



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

CITY OF CHARLESTON, WEST VIRGINIA

Regular Meeting – Monday, November 21, 2016

at 7:00 P.M.

Council Chamber – City Hall – Charleston, West Virginia

OFFICIAL RECORD

**Danny Jones
Mayor**

**JB Akers
City Clerk**

CALL TO ORDER

The Council met in the Chambers of the City Building at 7:00 P.M., for the second meeting in the month of November on the 21st day, in the year 2016, and was called to order by the Honorable Mayor, Danny Jones. The invocation was delivered by Councilperson Richardson and the Pledge of Allegiance was led by Ethan Akers, Jarrett Jones, and Sam Sheets. The Honorable Clerk, JB Akers, called the roll of members and it was found that there were present at the time:

BURKA	BURTON	CEPERLEY
CHESTNUT	CLOWSER	DAVIS
EALY	FAEGRE	HAAS
HARRISON	HOOVER	
LANE		MINARDI
OVERSTREET	PERSINGER	REISHMAN
RICHARDSON	SALISBURY	SLATER
SMITH	SNODGRASS	STEELE
TALKINGTON	WARE	MAYOR JONES

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. Obi Henderson – Spoke about the MLK Prestige Award.

CLAIMS

1. A claim of Jerry L. Goldberg, 114 Woodshire Place, Charleston, WV; Alleges damage to vehicle.
Refer to City Solicitor.
2. A claim of Kathi Parsley, 1706 Woodbine Avenue, Charleston, WV; Alleges damage to vehicle.
Refer to City Solicitor.

PROCLAMATIONS

EXECUTIVE DEPARTMENT

CITY OF CHARLESTON

PROCLAMATION

By the Mayor

WHEREAS: The City of Charleston celebrates our local small businesses and the contributions they make to our local economy and community, according to the United States Small Business Administration, there are currently 28.8 million small businesses in the United States, they represent 99.7 percent of American employer firms, create more than two-thirds of the net new jobs, and generate 46 percent of private gross domestic product, as well as 63 percent of all US sales; and

WHEREAS: 89 percent of consumers in the United States agree that small businesses contribute positively to the local community by supplying jobs and generating tax revenue; and

WHEREAS: Small businesses employ one half of employees in the private sector in the United States; and

WHEREAS: 87 percent of consumers in the United States agree that it is important for people to support the small businesses that they value in their community; and

WHEREAS: 93 percent of consumers in the United States agree that it is important for people to support the small businesses that they value in their community; and

WHEREAS: Advocacy groups and public and private organizations across the country have endorsed the Saturday after Thanksgiving as Small Business Saturday as a way to promote small businesses and encourage people to support them; and

NOW THEREFORE, I, Danny Jones, Mayor of the City of Charleston, do hereby proclaim the 26th day of November, 2016, as

SMALL BUSINESS SATURDAY

in Charleston, West Virginia, and urge the residents of our community, and communities across the country to support small businesses and merchants on Small Business Saturday – and throughout the year.

IN WITNESS WHEREOF, I have set my hand and caused the Seal of the Executive Department to be affixed this 7th day of November 2016.

DANNY JONES, MAYOR

The Proclamation was given to eight local, small businesses.

REPORTS OF COMMITTEES

COMMITTEE ON CABLE TELEVISION

1. Your committee on Streets and Traffic has had under consideration the following bill, and reports the same to Council with the recommendation that Bill No. 7720 do pass.

Bill No. 7720 - A Bill approving the renewal of a cable television franchise now held by Cebridge Acquisition, LLC doing business as Suddenlink Communications (“Cebridge”).

WHEREAS, Cebridge is the present holder of a non exclusive cable television franchise that was originally granted by the City of Charleston, WV (“City”), as set forth in Bill No. 4370, Committee Substitute dated November 7, 1988, and renewed by Bill No. 6610, as Amended and adopted by Council on October 4, 1999 (the “Franchise”) and transferred to Cebridge by Bill No. 7214 as Amended and adopted by Council on July 3, 2006 (the “Transfer”), and renewed by Bill No. 7229, Committee Substitute and adopted by Council on October 2, 2006, and renewed by Bill No. 7501 adopted on November 21, 2011 ; and

WHEREAS, the Franchise is presently scheduled to expire on December 3, 2016; and

WHEREAS, Cebridge has submitted its application for renewal of the Franchise in the form required by *West Virginia Code §24D-1-1 et seq.* (the “Application”); and

WHEREAS, the City has reviewed the Application and held public hearings on the proposed renewal of the Franchise (“Renewal”); and

WHEREAS, the City has followed all required procedures to consider and act upon the Renewal, and has considered the comments of all interested parties at a hearing held on October 26, 2016, as well as a hearing on this Ordinance on November 21, 2016 (collectively, the “Public Hearings”); and

WHEREAS, the Public Hearings did not produce substantial public opposition to the Renewal; and

WHEREAS, the City believes it is in the interest of the community to approve the Renewal of the Franchise, and to approve the terms of a new Franchise Agreement between the City and Cebridge;

Now, therefore, Be it Ordained by the Council of the City of Charleston, West Virginia:

That with respect to and in accordance with the provisions of *West Virginia Code §24D-1-1 et*

seq., and Bill No. 4370, Committee Substitute dated November 7, 1988, and Bill No. 6610, as Amended, adopted by Council on October 4, 1999, and Bill No. 7214 as Amended, adopted by Council on July 3, 2006, and Bill No. 7229, Committee Substitute, adopted by Council on October 2, 2006, and Bill No. 7501 adopted by Council on November 21, 2011, the City hereby approves the renewal of the Franchise with Cebridge for a period of five (5) years, with said Franchise now set to expire on December 3, 2021, upon the terms of the Agreement attached hereto and incorporated herein by reference.

Councilperson Harrison moved that the bill be referred to Finance Committee. Councilperson Lane seconded the motion.

Received and Filed.

COMMITTEE ON PARKING

1. Your committee on Parking has had under consideration the following resolution, and reports the same to Council with the recommendation that Resolution No. 835-16 do pass.

Resolution No. 835-16 - Authorizing "Citizen Appreciation Parking" for November 26th, December 3rd, December 10th, and December 17th, 2016. "Citizen Appreciation Parking" shall include the waiving of hourly parking fees at all City-operated facilities (excluding Municipal Parking Building No. 2—Cinema), and all metered on-street parking spaces. The parking revenue losses will amount to approximately \$2,000 per Saturday.

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

That "Citizen Appreciation Parking" for November 26th, December 3rd, December 10th, and December 17th, 2016 is hereby approved. "Citizen Appreciation Parking" shall include the waiving of hourly parking fees at all City-operated facilities (excluding Municipal Parking Building No. 2—Cinema), and all metered on-street parking spaces, with parking revenue losses amounting to approximately \$2,000 per Saturday.

Councilperson Reishman moved that the resolution be referred to Finance Committee. Councilperson Lane seconded the motion.

Received and Filed.

COMMITTEE ON FINANCE

Councilmember Reishman, 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. 833-16 do pass.

Resolution No. 833-16 - Authorizing the filing of civil actions for the immediate right of entry and condemnation of property necessary for the Sanitary Board of the City of Charleston, West Virginia to expand, improve, replace, construct, install and complete its Emerald Heights Sanitary Sewer Pump Station Improvement Project.

WHEREAS, the Sanitary Board of the City of Charleston, West Virginia (the “Sanitary Board”) has presented a Resolution requesting the City Council of the City of Charleston, West Virginia to authorize the City of Charleston (the “City”) to file civil actions in the Circuit Court of Kanawha County for the immediate right of entry and condemnation of property for the acquisition of a parcel of additional surface land and temporary construction easements, necessary for the Sanitary Board to expand, improve, replace, construct, install and complete its Emerald Heights Sanitary Sewer Pump Station Improvement Project (the “Project”);

WHEREAS, the City, in accordance with the provisions of Chapter 16, Article 13 of the Code of West Virginia, 1931, owns the sewerage system, both within and without the corporate limits of the City, consisting of a sewage treatment plant or plants and its collecting, intercepting and outlet sewers, lateral sewers, drains, force mains, conduits, pumping stations and ejector stations and all other appurtenances, extensions, improvements and betterments necessary, appropriate, useful, convenient or incidental for the collection, treatment, purification and disposal in a sanitary manner of liquid and solid waste, sewage and industrial waste (the “System”);

WHEREAS, the Sanitary Board, created by Ordinance of the City Council adopted March 17, 1952, is a separate entity from the City;

WHEREAS, by Ordinance of the City Council adopted June 16, 1952, custody, administration, operation and maintenance of the System were placed under the supervision and control of the Sanitary Board;

WHEREAS, due to statutory provisions under which the City owns the System, it is necessary for the City to file civil actions for the condemnation of property necessary for the System;

WHEREAS, the Sanitary Board is pursuing the Project in the Emerald Heights area of the City which is necessary to expand, improve and replace an existing sanitary sewer pump station and is necessary for the health and welfare of the citizens of the City;

WHEREAS, the Project includes the expansion, improvement and replacement of the existing Emerald Heights pump station, and acquisition of a parcel of additional surface land and temporary construction easements are necessary to undertake and complete the Project;

WHEREAS, due to numerous factors including, but not limited to, out-of-state property owners, some whose location is unknown or uncertain, the Sanitary Board has been unable to obtain by negotiation and agreement a deed or deeds or temporary construction easements necessary for the Project; and

WHEREAS, the Sanitary Board has no choice but to request the City to authorize the filing of civil actions for the acquisition, pursuant to the City's power of eminent domain, of certain property interests in order to obtain the necessary pump station expansion site and temporary construction easements for the Project; now, therefore,

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

Section 1. To accomplish construction of the Project in the aforesaid area of the City necessary for the health and welfare of the citizens of the City, the Sanitary Board must obtain a parcel of additional surface land and temporary construction easements for certain properties as set forth on Exhibit A to this Resolution.

Section 2. The Sanitary Board requests the Council of the City to authorize the City, on behalf of and by and through the Sanitary Board and its counsel to file civil actions for the acquisition for the Sanitary Board, pursuant to the power of eminent domain, of the property interests set forth on Exhibit A and to take such other and further action as may be reasonably necessary to acquire the property rights for a parcel of additional surface land and temporary construction easements necessary to expand and replace the existing Emerald Heights sanitary sewer pump station.

Section 3. The Council of the City hereby authorizes the City, on behalf of and by and through the Sanitary Board and its counsel to file civil actions for the acquisition for the Sanitary Board, pursuant to the power of eminent domain, of the property interests set forth on Exhibit A as needed and to take such other and further action as may be reasonably necessary to acquire the property rights for a parcel of additional surface land and temporary construction easements necessary to expand, improve and replace the existing Emerald Heights sanitary sewer pump station.

Authorizing the Finance Director to make a refund to Bailes Granite & Marble in the amount of

\$24,168.74 for overpayment of Business & Occupation taxes for the 3rd quarter 2013 through the 2nd quarter 2016. The taxpayer reported revenue generated outside the city limits to the City of Charleston. The refund request has been validated by the Auditing Division of the City Collector's Office.

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

That the Finance Director is hereby authorized and directed to make a refund to Bailes Granite & Marble in the amount of \$24,168.74 for overpayment of Business & Occupation taxes for the 3rd quarter 2013 through the 2nd quarter 2016. The taxpayer reported revenue generated outside the city limits to the City of Charleston. The refund request has been validated by the Auditing Division of the City Collector's Office.

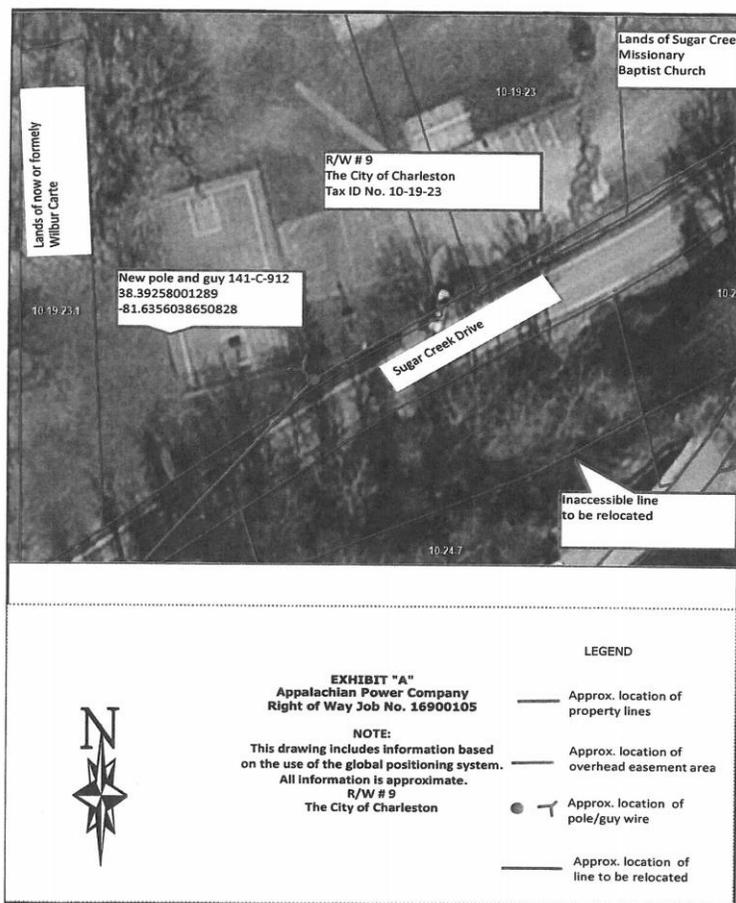
Councilperson Reishman moved to approve the Resolution. Councilperson Lane seconded the motion. With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution 833-16 adopted.

- Your committee on Finance has had under consideration the following resolution, and reports the same to Council with the recommendation that Resolution No. 834-16 do pass.

Resolution No. 834-16 - A Resolution granting Appalachian Power Company an Easement along Sugar Creek Drive, as more fully described and depicted in Exhibit A hereto, for the purpose of relocating a power line so that it can be safely accessed along Sugar Creek Drive.

Therefore, Be it Resolved By The Council Of The City Of Charleston, West Virginia that:

That the Mayor, City Manager, or their designee are hereby authorized to execute an easement, attached hereto as Exhibit A, to Appalachian Power Company for the purpose of relocating a power line so that it can be safely accessed along Sugar Creek Drive.



Councilperson Reishman moved to approve the Resolution. Councilperson Lane seconded the motion. With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution 834-16 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. 835-16 do pass.

Resolution No. 835-16 - Authorizing “Citizen Appreciation Parking” for November 26th, December 3rd, December 10th, and December 17th, 2016. “Citizen Appreciation Parking” shall include the waiving of hourly parking fees at all City-operated facilities (excluding Municipal Parking Building No. 2—Cinema), and all metered on-street parking spaces. The parking revenue losses will amount to approximately \$2,000 per Saturday.

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

That “Citizen Appreciation Parking” for November 26th, December 3rd, December 10th, and December 17th, 2016 is hereby approved. “Citizen Appreciation Parking” shall include the waiving of hourly parking fees at all City-operated facilities (excluding Municipal Parking Building No. 2—Cinema), and all metered on-street parking spaces, with parking revenue losses amounting to approximately \$2,000 per Saturday.

Councilperson Reishman moved to approve the Resolution. Councilperson Lane seconded the motion. With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution 835-16 adopted.

4. Your committee on Finance has had under consideration the following committee report, and reports the same to Council with the recommendation that committee report pass.

A proposal submitted by Stephens Auto Center, in the total amount of \$69,248.00 for purchase of 4 (four) – 2017 Ford Fusions to be used as Administrative Vehicles for the Police Department. To be charged to Account No. 001-976-00-700-4-459, Capital Outlay (PNC Equipment Financing, Schedule 201174000)

Councilperson Reishman moved to approve the Committee Report. Councilperson Lane seconded the motion. With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Committee Report adopted.

5. Your committee on Finance has had under consideration the following committee report, and reports the same to Council with the recommendation that committee report pass.

A proposal submitted by Stephens Auto Center, in the total amount of \$371,868.00 for purchase of 12 (twelve) – 2017 Police Interceptors to be used by the Charleston Police Department.

To be charged to Account No. 001-976-00-700-4-459, Capital Outlay (PNC Equipment Financing, Schedule 201173000)

Councilperson Reishman moved to approve the Committee Report. Councilperson Lane seconded the motion. With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Committee Report adopted.

6. Your committee on Finance has had under consideration the following committee report, and reports the same to Council with the recommendation that committee report pass.

A proposal submitted by Pomeroy IT Solutions Sales Co., in the total amount of \$41,237.70, for purchase of thirty-five Dell Latitude 14 Rugged 5414 Laptops with charging adaptors.

To be charged to Account No. 095-175-17-000-3-341, Grant F17HA-08

Councilperson Reishman moved to approve the Committee Report. Councilperson Lane seconded the motion. With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Committee Report adopted.

7. Your committee on Finance has had under consideration the following committee report, and reports the same to Council with the recommendation that committee report pass.

A proposal submitted by Bob Robinson Chevy, in the total amount of \$27,864.00 for purchase of Class 6C GM Chevy Express CG33706 Full Size 15-Passenger Van.

To be charged to Account No. 001-976-00-706-4-459, Capital Outlay, Equipment (PNC Equipment Financing, Schedule 201174000)

Councilperson Reishman moved to approve the Committee Report. Councilperson Lane seconded the motion. With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Committee Report adopted.

8. Your committee on Finance has had under consideration the following committee report, and reports the same to Council with the recommendation that committee report pass.

A proposal submitted by Stephens Auto Center, in the total amount of \$25,940.00 for purchase of a Class 4 Ford Explorer K8B Mid-Size Utility 4WD vehicle.

To be charged to Account No. 001-976-00-706-4-459, Capital Outlay (PNC Equipment Financing, Schedule 201174000)

Councilperson Reishman moved to approve the Committee Report. Councilperson Lane seconded the motion. With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Committee Report adopted.

9. Your committee on Finance has had under consideration the following committee report, and reports the same to Council with the recommendation that committee report pass.

Your Committee on Finance has had under consideration:

The listed proposals for purchase of vehicles for various City departments:

<u>Department</u>	<u>Company</u>	<u>Model</u>	<u>Cost/Unit</u>	<u>Total</u>	<u>Account No.</u>
Public Grounds	Stephens Auto	Dump Truck, 2017 Ford F550 F5H	\$52,381.00	\$52,381.00	001-975-00-567-4-459, Public Grounds, Capital Outlay Equipment
Traffic Engineering	WV Tractor Company	Bucket Truck – Altec AT37G Ford F550	\$104,000.00	\$104,000.00	001-976-00-712-4-459, Traffic Engineering, Capital Outlay Equipment
Street	WV Tractor Company	Leaf Loader ARM 2003-2	\$36,990.00	\$36,990.00	001-977-00-750-4-459, Street, Capital Outlay Equipment
Street	WV Tractor Company	Vactor Truck International 7500	\$354,900.00	\$354,900.00	001-977-00-750-4-459, Street, Capital Outlay Equipment
Street	World Wide Equipment – Heritage	Chipper Body Truck	\$136,569.33	\$136,569.33	001-977-00-750-4-459, Street, Capital Outlay Equipment
Parks and Recreation	Stephens Auto	Flat Bed Truck with Lift Gate	\$47,287.00	\$47,287.00	001-979-00-900-4-459, Parks and Recreation, Capital Outlay Equipment
Refuse & Recycling	Stephens Auto	(2) 1.5 Ton, Stake Body Dump Trucks	\$57,549.00	\$115,098.00	001-978-00-800-4-459, Refuse and Recycling, Capital Outlay Equipment

(PNC Equipment Financing, Schedule 201174000)

Councilperson Reishman moved to approve the Committee Report. Councilperson Lane seconded the motion. With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Committee Report adopted.

10. Your committee on Finance has had under consideration the following committee report, and reports the same to Council with the recommendation that committee report pass.

A proposal submitted by Pierce Manufacturing, Inc. in the amount of \$532,267.00 for purchase of One (1) PIERCE – 2000 GPM Triple Combination Pumper Truck to be used by the Charleston Fire Department. The cost submitted by Pierce for the new apparatus was \$554,492.00; however, the City wishes to exercise Option #1 in the bid specification and pay for the unit in full within a 15 day period from acceptance of contract and receive a reduction of \$22,225.00.

To be charged to Account No. 001-976-00-706-4-459, Fire Department, Capital Outlay – Equipment (PNC Equipment Financing, Schedule 201174000)

Councilperson Reishman moved to approve the Committee Report. Councilperson Lane seconded the motion. With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Committee Report adopted.

11. Your committee on Finance has had under consideration the following bill, and reports the same to Council with the recommendation that Bill No. 7720 do pass.

Bill No. 7720 - A Bill approving the renewal of a cable television franchise now held by Cebridge Acquisition, LLC doing business as Suddenlink Communications (“Cebridge”).

WHEREAS, Cebridge is the present holder of a non exclusive cable television franchise that was originally granted by the City of Charleston, WV (“City”), as set forth in Bill No. 4370, Committee Substitute dated November 7, 1988, and renewed by Bill No. 6610, as Amended and adopted by Council on October 4, 1999 (the “Franchise”) and transferred to Cebridge by Bill No. 7214 as Amended and adopted by Council on July 3, 2006 (the “Transfer”), and renewed by Bill No. 7229, Committee Substitute and adopted by Council on October 2, 2006, and renewed by Bill No. 7501 adopted on November 21, 2011 ; and

WHEREAS, the Franchise is presently scheduled to expire on December 3, 2016; and

WHEREAS, Cebridge has submitted its application for renewal of the Franchise in the form required by West Virginia Code §24D-1-1 et seq. (the “Application”); and

WHEREAS, the City has reviewed the Application and held public hearings on the proposed renewal of the Franchise (“Renewal”); and

WHEREAS, the City has followed all required procedures to consider and act upon the Renewal, and has considered the comments of all interested parties at a hearing held on October 26, 2016, as well as a hearing on this Ordinance on November 21, 2016 (collectively, the “Public Hearings”); and

WHEREAS, the Public Hearings did not produce substantial public opposition to the Renewal; and

WHEREAS, the City believes it is in the interest of the community to approve the Renewal of the Franchise, and to approve the terms of a new Franchise Agreement between the City and Cebridge;

Now, therefore, Be it Ordained by the Council of the City of Charleston, West Virginia:

That with respect to and in accordance with the provisions of West Virginia Code §24D-1-1 et seq., and Bill No. 4370, Committee Substitute dated November 7, 1988, and Bill No. 6610, as Amended, adopted by Council on October 4, 1999, and Bill No. 7214 as Amended, adopted by Council on July 3, 2006, and Bill No. 7229, Committee Substitute, adopted by Council on October 2, 2006, and Bill No. 7501 adopted by Council on November 21, 2011, the City hereby approves the renewal of the Franchise with Cebridge for a period of five (5) years, with said Franchise now set to expire on December 3, 2021, upon the terms of the Agreement attached hereto and incorporated herein by reference.

Councilperson Reishman moved to approve the Bill. Councilperson Lane seconded the motion. A roll call was taken:

YEAS: Burka, Burton, Ceperley, Chestnut, Clowser, Davis, Ealy, Faegre, Haas, Harrison, Hoover, Lane, Minardi, Overstreet, Persinger, Reishman, Richardson, Salisbury, Slater, Smith, Snodgrass, Steele, Talkington, Ware, Mayor Jones

NAYS: NONE

ABSENT: Ireland, Miller

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7720 passed.

12. Your committee on Finance has had under consideration the following bill, and reports the same to Council with the recommendation that Bill No. 7721 do pass.

Bill No. 7721 - A Bill authorizing the purchase of property located at 610 Danner Road consistent with the purchase agreement attached hereto as Exhibit A, from Jackie W. Simpson in consideration for a sum of \$35,000; and

Authorizing the purchase of property located at 612 Danner Road consistent with the purchase agreement attached hereto as Exhibit B, from Earl and Cheryl Counts in consideration for a sum of \$40,000.

WHEREAS, there is a storm water culvert running through the fronts of the properties located at 610 and 612 Danner Road (hereinafter, the “Properties”); and

WHEREAS, over time, through normal wear and tear, the culvert has become degraded and no longer efficiently channels storm runoff contributing to flooding of the roadway of Danner Road and the degradation of the surface and roadbed of Danner Road; and

WHEREAS, the City has invested time and expense to mitigate this damage to Danner Road, but the City has determined that the condition of the culvert has deteriorated to a point where substantial repair or replacement is warranted; and

WHEREAS, the structures located on the Properties are either located over or directly adjacent to the culvert so that substantial repair or replacement of the culvert can not be accomplished without substantial damage to or complete removal of the structures; and

WHEREAS, in 2015, the City has received appraisals for the property and structure at 610 Danner Road indicating a market value of \$23,000 and the an appraisal for the property and structure at 612 Danner Road indicating a market value of \$30,000; and

WHEREAS, after comparing the estimated cost to repair or rebuild the structures located on the Properties, the estimated costs of condemnation proceedings to obtain the Properties and raise the structures, and a negotiated a fair price for the purchase of the Properties in order to raise the structures, the purchase of the properties was determined to be the most expedient and cost effective solution;

Now Therefore, Be it Ordained by the Council of the City of Charleston, West Virginia:

That in order to facilitate the replacement of a failing storm water culvert and mitigate damage to Danner Road, a city-owned street, the Mayor or City Manager are hereby authorized to acquire the property located at 610 Danner Road consistent with the purchase agreement attached hereto as Exhibit A, from Jackie W. Simpson in consideration of the sum of \$35,000; and

the Mayor or City Manager are hereby authorized to acquire the property located at 612 Danner Road consistent with the purchase agreement attached hereto as Exhibit B, from Earl and Cheryl Counts in consideration of the sum of \$40,000; and

the Mayor or City Manager are further authorized to execute any documents necessary to facilitate the purchase and possession of the Properties subject to final review and approval by legal counsel for the City.

Exhibit A

REAL ESTATE PURCHASE AND SALE AGREEMENT

THIS REAL ESTATE PURCHASE AND SALE AGREEMENT (hereinafter “Contract”) is made as of the ____ day of _____, 2016, (“Effective Date”) by and between Jackie W. Simpson (“Seller”), and the City of Charleston, a municipal corporation and political subdivision of the State of West Virginia (“Buyer”);

WHEREAS, Seller is the owner of that certain tract or parcel of land (“Land”), situate in the City of Charleston, Kanawha County, West Virginia, being the same property described in Exhibit A hereto, and conveyed to Seller pursuant to that certain deed dated September 6, 2007, and recorded in the Office of the Clerk of the County Commission of Kanawha County in Deed Book 2698, Page 0642;

WHEREAS, Buyer desires to purchase from Seller the Subject Property (as defined below) and Seller desires to sell and transfer the same to Buyer;

NOW, THEREFORE, for and in consideration of the premises and mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto, agree as follows:

Section 1. *Property to be Purchased and Sold.* Subject to approval by the City Council of the City of Charleston, West Virginia (“Council”), Buyer agrees to buy and Seller agrees to sell and convey all of Seller’s right, title, and interest in and to the following property (the “Subject Property”), upon the terms and conditions herein set forth:

- (a) The Land;
- (b) Any improvements and fixtures upon the Land;
- (c) All rights, privileges, and easements appurtenant to the Land, including all water rights, mineral rights, rights-of-way, roads, roadbeds, and reversions or other appurtenances used in connection with the beneficial use of the Land.

Section 2. *Purchase Price.* Subject to approval by Council, Buyer shall pay to Seller for the Subject Property the total sum of Thirty Five Thousand Dollars and No Cents (\$35,000.00) less any prorated portion of taxes or fees provided for in this Contract (the “Purchase Price”). The Purchase Price shall be paid by Buyer to Seller at Closing (as defined below).

Section 3. *Closing.* Closing of the transaction herein described shall take place on the ____ day of _____, 2016 (the “Closing”) at a time and place agreed upon by the parties hereto, at which time Seller shall grant and convey the Subject Property to Buyer by a good and sufficient deed, with covenants of general warranty, free and clear of all liens and encumbrances, but subject to all exceptions, reservations, covenants, restrictions, conditions and easements contained in prior instruments of record affecting or pertaining to the Subject Property; and Buyer shall thereupon deliver unto Seller the Purchase Price. Seller shall deliver possession of the Subject Property to Buyer at Closing as herein provided.

Section 4. Fees and Costs on Closing. Buyer shall pay for the deed preparation and all recording fees in connection with the recording of the deed. All real property and personal property taxes applicable to the Subject Property shall be prorated between the parties hereto as of Closing. Seller shall have all meters measuring the consumption of gas or electric utilities by the Subject Property read as of the date of Closing and shall be responsible for the amounts due thereunder. All prorations required under this Contract shall be computed as of the date of Closing, and the Purchase Price paid to Seller shall be adjusted to reflect such prorations.

Section 5. Title Examination. It shall be the duty of Buyer to secure a title examination of the Subject Property. If said examination reveals any defect affecting marketability of title to the Subject Property, Buyer shall give written notice containing full details of such defect to Seller; and, if Seller is not able or is unwilling to convey good and marketable title within thirty (30) days from and after the date of such notice, Buyer may, at Buyer's sole option, cancel and terminate this Contract; in which event Seller shall refund in full any down payment made by Buyer herewith.

Section 6. Required Approval. Consummation of the transaction contemplated hereunder is contingent upon Buyer receiving approval of the transaction from Council. If such approval is not received, this Contract is void and each party hereto is relieved of their respective obligations hereunder.

Section 7. Risk of Loss. Seller assumes all risk of loss, damage and destruction to all or any part of the Subject Property until and including the Closing date from any cause whatsoever, whether or not they are insured therefore, including, but not limited to, condemnation, taking by eminent domain, fire, flood, accidents, acts of God, earthquake, insurrection, riot or other causes commonly referred to as force majeure. Upon the occurrence prior to or upon the Closing date of any loss, damage or destruction to any material part of the Subject Property due to any such causes, Seller shall provide Buyer with written notice stating the extent of such loss, damage or destruction, and the cause thereof, if known, and the extent to which Seller will be reimbursed under any applicable insurance policy. In the event that a material part of the Subject Property, as determined by Buyer in its sole discretion, should be lost, damaged or destroyed prior to the Closing, Buyer shall have the right to terminate this Contract by written notice to Seller, without penalty or cost, and not proceed to the Closing. If Buyer elects to continue this Contract following any such occurrence, this Contract shall not be affected, but Seller shall and hereby does assign to Buyer all rights under any policies of insurance applicable to such loss, shall pay over to Buyer all proceeds received thereunder, and shall and hereby does grant to Buyer the right to bring any action in Seller's name necessary to recover under any such policies.

Section 8. Failure to Close. Should Buyer or Seller fail to close in accordance with the terms of this Contract, then the other party shall have the right and option to cancel and terminate this Contract. In the event of such cancellation, all other rights and obligations of the parties hereunder shall terminate.

Section 9. Buyer's Inspection of Subject Property. From and after the execution of this Contract, and prior to the Closing, Buyer shall have the right, at Buyer's sole cost and expense, to conduct such inspections of the Subject Property as Buyer deems necessary. Seller shall grant to Buyer, or Buyers' representatives, reasonable access to enter and inspect the

Subject Property, so that Buyer may conduct all independent inspections desired by Buyer in regard to any and all matters concerning the purchase of the Subject Property. All such independent inspections shall be concluded within thirty (30) days from the Effective Date of this Contract. If Buyer discovers any defects concerning the Subject Property, Buyer shall notify Seller of the same within thirty-one (31) days from the Effective Date of this Contract. Seller shall then have five (5) days after receipt of such notice within which to: (i) decide to and repair or resolve such defects; or (ii) to meet with Buyer to attempt to agree on an adjusted purchase price; or for Buyer to accept the Subject Property “as is.” In the event such defects are not or cannot be repaired or resolved or an agreement is not reached on an adjusted purchase price within said period of five (5) days, and if Buyer does not accept the Subject Property “as is,” Buyer or Seller may within five (5) days of such meeting, declare this Contract null and void.

Section 10. *Acceptance of Offer.* In the event that Seller fails to execute and acknowledge this Contract within twenty-four (24) hours of their receipt of the same, then Buyer shall have no obligation to Seller under this offer and this Contract shall be and become null and void.

Section 11. *Entire Agreement.* This Contract contains the entire and only agreement between the parties hereto, and any oral statements or representations or prior written matter not contained in this Contract shall have no force and effect. This Contract shall not be modified in any way except by a writing executed by Seller and Buyer.

Section 12. *Notices.* All notices required or provided for in this Contract shall be made in writing and delivered either: (a) personally; (b) via certified mail with return receipt requested; or (c) by Federal Express or other nationally recognized, overnight courier service, to the party to whom directed at the following addresses:

Buyer:	City of Charleston P. O. Box 2749 Charleston, West Virginia 25330 Attn: Paul Ellis
Seller:	Jackie W. Simpson 610 Danner Rd. Charleston, West Virginia 25303

All notices given as provided for herein, other than by way of certified mail, shall be deemed effective upon personal delivery, the next business day after delivery to the overnight courier service, as applicable. Notice given by way of certified mail shall be deemed effective upon receipt or refusal of receipt thereof.

Section 13. *Assignment and Binding Effect.* This Contract may not be assigned by either Seller or Buyer without the prior written consent of the other, and shall be binding upon the respective heirs, executors, administrators and permitted assigns of the parties hereto.

Section 14. Amendment. This Contract may be changed, modified or amended only in writing, which shall set forth the provisions of such change, modification or amendment which shall be executed by all of the parties hereto.

Section 15. Governing Law. This Contract shall be construed in accordance with the laws of the State of West Virginia.

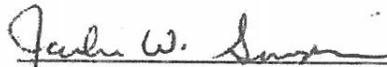
Section 16. Waiver. The waiver by any party hereto of a breach of any covenant, herein contained shall not be deemed a continuing waiver of such breach nor a waiver of any breach of any other covenant herein contained; but to the contrary, demand may be made at any time for the cure of such breach.

Section 17. Time is of the Essence. Time shall be of the essence in the performing of all duties and obligations hereunder.

[Signature Page to Follow]

IN WITNESS WHEREOF, the parties hereto have executed this Contract to be effective as of the day and year first hereinabove written.

SELLER:



Jackie W. Simpson

BUYER:

The City of Charleston

By: _____
Its: _____

Exhibit B

REAL ESTATE PURCHASE AND SALE AGREEMENT

THIS REAL ESTATE PURCHASE AND SALE AGREEMENT (hereinafter “Contract”) is made as of the ___ day of _____, 2016, (“Effective Date”) by and between Earl R. Counts and Cheryl L. Counts (together, the “Seller”), and the City of Charleston, a municipal corporation and political subdivision of the State of West Virginia (“Buyer”);

WHEREAS, Seller is the owner of that certain tract or parcel of land (“Land”), situate in the City of Charleston, Kanawha County, West Virginia, being the same property described in Exhibit A hereto, and conveyed to Seller pursuant to that certain deed dated March 31, 2004, and recorded in the Office of the Clerk of the County Commission of Kanawha County in Deed Book 2598, Page 89;

WHEREAS, Buyer desires to purchase from Seller the Subject Property (as defined below) and Seller desires to sell and transfer the same to Buyer;

NOW, THEREFORE, for and in consideration of the premises and mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto, agree as follows:

Section 1. *Property to be Purchased and Sold.* Subject to approval by the City Council of the City of Charleston, West Virginia (“Council”), Buyer agrees to buy and Seller agrees to sell and convey all of Seller’s right, title, and interest in and to the following property (the “Subject Property”), upon the terms and conditions herein set forth:

- (a) The Land;
- (b) Any improvements and fixtures upon the Land (However, the parties agree that the Seller may remove any improvements or fixtures from the real property, at their expense, prior to the Closing);
- (c) All rights, privileges, and easements appurtenant to the Land, including all water rights, mineral rights, rights-of-way, roads, roadbeds, and reversions or other appurtenances used in connection with the beneficial use of the Land.

Section 2. *Purchase Price.* Subject to approval by Council, Buyer shall pay to Seller for the Subject Property the total sum of Forty Thousand Dollars and No Cents (\$40,000.00) less any prorated portion of taxes or fees provided for in this Contract (the “Purchase Price”). The Purchase Price shall be paid by Buyer to Seller at Closing (as defined below).

Section 3. *Closing.* Closing of the transaction herein described shall take place on the ___ day of _____, 2016 (the “Closing”) at a time and place agreed upon by the parties hereto, at which time Seller shall grant and convey the Subject Property to Buyer by a good and sufficient deed, with covenants of general warranty, free and clear of all liens and

encumbrances, but subject to all exceptions, reservations, covenants, restrictions, conditions and easements contained in prior instruments of record affecting or pertaining to the Subject Property; and Buyer shall thereupon deliver unto Seller the Purchase Price. Seller shall deliver possession of the Subject Property to Buyer at Closing as herein provided.

Section 4. *Fees and Costs on Closing.* Buyer shall pay for the deed preparation and all recording fees in connection with the recording of the deed. All real property and personal property taxes applicable to the Subject Property shall be prorated between the parties hereto as of Closing. Seller shall have all meters measuring the consumption of gas or electric utilities by the Subject Property read as of the date of Closing and shall be responsible for the amounts due thereunder. All prorations required under this Contract shall be computed as of the date of Closing, and the Purchase Price paid to Seller shall be adjusted to reflect such prorations.

Section 5. *Title Examination.* It shall be the duty of Buyer to secure a title examination of the Subject Property. If said examination reveals any defect affecting marketability of title to the Subject Property, Buyer shall give written notice containing full details of such defect to Seller; and, if Seller is not able or is unwilling to convey good and marketable title within thirty (30) days from and after the date of such notice, Buyer may, at Buyer's sole option, cancel and terminate this Contract; in which event Seller shall refund in full any down payment made by Buyer herewith.

Section 6. *Required Approval.* Consummation of the transaction contemplated hereunder is contingent upon Buyer receiving approval of the transaction from Council. If such approval is not received, this Contract is void and each party hereto is relieved of their respective obligations hereunder.

Section 7. *Risk of Loss.* Seller assumes all risk of loss, damage and destruction to all or any part of the Subject Property until and including the Closing date from any cause whatsoever, whether or not they are insured therefore, including, but not limited to, condemnation, taking by eminent domain, fire, flood, accidents, acts of God, earthquake, insurrection, riot or other causes commonly referred to as force majeure. Upon the occurrence prior to or upon the Closing date of any loss, damage or destruction to any material part of the Subject Property due to any such causes, Seller shall provide Buyer with written notice stating the extent of such loss, damage or destruction, and the cause thereof, if known, and the extent to which Seller will be reimbursed under any applicable insurance policy. In the event that a material part of the Subject Property, as determined by Buyer in its sole discretion, should be lost, damaged or destroyed prior to the Closing, Buyer shall have the right to terminate this Contract by written notice to Seller, without penalty or cost, and not proceed to the Closing. If Buyer elects to continue this Contract following any such occurrence, this Contract shall not be affected, but Seller shall and hereby does assign to Buyer all rights under any policies of insurance applicable to such loss, shall pay over to Buyer all proceeds received thereunder, and shall and hereby does grant to Buyer the right to bring any action in Seller's name necessary to recover under any such policies.

Section 8. *Failure to Close.* Should Buyer or Seller fail to close in accordance with the terms of this Contract, then the other party shall have the right and option to cancel and

terminate this Contract. In the event of such cancellation, all other rights and obligations of the parties hereunder shall terminate.

Section 9. Buyer's Inspection of Subject Property. From and after the execution of this Contract, and prior to the Closing, Buyer shall have the right, at Buyer's sole cost and expense, to conduct such inspections of the Subject Property as Buyer deems necessary. Seller shall grant to Buyer, or Buyers' representatives, reasonable access to enter and inspect the Subject Property, so that Buyer may conduct all independent inspections desired by Buyer in regard to any and all matters concerning the purchase of the Subject Property. All such independent inspections shall be concluded within thirty (30) days from the Effective Date of this Contract. If Buyer discovers any defects concerning the Subject Property, Buyer shall notify Seller of the same within thirty-one (31) days from the Effective Date of this Contract. Seller shall then have five (5) days after receipt of such notice within which to: (i) decide to and repair or resolve such defects; or (ii) to meet with Buyer to attempt to agree on an adjusted purchase price; or for Buyer to accept the Subject Property "as is." In the event such defects are not or cannot be repaired or resolved or an agreement is not reached on an adjusted purchase price within said period of five (5) days, and if Buyer does not accept the Subject Property "as is," Buyer or Seller may within five (5) days of such meeting, declare this Contract null and void.

Section 10. Acceptance of Offer. In the event that Seller fails to execute and acknowledge this Contract within twenty-four (24) hours of their receipt of the same, then Buyer shall have no obligation to Seller under this offer and this Contract shall be and become null and void.

Section 11. Entire Agreement. This Contract contains the entire and only agreement between the parties hereto, and any oral statements or representations or prior written matter not contained in this Contract shall have no force and effect. This Contract shall not be modified in any way except by a writing executed by Seller and Buyer.

Section 12. Notices. All notices required or provided for in this Contract shall be made in writing and delivered either: (a) personally; (b) via certified mail with return receipt requested; or (c) by Federal Express or other nationally recognized, overnight courier service, to the party to whom directed at the following addresses:

Buyer: City of Charleston
P. O. Box 2749
Charleston, West Virginia 25330
Attn: Paul Ellis

Seller: Earl & Cheryl Counts
612 Danner Rd.
Charleston, West Virginia 25303

All notices given as provided for herein, other than by way of certified mail, shall be deemed effective upon personal delivery, the next business day after delivery to the overnight

courier service, as applicable. Notice given by way of certified mail shall be deemed effective upon receipt or refusal of receipt thereof.

Section 13. Assignment and Binding Effect. This Contract may not be assigned by either Seller or Buyer without the prior written consent of the other, and shall be binding upon the respective heirs, executors, administrators and permitted assigns of the parties hereto.

Section 14. Amendment. This Contract may be changed, modified or amended only in writing, which shall set forth the provisions of such change, modification or amendment which shall be executed by all of the parties hereto.

Section 15. Governing Law. This Contract shall be construed in accordance with the laws of the State of West Virginia.

Section 16. Waiver. The waiver by any party hereto of a breach of any covenant, herein contained shall not be deemed a continuing waiver of such breach nor a waiver of any breach of any other covenant herein contained; but to the contrary, demand may be made at any time for the cure of such breach.

Section 17. Time is of the Essence. Time shall be of the essence in the performing of all duties and obligations hereunder.

[Signature Page to Follow]

IN WITNESS WHEREOF, the parties hereto have executed this Contract to be effective as of the day and year first hereinabove written.

SELLER:

Earl R. Counts
Earl R. Counts

Cheryl L. Counts
Cheryl L. Counts

BUYER:

The City of Charleston

By: _____
Its: _____

Councilperson Reishman moved to approve the Bill. Councilperson Lane seconded the motion. A roll call was taken:

YEAS: Burka, Burton, Ceperley, Chestnut, Clowser, Davis, Ealy, Faegre, Haas, Harrison, Hoover, Lane, Minardi, Overstreet, Persinger, Reishman, Richardson, Salisbury, Slater, Smith, Snodgrass, Steele, Talkington, Ware, Mayor Jones

NAYS: NONE

ABSENT: Ireland, Miller

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7721 passed.

REPORTS OF OFFICERS

1. City Treasurer’s Report to City Council Month Ending October 2016.
Received and Filed.

NEW BILLS

Introduced by Council member Bobby Reishman on November 21, 2016:

Bill No. 7724: A BILL to amend Article VII, Division 3, Section 114 of the Municipal Code of the City of Charleston entitled “Per-hour parking fees established, “by raising the fee to bag a meter from \$5.00 to \$15.00 per day.

Refer to Finance Committee.

Introduced by Council member Keeley Steele on November 21, 2016:

Bill No. 7725: A Bill to establish a stop intersection on Ellette Place at Ellette Drive and amending the Traffic Control Map and File

Refer to Streets and Traffic Committee.

Introduced by Council member Bobby Reishman on November 21, 2016:

Bill No. 7726: A Bill authorizing the purchase of property located at 1812 Oakridge Drive, as more fully described in Exhibit A hereto, (the “Property”) from Terry Godbey (the “Owner”) in consideration of the sum of \$84,000.00; and in the event Owner declines to sell the Property for the sum of \$84,000.00, further authorizing the City Attorney to file of a Civil Action for the immediate right of entry and condemnation of the Property; all for the purpose of raising the structures on the Property and creating parking and clearing site lines for Charleston Fire Department Station Number 4 (the “Station”).

Refer to Finance Committee.

ADJOURNMENT

The Clerk, JB Akers, called the closing roll call:

YEAS: Burka, Burton, Ceperley, Chestnut, Clowser, Davis, Ealy, Faegre, Haas, Harrison, Hoover, Lane, Minardi, Overstreet, Persinger, Reishman, Richardson, Salisbury, Slater, Smith, Snodgrass, Steele, Talkington, Ware, Mayor Jones

NAYS: NONE

ABSENT: Ireland, Miller

At 7:25 p.m., by a motion from Councilmember Harrison, Council adjourned until Monday, December 5, 2016, at 7:00 p.m., in the Council Chamber in City Hall.

Danny Jones, Honorable Mayor

JB Akers, City Clerk