



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

CITY OF CHARLESTON, WEST VIRGINIA

Regular Meeting – Monday, May 15, 2023

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 May on the 15th day, in the year 2023, and was called to order by the Honorable Mayor, Amy Shuler Goodwin. The invocation was delivered by Councilmember Burka, and the Pledge of Allegiance was led by Councilmember Solomon. The Honorable Clerk, Miles C. Cary II, called the roll of members and it was found that there were present at the time:

ANNIE	BURKA	
CEPERLEY	COOK	FAEGRE
FERRELL	GIANOLA	HAAS
HOOVER	JENKINS	JONES
KERNS	KING	MINARDI
MOORE	OVERSTREET	PEPPER
PHARR	ROBINSON	RUBIO
SALANGO	SNODGRASS	SOLOMON
STEELHAMMER	TAYLOR	MAYOR GOODWIN

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

Burton's absences 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. Gregory Boggess – spoke about the paving contract.
2. Tia Palmer – spoke about abandoned homes.
3. Joel Kifle – spoke about demolishing abandoned homes.
4. Nicole Christian – spoke about the CAA.
5. Mackenzie Spencer – spoke about FestivAll.

CLAIMS

1. A claim of Howard Ashworth, Charleston, WV; alleges damage to property.

PROCLAMATIONS

1.

**EXECUTIVE DEPARTMENT
CITY OF CHARLESTON
PROCLAMATION**

WHEREAS: National Foster Care Month is celebrated in May and provides an opportunity to acknowledge foster parents, family members, volunteers, mentors, policymakers, child welfare professionals, and other members of the community who help children and youth in foster care find permanent homes and connections; and

WHEREAS: There are more than 6,600 children in foster care in West Virginia; and

WHEREAS: Every child deserves to grow up in a supportive, loving home where they can thrive and prosper; and

WHEREAS: Relational permanency is fundamental to the well-being of children and youth; and having stable, nurturing placements positively impacts children and youth's resilience and long-term well-being; and

WHEREAS: This year's National Foster Care Month campaign – "Strengthening Minds. Uplifting Families." – is focused on the importance of taking a holistic and culturally responsive approach to supporting the mental health needs of those involved with child welfare; and

WHEREAS: We honor the courage of young people in foster care, who too often endure challenges that no child should ever have to confront, and we give thanks to the dedicated kinship and foster parents who care for our city's children and teens during their times of greatest need; and

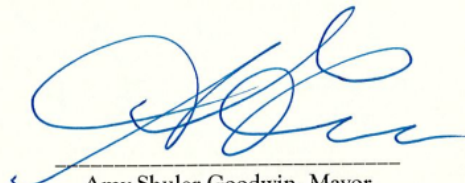
NOW THEREFORE, I, Amy Shuler Goodwin, Mayor of the City of Charleston do hereby designate the month of May as

Foster Care Month

In the City of Charleston, West Virginia.

IN WITNESS WHEREOF, I have set my hand and caused the Seal of the Executive Department to be affixed this 15th day of May 2023.




Amy Shuler Goodwin, Mayor

2.

**EXECUTIVE DEPARTMENT
CITY OF CHARLESTON
PROCLAMATION**

WHEREAS: More than five million Americans are diagnosed with skin cancer each year, making it the most commonly diagnosed cancer in the United States; and

WHEREAS: The number of Americans who have had skin cancer at some point in the last three decades is estimated to be higher than the number for all other cancers combined – with skin cancer incidence rates continuing to increase; and

WHEREAS: The Surgeon General has issued a call to action to the medical, educational, and government communities to address skin cancer as a major, avoidable public health problem; and

WHEREAS: The National Council on Skin Cancer Prevention has designated the Friday before Memorial Day as "Don't Fry Day" to encourage sun safety awareness and to remind everyone to protect their skin while enjoying the outdoors; and

WHEREAS: The most common types of skin cancer include melanoma, the deadliest form of skin cancer, and are strongly associated with exposure to UV radiation from sunlight and indoor sources; and

WHEREAS: Individuals can take steps to reduce their risk of developing skin cancer by practicing sun safety – helping prevent the harmful effects of UV exposure, including sunburn, skin, cancer, premature skin aging, and eye damage.

NOW THEREFORE, I, Amy Shuler Goodwin, Mayor of the City of Charleston, do hereby recognize Friday, May 26th as

Don't Fry Day

In Charleston, West Virginia and encourage all citizens to learn more about and practice sun safety.

IN WITNESS WHEREOF, I have set my hand and caused the Seal of the Executive Department to be affixed this 15th day of May 2023.




Amy Shuler Goodwin, Mayor

3.

**EXECUTIVE DEPARTMENT
CITY OF CHARLESTON
PROCLAMATION**

WHEREAS: Mental Health Awareness Month has been observed in the United States since 1949; and

WHEREAS: Mental health includes our emotional, psychological, and social well-being – affecting how we think, feel and act and impacting how we handle stress, relate to others, and make choices; and

WHEREAS: Mental health allows us to maintain relationships, take care of ourselves and our families, take care of our physical bodies, and respond and adapt to daily life changes; and

WHEREAS: Talking about mental health can reduce stigma; and investing in mental health is critical to building strong workplaces, a thriving workforce, and strong communities; and,

WHEREAS: It is important we, as a community, promote mental health together in a coordinated, inclusive, and culturally responsive way; and

WHEREAS: During National Mental Health Awareness Month, we honor the courage of the those living with mental health conditions, and we celebrate the loved ones and mental health professionals who are there for them every day; and

NOW THEREFORE, I, Amy Shuler Goodwin, Mayor of the City of Charleston do hereby designate the month of May as

Mental Health Awareness Month

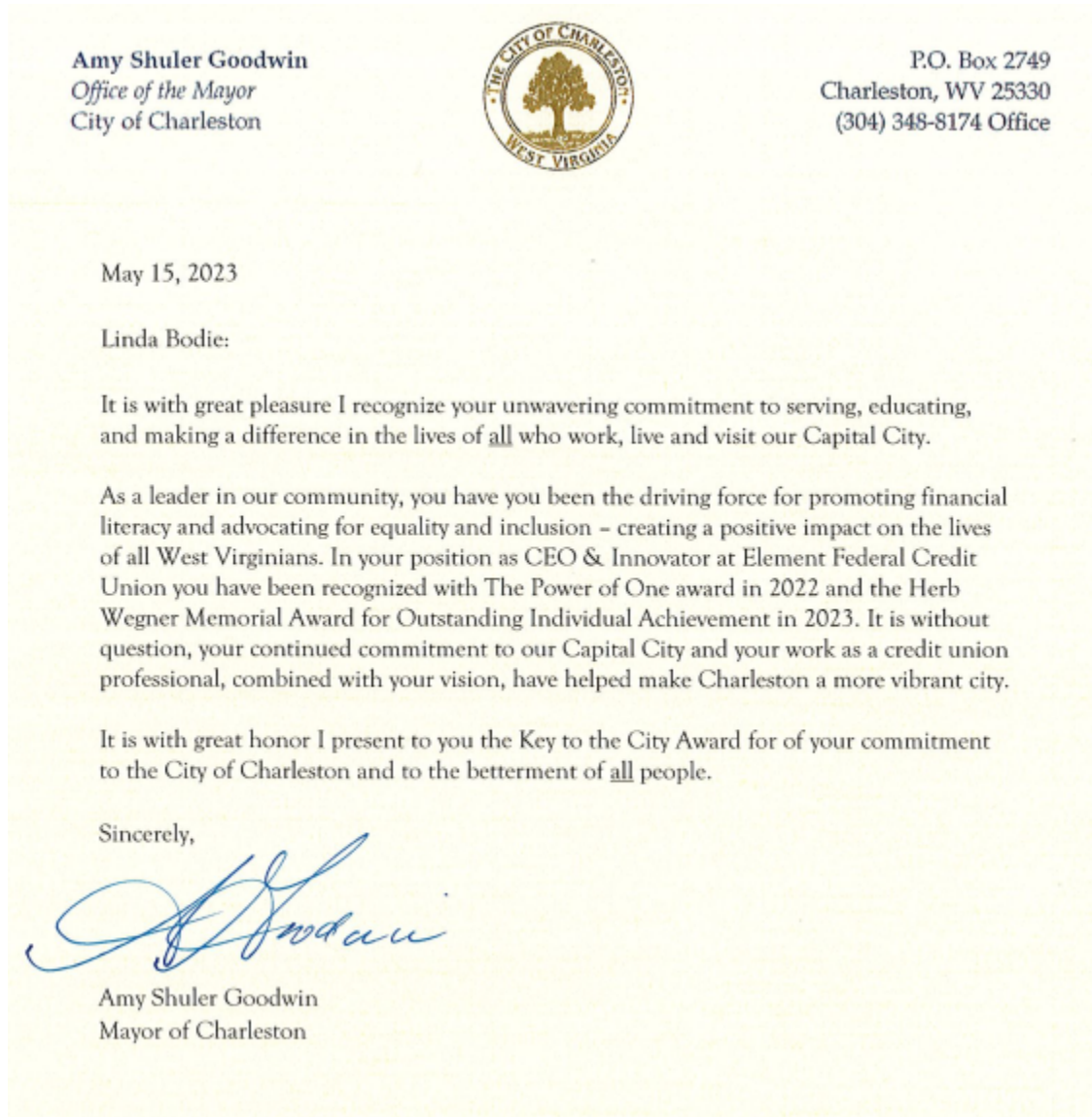
In the City of Charleston, West Virginia.

IN WITNESS WHEREOF, I have set my hand and caused the Seal of the Executive Department to be affixed this 15th day of May 2023.

A blue ink signature of Amy Shuler Goodwin, Mayor of the City of Charleston. The signature is written in a cursive style and is positioned above the name "Amy Shuler Goodwin, Mayor".

Amy Shuler Goodwin, Mayor

4.



COMMUNICATIONS

None

PUBLIC HEARINGS

1.

After duly being published as required, the Mayor declared the floor open for a Public Hearing for Resolution No. 803-23 – Authorizing the Mayor or City Manager to enter into an easement and right-of-way agreement with Mountaineer Gas Company for the purpose of installing a pipeline as referenced in the attached documents. No person from the public spoke in reference to the Public Hearing. The Mayor declared the Public Hearing CLOSED.

2.

After duly being published as required, the Mayor declared the floor open for a Public Hearing for Resolution No. 804-23 – Authorizing a proposed trade of City property adjacent to Beech Avenue where the house commonly referred to as 1615 Beech Avenue is encroaching on the public right of way in exchange for property of an equivalent size adjacent to said public right of way. No person from the public spoke in reference to the Public Hearing. The Mayor declared the Public Hearing CLOSED.

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. 802-23 be adopted.

Resolution No. 802-23 - Authorizing the Mayor or City Manager to purchase field force protection equipment from Galls in the amount of \$90,000 for use by the Charleston Police Department. The prices are provided under the Galls West Virginia Department of Corrections State Contract and the entire funding comes from a Homeland Security Grant application previously authorized by this Council.

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

That the Mayor or City Manager is authorized to purchase field force protection equipment from Galls in the amount of \$90,000 for use by the Charleston Police Department.

Councilmember Jenkins added that most of the funding for the purchase will come from grant funding. The purchase will update equipment.

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. 802-23 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. 803-23 be adopted.

Resolution No. 803-23 - Authorizing the Mayor or City Manager to enter into an easement and right-of-way agreement with Mountaineer Gas Company for the purpose of installing a pipeline as referenced in the attached documents.

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

That the Mayor or City Manager is hereby authorized to enter into an easement and right-of-way agreement with Mountaineer Gas Company for the purpose of installing a pipeline as referenced in the attached documents.

Councilmember Jenkins added that the easement it to improve gas service at the location.

Councilmember Jenkins moved to approve the resolution. Councilmember Ceperley seconded the motion.

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. 803-23 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. 804-23 be adopted.

Resolution No. 804-23 - Authorizing the Mayor or City Manager to enter into any necessary documents to effectuate trade of City property adjacent to Beech Avenue where the house commonly referred to as 1615 Beech Avenue is encroaching on the public right of way in exchange for property of an equivalent size adjacent to said public right of way for the purpose of providing a parcel necessary for the transfer of good title to the house without any detrimental impact on the City and by receiving fair and adequate consideration.

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

That the City Council hereby finds as follows:

1. That the Supplementary Map of Bellevue Addition to Charleston created a public right of way on what is now known as Beech Avenue near its intersection with what is now known as Garfield Street and Amity Drive that is wider than the are on which the roads were constructed and which imagined a connection between what is now Beech Avenue and a paper street listed as North Street, which is effectively a continuation of what is now known as Weyland Drive.
2. That the house commonly referred to as 1615 Beech Avenue was constructed partially within the right of way in this general area, in a specific area that is of no known or expected use or benefit to the City, but which—if transferred with the parcel containing the remainder of 1615 Beech Avenue—would be of significant necessary benefit to the property owner and the public in general.
3. That the fair market value of the approximately 0.082 acre portion of the public right of way that the City is trading in exchange for approximately 0.083 acres of an adjacent parcel is less than \$1,000.00.

And, therefore, that the Mayor or City Manager is hereby authorized to enter into any necessary documents to effectuate the transfer of approximately 0.082 acres of public right of way adjacent to Beech Avenue in exchange for approximately 0.083 acres of property adjacent to the public right of way and another parcel owned by the City of Charleston.

Councilmember Jenkins added that the resolution is a simple swap to assist the homeowner.

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. 804-23 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. 805-23 be adopted.

Resolution No. 805-23 - Authorizing the Mayor or City Manager to enter into the attached Shared Vehicle Operating Agreement between the City of Charleston and Bird Global, Inc.

WHEREAS, the City Council for the City of Charleston adopted Bill No. 7956 on August 15, 2022, authorizing the use of motorized scooters in Charleston, West Virginia and requiring that any person seeking to operate a motorized scooter rental business within the City enter into an agreement with the City, which shall be approved by City Council prior to beginning operations, and

WHEREAS, Bird Global, Inc., has expressed an interest in operating a motorized scooter rental business within the City and has worked with the City's administration to present the attached Shared Vehicle Operating Agreement to address the rental of Bird's Stand-up Electric Scooters, which fits within the City Council's definition of a motorized scooter, as it is an electric drive motor capable of a maximum speed of up to 15 miles per hour.

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

That the Mayor or City Manager is hereby authorized to enter into the attached Shared Vehicle Operating Agreement between the City of Charleston and Bird Global, Inc., to authorize the motorized scooter rental business.

Councilmember Jenkins added that the agreement provides \$.20 per ride to the City. The contract is for twelve (12) months. The company is providing indemnity for the City.

Councilmember Faegre said the rental business was great, but she wished that it was locally owned. She added that she has several friends with Parkinson's, and was worried about them walking downtown.

Councilmember Snodgrass spoke against the resolution, adding that all the cities who have tried this have gotten rid of Bird, including St. Albans. She added that they did not employ some of the requirements like requiring a drivers license. The Police Department is too understaffed to track down violators. She added that there is a danger with car accidents.

Councilmember Pepper added that rentals use an app with gps to locate and rent a scooter. The renter then parks the scooter according to the rules (with a photograph). Electric scooter rentals have been a vital option across the country, adding that it allows tourists to easily get around an unfamiliar city. The agreement has several protections that go beyond the standard contract, including a limit of 150 scooters, parked scooters must leave at least three feet of space on the sidewalk, the City can submit their own photos and seek retribution if violations are found, the

City can create no-go and no-parking zones, etc. Chief Hunt has informed him that he did not have any law enforcement concerns with this agreement.

Councilmember Jones confirmed with Councilmember Pepper that the scooters are rented through an app on a phone or device. Councilmember Jones asked if someone rented a scooter for a kid, who would be responsible. Councilmember Pepper replied that the renter would be subject to a fine under the current law. They discussed the parking requirements that are listed in the agreement.

Councilmember Cook spoke in favor of the resolution. She added that she has seen people riding scooters in every part of town. She also added that the Fleet Manager will be a local person, who will collect the scooters for charging. Councilmember Cook stated that Bird was no longer in St. Albans because they said the scooters were not being used. She added that fear should not impede progress.

Councilmember Faegre stated she will be voting in favor of the resolution.

Councilmember Jenkins moved to approve the resolution. Councilmember Ceperley seconded the motion.

YEAS: Annie, Burka, Ceperley, Cook, Faegre, Ferrell, Gianola, Haas, Hoover, Jenkins, Jones, Kerns, King, Minardi, Moore, Overstreet, Pepper, Pharr, Robinson, Rubio, Salango, Solomon, Steelhammer, Taylor, Mayor Goodwin

NAYS: Snodgrass

ABSENT: Burton

With members present recorded thereon as voting in the majority as affirmative, the Mayor declared Resolution No. 805-23 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. 806-23 be adopted.

Resolution No. 806-23 - Authorizing the Mayor or City Manager to purchase four (4) trailer-mounted vacuum leaf loaders from West Virginia Tractor Company for the total amount of \$283,851.80, where the purchase price was determined through a competitive bidding process.

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

That the Mayor or City Manager is authorized to purchase four (4) trailer-mounted vacuum leaf loaders from West Virginia Tractor Company for the total amount of \$283,851.80.

Councilmember Jenkins added that many citizens appreciate the leaf collection.

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. 806-23 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. 807-23 be adopted.

Resolution No. 807-23 - Approving the proposed Fiscal Year 2023-2024 Coliseum & Convention Center and Municipal Auditorium budget as indicated within the attached document.

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

That the proposed Fiscal Year 2023-2024 Coliseum & Convention Center and Municipal Auditorium budget as indicated within the attached document is approved.

Councilmember Jenkins added that budget has been approved by the Convention Center Board.

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. 807-23 adopted.

7. Your committee on Finance has had under consideration the following resolution, and reports the same to Council with the recommendation that Resolution No. 808-23 be adopted.

Resolution No. 808-23 - Authorizing the Mayor or City Manager to enter into a contract with Tim Hogan's Flooring in the amount of \$55,492 for the purchase and installation of new carpeting in several offices at City Hall and the City Services Center, where the contract price was determined through a competitive bidding process.

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 Tim Hogan's Flooring in the amount of \$55,492 for the purchase and installation of new carpeting.

Councilmember Jenkins added that Tim Hogan's Flooring was not the lowest bidder. The lowest bidder failed to respond to requests about licensing, so was disqualified.

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. 808-23 adopted.

8. Your committee on Finance has had under consideration the following resolution, and reports the same to Council with the recommendation that Resolution No. 809-23 be adopted.

Resolution No. 809-23 - Authorizing the Mayor or City Manager to enter into a contract with Mr. Asphalt, Inc., in the total amount of \$3,628,750 to perform asphalt street paving construction services, where the contract price was determined through a competitive bidding process.
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 Mr. Asphalt, Inc., in the total amount of \$3,628.750 to perform asphalt street paving construction services, where the contract price was determined through a competitive bidding process.

Councilmember Jenkins added that Councilmembers received a list of roads under the proposed contract.

Councilmember Jones added that the owner of Mr. Asphalt has stated that he was doubtful that his company could finish the work based on the current contract. Councilmember Jenkins replied that if Council approved the resolution, the contract will be set forth according to the bidding requirements. The company can accept the contract or not.

With no objection from Council, the owner of Mr. Asphalt addressed Council by stating that eliminating three Saturdays for every month that they cannot work causes potential problems to finish the work on time if there are many rain days.

Councilmember Faegre confirmed that the owner was stating that his company should have 6 working days a week to finish. He was concerned about rain days. He said that 95% of the time, no one representing the City is with them when they are working. He added that they were notified of the change in the bid on Friday at 4:30 for a bid opening that following Tuesday.

Councilmember Ceperley asked that the City Engineer, Chris Knox, address the issue. Knox stated that there is a City employee on his job every day.

Councilmember King motioned to Postpone the resolution until the next meeting of Council, June 5, 2023.

Councilmember Minardi asked if postponing the resolution would put the City behind the paving schedule. Knox replied that it would put them behind starting.

Councilmember Ceperley spoke against the postponement.

Councilmember Faegre asked Knox if he perceived a problem in working with the vendor. Knox replied that he did not. Councilmember Faegre spoke against the postponement.

Councilmember Overstreet asked if this was a standard contract. City Manager, Ben Mishoe replied that the addendum, that contained that Saturday change, was handled in the standard manner. Knox added that four items were changed in the addendum, two of which were requested by Mr. Asphalt.

With members present recorded thereon as voting unanimously in the majority in the negative, the Mayor declared Resolution No. 809-23 as not postponed.

Councilmember King asked if the paving list was provided prior to the meeting. Mayor Goodwin replied that the Administration receives input from Councilmembers to create a priority list. They then email Councilmember individually the funds spent over the past several years for their Wards.

Councilmember Faegre asked if Mr. Asphalt has a problem getting the work done in six months. The owner replied no, but this was the first time that most of the Saturdays were taken away as work days.

Mishoe added that the contract with the amendments that were received by all parties is the contract that is before Council.

Councilmember Pharr pointed out that the changes to the contract were made before bids were submitted. She asked what would happen if the resolution did not pass. City Attorney, Kevin Baker, replied that the City could either re-bid the project or potentially go with the next lowest bidder. Councilmember Pharr confirmed that the other bidder did not submit any type of issues with the schedule. If the contract isn't fulfilled, there is a penalty for each day.

Councilmember Ceperley asked how long it would take to re-bid the project. Mishoe replied that it would be possible to get to Council by the next meeting. Councilmember Ceperley added that it would not be proper for Council to try to renegotiate a contract.

Councilmember Taylor agreed with Councilmember Ceperley's concerns over the vendor's ability to complete the contract.

Councilmember Jenkins moved to approve the resolution. Councilmember Ceperley seconded the motion.

YEAS: Burka, King, Snodgrass

NAYS: Annie, Ceperley, Cook, Faegre, Ferrell, Gianola, Haas, Hoover, Jenkins, Jones, Kerns, Minardi, Moore, Overstreet, Pepper, Pharr, Robinson, Rubio, Salango, Solomon, Steelhammer, Taylor, Mayor Goodwin

ABSENT: Burton

With members present recorded thereon as voting in the majority in the negative, with three (3) YEAS and twenty-three (23) NAYS, the Mayor declared Resolution No. 809-23 as not adopted.

9. Your committee on Finance has had under consideration the following resolution, and reports the same to Council with the recommendation that Resolution No. 810-23 be adopted.

Resolution No. 810-23 - Authorizing the Mayor or City Manager to purchase a three-year warranty plan, including software and hardware repair and replacement, from ULTRA Forensic Technology Inc. for the Police Department's National Integrated Ballistic Information Network (NIBIN) machine, totaling \$55,951.00, where the funds are provided by Project Safe Neighborhoods grants (\$52,500) and the General Fund (\$3,451).

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

That the Mayor or City Manager is authorized to purchase a three-year warranty plan, including software and hardware repair and replacement, from ULTRA Forensic Technology Inc. for the Police Department's National Integrated Ballistic Information Network (NIBIN) machine, totaling \$55,951.00, where the funds are provided by Project Safe Neighborhoods grants (\$52,500) and the General Fund (\$3,451).

Councilmember Jenkins added that the CPD uses this system locally and regionally. The purchase is granted funded.

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. 810-23 adopted.

10. Your committee on Finance has had under consideration the following bill, and reports the same to Council with the recommendation that Bill No. 7992 do pass.

Bill No. 7992 - A BILL to amend and reenact Sections 2-377, 54-51, 54-103, and 66-37, of the Municipal Code of the City of Charleston, all relating to updating provisions to reflect the policy changes made by City Council with respect to ending the self-insured workers compensation program and adjusting certain sick leave accruals beginning with the fiscal year 2024 budget.

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

That Sections 2-377, 54-51, 54-103, and 66-37, of the Municipal Code of the City of Charleston are hereby amended and reenacted, all to read as follows:

CHAPTER 2. – ADMINISTRATION.

ARTICLE VI. – FINANCE.

DIVISION 1. – GENERALLY.

Sec. 2-377. - Self-insured status for Workers' compensation.

(a) The city council, as long as the city has elected to pay compensation and expenses directly under the provisions of W. Va. Code § 23-2-9, shall appropriate each year sufficient funds in an amount to pay into the state workers' compensation fund the city's proper proportion of the expenses of the workers' compensation commissioner, in administering the fund, the required amounts into the surplus fund for the coverage of catastrophe and second injury liability, and to pay all workers' compensation benefits anticipated to be payable that year. In addition to the appropriation of such moneys, the city council shall authorize all other necessary procedures to ensure that all workers' compensation payments shall be paid promptly to its employees or fatally injured employees' dependents and shall direct the purchase of excess insurance for the purpose of indemnifying the city against losses per accident in excess of a specific retention level to be determined by the mayor and, for the purpose of indemnifying the city against annual losses in the aggregate, in excess of a retention level to be determined by the mayor.

(b) If at any time the city determines that it is no longer in the best interest of the city, its employees or its citizens to continue to pay compensation and expenses directly under the provisions of W. Va. Code § 23-2-9, the city shall immediately advise the state workers' compensation commissioner that it has elected to discontinue paying such compensation and expenses directly as to future claims and shall immediately begin paying into the workers' compensation fund the premiums required to comply with the provisions of W. Va. Code §§ 23-2-1 and 23-2-5. If the city shall elect to discontinue paying such compensation and expenses directly, it shall, nevertheless, remain liable to and shall pay such compensation and expenses directly in claims arising prior to the election to resume payment of such premiums into the workers' compensation fund.

(c) The city council, having determined that it is no longer in the best interest of the city, its employees or its citizens to continue to be in a self-insured status for workers' compensation, certifies that the city has complied with subsection (b) of this section. The city council shall annually approve a workers' compensation policy maintained in conformity with W. Va. Code § 23-2-1, et seq. to provide

workers' compensation coverage to its employees. If the city council fails to approve an annual workers' compensation policy, the city manager is hereby vested with the authority to procure a workers' compensation policy that the city manager deems to be in the best interest of the city, its employees, and its citizens.

CHAPTER 54. – FIRE PREVENTION AND PROTECTION

ARTICLE II. – FIRE DEPARTMENT.

DIVISION 1. – GENERALLY.

Sec. 54-51. - Workers' compensation; pay of firefighters/EMS injured in performance of duty.

(a) The city shall subscribe to the workers' compensation fund of the compensation commission of the state a workers' compensation policy maintained in conformity with W. Va. Code § 23-2-1, et seq. to provide workers' compensation coverage for the protection of members of the city fire department and any member of the fire department injured while acting in the performance of his official duty as a member of the fire department shall be entitled to receive temporary compensation from the state compensation fund workers' compensation benefits, as provided in the policy, as a result of such injury. All workers' compensation benefits and any necessary disability pension benefits shall be provided in accordance with the City's workers' compensation policy and West Virginia law. A member may not receive workers' compensation benefits at the same time as they are receiving sick leave benefits.

(b) In addition to the workers' compensation benefits such member is receiving, such member shall receive such supplemental pay from the city, for a period not to exceed one year, that will bring the amount paid to such member by the workers' compensation fund and/or any pension fund benefits such member is receiving to an amount equaling 100 percent of the net compensation which is paid to such member while working in his position with the city.

(c) Benefits paid under this section, including supplemental pay, shall not be received under this section if such member is receiving benefits under the sick leave provisions of this article.

DIVISION 3. – VACATION, OTHER LEAVE, DUTY HOURS, AND CALCULATION OF OVERTIME PAY.

Sec. 54-103. Sick leave.

(a) Beginning January 1, 2015, each uniformed member shall be entitled to and granted sick leave with full pay. Such leave shall accrue at the rate of eight hours credited on the last day of each month during which the member has worked or has had leave credited for one or more tours of duty: Provided, That beginning July 1, 2023, such leave shall accrue at the rate of twelve hours credited on the last day of each month during which the member has worked or has had leave credited for one or more tours of duty.

(b) When a member hired before July 1, 2020, retires, the member will have the privilege of converting up to 144 hours of sick leave accrued under subsection 54-103(a) on or after January 1, 2012, or any remaining unused sick leave accrued prior to January 1, 2012, whichever is greater, to insurance benefits based on the formula of 24 hours for one month single coverage insurance premium or 36 hours for one month family coverage insurance premium. Any sick leave accrued by a member under subsection 54-103(a) on or after January 1, 2012, that is not converted to insurance benefits to the extent permitted

by this section shall be forfeited effective as of the date of the member's retirement or separation from employment.

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

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

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

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

(d) After the equivalent of half of the annual sick leave has been used by the member, the member shall provide the fire chief with a certificate from the attending physician setting forth the nature and duration of any of the conditions which would entitle him to sick leave as provided in subsection (c) of this section. Failure to provide such certificate satisfactory to the fire chief shall result in the member's not being granted sick leave with pay, and may subject the member to discipline for an unexcused absence.

(e) The city manager may, in his or her discretion and at the request of the fire chief, advance additional leave necessary to avoid substantial hardship to any member, provided that all other accrued vacation, sick and personal contingency leave shall have first been exhausted.

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

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

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

CHAPTER 66. – LAW ENFORCEMENT.

ARTICLE II. – POLICE DEPARTMENT.

DIVISION 1. – GENERALLY.

Sec. 66-37. - Workers' compensation; pay of police officers injured in performance of duty.

(a) The city shall subscribe to the workers' compensation fund of the compensation commission of the state a workers' compensation policy maintained in conformity with W. Va. Code § 23-2-1, et seq. to provide workers' compensation coverage for the protection of members of the city police department, and any member of the police department injured while acting in the performance of his official duty as a member of the police department shall be entitled to receive temporary compensation from the state compensation fund workers' compensation benefits, as provided in the policy, as a result of such injury.

All workers' compensation benefits and any necessary disability pension benefits shall be provided in accordance with the City's workers' compensation policy and West Virginia law. A member may not receive workers' compensation benefits at the same time as they are receiving sick leave benefits.

(b) In addition to the workers' compensation benefits, such member is receiving, such member shall receive such supplemental pay from the city, for a period not to exceed one year, that will bring the amount paid to such member by the workers' compensation fund and/or any pension fund benefits such member is receiving to an amount equaling 100 percent of the net compensation which is paid to such member while working in his position with the city. Benefits paid under this section, including supplemental pay, shall not be received under this section if such member is receiving benefits under the sick leave provisions of this article.

Councilmember Jenkins added that the bill makes some changes regarding worker's compensation since the City is no longer self-insured. The bill also changes the accumulation of sick leave for firefighters.

Councilmember Jenkins moved to approve the resolution. Councilmember Ceperley seconded the motion.

A roll call was taken:

YEAS: Annie, Burka, Ceperley, Cook, Faegre, Ferrell, Gianola, Haas, Hoover, Jenkins, Jones, Kerns, King, Minardi, Moore, Overstreet, Pepper, Pharr, Robinson, Rubio, Salango, Solomon, Snodgrass, Steelhammer, Taylor, Mayor Goodwin

NAYS:

ABSENT: Burton

With members present recorded thereon as voting unanimously in the affirmative, the Mayor declared Bill No. 7992 as passed.

REPORTS OF OFFICERS

1. Report of the City of Charleston Payroll Variance Analysis; March 2023.
2. Report of the City of Charleston Payroll Variance Analysis; April 2023.
3. Municipal Court Report to City Council Month Ending April 2023.
4. City Treasurer’s Report to City Council Month Ending April 2023.
5. General Fund Financial Statements for the Nine-Month Period ended March 31, 2023
6. Coliseum & Convention Center Financial Statements for the Nine-Month Period ended March 31, 2023
7. Parking Fund Financial Statements for the Nine-Month Period ended March 31, 2023
8. The Action Plan to Address the Results of the FY 2022 Audit

Received and Filed

NEW BILLS

Introduced by Councilmembers Joseph Jenkins, Emmett Pepper, Pat Jones, Frank Annie, Beth Kerns and Joe Solomon

May 15, 2023:

Bill No. 7994 – A BILL to amend the Municipal Code by adding a new section relating to the West Virginia Jobs Act.

Refer to Finance Committee, Please

MISCELLANEOUS/UNFINISHED BUSINESS

None

REMARKS BY MEMBERS

1. Mayor Goodwin thanked the firefighters and EMS workers. Mayor Goodwin remembered the anniversary of the passing of Bobby Brown's son Ryan Brown. Councilmembers have received the findings of the City Audit and a plan of action.
2. Councilmember Minardi stated that the Facilities Committee meeting has been rescheduled to May 31st.
3. Councilmember Faegre thanked the Administration for keeping her informed about a recent fire in her Ward. She thanked the CFD for their service. She added that they should make sure that WV American Water is testing every fire hydrant in the City.
4. Councilmember Pharr stated that there was a new mural at the Ballpark, dedicated to Toni Stone.

ADJOURNMENT

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

YEAS: Annie, Burka, Ceperley, Cook, Faegre, Ferrell, Gianola, Haas, Hoover, Jenkins, Jones, Kerns, King, Minardi, Moore, Overstreet, Pepper, Pharr, Robinson, Rubio, Salango, Solomon, Snodgrass, Steelhammer, Taylor, Mayor Goodwin

NAYS:

ABSENT: Burton

At 8:46 p.m., by a motion from Councilmember Ceperley, Council adjourned until Monday, June 5, 2023, 7:00 p.m., in Council Chambers at City Hall.

Amy Shuler Goodwin, Honorable Mayor

Miles C. Cary II, City Clerk