



CITY OF CHARLESTON West Virginia

Council Member – 10th WARD



Keeley Steele
1600 Washington St. E
Charleston, WV 25311
Telephone: 304-250-9463
E-mail: keeleysteele@gmail.com

Public Safety Committee, Chair
Ordinance and Rules Committee
Finance Committee
Parking Committee

TO: Public Safety Committee
FROM: Keeley Steele, Chair
RE: Committee Meeting

There will be a Committee meeting of Public Safety on May 12, 2020 at 1:00 PM

THIS MEETING WILL BE HELD VIA VIDEO/CONFERENCE CALL

***Join via internet:**

<https://us02web.zoom.us/j/82411636827?pwd=VURqMWhTeXNWMVJiak5rSm1vVTQ0dz09>

Password: 072893

***Join via Phone: 301-715-8592 or 312-626-6799**

Webinar ID: 824 1163 6827

The agenda will be as follows:

Approval of Previous Minutes

1. 3-5-2020

Bills

1. Bill No. 7871 – A Bill to amend and reenact Municipal Code of the City of Charleston by adding a new section, all relating to fire prevention and continuing the operation and authority of the fire prevention bureau.

Resolutions

1. Resolution No. 332-20 Draft - Ratifying and confirming the Mayor's prior findings that the wrongful manufacturing, distribution, and dispensing of prescription opioid pills, including hydrocodone and oxycodone, created a public nuisance to the people of the City of Charleston.

Adjournment

KS/ns

MINUTES

PUBLIC SAFETY COMMITTEE MEETING

4:30 P. M., MARCH 5, 2020

A/V CONFERENCE ROOM

Keeley Steele, Chairperson, called the meeting of the Charleston City Council Committee on Public Safety to order at 4:30 p.m., MARCH 5, 2020, in the Audio/Visual Room in City Hall.

Committee Members Present:

Keeley Steele, Chair
Chuck Overstreet, Vice Chair
Naomi Bays
Brady Campbell (arrived at 5:45)
Joseph Jenkins
Deanna McKinney

1. Approval of Previous Minutes –

Councilmember Jenkins moved to approve the minutes of the previous meeting on 12-9-2019. Councilmember Bays seconded. There was no objection and the minutes were approved.

2. Introduction to the new Chief of Police -

The Committee introduced themselves to the newly appointed Chief of Police, James "Tyke" Hunt. Also present: Deputy Chief Dempsey from CPD and Lieutenant Hodges of the CFD, currently serving as Director of EMS Operations

3. Current Priorities for CPD and New Chief –

Chief Hunt stated that the current priority is an assessment of the current status of the Police Department, and how they can best utilize their officers. He added that there are not enough officers out in the communities addressing 911 calls and engaging with the community. They have begun to restructure by combining supervisory rolls to shift manpower out into the communities.

Chief Hunt added that the first step was to examine the structure under Chief Smith, and then how they could begin to mold and push the department toward more community engagement, continue to enhance professionalism and ensure they are providing the service expected of them. Face to face contact is ideal, and they will be utilizing their resources, such as their in-car computers, to stay in the area as much as possible. This will increase police visibility and decrease response time.

Councilmember Bays asked about the recent restructuring. Chief Hunt replied that:

- Lieutenant Perdue is in Community Policing and Corporal Redden
- Webb is supervising the Drug Unit
- Captain Beckett is Patrol Division Commander
- Captain Abbot is the Investigative Services Commander
- Corporal Redden is in Accident Investigation
- Lieutenant Garten is in charge of the traffic side of Community Policing
- Captain Malone is in charge of the IS Division

Councilmember Bays requested that those changes be sent to Councilmembers. Councilmember Steele confirmed that part of Lieutenant Perdue's duties will be the Coffee with a Cop and Neighborhood Watch programs.

Councilmember McKinney expressed concern that she did not know a lot of the officers she had been seeing in her neighborhood and they were not approachable. She asked how that could be improved. Chief Hunt replied that he is going to mandate more walking patrols to get out into the communities, stopping into local businesses and community centers, etc. It is ideal for the officers to be able to put names to faces and vice versa. This could help situations from escalating, and allow the officers to provide better service. Chief Hunt added that he is exploring how funds, especially from Asset Forfeiture can best be spent on programs that get officers out into the community more. Councilmember Steele asked if the officers were receptive to getting out of their cars more. Chief Hunt replied that most officers were trained in this way, and that the shift had been well received.

Councilmember Steele added that, especially during the warmer months, the City has certain hotspots, with different areas having different needs. Chief Hunt responded that they are making the best with the number of officers that they do have. Additionally, the department can use statistic driven data to identify needs and hotspots around the City.

Councilmember Steele asked the Chief to further explain Asset Forfeiture. Chief Hunt replied that there are state and federal laws that mandate where the money from that can go. MDENT is solely funded by Asset Forfeiture. Councilmember Steele asked about the assets that are not cash (property, etc.). Councilmember Campbell asked if they have ever seized houses, and Chief Hunt replied that they had. Additionally, stolen property goes to Property and Evidence where the goal is to return it to the owner (how long depends on the case status). Cars can be sold to liquidify the funds. Councilmember Campbell asked when the last time was the CPD seized a house; Chief Hunt did not immediately know the answer. The Chief added that the revenue from seized houses

would not go into the General Fund. Additionally, they are not necessarily wanting to take property, as whole families could be affected. They do not want to create situations that would enhance hardships. Councilmember Jenkins added that the law states that seizures of such property would require that it is involved in the furtherance of criminal activity or directly linked to the proceeds from criminal activity.

Councilmember Bays said that she had noticed a lot more walking officers downtown. She asked if the officers will stay the same or be on a rotating shift. Chief Hunt responded that the Hybrid Unit of 12 officers, a combination of the bike and walking beat, had to be reduced. As such, all officers have been instructed to increase their foot patrols. Deputy Chief Dempsey added that they would prefer that there be different officers always, as different officers will notice different things.

Councilmember McKinney said that she had been getting numerous calls concerning the homeless, especially in the Elk City area. She asked what could be done to prevent them from laying in front of businesses. Chief Hunt responded that underreporting is an issue; the non-emergency number should be used in those cases. They can also use that reporting to aggregate the data and see trends, etc. They should also be encouraged to use facilities set up to best help them. Councilmember Steele suggested that officers and businesses should carry handouts of those places listed.

Councilmember Bays asked what can be done about the vandalism of property. Chief Hunt said that it first must be reported in a timely manner. He added that familiarity with the area is essential to recognizing something out of place. Councilmember Bays asked if there were any plans to do short PSAs on social media to promote the non-emergency number. Councilmember Jenkins added that the Councilmembers could add to the reach of the videos by posting it in their various neighborhood groups. Councilmember Steele added that it would be beneficial to introduce officers on social media so that the public can be familiar with them, especially if they are going to be seen walking the streets more. Councilmember Jenkins added that Community Services is very active on Facebook. Councilmember Bays added that social media is a simple, cheap and effective tool to get information to the public. Councilmember Jenkins suggested that it would be beneficial for Councilmembers to meet with the officers/cars assigned to their Wards. Chief Hunt said that ride-alongs with officers would be helpful for Councilmembers and community leaders. Councilmember Stelle added that she had been on a ride-along, and it was a very informative experience.

4. Potential/Upcoming Retirement Numbers –

Hodges stated that the CFD recently had a recruitment drive which went well. They are currently short 15 positions, and are estimating an additional 10 more by summer. They have been recruiting through social media, radio, news, flyers and educational facilities, and have received a total of 213 applications. Councilmember Jenkins asked what the starting salary was. Hodges replied that they say it is mid \$40,000 due to several variables involved. Of the applications, 192 were residents of West Virginia, with 33 within City limits. Councilmember Steele confirmed that a lot of the applicants are

attending high school. The code requires that they be at least 18 upon application and have a high school degree or equivalent upon instatement. Councilmember Steele confirmed that the test results will be back within the week. They will give the CPAT test to 50 individuals and 20 will likely pass. Hodges added that they want to have a group of 12 ready by July 1, 2020, then another 12.

Chief of Staff Matt Sutton asked if they had a lot of repeat applicants. Hodges replied that they did not, probably because the list is good for 3 years. From the audience, Councilmember Pharr asked what would prohibit someone from failing the background check. Hodges replied that the state level prohibits all felonies. Councilmember Overstreet added that the physical test is now standardized within the valley. Applicants are now allowed to practice beforehand. Councilmember Jenkins asked if EMS applicants would need to take the same physical test. Hodges replied that they would want to keep the requirements as they are, since the department is dual role. In order to separate EMS, the Charter would have to be drastically changed.

Chief Hunt stated that the CPD currently has 17 vacancies. 20 officers could potentially leave, however 8 are ready to go to the Academy, 6 will be sworn in shortly, 2 are set for the July Academy and the first of 2 tests will be given in a week's time. The CPD has implemented a pre-hire program, a 4-week program that will get officers ready to enter the Academy and transition to the particular needs of Charleston Police Department. Councilmember Steele confirmed that 4 officers are currently away on military service, and are expected to return by the end of September.

Councilmember Bays asked if Lieutenant Davis will still be sending out press releases. Chief Hunt replied that he didn't think one person should be known for doing that, and each Department Head should speak on whatever issue is current. Additionally, all Councilmembers will be included on any press releases or other important communications from the CPD. Councilmember Bays asked how many officers had only a few years to go until they are eligible for retirement. Chief Hunt replied that it was probably close to 53 officers with 15-20 years served. Councilmember Jenkins confirmed that the average starting salary is just under \$41,000 with built in overtime. Chief Hunt added that overtime is not a big incentive to younger applicants, but the benefits are attractive. Councilmember Pharr confirmed that the included overtime averages out to roughly 4 hours per week. Additionally, there are pay rates associated with rank and longevity.

Councilmember Bays asked where recruits were coming from. Chief Hunt answered that while he did not have that information with him, they are mostly from within West Virginia, but they currently have officers from New York, Ohio, etc.

Chief Hunt added that having one building associated with the CPD would go a long way to help with the department's identity and recruitment. It would help streamline information and increase efficiency. Councilmember Jenkins added that bonds are at the lowest rate they have been in a long time for such a long-term project.

5. Minority and Female Recruiting –

Chief Hunt added that they have recently created a division dedicated to recruitment and retention to be headed by Lieutenant Davis. He added that there are currently 7 minorities and 5 female officers, which is not a reflection of the community.

Councilmember Overstreet confirmed that the CFD currently has 6 minorities. Hodges added that they cannot ask for race or gender on applications. Of the applications that they have accepted by hand, roughly 20 have been from minorities and 8 from females. Chief Hunt added that of the 8 that are to be recently sworn into the Academy, 2 are female and 0 are minorities. The CPD and CFD provide study sessions for their tests.

Councilmember Campbell motioned to adjourn. Councilmember Bays seconded.
Meeting adjourned

Bill No. 7871

Introduced in Council:

May 4, 2020

Introduced by:

Chuck Overstreet

Adopted by Council:

Referred to:

Public Safety

1 **Bill No. 7871** - A Bill to amend and reenact Sections 54-3, 54-42, 54-43, 54-141, 54-
2 142, 54-143, 54-144, 54-145, and 54-146 of the Municipal Code of the City of
3 Charleston, as amended; and to amend said code by adding thereto a new section,
4 designated Section 54-147, all relating to fire prevention and continuing the operation
5 and authority of the fire prevention bureau; clarifying that certain authority rests solely
6 with certified municipal fire marshals; establishing investigation of certain fire related
7 offenses to be a duty of the fire department; clarifying that the fire chief is the municipal
8 fire marshal and that the fire chief may designate that authority to certified municipal fire
9 marshals within the fire prevention bureau; codifying the current version of the fire
10 prevention code specifically within the municipal code as the Charleston Fire Prevention
11 Code; stating its purpose and intent; removing provisions related to an outdated version
12 of the fire prevention code; incorporating by reference the WV Fire Prevention and
13 Control Act of the West Virginia Code, the State Fire Codes, relevant rules and
14 regulations, and the relevant national standards and codes associated with fire
15 prevention with any revisions made by the WV State Fire Marshal; describing the
16 application of the Charleston Fire Prevention Code, exemptions, and the inspection
17 authority; stating the authorized orders under the Charleston Fire Prevention Code and
18 the appeals process; detailing the structure of the Fire Prevention Bureau, the duties
19 and responsibilities of the Fire Prevention Bureau, and the permits issued by the Fire
20 Prevention Bureau; requiring the Fire Prevention Bureau to investigate fires and
21 granting limited powers of arrests to certified municipal fire marshals that meet certain
22 training requirements of the West Virginia Fire Marshal, as authorized by state code;
23 declaring any fire marshals that successfully complete the training to be certified
24 municipal fire marshals while assigned to the Fire Prevention Bureau and authorizing
25 them to arrests for certain fire related offenses, file certain criminal complaints, and take
26 certain investigatory measures; clarifying the authority to summons a person who
27 violates the Charleston Fire Prevention Code to municipal court; authorizing the Chief of
28 the Fire Department to revoke or rescind the authority of a certified municipal fire
29 marshal's enforcement powers when the enforcement powers have been abused or
30 improperly enforced; increasing the potential fine for violation of the Charleston Fire
31 Prevention Code; eliminating the mandatory one day confinement for violation of the
32 Charleston Fire Prevention Code; and authorizing the Fire Prevention Bureau to create
33 any necessary policies, with the approval of the Chief of the Fire Department, that do
34 not conflict with the Charleston Fire Prevention Code.

35

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

That Sections 54-3, 54-42, 54-43, 54-141, 54-142, 54-143, 54-144, 54-145, and 54-146 of the Municipal Code of the City of Charleston, as amended; are amended and reenacted; and that said code is amended by adding thereto a new section, designated Section 54-147, all to read as follows:

Chapter 54 - FIRE PREVENTION AND PROTECTION.

ARTICLE I. - IN GENERAL.

Sec. 54-3. - Duty of spectators, and authority of firefighters and police, at scene of fire.

(a) Every person present at the scene of a fire shall be subject and obedient to the orders of any police officer or member of the fire department there present as to any matter relating to extinguishment of the fire, the removal and protection of persons or property or the maintenance of order; and it shall be unlawful for any person present at the scene of any fire to disobey any such lawful order of any police officer or member of the fire department there present.

(b) ~~Firefighters~~ Certified municipal fire marshals and police officers present at the scene of any fire shall have power to arrest any person for disobedience of the lawful order of a police officer or ~~firefighter given pursuant to this section~~ fire marshal and to hold the offender in custody until the fire has been extinguished, at which time ~~he the~~ offender shall be taken before an appropriate judicial officer to be dealt with according to law.

Sec. 54-42. - Duties of department.

It shall be the duty of the fire department, headed by the fire chief, to:

(1) Combat fires and explosions within the city;

(2) Inspect and abate fire and explosion hazards;

(3) Take measures within its capabilities to prevent the occurrence of fires and explosions;

(4) Investigate suspected incidents of arson and explosives offenses, malicious burning, obstructing a fire marshal, or failing to obey lawful orders, and take appropriate actions to assist in the prosecution of such offenses;

~~(4)~~ (5) Maintain records of fires, explosions and related matters;

~~(5)~~ (6) Provide emergency medical services; and

~~(6)~~ (7) Discharge such other duties as may be imposed upon it by this Code and other ordinances and by state law.

Sec. 54-43. – Chief of the fire department; fire chief; powers.

(a) The chief of the fire department, who may be known and referred to as the fire chief, shall be the commanding officer of the fire department and shall be responsible to the mayor and city council for the administration, training, discipline, morale and effective deployment and utilization of all personnel of the department and

for the maintenance and effective deployment and utilization of the property, equipment and apparatus of the fire department.

(b) The fire chief shall have all such powers as may be necessary and lawful to meet the responsibilities imposed upon him by this section, including but not limited to the following:

(1) ~~He~~ The fire chief shall have absolute command, control, management, assignment to duties and supervision of every officer, member and employee of the fire department during a fire and at all practices and drills, and during all hours when such personnel are on duty.

(2) ~~He~~ The fire chief shall have absolute control, authority and command of the police officers present at the scene of any fire during the time and continuance of any fire, conflagration and all orders issued by him to such police officers, and to other persons present, shall be explicitly obeyed and performed by them.

(3) ~~He~~ The fire chief shall have supervision of the engine houses, vehicles, and all apparatus and equipment belonging to the fire department. ~~He~~ The fire chief shall be responsible for the serviceable condition of all equipment belonging to the fire department, and ~~he~~ the fire chief shall be responsible that every piece of fire apparatus is equipped at all times with the necessary wrenches and all other equipment belonging to that piece of apparatus and necessary in the successful fighting of fire.

(4) ~~He~~ The fire chief shall have supervision over all repairs to apparatus and the charge of all supplies and shall issue them upon his or her own discretion or upon the authority of the city council to the units of the fire department.

(5) ~~He~~ The fire chief shall be responsible for the keeping of necessary records for the fire department, which shall be subject to the inspection of the mayor and members of the city council at any time. ~~He~~ The fire chief shall record and report annually to the city council a statement of all fires occurring since the previous report, the units and personnel responding to alarms, the loss and insurance as far as ascertained, the causes of any such fires, together with such suggestions as he may deem advisable to bring the number of fires to a minimum. ~~He~~ The fire chief shall also keep at his or her office such books or other records as the city council may prescribe.

(6) The fire chief shall be the municipal fire marshal and may vest the authority of the municipal fire marshal to the members of the Fire Prevention Bureau who meet the training requirements, consistent with the provisions of West Virginia Code § 8-15-1 and Section 54-145 of this Code.

(7) The fire chief shall ~~Exercise~~ exercise and perform such other functions, powers and duties as may be deemed appropriate to carry out the purpose of this article.

ARTICLE III. - FIRE PREVENTION CODE.

Sec. 54-141. - Purpose; adopted; ~~where filed and available to public~~; applicability; short title.

For the purpose of ~~establishing~~ continuing a ~~bureau~~ fire prevention bureau within the fire department, and prescribing regulations governing conditions hazardous to life and property from fire or explosion, ~~there is adopted by the city council that~~

~~certain code published by the city entitled "Fire Prevention Code, City of Charleston, West Virginia" (being Ordinance No. 1009, July 1, 1968, as amended), not less than one copy of which is and shall remain on file in the office of the city clerk and shall there be available to the public for inspection and use during all regular business hours; and such code is incorporated in and made a part of this section as fully as though it were set out at length; and the provisions shall be controlling within the city and for one mile beyond the city limits is all matters relating to the subject matter of such code. The code adopted shall be known and may be cited as the "fire prevention code." for the safeguarding to a reasonable degree, life and property from the hazards of fire and explosion, the fire prevention code is hereby adopted. It is the intent of this article to prescribe regulations consistent with nationally recognized good practice for the safeguarding to a reasonable degree, life and property from hazards of Fire and explosion. This article also establishes direction concerning the investigation of dangerous and hazardous conditions resulting from fire and explosion. The adoption of the amendments to this article in 2020 hereby replace the previously adopted 1968 version, as amended, of the Fire Prevention Code that was incorporated in this Code. This article shall hereafter be referred to as the "Charleston Fire Prevention Code" and the provisions shall be controlling.~~

~~Sec. 54-142. – Establishment of limits of districts in which storage of explosives and blasting agents is to be prohibited~~ Adoption and incorporation of relevant Codes.

~~The limits referred to in section 12.5b of the fire prevention code, in which storage of explosives and blasting agents is prohibited, are established as the corporate limits of the city, except locations which conform strictly to the requirements set out in section 12.6 of the fire prevention code. This Charleston Fire Prevention Code does not include a reprinting of all the requirements imposed by statute, but rather incorporates by reference, as if they were printed here, the entirety of the WV Fire Prevention and Control Act (Chapter 29, Article 3 of the West Virginia Code, as amended, and all legislative rules adopted thereunder), which includes the various National Standards and Codes published by the National Fire Protection Association (NFPA) that have been adopted by the WV State Fire Marshal with any revisions or amendments made by the WV State Fire Marshal. In addition, there are hereby adopted for the purpose of prescribing regulations for fire prevention and safety, the relevant provisions of West Virginia Code and the Rules and Regulations pertaining to the State Fire Codes, as adopted by the WV State Fire Marshal.~~

~~Sec. 54-143. – Establishment of limits of districts in which storage of flammable liquids in outside aboveground tanks is to be prohibited.~~ Application, Exemptions, Inspections.

~~— (a) The limits referred to in section 16.22a of the fire prevention code, in which storage of flammable liquids in outside aboveground tanks is prohibited, are established as the corporate limits of the city, except locations which conform strictly to the requirements set out in subsections (b) through (g) of section 16.22 of the fire~~

174 ~~prevention code.~~

175 ~~_____ (b) The limits referred to in section 16.51 of the fire prevention code, in which~~
176 ~~new bulk plants for flammable or combustible liquids are prohibited, are established as~~
177 ~~the corporate limits of the city, except locations which conform strictly to the~~
178 ~~requirements set out in sections 16.52 through 16.58 of the fire prevention code.~~

179 ~~_____ (a) The application of this article shall apply equally to new and existing~~
180 ~~conditions, except where the said existing conditions, not in strict compliance with the~~
181 ~~terms of this article, shall be permitted to continue where conditions do not constitute a~~
182 ~~distinct hazard to life and property in the opinion of the Chief of the Fire Department.~~

183 ~~_____ (b) This Charleston Fire Prevention Code has no application to personal care~~
184 ~~homes caring for three or less patients or buildings used wholly as dwelling houses for~~
185 ~~no more than two families.~~

186 ~~_____ (c) Nothing contained in this article shall be construed as applying to the~~
187 ~~transportation of any item shipped under the jurisdiction of and in compliance with~~
188 ~~regulations prescribed by the Interstate Commerce Commission nor as applying to the~~
189 ~~military forces of the United States.~~

190 ~~_____ (d) The Chief of the Fire Department, members of the Fire Prevention Bureau, or~~
191 ~~any other designee of the Fire Chief at all reasonable hours, may enter any building or~~
192 ~~premises within the jurisdiction for the purpose of making an inspection, or investigation~~
193 ~~which under the provisions of this law, he or they may deem necessary.~~

194 ~~_____ (e) The Chief of the Fire Department, members of the Fire Prevention Bureau, or~~
195 ~~any other designee of the Fire Chief shall inspect any building, structure and /or~~
196 ~~business within their jurisdiction, this is to include any structure accessible to public~~
197 ~~occupancy. This is not to include the interior of private dwelling structure with less than~~
198 ~~3 units.~~

199

200 **Sec. 54-144. – Establishment of limits in which bulk storage of liquefied**
201 **petroleum gas is to be restricted. Authorized Orders under the Charleston Fire**
202 **Prevention Code; Appeals.**

203

204 ~~_____ The limits referred to in section 21.6a of the fire prevention code, in which bulk~~
205 ~~storage of liquefied petroleum gas is restricted, are established as the corporate limits of~~
206 ~~the city, except locations which conform strictly to the requirements set out in article 21~~
207 ~~of the fire prevention code.~~

208 ~~_____ (a) In addition to the other powers contained in this Chapter, the Charleston Fire~~
209 ~~Department is authorized to issue the following orders:~~

210 ~~_____ (1) **Order of Removal or Compliance.** Whenever the Chief of the Fire~~
211 ~~Department, members of the Fire Prevention Bureau, or any other designee of the Fire~~
212 ~~Chief shall determine any building in violation of the Charleston Fire Prevention Code,~~
213 ~~he or she shall have the authority to cause said violation to be corrected in an amount of~~
214 ~~time he or she may deem prudent, not to exceed 21 days unless it involves a violation~~
215 ~~which requires a plan of correction as identified upon the completion of inspection. This~~
216 ~~grace period for correction is not to contradict any portion of the Charleston Fire~~
217 ~~Prevention Code.~~

218 ~~_____ (2) **Order to Evacuate.** The Chief of the Fire Department, members of the Fire~~
219 ~~Prevention Bureau, or any other designee of the Fire Chief shall have the authority to~~

cause to evacuate any building within his or her jurisdiction he or she may deem unsafe to occupy and to remain evacuated until such time he or she declares the building safe to occupy.

(3) **Order of Revocation of Permit.** The Chief of the Fire Department, members of the Fire Prevention Bureau, or any other designee of the Fire Chief shall have the authority to revoke or cause to revoke any permit, license or approval issued if any violation of the Charleston Fire Prevention Code is found on any inspection, or in any case of misrepresentation of any material fact on any application or plans on which said permit, license or approval was issued.

(b) Any order of the Chief of the Fire Department, members of the Fire Prevention Bureau, or any other designee of the Fire Chief pursuant to this section may be appealed to the City of Charleston's Board of Appeals in accordance with Section 14-91 of the Municipal Code of Charleston.

Sec. 54-145. – Conflicts of law; construction. Fire Prevention Bureau Members, Responsibilities, and Authority.

~~If any provision of the fire prevention code conflicts with any provision of the city's Charter or with any provision of state law or any rule or regulation lawfully promulgated and in effect pursuant to authority of state law, the provision of the Charter, state law or rule or regulation promulgated and in effect pursuant to authority of state law shall prevail; and if any provision of the fire prevention code conflicts with any other provision of this Code or other ordinance of the city or with any rule or regulation lawfully promulgated and in effect pursuant to authority of this Code or other ordinance of the city, the more stringent provision shall prevail.~~

(a) The Fire Prevention Bureau of the City of Charleston shall operate under the supervision of the Chief of the Fire Department. Subject to West Virginia State Code and Regulations, the Chief of the Fire Department shall designate officers (members) of the Fire Department as fire marshals in the Fire Prevention Bureau, who shall hold this position at the discretion of the Chief of the Fire Department. The Chief of the Fire Department shall, subject to West Virginia Civil Service Law and Regulations, appoint a Captain of the Fire Prevention Bureau to be the officer in charge of the Bureau. Subject to the West Virginia Civil Service Law and Regulations, the Chief of the Fire Department may detail such members of the Fire Department as Fire Inspectors, Fire Investigators, or both. The Chief of the Fire Department may detail such other members of the Fire Department from time to time and as deemed necessary for assignments that may be limited to pre-fire planning, building surveys and other details pertaining to such assignments.

(b) The Fire Prevention Bureau is responsible for Fire and Life Safety Inspections, building construction and fire protection systems plan review, public fire safety education and investigation of any fires within the City of Charleston. Fire marshals assigned to the Fire Prevention Bureau shall be responsible for administration and enforcement of the Charleston Fire Prevention Code. It shall be the responsibility of the Fire Prevention Bureau to review all plans for new construction, and all other plans for remodeling and renovations pertaining to any buildings/structures within the jurisdiction of the city as identified by the WV State Fire Code and the City of

266 Charleston. The review procedure of any plans or drawing submitted does not relieve
267 the owner, architect, contractor or engineer of responsibility under the applicable code
268 and statutes. It shall be the responsibility of the Fire Prevention Bureau to issue
269 appropriate permits following inspections, Open Fires and Outdoor Burning permits (in
270 accordance with the Charleston Fire Prevention Code and any WVDEP or WVDNR
271 requirements, as applicable), Blasting Permits, Fireworks Permits, and Outdoor Special
272 Events permits. Furthermore, all permits issued are subject to the following:
273 (1) All permits shall at all times be kept on the premises designated therein, and
274 at all times be subject to inspection by any officer of the fire or police departments.
275 (2) The Fire Prevention Bureau may revoke any permit or approval issued if any
276 violation of the Charleston Fire Prevention Code is found upon inspection or in case
277 there are any false statements or misrepresentations as to a material fact in the
278 application or plans for which the permit approval maws based.
279 (3) The issuance of any permit does not relieve the owner, installer or operator of
280 any responsibility for damages and or injuries resulting from misrepresentation. The
281 Charleston Fire Prevention Code shall not be construed to affect the responsibility of
282 any owner, operator, or installer from damages incurred to persons or property caused
283 by any defect therein, nor shall the City be held responsible for any such liability by any
284 reason of the inspection or re-inspection authorized herein or the permit issued as
285 herein provided or by reason of or approval or disapproval of any related request.
286 (c) The Fire Prevention Bureau shall investigate any fire which involves the loss
287 of life or injury to person or by which property has been destroyed or damaged in
288 accordance with applicable codes. The investigator shall make the origin and cause of
289 the fire and facts of the fire known to the Fire Chief. The investigator shall immediately
290 take charge of any physical evidence, notify and process the said evidence with the
291 proper authorities designated by law to pursue the investigation of such matters, and
292 shall cooperate with authorities in the prosecution of the case. The investigation,
293 prevention, and extinguishing of fires and dangerous conditions related to fire within the
294 City of Charleston will be further promoted by granting limited powers of arrests to fire
295 marshals that meet all training required by the West Virginia Fire Marshal, including the
296 Law Enforcement Core Training Standards of the West Virginia State Fire Commission
297 and the West Virginia State Fire Marshal. The training required may be provided by the
298 Charleston Police Department, where possible. Fire marshals who successfully
299 complete the training are deemed to be certified municipal fire marshals and while
300 assigned to the Fire Prevention Bureau are authorized to exercise powers and duties
301 similar to those exercised by the State Fire Marshal pursuant to West Virginia Code §
302 29-3-12, and they are specifically authorized to:
303 (1) Arrest any individual disobeying lawful orders at the scene of a fire;
304 (2) Arrest any individual who violates prohibitions against arson and explosives
305 offenses, malicious burning, obstructing a fire marshal, or failing to obey lawful orders;
306 (3) Arrest without a warrant, if the unlawful conduct occurs in their presence; and
307 (4) File criminal complaints with the municipal court or other appropriate judicial
308 officer in order to obtain a warrant for the arrest and initiate a criminal matter.
309 (d) The arrest authority of certified municipal fire marshals contained in
310 subsection (c) of this section applies to the relevant state statutes contained in the West
311 Virginia Code. Certified municipal fire marshals may execute any summons or warrant

issued by the municipal judge or a Kanawha County Magistrate for these offenses. Any return by a certified municipal fire marshal showing the manner of executing the warrant or summons has the same force and effect as if made by member of the Charleston Police Department. The Fire Prevention Bureau may obtain the assistance of the Charleston Police Department and the City Solicitor at any time deemed necessary to assist with investigation and prosecution, as necessary.

(e) In addition to this arrest authority, the Chief of the Fire Department, members of the Fire Prevention Bureau, or any other designee of the Fire Chief shall have the authority to issue a summons to appear before the municipal court for violations of the Charleston Fire Prevention Code.

(f) The Chief of the Fire Department, who is ultimately responsible for the enforcement of the Charleston Fire Prevention Code, may revoke or rescind, at any time any certified municipal fire marshal's enforcement powers when, in the opinion of the fire chief, these powers have been abused or improperly enforced.

Sec. 54-146. – Violations and penalties; recourse of city to correct violations.

(a) Whoever violates any provision of the Charleston Fire Prevention Code or neglects or fails to comply with such a provision, or who shall violate, neglect or fail to comply with any order or regulation made under such code, or who shall build or construct any structure or part of a structure in violation of any detailed statement of specifications, plans or blueprints submitted and approved under such code, or in violation of any certificate or permit issued under such code, shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than \$1.00 nor more than \$100.00 and not more than \$500.00, or may be imprisoned for not less than one nor more than 30 days, or both.

(b) The imposition of any such penalty shall not excuse the violation, neglect or noncompliance, nor permit nor allow its continuance; and any person violating, neglecting or failing to comply with the provisions of the Charleston Fire Prevention Code shall be required to correct or remedy such violations, neglects, defaults or defects within a reasonable time; and each day that any such violation, neglect or noncompliance shall continue shall constitute a separate offense. The application or use of these penal provisions shall not be held to prevent the removal of the prohibited conditions; and the city shall have the right, in addition to such penal provisions, to proceed in any court having jurisdiction for the correction of such conditions by any lawful procedure provided for by the statutes of the state.

Sec. 54-147. – Policies.

The Fire Prevention Bureau, with the approval of the Chief of the Fire Department, is hereby authorized to create policies that govern the operating procedures of the Fire Prevention Bureau and any policy necessary to ensure that every fire in the City of Charleston is promptly reported to the Fire Prevention Bureau for appropriate action, provided that no such policy may be in conflict with the Charleston Fire Prevention Code.

Resolution No. 332-20

Introduced in Council:

Adopted by Council:

Introduced by:

Referred to:

Public Safety

Resolution No. 332-20 - Ratifying and confirming the Mayor's prior findings that the wrongful manufacturing, distribution, and dispensing of prescription opioid pills, including hydrocodone and oxycodone, created a public nuisance to the people of the City of Charleston.

WHEREAS, the Council of the City of Charleston is the governing body of the City; and

WHEREAS, the Council of the City of Charleston has the authority to take action to protect the public health, safety, and welfare of the citizens of the City of Charleston; and

WHEREAS, the diversion of legally produced controlled substances into the illicit market causes or contributes to the serious public health and safety crisis involving opioid abuse, addiction, morbidity, and mortality in the City of Charleston; and

WHEREAS, the violation of any laws of West Virginia or of the United States of America controlling the manufacturing and distribution of a controlled substance is inimical, harmful, and adverse to the public welfare of the citizens of the City of Charleston and constitutes a public nuisance; and

WHEREAS, pursuant to W.V. Code § 8-10-1, the Mayor of Charleston is tasked with the power and duty to "see that the peace and good order of the municipality are preserved, and that persons and property therein are protected" and

WHEREAS, pursuant to W.V. Code § 8-10-1a, the Mayor also has the authority to employ "an attorney or firm of attorneys . . . to represent the municipality in connection with any legal matter or matters;" and

WHEREAS, there exists a severe public nuisance, causing opioid abuse, addiction, morbidity, and mortality in the City of Charleston; and

WHEREAS, on or about May 17, 2017, the Mayor of the City of Charleston, having recognized and declared this a public nuisance, authorized the City Attorney, to retain private counsel to hold accountable those entities that caused this public nuisance and to abate the same by seeking all civil remedies which may be afforded under West Virginia law, and

WHEREAS, the City Council has been aware of and supportive of all efforts to abate the nuisance of the public health and safety crisis caused by the opioid epidemic, including the currently pending litigation; and

WHEREAS, the Council of the City of Charleston has the authority to provide for

1 the eliminations of hazards to public health and safety; and abate, or cause to be
2 abated, any public nuisance including those acts that significantly interfere with the
3 public health, safety, and welfare of the citizens of the City of Charleston.

4
5 **Now, therefore, be it Resolved by the Council of the City of Charleston, West**
6 **Virginia:**

7
8 That the Council of the City of Charleston does hereby formally ratify and confirm
9 the Mayor's prior findings that the wrongful manufacturing, distribution, and dispensing
10 of prescription opioid pills, including hydrocodone and oxycodone, has created a public
11 nuisance to the people of the City of Charleston.