



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

CITY OF CHARLESTON, WEST VIRGINIA

Regular Meeting – Monday, August 16, 2021

at 7:00 P.M.

Council Chamber – 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 August on the 17th day, in the year 2021, 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 Councilmember Faegre. The Honorable Clerk, Miles C. Cary II, called the roll of members and it was found that there were present at the time:

ADAMS**BROWN****CEPERLEY****HAAS****JONES****MCKINNEY****OVERSTREET****REISHMAN****SNODGRASS****BAILEY****BURTON****COOK****HOOVER****KING****MINARDI****PERSINGER****ROBINSON****STEELE****BAYS****CAMPBELL****FAEGRE****JENKINS****KNAUFF****PHARR****SHEETS****MAYOR GOODWIN**

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

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

PUBLIC SPEAKERS

1. Melinda Hammil – Spoke about issues with the WV Housing Development Fund
2. Eric Desmond – Spoke about issues with the WV Housing Development Fund
3. Seth Distefano – Spoke about using funds from the American Rescue Plan Act for food security
4. Chad Cordell – spoke about police brutality
5. Lill Prosperino – Spoke about police brutality
6. Martec Washington – spoke about the state of Charleston

CLAIMS

1. A claim of Verna Black, Charleston, WV;
alleges personal injury.
Refer to City Solicitor, Please.
2. A claim of Lois Jean King, Parkersburg, WV;
alleges damage to vehicle.
Refer to City Solicitor, Please.
3. A claim of Elaine L. Skorich, Parkersburg, WV;
alleges damage to vehicle.
Refer to City Solicitor, Please.
4. A claim of Mark Snapp, Parkersburg, WV;
alleges damage to vehicle.
Refer to City Solicitor, Please.
5. A claim of Gloria Stone, Parkersburg, WV;
alleges damage to vehicle.
Refer to City Solicitor, Please.
6. A claim of Perry Hoffman (via Nationwide Insurance), Charleston, WV;
alleges damage to vehicle.
Refer to City Solicitor, Please.
7. A claim of Michael Taylor, Charleston, WV;
alleges damage to vehicle.
Refer to City Solicitor, Please.
8. A claim of Robert Washington, Charleston, WV;
alleges loss of property.
Refer to City Solicitor, Please.

PROCLAMATIONS

1.

City of Charleston
Executive Office of the Mayor

CONGRATULATORY GREETINGS

presented on the 16th day of August 2021, to

The West Virginia Football Club (WVFC) 2007 Girls

In honor of winning the West Virginia State Cup in May; and

In celebration of your participation in the US Youth Soccer Eastern Regional Championship Tournament and your team's advancement to the quarter finals; and

In recognition of your tremendous accomplishments—finishing the season with an impressive 31W - 7L - 5T record.



IN WITNESS WHEREOF, I have set my hand
and caused the Seal of the Executive Department
to be affixed this 16th day of August 2021.

Amy Shuler Goodwin
Amy Shuler Goodwin, Mayor

It was presented to Coach Travis Brent, Executive Director of WVFC Kim D'Angelo and members of the team.

2.

**EXECUTIVE DEPARTMENT
CITY OF CHARLESTON
PROCLAMATION**

WHEREAS: International Overdose Awareness Day is recognized globally on August 31 to raise awareness about the risks of overdosing, honor the individuals whose lives have been lost and acknowledge the grief felt by families, friends, and communities; and

WHEREAS: Overdose Awareness Day aims to publicly challenge the stigma associated with substance use disorder and overdosing; and

WHEREAS: We must take every opportunity to connect individuals struggling with substance use disorder with treatment; and

WHEREAS: Local engagement and leadership is imperative to developing and supporting solutions; and

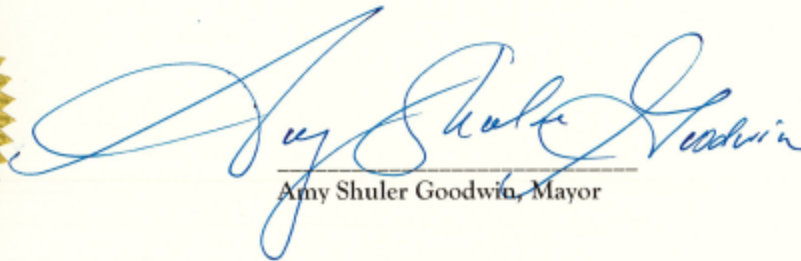
NOW THEREFORE, I, Amy Shuler Goodwin, Mayor of the City of Charleston,
do hereby proclaim August 31, 2021, as

**INTERNATIONAL OVERDOSE
AWARENESS DAY**

In Charleston, West Virginia and urge all citizens to stand beside those who have lost loved ones to an overdose and those who have substance use disorder.

IN WITNESS WHEREOF, I have set my hand and caused the Seal of the Executive Department to be affixed this 16th day of August 2021.




Amy Shuler Goodwin, Mayor

The proclamation was presented to Cece and Bobby Brown.

COMMUNICATIONS

1. NOMINATION OF VACANT COUNCIL SEAT WARD 18

The Mayor declared the floor open for nominations to fill the vacancy for the unexpired Ward 18 seat. Councilmember Robinson made a motion to nominate Bobby Brown; the motion was seconded by Councilmember Ceperley.

Councilmember Robinson added that he has personally known Brown and his wife for over thirty years. Brown has been a resident of Kanawha City for over forty years. He retired from the City as an employee after twenty-six years of service.

With members present recorded thereon as voting unanimously in the affirmative, the Mayor declared Bobby Brown Councilmember for Ward 18.

Bobby Brown came forward and took the oath of office given by Mile C. Cary II, City Clerk.

REPORTS OF COMMITTEES

COMMITTEE ON ENVIRONMENT AND RECYCLING

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

1. Your committee on Environment and Recycling has had under consideration the following bill, and reports the same to Council with the recommendation that Bill No. 7916 Committee Substitute do pass.

Councilmember Bailey added that the bill was brought to the Committees by the Charleston Green Team. It will not affect private owners, but will require the City to examine its facilities. The goals are to reduce energy consumption and to save money. This will require work from City staff, however, there are non-profit organizations that will assist in determining the best way to go forward and give recommendations. He added that any change made to City building will have to be approved by Council.

COMMITTEE ON FACILITIES

Councilmember Pharr, Chair of the Council Committee on Facilities, submitted the following reports:

1. Your committee on Facilities has had under consideration the following bill, and reports the same to Council with the recommendation that Bill No. 7916 Committee Substitute do pass.

Bill No. 7916 Committee Substitute - A BILL to amend the Municipal Code of the City of Charleston, as amended, by adding thereto a new Article, designated Article IX within Chapter 2, consisting of Sections 2-751, 2-752, 2-753, 2-754, 2-755, 2-756, 2-757, 2-758, 2-759, and 2-760, relating to energy benchmarking; declaring purpose; defining terms; requiring benchmarking of covered municipal properties; detailing benchmarking reporting procedure; declaring certain benchmarking exemptions and time extensions; implementing audit of meters and streetlights; establishing energy savings program; requiring annual reports and analysis; and authorizing rulemaking.

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

That the Municipal Code of the City of Charleston, as amended, be amended by adding thereto a new Article, designated Article IX within Chapter 2, consisting of Sections 2-751, 2-752, 2-753, 2-754, 2-755, 2-756, 2-757, 2-758, 2-759, and 2-760, all to read as follows:

Chapter 2. – Administration.

ARTICLE IX. – ENERGY BENCHMARKING.

Sec. 2-751. – Purpose of Energy Benchmarking Ordinance.

The Purpose of this Article and energy benchmarking is to encourage efficient use of municipal energy paid by taxpayers and to reduce municipal pollution. This Article requires Covered Municipal Properties to annually measure and disclose energy usage to the City Manager. Furthermore, this Ordinance will authorize the City Manager to collect energy usage data to enable more effective energy and climate protection planning by the City and others and to provide information to the real estate marketplace to enable its members to make decisions that foster better energy performance.

Sec. 2-752. – Definitions.

For the purposes of this section, the following definitions shall apply:

“Benchmark” means to input and submit the total energy and water consumed for a property for the previous calendar year and other descriptive information for such property as required by the benchmarking tool. Total energy and water consumption shall not include separately metered uses that are not integral to building operations, as determined by the City Manager.

“Benchmarking date” means on or before October 31 of each year a date to be determined by the City Manager with the cooperation of the Chair of the Facilities Committee.

“Benchmarking submission” means a subset of:

- (1) Information input into the benchmarking tool; and
- (2) Benchmarking information generated by the benchmarking tool, as determined by the City Manager.

“Benchmarking tool” means the U.S. Environmental Protection Agency’s ENERGY STAR® Portfolio Manager, or any additional or alternative tool adopted by the City Manager, used to track and assess the energy and water use of certain properties relative to similar properties.

“Building operator” means the department or agency head that operates, maintains, and/or pays energy utility bills.

“City Manager” means the City Manager of the City of Charleston or, at the City Manager’s sole discretion, a designee for the specific purpose of carrying out the requirements of this Article.

“Covered Municipal Property” means a property that is owned, leased, or managed by the City such that the City regularly pays all or part of the annual energy and/or water bills.

“Energy” means electricity, natural gas, steam, or other product sold by a utility to a customer of a property, or renewable on-site electricity generation, for purposes of providing heating, cooling, lighting, water heating, or for powering or fueling other end-uses as recorded in the benchmarking tool.

“ENERGY STAR score” means the 1-100 numeric rating generated by the ENERGY STAR Portfolio Manager tool as a measurement of a building’s energy efficiency.

“ENERGY STAR Portfolio Manager” means the tool developed and maintained by the U.S. Environmental Protection Agency to track and assess the relative energy performance of

buildings.

“Gross floor area” means the total property area, measured between the outside surface of the exterior walls of the building(s). This includes all areas inside the building(s) including but not limited to lobbies, tenant areas, common areas, meeting rooms, break rooms, atriums (count the base level only), restrooms, elevator shafts, stairwells, mechanical equipment areas, basements, and storage rooms.

“Retrocommissioning practices” means processes that seek to improve how building equipment and systems function together. Such practices are designed also to resolve problems that occurred during design, construction, or that have developed throughout the building's life; improving a building's operations and maintenance procedures to enhance overall building performance.

“Shared benchmarking information” means information generated by the benchmarking tool and descriptive information about the physical property and its operational characteristics, which is shared with the public. The information, as defined by the ENERGY STAR Portfolio Manager glossary, shall include, but need not be limited to:

- (1) Descriptive information:
 - (A) Property address;
 - (B) Primary use;
 - (C) Gross floor area;
 - (D) Number of floors;
 - (E) Number of years the property has been ENERGY STAR® Certified and the last approval date, if applicable; and
 - (F) Individual or entity responsible for the benchmarking submission.
- (2) Site and source energy use intensity:
 - (A) Weather normalized site and source energy use intensity;
 - (B) The ENERGY STAR score, where available;
 - (C) Total annual greenhouse gas emissions;
 - (D) Monthly energy use, by fuel type;
 - (E) Monthly peak electricity demand;
 - (F) Indoor water use and water use intensity (consumption per gross square foot);
 - (G) Outdoor water use (where available);
 - (H) Total water use;
 - (I) The ENERGY STAR Water Score, where available;
 - (J) General comments section, if needed, to explain the building's ENERGY STAR scores; and
 - (K) Compliance or noncompliance status.

“Utility” means an entity that distributes and/or sells natural gas, electric, water, or thermal energy services for buildings.

“Water audit” means that part of an audit that addresses the water systems.

Sec. 2-753. – Applicability.

This Article is applicable to all Covered Municipal Properties. All owners of other properties within the City of Charleston are encouraged, but not required, to follow the benchmarking portions of this Article.

Sec. 2-754. – Benchmarking Requirement for Covered Municipal Properties.

No later than October 31, 2021, a date to be determined by the City Manager with the cooperation of the Chair of the Facilities Committee and by October 31 a date to be determined by the City Manager with the cooperation of the Chair of the Facilities Committee every year thereafter, the total energy and water consumed by each Covered Municipal Property, along with all other descriptive information required by the Benchmarking Tool, shall be entered into the Benchmarking Tool for the previous fiscal year.

Sec. 2-755. – Benchmarking Reporting Procedure.

(a) For every Covered Municipal Property subject to this Article, the building operator shall annually submit to the City Manager an energy and water benchmarking report in an electronic format as established by the City Manager, by the benchmarking date.

(b) The information included in the annual energy and water benchmarking report shall include, at a minimum, the Shared Benchmarking Information for the previous calendar year.

(c) The building operator of each Covered Municipal Property shall provide to the City Manager all data necessary for the City Manager to:

- (1) Enter it into the benchmarking tool and
- (2) Create an energy and water benchmarking report based on an assessment of the aggregated total energy and water consumed by the whole property for the entire calendar year being reported.

(d) Before submitting a benchmarking report the building operator shall run all automated data quality checker functions available within the benchmarking tool and shall verify that all data has been accurately entered into the tool. In order for the benchmarking report to be considered in compliance with this Article, the building operator shall correct all missing or incorrect information as identified by the data quality checker prior to submitting the

benchmarking report to the City Manager.

(e) In order to plan for potential solar panel installation, the building operator shall include information regarding whether any of the building operator's Covered Municipal Properties are, or will soon be, in need of replacing or repairing its roof. The building operator shall also describe any evaluation regarding the suitability for solar panels on the building that has been conducted on any Covered Municipal Properties.

(f) Where the current building operator learns that any information reported as part of the benchmarking submission is inaccurate or incomplete, the building operator shall amend the information reported within the benchmarking tool and shall provide the City Manager with an updated benchmarking submission within 30 days of learning of the inaccuracy.

Sec. 2-756. – Benchmarking Exemptions; Time Extensions.

(a) Benchmarking is not required for a Covered Municipal Property for the current reporting year if the building operator submits documentation to the City Manager, in such form and with such certifications as required by the City Manager, establishing that the property met one or more of the following conditions for the calendar year to be benchmarked:

(1) A demolition permit for the entire building was issued during that year, provided that demolition work commenced and legal occupancy was no longer possible prior to end of that year;

(2) The property did not receive energy or water utility services during that year;
or

(3) Due to special circumstances unique to the property, strict compliance with provisions of this Article would not be in the public interest.

(b) Any building operator requesting an exemption from benchmarking shall, by June 1 in the year for which the exemption is being requested, submit to the City Manager any documentation reasonably necessary to substantiate the request or otherwise assist the City Manager in the exemption determination. Any exemption granted will be limited to the benchmarking submission for which the request was made and does not extend to past or future submittals. Any requested exemptions, whether approved or denied, shall be included in the annual report described in Section 7-759 of this Article, as well as the reasons for the exemption being approved or denied.

(c) Any building operator may apply for a time extension to complete and submit a benchmarking report if, despite such building operator's good faith efforts, they are unable to complete the required actions prior to the scheduled due date due to the failure of either a utility provider or a tenant (or both) to provide the building operator with information needed to complete this report. The building operator requesting an extension shall submit to the City

Manager any documentation reasonably necessary to substantiate the request or otherwise assist the City Manager in the determination. For each property, the City Manager may grant no more than two such extensions per year of no more than thirty days each.

Sec. 2-757. – Audit of Meters and Streetlights.

In addition to the other requirements of this Article, the City Manager shall develop and administer a program for auditing the streetlights and energy metering devices for both electricity and natural gas currently installed at all city buildings or otherwise paid by the city, for purposes of determining whether such devices are active or inactive. Such a program shall be designed to audit all energy metering devices by July 1, 2022 and all streetlights by July 1, 2023. In the event the City Manager determines during such an audit that an energy metering device is no longer active, the City Manager shall notify the energy service provider to request removal of such device and adjustment of utility bills to remove any inappropriate charges associated with such meter.

Sec. 2-758. – Energy Savings Program.

(a) By July 1, 2022, the City Manager shall establish an energy savings program designed to reduce energy usage for electricity, natural gas, fuel oil, and steam in all Covered Municipal Properties by 25% below FY2019 levels by FY2031, as well as otherwise reducing energy costs.

(b) Any program established pursuant to this section shall include:

- (1) At least one interim savings goal for a percentage savings to be achieved by the fiscal year 2025-2026;
- (2) A plan for prioritizing which Covered Municipal Properties should be first audited and identified for efficiency improvements;
- (3) A plan for implementing retrocommissioning practices, ensuring that buildings are operated in a manner that maximizes the energy saving potential of any efficiency improvements made; and
- (4) A framework for evaluating when a Covered Municipal Property is suitable for installing solar panels in order to reduce energy costs.

Sec. 2-759. – Annual Report and Analysis.

(a) Beginning no later than December 1, 2022 and every year thereafter, the City Manager shall make available on a publicly accessible website an annual report covering the previous fiscal year, including:

- (1) The measured energy use of all Covered Municipal Properties;
- (2) A summary of energy and water consumption statistics;
- (3) An assessment of compliance rates, accuracy and issues affecting accuracy,

changes across the portfolio over time;

(4) Any energy savings measures taken pursuant to the program established in Section I of this Article;

(5) An evaluation of solar for all Covered Municipal Properties, including any buildings that have been identified as needing roof repairs in the next five years; and

(6) Trends observed.

(b) If the circumstances of the solar viability of any Covered Municipal Properties has not changed since a previous evaluation, the City Manager does not need to make a new evaluation.

(c) By August 1, 2026, the City Manager shall review the progress toward the FY2026 interim goal established pursuant to Section 2-758 of this Article. If the FY2026 goal has not been met, the City Manager shall make recommendations to the City Council as to whether amendments to this section or other measures are necessary to meet the goal of 25% reduction by FY2031.

(d) Nothing in this ordinance shall prevent the City Manager from including all such information in a combined annual energy and water efficiency report covering the progress of all of the City's energy efficiency ordinances and programs.

Sec. 2-760. – Rulemaking.

In addition to all of the authority granted in this Article, the City Manager has plenary power and authority to promulgate any such rules necessary to carry out the provisions of this Article.

Councilmember Pharr moved to adopt the bill. Councilmember Ceperley seconded the motion. The question being on the adoption of the bill, a roll call was taken:

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

NAYS: None

ABSENT: None

With members present recorded thereon as voting unanimously in the affirmative, the Mayor declared Bill No. 7916 Committee Substitute as passed.

COMMITTEE ON FINANCE

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

1. Your committee on Finance has had under consideration the following resolution, and reports the same to Council with the recommendation that Resolution No. 523-21 be adopted.

Resolution No. 523-21 - Authorize the Mayor or City Manager to submit an application to the WV Governor's Highway Safety Program in the amount of \$518,000 and administer any funds awarded. These funds will be used to reimburse overtime expended by Charleston Police and law enforcement agencies in the eight-county Metro Valley Highway Safety 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:

That the Mayor or City Manager is authorized to submit an application to the WV Governor's Highway Safety Program in the amount of \$518,000 and administer any funds awarded. These funds will be used to reimburse overtime expended by Charleston Police and law enforcement agencies in the eight-county Metro Valley Highway Safety 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 submits an application for this grant every year for at least the past twenty years.

Councilmember Jenkins moved to approve the resolution. Councilmember Ceperley seconded the motion. With members present recorded thereon as voting unanimously in the affirmative, the Mayor declared Resolution No. 523-21 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. 524-21 do pass.

Resolution No. 524-21 – Authorizing the Mayor or City Manager to enter into a contract with HDR Engineering, Inc. in an amount not to exceed \$49,768.93 to complete a traffic study at the intersection of Virginia Street West and Delaware Avenue, where the study will include, but is not limited to, the evaluation of current traffic conditions, pedestrian characteristics, and physical characteristics of the intersection to accommodate increased pedestrian traffic.

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 contract with HDR Engineering, Inc. in an amount not to exceed \$49,768.93 to complete a traffic study at the intersection of Virginia Street West and Delaware Avenue, where the study will include, but is not limited to, the evaluation of current traffic conditions, pedestrian characteristics, and physical characteristics of the intersection to accommodate increased pedestrian traffic.

Councilmember Jenkins added that the resolution refers to 5-Corners on the West Side. With the recent opening of HealthRite, there has been an increase in pedestrian traffic. Since there are no crosswalks or other types of signaling for pedestrians, the City put out an Expression of Interest seeking proposals for a traffic study to determine alternatives to increase safety.

Councilmember Jones asked if the study could be done by the Traffic Operations Department. Director Matt Hartline replied that the Department does not have the man-power or the technology to conduct such a survey.

Councilmember Jenkins moved to approve the resolution. Councilmember Ceperley seconded the motion. With members present recorded thereon as voting unanimously in the affirmative, the Mayor declared Resolution No. 524-21 adopted.

3. Your committee on Finance has had under consideration the following resolution, and reports the same to Council with the recommendation that Resolution No. 525-21 do pass.

Resolution No. 525-21 - Authorizing the Mayor or City Manager to enter into an Agreement with Environmental Systems Research Institute, Inc. ("ESRI"), for a total of \$112,000.00 for a three-year software license agreement for the Geographic Information System ("GIS") software licenses for the Information Systems Department.

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

That the Mayor or City Manager is authorized to enter into an Agreement with Environmental Systems Research Institute, Inc. ("ESRI"), in the amount of \$112,000.00 for a three-year software license agreement to upgrade the current Geographic Information System ("GIS") software licenses for the Information Systems Department.

Councilmember Jenkins added that the resolution is for a renewal of the current contract. The software is used to analyze and collect data to help with decision making.

Councilmember Jenkins moved to approve the resolution. Councilmember Ceperley seconded the motion. With members present recorded thereon as voting unanimously in the affirmative, the Mayor declared Resolution No. 525-21 adopted.

4. Your committee on Finance has had under consideration the following resolution, and reports the same to Council with the recommendation that Resolution No. 526-21 do pass.

Resolution No. 526-21 - Authorizing the Mayor or City Manager to enter into a contract with Suttle & Stalnaker, PLLC in the amount of \$85,000 to perform pension calculations on behalf of the Charleston Firemen's Pension and Relief Fund Board of Trustees to determine whether current pension distributions conform with applicable State law.

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 contract with Suttle & Stalnaker, PLLC in the amount of \$85,000 to perform pension calculations on behalf of the Charleston Firemen's Pension and Relief Fund Board of Trustees to determine whether current pension distributions conform with applicable State law.

Councilmember Jenkins added that there had been some questions about the Pension and Relief Fund as to how they were calculated in the past. The selected vendor will audit those pensions to ensure they conform with State law.

Councilmember Campbell abstained from voting as he had a pecuniary interest in the resolution.

Councilmember Overstreet abstained from voting as he had a pecuniary interest in the resolution.

Councilmember Jenkins moved to approve the resolution. Councilmember Ceperley seconded the motion. With members present recorded thereon as voting unanimously in the affirmative, with the two (2) recognized abstentions, the Mayor declared Resolution No. 526-21 adopted.

5. Your committee on Finance has had under consideration the following resolution, and reports the same to Council with the recommendation that Resolution No. 527-21 do pass.

Resolution No. 527-21 - Authorizing the General Manager of the Charleston Coliseum & Convention Center to enter into a contract with ESI Production Services in the amount of \$61,049.67 to install a sound system for the performance theater located within the Charleston Coliseum & Convention Center, where the contract will first be reviewed by the City Solicitor for approval as to form.

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

That the General Manager of the Charleston Coliseum & Convention Center is authorized to enter into a contract with ESI Production Services in the amount of \$61,049.67 to install a sound system for the performance theater located within the Charleston Coliseum & Convention Center, where the contract will first be reviewed by the City Solicitor for approval as to form.

Councilmember Jenkins added that the resolution is to purchase a permanent sound system for the performance theatre at the Coliseum. Currently, artists have to set up their own sound, hire crew, etc.

Councilmember Jenkins moved to approve the resolution. Councilmember Ceperley seconded the motion. With members present recorded thereon as voting unanimously in the affirmative, the Mayor declared Resolution No. 527-21 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. 528-21 do pass.

Resolution No. 528-21 - Authorizing settlement of pending disputed claims against the City in the matter known as Johny L. Barker v. City of Charleston, et al., Civil Action No. 2:20-cv-00357 in the United States District Court for the Southern District of West Virginia, as recommended by the City Solicitor.

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 Johny L. Barker, as contained in Civil Action No. 2:20-cv-00357 in the United States District Court for the Southern District of West Virginia, in the amount of \$45,000, as recommended by the City Solicitor. The City Council authorizes the City Solicitor and City Manager to take all necessary steps to finalize resolution of the claims.

Councilmember Jenkins added that the settlement was negotiated with the plaintiff through the City Attorney's Office. The recommendation is mostly due to the risk and cost associated with litigation.

Councilmember Faegre confirmed with the City Attorney, Kevin Baker, that the plaintiff had representation. Councilmember Faegre confirmed that the plaintiff had been hiding in a crawl space. Councilmember Faegre asked about the teeth of the police canine. Baker replied that, several years ago, a veterinarian recommended that the dog's natural teeth were causing unnecessary damage, and the titanium teeth replacements would not.

Councilmember Persinger asked who represented the plaintiff. Baker replied that it was a law firm out of Clarksburg.

Councilmember Pharr confirmed with Baker that the canine in question is the only dog within the force that has titanium teeth replacements.

Councilmember Minardi asked if it was part of the complaint that the titanium teeth did more damage than was necessary. Baker replied that, in his opinion, the complaint references the teeth in an effort to show circumstantial evidence, but they do not argue that the damage to the plaintiff was worse due to the titanium teeth.

Councilmember McKinney confirmed with Baker that the dog is currently on active duty. Baker replied that he yields to the Chief of Police on how to maintain their canine unit.

Councilmember Campbell asked if there was an allegation that the dog did something that it was not instructed to do. Baker replied that there was an allegation that the dog did not release its bite when ordered by the handler.

Councilmember Cook asked if there had been any review within the CPD around having a canine with titanium teeth. Baker replied that he was not an expert in the CPD canine unit, but the canines go through a large amount of training with one handler for their entire career. He believed that during a regular visit to the veterinarian, it was observed that the dog's teeth were deteriorating in a way that would cause damage.

Councilmember Persinger asked if the police officer has done something wrong. Baker replied that, in his opinion, the officers did not do anything wrong. He believed that if the case were to go to trial, the City would prevail. However, the cost and attorney time to prepare for trial would likely exceed the \$45,000 settlement. On the off chance that a jury would side with the plaintiff, the City could be hit with a substantial damages award, perhaps \$290,000. The settlement provides finality in the case, resolves the matter, and he believes is in the best interest of the City.

Councilmember McKinney confirmed with Baker that the settlement does not mean that the City is admitting to any wrongdoing.

Councilmember Faegre asked how old the canine was. Baker did not know.

Councilmember Jenkins moved to approve the resolution. Councilmember Ceperley seconded the motion. With members present recorded thereon as voting in the majority as affirmative, with three (3) recognized Nays from Minardi, Persinger and Snodgrass, the Mayor declared Resolution No. 528-21 adopted.

REPORTS OF OFFICERS

1. Report of the City of Charleston Payroll Variance Analysis; July 2021.
Received and Filed, Thank You.

NEW BILLS

Introduced by Councilmember Becky Ceperley and Brent Burton

August 16, 2021:

Bill No. 7923 – A BILL to amend the Municipal Code of the City of Charleston by adding thereto a new Article relating to creating the City Center Business Improvement District; creating the City Center BID Fund; generally stating the intention of the City to increase services within the district with the fees collected; summarizing the proposed services to be provided within the district and a reasonable estimate of the attendant cost; describing the boundaries of the district; and stating requirements for continuation or dissolution of the City Center Business Improvement District.

Refer to Planning, Streets and Traffic Committee, Please

Introduced by Councilmember Adam Knauff

August 16, 2021:

Resolution No. 529-21 – Amending Rules No. 3 and No. 13 of the Rules of Council to require that appointment recommendations from the Mayor to City Council be filed with the clerk by 12:00 noon on Friday immediately preceding the day of the meeting considering the recommendation; that each recommendation be made individually and voted on individually; and that each recommendation state whether the person has a familial relationship with the Mayor, any Member of Council, and any member of the Mayor's Administration.

Refer to Ordinance and Rules Committee, Please

MISCELLANEOUS/UNFINISHED BUSINESS

1. Mayor Goodwin announced that there will be a candlelight vigil for Da'nija L. Miller on August 18, 2021.

REMARKS BY MEMBERS

1. Councilmember Snodgrass stated that last week, two more Police Officers resigned, so the force is down twenty.
2. Councilmember Faegre stated that the West Side Community Back to School Bash will at West Side Middle School on August 28, 2021. She added that she received a call from a business owner from the 1300 block of Virginia Street East concerning a break-in.

ADJOURNMENT

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

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

NAYS: None

ABSENT: Moore

At 8:00 p.m., by a motion from Councilmember Ceperley, Council adjourned until Tuesday, September 7, 2021, 7:00 p.m., in Council Chamber at City Hall.

Amy Shuler Goodwin, Honorable Mayor

Miles C. Cary II, City Clerk