the Council of the City of Charleston for the Sanitary Board will be charged;

Now, therefore, be it ordained by the Council of the City of Charleston, West Virginia:

Section 1. That the construction of the Sanitary Board’s Woodward Branch Sewer Replacement and Rehabilitation Project consisting of two separate Phases and consisting of work including the planning, design, acquisition and construction of certain extensions,

additions, betterments and improvements to its existing sewerage system, including but not limited to, the replacement and or rehabilitation of existing sewers in the areas of: Phase 1: 26th Street (between 7th Avenue and Washington Street West); Washington Street West (East and West from intersection with 26th Street and Woodward Drive); Woodward Drive (from intersection with Washington Street West to Headley Drive); Woodhaven Drive; Woodpath Lane; and Wilmore Lane; and Phase 2: Larchmont Drive; Spring Drive; Thompson Circle; Ledge Hill Drive; an unnamed alley between Woodward Drive; Blackwell Drive; Larchmont Drive; Savary Drive; and Zabel Drive; and streets intersecting Woodward Drive including Blackwell Drive; Savary Drive; Zabel Drive; and Spring Drive; Thompson Circle; Diana Court; ~~and Ledge Hill Road~~; provided, that the work will further include all necessary appurtenances; further provided, that to the extent that funds remain available, extensions, additions, betterments and improvements to the remaining portion of the existing sewer system is hereby authorized and approved; and

Section 2. That, in accordance with the requirements of Chapter 24, Article 2, Section 11 of the Code of West Virginia, 1931, as amended, the approval of the proposed construction shall be effective no sooner than 45 days from the date of said approval; and

Section 3. This Ordinance shall be effective immediately upon adoption.

Passed on First Reading: _____

Adopted on Second Reading: _____

Mayor Amy Shuler Goodwin

City Clerk Miles Cary

Councilmember Jenkins added that the Committee Substitute changed the bill to reflect a more proper and accurate description of the Phase 2 streets, to correct spelling errors and to place the streets in a more logical order.

Councilmember Jenkins moved to approve the bill. Councilmember Ceperley seconded the motion. A roll call was taken:

YEAS: Adams, Bailey, Bays, Burton, Campbell, Ceperley, Cook, Faegre, Haas, Hoover, Jenkins, Jones, King, Knauff, Laird, McKinney, Minardi, Overstreet, Persinger, Pharr, Reishman, Robinson, Sheets, Snodgrass, Steele, Wesley-Plear, Mayor Goodwin

NAYS: NONE

ABSENT: NONE

With a majority of members present recorded thereon as voting in the affirmative, the Mayor declared Bill No. 7861 Committee Substitute passed.

10. Your committee on Finance has had under consideration the following bill, and reports the same to Council with the recommendation that Bill No. 7865 do pass.

Bill No. 7865 – A BILL to amend and reenact Section 54-105 of the Municipal Code of the City of Charleston, as amended, relating to updating fire department holiday compensation to be consistent with state law.

Now, therefore, be it ordained by the Council of the City of Charleston:

That Section 54-105 of the Municipal Code of the City of Charleston, as amended, be amended and reenacted to read as follows:

ARTICLE II. – FIRE DEPARTMENT.

DIVISION 3. - VACATION, OTHER LEAVE, DUTY HOURS, AND CALCULATION OF OVERTIME PAY.

Sec. 54-105 – Legal Holidays.

(a) The following days shall be regarded, treated and observed as legal holidays:

- (1) January 1, New Year's Day;
- (2) The third Monday of January, Martin Luther King's Birthday;
- (3) The third Monday of February, Presidents' Day;
- (4) The last Monday in May, Memorial Day;
- (5) June 20, West Virginia Day;
- (6) July 4, Independence Day;
- (7) The first Monday of September, Labor Day;
- (8) The second Monday of October, Columbus Day;
- (9) November 11, Veterans Day;
- (10) The fourth Thursday and Friday of November, Thanksgiving Day Holidays;
- (11) December 25, Christmas Day;
- (12) Any national, state or other election day throughout the district or municipality wherein the election is held, provided, that if a special or other election of a political subdivision other than the City of Charleston falls on a Saturday or Sunday, the City of Charleston may choose not to recognize the day of the election as a holiday if a majority of the City of Charleston City Council votes not to recognize the day of the election as a holiday; and
- (13) All days which may be appointed or recommended by the mayor, the governor or the President of the United States as days of thanksgiving or for the general cessation of business. When any of such days or dates falls on Saturday or Sunday, either the preceding Friday or the succeeding Monday shall be regarded, treated and observed as such legal holiday.

(b) Uniformed members on 24-hour shift duty who are required to receive additional compensation for legal holidays under state law pursuant to West Virginia Code section 8-15-10a

shall, upon the occurrence of a legal holiday, be paid for an extra day (i.e., 12 hours) at their regular rate of pay, regardless of whether the member is required to work on the legal holiday or the legal holiday occurs on the member's regularly scheduled day off, shall either be (1) paid at a rate of one and one-half times the member's regular rate of pay for twenty-four hours; or (2) allowed equal time off at such time as may be approved by the fire chief or his or her designee.

(c) Uniformed members on a 40-hour week who are required to work on a legal holiday, or if the legal holiday occurs on their regularly scheduled day off shall be allowed up to one working day (8 consecutive hours) of time off, which must be taken in the same calendar year in which it is accrued, and at such time as approved by the fire chief or his or her designee.

Councilmember Jenkins added that the bill changes City Code to reflect the correct application in holiday pay for the CPD that was previously approved by Council.

Councilmember Jenkins moved to approve the bill. Councilmember Ceperley seconded the motion. A roll call was taken:

YEAS: Adams, Bailey, Bays, Burton, Campbell, Ceperley, Cook, Faegre, Haas, Hoover, Jenkins, Jones, King, Knauff, Laird, McKinney, Minardi, Overstreet, Persinger, Pharr, Reishman, Robinson, Sheets, Snodgrass, Steele, Wesley-Plear, Mayor Goodwin

NAYS: NONE

ABSENT: NONE

With a majority of members present recorded thereon as voting in the affirmative, the Mayor declared Bill No. 7865 passed.

REPORTS OF OFFICERS

1. Report of the City of Charleston Payroll Variance Analysis;
January 2020.
Received and Filed.

NEW BILLS

Introduced by Councilmember Mary Beth Hoover on February 3, 2020:

Bill No. 7863 – A Bill amending the Zoning Ordinance of the City of Charleston, West Virginia, by creating the Neighborhood Reinvestment Overlay Zoning District including provisions for residential density, parking, and development standards.

Refer to Municipal Planning Commission and Planning, Streets and Traffic Committee

Introduced by Councilmember Joseph Jenkins on February 3, 2020:

Bill No. 7866 – Authorizing the design, acquisition and construction of certain extensions, additions, betterments and improvements to the existing sewerage system of The City of Charleston; authorizing the issuance of not more than \$16,000,000 in aggregate principal amount of Sewerage System Revenue Bonds.

Refer to Finance Committee

MISCELLANEOUS/UNFINISHED BUSINESS

1. Mayor Goodwin recognized the members of Youth Council attending the meeting. The Mayor thanked Huntington Bank and AT&T for their donations and community involvement. Mayor Goodwin also said that City Attorney, Kevin Baker, will speaking against Senate Bill No. 96 on behalf of the Administration.
2. Councilmember Jenkins encouraged Councilmembers and any interested citizens to apply for the Citizen Police Academy through the Charleston Police Department.
3. Councilmember Ceperley stated that she would be available to answer questions regarding Resolution No. 277-20.
4. Councilmember Pharr read a letter from the King Center founder, Coretta Scott King, thanking the Mayor for the recent honorary street naming of Martin Luther King Jr. Way. Councilmember Pharr also stated that there is a Destination Downtown Group that regularly meets to discuss how the Downtown Area can best be promoted. It was stated that the revenue given to the CAA by the City was cut by \$25,000. She would like that resolution located, and added that downtown business owners are not represented in the Alliance.
5. Councilmember Jones thanked the CPD for the safety checkpoint in his Ward.

ADJOURNMENT

The Clerk, Miles C. Cary II, called the closing roll call:

YEAS: Adams, Bailey, Bays, Burton, Campbell, Ceperley, Cook, Faegre, Haas, Hoover, Jenkins, Jones, King, Knauff, Laird, McKinney, Minardi, Overstreet, Persinger, Pharr, Reishman, Robinson, Sheets, Snodgrass, Steele, Wesley-Plear, Mayor Goodwin

NAYS: NONE

ABSENT: NONE

At 7:54 p.m., by a motion from Councilmember Ceperley, Council adjourned until Tuesday, February 18, 2020, at 7:00 p.m., in the Council Chamber in City Hall.

Amy Shuler Goodwin, Honorable Mayor

Miles C. Cary II, City Clerk