



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

CITY OF CHARLESTON, WEST VIRGINIA

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Regular Meeting – Monday, November 4, 2019

at 7:00 P.M.

Council Chamber – City Hall – Charleston, West Virginia

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**OFFICIAL RECORD**

**Amy Shuler Goodwin**  
Mayor

**Miles C. Cary II**  
City Clerk

***CALL TO ORDER***

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The Council met in the Chambers of the City Building at 7:00 P.M., for the first meeting in the month of November on the 4<sup>th</sup> day, in the year 2019, and was called to order by the Honorable Mayor, Amy Shuler Goodwin. The invocation was delivered by Councilmember Adams and the Pledge of Allegiance was led by Councilmember Burton. 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***

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1. Jennifer McQuerrey – WV Landlords Association – expressed concerns over recently passed Bill No. 7835.

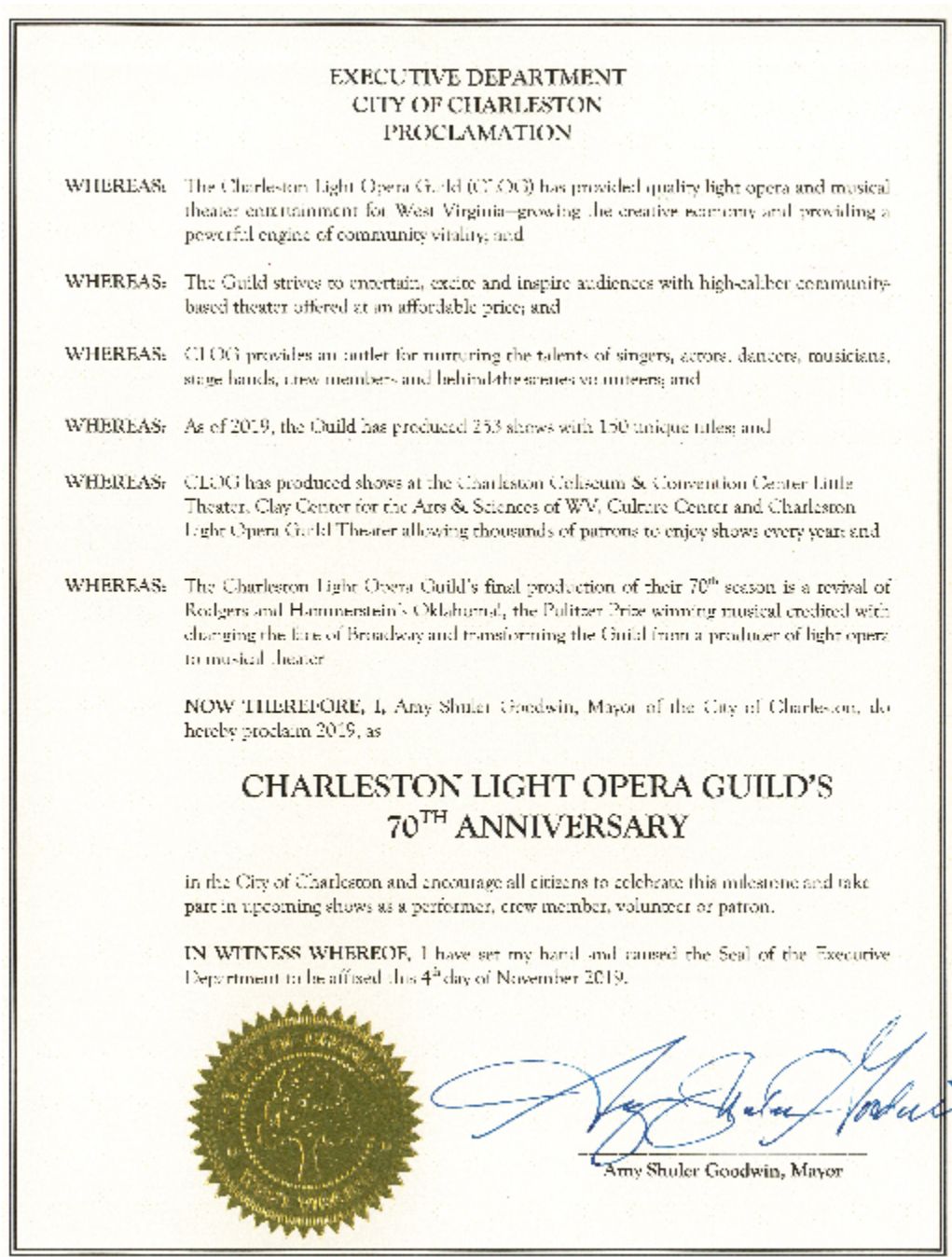
***CLAIMS***

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1. A claim of Christian Kerns, Charleston, WV;  
alleges personal injury.  
Refer to City Solicitor
2. A claim of James and Connie Young, Charleston, WV;  
alleges damage to property.  
Refer to City Solicitor

**PROCLAMATIONS**

1.



The proclamation was presented to Nina Pasinetti.

**COMMUNICATIONS**

1.

**CITY OF CHARLESTON**  
**OFFICE OF THE MAYOR**



TO: MILES CARY  
CITY CLERK

FROM: AMY SHULER GOODWIN  
MAYOR

A handwritten signature in blue ink, appearing to read "Amy Shuler Goodwin", is written over the "FROM" line.

RE: CHANGES IN COUNCIL COMMITTEES

DATE: NOVEMBER 4, 2019

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I am making the following changes to Committee assignments on City Council for the remainder of the current term:

- Remove Becky Ceperley from the Public Safety Committee; and
- Add Deanna McKinney to the Public Safety Committee.

ASG/tls

Received and filed.

## **REPORTS OF COMMITTEES**

### **COMMITTEE ON ENVIRONMENT AND RECYCLING**

Councilmember Bailey, Chair of the Council Committee on Environment and Recycling, submitted the following reports:

1. Your committee on Environment and Recycling has had under consideration the following bill, and reports the same to Council with the recommendation that Bill No. 7825 Committee Substitute do pass.

Bill No. 7825 Committee Substitute - A BILL to amend and reenact Section 98-121 of the Municipal Code of the City of Charleston, relating to recyclables collection.

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

Article II. – Collection and Disposal.  
Division 4. Recyclables.

Sec. 98-121. - Separation of recyclables from municipal solid waste.

(a) Residences. Persons shall separate all recyclables, including aluminum bi-metal, and steel cans; newspaper; and plastics identified by the society of plastics industry (SPI) code numbers 1 and 2, boxboard, corrugated cardboard, office mix paper, magazines, and junk mail, from municipal solid waste generated at residences and shall store the recyclables until they are collected for recycling. Pursuant to West Virginia code Chapter 22, Article 15A, Section 18(b)(1), each person, partnership, corporation or other entity in the city shall separate at least three recyclables from municipal solid waste. The city manager shall have the authority to designate the three recyclables that will be collected by the city and may amend the designated recyclables from time to time. The city manager shall provide notice of his designations to residents.

(b) All residents receiving refuse collection services by the city shall place all designated recyclables into either a clear plastic bag or a ~~bin or other~~ container that is no larger than 48 gallons in volume, no heavier than 40 pounds when full, and clearly marked as containing recycling goods-recyclables, and place for collection in the manner set forth in section 98-101: Provided, That any paper or cardboard recyclables shall be placed in a clear plastic bag or water-proof container in order to protect the recyclables from water damage. The city may reject any wet paper or cardboard and any recyclable materials that are comingled with food or any item not on the list of accepted materials contained in subsection (a) of this section.

(c) An owner, landlord, or agent of an owner or landlord of a multi-family rental dwelling with four or more units receiving refuse service from the city may establish a collection system at each such property. The collection system shall include a separate suitable receptacle specifically for collection and storing recyclables which tenants have separated in ~~clear plastic bags~~ in compliance with section 98-121(b) of this Code, and written instructions to the occupants concerning the use and availability of the collection system. The receptacle shall be clearly marked as designated for recyclables only and shall be placed in a location easily accessible to the tenants. Owners, landlords, or agents of owners or landlords who provide a collection system under this section shall not be liable for non-compliance of occupants of their buildings.

(d) Commercial, industrial and institutional establishments shall separate at least three materials from refuse generated at such establishments and shall store such materials until they are collected for recycling in a manner consistent with section 98-122(b) of this Code. "Community activities" as used here includes events that are sponsored by public or private agencies or individuals that include but are not limited to regattas, fairs, bazaars, socials, picnics, performances, and organized sporting events attend by five hundred or more individuals per day. Any person or entity in charge of a community activity shall provide for separation of at least three recyclables from refuse generated at such event and shall store such materials until they are collected for recycling in a manner consistent with section 98-122(b) of this Code. The three recyclables shall be chosen from the following group; office paper, computer paper, corrugated paper, newspaper, clear glass jugs/jars/bottles, aluminum, bi-metal and steel cans, automotive or industrial lead acid batteries, tires, computer ribbons, laser toner cartridges, copier toner cartridges, yard (green) waste or e-waste.

(e) An owner, landlord, or agent of an owner or landlord of a commercial, industrial or institutional establishment that leases its premises to other such establishments shall be deemed to have complied with its recycling responsibilities if it establishes a collection system meeting the requirements of the collection system for multi-family dwellings described in subsection (c) of this section.

Councilmember Bailey added that the bill will allow people to place their recycling in a clearly marked container that is used only for recycling, such as bins, cans or carts, in addition to plastic bags. Paper and cardboard must be kept dry.

Councilmember Jenkins confirmed that the color is not restricted to blue as per the provided examples.

Councilmember Bailey 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. 7825 Committee Substitute passed.

## **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. 7837 do pass.

Bill No. 7837 - A Bill to amend and reenact Ordinance number 2876 Passed by Council October 5, 1981, relating to Stop and Yield Signs at the intersection of Westmoreland Drive and Jane Street by requiring vehicles westbound, southbound and eastbound to stop while giving right-of-way to northbound traffic; and amending the Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Laws, Section 263, Division 2, Article 4, Chapter 114, to conform therewith.

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

Section 1. The Stop intersection established by Ordinance number 2876 is hereby amended to require easterly, westerly and southerly traffic to stop giving right-of-way to Westmoreland Drive; northerly traffic by placing stop signs on Jane Street eastbound, Jane Street westbound and Westmoreland Drive southbound.

Section 2. The Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Laws, Section 263, Division 2, Article 4, Chapter 114, shall be and hereby are amended, to conform to this Ordinance.

Section 3. All prior Ordinances, inconsistent with this Ordinance are hereby repealed to the extent of said inconsistency.

Councilmember Hoover added that this is to correct a confusing intersection on West Side Hill.

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. 7837 passed.

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. 7838 do pass.

Bill No. 7838 - A Bill to repeal Ordinance number 3800, passed by Council August 20, 1984, which created a 10 minute parking zone on the easterly side of Summers Street from a point 150 feet south of Lee Street to a point 176 feet south of Lee Street, and thereby returning this area to metered parking spaces; and amending the Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Laws, Section 263, Division 2, Article 4, Chapter 114, to conform therewith.

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

Section 1. The 10 minute parking zone on the easterly side of Summers Street from a point 150 feet south of Lee Street to a point 176 feet south of Lee Street is hereby repealed. The Director of Parking is hereby authorized to install parking meters consistent with the general area in this location.

Section 2. The Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Laws, Section 263, Division 2, Article 4, Chapter 114, shall be and hereby are amended, to conform to this Ordinance.

Section 3. All prior Ordinances, inconsistent with this Ordinance are hereby repealed to the extent of said inconsistency.

Councilmember Hoover added that for this and the next few bills is to clean up restricted parking areas and adding meters so that anyone can park there anytime and the area can be monitored more effectively.

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. 7838 passed.

3. 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. 7839 do pass.

Bill No. 7839 - A Bill to repeal Ordinance number 7141, passed by Council May 16, 2005, which created a 5 minute stopping or standing zone on the easterly side of Hale Street from a point 76 feet south of Quarrier Street to a point 120 feet south of Quarrier Street, and thereby returning this area to metered parking spaces; and amending the Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Laws, Section 263, Division 2, Article 4, Chapter 114, to conform therewith.

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

Section 1. The 5 minute stopping or standing zone established by Ordinance No. 7141 on the easterly side of Hale Street from a point 76 feet south of Quarrier Street to a point 120 feet south of Quarrier Street is hereby repealed. The Director of Parking is hereby authorized to install parking meters consistent with the general area in this location.

Section 2. The Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Laws, Section 263, Division 2, Article 4, Chapter 114, shall be and hereby are amended, to conform to this Ordinance.

Section 3. All prior Ordinances, inconsistent with this Ordinance are hereby repealed to the extent of said inconsistency.

Councilmember Hoover added that this is previously the location of a day care. The stopping zone is no longer required.

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. 7839 passed.

4. 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. 7840 do pass.

Bill No. 7840 - A Bill to repeal Ordinance number 3716, passed by Council April 2, 1984, which created a 15 minute parking zone from 8:00 a.m. to 5:00 p.m. on the easterly side of Summers Street from the intersection of Summers Street and the Pedestrian Mall to a point 56 feet south of the intersection of Summers Street and the Pedestrian Mall, and thereby returning this area to metered parking spaces; and amending the Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Laws, Section 263, Division 2, Article 4, Chapter 114, to conform therewith.

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

Section 1. The 15 minute parking zone from 8:00 a.m. to 5:00 p.m. on the easterly side of Summers Street from the intersection of Summers Street and the Pedestrian Mall to a point 56 feet south of the intersection of Summers Street and the Pedestrian Mall is hereby repealed. The Director of Parking is hereby authorized to install parking meters consistent with the general area in this location.

Section 2. The Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Laws, Section 263, Division 2, Article 4, Chapter 114, shall be and hereby are amended, to conform to this Ordinance.

Section 3. All prior Ordinances, inconsistent with this Ordinance are hereby repealed to the extent of said inconsistency.

Councilmember Hoover added that this bill is additionally cleaning up an area by a parking garage by adding meters.

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. 7840 passed.

5. 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. 7841 do pass.

Bill No. 7841 - A Bill to amend and re-enact Ordinance number 6658, passed by Council April 17, 2000, which created a 30 minute parking area on the southerly side of Washington Street West from a point 40 feet west of Tennessee Avenue to a point 82 feet west of Tennessee Avenue; 111 feet west of Tennessee Avenue, amending the Ordinance to instead allow metered parking spaces; and amending the Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Laws, Section 263, Division 2, Article 4, Chapter 114, to conform therewith.

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

Section 1. The 30 minute parking zone contained in Ordinance No. 6658 on the southerly side of Washington Street West from a point 40 feet west of Tennessee Avenue to a point 82 feet west of Tennessee Avenue; 111 feet west of Tennessee Avenue is hereby amended and re-enacted to allow for metered parking. The Director of Parking is hereby authorized to install parking meters consistent with the general area, as needed, on the southerly side of Washington Street West from a point 40 feet west of Tennessee Avenue to a point 40 feet east of Ohio Avenue.

Section 2. The Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Laws, Section 263, Division 2, Article 4, Chapter 114, shall be and hereby are amended, to conform to this Ordinance.

Section 3. All prior Ordinances, inconsistent with this Ordinance are hereby repealed to the extent of said inconsistency.

Councilmember Hoover added that the area is being changed so that people may park there for longer periods of time.

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. 7841 passed.

6. 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. 7842 do pass.

Bill No. 7842 - A Bill to repeal Ordinance number 2187, passed by Council April 3, 1978, which created a No Parking zone on the northerly side of Bigley Avenue from a point 90 feet east of Buchanan Street to a point 140 feet east of Buchanan Street, and thereby returning this area to metered parking spaces; and amending the Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Laws, Section 263, Division 2, Article 4, Chapter 114, to conform therewith.

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

Section 1. The No Parking zone established by Ordinance No. 2187 on the northerly side of Bigley Avenue from a point 90 feet east of Buchanan Street to a point 140 feet east of Buchanan Street is hereby repealed. The Director of Parking is hereby authorized to install parking meters consistent with the general area in this location.

Section 2. The Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Laws, Section 263, Division 2, Article 4, Chapter 114, shall be and hereby are amended, to conform to this Ordinance.

Section 3. All prior Ordinances, inconsistent with this Ordinance are hereby repealed to the extent of said inconsistency.

Councilmember Hoover added that there used to be a church in this area. A No Parking area is no longer needed.

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. 7842 passed.

7. 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. 7848 do pass.

Bill No. 7848 - A Bill to establish a Stop intersection on Mullins Road at Oakhurst Drive by placing a stop sign on the corner of Mullins Road and amending the Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Laws, Section 263, Division 2, Article 4, Chapter 114, to conform therewith.

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

Section 1. Stop intersection on Mullins Road at Oakhurst Drive by placing a stop sign on the corner of Mullins Road

Section 2. The Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Laws, Section 263, Division 2, Article 4, Chapter 114, shall be and hereby are amended, to conform to this Ordinance.

Section 3. All prior Ordinances, inconsistent with this Ordinance are hereby repealed to the extent of said inconsistency.

Councilmember Hoover added that the Stop Intersection is needed due to the increased traffic in the area near the new Kroger Fuel Center and CVS Pharmacy.

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. 7848 passed.

8. 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. 7849 Committee Substitute do pass.

Bill No. 7849 Committee Substitute - A Bill to establish a 15 MPH Speed Limit on Venable Avenue from 35<sup>th</sup> Street SE, easterly to 37<sup>th</sup> Street SE; and on 37<sup>th</sup> Street SE from Venable Avenue southerly to Washington Avenue SE; and amending the Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Laws, Section 263, Division 2, Article 4, Chapter 114, to conform therewith.

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

Section 1. 15 MPH Speed Limit on Venable Avenue from 35<sup>th</sup> Street SE, easterly to 37<sup>th</sup> Street SE; and 15 MPH Speed Limit on 37<sup>th</sup> Street SE from Venable Avenue southerly to Washington Avenue SE.

Section 2. The Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Laws, Section 263, Division 2, Article 4, Chapter 114, shall be and hereby are amended, to conform to this Ordinance.

Section 3. All prior Ordinances, inconsistent with this Ordinance are hereby repealed to the extent of said inconsistency.

Councilmember Hoover added that this and the next four (4) bills will address placing a 15 MPH Speed Limit in front of all of the City Recreation Centers. This bill addresses the Kanawha City Community Center. The Committee Substitute adjusted the space to more of an “L” shape.

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. 7849 Committee Substitute passed.

9. 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. 7850 do pass.

Bill No. 7850 - A Bill to establish a 15 MPH Speed Limit on Ruffner Avenue from Jackson Street, northerly to Lewis Street and amending the Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Laws, Section 263, Division 2, Article 4, Chapter 114, to conform therewith.

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

Section 1. 15 MPH Speed Limit on Ruffner Avenue from Jackson Street, northerly to Lewis Street

Section 2. The Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Laws, Section 263, Division 2, Article 4, Chapter 114, shall be and hereby are amended, to conform to this Ordinance.

Section 3. All prior Ordinances, inconsistent with this Ordinance are hereby repealed to the extent of said inconsistency.

Councilmember Hoover added that this bill addresses Roosevelt Neighborhood Center.

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. 7850 passed.

10. 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. 7851 do pass.

Bill No. 7851 - A Bill to establish a 15 MPH Speed Limit on Donnally Street from Court Street westerly to Clendenin Street and amending the Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Laws, Section 263, Division 2, Article 4, Chapter 114, to conform therewith.

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

Section 1. 15 MPH Speed Limit on Donnally Street from Court Street westerly to Clendenin Street.

Section 2. The Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Laws, Section 263, Division 2, Article 4, Chapter 114, shall be and hereby are amended, to conform to this Ordinance.

Section 3. All prior Ordinances, inconsistent with this Ordinance are hereby repealed to the extent of said inconsistency.

Councilmember Hoover added that this bill addresses King Community Center.

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. 7851 passed.

11. 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. 7852 do pass.

Bill No. 7852 - A Bill to establish a 15 MPH Speed Limit on 6<sup>th</sup> Avenue West from 21<sup>st</sup> Street West, easterly to end of 6<sup>th</sup> Avenue West, continuing easterly to end of City property and amending the Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Laws, Section 263, Division 2, Article 4, Chapter 114, to conform therewith.

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

Section 1. 15 MPH Speed Limit on 6<sup>th</sup> Avenue West from 21<sup>st</sup> Street West, easterly to end of 6<sup>th</sup> Avenue West, continuing easterly to end of City property.

Section 2. The Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Laws, Section 263, Division 2, Article 4, Chapter 114, shall be and hereby are amended, to conform to this Ordinance.

Section 3. All prior Ordinances, inconsistent with this Ordinance are hereby repealed to the extent of said inconsistency.

Councilmember Hoover added that this bill addresses North Charleston Community Center.

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. 7852 passed.

12. 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. 7853 do pass.

Bill No. 7853 - A BILL to amend and reenact Section 114-402 of the Code of the City of Charleston, as amended, relating to lowering the default speed limit for roads in Charleston that do not have posted speed limit signs and authorizing the director of traffic, upon the approval of the planning/streets and traffic committee, to designate maximum speeds for certain streets.

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

That Section 114-402 of the Code of the City of Charleston, as amended, be amended and reenacted to read as follows:

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 miles per hour.~~ On all city streets, when not otherwise signposted, the maximum speed shall be 25 miles per hour.

(c) At any 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.

(e) On all public alleys, when not otherwise signposted, the maximum speed shall be 10 miles per hour.

(f) On all streets and drives in Spring Hill Cemetery, the maximum speed shall be 15 miles per

hour.

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

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

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

~~(j) On all streets and roadways for which a maximum speed is prescribed on official traffic control signs, the speed shall be as specified on such signs. Unless specifically set by ordinance, the director of traffic shall have authority, upon the approval of the planning/streets and traffic committee of city council, to designate the maximum speed for specific city streets or portions of streets and to update official traffic control signs accordingly.~~

Councilmember Hoover added that this bill is to address the speeding problem throughout the City. The maximum speed of any City street not otherwise posted will be 25 MPH.

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. 7853 passed.

## 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. 255-19 do pass.

Resolution No. 255-19 - Authorizing the Mayor or City Manager to sign Change Order No. 1 with Garcie R. Marker & Sons, Inc., in the amount of \$100,000.00, to repair approximately 4,500 square feet of additional concrete pavement on Court Street. The work includes approximately 115 cubic yards of Class K Portland Cement Concrete Pavement at \$815 per cubic yard and approximately 95 tons of aggregate base at \$65 per ton. The additional costs will increase the contract price from \$619,225.00 to \$719,225.00.

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

That the Mayor or City Manager is hereby authorized to sign Change Order No. 1 with Garcie R. Marker & Sons, Inc., in the amount of \$100,000.00, to repair approximately 4,500 square feet of additional concrete pavement on Court Street. The work includes approximately 115 cubic yards of Class K Portland Cement Concrete Pavement at \$815 per cubic yard and approximately 95 tons of aggregate base at \$65 per ton. The additional costs will increase the contract price from \$619,225.00 to \$719,225.00.

Councilmember Jenkins added that this will be for additional work on Court Street as additional funds are available for the ongoing project. The work will not impact holiday traffic.

Councilmember King confirmed that the additional 4,500 square feet was not included in the original contract. The money was moved from the delayed project on Kanawha Boulevard. Councilmember King also confirmed that part of these funds was also allocated to pave Oakwood Road. He expressed concerns over money not going to other parts of the City. City Manager, Jonathan Storage, responded that the Court Street Project is necessary; this will prevent the area from undergoing construction additionally next year.

Councilmember Wesley-Plear confirmed that if the proposed resolution was not approved, the funds could be spent on other streets on the vote of Council.

Councilmember Jones confirmed with Storage that the paving of Kanawha Boulevard will be done next year as long as the Sanitary Board has completed their project.

Councilmember Persinger confirmed with Storage that the original contract was to pave one (1) lane of Court Street. The change order will see the entire street from Lee Street to Quarrier Street will be completed.

Councilmember King expressed concern over additional change orders that could be requested in the future. Storage responded that the change order was at the request of the City, not the company.

Councilmember Jenkins noted that a significant number of roads have been paved this season.

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, Knauff, Laird, McKinney, Minardi, Overstreet, Persinger, Pharr, Reishman, Robinson, Sheets, Snodgrass, Steele, Mayor Goodwin

NAYS: Jones, King, Wesley-Plear

ABSENT: NONE

With a majority of members present recorded thereon as voting in the affirmative, with three (3) NAYS, the Mayor declared Resolution No. 255-19 adopted.

Concrete Street Repair Project #E4-06/19-126UCHANGE ORDER NO.1

Council Approval of Contract:

July 1, 2019

Contractor:

Garcie R. Marker & Sons Inc.  
1119 Jefferson Road  
South Charleston, WV 25309

Description:

This change order will allow Garcie R. Marker & Sons, Inc. to repair approximately 4,500 ft<sup>2</sup> of additional concrete pavement on Court Street. The work includes approximately 115 yd<sup>3</sup> of Class K Portland Cement Concrete Pavement at \$815/yd<sup>3</sup> and approximately 95 TON of aggregate base at \$65/TON. The total amount of this change order is \$100,000.

|                                                |              |
|------------------------------------------------|--------------|
| Original Contract Price:                       | \$619,225.00 |
| Total of this Change Order:                    | \$100,000.00 |
| Total of previously approved Change Orders     | \$ 0.00      |
| Contract Price with all Approved Change Orders | \$719,225.00 |

Approved by:

Accepted by:

\_\_\_\_\_  
City of Charleston\_\_\_\_\_  
Garcie R. Marker & Sons Inc.\_\_\_\_\_  
Date\_\_\_\_\_  
Date

2. Your committee on Finance has had under consideration the following resolution, and reports the same to Council with the recommendation that Resolution No. 256-19 do pass.

Resolution No. 256-19 - Authorizing the Finance Director to establish Agency Fund 902, *Coliseum & Convention Center Ticket Fund*, a custodial account that accounts for revenues received from ticket sales for events held at the Coliseum & Convention.

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

That the Finance Director is hereby authorized to establish Agency Fund 902, *Coliseum & Convention Center Ticket Fund*, a custodial account that accounts for revenues received from ticket sales for events held at the Coliseum & Convention.

Councilmember Jenkins added that this resolution and No. 257-19 will institute accountability as well as to place funds into an interest-bearing account. Funds from ticket sales will be held in the listed account until the event is over, then dispersed appropriately. The Coliseum and Convention Center Board has approved this change.

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 256-19 adopted.

3. Your committee on Finance has had under consideration the following resolution, and reports the same to Council with the recommendation that Resolution No. 257-19 do pass.

Resolution No. 257-19 - Authorizing the Finance Director to establish Agency Fund 903, *Coliseum & Convention Promotions Fund*, a custodial account that accounts for revenues received from customers for Coliseum & Convention Center sponsored and run events, and are subsequently dispersed and deposited to the *Coliseum & Convention Center Revenue Fund* after the events are over.

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

That the Finance Director is hereby authorized to establish Agency Fund 903, Coliseum & Convention Promotions Fund, a custodial account that accounts for revenues received from customers for Coliseum & Convention Center sponsored and run events, and are subsequently dispersed and deposited to the Coliseum & Convention Center Revenue Fund after the events are over.

Councilmember Jenkins added that the listed account specifically deals with those events that are City/ Convention Center promoted, as opposed to a musical event or conference. This would include the Wedding Show and Home Show among others.

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 257-19 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. 259-19 do pass.

Resolution No. 259-19 - Approval of FY 2020 Budget Amendment No. 4 – Creation of the Office of Constituent Services.

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

That Amendment No. 4 in the FY 2020, Creation of the Office of Constituent Services, is approved.

Councilmember Jenkins added that the amendment creates the Office of Constituent Services, which will report to the Director of Strategic Management. It will create a centralized processing and repository for complaints, concerns, etc. by using a tracking system. Councilmember will be encouraged to use the system as well. The funds will come from the Mayor's Office.

Councilmember Minardi asked how the office will be staffed. Mayor Goodwin answered that there will be two (2) job postings.

Councilmember Pharr confirmed that the numbers on the attached sheet are through the end of the fiscal year.

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 No. 259-19 adopted.

**General Fund FY 2019-2020 Budget Amendment No. 4 - November 4, 2019**

| <b>Account No.</b>   | <b>Department</b>    | <b>Account Description</b>    | <b>Amount</b> |
|----------------------|----------------------|-------------------------------|---------------|
| 001 409 00 000 5 568 | Mayor's Office       | Other Contributions           | (80,000)      |
| 001 442 01 000 1 103 | Constituent Services | Wages & Salaries              | 51,500        |
| 001 442 01 000 1 104 | Constituent Services | FICA                          | 3,940         |
| 001 442 01 000 1 105 | Constituent Services | Medical & Life Insurance      | 18,180        |
| 001 442 01 001 1 106 | Constituent Services | Retirement - PERS             | 5,150         |
| 001 442 01 000 1 111 | Constituent Services | Dental & Vision               | 621           |
| 001 442 01 000 1 112 | Constituent Services | Insurance - Payroll Deduction | (2,683)       |
| 001 442 01 000 2 219 | Constituent Services | Building & Equipment Rents    | 1,000         |
| 001 442 01 001 2 221 | Constituent Services | Training                      | 500           |
| 001 442 01 000 2 226 | Constituent Services | Insurance - WC & UC           | 1,292         |
| 001 442 01 000 3 341 | Constituent Services | Material & Supplies           | 500           |

To establish a separate budget unit for the Constituent Services Office, including 2 positions (pay grade 109).

5. Your committee on Finance has had under consideration the following bill, and reports the same to Council with the recommendation that Bill No. 7847 Committee Substitute do pass.

Bill No. 7847 Committee Substitute - A BILL to amend the Municipal Code of the City of Charleston, as amended, by adding thereto two new sections in Chapter 2, Article VI, Division 4, Subdivision I, designated Sections 2-459 and 2-460 previously reserved for Division 3 of said Article VI; to amend and reenact Section 2-461; to repeal Section 2-462; to amend and reenact Sections 2-471 and 2-472; to repeal Section 2-473; to amend and reenact Sections 2-474, 2-475, 2-476, 2-479, and 2-480; and to amend said Code by adding thereto a new Subdivision III containing eight new sections in said Division 4, designated Sections 2-481, 2-482, 2-483, 2-484, 2-485, 2-486, 2-487, and 2-488, all relating to modernizing and clarifying the City of Charleston purchasing policies; defining terms; clarifying the policy of the City to attempt to procure commodities and services locally; authorizing the use of a robust solicitation process instead of newspaper advertisement; clarifying the handling of tie bids; explicitly requiring contracts for commodities and services to be in writing; updating the requirements for bid notices, bid submissions, deposits by bidders, the process for handling deposit forfeitures, and rejection of bids; creating and detailing a local vendor preference under certain conditions; specifying that contracts are not to be awarded to a bidder that is delinquent in a financial obligation to the city; detailing the time period during which city employees may not communicate with vendors; creating new policies related to change orders, contract cancellation, bid protests, use of other competitively-procured government contracts, and direct purchases; adopting the West Virginia Purchasing Division's impossible to bid list; and creating grounds and procedures related to debarment of potential bidders on city contracts.

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

That the Municipal Code of the City of Charleston, as amended, be amended by adding thereto two new sections in Chapter 2, Article VI, Division 4, Subdivision I, designated Sections 2-459 and 2-460 previously reserved for Division 3 of said Article VI; that Section 2-461 of said code be amended and reenacted; that Section 2-462 of said code be repealed; that Sections 2-471 and 2-472 of said code be amended and reenacted; that Section 2-473 of said code be repealed; that Sections 2-474, 2-475, 2-476, 2-479, and 2-480 of said code be amended and reenacted; and that said Code be amended by adding thereto a new Subdivision III containing eight new sections in said Division 4, designated Sections 2-481, 2-482, 2-483, 2-484, 2-485, 2-486, 2-487, and 2-488, all to read as follows.

Chapter 2. – ADMINISTRATION.

ARTICLE VI. – FINANCE.

DIVISION 4. – CONTRACTS AND PURCHASES.

Subdivision I. – In General.

Sec. 2- 459 – Definitions.

As used in this division, unless the context clearly requires a different meaning:

(1) “City manager” means the City Manager of the City of Charleston or his or her designee, such as the city’s purchasing director.

(2) “Commodities” means supplies, material, equipment and any other articles or things used by or furnished to the city.

(3) “Contract” means an agreement between the city and a vendor relating to the procurement of commodities or services, or both.

(4) “Debarment” means the exclusion of a vendor from the right to bid on contracts to sell goods or supply services to the city for a specified period of time.

(5) “Debarred Vendor” means any vendor debarred by the West Virginia Purchasing Division pursuant to W. Va. Code § 5A-3-33e or debarred by the city, which results in the city’s inability to solicit offers from, award contract to, or consent to subcontract with the vendor during the debarment period.

(6) “Electronic transmission” or “electronically transmitted” means any process of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval and reproduction of information by the recipient.

(7) “Final offer” means a tie-breaking bid submitted subsequent to a bid opening where the apparent lowest bidder and apparent second-lowest bidder submit tied initial bids.

(8) “Impossible to Bid List” means a list adopted by the city of commodities or services that are not possible to submit for competitive bid.

(9) “Local Vendor” means a responsible vendor who has an active and current business and occupation tax account on file with the city collector for the duration of a period of one year preceding the date on which an applicable bid opening occurs.

(10) “Lowest responsible bidder” means a responsible bidder who has submitted the lowest priced bid and who did not materially deviate from the mandatory terms and conditions contained in the solicitation.

(11) “Responsible bidder” means a bidder who has the capability to fully perform the contract requirements and the integrity and reliability which will assure good-faith performance.

(12) “Non-responsible bid” means a bid that fails to conform to the solicitation in all material respects.

(13) “Non-responsible bidder” means a bidder not having the capability to fully perform the contract requirements and lacking the integrity and reliability which will assure good-faith performance.

(14) “Services” means the furnishing of labor, time, expertise or effort, not involving the delivery of a specific end commodity or product other than one that may be incidental to the required performance.

(15) “Vendor” means any person or entity that may, through contract or other means, supply the city with commodities or services.

Sec. 2-460. - City manager to purchase all commodities and services.

It shall be the duty of the city manager to supervise the purchase of all commodities and services necessary for the city or for the departments of city government.

Sec. 2-461. – Purchase of ~~supplies and materials~~ commodities and services.

(a) All ~~supplies and materials~~ commodities and services for the various departments of the city government, not exceeding at any one time the sum of \$25,000.00, shall be purchased by the city manager, and every reasonable precaution shall be taken to procure the ~~supplies and materials~~ commodities and services at the very lowest price possible consistent with good service and quality. The city manager is encouraged to first attempt to procure commodities and services from responsible vendors within city limits before contracting with vendors principally operating outside of city limits. All such purchases shall be made upon requisition signed by the officer in charge of the department for which the ~~supplies and materials~~ commodities or services are needed and filed with the city manager. City department employees who receive deliveries from vendors are responsible for inspecting the commodities and services upon delivery to ensure that purchases meet contractual requirements and are responsible for maintaining records of receipt. ~~who shall thereupon direct his/her order to the person from whom it is proposed to purchase the supplies or materials, requiring him/her to deliver the supplies to the person in charge of the department for which ordered, and the supplier shall make out his bill at the contract price, on a blank form attached to order and furnished therewith by the manager, and shall send the bill with the goods to the officer in charge of the department for which they were ordered; and it shall be the duty of the officer to examine the goods delivered and the quantity thereof; and if he/she finds the quantity to be as stated in the order and the quality first class or of the grade ordered, he/she shall endorse the bill with a statement that the goods have been received and the quantity and quality found to be correct and shall return the bill and the order upon which it was furnished to the merchant or person making the same, who shall file it with the city manager for approval and authorization for payment. If found incorrect, or if the quality be found below the standard and grade ordered, the officer in charge shall refuse to accept the goods and shall notify the manager to that effect, and the person furnishing the goods shall be notified by the officer in charge of the department that the goods can only remain where delivered at the risk of the person delivering.~~

(b) The purchase of ~~supplies and materials~~ commodities and services for the various departments of the city government exceeding at any one time the sum of \$25,000.00 shall be approved by the city council, and thereupon the provisions of subsection (a) of this section shall become applicable.

(c) Nothing in this article shall be construed to preclude the purchase by the city of ~~materials, supplies and equipment~~ commodities and services by agreement between the city and state director of the ~~division of purchases of the department of finance and administration~~ West

Virginia Purchasing Division, as provided in West Virginia Code § 8-12-10(a).

(d) Nothing in this article shall preclude the city manager from purchasing ~~supplies and materials~~ commodities and services without receiving approval from city council where, in the judgment of the city manager, the failure to immediately purchase ~~supplies and materials~~ the commodities or services, prior to securing council approval, would result in a condition of extreme peril resulting in substantial damages or injury to persons or property within this city, whether such occurrence is caused by an act of God, nature or man, including an enemy of the United States.

(e) No contract may be authorized to any business or individual that is delinquent in any financial obligation to the city or is not operating with all required licenses and permits.

~~Sec. 2-462. City manager to purchase all supplies and materials.~~

~~———— It shall be the duty of the city manager to supervise the purchase of all supplies and materials necessary for the use of the city or for any and all departments of the city government.~~

#### Subdivision II. - Bids

Sec. 2-471. - When advertising for bids required; publication of advertisement, time for opening of bids; ~~letting of contracts~~ breaking of ties; contracts to be in writing.

(a) Whenever any contract is proposed to be entered into by the city involving the expenditure of more than \$25,000.00, except where such contract involves the rendering of professional services or where such contract is for ~~materials and supplies~~ commodities and services as referenced in Section 2-461, the city manager shall publish ~~an advertisement a solicitation~~ calling for bids ~~for this work~~, unless it is decided to do this work with city personnel or others employed by the city for such purposes. The time for opening such bids shall not be less than ten days from the date of the first publication of the advertisement solicitation. The advertisement solicitation shall be advertised through city websites and may also be advertised in newspapers, newsletters, trade journals, mass emailing, or any other media the city manager considers advisable. ~~shall be printed once a week for two successive weeks in two newspapers of opposite politics, and of general circulation and published in the city, preceding the time of opening the bids.~~

(b) ~~The council shall reserve the right to reject any and all bids, but the contract, if let, must be let to the lowest responsible bidder.~~ When tie bids are received, the city manager may break the tie by allowing the vendors to make a final offer according to procedures adopted by the city manager.

~~————~~ (c) All contracts for the purchase of commodities and services must be in writing.

~~(d) No contract shall be awarded to any bidder that is delinquent in any financial obligation to the city or is not operating with all required licenses and permits; Provided, that nothing herein~~ Nothing in this article is to affect effect the procurement procedures for design

build projects ~~which are~~ governed by West Virginia Code §5-22A-1 et seq. and Section 3-16 of this code, the procurement procedures for construction contracts governed by West Virginia Code §5-22-1 et seq., or the procurement procedures for architectural or engineering services ~~which are~~ governed by West Virginia Code § 5G-1-1 et seq. and Section 3-15 of this code.

~~(b)~~ (e) Nothing in this article shall preclude the city manager from entering into contracts without first advertising for bids and receiving council approval where, in the judgment of the city manager, the failure to immediately enter into a contract, would result in a condition of extreme peril resulting in substantial damages or injury to persons or property within this city, whether such occurrence is caused by an act of God, nature or man, including an enemy of the United States.

Sec. 2-472. - Contents of ~~advertisements~~ solicitation for bids.

Notice to bidders shall state:

- (1) The nature of the work;
- (2) The place where the plans and specifications and forms of contract may be seen;
- (3) The amount of cash or bond to be deposited with the city treasurer or city manager, as may be required;
- (4) The city's local vendor preference guidelines;
- ~~(4)~~ (5) The time up to which the bids shall be received and the hour and place of ~~opening the bids~~ bid opening; ~~and~~
- ~~(5)~~ (6) The right of the city council or the city manager to reject any and all bids;
- (7) That debarred vendors may not submit bids or be awarded contracts;
- (8) That bidders have a right to file a bid protest; and
- (9) That the city is exempt from state and local taxes.

~~Sec. 2-473. – Additional invitations and advertising soliciting bids.~~

~~Nothing in section 2-471 shall preclude the city council from directing that invitations to bid shall also be given to contractors in other localities believed to be qualified to perform the work sought to be performed, or from causing additional advertisements from being published in other localities; however, all such invitations and advertisements shall conform to the requirements of section 2-472, and no prospective bidder shall be given any information not given to all other prospective bidders.~~

Sec. 2-474. – Submission of bids.

Bids must be submitted in accordance with the procedures established by the city manager. The city manager is authorized, but is not required, to accept bids by electronic transmission with the use of suitable computer software programs or systems approved by the city manager.

~~Each bid for work under this division shall be made upon a blank form to be furnished by the city manager and shall be placed in a sealed envelope addressed to the manager and endorsed "Proposals for \_\_\_\_\_." Each bid shall be signed by the bidder or by an authorized officer or agent where the bid is by a firm or corporation. The bid shall not be opened before the time and hour fixed in the notice.~~

Sec. 2-475. - Deposits by bidders.

The city manager shall determine the applicability and amount of bonds or deposits required of a vendor at any time, if, it is judged that security is necessary to safeguard the city from undue risk. The city manager may require the vendor to submit a certified check, certificate of deposit, performance bond, litigation bond, or any other security acceptable to the city manager, payable to the City of Charleston. Neither personal checks nor company checks are acceptable. Vendors can request that bonds or other security be returned after the purpose for which the bond was provided has been fulfilled. Upon confirmation from the city department or other relevant party that the bond or security in question has fully served its purpose, the city manager may return the bond or security.

~~(a) The amount of the cash or bond deposited shall be equal to five percent of the total cost of the work as estimated by the city manager; however, no deposit shall be less than \$25.00.~~

~~(b) The deposit so made shall be conditioned that the successful bidder shall enter into a written contract to do the work bid for according to the terms of his bid and shall furnish approved security within ten days after the award has been made and the successful bidder notified.~~

Sec. 2-476. - When bidder's deposit forfeited.

If any bidder to whom a contract shall have been awarded fails to enter into a contract and to furnish approved security within the time specified, his deposit shall be forfeited to the city. and the The city manager may advertise for new bids or may contract with the next lowest responsible bidder, so long as such vendor honors the price submitted in its bid.

Sec. 2-479. - Rejection of bids.

The city manager must reject a bid that is found to be non-responsible. The city manager may waive minor irregularities in bids or specifications when the city manager determines such action to be appropriate.

~~If in any bid blanks are not properly filled up so as to make the bid complete and without an ambiguity as to its intent and meaning, or if a bid has any alteration or erasure upon it, or if it~~

~~is not properly signed, or if the certificate of deposit has not been enclosed with the bid as provided, the bid shall be rejected.~~

Sec. 2-480. - Action upon bids; bid evaluation; local vendor preference; award of contract; authority to reject all bids.

(a) Upon the opening and consideration of all bids by the city manager, he shall submit them to the city council, together with his calculations and recommendations, to the city council for appropriate action with respect to awarding the contract.

(b) A local vendor may qualify for a competitive advantage applied to its bid when the following conditions are met:

(1) The vendor has marked on its bid submission that it is requesting to be considered a local vendor for bid evaluation purposes;

(2) The vendor provides documentation evidencing that it has the right to conduct business in the State of West Virginia; and

(3) The vendor submits an affidavit confirming that it has paid all applicable business taxes to the city or has a non-delinquent payment plan with the city and has had an active and current business and occupation tax account with the city collector during the entire preceding one-year period.

(c) Competitive advantages shall be applied in the following manner:

(1) A competitive advantage of 4% shall be applied to the local vendor's bid when, prior to applying the competitive advantage, the apparent lowest responsible bidder submits a bid that is greater than \$25,000 but does not exceed \$125,000.

(2) The competitive advantage of \$5,000 shall be applied to the local vendor's bid when, prior to applying the competitive advantage, the apparent lowest responsible bidder submits a bid that is greater than \$125,000.

(d) In evaluating bids, the city manager shall apply the applicable competitive advantage to a qualifying local vendor by deducting the value of the competitive advantage from the local vendor's net total bid amount. The resulting amount will be used in evaluating the bids to determine the lowest responsible bidder.

(e) The contract, if awarded, must be awarded to the lowest responsible bidder. Provided; that no contract shall be awarded to any bidder that is delinquent in any financial obligation to the city or is not operating with all required licenses and permits.

(f) From the time a solicitation is advertised until an award is made, no city employee may communicate with vendors about a solicitation or any component thereof without prior approval from the city manager. All communication regarding a solicitation must be directed to the city manager until an award has been made. Nothing in this subsection, however, shall prevent city employees from communicating with a vendor about existing contracts or other matters unrelated to a pending solicitation.

(g) The council or the city manager shall have the authority to reject all bids.

Subdivision III. - Administrative.Sec. 2-481. – Change Orders.

The city manager has the authority and responsibility to review contract change orders just as he or she has authority and responsibility for review and approval of the original contract. Any city department desiring to make a change to a contract must submit a request for the contract change to the city manager for review. City departments must not permit vendors to perform work that is the subject of a change order request until the change order has been approved by the city manager.

Sec. 2-482. – Contract Cancellation.

(a) The city manager may cancel a purchase or contract immediately under any one of the following conditions including, but not limited to:

- (1) The vendor agrees to the cancellation;
- (2) The vendor has obtained the contract by fraud, collusion, conspiracy, or is in conflict with any statutory or constitutional provision of the State of West Virginia;
- (3) Failure to honor any contractual term or condition or to honor standard commercial practices;
- (4) The existence of an organizational conflict of interest is identified;
- (5) Funds are not appropriated or an appropriation is discontinued by the council for the acquisition;
- (6) Violation of any federal, state, or local law, regulation, or ordinance, and
- (7) The contract was awarded in error.

(b) The city manager may cancel a purchase or contract for any reason or no reason, upon providing the vendor with 30 days' notice of the cancellation.

Sec. 2-483 – Protests.

(a) Protest of a purchase or contract award may be submitted no later than seven calendar days after the council approves of the award following a formal solicitation and bid opening process administered by the city. When the due date for the protest submission falls on a legal holiday, the protest must be received during the next business day. The vendor is responsible for knowing the bid opening and award dates. Protests received late may be rejected at the option of the city manager.

(b) All protests must be submitted in writing to the city manager and contain the following information:

- (1) The name and address of the protestor;
- (2) The solicitation number;
- (3) A statement of the grounds of protest;

- (4) Supporting documentation, if necessary; and
- (5) The resolution or relief sought.
- (c) Failure to submit this information shall be grounds for rejection of the protest by the city manager.
- (d) The city manager shall review the matter of protest and issue a written decision. A hearing may be conducted at the option of the city manager. Continuation or delay of a contract award is at the discretion of the city manager.
- (e) The decision of the city manager is final and is not appealable.
- (f) The city manager may refuse to review any protests when the matter involved is the subject of litigation before a court of competent jurisdiction; if the merits have previously been decided by a court of competent jurisdiction; or if it has been decided by the city manager in a previous protest.

#### Sec. 2-484 – Use of Other Competitively-Procured Government Contracts.

Notwithstanding any provision of this code to the contrary, the city manager may purchase commodities or services without advertising a city solicitation and receiving bids when a responsible vendor has been awarded a contract with a federal or State of West Virginia governmental entity through a competitive selection process. Provided; that for purchases of commodities or services exceeding \$25,000 in value, the purchase must be approved by council.

#### Sec. 2-485 – Impossible to Bid List.

Notwithstanding any provision of this code to the contrary, the city adopts the West Virginia Purchasing Division's list of commodities and services that are not possible to submit for competitive bid, as identified in the agency's Procedures Handbook, which may be amended from time to time. The city manager may contract directly with a responsible vendor who supplies commodities or services identified on the Impossible to Bid List. Council approval is required when the contract will exceed \$25,000. Provided; that the city attorney, with the consent of the city manager, may contract directly with an attorney, law firm, expert witness, or legal consultant considered necessary and suitable in pursuing and defending the city's interests without first seeking council approval.

#### Sec. 2-486 – Direct Purchases.

Notwithstanding any provision of this code to the contrary, the council may approve by resolution to forego these bidding requirements and contract directly with a responsible vendor when, in the council's sound judgment, it is in the city's best interest to procure certain commodities or services directly from the identified responsible vendor: Provided, That this section does not apply to the procurement of construction contracts, which are governed by W. Va. Code § 5-22-1, or contracts for architectural or engineering services, which are governed by

W. Va. Code § 5G-1-1 et seq. and Section 3-15 of this code. Provided further; that this section does not apply when federal statutes or regulations require the city to follow a competitive selection process to apply for or administer federal grants or aid.

Sec. 2-487 – Grounds for Debarment.

- (a) Grounds for debarment are:
- (1) Conviction of an offense involving fraud or a felony offense related to obtaining or attempting to obtain a public contract or subcontract;
- (2) Conviction of any federal or state antitrust statute relating to the submission of offers; such as price fixing, bid rigging, and market allocation schemes;
- (3) Conviction of an offense involving embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property related to the performance of a contract;
- (4) Conviction of a felony offense demonstrating a lack of business integrity or business honesty that affects the present responsibility of the vendor or subcontractor;
- (5) Violation of the terms of a public contract or subcontract for:
- (A) Willful failure to substantially perform in accordance with the terms of one or more public contracts;
- (B) Performance in violation of standards established by law or generally accepted standards of the trade or profession amounting to intentionally deficient or grossly negligent performance on one or more public contracts;
- (C) Use of substandard materials on one or more public contracts or defects in construction in one or more public construction projects amounting to intentionally deficient or grossly negligent performance, even if discovery of the defect is subsequent to acceptance of a construction project and expiration of any warranty thereunder; or
- (D) A repeated pattern or practice of failure to perform so serious and compelling as to justify debarment; or
- (6) Any other cause of a serious and compelling nature amounting to knowing and willful misconduct of the vendor that demonstrates a wanton indifference to the interests of the public and that caused, or that had a substantial likelihood of causing, serious harm to the public.
- (b) For the purposes of this section, the term “conviction” includes, but may not be limited to, the entering of a deferred prosecution agreement or a plea of guilty or nolo contendere, including pleading to a lesser or related offense in exchange for some form of prosecutorial leniency.
- (c) Pursuant to W. Va. Code § 5A-3-33f, vendors debarred by the West Virginia Purchasing Division are automatically debarred by the city and may not be awarded contracts.

Sec. 2-488. - Debarment Procedures.

- (a) The city manager shall notify the vendor by certified mail of the following:

(1) The reasons for the proposed debarment in sufficient detail to put the vendor on notice of the conduct or transactions upon which the proposed debarment is based;

(2) The causes relied upon for the proposed debarment;

(3) That within thirty calendar days after receipt of the notice, the vendor may submit in writing information and argument in opposition to the proposed debarment;

(4) The procedures governing debarment decision-making; and

(5) The potential effect of the proposed debarment.

(b) The city manager may hold a hearing if the vendor contests the debarment. In any debarment decision, the city manager shall make a specific finding, based on the substantial record, whether the public interest requires that the debarment decision extend to all commodities and services of the vendor, or whether the public interest allows the debarment decision to be limited to specific commodities or services.

(c) In any debarment decision, the city manager shall specify the length of the debarment period. The debarment period must be for the period of time that the city manager finds necessary and proper to protect the public from a non-responsible vendor.

(d) Proof of grounds for debarment must be clear and convincing.

(e) The debarment decision of the city manager is appealable to the Circuit Court of Kanawha County, West Virginia, within 30 calendar days of receiving the decision, and the appeal will be governed by the procedure established in W. Va. Code § 29A-5-4.

Councilmember Jenkins added the Finance Committee additionally amended the bill by adding “city” before “manager” to line 293.

Storage added that the bill is intended to both modernize the purchasing ordinance while also filling in procedural gaps that are currently not addressed in City Code, such as the authorization to advertise and receive bids electronically. It also corrects gaps in the current procedural code, such as not having formal process to handle bid protests, tied bids and debarring irresponsible bidders, etc. It also established a local vendor preference based on taxpayer status/account status, as well as defining terms. The bill also encourages the City Manager to first attempt to procure commodities and services from responsible vendors within city limits when the \$25,000 threshold does not apply.

Councilmember Wesley-Plear confirmed with Storage that is a reinstatement process for debarred vendors.

Councilmember Jenkins commended Storage and the Local Vendor Preference Sub Committee for their work on the bill.

Councilmember Faegre asked if, in the past, vendors/bidders have been given contracts with the City that have owed B&O taxes. Mayor Goodwin and Storage answered that from January 8, 2019 to present, the Administration can confidently answer no.

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. 7847 Committee Substitute passed.

### ***REPORTS OF OFFICERS***

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1. Report of the City of Charleston Payroll Variance Analysis; October 2019.  
Received and Filed.

### ***NEW BILLS***

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Introduced by Councilmember Adam Knauff  
on November 4, 2019:

Bill No. 7846 – Amending the Zoning Ordinance of the City of Charleston by allowing “Automotive Body and Paint Shop” as a permitted use in the C-8 Village Commercial District.  
Refer to Municipal Planning Commission and Planning, Streets and Traffic Committee

Introduced by Councilmember Pat Jones  
on November 4, 2019:

Bill No. 7855 – - A Bill to establish a 15 MPH speed limit on Woodhaven Drive from Woodward Drive to end of Woodhaven Drive and amending the Traffic Control Map and Traffic Control File  
Refer to Planning, Streets and Traffic Committee

***MISCELLANEOUS/UNFINISHED BUSINESS***

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1. Mayor Goodwin reminded those present of the community forum to take place November 5, 2019.
2. Councilmember McKinney thanked the Mayor and City for the previous Wednesday's event.
3. Councilmember Wesley-Plear announced the Youth Wrestling event that will take place at the Convention Center over the weekend.

***ADJOURNMENT***

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*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 8:20 p.m., by a motion from Councilmember Ceperley, Council adjourned until Monday, November 18, 2019, at 7:00 p.m., in the Council Chamber in City Hall.

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Amy Shuler Goodwin, Honorable Mayor

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Miles C. Cary II, City Clerk