



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

CITY OF CHARLESTON, WEST VIRGINIA

Regular Meeting – Monday, August 15, 2022

at 7:00 P.M.

Council Chambers – 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 15th day, in the year 2022, 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 Sheets. The Honorable Clerk, Miles C. Cary II, called the roll of members and it was found that there were present at the time:

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

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

Adam's absence was excused by the City Clerk per Resolution No. 582-21.

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

PUBLIC SPEAKERS

1. A. Toni Young – spoke about the Community Education Group.
2. Seth Distefano – Spoke against Amendment Two.
3. Jacob Moore – Spoke about offering his services for the creation of a public art mural.

CLAIMS

1. A claim of Julia Frenchik, Charleston, WV;
alleges damage to property.
2. A claim of Tim Halen, Charleston, WV;
alleges loss to property.
3. A claim of Andrea Tate, Charleston, WV;
alleges damage to property.
4. A claim of Tyrome Thomas, Charleston, WV;
alleges personal injury.

PROCLAMATIONS

1.

**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: Towns, Cities, and Municipalities all over the world host educational sessions, charitable walks/runs, and even provide naloxone training in recognition of this day; and

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

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

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

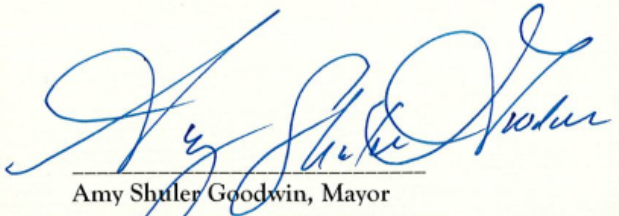
NOW THEREFORE, I, Amy Shuler Goodwin, Mayor of the City of Charleston,
do hereby proclaim August 31, 2022, as

**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 15th day of August 2022.




Amy Shuler Goodwin, Mayor

COMMUNICATIONS

None

REPORTS OF COMMITTEES

COMMITTEE ON PUBLIC SAFETY

Councilmember Steele, Chair of the Council Committee on Public Safety, submitted the following reports:

1. Your committee on Public Safety has had under consideration the following bill, and reports the same to Council with the recommendation that Bill No. 7956 Public Safety Committee Substitute as do pass.

Bill No. 7956 Public Safety Committee Substitute - A BILL to amend and reenact Sections 114-915, 114-916, 114-917, 114-918, and 114-920 of the Municipal Code of the City of Charleston, as amended, all relating to authorizing the use of motorized scooters; updating definitions; requiring operators of motorized scooters to follow traffic laws; setting certain additional requirements for operating a motorized scooter after sunset and before sunrise; detailing additional prohibited acts; and creating criminal penalties for violations.

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

That Sections 114-915, 114-916, 114-917, 114-918, and 114-920 of the Municipal Code of the City of Charleston, as amended, are hereby amended and reenacted, all to read as follows:

CHAPTER 114. – TRAFFIC ORDINANCE.

ARTICLE XIV. – MOTORIZED SCOOTERS.

Sec. 114-915. Definitions.

Except as otherwise provided in this chapter the following words and phrases shall have the meanings set forth below:

“Minor” means any person under the age of 18.

“Motor vehicle” means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

“Motorized scooter” means any non-balancing, tandem two-wheeled device, or ~~three or four wheeled~~, self balancing device, that has ~~handlebars~~, is designed to be stood upon, or ridden by the operator, and is powered by a motor having a maximum piston displacement of less than 50 cubic centimeters or an electric drive motor, that is capable of a maximum speed of not more than 25 miles per hour on a flat surface. “Motorized scooter” does not include a “motorcycle” as defined by W. Va. Code § 17C-1-4, a ~~“moped” as defined by W. Va. Code 17C-1-5a~~, a “motor-driven cycle” as defined by W. Va. Code § 17C-1-5, a “class 3 electric bicycle” as defined by W. Va. Code § 17C-1-70, an “electric personal assistive mobility device” or “EPAMD” as defined by W. Va. Code § 17C-1-66, or a wheelchair as defined ~~within~~ in this section.

“Mobility-impaired person” means a person who:

- (1) Cannot walk two hundred feet without stopping to rest;
- (2) Cannot walk without the use of or assistance from a brace, cane, crutch, prosthetic device, wheelchair, other assistive device or another person;
- (3) Is restricted by lung disease to such an extent that the person’s force (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter or the arterial oxygen tension is less than sixty mm/hg on room air at rest;
- (4) Uses portable oxygen;
- (5) Has a cardiac condition to such an extent that the person’s functional limitations are classified in severity as Class III or Class IV according to standards established by the American Heart Association; or
- (6) Is severely limited in his or her ability to walk because of an arthritic, neurological or other orthopedic condition.

“Wheelchair” means a motorized or nonmotorized wheeled device, including a motorized scooter that is having a seat or saddle, and designed for, and or used by, a mobility-impaired person with disabilities.

Sec. 114-916. Prohibition of operation and Authorizing the use of motorized scooters.

The riding, operation, or other use of motorized Motorized scooters may be operated for transportation or recreational purposes within or upon the streets or alleys, parking lots, and other realty owned, leased, or controlled property by within the City of Charleston or any of its boards, authorities, or commissions, is unless otherwise prohibited. The operator of any motorized scooter shall obey and be subject to all traffic laws of the City of Charleston and the State of West Virginia, unless otherwise stated in this Article.

Sec. 114-917. Additional requirements for operation between sunset and sunriseExceptions.

Every motorized scooter operated after sunset and before sunrise shall be equipped with the following:

- (1) A lamp emitting a white light which, while the motorized scooter is in motion, illuminates the roadway in front of the operator and is visible from a distance of 300 feet in front and from the sides of the motorized scooter.
- (2) A red reflector on the rear that is visible from a distance of 500 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle.
- (3) A white or yellow reflector on each side visible from the front and rear of the motorized scooter from a distance of 200 feet.
- (4) A lamp or lamp combination, emitting a white light, attached to the operator and visible from a distance of 300 feet in front and from the sides of the motorized scooter, may be used in lieu of the lamp required by subsection (1) hereof.
- (5) A red reflector, or reflectorized material meeting the requirements of subsection (2) hereof attached to the operator and visible from a distance of 500 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle, may be used in lieu of the reflector required by subsection (2) hereof.

Notwithstanding any other provision of this code, it shall not be an offense for any person

~~licensed to operate a motor vehicle within the State of West Virginia, to ride, operate, or otherwise use a motorized scooter upon a designated parade route, when such person is a duly registered and recognized participant in any such permitted parade, provided that such Motorized Scooter riding or operation occurs in conjunction with said parade.~~

Sec. 114-918. Prohibited Acts. Exemptions.

The federal government, the State of West Virginia, and its political subdivisions are exempt from the prohibitions contained herein, when any such motorized scooter is used for government purposes.

Except as specifically authorized herein, no person shall:

(1) Operate a motorized scooter unless it is equipped with a brake that will enable the operator to make a braked wheel skid on dry, level, clean pavement.

(2) Operate a motorized scooter on a roadway with a speed limit in excess of 30 miles per hour.

(3) Operate a motorized scooter when the operator is under the age of 16 years of age.

(4) Operate a motorized scooter with any passengers in addition to the operator.

(5) Operate a motorized scooter carrying any package, bundle or article that prevents the operator from keeping at least one hand upon the handlebars.

(6) Operate a motorized scooter upon a sidewalk or on any roadway, path, or other surface that is closed to bicycle traffic.

(7) Operate a motorized scooter with the handlebars raised so that the operator must elevate his or her hands above the level of his or her shoulders in order to grasp the normal steering grip area.

(8) Leave a motorized scooter lying on its side on any sidewalk, or park a motorized scooter on a sidewalk in any other position, so that there is not an adequate path for pedestrian traffic.

(9) Attach the motorized scooter or themselves, by any means, while on the roadway to any other vehicle on the roadway.

(10) Operate a motorized scooter while in an impaired state, as defined in W. Va. Code § 17C-5-2.

Sec. 114-920. Penalties.

~~(a) Any person who violates section 114-916~~ sections 114-917, 114-918, or 114-919 of this article shall constitute the commission of a misdemeanor criminal offense, and the city is hereby authorized and empowered to issue a citation and to charge any such person who commits a violation of ~~section 114-916~~ sections 114-917, 114-918, or 114-919. Any person convicted of a first offense established hereunder shall be fined not less than \$25.00 nor more than \$100.00. Any person convicted of a second or subsequent offense established hereunder shall be fined not less than \$250.00, nor more than \$500.00.

~~— (b) Any person who violates section 114-919 of this article shall constitute the commission of a misdemeanor criminal offense, and any officer of the police department of the city or any other officer of any other police agency exercising proper jurisdiction within the corporate limits of the city is hereby authorized and empowered to issue a citation and to charge any such person who commits a violation of section 114-919. Any person convicted of a first offense established hereunder shall be fined not less than \$25.00 nor more than \$100.00. Any person convicted of a second or subsequent offense established hereunder shall be fined not less than \$250.00.~~

Councilmember Steele added that the bill also came from the Planning, Streets and Traffic Committee. The only change made by the Public Safety Committee was to allow motorized scooters to be allowed anywhere bicycles are allowed.

Councilmember Hoover motioned to approve the bill. Councilmember Ceperley seconded.

Councilmember Steele motioned to amend the bill by:

On page two, Section 114-916, line 76, after the word “Article.” by inserting the following: “Notwithstanding the general authorization to operate motorized scooters, in order to eliminate hazards to public health and safety and to abate the potential public nuisance associated with the placement of rented motorized scooters on the public rights of way, the City Council hereby requires any person seeking to operate a motorized scooter rental business within the City to enter into an agreement with the City, which shall be approved by City Council prior to beginning operations.”

Councilmember Ceperley seconded the motion.

Councilmember Steele added that any scooter rental business will have to enter into an MOU with the City to be approved by City Council.

Councilmember Pepper spoke in favor of the Steele amendment, adding the amendment follows the intent of the bill.

A roll call was taken:

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

With members present recorded thereon as voting in the majority as affirmative, with twenty-one (21) Yeas and four (4) Nays, the Mayor declared the Steele Amendment to Bill No. 7956 Public Safety Committee Substitute as adopted.

Councilmember Pepper motioned to amend the bill to:

On page two, Section 114-917, lines 86-87, by striking out all of subsection (2), and inserting in lieu thereof a new subsection, designated subsection (2), that reads as follows: “(2) A lamp emitting a red light on the rear that is visible from a distance of 500 feet to the rear.”;

On page three, Section 114-917, lines 93-96, by striking out all of subsection (5); and

On page four, Section 114-920, line 145, by striking out the words “\$25.00 nor more than \$100.00” and inserting in lieu thereof the words “\$100.00 nor more than ~~\$500.00~~* \$300”.

Councilmember Ceperley seconded the motion.

Councilmember Pepper added that he created the amendment because of some concerns from the CPD. The CPD suggested it would be safer to have lights on scooters instead of reflectors. Additionally, fines are increased to encourage compliance.

Councilmember Steele asked if the amendment applied to scooters only or also bicycles. Councilmember Pepper replied that bicycles only required reflectors, but the amendment on the floor did not change anything for bicycles.

Councilmember Cook confirmed with City Attorney, Kevin Baker, that what part of the fine scale would ultimately be given to violators would be determined by the Municipal Judge. Councilmember Cook confirmed with Police Chief Hunt that the average fine for a speeding ticket is \$100, however the fine is untimely decided by the Court.

Councilmember Jenkins asked if there was a change to the second and subsequent offense.

Councilmember Snodgrass asked what Councilmember Pepper meant when he previously stated that the CPD wanted to stay neutral on the bill. Police Chief Hunt stated that they came to an agreement as to what they deemed would be safe.

Councilmember Faegre added that she did not believe that the amendment complied with Chapter 17-C Article 15 of the State Code. Baker replied that section of the code only applies to moto vehicles, so the DMV doesn’t have any regulation over these scooters. Councilmember Faegre required that scooter users would not be required to wear a helmet. Baker added that only those under the age of fourteen (14) are required to wear a helmet while riding a bicycle.

Councilmember Knauff added that St. Albans recently pulled their rental agreement.

*Councilmember Pepper motioned to reform his amendment to read \$300 instead of \$500.

A roll call was taken:

YEAS: Burton, Brown, Campbell, Ceperley, Cook, Haas, Hoover, Jenkins, King, Minardi, Moore, Overstreet, Pepper, Pharr, Reishman, Robinson, Steele, Mayor Goodwin

NAYS: Bays, Faegre, Jones, Knauff, McKinney, Sheets, Snodgrass

ABSENT: Adams, Persinger

With members present recorded thereon as voting in the majority as affirmative, with eighteen (18) Yeas and seven (7) Nays, the Mayor declared the Pepper Amendment to Bill No. 7956 Public Safety Committee Substitute as adopted.

Councilmember Knauff motioned to refer Bill No. 7956 Public Safety Committee Substitute as amended to the Ordinance and Rules Committee.

Councilmember Ceperley spoke against the referral, as it has had due consideration having gone through two Committees.

Councilmember Snodgrass spoke in favor of the referral as there were apparently still a lot of questions, and more rules and regulations should be discussed.

Councilmember Cook spoke against the referral.

Councilmember Faegre spoke in favor of the referral as the bill does not seem to comply with State Code.

Councilmember Pepper spoke against the referral.

Councilmember McKinney added that helmet use should be a requirement.

Councilmember Steele spoke against the referral as it was unanimously voted in favor of at both Committees.

Councilmember Knauff spoke in favor of the referral as there seems to be confusion over the bill and incorrect language keeps being used during discussions. He added that they are not comparable to bicycles.

A roll call was taken:

YEAS: Faegre, Jones, Knauff, Minardi, Snodgrass

NAYS: Bays, Burton, Brown, Campbell, Ceperley, Cook, Haas, Hoover, Jenkins, King, McKinney, Moore, Overstreet, Pepper, Pharr, Reishman, Robinson, Sheets, Steele, Mayor Goodwin

ABSENT: Adams, Persinger

With members present recorded thereon as voting in the majority as negative, with five (5) Yeas and twenty (20) Nays, the Mayor declared the motion to refer to Bill No. 7956 Public Safety Committee Substitute as amended to the Ordinance and Rules Committee not adopted.

Councilmember Snodgrass added that Charleston could learn a lot from the ordinance concerning scooters that other cities have adopted. They need to consider the risk-benefit ratio. Most of the cities she researched required a driver's license and helmet, and some don't allow night-time driving. The proposed bill would transfer all risk onto the driver of a vehicle or pedestrian. Many cities have revoked their scooters laws, including St. Albans. Belle recently passed a bill that requires a driver's license and insurance.

Councilmember Cook added that saying no to scooters would be sending a message that Charleston is scared of progress.

Councilmember McKinney wanted to make an amendment that would require helmet usage (note, an amendment was not submitted to the Clerk).

*Councilmember McKinney left Council Chambers

*Councilmember Faegre stated that she was picturing a scooter that looks like a moped. She spoke against the bill because no helmets were required.

Councilmember Knauff added that the City ordinance included helmet use for ages sixteen. He added that these scooters are essentially seatless motorcycles, without the requirement of helmet, insurance or driver's license.

Councilmember Pharr added that most scooter rentals receive that waiver be signed. Council will have the opportunity to discuss liability issues when they receive rental applications.

Councilmember Pepper added that the bill does not authorize any scooter rentals, but it does give freedom to people who own a motorized scooter to legally and safely ride it. He is not aware of any bill that addresses pedestrian safety issues related to scooters. The bill will help to make the City competitive, modern and fun to live in.

Councilmember Campbell added that there were many opportunities to interact and discuss the bill before the meeting. Currently, there are no laws that regulate scooters in any way.

Councilmember Cook showed the room a picture of a scooter, adding that it is not similar to a vespa or a motorcycle.

Councilmember Faegre added that she was now aware of what a scooter looked like.

A roll call was taken:

YEAS: Bays, Burton, Brown, Campbell, Ceperley, Cook, Faegre, Haas, Hoover, Jenkins, King, Minardi, Moore, Overstreet, Pepper, Pharr, Reishman, Robinson, Sheets, Steele, Mayor Goodwin

NAYS: Jones, Knauff, Snodgrass

ABSENT: Adams, McKinney, Persinger

With members present recorded thereon as voting in the majority as positive, with twenty-one (21) Yeas and three (3) Nays, the Mayor declared Bill No. 7956 Public Safety Committee Substitute as amended as adopted.

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. 707-22 be adopted.

Resolution No. 707-22 - Authorizing the Mayor or City Manager to submit an application to the WV Governor's Highway Safety Program in the amount of \$600,000 and administer any funds awarded.

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 \$600,000 and administer any funds awarded. The grant funds will be used to reimburse overtime expenses incurred by the Charleston Police Department and other law enforcement agencies within the eight-county Metro Valley Highway Safety Region. Funding will also be used for traffic safety enforcement activities, equipment purchases and travel/training, as well as partial reimbursement for the salaries of the CPD Highway Safety Coordinator and Assistant.

Councilmember Jenkins added that the City has applied for this grant for almost two decades. Last year, the City received approximately \$218,000.

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. 707-22 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. 709-22 be adopted.

Resolution No. 709-22 - Authorizing the Mayor or City Manager to enter into a renewal service contract with Suttle & Stalnaker to conduct the City's single audit for FY 2022 in the amount of 84,240 in accordance with Federal OMB Circular A-133, where the cost includes \$78,000 to Suttle & Stalnaker for the audit contract and \$6,240 to the WV State Auditor's Office for a processing fee, and where Suttle & Stalnaker was selected through an evaluation process prescribed by the WV State Auditor's Office.

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 renewal service contract with Suttle & Stalnaker to conduct the City's single audit for FY 2022 in the amount of 84,240 in accordance with Federal OMB Circular A-133, where the cost includes \$78,000 to Suttle & Stalnaker for the audit contract and \$6,240 to the WV State Auditor's Office for a processing fee. The initial agreement with Suttle & Stalnaker was authorized by Resolution No. 504-21, adopted July 6, 2021.

Councilmember Jenkins added that last year, Council awarded a three-year contract to the firm to audit. The resolution is a renewal of that contract for the second year.

Councilmember Campbell abstained from voting due to a pecuniary interest.

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 one (1) abstention, the Mayor declared Resolution No. 709-22 adopted.

REPORTS OF OFFICERS

1. Report of the City of Charleston Payroll Variance Analysis; July 2022.
2. Municipal Court Report to City Council Month Ending July 2022.
3. City Treasurer's Report to City Council Month Ending July 2022.
4. Annual Reports of Police and Fire Pension and Relief Funds.
5. Memorandum from City Manager regarding Seminar on Ethics.
6. Letter from Mayor Goodwin regarding Police recruitment.

NEW BILLS

Introduced by Councilmember Mary Beth Hoover

August 15, 2022:

Bill No. 7967 – A Bill to establish a handicapped parking zone on the westerly side of Elizabeth Street from Virginia Street East to a point 70 feet north of Virginia Street East and amending the Traffic Control Map and Traffic Control File.

Refer to Planning, Streets and Traffic Committee, Please

Introduced by Councilmember Larry Moore

August 15, 2022:

Bill No. 7968 – A Bill to establish a handicapped parking zone on the southerly side of 6th Street from Russell Street to a point 118 feet west of Russell Street and amending the Traffic Control Map and Traffic Control File.

Refer to Planning, Streets and Traffic Committee, Please

MISCELLANEOUS/UNFINISHED BUSINESS

None

REMARKS BY MEMBERS

1. Mayor Goodwin stated thanked the Charleston Fire Department Water Rescue Team. The largest CFD class of twenty-seven (27) will be sworn in on August 26.
2. Councilmember Jones thanked the Mayor for the update on Blaine Boulevard. He wanted to know if the CPD could get more vehicles made for K-9 units.
3. Councilmember Faegre asked if there was progress on the Public Safety Center Study. She asked for an update for a continuing problem on Gordon Drive.
4. Councilmember Snodgrass stated that there had been many shootings lately, and the highest police-involved shootings in over ten years. There should be competitive pay.
5. Councilmember Moore thanked that CPD for his help on a structure on the West Side.
6. Councilmember Steele stated that the postcard mural at the entrance of the Summers's Streets Parking Garage is almost finished.
7. Councilmember Pharr stated that would have voted in the affirmative for Resolution No. 704-22 if she had been present at that meeting, and spoke positively of Hope Community Development Corporation. Regarding comments made during a previous meeting about real estate options for the potential recycling center not being disclosed yet, Councilmember Pharr added that many corporations do not want to disclose that information for a variety of legitimate business factors.
8. Councilmember Robinson stated that one of the recent shootings was close to his house in Kanawha City, committed by a person from Belle. To imply that Charleston is the only

City with such violence would be incorrect. He agreed that the City should keep up with County in terms of pay for the police. Pay for starting Police Officers has increased by 30% since 2019.

9. Councilmember Faegre stated that the violence on the West Side is atrocious. There is inadequate lighting and patrols.
10. Councilmember Cook stated that one of the best ways to reduce violence is to invest in those communities.

ADJOURNMENT

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

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

NAYS:

ABSENT: Adams, McKinney, Persinger

At 8:52 p.m., by a motion from Councilmember Ceperley, Council adjourned until Tuesday, September 6, 2022, 7:00 p.m., in Council Chambers at City Hall.

Amy Shuler Goodwin, Honorable Mayor

Miles C. Cary II, City Clerk