



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

CITY OF CHARLESTON, WEST VIRGINIA

Regular Meeting – Monday, August 1, 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 first meeting in the month of August on the 1st day, in the year 2016, and was called to order by the Honorable Mayor, Danny Jones. The invocation was delivered by Councilman Harrison and the Pledge of Allegiance was led by Councilman Haas. The Honorable Clerk, JB Akers, called the roll of members and it was found that there were present at the time:

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

With twenty-four 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. Margaret Chico-Eddy spoke about banning fireworks.
2. Robert Breedlove spoke about banning fireworks.

CLAIMS

1. A claim of Laura Gandee, 652 Piccadilly Street, Charleston, WV;
Alleges damage to vehicle.
Refer to City Solicitor.
2. A claim of Aasim Khan, 18 Birch Tree Lane, Charleston, WV;
Alleges damage to vehicle.
Refer to City Solicitor.

MISCELLANEOUS RESOLUTION

1. Resolution No. 779-16:

WHEREAS: The Mayor and City Council have declared as a priority the installation, inventory and maintenance of public art throughout the City of Charleston for the enjoyment of residents and visitors alike; and

WHEREAS: Public art contributes to the City’s character and quality of life and creates an environment that both informs and inspires; and

WHEREAS: Interstate 64 bisects the City of Charleston between the Downtown and the West Side, creating a visual barrier for motorists and pedestrians; and

WHEREAS: The popular Gallery 64 Public Art Project has helped to reconnect these parts of the City through the beautification of a neglected public space; and

WHEREAS: The grant funding support from the Greater Kanawha Valley Foundation to Charleston Mainstreets, West Side Program has been secured to contribute to the Gallery 64 project; and

WHEREAS: This phase of the project calls for installation of a public art mural on the Lee Street Off-ramp along Pennsylvania Avenue North; and

WHEREAS: The Gallery 64 project creates jobs for local artists, allowing them to tell stories of Charleston’s past, present, and future in images that enhance a gateway to the West Side and Downtown.

Therefore, be it resolved by the Council of the City of Charleston, West Virginia:

That the City of Charleston, West Virginia, recognizes and supports the application and installation of public art as an important contribution to the City’s character and quality of life; and that it supports and endorses the 2016 Gallery 64 Public Art project; And further, that the Council hereby directs the Mayor to promptly express the same to the West Virginia Department of Transportation, Division of Highway and other appropriate persons and entities as circumstances require.

Council Lady Ireland moved to approve the Resolution. Councilman Ware seconded the motion. With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution 779-16 adopted.

REPORTS OF COMMITTEES

COMMITTEE ON ORDINANCE AND RULES

1. Your committee on Ordinance and Rules has had under consideration the following bill, and reports the same to Council with the recommendation that Bill No. 7702 do pass.

Bill No. 7702- A BILL to enact Chapter 3, Section 3-17 of the Municipal Code of the City of Charleston, and to amend Chapter 6, Article III, Division 3, Subdivision 1, Section 6-133 of the Municipal Code of the City of Charleston for the purpose of allowing certain Alcohol Beverage Control Administration Class “A” license holders to begin serving alcohol at ten o’clock a.m. on Sundays.

WHEREAS, the City’s comprehensive plan envisions the reinforcement of Charleston’s position as the region’s entertainment and cultural destination; and

WHEREAS, Sunday brunch with the availability of alcoholic beverages has become more popular in the last few decades and permitting that tradition in Charleston will increase the City’s social vitality by expanding the range of lifestyle choices available to its residents and visitors; and

WHEREAS, West Virginia law prohibits the sale of alcohol before 1:00 p.m. on Sundays and, according to local business owners, inhibits brunch attendance and therefore limits revenue from brunch service for business owners and their employees; and

WHEREAS, the Charleston Convention and Visitor’s Bureau fully supports relaxing Sunday liquor laws and allowing restaurants in the City to be fully operational on Sunday to enhance the City’s image in the eyes of business and leisure travelers thereby enriching their travel experience in Charleston and promoting Charleston as a hip, historic destination; and

WHEREAS, as a participant in the West Virginia Home Rule Pilot Program, the City has the authority pursuant to W.Va. Code § 8-1-5a to permit certain Alcohol Beverage Control Administration “Class A” license holders to serve alcohol beginning at 10:00 a.m. on Sundays, subject to compliance with §8-1-5a and upon approval by the West Virginia Home Rule Board; and

WHEREAS, City has complied with the requirements of §8-1-5a and has received approval from the West Virginia Home Rule Board to implement an amendment to its home rule plan

and pass an Ordinance allowing certain Alcohol Beverage Control Administration Class “A” license holders to begin serving alcohol at ten o’clock a.m. on Sundays;

Now, therefore, be it Ordained by the Council of the City of Charleston, West Virginia: That under the authority granted to the City of Charleston by W. Va. Code § 8-1-5a, Chapter 3, Section 3-17 of the Municipal Code of the City of Charleston is hereby enacted, and Chapter 6, Article III, Division 3, Subdivision 1, Section 6-133 of the Municipal Code of the City of Charleston is hereby amended to read as follows:

Chapter 3 – MUNICIPAL HOME RULE

Sec. 3-17. Sale of Alcohol on Sundays

- a) The purpose of this section is to reinforce the image of the City of Charleston as the region’s destination for entertainment and culture, and to promote the City of Charleston as a city that offers a range of lifestyle choices including the service of alcoholic beverages at Sunday brunch.
- b) As used in this section, the term “On-Premises License” shall mean the following West Virginia Alcohol Beverage Control Administration Class “A” licenses:
 - i. Private Club (less than 1,000 members) – liquor, wine, & non-intoxicating beer
 - ii. Private Club (1,000 or more members) – liquor, wine, & non-intoxicating beer
 - iii. Fraternal Club (Non-Profit) – liquor, wine, & non-intoxicating beer
 - iv. Fraternal Club (Non-Profit) – non-intoxicating beer
 - v. Tavern – non-intoxicating beer
 - vi. Private Wine Restaurant – wine only
 - vii. Private Wine Restaurant – wine & non-intoxicating beer only
 - viii. Private Wine Spa – wine only
 - ix. Private Wine Bed & Breakfast – wine only
 - x. Brew Pub
 - xi. Special Events (Fairs and Festivals) – wine & non-intoxicating beer
 - xii. Special Events (Fairs and Festivals) – wine only
 - xiii. Special Events (Fairs and Festivals) – non-intoxicating beer only
 - xiv. Growler
- c) Notwithstanding any contrary provision contained in the Code of West Virginia, the Code of State Rules of West Virginia, or the Municipal Code of the City of Charleston, any entity or person possessing an On-Premises License shall be permitted to sell

alcoholic beverages for on-premises consumption on any Sunday, beginning at 10:00 a.m. All other terms and conditions imposed by West Virginia law or by the West Virginia Alcohol Beverage Control Administration on entities or persons possessing an On-Premises License shall remain in full force and effect.

- d) The permission granted herein shall be revocable by City on a case-by-case basis, upon determination by the Chief of Police in cooperation and consultation with the West Virginia Alcohol Beverage Administration and with the consent of the City Manager that a person or entity possessing an On-Premises License is creating a public nuisance related to the service of alcohol before 1:00 p.m. on Sundays, or is otherwise acting in a manner inconsistent with the intent of this section.

Sec. 6-133. - Certain acts of licensee prohibited.

- (a) It shall be unlawful for any licensee under this division, his agent, employee or member, on such licensee's premises to:
- (1) Sell or offer for sale any alcoholic liquors other than from the original package or container;
 - (2) Authorize or permit any disturbance of the peace; obscene, lewd, immoral or improper entertainment, conduct or practice; gambling or any slot machine or device in the nature of a slot machine;
 - (3) Sell, give away or permit the sale of, gift to or the procurement of any alcoholic liquors for any minor, mental incompetent or person who is physically incapacitated due to the consumption of alcoholic liquor or the use of drugs;
 - (4) Sell, give or dispense alcoholic liquors in or on any licensed premises or in any rooms directly connected with such premises, between the hours of 3:00 a.m. and 1:00 p.m. on any Sunday, provided that for persons or entities possessing a WV Alcohol Beverage Control Administration On-Premises License, as set forth in Section 3-17(b) of this code, the hours shall be between 3:00 a.m. and 10:00 a.m. on any Sunday;
 - (5) Permit the consumption by or serve to on the licensed premises any alcoholic liquors covered by this article to any person under the age of 18 years;
 - (6) With the intent to defraud, alter, change or misrepresent the quality, quantity or brand name of any alcoholic liquor;

- (7) Sell or offer for sale any alcoholic liquor to any person who is not a duly elected or approved dues-paying member in good standing of such private club or a guest of such member; or
- (8) Violate any applicable rule or regulation of the state alcohol beverage control commissioner promulgated pursuant to authority vested in him by state law.
- (b) It shall further be unlawful for any licensee to advertise in any news media or other means outside of the licensee's premises the fact that alcoholic liquors may be purchased there.

Pursuant to Chapter 41 of the Charter of the City of Charleston, this ordinance shall take effect immediately upon adoption by City Council if passed by three-fifths of the elected members or shall take effect five days after adoption if passed by less than three-fifths of the elected members.

Councilman Harrison moved to approve the Bill. Councilman Ware seconded the motion. A roll call was taken:

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

NAYS: Ealy

ABSENT: Chestnut, Faegre, Lane

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7702 adopted.

COMMITTEE ON PLANNING

1. Your committee on Planning has had under consideration the following resolution, and reports the same to Council with the recommendation that Bill No. 7699 do pass.

Bill No. 7699 - A Bill amending the Zoning Ordinance of the City of Charleston, West Virginia, adopted the 21st day of November 2005, as amended, and the Zoning Map made a part thereof, by rezoning from a Residential Office-District (“R-O District”) to a Central Business District (“CBD”), those certain parcels of land situate at 1114 Virginia Street East and 1035 Quarrier Street, Charleston, WV 25301.

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

1. The Zoning Ordinance of the City of Charleston, West Virginia, adopted the 21st day of November 2005, as amended (the “Zoning Ordinance”), is hereby amended by rezoning from a R-O District to a CBD, the whole of the following described parcels of land:

Parcel No. 81 as shown on Charleston East Tax Map No. 14, which is more particularly described as “LT 50X120 VIRGINIA 1030 & DUNBAR STS” (said Tax Map 14 is of record in the Planning Office); and

Parcel No. 82 as shown on Charleston East Tax Map No. 14, which is more particularly described as “LT 43X64 DUNBAR ST CH PROP” (said Tax Map 14 being of record in the Planning Office).

Parcel No. 84 as shown on Charleston East Tax Map No. 14, which is more particularly described as “LT 140X350 QUARRIER VIRGINIA” (said Tax Map 14 being of record in the Planning Office).

2. The Zoning Map, attached to and made a part of the Zoning Ordinance, is hereby amended in accordance Paragraph 1.
3. All prior amendments, ordinances or parts of ordinances inconsistent with this amendment and Bill No. 7699 are hereby repealed to the extent of such inconsistency.
4. This amendment of the Zoning Ordinance and the adoption of Bill No. 7699 have been carried out in accordance with the provisions of Article 28 of the Zoning Ordinance.

Council Lady Davis moved to approve the Bill. Councilman Ware seconded the motion. A roll call was taken:

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

NAYS: NONE

ABSENT: Chestnut, Faegre, Lane

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7699 adopted.

2. Your committee on Planning has had under consideration the following resolution, and reports the same to Council with the recommendation that Bill No. 7700 do pass.

Bill No. 7700: A Bill amending the Zoning Ordinance of the City of Charleston, West Virginia, adopted the 21st day of November 2005, as amended, by reducing the duration of the temporary stay of demolition of historic buildings to 90 days.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CHARLESTON, WEST VIRGINIA

1. The Zoning Ordinance for the City of Charleston, West Virginia, adopted the 21st day of November 2005, as amended, is hereby amended as follows:

Sec. 20-040-05 Temporary Stay of Demolition

- A. A Demolition Review Permit is required prior to the demolition of any significant building approved under section 2-695(b) and (c) of the Code of the City of Charleston. The intent of the Demolition Review Permit is to establish a waiting period during which the City, members of the public, and the Applicant can propose and consider alternatives to the demolition of a building that may have significant historical, architectural, cultural or urban design value.

Demolition Review Permits are subject to review by the CHLC and shall be regulated as follows:

1. The demolition of a significant building may be temporarily delayed for 90 days if the CHLC determines, after a public hearing, that the stay would be in the public's interest due to the building's significant historical, architectural, cultural or urban design value. If the CHLC chooses to impose the temporary stay of demolition, the stay begins the day the decision is made.
 - ~~2. The CHLC may impose up to three 90 day stays. Within 90 days of the initial stay, the CHLC shall conduct a status hearing to determine if reasonable progress toward a feasible alternative solution is being made. At this status hearing, the Commission may, at their discretion, impose an additional 90 day stay. Within 90 days of the second stay, the CHLC shall conduct another status hearing to determine if alternative solutions are still feasible. The Commission may, at their discretion, may impose one additional 90 day stay. The stay will be lifted at the conclusion of a 90 day stay if the Commission fails to find that reasonable progress is being made. In no case will the stay of demolition exceed 270 days.~~
 - ~~3.~~ 2. In considering a Demolition Review Permit, the CHLC may require, the applicant to divulge the proposed use of the property and submit photographic evidence of the existing conditions of the building, structural reports by a certified engineer or architect, and any other information the Commission deems necessary.
 - ~~4.~~ 3. A Demolition Review Permit shall be reviewed by the CHLC at a public hearing, except as provided in section 4 below. The CHLC shall consider a Demolition Review Permit within 45 days after the filing thereof by the owner or occupant. Notice of the time and place of the hearing shall be given by publication in a newspaper having general circulation in the city at least seven days before such hearing.
 - ~~5.~~ 4. The CHLC may approve a Demolition Review Permit without a hearing, by way of an administrative review, if it is determined the building is not capable of rehabilitation or that the public's interest in demolition clearly outweighs its preservation or rehabilitation.
- B. At the time of the passage of this ordinance, existing significant buildings shall be subject to a Demolition Review Permit.

2. All prior ordinances, or parts of ordinances, inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

Council Lady Davis moved to approve the Bill. Councilman Ware seconded the motion. A roll call was taken:

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

NAYS: NONE

ABSENT: Chestnut, Faegre, Lane

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7700 adopted.

COMMITTEE ON FINANCE

Councilman 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. 775-16 do pass.

Resolution No. 775-16 : “Authorizing the Mayor or City Manager to enter into an Agreement with Suttle and Stalnaker in the amount of \$58,000 to conduct a Single Audit for the City of Charleston for FY 2016, in accordance with Federal OMB Circular A-133. The City has the option to renew the Agreement for the FY 2017 Single Audit at the same price of \$58,000.”

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

That the Mayor or City Manager is hereby authorized and directed to enter into an .Agreement with Suttle and Stalnaker in the amount of \$58,000 to conduct a Single Audit for the City of Charleston for FY 2016, in accordance with Federal OMB Circular A-133. The City has the option to renew the Agreement for the FY 2017 Single Audit at the same price of \$58,000.

Councilman Reishman moved to approve the Resolution. Councilman Ware seconded the motion. With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution 775-16 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. 776-16 do pass.

Resolution No. 776-16: “Authorizing the Mayor or City Manager to enter into an agreement with Spec. Rescue International, in the amount of \$27,900, providing for up to four (4) FEMA Certified Instructors to conduct a FEMA Equivalent Structural Collapse Technician and Train-the-Trainer 80-hour training class for 30-40 firefighters from Charleston and other fire departments within Kanawha County.”

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

That the Mayor or City Manager is hereby authorized and directed to enter into an agreement with Spec. Rescue International, in the amount of \$27,900, providing for up to four (4) FEMA Certified Instructors to conduct a FEMA Equivalent Structural Collapse Technician and Train-the-Trainer 80-hour training class for 30-40 firefighters from Charleston and other fire departments within Kanawha County.

Councilman Reishman moved to approve the Resolution. Councilman Ware seconded the motion. With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution 776-16 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. 777-16 do pass.

Resolution No. 777-16: “Authorizing the City Manager to execute Change Order No. 8 to the Design-Build contract with BBL Carlton, LLC, in relation to the Civic Center Expansion and Renovation Project, in the amount of \$54,018.42, providing for additions to the base contract as listed in the attached Exhibit A. Change Order No. 8 increases the contract price from \$87,962,701.21 to \$88,016,719.63.”

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

That the City Manager is hereby authorized and directed to execute Change Order No. 8 to the Design-Build contract with BBL Carlton, LLC, in relation to the Civic Center Expansion and Renovation Project, in the amount of \$54,018.42, providing for additions to the base contract as listed in the attached Exhibit A. Change Order No. 8 increases the contract price from \$87,962,701.21 to \$88,016,719.63.

Councilman Reishman moved to approve the Resolution. Councilman Ware seconded the motion. With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution 777-16 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. 778-16 do pass.

Resolution No. 778-16: A resolution supplementing Ordinance No. 7680, passed by the Council of The City of Charleston, West Virginia, on February 16, 2016; which supplemented Ordinance No. 4423 passed by the Council of The City of Charleston, West Virginia, on March 6, 1989, as supplemented by Ordinance No. 4506 passed by the Council on November 6, 1989, by Ordinance No. 4954 passed by the Council on May 3, 1993, by Ordinance No. 6276 passed by the Council on September 3, 1996, by Ordinance No. 6349 passed by the Council on June 2, 1997, by Ordinance No. 6532 passed by the Council on November 16, 1998, by Ordinance No. 6544 passed by the Council on February 1, 1999, by Ordinance No. 6670 passed by the Council on February 5, 2001, by Ordinance No. 6777 passed by the Council on March 19, 2001, by Ordinance No. 6948 passed by the Council on November 4, 2002, by Ordinance No. 6977 passed by the Council on May 19, 2003, by Ordinance No. 7132 passed by the Council on March 7, 2005, by Ordinance No. 7490 passed by the Council on September 6, 2011, and by Ordinance No. 7560 passed by the Council on February 19, 2013; authorizing the design, acquisition and construction of certain extensions, additions, betterments and improvements to the existing sewerage system of The City of Charleston; authorizing the issuance of not more than \$18,000,000 in aggregate principal amount of Sewerage System Revenue Bonds, in one or more series as designated in a supplemental resolution, of The City of Charleston, the proceeds of which, shall be used, along with other funds and moneys of, or available to, The City of Charleston which may be lawfully expended for such purposes, to permanently finance the cost of such design, acquisition and construction, to fund reserve accounts for such bonds and to pay other costs in connection therewith; providing for the rights and remedies of and security for the registered owners of such bonds; and adopting other provisions related thereto.

WHEREAS, the Council (the “Council”) of The City of Charleston, West Virginia (the “City”), on February 16, 2016, adopted Ordinance No. 7680, (the “Ordinance”), authorizing the issuance of The City of Charleston Sewerage System Revenue Bonds, in an aggregate principal amount not to exceed \$18,000,000, in one or more series, to permanently finance the cost of design, acquisition and construction of certain extensions, additions, betterments and improvements to the sewerage system of the City (the “Project”);

WHEREAS, capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Ordinance when used herein;

WHEREAS, the Ordinance provided for the issuance by the Issuer of its Sewerage System Revenue Bonds, Series 2016 A, in the aggregate principal amount of not more than \$18,000,000 (the “Series 2016 A Bonds”), for the purposes of paying a portion of the costs of acquisition and construction of additions, betterments and improvements to the System, capitalizing interest on

the Series 2016 A Bonds, funding a reserve account for the Series 2016 A Bonds and paying costs of issuance thereof, all in accordance with Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (the “Act”);

WHEREAS, the Ordinance provides for the issuance of the Series 2016 A Bonds, all in accordance with the Act, and further provides that the exact principal amount, series designation, date, maturity date, redemption provision, interest rate, interest and principal payment dates, sale price and other terms of and matters relating to, the Series 2016 A Bonds should be established by a supplemental resolution;

WHEREAS, the Ordinance, pursuant to Section 6 of the Act, directed the City Clerk to publish an abstract of the Ordinance (the “Abstract”), together with a notice that the Ordinance has been adopted, that the City contemplates the issuance of the Series 2016 A Bonds as described in the Ordinance and that any person interested may appear before the Council upon a certain day and present protests (the “Notice”);

WHEREAS, the Ordinance required that the Abstract and Notice be published as a Class II legal advertisement in the Charleston Gazette-Mail, a newspaper published and of general circulation in the City, and the first publication of such Abstract and Notice was to be not less than ten (10) days before the date set by the Ordinance and the Notice at which interested persons may appear before the Council and present protests, and the last publication of such Abstract and Notice was to be prior to said date set by the Ordinance and the Notice;

WHEREAS, the Ordinance and the Notice provided for a public hearing to be held at 7:00 p.m., prevailing time, on March 7, 2016, in Council Chambers in City Hall;

WHEREAS, the Ordinance further provided that the exact dates, amounts, maturities, interest rates, redemption provisions, purchase price and other terms of the Series 2016 A Bonds should be established by supplemental resolution or by a Certificate of Determinations, that a Registrar, Paying Agent and Depository Bank be designated, that a Bond Purchase Agreement, a Disclosure Dissemination Agent Agreement, a Registrar Agreement, a Bond Construction Fund Agreement and an Official Statement be approved and that other matters pertaining to the Series 2016 A Bonds be provided for by a supplemental resolution of the Council or pursuant to a Certificate of Determinations, that additional covenants and provisions relating to the Series 2016 A Bonds be provided therein, and as may be required by any Bond Insurer as a condition to insuring such Series 2016 A Bonds and/or providing a debt service reserve insurance policy for such Series 2016 A Bonds and that other matters pertaining to the Series 2016 A Bonds be provided for by a supplemental resolution of this Council or by Certificate of Determinations;

WHEREAS, the Series 2016 A Bonds are proposed to be purchased by Crews & Associates, Inc. and Piper Jaffray & Co. (collectively, the “Original Purchaser”), pursuant to a Bond Purchase Agreement between the Original Purchaser and the Issuer, to be dated the date of execution thereof (the “Bond Purchase Agreement”);

WHEREAS, the Council wishes to delegate to the Mayor the authority to approve, within the parameters set forth herein and in the Ordinance, the final terms of the Series 2016 A Bonds and

all provisions of all documents relating to the Series 2016 A Bonds (the “Bond Documents”), without the requirement of further official action by this Council; and WHEREAS, the Council deems it essential and desirable that this supplemental resolution (the “Supplemental Resolution”) be adopted, that the Bond Purchase Agreement, the Disclosure Dissemination Agent Agreement, the Tax Certificate, Bond Construction Fund Agreement and the Registrar Agreement hereinafter provided for be entered into by the Issuer, that the Preliminary Official Statement and Official Statement relating to the Series 2016 A Bonds, hereinafter described, be approved, that the Mayor be authorized to execute the Certificate of Determinations and enter into the Bond Purchase Agreement, all within the parameters hereby approved by the Council, and that other matters relating to the Series 2016 A Bonds be herein provided for, all in accordance with the Ordinance.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CHARLESTON:

Section 1. It is hereby found and determined that:

- (A) The Abstract and Notice were duly published in the Charleston Gazette-Mail, a newspaper published and of general circulation in the City, with the first publication thereof being not less than ten (10) days before the day set by the Ordinance and the Notice for the public hearing, at which interested persons may appear before the Council and present protests and suggestions and with the last publication thereof being prior to said date set by the Ordinance and the Notice for the public hearing, and the Affidavit of Publication reflecting such publications is incorporated herein by reference;
- (B) In accordance with the Ordinance and the Notice, the City Clerk has maintained in his office a certified copy of the Ordinance for review by interested persons during the regular office hours of such office;
- (C) In Council Chambers, City Hall, Charleston, West Virginia, on March 7, 2016, at 7:00 p.m. prevailing time, in accordance with the Ordinance and the Notice, the Council met for the purpose of hearing protests and suggestions regarding whether the Ordinance should be put into effect and heard all protests and suggestions with regard thereto;
- (D) At the public hearing, no significant reasons were presented that would require modification or amendment of the Ordinance and no written protest with regard thereto was filed by 30 percent or more of the freeholders of the City; and
- (E) The Ordinance shall be put into effect as of the date hereof and the Series 2016 A Bonds contemplated thereby shall be issued, all as provided in the Ordinance, this Supplemental Resolution and the Certificate of Determination.

Section 2. For the purposes of (i) paying a portion of the costs of acquisition and construction of additions, betterments and improvements to the System; (ii) funding a debt service reserve account for the Series 2016 A Bonds either with cash or through the purchase of a Municipal Bond Debt Service Reserve Insurance Policy; (iii) if determined to be financially advantageous to the Issuer, paying the premium for a Municipal Bond Insurance Policy; and (iv) paying costs of issuance of the Series 2016 A Bonds and related costs, the Council of the Issuer hereby authorizes

and orders the issuance of the Series 2016 A Bonds in an aggregate principal amount not to exceed \$18,000,000.

Section 3. Pursuant to the Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Series 2016 A Bonds. The Series 2016 A Bonds shall be issued in the aggregate principal amount not to exceed \$18,000,000, bear interest at a true interest rate not to exceed 6% payable semiannually, shall mature in not more than 20 years from the date of issue, shall be dated such date, upon original issuance, shall mature in such principal amounts on such dates, and shall be subject to such redemption provisions, all as shall subsequently be approved by the Mayor pursuant to the execution and delivery by the Mayor of a Certificate of Determinations with respect to the Series 2016 A Bonds, dated the date of the Bond Purchase Agreement, the form of which is attached hereto as EXHIBIT A and approved hereby (the “Certificate of Determinations”), and shall be substantially in the form set forth in the Ordinance, provided however, that the specific terms of the Series 2016 A Bonds shall be as determined by the Mayor at the time of the execution of the Bond Purchase Agreement and as approved by the Mayor in the Certificate of Determinations.

Section 4. The Bond Purchase Agreement by and between the Original Purchaser and the Issuer, substantially in the form to be approved pursuant to the execution and delivery by the Mayor of the Certificate of Determinations, and the execution and delivery (in multiple counterparts) by the Mayor thereof shall be and the same are hereby authorized, approved, and directed. The Mayor shall execute the Bond Purchase Agreement on behalf of the Issuer with such changes, insertions and omissions as may be approved by the Mayor. The execution of the Bond Purchase Agreement by the Mayor shall be conclusive evidence of any approval required by this Section, and authorization of any action required by the Bond Purchase Agreement relating to the issuance and sale of the Series 2016 A Bonds, including the payment of all necessary fees and expenses in connection therewith.

Section 5. A. The Tax and Non Arbitrage Certificate, to be dated the date of execution and delivery of the Series 2016 A Bonds (the “Tax Certificate”), and executed and delivered by the Issuer, substantially in the form to be approved pursuant to the execution and delivery by the Mayor of the Certificate of Determinations, and the execution and delivery (in multiple counterparts) by the Mayor thereof shall be and the same are hereby authorized, approved and directed. The Mayor shall execute and deliver the Tax Certificate with such changes, insertions and omissions as may be approved by the Mayor. The execution of the Tax Certificate by the Mayor shall be conclusive evidence of any approval required by this Section.

B. The Issuer hereby ratifies the Post-Issuance Compliance Policy adopted July 1, 2015.

Section 6. The Disclosure Dissemination Agent Agreement, to be dated the date of execution and delivery of the Series 2016 A Bonds (the “Disclosure Agreement”), by and between the Issuer and the Dissemination Agent named therein, substantially in the form to be approved pursuant to the execution and delivery by the Mayor of the Certificate of Determinations, and the execution and delivery (in multiple counterparts) by the Mayor thereof shall be and the same are

hereby authorized, approved and directed. The Mayor shall execute and deliver the Disclosure Agreement with such changes, insertions and omissions as may be approved by the Mayor. The execution of the Disclosure Agreement by the Mayor shall be conclusive evidence of any approval required by this Section.

Section 7. The distribution by the Original Purchaser of a Preliminary Official Statement (which is a “deemed final” official statement in accordance with SEC Rule 15c2-12), substantially in the form attached hereto as EXHIBIT B, is hereby ratified and approved. The certificate of the Issuer relating to compliance with SEC Rule 15c2-12 and the execution and delivery thereof by the Mayor is hereby approved. The Official Statement to be substantially in the form of the Preliminary Official Statement, (with such changes, insertions and omissions as may be necessary or advisable in the opinion of the Mayor) and the distribution of counterparts or copies thereof by the Original Purchaser are hereby approved. The Mayor shall execute and deliver the Official Statement with such changes, insertions and omissions as may be approved. The execution of the Official Statement by the Mayor shall be conclusive evidence of any approval required by this Section.

Section 8. The Registrar Agreement by and between the Issuer and the Registrar designated herein, substantially in the form to be approved pursuant to the execution and delivery by the Mayor of the Certificate of Determinations, and the execution and delivery (in multiple counterparts) by the Mayor thereof shall be and the same are hereby authorized, approved and directed. The Bond Construction Fund Agreement by and between the Issuer and the Depository Bank designated herein, substantially in the form to be approved pursuant to the execution and delivery by the Mayor of the Certificate of Determinations, and the execution and delivery (in multiple counterparts) by the Mayor thereof shall be and the same are hereby authorized, approved and directed. The Mayor shall execute and deliver the Registrar Agreement and Bond Construction Fund Agreement with such changes, insertions and omissions as may be approved by the Mayor. The execution of the Registrar Agreement and Bond Construction Fund Agreement by the Mayor shall be conclusive evidence of any approval required by this Section.

Section 9. The firm of Jackson Kelly PLLC, Charleston, West Virginia, is hereby appointed bond counsel to the Issuer in connection with the issuance of the Series 2016 A Bonds.

Section 10. The Issuer does hereby appoint and designate United Bank, Inc., Charleston, West Virginia for the purpose of serving in the capacity of Registrar.

Section 11. The Issuer does hereby appoint and designate the West Virginia Municipal Bond Commission for the purpose of serving in the capacity of Paying Agent.

Section 12. The notice addresses for the Registrar/Depository Bank, Paying Agent and Original Purchaser shall be set forth in the Certificate of Determinations

Section 13. The Issuer may, in the Mayor’s sole discretion, if determined to be financially advantageous, acquire a Municipal Bond Insurance Policy to secure the payment of the principal of, and interest on, the Series 2016 A Bonds. In the event a Municipal Bond Insurance Policy is obtained, additional covenants and provisions of the Issuer may be required by the Bond Insurer

as a condition to insuring the Series 2016 A Bonds. These additional covenants and provisions shall be set forth in the Certificate of Determinations, shall apply to the Series 2016 A Bonds, and shall be supplemental to, and amendatory of, the Ordinance and this Supplemental Resolution, and shall be controlling in the event any other provisions of the Ordinance and this Supplemental Resolution may be in conflict therewith.

Section 14. The Issuer may, in the Mayor's sole discretion, if determined to be financially advantageous, acquire a Municipal Bond Debt Service Reserve Insurance Policy to fund the Series 2016 A Bonds Debt Service Reserve Fund for the Series 2016 A Bonds. In the event a Municipal Bond Debt Service Reserve Insurance Policy is obtained, additional covenants and provisions of the Issuer may be required by the Bond Insurer as a condition to providing the Municipal Bond Debt Service Reserve Insurance Policy for the Series 2016 A Bonds Debt Service Reserve Fund. These additional covenants and provisions shall be set forth in the Certificate of Determinations, shall apply to the Series 2016 A Bonds, and shall be supplemental to, and amendatory of, the Ordinance and this Supplemental Resolution, and shall be controlling in the event any other provisions of the Ordinance and this Supplemental Resolution may be in conflict therewith.

Section 15. The rate covenant set forth in Section 6.03 of Ordinance No. 4423 is hereby ratified and confirmed as applicable for the Series 2016 A Bonds:

Section 6.03. Rates. Prior to the issuance of the Original Bonds, equitable rates or charges for the use of and service rendered by the System will be established all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file in the office of the City Clerk, each of which copies will be open to inspection by all interested parties. The rates and charges shall be effective as prescribed by the rules and regulations of the PSC. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from the System sufficient to pay the Operating Expenses of the System and to make the prescribed payments into the funds and accounts created hereunder and under the Prior Ordinance. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the City hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient (i) to provide for all reasonable Operating Expenses of the System, and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year to pay the principal of and interest on the Original Bonds and all other obligations secured by or payable from the revenues of the System prior to or on a parity with the Original Bonds; provided, however, in the event that an amount at least equal to or in excess of the Reserve Account Requirement is on deposit in the Subordinate Reserve Account, an amount at least equal to the Supplemental Reserve Requirement is on deposit in the Supplemental Reserve Account and any reserve account for the Prior Bonds is funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and

interest on the Original Bonds and any such prior or parity obligations including the Prior Bonds.

Section 16. The parity test set forth in Section 6.07 of Ordinance No. I 4423 is hereby ratified and confirmed as applicable for the Series 2016 A Bonds:

Section 6.07. Parity Bonds. No Parity Bonds payable out of the revenues of the System shall be issued after the issuance of any Bonds pursuant hereto, except under the conditions and in the manner herein provided. Except as expressly provided herein, no Parity Subordinate Bonds shall be issued so long as any Supplemental Bond remains Outstanding.

No such Parity Bonds shall be issued except for the purpose of financing the costs of the construction or acquisition of extensions, improvements and betterments and to the System or refunding one or more series of Bonds issued hereunder or both such purposes.

No Parity Bonds shall be issued at any time, however, unless there has been procured and filed with the City Clerk a written statement by the Independent Certified Public Accountants, based upon the necessary investigation and certification by the Consulting Engineers, reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided, from the System during any twelve (12) consecutive months within the eighteen (18) months immediately preceding the date of the actual issuance of such Parity Bonds, plus the estimated average increased annual Net Revenues to be received in each of the three (3) succeeding years after the completion of the improvements to be financed by such Parity Bonds, shall not be less than one hundred and fifteen percent (115%) of the maximum debt service in any succeeding year on the following:

- (A) The Prior Bonds;
- (B) The Bonds then Outstanding;
- (C) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Ordinance then Outstanding; and
- D) The Parity Bonds then proposed to be issued.

The “estimated average increased annual Net Revenues to be received in each of the three (3) succeeding years,” as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from any increase in rates enacted by the City, the time for appeal of which shall have expired prior to the date of delivery of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the Consulting Engineers, which shall be filed in the office of the Clerk prior to the issuance of such Parity Bonds.

The Net Revenues actually derived from the System during the twelve (12) consecutive month period hereinabove referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of the Consulting Engineers and the said Independent Certified Public Accountants, as stated in a certificate jointly made and signed by the Consulting Engineers and said Independent Certified Public Accountants, on account of increased rates, rentals, fees and charges for the System enacted by the City, the time for appeal of which shall have expired prior to issuance of such Parity Bonds.

Not later than simultaneously with the delivery of such Parity Bonds, the City shall have entered into written contracts for the immediate acquisition or construction of such extensions, improvements and betterments to the System which are to be financed by such Parity Bonds.

Section 17. The Mayor and City Clerk are hereby authorized and directed to execute and deliver such other documents and certificates, required or desirable in connection with the Series 2016 A Bonds issue to the end that the Series 2016 A Bonds may be delivered as provided in the Bond Purchase Agreement.

Section 18. The financing of the project with proceeds of the Series 2016 A Bonds is in the public interest, serves a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 19. The Mayor and City Clerk, and all other appropriate officers and employees of the Issuer are hereby authorized, empowered and directed to do any and all things proper and necessary to cause the Series 2016 A Bonds to be duly and properly issued by the Issuer and delivered to the Original Purchaser as herein authorized and to otherwise facilitate the transaction contemplated by this Supplemental Resolution, and no further authority shall be necessary to authorize any such officers or employees to give such further assurance and do such further acts as may be legally required.

Section 20. This Supplemental Resolution shall be effective immediately following adoption hereof.

Councilman Reishman moved to approve the Resolution. Councilman Ware seconded the motion. With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution 778-16 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.

The bid submitted by Finley Fire Equipment in the total amount of \$38,190 for purchase of eleven (11) Scott Spare Air Cylinders (\$8,195) and five (5) Scott Air Packs (\$29,995) to be used by the Charleston Fire Department.

To be charged to Account No. 001-976-00-706-4-459, Fire—Capital Outlay, Equipment

Councilman Reishman moved to approve the Resolution. Councilman Ware 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 bill, and reports the same to Council with the recommendation that Bill No. 7703 do pass.

Bill No. 7703: A BILL releasing the possibility of reverter contained in the deed dated June 23, 2000 from the City of Charleston to the Henry Highland Garnet Foundation that conveyed the Samuel Starks House located at 413 Shrewsbury Street, Charleston, West Virginia. This bill further authorizes the City Manager or his designee to execute any documents necessary for the execution of the release, and the transfer of 413 Shrewsbury Street from the Henry Highland Garnet Foundation to the Garnet High School Alumni Association.

WHEREAS, 413 Shrewsbury Street was the home of Samuel W. Starks, a nationally prominent African-American businessman and community leader in Charleston, and is known as the Samuel W. Starks House, and is part of the Block Historic District; and

WHEREAS, in 2000, the City deeded the Samuel Starks House to the Henry Highland Garnet Foundation, an organization dedicated to honoring the memory and educational contributions of Garnet High School, for \$100.00; and

WHEREAS, the 2000 deed included a possibility of reverter if certain restrictive covenants were violated and the City would pay the Henry Highland Garnet Foundation \$100 for the reversion; and

WHEREAS, in March 2016, the Board of Directors of the Henry Highland Garnet Foundation voted to move the foundation from the Samuel W. Starks House; therefore the covenant that the Samuel W. Starks House be used for the purposes of the Henry Highland Garnet Foundation will be violated; and

WHEREAS, the Garnet High School Alumni Association has expressed its desire to own and occupy the Samuel W. Starks House as offices for its association, and for the possible development of a museum dedicated to the history of Garnet High School and the City desires to support the organizational purposes of the Garnet High School Alumni Association through the conveyance of the Samuel W. Starks House to the Garnet High School Alumni Association; and

WHEREAS, the City has determined that the most expedient and cost efficient way to accomplish the property transfer is through a release of the reversionary clause, allowing the Henry Highland Garnet Foundation to convey the property directly to the Garnet High School Alumni Association;

WHEREAS, The City acknowledges that a release of the possibility of reverter and the transfer of the real property shall require execution of certain documents.

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

That the possibility of reverter contained in the deed dated June 23, 2000 from the City of Charleston to the Henry Highland Garnet Foundation that conveyed the Samuel Starks House located at 413 Shrewsbury Street, Charleston, West Virginia is hereby released and the City Manager or his designee are hereby authorized to execute any documents necessary for the execution of the release, and the transfer of 413 Shrewsbury Street from the Henry Highland Garnet Foundation to the Garnet High School Alumni Association.

Councilman Reishman moved to approve the Bill. Councilman Ware seconded the motion. A roll call was taken:

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

NAYS: NONE

ABSENT: Chestnut, Faegre, Lane

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7703 adopted.

REPORTS OF OFFICERS

1. City of Charleston, WV – City Treasurer’s Report to City Council month ending June 2016.
Received and Filed.

NEW BILLS

Introduced by Council member James Ealy

Bill No. 7704 - A Bill to establish two handicapped parking zones on 6th Avenue from a point 86 feet east from Bream Street to a point 130 feet east from Bream Street, and amending the Traffic Control Map and Traffic Control File.

Refer to Streets and Traffic Committee

Introduced by Council member Archie Chestnut

Bill No. 7705 - A Bill to establish a no parking zone on Downing Street from a point 126 feet from Dominion Place to a point 218 feet from Dominion Place, and amending the Traffic Control Map and Traffic Control File

Refer to Streets and Traffic Committee

ADJOURNMENT

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

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

NAYS: NONE

ABSENT: Chestnut, Faegre, Lane

At 7:26 p.m., by a motion from Councilmember Harrison, Council adjourned until Monday, August 15, 2016, at 7:00 p.m., in the Council Chamber in City Hall.

Danny Jones, Honorable Mayor

JB Akers, City Clerk