

CHARLESTON CITY COUNCIL

Regular Meeting

June 17, 2019

at 7:00 PM



Council Chambers, Third Floor
City Hall, 501 Virginia St. E.
Charleston, WV

AGENDA

CALL TO ORDER BY THE MAYOR

INVOCATION AND PLEDGE OF ALLEGIANCE

ROLL CALL

PUBLIC SPEAKERS AND CLAIMS

1. Claims 6-17-2019

PROCLAMATIONS

1. Proclamations

COMMUNICATIONS

1. Communications

REPORTS OF STANDING COMMITTEES

FINANCE

1. Resolution No. 206-19 - Authorizing the City Manager to execute Change Order #3 with Stantec Consulting Services, Inc., in the amount of \$1,900.00 to perform additional adhesion testing on the protective coating that has failed on the Charleston Coliseum and Convention Center.

2. Resolution No. 207-19 - Authorizing the Mayor or City Manager to convey a small piece of property near Brawley Walkway to Charleston Urban Renewal Authority.
3. Resolution No. 208-19 - Authorizing the Mayor or City Manager to enter into an agreement with Garcie R. Marker & Sons, Inc., in the amount of \$619,225.00, for the Concrete Street Repair Project.
4. Resolution No. 209-19 - Authorizing the Mayor or City Manager to enter into a contract with Vance Outdoors Inc. for the purchase of 60 assault rifles and related accessories in the amount of \$82,173.60 pursuant to the results of a competitive bidding process.
5. Resolution No. 210-19 – Authorizing the Mayor or City Manager to submit a grant application to the West Virginia Department of Environmental Protection through the REAP program in the amount of \$150,000, where any awarded funds will be used to educate City residents about recycling and to conduct a study on recycling practices.
6. Resolution No. 211-19 - Authorizing the Mayor or City Manager to enter into a contract with Daktronics Inc., for an Indoor Digital Display Screen for the Charleston Coliseum and Convention Center, Upper Lobby Display in the amount of \$105,640.00. Pursuant to the results of a competitive bidding process.

REPORTS OF OFFICERS

1. Reports of Officers

NEW BILLS

1. New Bills

UNFINISHED BUSINESS AND/OR MISCELLANEOUS BUSINESS

ROLL CALL

ADJOURNMENT

THE NEXT REGULAR MEETING OF COUNCIL WILL BE HELD JULY 1, 2019 AT 7:00 P.M.

***Meetings may be recorded and broadcast via internet <https://charlestonwv.civicclerk>**

AFFIDAVIT
City of Charleston



STATE OF WEST VIRGINIA
COUNTY OF KANAWHA, to-wit:

The Mayor, Recorder, and/or Municipal Attorney of the City of Charleston, West Virginia, will take notice that this day appeared before the undersigned authority,

Angela Archer, Claimant,
who, after being first by me duly sworn, deposes and says:

That this affiant resides at: 42 Western Dr Hurricane WV 25526

Telephone Number: 606-309-7864

and that on the 24 day of May, 2014/2015, at approximately 12 am/pm
in the City of Charleston, West Virginia, he/she sustained

Damage to right front tire of vehicle

Nature Of Injury And/Or Damage

As A Result Of:

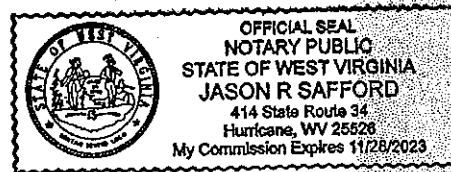
Hitting pothole on West Washington Street

As a result of which accident the Claimant, Angela Archer, does hereby make claim against the City of Charleston, West Virginia, for damages incurred and to be incurred by him/her in the future.

Angela Archer
Signature of Claimant

Taken, subscribed and sworn to before me this 6 day of June, 2015.
My commission expires 11/28/23

Jason R Safford
Notary Public



Names and Addresses of Witnesses to Accident:

Gary & Betty Archer PO Box 965 Hurricane WV

Additional Comments:

When returning from visiting the Spring

Hill Cemetery - hit pothole on West Washington



AFFIDAVIT City of Charleston



STATE OF WEST VIRGINIA
COUNTY OF KANAWHA, to-wit:

The Mayor, Recorder, and/or Municipal Attorney of the City of Charleston, West Virginia, will take notice that this day appeared before the undersigned authority,

Violet M. Burns, Claimant,
who, after being first by me duly sworn, deposes and says:

That this affiant resides at: 1333 Red Oak St. Charleston WV 25302

Telephone Number: 304-678-2208

and that on the 27th day of March, 2018/~~2019~~, at approximately 1 ~~am~~/pm
in the City of Charleston, West Virginia, he/she sustained

Mishandling of Personal Property (Cell Phone)

Nature Of Injury And/Or Damage

As A Result Of:

my cell phone being misplaced into someone else personal property. And me out of a phone and money spent for it.

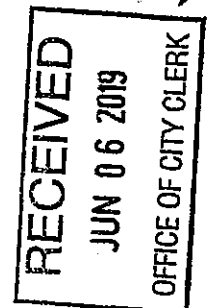
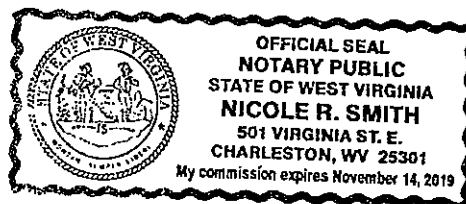
As a result of which accident the Claimant, Violet M. Burns, does hereby make claim against the City of Charleston, West Virginia, for damages incurred and to be incurred by him/her in the future.

[Signature]

Signature of Claimant

Taken, subscribed and sworn to before me this 6th day of June, 2019.
My commission expires November 19, 2019.

[Signature]
Notary Public





AFFIDAVIT
City of Charleston



STATE OF WEST VIRGINIA
COUNTY OF KANAWHA, to-wit:

The Mayor, Recorder, and/or Municipal Attorney of the City of Charleston, West Virginia, will take notice that this day appeared before the undersigned authority,
Karen Reed, Claimant,
who, after being first by me duly sworn, deposes and says:

That this affiant resides at: 1706 Sugar Creek Drive, Charleston, WV 25387

Telephone Number: (304) 343-7649

and that on the 24 day of May, 2018 (2019) at approximately 9:15 am/pm
in the City of Charleston, West Virginia, he/she sustained

the mowing deck of the City of Charleston mower
hit and damaged the side of my bridge. See attached photos.
Nature Of Injury And/Or Damage

As A Result Of:

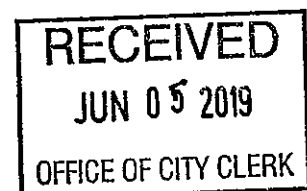
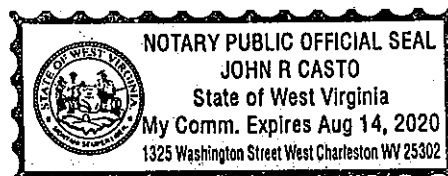
mower deck/blade hitting the side of the
bridge while cutting weeds

As a result of which accident the Claimant, Karen Reed, does hereby
make claim against the City of Charleston, West Virginia, for damages incurred and to be incurred by
him/her in the future.

Karen J Reed
Signature of Claimant

Taken, subscribed and sworn to before me this 3 day of June, 2019.
My commission expires 6-14-2020

John R Casto
Notary Public





AFFIDAVIT City of Charleston

RECEIVED
JUN 03 2019
OFFICE OF CITY CLERK



STATE OF WEST VIRGINIA
COUNTY OF KANAWHA, to-wit:

The Mayor, Recorder, and/or Municipal Attorney of the City of Charleston, West Virginia, will take notice that this day appeared before the undersigned authority,

Terri Lee Williams, Claimant,
who, after being first by me duly sworn, deposes and says:

That this affiant resides at: 1960 Parkwood Rd., Charleston, WV 25314

Telephone Number: 304-421-4786

and that on the 29th day of May, 2019, at approximately 9:00 am/pm
in the City of Charleston, West Virginia, he/she sustained

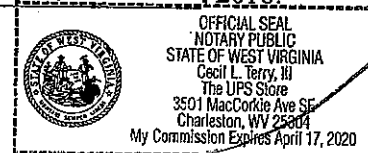
Damages made the police squad to my door trim broke glass and my office to find my son living up there, arrested him. The police dept. head told me the Nature Of Injury And/Of Damage I could mail this in the city police dept. would pay for my damages. Three years ago I did get my replace but the window pain blind inside that they demand. As a Result Of: The arrested my son - he has been in prison for 2 years 9 mo - got out (he had 3-30 years) the police in Indiana came & got him at St. Mary's Correctional Center. For a probation violation he spent 1 month there. He came home on April 1, 2019 by plane from Indiana

As a result of which accident the Claimant, Terri L. Williams, does hereby make claim against the City of Charleston, West Virginia, for damages incurred and to be incurred by him/her in the future.

Terri L. Williams
Signature of Claimant

Taken, subscribed and sworn to before me this 1 day of June
My commission expires 4/17/2020

2019
2016



Notary Public

*Please read all 12 pages

I went in hospital March 22, 2019 from a wreck I had going 45 on the interstate left lane closed working on the interstate! I had a stroke & get off the next Exit (a truck weighing station close off and I was going 40 & I hit a utility pole - the police said I could not talk - took me to Camden Park Hospital. I showed them in my phone my sister's number. they called Dr. Caroline Williams - she had the

**EXECUTIVE DEPARTMENT
CITY OF CHARLESTON
PROCLAMATION**

- WHEREAS:** Alzheimer's & Brain Awareness Month helps spread awareness of the Alzheimer's Association's vision of imagining a world without Alzheimer's disease; and
- WHEREAS:** June 21, the summer solstice, has been declared The Longest Day, with teams around the world coming together to participate in an activity they love, or an activity loved by those affected by Alzheimer's, to raise awareness for care and assistance, while supporting the advancement of research toward the first survivor of Alzheimer's; and
- WHEREAS:** In recognition of the 38,000 West Virginians living with Alzheimer's disease and their 106,000 caregivers, it is fitting that we designate June as Alzheimer's & Brain Awareness Month to raise awareness of Alzheimer's disease and those it impacts; and
- WHEREAS:** Alzheimer's disease is a family disease impacting spouses, partners, children, brothers, sisters, aunts, uncles, and other relatives who provide voluntary assistance to a loved one; and
- WHEREAS:** West Virginia caregivers devote 121 million total hours of voluntary care to family members; and
- WHEREAS:** Alzheimer's disease is the only disease among the top 10 causes of death in the United States that cannot be prevented, cured, or even slowed

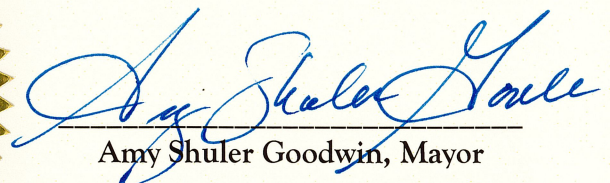
NOW THEREFORE, I, Amy Shuler Goodwin, Mayor of the City of Charleston, do hereby proclaim June 2019, as

ALZHEIMER'S & BRAIN AWARENESS MONTH

in the City of Charleston and encourage all citizens to wear purple and help the Alzheimer's Association raise awareness and further the advancement of Alzheimer's care, support, and research.

IN WITNESS WHEREOF, I have set my hand and caused the Seal of the Executive Department to be affixed this 17th day of June 2019.




Amy Shuler Goodwin, Mayor

Resolution No. 206-19

Introduced in Council

Passed by Council

June 17, 2019

Introduced by
Joseph Jenkins

Referred from
Finance Committee

1 Resolution No. 206-19 - Authorizing the City Manager to execute Change Order #3 with
2 Stantec Consulting Services, Inc., in the amount of \$1,900.00 to perform additional
3 adhesion testing on the protective coating that has failed on the Charleston Coliseum
4 and Convention Center, as listed in Exhibit A, attached hereto. This change order
5 increases the contract price from \$141,861.50 to 143,761.50.

6

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

8

9 That the City Manager is hereby authorized and directed to execute Change Order #3
10 with Stantec Consulting Services, Inc., in the amount of \$1,900.00 to perform additional
11 adhesion testing on the protective coating that has failed on the Charleston Coliseum
12 and Convention Center, as listed in Exhibit A, attached hereto. This change order
13 increases the contract price from \$141,861.50 to 143,761.50.

14



Stantec Consulting Services Inc.
111 Elkins Street, Fairmont WV 26554-4021

May 29, 2019

Attention: Chris Knox, PE
City Engineer, City of Charleston

Dear Mr. Knox,

Reference: City of Charleston, Civic Center Adhesion Testing and Report

As discussed in our field meeting on Thursday, May 9, 2019, we are submitting a cost proposal to perform adhesion testing on sections of the Civic Center where the protective coating has failed. After the completion of the testing, Stantec will deliver a recommendation report detailing the findings of the field investigation. The costs are proposed as follows:

- Field Investigation, Adhesion testing (16 tests)

NACE Level III – (6 Hours) (\$135.00 Per Hour)	=	\$810.00
NACE Technician - (6 Hour) (\$95.00 Per Hour)	=	\$570.00
 - Recommendation Report

NACE Level III - (2 Hours) (\$135.00 Per Hour)	=	\$270.00
--	---	----------
 - Directs (Testing Supplies and Equipment) = \$250.00
- Total \$1900.00**

Total cost is not to be exceeded without out prior authorization from the City of Charleston. If you are in agreeance with the proposal presented above including the attached standard Terms and Conditions, please sign and return one copy to our office.

Regards,

Stantec Consulting Services Inc.

Donavon Cunningham
Field Services Manager
Phone: 304 816 5194
Fax: 304 367 9403
donavon.cunningham@stantec.com

Design with confidence. Period.

Resolution No. 207-19

Introduced in Council:

June 17, 2019

Adopted by Council:

Introduced by:

Joseph Jenkins

Referred to:

Finance

Resolution No. 207-19 - Authorizing the Mayor or City Manager, pursuant to W. Va. Code §16-18-16, to sever approximately 707 square feet of City property, which is more particularly described in Exhibit A, and convey the property to the Charleston Urban Renewal Authority (CURA) in order to merge it with the adjacent property already owned by CURA to facilitate the development of the adjacent property.

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

That the City Manager or Mayor are authorized to sever approximately 707 square feet of City property, which is more particularly described in Exhibit A, and convey the property to the Charleston Urban Renewal Authority (CURA) in order to merge it with the adjacent property already owned by CURA to facilitate the development of the adjacent property.

**DESCRIPTION OF PART OF THE
CITY OF CHARLESTON PROPERTY
TO BE SEVERED AND MERGED WITH
TAX MAP 8 PARCEL 41
CITY OF CHARLESTON, WV**

Being a parcel or tract of land situate in Charleston East District, Kanawha County, West Virginia, to which a more particular description is made, to-wit:

To find the TRUE POINT OF BEGINNING commence at a mag nail at the buiding corner marking the southeastern-most corner of a the Charleston Urban Renewal Authority property (CURA) Tax Map 8 Parcel 41 on the southerly right of way line of line of Brawley Walkway; thence with said building line,

S. 39°08'55" E. a distance of 18.81 feet to a mag nail set at edge of building in the line of CURA ; thence through and over the lands of the City of Charleston the following three (3) lines:

S. 32°10'34" E. a distance of 20.84 feet to a mag nail set; thence,

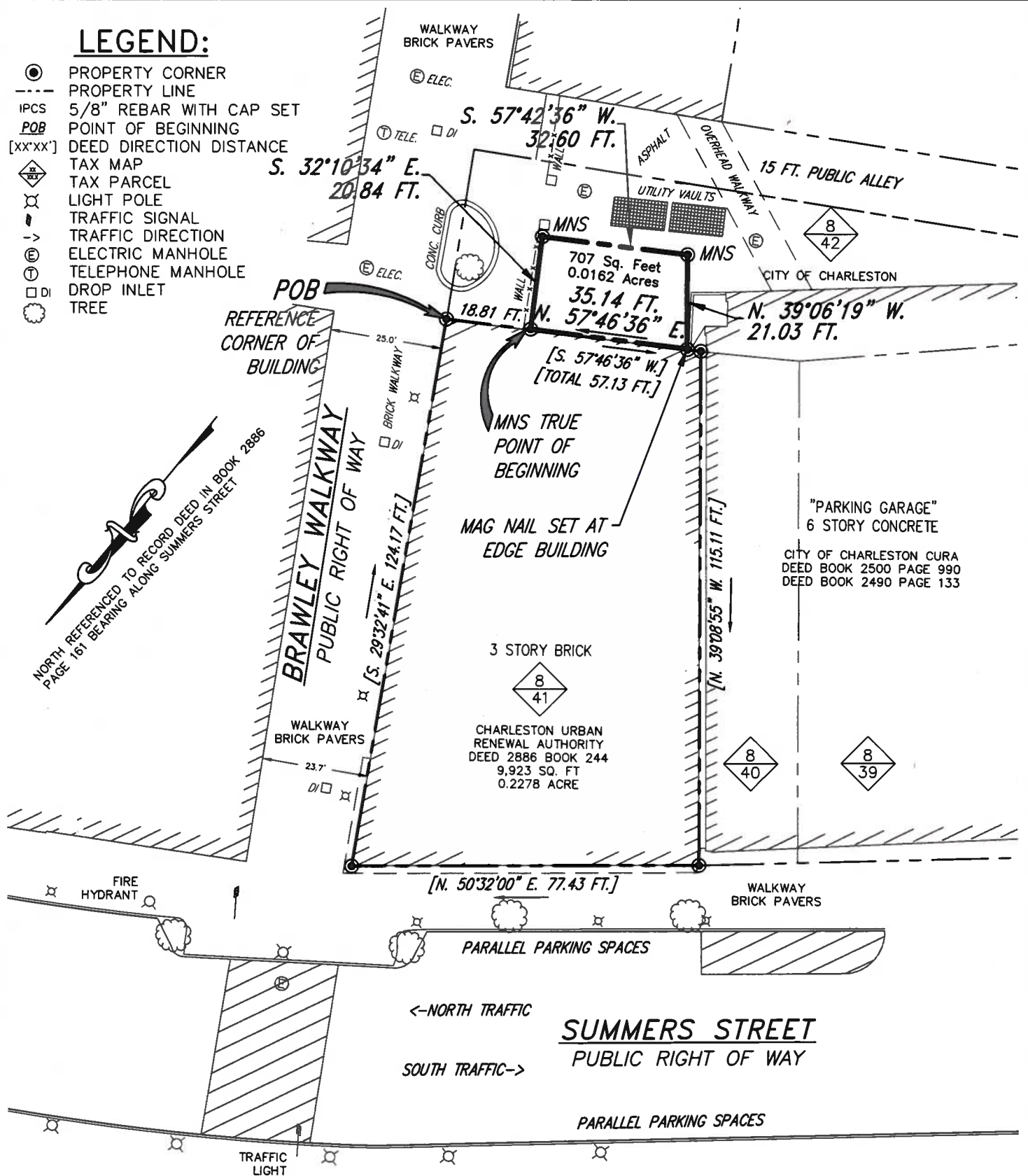
S. 57°42'36" W. a distance of 32.60 feet to a mag nail set; thence,

N. 39°06'19" W. a distance of 21.03 feet to a mag nail set at edge of building in the line of CURA Tax Map 8 Parcel 41; thence with the division line of said CURA,

N. 57°46'36" E. a distance of 35.14 feet to the Point of Beginning, having an area of 707 square feet or 0.0162 acre, more or less. Reference is made to a survey prepared by S & S Engineers, Inc., Charleston WV, titled "PLAT OF SURVEY OF PART OF CITY OF CHARLESTON PROPERTY TO BE MERGED WITH TAX MAP 8 PARCEL 41" dated June 7, 2019, and bearing the signature of Randy Brooks Crace, West Virginia Professional Surveyor No. 756.

LEGEND:

- PROPERTY CORNER
- PROPERTY LINE
- IPCS 5/8" REBAR WITH CAP SET
- POB POINT OF BEGINNING
- [XX'XX"] DEED DIRECTION DISTANCE
- ⬡ TAX MAP
- ⬡ TAX PARCEL
- ⊗ LIGHT POLE
- ⊗ TRAFFIC SIGNAL
- TRAFFIC DIRECTION
- ⊗ ELECTRIC MANHOLE
- ⊗ TELEPHONE MANHOLE
- DI DROP INLET
- ⊗ TREE



REFERENCES:

CHARLESTON EAST TAX MAP 8
 FLOOD ZONE - PROPERTY IS NOT LOCATED IN A FLOOD HAZARD AREA
 DEFINED AS THE 1% ANNUAL RETURN CHANCE FLOOD BY GRAPHIC PLOTTING
 ON F.I.R.M 54039C0407E WITH THE EFFECTIVE DATE OF FEB. 6, 2008.
 ZONING - DVD-UR DOWNTOWN VILLAGE DISTRICT
 HEIGHT - 150 FT.
 REAR SETBACK - 0 FT.
 FRONT SETBACK - 0 FT.
 SIDE SETBACK - 0 FT.



GRAPHIC SCALE

PLAT FOR SURVEY OF
PART OF CITY OF CHARLESTON
 PROPERTY TO BE SEVERED AND MERGED WITH
TAX MAP 8 PARCEL 41
 PREPARED FOR
THE CITY OF CHARLESTON
 SITUATE IN THE CITY OF CHARLESTON
 EAST TAX DISTRICT TAX MAP 8
 KANAWHA COUNTY, WEST VIRGINIA
 SCALE 1"=30' DATE: 6-10-2019

RANDY BROOKS CRACE, P.S.
 WV PROFESSIONAL LAND SURVEYOR NO. 756

PLAT PREPARED BY
 S & S ENGINEERS, INC.
 501 EAGLE MOUNTAIN ROAD
 CHARLESTON, WEST VIRGINIA 25311



Resolution No. 208-19

Introduced in Council:

June 17, 2019

Introduced by:

Joseph Jenkins

Adopted by Council:

Referred to:

Finance

Resolution No. 208-19 - Authorizing the Mayor or City Manager to enter into an agreement with Garcie R. Marker & Sons, Inc., in the amount of \$619,225.00, for the Concrete Street Repair Project pursuant to the results of a competitive bidding process.

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

That the Mayor or City Manager is hereby authorized and directed to enter into an agreement with Garcie R. Marker & Sons, Inc., in the amount of \$619,225.00, for the Concrete Street Repair Project pursuant to the results of a competitive bidding process.

Concrete Street Repair Project #:E4-06/19-126U - Engineering

Bid Opening: June 11, 2019 @ 10:30 a.m.

			Garcie R. Marker & Sons, Inc. 1119 Jefferson Road South Charleston, WV 25309 P: (304) 744-0590 grmarkersons@aol.com		McClanahan Construction Co. 744 N. Poca River Road Poca, WV 25159 P: (304) 776-3355 bruce@mcclanahanconstruction.com	
Item	Unit	Estimated Quantity	Price per Unit	Total Cost	Price per Unit	Total Cost
Item No. 3.01 Mobilization and Demobilization (5% Max.)	LS	1	\$2,100.00	\$2,100.00	\$27,000.00	\$27,000.00
Item No. 3.02- Aggregate Base	TON	525	\$65.00	\$34,125.00	\$84.00	\$44,100.00
Item No. 3.03 - Class K Portland Cement Concrete Pavement	CY	650	\$815.00	\$529,750.00	\$867.00	\$563,550.00
Item No. 3.04 - Integral Rolled Concrete Curb	LF	750	\$25.00	\$18,750.00	\$15.00	\$11,250.00
Item No. 3.05 Concrete Curb and Gutter	LF	200	\$65.00	\$13,000.00	\$49.00	\$9,800.00
Item No. 3.06 - 4-inch Underdrain	LF	400	\$38.00	\$15,200.00	\$69.00	\$27,600.00
Item No. 3.07 - Open graded Free Draining Aggregate	TON	150	\$42.00	\$6,300.00	\$67.00	\$10,050.00
TOTAL PROJECT COST				\$619,225.00		\$693,350.00

Resolution No. 209-19

Introduced in Council:

June 17, 2019

Adopted by Council:

Introduced by:

Joseph Jenkins

Referred to:

Finance

Resolution No. 209-19 - Authorizing the Mayor or City Manager to enter into a contract with Vance Outdoors Inc. for the purchase of 60 assault rifles and related accessories in the amount of \$82,173.60 pursuant to the results of a competitive bidding process.

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

That the Mayor or City Manager is hereby authorized and directed to enter into a contract with Vance Outdoors Inc. for the purchase of 60 assault rifles and related accessories in the amount of \$82,173.60 pursuant to the results of a competitive bidding process.

Charleston Police Department Rifle and Rifle Accessories

Bid Opening: May 15, 2019 @ 11:00 a.m.

	Quantity	Boggs Gun Shop 421 Beech Avenue Charleston, WV 25302 P: (304) 344-1900 F: chuckboggs@suddenlink.net			Vance Outdoors Inc. 3723 Cleveland Ave. Columbus, OH. 43224 P: (614) 471-7000 x115 F: (614) 471-2134 dvance@vanceoutdoors.com		
			Unit Cost	Total Cost		Unit Cost	Total Cost
Sig Sauer M400 Rifle	60		\$910.75	\$54,645.00		\$869.35	\$52,161.00
Saavy Sniper Sling	60		\$55.00	\$3,300.00		\$56.29	\$3,377.40
Aimpoint PRO Optic	60		\$383.50	\$23,010.00		\$399.99	\$23,999.40
MagPul Gen3 Magazine	120		\$11.58	\$1,389.60		\$10.99	\$1,318.80
Black Padded Rifle Case	60		\$23.61	\$1,416.60		\$21.95	\$1,317.00
Shipping			\$0.00	\$0.00		\$0.00	\$0.00
Delivery	30 days or less				90 - 100 days		

Total Bid	\$83,761.20	\$82,173.60
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Resolution No. 210-19

Introduced in Council

Passed by Council

June 17, 2019

Introduced by
Joseph Jenkins

Referred from
Finance Committee

1 Resolution No. 210-19 - Authorizing the Mayor or City Manager to submit a grant
2 application to the West Virginia Department of Environmental Protection through
3 the agency's Rehabilitation Environmental Action Plan (REAP) program in the
4 amount of \$150,000, where any awarded funds will be used to educate City
5 residents about recycling and to conduct a study on recycling practices in the City
6 of Charleston. The Mayor or City Manager is authorized to receive and administer
7 any grant awarded.

8

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

10

11 The Mayor or City Manager is authorized to submit a grant application to the West
12 Virginia Department of Environmental Protection through the agency's
13 Rehabilitation Environmental Action Plan (REAP) program in the amount of
14 \$150,000, where any awarded funds will be used to educate City residents about
15 recycling and to conduct a study on recycling practices in the City of Charleston.
16 The Mayor or City Manager is authorized to receive and administer any grant
17 awarded.

18

Resolution No. 211-19

Introduced in Council

Passed by Council

June 17, 2019

Introduced by
Joseph Jenkins

Referred from
Finance Committee

1 Resolution No. 211-19 - Authorizing the Mayor or City Manager to enter into a
2 contract with Daktronics Inc., for an Indoor Digital Display Screen for the
3 Charleston Coliseum and Convention Center, Upper Lobby Display in the amount
4 of \$105,640.00 pursuant to the results of a competitive bidding process.

5

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

7

8 That the Mayor or City Manager is authorized to enter into a contract with
9 Daktronics Inc., for an Indoor Digital Display Screen for the Charleston Coliseum
10 and Convention Center, Upper Lobby Display in the amount of \$105,640.00.
11 Pursuant to the results of a competitive bidding process.

12

City of Charleston, WV
Indoor Digital Display Screen - Coliseum and Convention Center - ReBid
Bid Opening: May 13, 2019 @ 10:30 a.m.

	Daktronics, Inc. Attn: Fran Kulas 201 Daktronics Drive Brookings, SD 57006 P: (605)692-0200 sales@daktronics.com	Electronic Speciality Company Attn: Shane Higgins II 1325 Dunbar Avenue Dunbar, WV 25064 P: (304)766-6277 shane@electronicspeciality.com
Unit Price with Installation	\$105,640.00	\$73,359.00
Total Bid	\$105,640.00	\$73,359.00
Delivery (days from date of firm order)	100 days	60 days

**MUNICIPAL COURT
CITY OF CHARLESTON**

**Post Office Box 2749
Charleston, West Virginia 25330
(304) 348-8079**

Anne B. Charnock, Judge

Conrad Lucas, Clerk

TO: Mayor Amy Shuler Goodwin
FROM: Conrad Lucas, Clerk
DATE: **Wednesday, June 5, 2019**
RE: **May 2019 Financial Information, Charleston Municipal Court**

TOTAL CITATIONS FILED: 911

Criminal Violations: 238
Traffic Violations: 673
Parking: 0
Building Search Warrants: 0 Properties

RESTITUTION COLLECTED (paid to victims): \$0.00

Primarily related to shoplifting cases, restitution monies are collected and refunded to the store/victim.

FINANCIAL REPORT ATTACHED

cc: Judge Anne B. Charnock
Miles Cary, City Clerk
Victor Grigoraci, Treasurer
Lieutenant Paul Perdue, Deputy Chief of Police
Tony Harmon, Building Department
David Potters, Office of the City Attorney
Captain Mark Abbott, CPD
Nikki Smith, City Clerk's Office

CHARLESTON MUNICIPAL COURT
 Report For May 1, 2019 Thru May 31, 2019
 Page: 1
 FILEDST

 Violations by Filed Date...

TRAFFIC	673	
CRIMINAL	238	
Total Filed Violations		911

 Completed Cases...

Paid Fine...		
TRAFFIC	283	
CRIMINAL	11	
Total Paid Fines		294
Before Judge...		
TRAFFIC	12	
CRIMINAL	12	
Total Before Judge		24
Total Completed		318

 Other Completed...

DISMISS- OFFICER NOT WITH CITY		
TRAFFIC	14	
CRIMINAL	18	
Total		32
DEFENDANT DECEASED		
TRAFFIC	8	
CRIMINAL	7	
Total		15
DISMISSED OFFICER FAIL TO PROS		
TRAFFIC	31	
CRIMINAL	7	
Total		38
DISMISSED (PRESENTED INSURANCE)		
TRAFFIC	56	
CRIMINAL	0	
Total		56
DISMISSED (BY JUDGE'S ORDER) _		
TRAFFIC	4	
CRIMINAL	0	
Total		4
DISMISSED E-PROOF		
TRAFFIC	4	
CRIMINAL	0	

CHARLESTON MUNICIPAL COURT
 Report For May 1, 2019 Thru May 31, 2019
 Page: 2
 FILEDST

Total		4
DISMISSED (PRESENTED DL)		
TRAFFIC	5	
CRIMINAL	0	
Total		5
DISMISSED MISTAKEN IDENTITY		
TRAFFIC	0	
CRIMINAL	4	
Total		4
DISMISSED STORE CLOSED		
TRAFFIC	0	
CRIMINAL	6	
Total		6
DISMISSED OFF FAIL TO PROV VIN		
TRAFFIC	5	
CRIMINAL	1	
Total		6
DISMISSED (PROSECUTOR'S ORDER)		
TRAFFIC	71	
CRIMINAL	48	
Total		119
DISMISSED PRESENTED RECORDS		
TRAFFIC	111	
CRIMINAL	0	
Total		111
DISMISSED AFTER PT DIVERSION		
TRAFFIC	21	
CRIMINAL	13	
Total		34
DISMISSED VICTIM/WITNESS FTA		
TRAFFIC	0	
CRIMINAL	1	
Total		1
DISMISSED WITHOUT PREJUDICE		
TRAFFIC	37	
CRIMINAL	37	
Total		74
VOIDED DOCKET		
TRAFFIC	3	
CRIMINAL	0	
Total		3
Total Other Completed		512
Grand Total Completed		830

CHARLESTON MUNICIPAL COURT
 Report For May 1, 2019 Thru May 31, 2019
 Page: 3
 FILEDST

Net Difference Filed/Complete 81

Warrants...

Issued...

TRAFFIC	424	
CRIMINAL	512	
Total Violations		936
Total Warrants Issued		936

Cleared...

TRAFFIC	297	
CRIMINAL	371	
Total Violations		668
Total Warrants Cleared		668

Change in Total Warrants 268

Other Paid Cases...

Paid Fine...

Total Other Paid Fines 117

JAIL REGIONAL JAIL CORR.	\$7,096.00
FINE FINE	\$30,403.09
LAWFND LAW ENFORCE. TRAIN STATE	\$352.00
LAWLOC LAW ENFORCE. TRAIN (LOCAL)	\$728.00
CVC CRIME VICTIM'S FUND	\$1,401.30
ADMIN ADMINISTRATIVE COST	\$352.00
CCF COMMUNITY CORRECTIONS FUND	\$320.00
REST RESTITUTION	\$1,646.41
OP OVER PAYMENT	\$98.00
BF BOND FORFEITURE	\$50.00
ABF APPEAL BOND FEE	\$2.00
NSF NSF	\$25.00

Total Fees/Fines Paid \$42,473.80

Monthly Report – Definition Key

Violations by Filed Date:

Violations keyed into the Court software during the month

Completed Cases:

Cases where the fine and court costs were paid in full and the case was closed during the month.

Before Judge:

Number of violations where a case set for trial before the judge; the defendant was found guilty or entered a guilty plea at trial and the defendant paid off all costs/fines in full thereby closing the case.

Other Completed -Dismissed (By Complainant):

The City Attorney moved to dismiss cases because the person who filed the complaint no longer wishes to pursue the charges.

Defendant Deceased:

Cases dismissed because the defendant died.

Dismissed Officer Fail to Pros:

Cases dismissed because the officer failed to appear in Court.

Dismissed (presented insurance):

Cases dismissed because the defendant presented valid proof of insurance for the offense date.

Dismissed (presented DL):

Cases dismissed because the defendant presented a valid driver's license.

Dismissed Mistaken Identity:

Cases dismissed cases on the City Attorney's motion due to mistaken identity.

Dismissed (Prosecutor's Order):

Cases dismissed on the City Attorney's motion or as a result of a plea agreement.

Dismissed Presented Records:

Cases dismissed because the defendant presented records to satisfy a code or Court requirement.

Dismissed After PT Diversion:

Cases dismissed because the defendant entered into a Pre-Trial Diversion agreement with the City and satisfied the requirements of the Pre-Trial Diversion.

Dismissed Victim/Witness FTA:

Cases dismissed because the witness or victim did not appear in Court for trial.

Dismissed without prejudice:

Cases dismissed but the City having the option to re-file the case within one (1) year of the date of the offense.

Dismissed No Drug Results:

Drug results were not received for trial.

Dismissed – Officer Not With City

Officer/Witness is no long employed by the City.

Warrants

The Court issues warrants for Failure to Appear in Court for court sessions. These warrants are printed and copied to the CPD Warrants Division.

Cleared:

The Court clears warrants once the warrant is served by an officer or when a defendant self reports to the Court. The Court also clears warrants if a person is deceased, posts bond and or, in some cases, enters a plea.

Other Paid Cases:

The Court received a partial payment for a case; however, the defendant still has a balance due.

Search Warrant Issued:

A search warrant document was prepared and presented to the court by the City Attorney's office with regard to safety and public health concerns of a structure/property.

This report is not indicative of the case volume in Municipal Court. Rather, this information reflects payment status/coding for cases.



City of Charleston West Virginia

Miles C. Cary II, City Clerk

City Treasurer's Report To City Council

Month Ended

May 2019

Please Note:

1. Here is the May 2019 Page 1
"All Funds Collections & Withdrawals"
that shows the total of each fund balance.
2. A full copy of the May 2019 Report has
been emailed to you.
3. The Report is searchable.
4. If you would like a paper copy of the full
report, or if you need assistance in any
way, please contact my office
at 304-348-8029.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Victor Grigoraci", is written over a faint, circular official stamp.

Victor Grigoraci, CPA – City Treasurer

<u>Fund / Description</u>	<u>Balance May 2018</u>	<u>Balance April 2019</u>	<u>Collections May 2019</u>	<u>Withdrawals May 2019</u>	<u>Balance May 31, 2019</u>
001 General Fund	5,277,304.35	9,415,687.26	6,340,731.84	8,686,174.23	7,070,244.87
002 Coal Severance Tax	28.41	64.03	0.00	0.00	64.03
003 Municipal Stabilization	4,188,154.61	4,269,242.61	8,520.94	0.00	4,277,763.55
009 Community Development	43,043.77	2,466.05	110,691.03	90,826.94	22,330.14
010 Supportive Housing	0.00	0.00	3,884.23	3,884.23	0.00
012 West Side Improvement	0.00	29.75	98.50	29.75	98.50
016 Charleston Land Trust	44,830.36	45,301.11	930.96	0.00	46,232.07
017 Project West Invest	31,021.86	514.28	1.03	0.00	515.31
026 Uniform Pension Reserve Fund	12,608,657.21	17,346,319.05	93.20	278,352.00	17,068,060.25
035 Municipal Beautification	31,414.86	32,023.08	63.91	0.00	32,086.99
036 Special Demolition	15,064.65	15,356.31	30.65	0.00	15,386.96
037 Sister Cities	21,601.48	27,112.75	54.11	0.00	27,166.86
038 Solid Waste	859,006.11	490,638.76	399,478.97	98,139.18	791,978.55
039 Waste Disposal	0.00	0.00	94,265.47	47,393.27	46,872.20
040 Landfill Closure	3,172,791.89	3,295,373.05	10,765.56	0.00	3,306,138.61
041 Police Contributions	8,443.74	10,029.10	1,524.29	118.74	11,434.65
042 Police Evidence	31,803.61	1,272,883.57	2,529.86	14,827.36	1,260,586.07
043 Forfeited Funds	406,835.62	260,902.50	1,992.98	10,353.86	252,541.62
044 Municipal Court	181,183.85	200,677.74	42,865.80	41,033.40	202,510.14
045 Homeland Security	0.00	4,964.00	25,350.20	17,688.91	12,625.29
047 Health Insurance Reserves	6,017,004.19	6,133,501.04	12,241.80	0.00	6,145,742.84
048 Wayfinding Commission	72,655.27	73,339.15	146.38	0.00	73,485.53
049 Live On The Levee	67,814.14	71,690.52	17,139.83	21,308.00	67,522.35
080 Human Rights	176,793.29	176,793.29	0.00	0.00	176,793.29
081 Home Program	48,747.13	12,577.43	1,322.72	469.00	13,431.15
085 Firefighters Assistance Grant	77.08	77.08	0.00	0.00	77.08
088 SBA Riverfront Project Donation Account	9.18	9.18	0.00	0.00	9.18
088 SBA Riverfront Project Grant Account	10,167.71	10,167.71	0.00	0.00	10,167.71
090 Byrne Justice 16-17	0.00	365.76	0.00	365.76	0.00
091 Byrne Justice 10/11	0.10	0.00	0.00	0.00	0.00
095 Police Grants	64,888.69	212,154.88	20,021.15	28,125.00	204,051.03
096 Historic Preservation	2,601.00	2,601.00	0.00	0.00	2,601.00
099 Public Arts Grant	48,160.00	147,264.34	0.00	0.00	147,264.34
100 Sinking Fund	3,983,277.53	4,056,170.59	8,096.64	0.00	4,064,267.23
200 Infrastructure	147,943.47	150,807.85	301.00	0.00	151,108.85
207 South Side Recreation	9,917.15	0.00	0.00	0.00	0.00
214 Civic Center Capital Improvement	290,391.90	342,120.80	659.57	24,088.00	318,692.37
215 Municipal Auditorium Capital Improvement	126,777.46	153,053.57	405.57	0.00	153,459.14
218 Soccer Fields	3,080.92	0.00	0.00	0.00	0.00
220 General Maintenance	1,397,046.72	1,792,537.66	3,577.47	3,754.50	1,792,360.63
221 City Service Fee Capital Project	3,852,744.42	2,416,003.01	4,469.23	249,438.63	2,171,033.61
222 Facilities Maintenance	3,702,703.27	2,321,827.86	4,610.57	17,603.45	2,308,834.98
255 Ballpark Maintenance	90,565.53	62,824.10	125.39	0.00	62,949.49
402 Civic Center Revenue	184,605.01	240,305.11	531,995.05	504,998.56	267,301.60
406 Parking System Revenue	3,902,223.19	4,854,775.92	276,866.36	221,414.51	4,910,227.77
426 Parking Operation and Maintenance	1,633,925.98	1,113,158.76	2,209.42	23,918.81	1,091,449.37
427 Civic Center TIF Project	1,393,722.96	70,515.13	452.59	32,790.13	38,177.59
900 M - DENT	549,554.34	762,086.57	54,938.42	30,886.85	786,138.14
901 Pending Forfeiture	2,089,904.70	877,173.18	108,332.67	61,644.29	923,861.56
Working Cash Advance Fund	37,635.00	33,325.00	0.00	0.00	33,325.00
Total All Funds	56,826,123.71	62,776,811.49	8,091,785.36	10,509,627.36	60,358,969.49

Bill No. 7821

Introduced in Council:

June 17, 2019

Adopted by Council:

Introduced by:

Brent Burton, Keeley Steele,
Courtney Persinger, Sam Minardi,
Becky Ceperley, John Kennedy Bailey,
Caitlin Cook, Bruce King, Chad Robinson
Jennifer Pharr, Will Laird, Jeanine Faegre
and Mary Beth Hoover

Referred to:

Planning, Streets and Traffic

Bill No. 7821 - A BILL to amend and reenact Section 114-402 of the Code of the City of Charleston, as amended; and to amend said Code by adding thereto a new Article, designated Article XV, consisting of Section 114-940, all relating to safely traveling the streets of Charleston; reducing; and authorizing the use of low-speed vehicles consistent with state law.

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

Sec. 114-402. - Maximum speed limits established.

(a) Where no special hazard exists that requires lower speed for compliance with section 114-401, the speed of any vehicle not in excess of the limits specified in this section or established as authorized in this division shall be lawful, but any speed in excess of the limits specified in the subsections of this section or established as authorized in this division shall be unlawful.

(b) In residence districts, when not otherwise signposted, the maximum speed shall be ~~30~~ 25 miles per hour.

(c) At intersection in residence districts not controlled by traffic signal lights, the maximum speed shall be 20 miles per hour.

(d) In business and congested districts, when not otherwise signposted, the maximum speed shall be 25 miles per hour.

(e) At intersection in business and congested districts not controlled by traffic signal lights, the maximum speed shall be 20 miles per hour.

(f) When passing through school zones during school recess or while children are going to or from school during opening or closing hours, the maximum speed shall be 15 miles per hour.

32
33 (g) When encountering school buses while standing or loading or unloading, traffic shall
34 come to a full stop.

35 (h) When emerging from an alley, driveway, parking lot, garage, building or place of
36 business, traffic must come to a full stop.

37
38 (i) On all streets and drives in Spring Hill Cemetery, the maximum speed shall be 15
39 miles per hour.

40
41 (j) On all streets and roadways for which a maximum speed is prescribed on official
42 traffic control signs, the speed shall be as specified on such signs.

43
44 **ARTICLE XV. - LOW-SPEED VEHICLES.**

45
46 **Sec. 114-940. – Use of low-speed vehicles.**

47
48 (a) Low-speed vehicle means an electric low-speed vehicle titled and registered
49 by the West Virginia Division of Motor Vehicles pursuant to W. Va. Code 17A-3-2(c) that
50 meets all the requirements of the Division of Motor Vehicles, as well as state and
51 federal law.

52
53 (b) As authorized in W. Va. Code 17A-3-2(c), a person with a valid driver's
54 license may operate a low-speed vehicle on a private road within the City or on public
55 roads and streets within the City where the speed limit is 25 miles per hour or less.

Bill No. 7822

Introduced in Council:

June 17, 2019

Introduced by:

John Kennedy Bailey

Adopted by Council:

Referred to:

Environment & Recycling

Bill No. 7822 - A BILL to repeal Sections 102-300 and 102-303; to amend and reenact Sections 102-301, 102-302, and 102-304 of Division I of Article VIII, Chapter 102 of the Municipal Code of the City of Charleston, known as the "City of Charleston Illicit Discharge Detection and Elimination Ordinance"; and to amend and reenact Sections 102-314, 102-315, 102-316, 102-317, 102-318, and 102-319 of Division II of Article VIII, Chapter 102 of the Municipal Code of the City of Charleston, known as the "City of Charleston Construction Site Erosion and Sediment Control Ordinance."

WHEREAS, the 1972 amendments to the Federal Water Pollution Control Act (referred to as the Clean Water Act or "CWA"), 33 U.S.C. §§ 1251-1387, prohibit the discharge of any Pollutant to navigable waters of the United States from a point source unless the discharge is authorized by a permit issued pursuant to the National Pollutant Discharge Elimination System ("NPDES") required by CWA § 402, 33 U.S.C. §§ 1342; and

WHEREAS, Municipal Separate Storm Sewer Systems ("MS4s") which convey urban runoff, including, but not limited to Stormwater runoff, are point sources under the CWA; and

WHEREAS, the US EPA reports that in some municipalities illicit connections of sanitary, commercial and industrial discharges to storm sewer systems have had a significant adverse impact on the water quality of receiving waters; and

WHEREAS, pursuant to the CWA, the US EPA has defined "illicit discharges" as any discharge to a MS4 that is not composed entirely of Stormwater or not covered by a NPDES permit; and

WHEREAS, Section 402(p)(3)(B) of the CWA requires that NPDES permits for discharges from MS4s are to include a requirement to "effectively prohibit" non-stormwater discharges into MS4s; and

WHEREAS, US EPA regulations implementing the CWA require a municipality to demonstrate that it has the authority to control, through ordinance or other authority, discharge to the MS4 of spills, dumping or disposal of materials other than stormwater; and

WHEREAS, soil is highly vulnerable to erosion by wind and water during the construction process. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Eroded soil also necessitates repair of sewers and ditches and the dredging of waterways. In addition, clearing and grading during construction cause the loss of native vegetation necessary for terrestrial and aquatic habitat; and

WHEREAS, US EPA regulations require a municipality to implement a stormwater management plan that adopts measures for the protection of water quality by addressing erosion and sediment control during land disturbing activities; and

WHEREAS, the City of Charleston, as the owner and operator of its MS4, has the right and the duty to protect the integrity of its MS4 against Pollutants entering the MS4; and

WHEREAS, under the Constitution of West Virginia, West Virginia Code, and the City of Charleston Municipal Code, the City of Charleston has the authority to define public nuisances and to protect the environment and the public health and safety of the residents of and visitors to the City, by abating public nuisances.

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

That Sections 102-300 and 102-303 of Division I of Article VIII of Chapter 102 are hereby repealed, and Sections 102-301, 102-302, and 102-304 of Division I of Article VIII, Chapter 102 are hereby amended and reenacted; and Sections 102-314, 102-315, 102-316, 102-317, 102-318, and 102-319 of Division II, Article VIII, Chapter 102 of the Municipal Code of the City of Charleston are hereby amended and reenacted, all to read as follows:

CHAPTER 102 – STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

ARTICLE VIII – STORMWATER POLLUTION PREVENTION

DIVISION 1 – ILLICIT DISCHARGE DETECTION AND ELIMINATION

~~Sec. 102-300. – Stormwater Management Board created.~~

~~There is hereby created in and for the City, the City of Charleston Stormwater Management Board, which shall hear and decide appeals of any order or decision of a Compliance Officer or any denial of a request for reconsideration by the City Engineer issued pursuant to this Division.~~

~~The Stormwater Management Board shall be comprised of the City Manager, the City Director of Emergency Services, and three persons appointed by the Mayor, two of whom must be current members of Charleston City Council (one of whom must serve on the Environmental and Recycling Committee) and one person not employed by the City who is qualified by knowledge and experience in matters pertaining to construction and/or engineering. Members of the Board shall serve for terms of three years and do not receive compensation, but shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their official duties.~~

~~(c) — Notwithstanding any other provisions in this code to the contrary, any person employed by, owning an interest in or otherwise associated with an owner or Person that regularly conducts business in front of the Stormwater Management Board may also serve as a member of the Stormwater Management Board and shall not be disqualified from serving as a member because of a conflict of interest as defined in West Virginia Code §61-10-15 and shall not be subject to prosecution under provisions of that chapter when the violation is created solely as a result of his or her relationship with the owner or Person. The member must, however, recuse himself or herself from any vote, discussion, participation or other activity regarding any colorable conflict recognized under West Virginia law.~~

~~(d) — Notwithstanding any other provisions in this code to the contrary, any person employed by, owning an interest in or otherwise associated with an owner or Person that regularly conducts business in front of the Stormwater Management Board may also serve as a member of the Stormwater Management Board and shall not be in violation of WV Code §6B-2-5(g) if the member recuses himself or herself from any vote, discussion, participation or other activity regarding any conflict: *Provided*, That such members do not constitute a majority of the members of the Stormwater Management Board at the same time.~~

Sec. 102-301. – Notice of violation.

(a) When a Compliance Officer determines after reasonable observation or investigation that a Person has violated a prohibition or failed to meet a requirement of this Division, he/she may order compliance by written notice of violation to that Person. Such notice may require, without limitation:

- (1) the performance of monitoring, analyses and reporting;
- (2) the elimination of Illicit connections or discharges;
- (3) that discharges, practices or operations that are in violation shall cease and desist;
- (4) the abatement or remediation of Stormwater Pollution or contamination hazards and the restoration of any affected property; and/or
- (5) the implementation of source control or treatment BMPs.

(b) Notice(s) of violation shall be served in accordance with the law of the State of West Virginia concerning the service of process in civil actions, except that a method of service effectuated by a mailing by the clerk of a court (e.g., service pursuant to West Virginia Rule of Civil Procedure 4(d)(1)(D)) shall be deemed to be effectuated by a mailing by a Compliance Officer. If service is made by certified mail consistent with West Virginia Rule of Civil Procedure 4(d)(1)(D) and delivery of the notice of the violation is refused, the Compliance Officer, promptly upon the receipt of the notice of such refusal, shall mail to the Person being noticed, by first class mail, postage prepaid, (1) a copy of the notice of the violation(s) (2) a notice that despite such refusal, the notice of the violation(s) is valid, and (3) advising that the City will proceed to enforce the notice of violation(s). So long as such first class mailing is not returned as undeliverable by the

U.S. Postal Service, service of the notice of violation(s) will be conclusively presumed to have been effectuated. Proof of service shall be made at the time of service by a written declaration, under oath, executed by the enforcement official effecting service and shall declare the time, date and manner by which service was made.

(c) Any notice of violation(s) under this section shall be in writing and shall contain the following:

(1) the date the notice of violation is given;

(2) the name and address of the Person(s) charged with the violation;

(3) the nature of the violation;

(4) a statement of the action required to be taken in order to correct the violation and further prevent it;

(5) the time period allowed for the violation to be corrected. When determining the time period allowed for correction, a Compliance Officer shall take into consideration the threat posed by the violation to the health, safety and welfare of the public and the nature of the work required to correct the violation;

(6) the maximum fines that may be assessed if the violation is not corrected and a citation is issued; and

(7) the name, business address and telephone number of the Compliance Officer issuing the notice of violation.

(d) Nothing in this section shall limit the authority of Compliance Officers to take any other lawfully prescribed enforcement action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

Sec. 102-302. – Request for reconsideration; ~~appeal of decision of the City Engineer.~~

~~(a)~~ Any Person receiving a notice of violation from a Compliance Officer may submit a written request for reconsideration to the City Engineer by mailing said request to The Office of the City Engineer, City of Charleston, P.O. Box 2749, Charleston, WV 25330, or by hand delivering said request to the Office of the City Engineer, 114 Dickenson Street, Charleston, West Virginia. The request for reconsideration must be received within 10 days from the date of the notice of violation and shall include a written explanation of the basis for the request. Upon receipt of a timely request for reconsideration, the City Engineer shall review the request and shall (1) uphold the notice of violation (2) reverse the notice of violation or (3) modify the notice of violation and shall provide written notice by certified mail of his or her decision to the Person within 15 days of receipt thereof.

~~(b) — When a notice of violation is upheld by the City Engineer as outlined in (a) above, the Person may appeal the decision of the City Engineer to the City of Charleston Stormwater Management Board by mailing a notice of appeal to City of Charleston Stormwater Management Board, c/o Office of the City Manager, P.O. Box 2749, Charleston, WV 25330, or by hand delivering said request to the City of Charleston Stormwater Management Board, Office of the City Manager, 501 Virginia Street East, Charleston, West Virginia. When appealing a decision by the City Engineer, the notice of appeal to the Stormwater Management Board must be received within 10 days from the date of the receipt of the written notice of the City Engineer's decision. Hearing on the appeal shall be before the City of Charleston Stormwater Management Board and said hearing shall take place within 30 business days from the date of receipt of the notice of appeal. At the conclusion of the hearing, the Stormwater Management Board shall either grant or deny the appeal in writing within 10 days, and provide written notice by certified mail of its decision to the Person who appealed. The decision of the Stormwater Management Board shall be final. Failure to file a notice of appeal within the period set forth herein shall constitute a waiver of the right to appeal to the Stormwater Management Board, shall result in the decision of the City Engineer being final, and the notice of violation shall be fully enforceable as set forth in this Division.~~

Sec. 102-303. – ~~Appeal of notice of violation.~~ Reserved.

~~Any Person receiving a notice of violation who chooses not to request reconsideration by the City Engineer may appeal the notice of violation directly to the City of Charleston Stormwater Management Board by mailing a notice of appeal to the City of Charleston Stormwater Management Board, c/o Office of the City Manager, P.O. Box 2749, Charleston, WV 25330, or by hand delivering said request to the City of Charleston Stormwater Management Board, Office of the City Manager, 501 Virginia Street East, Charleston, West Virginia. When appealing a notice of violation where no reconsideration by the City Engineer has been requested, the notice of appeal to the Stormwater Management Board must be received within 10 days from the date of the notice of violation. Hearing on the appeal shall be before the City of Charleston Stormwater Management Board and said hearing shall take place within 30 business days from the date of receipt of the notice of appeal. At the conclusion of the hearing, the Stormwater Management Board shall either grant or deny the appeal in writing within 10 days, and provide written notice by certified mail of its decision to the Person who appealed. The decision of the Stormwater Management Board shall be final. Failure to file a notice of appeal within the period set forth herein shall constitute a waiver of the right to appeal to the Stormwater Management Board and the notice of violation shall be fully enforceable as set forth in this Division.~~

Sec. 102-304. – Enforcement measures ~~after~~ appeal.

(a) If the violation has not been corrected within 10 days or any other period specified by the ~~Stormwater Management Board~~ City Engineer in ~~its~~ his or her decision ~~in the case of a request for reconsideration~~, then the Compliance Officer shall request the owner's permission for access to the subject private property to take any and all measures reasonably necessary to abate the violation and/or bring the property into compliance.

(b) If refused access to the subject property, the Compliance Officer may seek a warrant in a court of competent jurisdiction to be authorized to enter upon the property.

CHAPTER 102 - STREETS, SIDEWALKS AND OTHER PUBLIC PLACES ARTICLE VIII - STORMWATER POLLUTION PREVENTION DIVISION 2 - CONSTRUCTION SITE EROSION AND SEDIMENT CONTROL

Sec. 102-314. - Approval of Land Disturbing Activity.

(a) Any Person applying for a City of Charleston building permit that proposes a Construction project involving LDA exceeding 5000 square feet, or an increase in Impervious Area by 1000 square feet or greater, is required to obtain approval for such LDA from the City Building Department and/or City Engineer's Office. Requests for approval shall be made at the time of application for a building permit; provided, however, that a building permit shall not be issued in the absence of prior approval of LDA ~~by the City Engineer's Office~~.

(b) Notwithstanding Sec. 102-314(a) herein, approval for LDA shall not be required for the following activities:

- (1) Interior renovations;
- (2) Roof repair;
- (3) Building facade maintenance;
- (4) Milling and repaving of existing asphalt or concrete streets, parking lots, or sidewalks;
- (5) Maintenance of existing landscaping or gardens;
- (6) Cutting of trees and brush (provided the area remains vegetated and no grubbing of root system occurs); and
- (7) Maintenance of pervious sports fields such as replacement of the clay surface to baseball infields, turf plugging of golf fairways and greens.

Sec. 102-315. - Submission of Erosion and Sediment Control Plan; modifications.

(a) Any Person requesting approval of LDA is required to submit an Erosion and Sediment Control Plan ("ESCP") to the City Building Department as part of the building permit application for review and approval ~~by the City Engineer's Office~~. The ESCP shall comply with the provisions set forth in the City of Charleston Stormwater Management Guidance Manual regarding Erosion and Sediment Control measures. The Stormwater Management Guidance Manual will be available to the public on the City's Stormwater website, as well as on file at the City Engineer's Office.

(b) All control measures set forth in an approved ESCP shall be followed and maintained at all times during the Construction project unless modified with the approval of the City Building Department and/or City Engineer's Office. Any significant modifications to an ESCP

262 must be approved by the City Building Department and/or City Engineer's Office via written
263 authorization to the permittee. Minor modifications to the ESCP may be approved by the City
264 Building Department and/or City Engineer's Office at the Construction Site.

265

266 (c) A copy of the approved ESCP shall be kept on the Construction Site during all stages of a
267 Construction project and shall be made available for review upon request by a Compliance Officer.

268

269 **Sec. 102- 316. - Erosion and Sediment Control Design Requirements.**

270

271 (a) Grading, Erosion Control practices, Sediment Control practices, and Waterway crossings
272 shall meet the design criteria set forth in the most recent version of the City's Stormwater
273 Management Guidance Manual and shall be adequate to prevent transportation of Sediment from
274 the Construction Site ~~to the satisfaction of the City Engineer's Office.~~

275

276 (b) Clearing and Grading of natural resources, such as protected habitats and wetlands, shall
277 not be permitted, except when in compliance with the Stormwater Management Guidance Manual.

278

279 (c) Clearing, except to the extent necessary to establish Sediment Control devices, shall not
280 begin until all Sediment Control devices have been installed and have been stabilized.

281

282 (d) Minimum Erosion Control requirements shall include:

283

284 (1) Temporary seeding must be applied if the Construction Site is idle for more than 21 days.

285 (2) Special techniques that meet the design criteria outlined in the Stormwater Management
286 Guidance Manual on steep slopes or in Drainage Ways shall be used to ensure Stabilization.

287 (3) Soil stockpiles must be stabilized or covered at all times.

288 (4) The entire Construction Site must be stabilized at the close of the Construction season,
289 which may include but is not limited to, temporary seeding, mulching, and the use of Erosion
290 Controls.

291 (5) Techniques shall be employed to prevent the transportation of dust or Sediment from the
292 Construction Site.

293 (6) Techniques shall be employed to divert upstream runoff away from LDA without causing
294 any additional Erosion.

295

296 (e) Minimum Sediment Control requirements shall include: Sediment basins, Stormwater
297 inlet protection, Sediment traps, and/or Perimeter controls.

298

299 (f) Minimum Waterway and Watercourse protection requirements shall include:

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301 (1) Approval of a Waterway or Watercourse crossing by all applicable federal and state agencies
302 having jurisdiction, which may include, but is not limited to, West Virginia Department of Natural
303 Resources, United States Army Corps of Engineers, and the United States Environmental Protection
304 Agency.

305 (2) Stabilization of a Watercourse before, during, and after any in-channel work.

306 (3) All on-site stormwater conveyance channels designed according to the criteria outlined in
307 the Stormwater Management Guidance Manual.

(4) Stabilization adequate to prevent Erosion located at the outlets of all pipes and paved channels.

(g) Construction Site access requirements shall include: establishment and maintenance of a stabilized Construction Site entrance as outlined in the Stormwater Management Guidance Manual.

Sec. 102-317. - Review and approval of Land Disturbing Activity and Erosion and Sediment Control Plan ~~by City Engineer's Office.~~

The City Engineer's Office and/or City Building Department shall review each request for approval of LDA and the corresponding ESCP to determine conformance with the requirements of this Division. Within 10 days after receiving a building permit application and corresponding ESCP, the City Engineer's Office and/or City Building Department shall, in writing:

- (1) approve the requested LDA and corresponding ESCP;
- (2) approve the requested LDA and corresponding ESCP subject to conditions as may be necessary to satisfy the objectives of this Division; or
- (3) deny the requested LDA and corresponding ESCP, indicating the reason(s) for denial and the procedure for submitting a revised ESCP, if appropriate.

Sec. 102-318.- Inspection of Construction Site.

(a) All Construction Sites involving LDA and requiring an approved ESCP shall be inspected and approved by a Compliance Officer ~~at each stage of Construction consistent with the seven stages set forth in this subsection.~~ Compliance Officers shall inspect Construction Sites as authorized by this Section and shall either approve that portion of the work completed or shall notify the Person receiving approval for the LDA that the work is not in compliance with the approved ESCP. ~~Plans for Grading, stripping, excavating, and filling work bearing the stamp of approval of a Compliance Officer shall be maintained at the Construction site during all stages of the project.~~ To obtain the required permits and inspections for each stage of Construction, the Person receiving approval for the LDA shall notify the City Engineer's Office and/or City Building Department of the Construction start date. If there is to be a change in said start date, the City Engineer's Office and/or City Building Department is to be notified at least two working days before each of the following stages: start of Construction. Compliance Officer inspections may consist of, but not be limited to, the following stages:

- (1) Installation of Erosion and Sediment Control measures;
- (2) Start of Construction Completion of Demolition;
- (3) Completion of Site Clearing and rough Grading;
- (4) Installation of any stormwater conveyance structures; and
- (5) Completion of final Grading;
- (5) Close of the Construction season; and
- (5) Completion of project.

(b) The Person receiving approval for LDA and corresponding ESCP shall make regular

inspections of all control measures in accordance with the inspection schedule outlined in the approved ESCP. The purpose of such inspections will be to determine the overall effectiveness of the ESCP and the potential need for additional control measures. All inspections shall be documented in writing and shall be kept on site ~~for inspection submitted to the City Engineer's Office at the time intervals specified in the Stormwater Management Guidance Manual.~~

Sec. 102-319. - Notice of Noncompliance and Order to Correct.

(a) When a Compliance Officer determines after reasonable observation or investigation that a Person has not complied with any provision of this Division or has failed to comply with an approved ESCP, the Compliance Officer may order compliance by written Notice of Noncompliance and Order to Correct.

(b) Notice(s) of Noncompliance and Order(s) to Correct shall be served in accordance with the law of the State of West Virginia concerning the service of process in civil actions, except that a method of service effectuated by a mailing by the clerk of a court (e.g., service pursuant to West Virginia Rule of Civil Procedure 4(d)(1)(D)) shall be deemed to be effectuated by a mailing by a Compliance Officer. If service is made by certified mail consistent with West Virginia Rule of Civil Procedure 4(d)(1)(D) and delivery of the Notice of Noncompliance and Order to Correct is refused, the Compliance Officer, promptly upon the receipt of the notice of such refusal, shall mail to the Person being noticed, by first class mail, postage prepaid, (1) a copy of the Notice of Noncompliance and Order to Correct (2) a notice that despite such refusal, the Notice of Noncompliance and Order to Correct is valid, and (3) advising that the City will proceed to enforce the Notice of Noncompliance and Order to Correct. So long as such first class mailing is not returned as undeliverable by the U.S. Postal Service, service of the Notice of Noncompliance and Order to Correct will be conclusively presumed to have been effectuated. Proof of service shall be made at the time of service by a written declaration, under oath, executed by the enforcement official effecting service and shall declare the time, date and manner by which service was made.

(c) Any Notice of Noncompliance and Order to Correct under this section shall be in writing and shall contain the following:

- (1) the date the Notice of Noncompliance and Order to Correct is given;
- (2) the name and address of the Person(s) charged with the noncompliance;
- (3) the nature of the noncompliance;
- (4) a statement of the action required to be taken in order to correct the noncompliance and further prevent it;
- (5) the time period allowed for correction. When determining the time period allowed for correction, a Compliance Officer shall take into consideration the threat posed by the noncompliance to the health, safety and welfare of the public and the nature of the work required to correct the noncompliance;
- (6) the maximum fines that may be assessed if the noncompliance is not corrected and a citation is issued; and

400 (7) the name, business address and telephone number of the Compliance Officer issuing the
401 Notice of Noncompliance and Order to Correct.

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403 (d) Nothing in this section shall limit the authority of Compliance Officers to take any other
404 lawfully prescribed enforcement action, including emergency actions or any other enforcement
405 action, without first issuing a Notice of Noncompliance and Order to Correct.

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407 (e) Failure to correct the noncompliance by the date set forth in the Notice of Noncompliance
408 and Order to Correct shall be reported to the Building Department. Any subsequent work
409 performed shall constitute work being performed in a dangerous or unsafe manner or in a manner
410 contrary to the W.Va. State Building Code, as adopted by Charleston Municipal Code Section 14-
411 33(a), and the Person charged with the noncompliance may be issued a stop work order or the
412 building permit may be revoked.

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