



CITY OF CHARLESTON West Virginia



Council Member – 12th WARD

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Finance Committee, Chair
Parking Committee, Chair
Public Safety Committee

AGENDA **FINANCE COMMITTEE MEETING** **Tuesday, January 21, 2020** **6:15 PM**

I. DISCUSSION:

- a. Approval of Previous Minutes – January 6, 2020

II. RESOLUTIONS:

- a. Resolution No. 278-20 - Authorizing settlement of pending disputed claims against the City by Charleston Fire Department employees and retirees related to compensation for holidays.
- b. Resolution No. 279-20 - Authorizing the Chief of Police and the Charleston Police Department to enter into a Memorandum of Understanding and a Cost Reimbursement Agreement with the United States Federal Bureau of Investigation setting forth the responsibilities of the Southern West Virginia Transnational Organized Crime Western Hemisphere Task Force and authorizing reimbursement of overtime expenses for Charleston officers on the task force.
- c. Resolution No. 280-20 – Authorizing the Mayor or City Manager to enter into a contract with Endless Summer Aquatics Inc. in the amount of \$60,500 for the purchase and installation of pool equipment for the North Charleston Community Center.
- d. Resolution No. 281-20 – Authorizing approval of Amendment No. 5 in the FY 2019-2020 General Fund Budget.

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

MINUTES
FINANCE COMMITTEE MEETING
6:30 P.M., JANUARY 6, 2020
A/V CONFERENCE ROOM

Joseph Jenkins, Chairperson, called the meeting of the Charleston City Council Committee on Finance to order at 6:30 p.m., January 6, 2020, in the Audio/Visual Room in City Hall.

A silent roll was taken by the Clerk and a quorum was established. The following committee members were present:

Joseph Jenkins, Chair
Bobby Reishman, Vice Chair
Brent Burton
Mary Beth Hoover
Will Laird
Keeley Steele

I. DISCUSSION:

a. Councilmember Reishman asked for unanimous consent to dispense with the reading of the minutes for the December 16, 2019 meeting and that they be approved as distributed. There was no objection and the minutes were approved.

II. RESOLUTIONS:

- a. Resolution No. 276-20 - Authorizing the release of any claims by the City in the pending litigation styled *U.S. Bank National Association, as Trustee, as successor in interest to Bank of America, National Association, as successor by merger to LaSalle Bank National Association, as trustee for the registered holders of Bear Stearns Commercial Mortgage Securities, Inc., Commercial Mortgage Pass-Through Certificates, Series 2007-TOP28 and Charleston Urban Renewal Authority and City of Charleston v. Charleston Town Center SPE, LLC and Charleston Town Center Company, Limited Partnership, Charleston Town Center Parking Limited Partnership, and The Bank of New York Mellon, as trustee for the Series 1996C Subordinate Capital Appreciation Parking Facility Refunding Bonds*, Kanawha County Circuit Court Civil Action No. 17-C-1527.

Whereas, the City is an Intervenor in the above-referenced pending litigation, but has not raised any claims of its own; and

Whereas, the pending litigation is scheduled for mediation on January 10, 2020; and

Whereas, in order to fully resolve the pending litigation, the parties are likely to request a release of all claims by the City.

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

That the City Council hereby authorizes and approves the release of any claims by the City in the pending litigation styled *U.S. Bank National Association, as Trustee, as successor in interest to Bank of America, National Association, as successor by merger to LaSalle Bank National Association, as trustee for the registered holders of Bear Stearns Commercial Mortgage Securities, Inc., Commercial Mortgage Pass-Through Certificates, Series 2007-TOP28 and Charleston Urban Renewal Authority and City of Charleston v. Charleston Town Center SPE, LLC and Charleston Town Center Company, Limited Partnership, Charleston Town Center Parking Limited Partnership, and The Bank of New York Mellon, as trustee for the Series 1996C Subordinate Capital Appreciation Parking Facility Refunding Bonds*, Kanawha County Circuit Court Civil Action No. 17-C-1527. The City Council authorizes the Mayor, City Manager, and City Solicitor to take all necessary steps to resolve the pending litigation up to and including providing a release of all claims by the City, provided that this resolution does not authorize the payment of any City funds.

City Attorney, Kevin Baker, added that the pending litigation is set for mediation this Friday. He stated that while the City does not have any actual claims in the litigation, if the litigation is resolved, the involved parties will then want a release from the City.

Councilmember Snodgrass abstained from voting, out of an abundance of caution, as she owns bonds on the parking garage.

Councilmember Reishman moved to approve the Resolution. With a majority of members present recorded thereon as voting in the affirmative, with one abstention, Chairperson Jenkins declared Resolution No. 276-20 approved.

- b. Bill No. 7856 - A Bill granting StayLock Storage Acquisition I, LLC (“StayLock Storage”), an easement in a portion of the fee or right-of-way of the City of Charleston in the 1300 block of Hansford Street for the purpose of operating, maintaining, repairing and replacing an existing skywalk connecting 1352 Hansford Street to 1347 Hansford Street, generally in conformance with the drawing attached as Exhibit A hereto.

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

Subject to the minimum terms and conditions contained herein,

StayLock Storage, and its lessees, successors or assigns, are hereby granted an easement in a portion of the fee right-of-way for the purpose of operating, maintaining, repairing and replacing an existing skywalk, generally in conformance with the drawings which are attached hereto, incorporated herein, and made a part hereof. The easement is further defined to be 11 feet by 42 feet running between 1352 Hansford Street and 1347 Hansford Street containing approximately 462 square feet more or less; and

StayLock Storage, its lessees, successors or assigns, shall indemnify, defend and save the City harmless from and against any damages to any person or property by reason of the operation, maintenance, repair or replacement of the skywalk by StayLock Storage, its lessees, successors and assigns; and

StayLock Storage shall maintain general liability insurance in the minimum amount of \$1,000,000.00 and shall name City as an additional insured for purposes of the easement and the indemnity provisions specified in the easement agreement. All applicable policies shall provide primary coverage, shall reflect that StayLock Storage is responsible for any and all deductibles and shall otherwise be in such form and with such endorsements and riders as City shall reasonably specify; and

Should there become a compelling public need for the area granted in the easement, the parties agree to cooperate in good faith to reach a resolution regarding removal, modification, or replacement of the skywalk without the necessity of condemnation proceedings; and

That upon review and approval by legal counsel for the City, and the City Engineer of the City of Charleston, the Mayor or City Manager of the City of Charleston are hereby authorized to execute an easement agreement and any other documents related hereto for the purpose of granting an easement for the purpose of operating, maintaining, repairing and replacing a skywalk and conditioned upon StayLock Storage, and its lessees, successors or assigns, consistent with paragraphs 1, 2, 3, 4, and 5 of this ordinance, and the payment of the appraised value of Seven Hundred and Forty dollars and no cents (\$740.00).

Baker added that as a result of a transition and selling of the warehouses to a new owner, it was discovered that there was never an official easement for the skywalk. A certified appraiser set the value of \$740.

Councilmember Jenkins confirmed that they will be purchasing the easement.

Councilmember Reishman moved to approve the Resolution. With a majority of members present recorded thereon as voting in the affirmative Chairperson Jenkins declared Bill No. 7856 approved.

DEED OF EASEMENT

THIS DEED OF EASEMENT is made and entered into this ____ day of _____, 2020, by and between THE CITY OF CHARLESTON, a West Virginia municipal corporation, party of the first part, hereinafter referred to as the “City”, and STAYLOCK STORAGE ACQUISITION I, LLC, party of the second part; hereinafter referred to as “StayLock Storage”;

WHEREAS, Bill No. ____, attached hereto as Exhibit 1 was duly passed by the City Council of the City of Charleston, West Virginia, on ____, 2020, granting an easement for use of the air rights above the City’s right-of-way between the buildings located at 1352 Hansford Street and 1347 Hansford Street in the City of Charleston for the purpose of operating, maintaining, repairing, and replacing an existing skywalk, subject to certain restrictions; and WHEREAS, the easement for the existing skywalk is granted for the purposes of operating, maintaining, repairing, and replacing a skywalk above the City’s right-of-way between the buildings located at 1352 Hansford Street and 1347 Hansford Street; and WHEREAS, the existing skywalk is more particularly located above a footprint defined to be 11 feet by 42 feet running between 1352 Hansford Street and 1347 Hansford Street containing approximately 462 square feet more or less; and

WHEREAS, Bill No. ____ authorized the Mayor or the City Manager of the City of Charleston to execute and acknowledge a proper deed granting an easement for the existing skywalk, subject to certain conditions, and including an easement to use so much of the City’s property as reasonably necessary to maintain, repair, and replace the existing skywalk;

NOW THEREFORE, WITNESSETH: That for and in consideration of the sum of SEVEN HUNDRED FORTY DOLLARS (\$740.00), cash in hand paid, the receipt of which is hereby acknowledged, the party of the first part does hereby GRANT and CONVEY unto the party of the second part its successors and assigns, a perpetual easement to use of the air rights above the City’s right-of-way between the buildings located at 1352 Hansford Street and 1347 Hansford Street in the City of Charleston for the purpose of operating, maintaining, repairing and replacing an existing skywalk, which is more particularly located above a footprint defined to be 11 feet by 42 feet running between 1352 Hansford Street and 1347 Hansford Street and containing approximately 462 square feet more or less. The location of the easement is depicted in Exhibit A, which is part of Exhibit 1, attached hereto and incorporated herein.

The easement for the use granted herein is subject to the following conditions: 1) that the skywalk within the easement area will be subject to inspection and approval by the City Engineer or his or her designee; 2) that any repairing or replacement of the skywalk shall conform to all applicable Federal, State and City laws and be performed in a workmanlike manner in accordance with plans, drawings, and specifications subject to review and approval by the City Engineer; 3) that StayLock Storage, its lessees, successors, or assigns shall indemnify, defend, and hold harmless City from and against any claims for damage or injury to any person or property by reason of the operation, use, maintenance, repair or replacement of the skywalk by StayLock Storage, its lessees, successors, or assigns; 4) that, in the event that the skywalk ceases to comply with all applicable Federal, State and City laws and regulations, or the skywalk constructed in the easement area otherwise become unsafe and StayLock Storage or any successor owner fails after a reasonable notice and cure period to make all necessary repairs, the easement shall cease, terminate and be of no further effect, and StayLock Storage or the successor owner, as applicable, shall, upon receiving written notice from the City, immediately and at the expense of StayLock or the successor owner, as applicable, remove the skywalk from

the City's air rights above the City property; and 5) in the event that the City should have a substantial and compelling public need for the City property affected by the easement, the City and StayLock Storage shall cooperate in good faith to reach a resolution regarding removal, modification, or replacement of the skywalk without the necessity of condemnation proceedings. To the extent that the skywalk requires removal pursuant to 5) above, the City, at its expense, may remove the skywalk from the City's property, and this easement shall terminate.

DECLARATION OF CONSIDERATION OF VALUE: The City of Charleston declares that this conveyance is not subject to the West Virginia State Excise Tax on the privilege of transferring real estate for the reason that this is a conveyance from a political subdivision of the State of West Virginia.

WITNESSETH the following signatures:

THE CITY OF CHARLESTON,
a West Virginia municipal corporation,

ATTEST:

City Clerk

BY _____
Mayor/City Manager

STATE OF WEST VIRGINIA

COUNTY OF KANAWHA, to wit:

The foregoing instrument was acknowledged before me this ____ day of _____, 2020 by _____, the Mayor/City Manager of THE CITY OF CHARLESTON, a West Virginia municipal corporation, for and on behalf of said municipal corporation.

Notary Public

This instrument was prepared by:

Kevin Baker (WV Bar #10815), City Attorney, P.O. Box 2749, Charleston, WV 25330

- c. Bill No. 7857 - A BILL to amend and reenact Section 110-311 of the Municipal Code of the City of Charleston, known as the "Public Utilities Tax," relating to updating and clarifying the ordinance to be consistent with current court precedent and allow for consistent application of the tax.

WHEREAS, prior to 2006 the Public Service Commission required all motor carriers and garbage haulers who engage in interstate disposal of waste to obtain a permit and a certificate of convenience and necessity pursuant to West Virginia Code § 24A-2-5, as required from intrastate motor carriers and garbage haulers; and

WHEREAS, in 2006 the United States District Court for the Southern District of West Virginia held in *Harper v. PSC*, 427 F. Supp. 2d 707, 724, that West Virginia Code § 24A-2-5 is invalid insofar as it requires solid waste haulers engaged in the interstate transportation of solid waste to obtain a certificate of convenience and necessity from the PSC prior to providing those services; and

WHEREAS, the current ordinance has yet to reflect the change in permit and certification requirements for motor carriers and solid waste haulers engaged in interstate transportation; and

WHEREAS, some solid waste haulers and motor carriers continue to engage in the business of providing a public utility within the City of Charleston without PSC permit or certification requirements and may not be taxed in the same manner as those with PSC permit or certification requirements under the ordinance as currently provided.

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

That Section 110-311 of the Municipal Code of the City of Charleston, known as the "Public Utilities Tax" is hereby amended and reenacted to read as follows:

CHAPTER 110 – TAXATION

ARTICLE V – PUBLIC UTILITIES TAX

Sec. 110-311. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Public utility service means all services and tangible personal property purchased within the city from a seller, operating under a public utility license or permit from the public service commission of the state or which is classified as a public utility with the public service commission of the state, including but not limited to telephone service, electric service, gas service, including bottled or liquid gas, motor carriers and garbage haulers, if the seller is classified as a public utility subject to the jurisdiction of the public service

commission of the state, and water service, if purchased, used or consumed within the corporate limits.

Purchaser means every person who purchases, uses or consumes a public utility service.

Seller means every person, whether a public service corporation, a municipality or a private corporation, classified as a public utility with the public service commission of the state, who sells, furnishes or supplies a public utility service.

User means the owner or tenant of private residential property or the owner or tenant of property used for commercial or industrial purposes, in every combination, of every kind and description.

Baker added that this small, technical change is being done to conform with a 2006 case that can require waste haulers to be recognized as a public utility and pay the public utilities tax.

Councilmember Steele asked if this would impact restaurants that have their waste oil disposed of. Baker answered that there is only one public utility that is known to not already be paying the tax. Councilmember Jenkins added that the West Virginia Public Service Commission would be determining who would be subject to this tax.

Councilmember Reishman moved to approve the Resolution. With a majority of members present recorded thereon as voting in the affirmative Chairperson Jenkins declared Bill No. 7857 approved.

- d. Bill No. 7858 - A Bill authorizing the release of an existing utility easement held by the City on property owned by Pingree 2000 Real Estate Holdings, LLC (“Pingree”), located at 1115 Smith Street in order to clear title of the property from an unused easement that has no public utilities and upon which a structure has already been built in exchange for consideration of five hundred dollars (\$500.00), as stated in the deed attached as Exhibit A hereto.

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

The City Council of the City of Charleston finds as follows:

The City of Charleston conveyed a portion of Jefferson Alley on December 4, 1974, but reserved “the existing utility easement” on the property and the City of Charleston later conveyed additional real property retaining a sewer easement along Jefferson Alley on February 15, 1996; and

The City of Charleston has determined that neither the City nor the Charleston Sanitary Board has any public utility line along the easement and has no plans to utilize the easement in the future; and

Pingree is the current owner of the real property conveyed and has approached the City of Charleston for a release of the reserved easements; and

Following an arm’s length negotiation regarding the value of the reserved easement, the City of Charleston and Pingree have agreed upon consideration in the amount of \$500 to the City of Charleston for the release of the reserved easement.

Therefore, the City Council of Charleston hereby authorized the Mayor or City Manager of the City of Charleston to execute the deed attached as Exhibit A hereto and any other documents necessary to release the reserved easement and accept five hundred dollars (\$500.00) consideration in exchange.

Baker added that new property owners are trying to make sure they have a clear title. There is no real reason for the City to retain the easement.

Councilmember Reishman moved to approve the Resolution. With a majority of members present recorded thereon as voting in the affirmative Chairperson Jenkins declared Bill No. 7858 approved.

THIS QUIT CLAIM DEED, dated this the 7th day of November, 2019, by and between THE CITY OF CHARLESTON, a municipal corporation, hereinafter sometimes referred to as GRANTOR, and, PINGREE 2000 REAL ESTATE HOLDINGS, LLC, hereinafter sometimes referred to as GRANTEE,

WHEREAS, by deed dated the 4th day of December, 1974, and recorded in the Office of the Clerk of the County Commission of Kanawha County, West Virginia, in Deed Book No. 1749, Pg. 276, the Grantor herein conveyed real property, briefly described as part of Jefferson Alley, but reserved “the existing utility easement” on said real property being conveyed; and

WHEREAS, by deed dated the 15th day of February, 1996, and recorded in said Clerk’s Office, in Deed Book No. 2392, Pg. 203, the Grantor herein conveyed real property, also briefly described as part of Jefferson Alley, but reserved “a sewer easement for the full length and width of the above described right-of-way [Jefferson Alley] for the purpose of construction, maintenance, repair and removal of storm and sanitary sewer lines”, and, further, restricted any person to “construct improvements, plant trees or other vegetation, or take any other action which would interfere with this easement, nor alter the present surface profile or contour of the subject right-of-way by more than one (1) foot without the written permission of the Sanitary Board of the City of Charleston and the City Engineer of the City of Charleston”; and

WHEREAS, it has been determined that there are no existing utilities or sewers lines under the real property conveyed by said deeds referred to above; and

WHEREAS, the GRANTEE is the current owner of the real property conveyed by said deeds as conveyed unto GRANTEE by R. H. Kyle Furniture Company, by deed dated the 15th day of February, 2019, and recorded in said Clerk’s Office in Deed Book No. 3024, Pg. 757, and is requesting that GRANTOR release said reserved easements, and restriction; and

WHEREAS, the GRANTOR is willing to release said reserved easements, and restriction for the sum of \$500.00;

NOW, THEREFORE, WITNESSETH: That for and in consideration of the sum of One Dollar (\$1.00), cash in hand paid, and other good and valuable consideration, the receipt and sufficiency whereof is hereby acknowledged, the Grantor does hereby GRANT, CONVEY, REMISE, RELEASE and FOREVER QUITCLAIM unto said PINGREE 2000 REAL ESTATE HOLDINGS, LLC, the following described interest in real estate, to-wit:

The "existing utility easement" as reserved in deed dated the 4th day of December, 1974, and recorded in the Office of the Clerk of the County Commission of Kanawha County, West Virginia, in Deed Book No 1749, Pg. 276, and, further, the sewer easement for the purpose of construction, maintenance, repair and removal of storm and sanitary sewer lines, as reserved in deed dated the 15th day of February, 1996, and recorded in said Clerk's Office in Deed Book No. 2392, Pg. 203;

The GRANTOR further releases the restriction contained in said deed, Deed Book No. 2392, Pg. 203, which states that "no person shall construct improvements, plant trees or other vegetation, or take any other action which would interfere with this easement, nor alter the present surface profile or contour of the subject right-of-way by more than one (1) foot without the written permission of the Sanitary Board of the City of Charleston and the City Engineer of the City of Charleston", in that by this conveyance the restriction would no longer be necessary.

TOGETHER with all the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining;

TO HAVE AND TO HOLD the said premises, as above described, unto the Grantee, and to the successors and assigns of the Grantee.

DECLARATION OF CONSIDERATION OR VALUE: The Grantor hereby declares that the total value of the property conveyed by this document is \$500.00.

IN WITNESS WHEREOF, the Grantor herein has caused this deed to be executed.

THE CITY OF CHARLESTON,
a Municipal Corporation

By: _____

Its: _____

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

I, _____, a Notary Public of said State and
County, do hereby certify that _____
_____ who signed the above writing, bearing date the 7th day of November, 2019, for THE
CITY OF CHARLESTON, a Municipal Corporation, has this day in my said County, before me,
acknowledged the said writing to be the act and deed of said corporation.

Given under my hand this _____ day of November, 2019.

My commission expires _____.

Notary Public

THE CITY OF CHARLESTON,
a Municipal Corporation

By: _____

Its: _____

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

I, _____, a Notary Public of said State and
County, do hereby certify that _____,
_____ who signed the above writing, bearing date the 7th day of November, 2019, for THE
CITY OF CHARLESTON, a Municipal Corporation, has this day in my said County, before me,
acknowledged the said writing to be the act and deed of said corporation.

Given under my hand this _____ day of November, 2019.

My commission expires _____.

Notary Public

This Deed was prepared by Prunty Law Offices, Paul J. Prunty, Attorney, 430 Sixth Avenue,
Huntington, West Virginia 25701.

Councilmember Reishman motioned to adjourn the meeting.

Meeting adjourned.

Resolution No. 278-20

Introduced in Council:

January 21, 2020

Introduced by:

Joseph Jenkins

Adopted by Council:

Referred to:

Finance Committee

Resolution No. 278-20 - Authorizing settlement of pending disputed claims against the City by Charleston Fire Department employees and retirees related to compensation for holidays, as recommended by the City Solicitor.

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

That the City Council hereby authorizes and approves the settlement of pending disputed claims against the City by Charleston Fire Department employees and retirees related to compensation for holidays in the amount of \$1,700,000, as recommended by the City Solicitor, and set forth in the Master Settlement Agreement attached hereto as Exhibit A. The City Council authorizes the Mayor, City Manager, and City Solicitor to take all necessary steps to finalize resolution of the claims.

**CHARLESTON PROFESSIONAL
FIREFIGHTERS LOCAL 317, as
representative of all Charleston Fire
Department professional firefighters and
retirees,**

Claimants,

v.

**Pre-Suit Claims for misapplied past Holiday Pay
Claim Number: GC69-412-002019337843**

**THE CITY OF CHARLESTON, WEST
VIRGINIA, a West Virginia municipal
corporation.**

**MASTER SETTLEMENT AGREEMENT AND
RELEASE OF CLAIMS AGAINST THE CITY OF CHARLESTON**

This Master Settlement Agreement (“Agreement”) resolves a dispute between members and retirees of the Charleston Fire Department (“Claimants”), represented, for purposes of this Agreement, by the Charleston Professional Firefighters Local 317, and the City of Charleston (“City”), which employs or employed each Claimant. This Agreement outlines the history of the underlying dispute and the overall settlement of the dispute, as agreed to by the City and the Claimants’ representatives. As indicated by the signatures at the bottom of this Agreement, the Claimants and City hereby agree as follows:

1. The West Virginia Legislature passed a law, codified at West Virginia Code § 8-15-10a, which was effective on June 6, 1976, that addressed how paid fire department members in West Virginia are to be compensated for official holidays.
2. That provision states, in relevant part, that “if any member of a paid fire department is required to work during a legal holiday ... or if a legal holiday falls on the member's regular scheduled day off, he or she shall be allowed equal time off at such time as may be approved by the chief executive officer of the department under whom he or she serves

or, in the alternative, shall be paid at a rate not less than one and one-half times his or her regular rate of pay[.]” W. Va. Code § 8-15-10a.

3. In 2004, the West Virginia Legislature amended this section of Code in order to clarify which holidays are impacted, add gender neutrality, and insert a proviso related to special elections of the County, but none of these changes are relevant to this settlement. Rather, for purposes of this settlement, the operative statutory language has been in place and unchanged since June 6, 1976.
4. In 1986, the Supreme Court of Appeals of West Virginia held that “[u]nder ... W. Va. Code § 8-15-10a, ... firefighters must be paid one and one-half times their regular rate of pay when they are required to work on a legal holiday or when such holiday falls on their regular scheduled day off, provided that they are not accorded equal time off.” *Pullano v. Bluefield*. 176 W. Va. 198, 342 S.E.2d 164 (1986).
5. The statute and Court make clear that a firefighter is due either equal time off or payment at time and a half for every holiday, regardless of whether the holiday falls on a day they are required to work or on their regularly scheduled day off, but that the determination as to whether the firefighter receives pay or equal time off rests solely with the municipality.
6. Prior to January 1, 2012, the City of Charleston’s Municipal Code required firefighters on shift who work 16 hours on a holiday to be paid an extra day in addition to their regular pay for the holiday, while firefighters on shift who worked 8 hours or 0 hours on a holiday were given one day of equal time off. This method provided every firefighter with either one day of equal time off or at least time and a half pay for the holiday, which meets the statutory requirements.

7. On December 5, 2011, the Finance Committee recommended and the Charleston City Council passed Bill No. 7506, which made a number of changes to the way firefighters accrued leave, effective January 1, 2012.¹ See Exhibit 1 attached hereto.
8. Among the changes made by Bill No. 7506 was a change to the way firefighters were compensated for holiday pay, such that City Code now states: “Uniformed members on shift duty who are required to receive additional compensation for legal holidays under state law shall, upon the occurrence of a legal holiday, be paid for an extra day (i.e., 12 hours) at their regular rate of pay, regardless of whether the member is required to work on the legal holiday or the legal holiday occurs on the member's regularly scheduled day off.” See Charleston Municipal Code Sec. 54-105.
9. Bill No. 7506 was approved by City Council on a 26-2 vote.
10. The change to holiday pay compensation made in Bill No. 7506 resulted in shift firefighters being compensated as follows:
 - a. Those who worked 16 hours on a holiday were paid 28 hours of straight time, which is the equivalent of 18 and two thirds hours at time and a half pay;
 - b. Those who worked 8 hours on a holiday were paid 20 hours of straight time, which is equivalent to 13 and one third hours at time and a half pay; and
 - c. Those who worked 0 hours on a holiday were paid 12 hours of straight time, which is equivalent to 8 hours at time and a half pay.
11. A firefighter duty shift with the City of Charleston is a 24-hour shift that begins and ends at 8:00 a.m., which means that the most a firefighter could work on any given holiday is

¹ Bill No. 7506 made numerous changes related to firefighter duty hours, overtime pay, annual leave accrual, sick leave accrual, personal contingency leave, holiday pay, and pay periods.

16 hours, but because the shifts are 24-hour shifts, each hour of the holiday is either a person's regular day off or regular work time.²

12. The change to City Code made in December 2011, that was effective January 1, 2012, was inconsistent with state law. The City Manager and City Attorney at the time prepared or reviewed the bill and proffered to City Council that the changes were lawful and in the best interest of the City moving forward.
13. The December 2011 changes were made shortly after separate November 7, 2011 changes that modified the mathematical formula for calculating base pay consistent with the Fair Labor Standards Act, which caused some of the Claimants to bring a separate civil action against the City and the Charleston Fireman's Civil Service Commission. Following nearly three years of litigation in multiple venues, the Supreme Court of Appeals of West Virginia ultimately declared that the City of Charleston was permitted to change the formula for calculating overtime because there is no contractual obligation to use a particular formula as long as the City follows applicable law.
14. This Agreement does not create a contractual obligation on the part of the City for how compensation for holiday pay is made in the future, but rather the City is agreeing that it will follow state law regarding holiday pay and compensate the Claimants for the legal error associated with the 2011 change to the calculation of holiday pay.
15. The City, therefore, shall make an administrative change to assure that all shift-duty firefighters, regardless of whether they work on a holiday or not, are paid one and one half

² Although there is an argument that a person who works 16 hours on a holiday should receive payment at time and a half only for that 16 hour shift in the past and not for the 8 hours of the holiday that fell on their regularly scheduled day off, this argument is faulty because by only paying a firefighter who worked the holiday based on the hours worked, that firefighter would not be properly compensated for the holiday hours that fell on their regularly scheduled day off. Furthermore, on a move-forward basis because the fire department could simply change its shift to run from midnight to midnight payment based on a 16-hour shift would immediately be in violation of the statute.

times their regular rate of pay for the 24 hours of each holiday beginning with Christmas Eve of 2019. This administrative change will remain in effect and the City will cause a bill to be introduced that will update City Code to provide specific direction on holiday pay compensation that is consistent with state law.

16. In order to address the back compensation issue, the City will provide a one-time sum of one million, seven hundred thousand dollars (\$1,700,000.00), which is inclusive of all back wages, interest, penalties, attorneys fees, and all other general, consequential, punitive, or other damages that the Claimants could have potentially sought in any claim or litigation.
17. In exchange, the Claimants, through their representative, submitted a report detailing how the \$1,700,000.00 shall be distributed, attached hereto as Exhibit 2, which states that the Claimants have voted unanimously to allocate two hundred thousand dollars (\$200,000.00) to their attorneys' fees and the remaining amount will be distributed pursuant to the Claimants' agreed formula upon the receipt of individual releases—approved by the City—signed by each Claimant acknowledging that they RELEASE, ACQUIT, AND FOREVER DISCHARGE the City as well as its predecessors, successors, affiliated companies, and entities, agents, attorneys, managers, advisors, parents, subsidiaries, officers, directors, employees, spouses, children, dependents, heirs, and/or beneficiaries (collectively the “Releasees”) of any and all claims, insurance claims, demands, allegations, suits, actions, and causes of action which in any manner relate to, or arise from, the claim made by the Claimants against the City relating to compensation for holiday pay between 2012 and 2019, inclusive.

18. The Claimants, by their representative in this document, and in each individual release specifically understand, acknowledge and agree that the cash payment as set forth herein is received in full settlement and in satisfaction of any and all claims that the Claimants may now have or may hereafter have in the future against the Releasees, including, without limitation: claims for alleged negligence; alleged negligence *per se*; negligent infliction of emotional distress; violations of protocol or of established law; alleged nuisance; alleged violations of statutory duties or administrative regulations; any and all inconvenience, annoyance, aggravation, damages, costs, expenses, compensation, attorney's fees, pre-judgment and post-judgment interest; any and all other general or consequential damages; and any alleged damages arising under West Virginia law, federal law, or the law of any other state or any other judicial finding or legal theory recoverable under West Virginia law, federal law, or the law of any other state, including any and all unknown or unforeseen damages.
19. Releasees are not liable for any claims of subrogation or reimbursement pursuant to West Virginia Code §29-12A-13 and *Foster v. City of Keyser*, 501 S.E.2d 165 (W.Va. 1997), and by agreeing to settle this case, Releasees are not waiving their immunity from subrogation claims.
20. With the exception of any Claimants who are not members of the Claimants' representative, it shall be the responsibility of the Claimants' representative to provide an executed release for each Claimant to the City prior to payment disbursement.
21. All payment disbursements to individual Claimants will be made in a manner consistent with payroll payments, such that applicable taxes and pension contributions are withheld and any required matching payments by the City are made.

22. It is further specifically understood, acknowledged and agreed by the Parties that this Master Settlement Agreement does not constitute an admission of liability by any of the Releasees, but is made as a compromise in settlement of a disputed claim in an effort to provide fair compensation to the Claimants and finality for all involved, and the aforesaid payment is not, in any way, to be construed as an admission of liability, which is expressly denied.
23. The Claimants do hereby expressly warrant and agree that they will never maintain or assert further claims, suits, or other action against the Releasees for any matter arising out of or related to holiday pay compensation between 2012 and 2019, inclusive.
24. The Claimants' representative expressly warrants and represents that before executing this Agreement, they have read and reviewed it with counsel and further warrant and represent that the full contents of this Agreement have been fully explained to the Claimants' representative by counsel. The Claimants' representative further warrants that the terms of this Agreement are contractual in nature with respect to the back compensation and associated releases and not a mere recital.
25. This Agreement contains the entire Agreement between the Parties, provided that additional individual releases will be submitted pursuant to the terms of this Agreement, and any modifications to this Agreement shall be made in writing and signed by the undersigned.

[The remainder of this page is intentionally left blank. Signatures appear on following page.]

By the signatures below, the Parties hereby agree to the terms of this Agreement.

**CHARLESTON PROFESSIONAL
FIREFIGHTERS LOCAL 317, as
representative of all Charleston Fire
Department professional firefighters and
retirees**

By: _____

Its: _____

Date: _____

**THE CITY OF CHARLESTON,
WEST VIRGINIA, a municipal
corporation**

By: _____

Its: _____

Date: _____

COMMITTEE REPORT

TO: Clerk of the Council of the City of Charleston, West Virginia

FROM: The Committee on FINANCE

Your Committee on Finance

has had under consideration: Bill No. 7506, amending the title of Chapter 54, Article II, Division 3 of the Municipal Code of the City of Charleston to include "Duty Hours and Calculation of Overtime Pay"; to amend Chapter 54, Article II, Division 3, Sections 54-101, 54-102, 54-103, 54-104, and 54-105, of the Municipal Code of the City of Charleston as amended; and to create Section 54-106 of Chapter 54, Article II, Division 3, of the Code of the City of Charleston titled "Daily and weekly duty hours; pay periods; calculation of overtime pay; and trading assigned shifts"

Amended as follows:

1. Section 54-106 (e) at lines 201 though 206 is deleted in its entirety and replaced with the following:

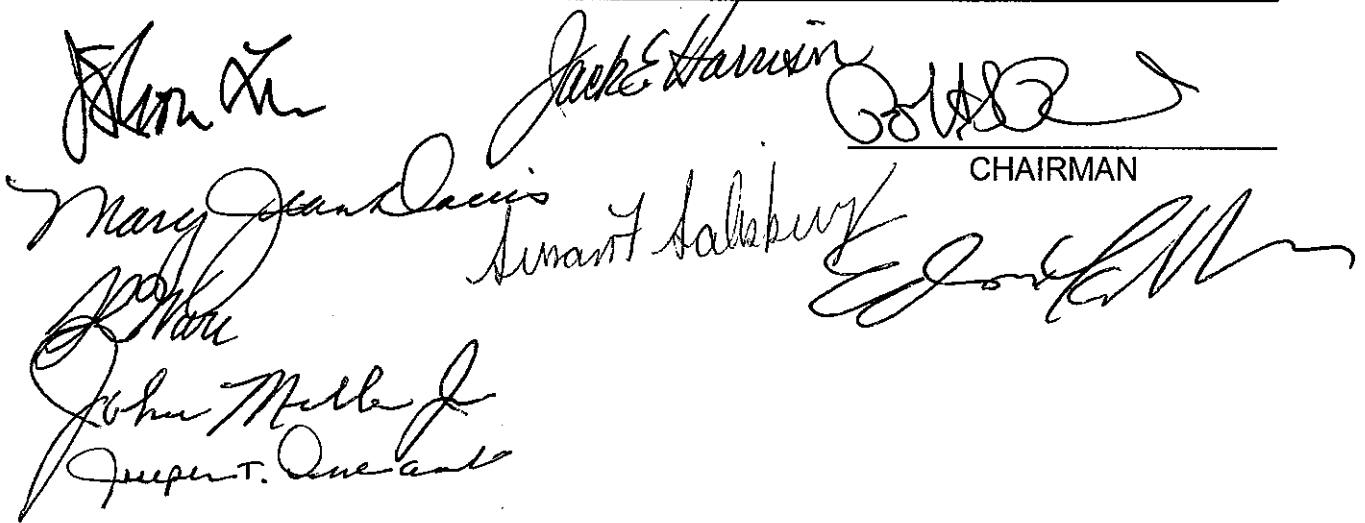
"(e) The Fire Chief may establish rules and regulations for the trading of assigned shifts, or portions thereof, provided that where one member substitutes for another, each member will be credited as if he or she had worked his or her normal work schedule for that shift with the effect that the hours worked shall be excluded in the calculation of the hours for which the substituting member would otherwise be entitled to overtime compensation under the law. The Fire Chief or a Shift Commander must approve any agreement



between members to substitute shifts prior to the start of the shift in which the substitution will occur."

and reports the same to Council with the recommendation that the

Bill, as amended, do pass

A collection of handwritten signatures in black ink. The signatures are arranged in a cluster. One signature, 'John E. Harrison', is written above a horizontal line. Below this line, the word 'CHAIRMAN' is printed. Other signatures include 'Mary Jean Davis', 'Timothy Salisbury', 'John Miller Jr.', and 'Super T. One and'. The signatures are written in a cursive, flowing style.

BILL No. 7506 :

Introduced in Council:

November 21, 2011

Adopted by Council:

December 5, 2011

Introduced by:

Tom Lane, Bobby Reishman
Jack Harrison

Referred to:

Finance Committee

Bill No. 7506: A BILL amending the title of Chapter 54, Article II, Division 3 of the Municipal Code of the City of Charleston to include "Duty Hours and Calculation of Overtime Pay"; to amend Chapter 54, Article II, Division 3, Sections 54-101, 54-102, 54-103, 54-104, and 54-105, of the Municipal Code of the City of Charleston as amended; and to create Section 54-106 of Chapter 54, Article II, Division 3, of the Code of the City of Charleston titled "Daily and weekly duty hours; pay periods; calculation of overtime pay; trading assigned shifts".

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

That the title of Chapter 54, Article II, Division 3 is hereby amended to read as follows:

"Division 3. Vacation, and Other Leave, Duty Hours, and Calculation of Overtime Pay";

and that Chapter 54, Article II, Division 3 of the Municipal Code of the City of Charleston, as amended, is hereby further amended to read as follows:

"Sec. 54-101. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Member shall mean any sworn employee of the fire department hired under the provisions of West Virginia State Code Chapter 8, Article 15.

Day for members on shift duty means a 12-hour period ~~or which represents~~ half of a shift for members on shift duty.

Equal time off means the day (12-hour period) with regular pay allowed to members on shift duty for each legal holiday which falls on their regularly scheduled days off.

Shift for emergency medical service division means a 12-hour period of duty.

~~Shift for fire suppression division~~ for members on shift duty means a 24-hour period of duty or two days as defined in this section.

Working day for members on a 40-hour week means an eight-hour consecutive period of duty ~~for members on a 40-hour week.~~

Sec. 54-102. - Annual vacation leave.

On or after January 1, ~~1977~~2012, each uniformed member ~~of the fire department~~ shall be entitled to receive annual vacation leave with pay which shall accrue as follows:

(1) For a member on shift duty:

a. Fourteen (14) hours credited on the last day of each month which shall equate to Sixseven shifts or 4214 days per calendar year, or a pro rata share if employed less than one year, for the first 4514 years of service.

b. Eighteen (18) hours credited on the last day of each month which shall equate to Eightnine shifts or 4618 days per calendar year for those with 4615 or more years of service.

(2) For members on a 40-hour week:

a. Monthly credit of 1¼ working days (i.e., 10 hours) credited on the last day of each month during the first 4514 years of service.

b. Monthly credit of 12/3 working days (i.e., 13 hours 20 minutes) credited on the last day of each month for those with 4615 or more years of service.

Such leave shall not be cumulative from year to year; it must be taken within the calendar year earned in accordance with the schedule established by the fire chief or be forfeited. Any such leave which has accrued but has not been used at the time of retirement or separation from employment shall be a credit which shall be paid at regular wage rates along with any outstanding wages due and owing to the employee. Any such leave which has been used but has not yet accrued at the time of retirement or separation from employment shall be deemed an unsatisfied advance and may be treated as a payroll deduction from any outstanding wages then due and owing to the employee, to the extent permitted by state and federal law.

~~(3) Each member of the emergency medical service division shall be given an annual vacation leave credit of 120 hours during the first 15 years of service; thereafter, he shall be credited on the basis of 160 hours annually. Vacations shall be taken at such time as permitted by the fire chief. No more than 240 hours of vacation leave can be accumulated at any one time.~~

Sec. 54-103. - Personal contingency leave; Sick leave.

(a) Beginning January 1, 2012, Eeach uniformed member ~~of the fire department~~ shall be entitled to and granted personal contingency leave in lieu of sick leave, when and if needed, with full pay. Such leave is to be computed on the basis of 1¼ days or working

~~days for each completed calendar month of service or major portion of a month shall~~
accrue as follows:

(1) For a member on shift duty: Eight (8) hours credited on the last day of each
month which will equate to four (4) shifts per calendar year, or a pro rata share
thereof if employed less than one whole year; provided, members employed and
assigned to shift duty on January 1, 2012, shall be awarded and start the year with a
one-time credit of 24 hours of personal contingency leave.

(2) For a member on a 40-hour week: Four (4) hours credited on the last day of
each month which will equate to six (6) working days per calendar year, or a pro rata
share thereof if employed less than one whole year; provided, members employed
and assigned to a 40-hour week on January 1, 2012, shall be awarded and start the
year with a one-time credit of eight (8) hours of contingency leave.

Personal contingency leave may, upon proper notice, be taken without regard to reason or
the restrictions imposed on the granting of sick leave. At the end of each calendar year,
any accrued but unused personal contingency leave in excess of 48 hours for those on
shift work and in excess of 24 hours for those working a 40-hour week shall be converted
to sick leave.

(b) When a ~~sworn~~ member of the fire department retires, the member will have the
privilege of converting up to 144 hours of sick leave accrued under Section 54-103(a) on or
after January 1, 2012, or any accrued remaining unused sick leave accrued prior to
January 1, 2012, whichever is greater, to insurance benefits based on the formula of two
days sick leave (i.e., 24 hours) for one month single coverage insurance premium or three
days sick leave (i.e., 36 hours) for one month family coverage insurance premium. Any sick
leave accrued by a member under Section 54-103(a) on or after January 1, 2012, that is
not converted to insurance benefits to the extent permitted by this section shall be forfeited
effective as of the date of the member's retirement or separation from employment.

(c) Sick leave shall be granted for the following reasons:

(1) Illness on the part of or injury to the member, incapacitating him or her for duty.

(2) Illness in the immediate family, i.e. wifespouse, child, father, mother, sister,
brother, father-in-law and mother-in-law, of such a critical nature as to require the
presence of the member. This provision shall not be construed to cover absences for
the purpose of nursing or caring for members of the immediate family not declared by
the attending physician to be critically ill.

(3) Exposure to contagious diseases and subsequent determination by competent
medical authority that such member's presence on duty might jeopardize the health of
others.

(d) For each sick leave period claimed by the member ~~in excess on one shift or three~~
~~working days~~, the member shall provide the fire chief with a certificate from the attending
physician setting forth the nature and duration of any of the conditions which would entitle
him to sick leave as provided in subsection (c) of this section. Failure to provide such

certificate satisfactory to the fire chief shall result in the member's not being granted sick leave with pay, and may subject the member to discipline for an unexcused absence.

~~(e) After the equivalent of half of annual sick leave is used and that use is without a physician's excuse or documentation, the member shall furnish documentation from a physician or other medical provider establishing reason for relief from duty for use of additional sick leave. If additional days are taken without a physician's or other medical provider's excuse, the additional sick leave is an unexcused absence without pay.~~

~~(fe) In cases of emergency, the fire chief may, at his discretion, grant advance sick leave up to 30 days or working days beyond that accumulated provided that all regularly earned sick leave and vacation leave have been used. The City Manager may, in his or her discretion and at the request of the Fire Chief, advance additional leave necessary to avoid substantial hardship to any member, provided that all other accrued vacation, sick and personal contingency leave shall have first been exhausted.~~

(gf) The fire chief shall also have the right to investigate or cause to be investigated the alleged illness of any member and, for good cause shown, not only to deny sick leave but also to take proper disciplinary action against any feigner or abuser.

(hg) In the event of an emergency, as declared by the mayor, an attending physician's excuse may be required for any days missed; and during the emergency, the mayor may suspend, in whole or in part, any sick leave or personal contingency leave as permitted by subsections (a) and (c) of this section.

(ih) For purposes of this section, a medical provider shall include a licensed physician, surgeon, chiropractor, psychologist, or dentist.

Sec. 54-104. - Funeral leave with pay.

In case of the death of the spouse, child, mother, father, brother, sister, mother-in-law or father-in-law, or in the case of death of any other relative residing in the immediate household, the member shall be allowed one shift or three working days of funeral leave with regular pay. In case of the death of a sister-in-law, brother-in-law, daughter-in-law, son-in-law, grandparent, grandchild, aunt, uncle, nephew, niece or first cousin of the member or spouse, the member shall be allowed one day or working day of funeral leave with regular pay; ~~however, the fire chief may allow the member to use three days or working days of his accumulated sick leave in case of the death of any of the persons designated in this section.~~

Sec. 54-105. - Legal holidays.

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

(1) January 1, New Year's Day;

(2) The third Monday of January, Martin Luther King's Birthday;

(3) The third Monday of February, Presidents' Day;

- 137 (4) The last Monday in May, Memorial Day;
138 (5) June 20, West Virginia Day;
139 (6) July 4, Independence Day;
140 (7) The first Monday of September, Labor Day;
141 (8) The second Monday of October, Columbus Day;
142 (9) November 11, Veterans Day;
143 (10) The fourth Thursday and Friday of November, Thanksgiving Day Holidays;
144 (11) December 25, Christmas Day;
145 (12) Any national, state or other election day throughout the district or municipality
146 wherein the election is held, provided, that if a special or other election of a political
147 subdivision other than the City of Charleston falls on a Saturday or Sunday, the City of
148 Charleston may choose not to recognize the day of the election as a holiday if a
149 majority of the City of Charleston City Council votes not to recognize the day of the
150 election as a holiday; and
151 (13) All days which may be appointed or recommended by the mayor, the governor or
152 the President of the United States as days of thanksgiving or for the general cessation
153 of business.

154 When any of such days or dates falls on Saturday or Sunday, either the preceding Friday
155 of the succeeding Monday shall be regarded, treated and observed as such legal holiday.

156 (b) ~~Uniformed members on shift duty with the fire department who are required to receive~~
157 ~~additional compensation for legal holidays under state law shall, upon the occurrence of a~~
158 ~~legal holiday, be paid for an extra day (i.e., 12 hours) at their regular rate of pay, regardless~~
159 ~~of whether the member is required to work on the legal holiday or the legal holiday occurs~~
160 ~~on the member's regularly scheduled day off. off duty eight hours but are required to work~~
161 ~~16 hours on a legal holiday shall be paid for an extra day at their regular hourly rates.~~
162 ~~Those who work eight hours and are off duty 16 hours on the legal holiday, or whose~~
163 ~~normally scheduled shifts off span such legal holiday, shall be allowed one day of equal~~
164 ~~time off, which may be taken in conjunction with their annual vacation leave or at such~~
165 ~~other time as approved by the fire chief or his designee.~~

166 (c) ~~Uniformed members of the fire department on a 40-hour week who are required to~~
167 ~~work on a legal holiday shall, upon the occurrence of a legal holiday, be paid for an extra~~
168 ~~eightfour hours at their regular hourly rates of pay. If the legal holiday falls occurs on their~~
169 ~~regularly scheduled day off, they shall, upon the occurrence of a legal holiday, be allowed~~
170 ~~one working day of equal-time off, which may must be taken in conjunction with their~~
171 ~~annual-vacation-leave or in the same calendar year in which it is accrued, and at such time~~
172 ~~as approved by the fire chief or his designee.~~

173 (d) ~~A member of the emergency medical service division who is working a 12-hour shift~~

shall either be paid for the extra 12 hours worked on such holiday at his regular hourly rate or be allowed to add one day to his vacation leave. If the legal holiday falls on his regularly scheduled day off, he shall be allowed one day of equal time off, which may be taken at such time as approved by the fire chief."

and that Section 54-106 of Chapter 54, Article II, Division 3, of the Code of the City of Charleston is hereby created, to read as follows:

"Sec 54-106 Daily and weekly duty hours; pay periods; calculation of overtime pay; trading assigned shifts.

(a) Members shall not be required to remain on duty in excess of one hundred twelve (112) hours during any fourteen (14) consecutive calendar days' period.

(b) Unless the members shall by a majority vote elect otherwise as provided by state law, shifts shall begin and end at 8:00 a.m.

(c) Members shall be paid their annual salary as earned with appropriate adjustments on a bi-weekly (14 consecutive calendar days' period) basis. Each bi-weekly pay period shall begin at 12 midnight prior to a shift that begins on a Sunday at 8:00 a.m.

(d) On and after January 1, 2012, and pursuant to state and federal law, the work period for calculating overtime for members assigned to shift work shall be a consecutive 28 calendar-day period coinciding with two consecutive 14 consecutive-day pay periods. Members shall be paid at the rate of one and one-half (1 ½) times their regular hourly rate for any time worked in excess of 212 hours within this 28-day period.

(e) The Fire Chief may establish rules and regulations for the trading of assigned shifts, or portions thereof, between members of the same rank, without adjustment in pay to either member, provided that all traded work assignments occur within the same 28-day work period designated for the calculation of overtime pay; provided further that the same shall not, in any event, cause either member to exceed 212 hours worked within any consecutive 28-day period designated for the purpose of calculating overtime pay.

Secs. 54-106~~7~~ – 54-140 Reserved."

All provisions, or any portions thereof, of the Code of the City of Charleston or of any applicable administrative rules or manuals, which are inconsistent with this Division, as established herein, are hereby repealed to the extent necessary to eliminate said inconsistency.

Bill 7506

12/5/2011	YEAS	NAYS	ABSTAIN	ABSENT
19th WARD R MR. BURKA, RICK	✓			
20th WARD R MR. BURTON, BRENT	✓			
21st WARD D MR. CLOWSER, MICHAEL	✓			
AT-LARGE D MS. DAVIS, MARY JEAN	✓			
3rd WARD D MR. DENEALT, JOE	✓			
AT-LARGE R MR. DODRILL, CHRIS	✓			
4th WARD D REV. EALY, JAMES	✓			
1st WARD D MR. HAAS, BOBBY	✓			
14th WARD D MR. HARRISON, JACK	✓			
2nd WARD R MR. KIRK, WILLIAM		✓		
AT-LARGE R MR. LANE, TOM	✓			
18th WARD R MR. MILLER, JOHN	✓			
16th WARD D MR. MINARDI, SAM	✓			
5th WARD D MR. NICHOLS, MIKE	✓			
15th WARD D MR. PERSINGER, COURTNEY	✓			
17th WARD R MR. REISHMAN, BOBBY	✓			
AT-LARGE D MR. RICHARDSON, ANDY	✓			
AT-LARGE D MS. RUSSELL, KASEY	✓			
13th WARD R MS. SALISBURY, SUSIE	✓			
10th WARD D MR. SHEETS, ROBERT	✓			
9th WARD I MR. SMITH, CUBERT		✓		
12th WARD D MS. SNODGRASS, SHANNON	✓			
7th WARD R MR. STAJDUHAR, MIKE	✓			
6th WARD D MR. TALKINGTON, EDWARD	✓			
AT-LARGE D MR. WARE, JERRY	✓			
11th WARD D MR. WEINTRAUB, MARC	✓			
8th WARD D MR. WHITE, BOB	✓			
MAYOR R MAYOR JONES, DANNY	✓			

26

2



January 17, 2020

Kevin Baker
City Attorney
P.O. Box 2749
Charleston, WV 25330

Kevin:

I am pleased to confirm in writing that I have been advised my Myron Bogguss, President of IAFF Local 317, the members have by a unanimous vote, agreed not only to the overall settlement of \$1.7 million but have also agreed to a manner and method of distribution of that settlement fund.

They have agreed that their attorneys' fees of \$200,000.00 shall be paid from the fund with \$1.5 million to be distributed to the members using an agreed formula for a fair and equitable distribution. All of the fire fighters have agreed to this formula to compute their portion of the settlement. I have included a spreadsheet that includes each fire fighters name, his or her rank, the number of holidays for each fire fighter, and the gross amount due each fire fighter. This spreadsheet includes retirees as well. You may use the gross amount as the amount to pay each fire fighter.

Also, we continue working on the logistics to get all of the releases signed and notarized or otherwise affirmed and hope to have that done by Tuesday evening.

Best,

Teresa C. Toriseva

Teresa C. Toriseva

Resolution No. 279-20

Introduced in Council:

Adopted by Council:

January 21, 2020

Introduced by:

Referred to:

Joseph Jenkins

Finance Committee

Resolution No. 279-20 - Authorizing the Chief of Police and the Charleston Police Department to enter into a Memorandum of Understanding and a Cost Reimbursement Agreement with the United States Federal Bureau of Investigation setting forth the responsibilities of the Southern West Virginia Transnational Organized Crime Western Hemisphere Task Force and authorizing reimbursement of overtime expenses for Charleston officers on the task force.

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

That the City Council authorizes the Chief of Police and the Charleston Police Department to enter into a Memorandum of Understanding and a Cost Reimbursement Agreement with the United States Federal Bureau of Investigation setting forth the responsibilities of the Southern West Virginia Transnational Organized Crime Western Hemisphere Task Force and authorizing reimbursement of overtime for Charleston officers on the task force.

Resolution No. 280-20

Introduced in Council:

Adopted by Council:

January 21, 2020

Introduced by:

Referred to:

Joseph Jenkins

Finance

1 Resolution No. 280-20 – Authorizing the Mayor or City Manager to enter into a contract with
2 Endless Summer Aquatics Inc. in the amount of \$60,500 for the purchase and installation of
3 pool equipment for the North Charleston Community Center. The purchase price was
4 determined through a competitive bidding process.

5

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

7

8 The Mayor or City Manager is authorized to enter into a contract with Endless Summer
9 Aquatics Inc. in the amount of \$60,500 for the purchase and installation of pool equipment for
10 the North Charleston Community Center. The purchase price was determined through a
11 competitive bidding process.

Purchase and Installation for Commercial Swimming Pool Equipment for North Charleston Recreation Center Pool

Project No. 2019-004

Bid Opening: January 14, 2020 @ 10:30am

	Endless Summer Aquatics Inc		
	7207-C Lockport Place		
	Lorton, VA 22079		
	P: (703) 955-0835		
	rick@endlesssummeraquatics.com		
Project Total	\$60,500.00		
Project Completion	56 days		
Bidder Recommended for Award			

Resolution No. 281-20

Introduced in Council:

Adopted by Council:

January 21, 2020

Introduced by:

Referred to:

Joseph Jenkins

Finance

1 Resolution No. 281-20 – Authorizing approval of Amendment No. 5 in the FY 2019-2020 General
2 Fund Budget as indicated on the attached list of accounts.

3

4

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

6

7 That Amendment No. 5 in the FY 2019-2020 General Fund Budget as indicated on the attached
8 list of accounts is approved.

9

General Fund FY 2019-2020 Budget Amendment No. 5 - January 21, 2020

Account No.	Department	Account Description	Amount
001 414 00 000 2 230	City Collector	Contracted Services	200,000
001 417 00 000 2 229	Legal	Court Costs & Damages	200,000
001 436 00 000 2 230	Building Commission	Contracted Services	185,000
001 439 00 000 5 566	Information Systems	Transfers to IT Infrastructure Fund	450,000
001 444 05 000 5 566	Transfers/Contributions	Municipal Stabilization Fund	388,182
001 444 04 000 5 566	Transfers/Contributions	CSF Capital Projects Fund	624,734
001 444 01 000 5 566	Transfers/Contributions	Land Reuse Agency Fund	250,000
001 699 00 000 5 598	Contingency	Contingency	200,000
001 706 00 000 1 103	Fire - Uniform	Salaries & Wages - Settlement	1,500,000
001 706 00 000 1 103	Fire - Uniform	Salaries & Wages	425,000
001 706 00 000 1 104	Fire - Uniform	FICA	27,913
001 706 00 000 1 107	Fire - Uniform	Fire Pensions - New Plan	58,905
001 800 00 000 3 341	Refuse & Recycling	Material & Supplies	15,000
001 976 00 700 4 459	Public Safety - Capital Outlay	Police Equipment	50,000
001 299 0	Unassigned Fund Balance		(4,574,734)

Unassigned Fund Balance - To allocate the unassigned fund balance.

001 305 01 0000	Revenues	B & O Tax - Current Year	12,911
001 295 0	Non-Spendable Fund Balance		(12,911)

Nonspendable Fund Balance - To recognize nonspendable fund balances for Prepaid Insurance per GASB 54.

001 700 00 000 2 239	Police	Fine Supported Training	21,153
001 297 0	Committed Fund Balance		(21,153)

Committed Fund Balance - To recognize committed fund balance for Police Fine Supported Training in accordance with Section 114-3 subsection (b) of the Municipal Code of the City of Charleston

001 910 01 004 5 566	Civic Center Support	Equipment Purchase Subsidy	300,000
001 444 00 000 5 566	Transfers/Contributions	General Engineering Maintenance Fund	100,000
001 444 12 000 5 566	Transfers/Contributions	Tourism & Promotions Fund	500,000
001 444 13 000 5 566	Transfers/Contributions	Community Participation Program	130,000
001 444 14 000 5 566	Transfers/Contributions	Business Economic Impact	751,312
001 399 11 0000	Miscellaneous Revenue	Settlements	(1,781,312)

Water Crisis Settlement Funds - To allocate the funds received through the water crisis settlement.

Reportable: To Maintain compliance with the budgetary guidelines of the State of West Virginia