



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

CITY OF CHARLESTON, WEST VIRGINIA

Regular Meeting – Monday, September 21, 2020

at 7:00 P.M.

* – City Hall – Charleston, West Virginia

OFFICIAL RECORD

**Amy Shuler Goodwin
Mayor**

**Miles C. Cary II
City Clerk**

CALL TO ORDER*

The Council met at 7:00 P.M., for the second meeting in the month of September on the 21st day, in the year 2020, and was called to order by the Honorable Mayor, Amy Shuler Goodwin. The invocation was delivered by Councilmember Knauff and the Pledge of Allegiance was led by Noah Knauff. The Honorable Clerk, Miles C. Cary II, called the roll of members and it was found that there were present at the time:

**ADAMS
BURTON
COOK
HOOVER
KING
MCKINNEY

ROBINSON
STEELE**

**BAILEY
CAMPBELL
FAEGRE
JENKINS
KNAUFF
MINARDI
PHARR
SHEETS
WESLEY-PLEAR**

**BAYS
CEPERLEY
HAAS
JONES
LAIRD
OVERSTREET
REISHMAN
SNODGRASS
MAYOR GOODWIN**

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

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

*In response to the COVID-19 pandemic, the meeting of Council was conducted electronically. The City Clerk and Mayor Goodwin were physically present, while the remaining members of Council attended via conference call. The meeting was made available to the public as a live stream via Zoom and CivicClerk (per the agenda).

PUBLIC SPEAKERS

NONE

CLAIMS

1. A claim of Carl and Lila Angel, Charleston, WV;
alleges damage to property.
Refer to City Solicitor.
2. A claim of James Marcum, Clendenin, WV;
alleges damage to vehicle.
Refer to City Solicitor.
3. A claim of Catherine McClung, Charleston, WV;
alleges damage to property.
Refer to City Solicitor.

PROCLAMATIONS

NONE

COMMUNICATIONS

NONE

REPORTS OF COMMITTEES

COMMITTEE ON FINANCE

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

1. Your committee on Finance has had under consideration the following resolution, and reports the same to Council with the recommendation that Resolution No. 376-20 do pass.

Resolution No. 376-20 - Authorizing the Mayor or City Manager to submit an application to the WV Governor's Highway Safety Program in the amount of \$440,000 and administer any primary and supplemental funds awarded. These funds will be used to reimburse overtime expended by Charleston Police and law enforcement agencies in an eight-county region for enforcement activities including DUI, seat belt, child restraint, work zone safety, distracted and aggressive driving, equipment purchases and travel/training, as well as partial reimbursement for the CPD Highway Safety Coordinator and Assistant's salaries.

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

The Mayor or City Manager is authorized to submit an application to the WV Governor's Highway Safety Program in the amount of \$440,000 and administer any primary and supplemental funds awarded. These funds will be used to reimburse overtime expended by Charleston Police and law enforcement agencies in an eight-county region for enforcement activities including DUI, seat belt, child restraint, work zone safety, distracted and aggressive driving, equipment purchases and travel/training, as well as partial reimbursement for the CPD Highway Safety Coordinator and Assistant's salaries.

Councilmember Jenkins added that the City would be the agency administering the funds for other agencies as well.

Councilmember Jenkins moved to approve the Resolution. Councilmember Ceperley seconded the motion. With a majority of members present recorded thereon as voting in the affirmative, the Mayor declared Resolution No. 376-20 adopted.

2. Your committee on Finance has had under consideration the following resolution, and reports the same to Council with the recommendation that Resolution No. 377-20 do pass.

Resolution No. 377-20 - Authorizing the City Manager or Mayor to accept the transfer to the City of Charleston of a small parcel of real property situated adjacent to the Municipal Auditorium in the Charleston East Tax District, District Number eleven, Map three, Parcel six, from the Charleston Town Center Company, Limited Partnership, as part of the settlement of litigation, pursuant to the Deed attached hereto as Exhibit A.

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

That the City Manager or Mayor are authorized to accept the transfer to the City of Charleston of a small parcel of real property situated adjacent to the Municipal Auditorium in the Charleston East Tax District, District Number eleven, Map three, Parcel six, from the Charleston Town Center Company, Limited Partnership, as part of the settlement of litigation, pursuant to the Deed attached hereto as Exhibit A.

Councilmember Jenkins added that this is part of the bankruptcy and resolving litigation surrounding the Town Center. As a result, the City will receive a small, square piece of grass between the Municipal Auditorium, the back section of the parking lot on Quarrier St. and the old section that used to be Sears.

Councilmember Jenkins moved to approve the Resolution. Councilmember Ceperley seconded the motion. With a majority of members present recorded thereon as voting in the affirmative, the Mayor declared Resolution No. 377-20 adopted.

DEED

THIS QUITCLAIM DEED, made this _____ day of _____, 2020 by and between CHARLESTON TOWN CENTER COMPANY, LIMITED PARTNERSHIP, a West Virginia Limited Partnership, party of the first part, and THE CITY OF CHARLESTON, a municipal corporation organized and existing under the laws of the State of West Virginia, party of the second part.

WITNESSETH THAT, WHEREAS, Charleston Town Center Company, Limited Partnership is the owner of certain real property located in the City of Charleston, abutting Quarrier Street, being situated in the Charleston East Tax District, District Number eleven (11), Map three (3), Parcel six (6); and

WHEREAS, by Resolution No. _____, which was duly passed by the City Council of The City of Charleston on _____, a certified copy of which is attached hereto, The City of Charleston approved and authorized the acceptance of said conveyance of the property herein described; and

NOW THEREFORE WITNESSETH; that for and in consideration of the party of the first part's agreement to donate and dedicate this property to the party of the second part; the said party of the first part does hereby GRANT, CONVEY, RELEASE, REMISE AND FOREVER QUITCLAIM, without any covenants of warranty, unto the said party of the second part, all of its right, title and interest, if any, in and to that certain lot or parcel of real estate, together with the improvements thereon and the appurtenances thereunto belonging, situated in the City of Charleston, in the Charleston East District, Tax District 11, Map 3, Parcel 6, the lot hereby conveyed being bounded and described as follows:

All that certain lot of land situate in the City of Charleston, Kanawha County, West Virginia, fronting fifty-eight (58) feet on the southwest side of Brown Street [now known as Quarrier Street and described hereinafter as Quarrier Street] between Truslow and Clendenin Streets, and extending back from Quarrier Street sixty-one (61) feet, and being further bounded and described as follows: BEGINNING at an iron pin in the southwest line of Quarrier Street, 242 feet in a southeasterly direction from the south side of the curb on the east side of Clendenin Street; thence running with a line of Quarrier Street towards Truslow Street, a distance of 58 feet to an iron pin, a corner of the land formerly owned by Robson Realty Company Land, which is now owned by the City of Charleston, and at right angles to Quarrier Street in a southwesterly direction 61 feet to an iron pin; thence running in a northwesterly direction with the common back line of the lot previously owned by E. Cohen and a lot previously owned by I. E. Nichols, which is now owned by the City of Charleston, 58 feet to an iron pin; thence parallel with the second mentioned line, in a straight line, 61 feet to the place of beginning; being part of the same property which was conveyed to E. Cohen by H. L. Wehrle, by deed bearing date January 26, 1909, and of record in the Kanawha County Clerk's Office in Deed Book No. 115, at page 554; and also being the same property conveyed to Ostrin Electric Company, a corporation, by Nathan Ostrin and Eva Ostrin, his wife, by deed bearing date the 18th day of May, 1955, and recorded in said Clerk's Office in Deed Book 1134, at page 482.

And being all of the same property conveyed to Charleston Town Center Company, LTD. by deed from 213 Quarrier Corporation, and recorded in the aforesaid Clerk's office in Deed Book 2002, at page 315, described therein as Parcel III.

This conveyance is made subject to the restrictions and conditions pertaining to the use of said real estate and to the easement reservations and covenants as may be found in prior deeds of record in the chain of title.

Subject to the foregoing, the said party of the first part does hereby convey to the said party of the second part all of the property described herein "AS IS, WHERE IS."

DECLARATION OF CONSIDERATION OR VALUE: The party of the first part and the City of Charleston do hereby declare that the transfer of property by this instrument is not subject to the State excise tax upon the privilege of transferring real estate for the reason that it is a transfer to or from the United States, the State of West Virginia, or to or from any of their instrumentalities, agencies or political subdivisions, pursuant to West Virginia Code § 11-22-1.

WITNESS the following signature and seal:

CHARLESTON TOWN CENTER COMPANY LIMITED PARTNERSHIP, a West Virginia limited partnership

By: FC QIC Charleston Town Center JV, LLC,
Its General Partner

By: FC Charleston Town Center Operator, LLC,
Its Sole Member

By: Ketan Patel
Its President and Secretary

STATE OF OHIO

COUNTY OF CUYAHOGA, to wit:

The foregoing instrument was acknowledged before me this _____ day of _____, 2020, by _____, President and Secretary of FC Charleston Town Center Operator, LLC, as the Sole Member of FC QIC Charleston Town Center JV, LLC, the General Partner of Charleston Town Center Company, Limited Partners, a West Virginia Limited Partnership, on behalf of said limited partnership.

My Commission expires: _____

[SEAL]

Notary Public

THIS INSTRUMENT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE SURVEY AND/OR TITLE INSURANCE.
DEED CONTAINS 3 PAGES

This instrument was prepared by Joseph J. Baldwin, Assistant City Attorney, City of Charleston
501 Virginia Street East, Charleston, West Virginia 25301

3. Your committee on Finance has had under consideration the following resolution, and reports the same to Council with the recommendation that Resolution No. 380-20 do pass.

Resolution No. 380-20 - Authorizing the Mayor or City Manager to enter into a memorandum of understanding with the Raleigh County Solid Waste Authority for services relating to the processing of mixed recyclables for the City of Charleston as detailed in Exhibit A attached hereto.

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

That the Mayor or City Manager is authorized to enter into a memorandum of understanding with the Raleigh County Solid Waste Authority for services relating to the processing of mixed recyclables for the City of Charleston as detailed in Exhibit A attached hereto.

Councilmember Jenkins added that the City had been taking its mixed-stream recycling to Raleigh County for sorting and recycling. Last year, prior to it being shut down, there had been about 657 tons of recycling taken there. While Raleigh County was shut down during the pandemic, they evaluated its facility and concluded that it was losing approximately \$260/ton. Working with the City Manager and Director of Public Works, an agreement was made to process the City's recycling for \$175/ton. Councilmember Jenkins noted that this is a short-term option that allows the City to restart the recycling program next week with the regular trash pickup. It will also allow the City to keep the mixed-stream recycling. Hopefully, the City will be able to find a more long-term, sustainable option in the future, but Councilmember Jenkins stated he believed this is a good option for the present.

Councilmember Knauff stated that he did not think the City could prove that they are saving carbon emissions, adding that Beckley is putting a lot of what the City is sending them into their landfill (80-90% of paper). Constituents that want to recycle can sort it themselves and take it directly to Slack Street. Councilmember Knauff added that he is looking forward to working with the consultants to find better a solution. Mayor Goodwin added that the City Manager and City Attorney has had no indication that the City's recycling is going to their landfill. Councilmember Knauff added that due to the nature of the mixed-stream (otherwise known as single-stream) recycling, a lot of the paper is contaminated and wet.

Councilmember Jones stated that he did not like sending packer trucks with multiple City workers up the interstate, adding that there had already been one accident. He added that there is a lot of wear and tear on those vehicles. He added that they should do something that would benefit the whole City, not just one section that wants to recycle. He asked how the recycling should be put out since the City eliminated the trash bag program. Mayor Goodwin added that the Administration and the Environment and Recycling Committee also recognized those points,

adding that the easiest way for citizens to recycle would be to use their own containers, bins etc. as long as they were adequately labeled as such (with a marker or stickers, for example). The Mayor stressed that this is a short-term solution.

Councilmember Robinson confirmed with Mayor Goodwin that the trucks had already been going to Raleigh County years before the COVID-19 pandemic, so this would be the same process as before with a few adjustments (eliminating the wasteful bags, an educational campaign, etc.). Any clear bag or bin that is properly marked can be used.

Councilmember Ceperley stressed that it is a short-term solution. Additionally, she believes that a majority of Charleston residents want to recycle. Councilmember Ceperley added that the City is required by state code to provide a recycling program.

Councilmember Cook added that Councilmembers are frequently asked about recycling, and is the City's moral responsibility to provide such a program. Additionally, it is important to attract young people to the City.

Councilmember Jones asked how the Refuse workers will be able to tell which of the trash is regular or recycling. Additionally, he was concerned that it was not put out to the public that the service was going to resume. Mayor Goodwin responded that the Administration had been communicating with residents. Again, residents may recycle with clear plastic bags or clearly marked bins.

Councilmember Snodgrass said that this would be an opportunity that would fit a model of looking across the County (such as with businesses) to get more poundage for the long-term sustainability of the program. Mayor Goodwin added that they have started conversations with several Mayors in nearby cities.

Councilmember King added that last year they were told there was approximately a 20% utilization of the recycling program throughout the City. He added that he didn't think there should be recycling as it is not economically viable.

Councilmember Wesley-Plear asked if it would be more viable if City employees could separate the recycling at Slack Street. Mayor Goodwin replied that unless the trash is sorted, Slack Street is not an option. However, as they move forward with a more solid plan, that would need to be discussed. Public Works Director, Brent Webster, added that presently the facility cannot handle the City's volume. Additionally, for the City to sort its own recycling would require more trucks and employees, which is not something that can happen in the immediate future.

Councilmember Minardi pointed out that taking recycling to Raleigh County several years ago was supposed to be a short-term solution then, and is currently the only viable solution available.

He added that he appreciated that the Administration was communicating with neighboring communities. Councilmember Minardi asked wet paper was put into a recycling bin without a lining would still be recycled. Councilmember Bailey answered that a smaller batch of wet paper could be handled by Raleigh County to recycle.

Councilmember Sheets added that he was one of the first to be on the Citizens Recycling Council in 1974. Six years ago, at his last meeting of the Environment and Recycling Committee, Councilmember Cubert Smith and he questioned the environmental impact of driving so frequently to Raleigh County. They requested that a study be done to determine this. He added that it is one thing to have to drive to Raleigh County multiple times a week, but not to have to pay to do it.

Councilmember Faegre confirmed that the City takes its recycling to Raleigh County two to three days a week. She also asked what other cities, such as St. Albans does with their recycling. Webster answered that South Charleston definitely has a relationship with Raleigh County, but he didn't about St. Albans, Nitro, Dunbar etc. Councilmember Faegre confirmed that up until the proposed resolution is adopted, the City has not been paying Raleigh County for these services outside of the personnel, wear and tear on vehicles and fuel to transport the recycling. Councilmember Faegre confirmed that the MOU is for one fiscal year that expires June 30, 2021.

Councilmember Bailey thanked the Administration for finding funds to continue the program. He added that not only is it required by the state, but is something a modern city is expected to have. When there was an option to recycle at Slack Street around seven years ago, it was very successful. Hopefully, the City will be able to work with other communities to come up with a better solution for everyone.

Councilmember Jenkins moved to approve the Resolution. Councilmember Ceperley seconded the motion. With a majority of members present recorded thereon as voting in the affirmative, the Mayor declared Resolution No. 380-20 adopted.

Exhibit A

MEMORANDUM OF UNDERSTANDING REGARDING
RECYCLING SERVICES FOR THE CITY OF CHARLESTON
AT THE RALEIGH COUNTY SOLID WASTE AUTHORITY

This Memorandum of Understanding (“MOU”) is entered into by and between the City of Charleston, hereinafter “the City,” and the Raleigh County Solid Waste Authority, hereinafter “RCSWA.”

WHEREAS, the City is a municipal corporation organized and existing under the laws of the State of West Virginia and located in Kanawha County, West Virginia; and

WHEREAS, the RCSWA is a Solid Waste Authority organized and existing under the laws of the State of West Virginia and located in Raleigh County, West Virginia; and

WHEREAS, RCSWA owns and operates a single-stream recycling facility that has accepted recyclables from the City without charging the City any fees for processing the mixed recyclables; and

WHEREAS, due to low market pricing for recyclables, RCSWA must begin charging a fee for processing mixed recyclables from the City and other large volume recyclers;

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, the Parties agree as follows:

- A. The City agrees to pay \$175.00 per ton of recyclables taken by the City to RCSWA for processing.
- B. RCSWA agrees that during the Term of this MOU, it will continue to accept single stream recycling from the City and will continue to accept the types of recyclables it has received from the City during calendar year 2019, namely newspaper, office paper, magazines, cardboard, aluminum, tin cans, similar metals, plastic #1, and plastic #2.
- C. Each time the City takes recyclables to RCSWA, RCSWA will weigh the recyclables dropped off by the City and provide a receipt showing the weight to the City. RCSWA shall further retain a record of the weight of recyclables and provide an invoice to the City on a monthly basis, but the Parties agree that the City will issue payment on a quarterly basis.
- D. The Term of this agreement shall be for the current fiscal year, commencing on the date this agreement is executed and ending on June 30, 2021.
- E. The Parties agree to reassess the per ton price and communicate in good faith to work toward a new agreement for the following fiscal year, which runs from July 1, 2021 through June 30, 2022.
- F. Amendments. Any amendment to this MOU shall be made in writing and shall be executed by all Parties.
- G. Severability. In the event that any of the provisions of this MOU are determined to be illegal or unenforceable, all other terms shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned have caused this MOU to be properly executed by an officer thereunto duly authorized on the _____ day of September, 2020.

City of Charleston

By:

Its:

Raleigh County Solid Waste Authority

4. Your committee on Finance has had under consideration the following resolution, and reports the same to Council with the recommendation that Resolution No. 378-20 do pass.

Resolution No. 378-20 - Authorizing approval of Amendment No. 3 in the FY 2020-2021 General Fund Budget as indicated on the attached list of accounts.

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

That Amendment No. 3 in the FY 2020-2021 General Fund Budget as indicated on the attached list of accounts is approved.

Councilmember Jenkins added that the amendment will shift money within the budget contingency fund to cover the anticipated costs to recycle with Raleigh County. The amount is based on tonnage from previous years.

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

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

With a majority of members present recorded thereon as voting in the affirmative with nineteen (19) YEAYS and seven (7) NAYS,, the Mayor declared Resolution No. 378-20 adopted.

General Fund FY 2020-2021 Budget Amendment No. 3 - September 21, 2020

Account No.	Department	Account Description	Amount
001 699 00 000 5 598	Contingency	Contingency	(115,000)
001 800 00 000 2 230	Refuse & Recycling	Contracted Services	115,000

Reallocating funds from the General fund Contingency to the Refuse & Recycling Department to pay for processing of mixed recyclables for the City.

5. Your committee on Finance has had under consideration the following resolution, and reports the same to Council with the recommendation that Resolution No. 379-20 do pass.

Resolution No. 379-20 - Authorizing the Mayor or City Manager to purchase an IDEMIA Automated Fingerprint Identification System (AFIS) for \$27,495 to be used by the Charleston Police Department, where the machine will replace a device originally purchased in 2009 that is reaching the end of its serviceable life. IDEMIA is a sole source provider of the LiveScan System that uses the same software processing, searching, and matching technology used by the West Virginia State Police AFIS.

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

That the Mayor or City Manager is authorized to purchase an IDEMIA Automated Fingerprint Identification System (AFIS) for \$27,495 to be used by the Charleston Police Department, where the machine will replace a device originally purchased in 2009 that is reaching the end of its serviceable life. IDEMIA is a sole source provider of the LiveScan System that uses the same software processing, searching, and matching technology used by the West Virginia State Police AFIS.

Councilmember Jenkins added that this will be to replace an eleven-year-old unit which has been budgeted for.

Councilmember Jenkins moved to approve the Resolution. Councilmember Ceperley seconded the motion. With a majority of members present recorded thereon as voting in the affirmative, the Mayor declared Resolution No. 379-20 adopted.

6. Your committee on Finance has had under consideration the following resolution, and reports the same to Council with the recommendation that Resolution No. 381-20 do pass.

Resolution No. 381-20 - Authorizing the Mayor or City Manager to purchase five (5) Air Mask Systems (self-contained breathing apparatus) for the Charleston Fire Department from Finley Fire Equipment and ten (10) spare air cylinders, at a total price of \$33,890.00. The purchase price was determined through a competitive bidding process, of which the awarded bidder qualified for local vendor preference for one year.

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

That the Mayor or City Manager is authorized to purchase five (5) Air Mask Systems (self-contained breathing apparatus) for the Charleston Fire Department from Finley Fire Equipment and ten (10) spare air cylinders, at a total price of \$33,890.00. The purchase price was determined through a competitive bidding process, of which the awarded bidder qualified for local vendor preference for one year.

Councilmember Jenkins added that this was a prior bid earlier in the year. The prices are valid for one year.

Councilmember Jenkins moved to approve the Resolution. Councilmember Ceperley seconded the motion. With a majority of members present recorded thereon as voting in the affirmative, the Mayor declared Resolution No. 381-20 adopted.

REPORTS OF OFFICERS

1. Municipal Court Report to City Council Month Ending August 2020.
Received and Filed
2. City Treasurer's Report to City Council Month Ending August 2020.
Received and Filed.

NEW BILLS

NONE

MISCELLANEOUS/UNFINISHED BUSINESS

1. Councilmember Steele announced a Public Safety Committee meeting on September 24, 2020. She added that the City should look into their contract with Waste Management in regard to recycling.
2. Councilmember Jones requested that there be a community meeting on the West Side.
3. Councilmember Pharr mentioned that a senior at South Charleston High School, Ricci Kellum, is listening via Zoom as a requirement for her Political Science class.
4. Councilmember Adams added that the Charleston Land Reuse Agency is accepting public input concerning the development of 739 Central Avenue.

ADJOURNMENT

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

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

NAYS: NONE

ABSENT: Persinger

At 7:55 p.m., by a motion from Councilmember Ceperley, Council adjourned until Monday, October 5, 2020, at 7:00 p.m., in the Council Chambers in City Hall or electronically as needed.

Amy Shuler Goodwin, Honorable Mayor

Miles C. Cary II, City Clerk