



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

CITY OF CHARLESTON, WEST VIRGINIA

Regular Meeting – Monday, October 20, 2014

at 7:00 P.M.

Council Chamber – City Hall – Charleston, West Virginia

OFFICIAL RECORD

**Danny Jones
Mayor**

**James M. Reishman
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 October on the 20th day, in the year 2014, and was called to order by the Honorable Mayor, Danny Jones. The invocation was delivered by Councilman Richardson and the Pledge of Allegiance was led by Councilman Miller. The Honorable James M. Reishman, City Clerk, called the roll of members and it was found that there were present at the time:

**BURKA
DAVIS
EALY
HOOVER
LANE
NICHOLS
RICHARDSON
SHEETS
TALKINGTON
MAYOR JONES**

**BURTON
DENEALT
HAAS
KIRK
MILLER
PERSINGER

SMITH
WARE**

**CLOWSER
DODRILL
HARRISON
KNAUFF

REISHMAN
SALISBURY
SNODGRASS
WHITE**

With twenty-six 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.

CLAIMS

1. A claim of Reginald and Aubrey Smith, 700 Gordon Drive, Charleston, WV; alleges damage to personal property.
Referred to City Solicitor.

2. A claim of Berthel Turner, 430 21st Street, W, Charleston, WV; alleges damage to personal property.
Referred to City Solicitor.

REPORTS OF COMMITTEES

COMMITTEE ON PARKING FACILITIES

Councilperson Robert Reishman, Chairperson of the Council Committee on Finance, submitted the following reports:

1. Your committee on Parking Facilities has had under consideration Resolution No. 507-14 and reports the same to Council with the recommendation that the resolution do pass.

Resolution No. 507-14 : Authorizing **“Citizen Appreciation Parking”** for Saturday, November 29, 2014, and three Saturdays in December 2014 (December 6th, 13th, and 20th). **“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 \$1,000 per Saturday.

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

That **“Citizen Appreciation Parking”** for Saturday, November 29, 2014, and three Saturdays in December 2014 (December 6th, 13th, and 20th), to include the waiving of hourly 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 \$1,000 per Saturday, is hereby approved.

Resolution will be voted upon under the finance section of Council. *Received and Filed.*

COMMITTEE ON FINANCE

Councilperson Robert Reishman, Chairperson of the Council Committee on Finance, submitted the following reports:

1. Your committee on Finance has had under consideration Resolution No. 507-14, and reports the same to Council with the recommendation that the resolution do pass.

Resolution No. 507-14 : Authorizing ***“Citizen Appreciation Parking”*** for Saturday, November 29, 2014, and three Saturdays in December 2014 (December 6th, 13th, and 20th). ***“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 \$1,000 per Saturday.

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

That ***“Citizen Appreciation Parking”*** for Saturday, November 29, 2014, and three Saturdays in December 2014 (December 6th, 13th, and 20th), to include the waiving of hourly 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 \$1,000 per Saturday, is hereby approved.

To be charged to Account No. 001-409-00-000-5-568, Mayor – Other Contributions

Councilman Reishman moved to approve the Resolution. Councilman Lane seconded the motion. With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution 507-14 adopted.

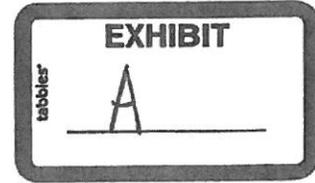
2. Your committee on Finance has had under consideration Resolution No. 508-14, and reports the same to Council with the recommendation that the resolution do pass.

Resolution No. 508-14: “A Resolution authorizing the Mayor and/or City Manager to (i) enter into a Lease Amendment between the City of Charleston (the “City”) and Shaner SPE Associates Limited Partnership (the “Lessee”), a copy of which is attached hereto as Exhibit A, which provides for three additional five year renewal terms (extending the term from 2029 to 2044 if all options to renewal are exercised at a rate of \$71,000.00 per year, subject to the escalation clause contained in Exhibit A); and (ii) execute a related Landlord Estoppel Certificate Agreement regarding said lease (in favor of JPMorgan Chase Bank, National Association) attached hereto as Exhibit B, all subject to final review and approval by legal counsel for the City.”

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

That the Mayor and/or City Manager are hereby authorized to (i) enter into a Lease Amendment between the City and the Lessee, a copy of which is attached hereto as Exhibit A, and (ii) to execute a related Landlord Estoppel Certificate Agreement regarding said lease, a copy of which is attached hereto as Exhibit B, all subject to final review and approval by legal counsel for the City.

Councilman Reishman moved to approve the Resolution. Councilman Lane seconded the motion. With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution 508-14 adopted.



LEASE AMENDMENT

THIS LEASE AMENDMENT ("Amendment") is made at the City of Charleston, Kanawha County, West Virginia, as of the ___ day of _____ 2014, by and between THE CITY OF CHARLESTON, WEST VIRGINIA, a municipal corporation, hereinafter referred to as "LESSOR", and SHANER SPE ASSOCIATES LIMITED PARTNERSHIP, a Delaware limited partnership, hereinafter referred to as "LESSEE".

RECITALS

By Lease dated December 18, 1973, of record in Kanawha County, West Virginia, lease Book 190, at page 627, as amended by Amended Lease dated December 3, 1974 (the two agreements are collectively the "Lease"), the City of Charleston, West Virginia, leased to Doridon Corporation a parcel of land comprising 34,989.21 square feet located in the City of Charleston, West Virginia.

By Confirmatory Assignment dated August 4, 1987, of record in Kanawha County, West Virginia, Assignment Book 115, at page 733, Doridon Corporation assigned to Columbia Sussex Corporation all of its rights, title, obligations, and interest as tenant under the Lease.

By Assignment dated December 15, 1999, of record in Kanawha County West Virginia, assignment book 172, at page 282, Columbia Sussex Corporation assigned to Lance Shaner Hotel Limited Partnership all of its rights, title, obligations, and interest as tenant under the Lease.

By Lease Amendment and Consent to Assignment dated December 15, 1999, of record in Kanawha County, West Virginia, lease book 245, at page 961, LESSOR and Lance Shaner Hotel Limited Partnership amended certain terms of the Lease, and the LESSOR consented to the assignment of the Lease.

By Assignment and Assumption of Ground Lease dated as of August 15, 2001, of record in Kanawha County West Virginia, Assignment Book 183, at page 295, Lance Shaner Hotel Limited Partnership assigned all of its rights, title, obligations, and interest in the Lease, as amended, to Shaner Hotel Group Properties Three Limited Partnership.

By Assignment and Assumption of Ground Lease dated as of August 15, 2005, of record in Kanawha County, West Virginia, Assignment Book 207, at page 765, Shaner Hotel Group Properties Three Limited Partnership assigned all of its rights, title, obligations, and interest in the Lease, as amended to LESSEE.

WITNESSETH:

That for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. The provisions of the Lease regarding the term of the Lease are hereby amended and restated in their entirety to provide as follows:

The term of the Lease shall continue until midnight on December 31, 2019, and, provided there is no notice of default and that the tenant has fully performed all of its covenants, then such terms shall be automatically renewed thereafter for five additional five-year terms, to commence immediately following the expiration of the then current term, unless LESSEE gives written notice to LESSOR not less than 180 days prior to the expiration of the then current term that LESSEE will not renew the Lease.

2. Effective January 1, 2000, and continuing thereafter until modified as provided hereinafter, the rent payable by LESSEE under the Lease shall be Seventy-One Thousand Dollars (\$71,000.00) per year, payable on or before the first day of each and every month of the Lease in installments of Five Thousand Nine Hundred Sixteen Dollars and Sixty-Seven Cents (\$5,916.67). The rent payable during each five-year renewal term, if the term hereof is renewed, shall be adjusted to reflect increases, and not decreases which occur in the Consumer Price Index US City Average, All Items and Major Group Figures for Urban Wage Earners and Clerical Workers (1984 = 100), as compiled and published by the Bureau of Labor Statistics (the "CPI"), United States Department of Labor, and said Index for January 1, 2000, shall be taken as the base factor for the purpose of computing adjustment in rent. Adjustments in rent shall be calculated and effective at the commencement of each renewal term for the ensuing five-year period by dividing the Index for the month immediately preceding such renewal term (numerator) by said base factor (denominator) and by multiplying the resulting figure by the monthly rent specified herein. The adjustment for the first five year renewal period shall be made using Eighty-four Thousand Dollars (\$84,000.00) as the base rental prior to adjustment. The adjustment for the second, third, fourth, and fifth five year renewal periods shall be made using the base rental from the expiring period as the base rental and adjusted by the CPI by the preceding five year period only.
3. Except as expressly provided in this Amendment, the Lease shall, in all other respects, remain in full force and effect in accordance with its terms.

THE CITY OF CHARLESTON, WEST
VIRGINIA, a municipal corporation

By _____
Its Mayor

ATTEST:

Clerk

SHANER SPE ASSOCIATES LIMITED
PARTNERSHIP

By _____

Its _____

ATTEST:

Title _____

STATE OF WEST VIRGINIA;
COUNTY OF KANAWHA, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by Danny Jones the Mayor of the CITY OF CHARLESTON, WEST VIRGINIA, a municipal corporation, on behalf of said corporation.

My commission expires _____.

NOTARY PUBLIC

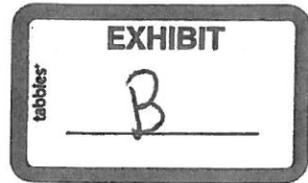
STATE OF _____;

COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by _____, the _____ of SHANER SPE ASSOCIATES LIMITED PARTNERSHIP, a Delaware limited partnership.

My commission expires _____.

NOTARY PUBLIC



LANDLORD ESTOPPEL CERTIFICATE & AGREEMENT

Re: THE CITY OF CHARLESTON, WEST VIRGINIA, a municipal Corporation, as the landlord ("Landlord") and Shaner SPE Associates Limited Partnership, as the tenant ("Tenant") under a certain lease which is described in Schedule A attached hereto (the "Ground Lease") covering certain real property known as the Holiday Inn Civic Center, located at 100 Civic Center Drive, Charleston, West Virginia (the "Premises"). Capitalized terms used herein shall have the meanings set forth in the Ground Lease.

You have advised us that (i) the Tenant's leasehold interest in the premises will be mortgaged by the Tenant in favor of JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, a national banking association chartered under the laws of the United States of America, having an address at 383 Madison Avenue, New York, New York 10179 (together with its successors and assigns, "Mortgage Lender"), in connection with a loan in an amount of \$[] (the "Mortgage Loan"), secured by, inter alia, the Deed of Trust (as defined below) and (ii) [] will pledge 100% of the direct and/or indirect ownership interests in Tenant to JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, a national banking association chartered under the laws of the United States of America, having an address at 383 Madison Avenue, New York, New York 10179 (together with its successors and assigns, "Mezzanine Lender", and together with Mortgage Lender, collectively, "Lender"), as security for one or more mezzanine loans in an amount of \$[] (the "Mezzanine Loan", together with the Mortgage Loan, the "Loan").

In connection with the Loans, the Landlord hereby certifies to (i) Mortgage Lender, its successors and assigns, (ii) Mezzanine Lender, its successors and assigns, and (iii) Lender's title insurer, Chicago Title Insurance Company (the "Title Company") that:

1. The Ground Lease has not been modified, amended, renewed or extended from the date of its execution to the date hereof, except as indicated in Schedule A attached hereto, is in full force and effect on the date hereof in accordance with its terms and, to the Landlord's actual present knowledge, has not been assigned by Tenant.

2. Landlord hereby acknowledges and consents to the transfer of Tenant's leasehold interest pursuant to the Lease in conjunction with the closing of the Mortgage Loan and the Mezzanine Loan to Shaner Charleston LLC, and hereby recognizes and confirms that upon completion of such transfer Shaner Charleston LLC, as the successor tenant, shall be the Lessee (as defined in Ground Lease) for all purposes under the Ground Lease.

3. The term of the Ground Lease commenced on December 18, 1973 and will expire on August 31, 2023 unless renewed or extended in accordance with its terms.

4. There are no rights of renewal or extension under the Ground Lease, except as follows: [] [UPDATE BASED ON AMENDMENT].

5. The basic rent payable under the Ground Lease is \$71,000 per year.

6. The basic rent, additional rent and all other charges, including, without limitation, all real estate taxes and assessments, payable by Tenant, have been paid to the date hereof.

7. Tenant has made no prepayment of any basic rent due under the Ground Lease.

8. To the best of Landlord's knowledge, neither Landlord nor Tenant is in default under any of the terms or provisions of the Ground Lease and Landlord knows of no condition or event which, with the giving of notice, the passage of time, or both, would constitute a default by the Tenant in the performance of its obligations under the Ground Lease.

9. To the best of Landlord's knowledge, there are no rights of offset, abatement or reduction of basic rent presently accruing to Tenant by reason of any provision of the Ground Lease or otherwise.

10. Landlord acknowledges receipt of a copy of a certain Leasehold Deed of Trust, Assignment of Leases and Rents and Security Agreement made by Tenant to _____, as trustee for the benefit of Lender, dated as of _____, 2014, covering all of Tenant's right, title and interest in and to the Ground Lease and the leasehold estate created thereby (the "Deed of Trust"), together with a certain Notice of Leasehold Deed of Trust, dated as of _____, 2014, identifying Mortgage Lender as the holder of the Deed of Trust and giving their address.

11. Landlord acknowledges and confirms that the Deed of Trust is permitted under the terms of the Ground Lease and that Mortgage Lender and Mezzanine Lender are each parties to whom a copy of all notices of default shall be given by Landlord pursuant to Article XIV of the Ground Lease. Landlord further agrees that no notice given is effective against Mortgage Lender or Mezzanine Lender, their successors and assigns, unless a copy of such notice is timely delivered to Mortgage Lender and Mezzanine Lender.

12. Landlord agrees that there shall be no merger resulting from the acquisition by, or devolution upon, any one entity of the fee and the leasehold estates in the Premises, without the prior written consent of Permitted Mortgagee.

13. This Certificate is given by Landlord pursuant to Article XVII of the Ground Lease and may be relied upon by Tenant, Lender, Mezzanine Lender, the Title Company and their respective successors and assigns.

14. Notwithstanding anything to the contrary in the Ground Lease, so long any of the Loans are outstanding, Landlord hereby acknowledges and agrees that the Ground Lease may be assigned by the Tenant (and the Mortgage Lender if and when it becomes the Tenant thereunder or the Mezzanine Lender if it owns all of the direct and/or indirect ownership interests in Tenant) and any space in any of the improvements on the premises demised hereunder may be sublet by the Tenant (and the Mortgage Lender if and when it becomes the Tenant hereunder or the Mezzanine Lender if it owns all of the direct and/or indirect ownership interests in Tenant), each with the written consent of the Landlord, which shall not unreasonably be withheld.

15. Landlord hereby acknowledges and consents to the Mezzanine Loans and agrees that Mezzanine Lender shall be permitted to foreclose its pledge of the direct and/or indirect ownership interests in Tenant without any consent of Landlord or the payment of any fee to Landlord.

16. Landlord hereby acknowledges that all of the leasehold mortgage protection provisions contained in the Ground Lease, including but not limited to Articles X and XI, and all other provisions inuring to the benefit of mortgagees or their successors and assigns are hereby incorporated into this agreement by reference and restated and confirmed by Landlord for the benefit of each of Mortgage Lender and Mezzanine Lender and their respective successors and assigns.

17. Unless otherwise notified by Lender, copies of any notices to Tenant shall be sent to Lender at the following address:

JPMorgan Chase Bank, National Association
383 Madison Avenue, 31st Floor
New York, New York 10179
Attention: Joseph E. Geoghan
Facsimile No.: (212) 834-6029

with a copy to:

JPMorgan Chase Bank, National Association
SPG Middle Office/CIB
383 Madison Avenue, 26th Floor
New York, New York 10178
Attention: Nancy S. Alto
Facsimile No.: (917) 546-2564

and
Kelley Drye & Warren LLP
200 Kimball Drive
Parsippany, New Jersey 07054
Attention: Paul A. Keenan
Facsimile No.: (212) 808-7897

Each of Mortgage Lender and Mezzanine Lender may change the address by giving written notice of such change of address to Landlord. Landlord acknowledges that this Certificate satisfies all notice requirements, if any, in the Ground Lease with respect to the Mortgage Loan and the Mezzanine Loan.

18. Notwithstanding anything to the contrary in the Ground Lease, so long any Loan is outstanding, Landlord hereby acknowledges and agrees that the Ground Lease may be assigned by Tenant (and the Mortgage Lender if and when it becomes the tenant under the Ground Lease or the Mezzanine Lender if it owns all of the direct or indirect ownership interests in Tenant) and any space in any of the improvements on the premises demised hereunder may be

sublet by Tenant (and the Mortgage Lender if and when it becomes the tenant under the Ground Lease or the Mezzanine Lender if it owns all of the direct or indirect ownership interests in Tenant), each with the written consent of the Landlord, which shall not unreasonably be withheld.

19. This Certificate is given by Landlord pursuant to the Ground Lease and may be relied upon by Tenant, Mortgage Lender, Mezzanine Lender, the Title Company and their respective successors and assigns.

[Signatures appear on the following page]

IN WITNESS WHEREOF, Landlord has caused this Estoppel Certificate to be
duly executed and delivered on this _____ day of _____ 2014.

ATTEST

CITY OF CHARLESTON, WEST
VIRGINIA, municipal corporation

By: _____
Its Mayor

Schedule A

Description of Ground Lease

Lease dated December 18, 1973, of record in Kanawha County, West Virginia, Lease Book 190, at page 627 (the "Original Lease"), and amended by Amended Lease dated December 3, 1974, of record in Kanawha County, West Virginia, Lease Book 245, at page 936 (the "Amended Lease"), the City of Charleston, West Virginia (the "Lessor"), leased to Doridon Corporation land containing 34,989.21 square feet located in the City of Charleston, West Virginia. (the Original Lease and Amended Lease are hereinafter collectively referred to as the "Lease").

By Confirmatory Assignment dated August 4, 1987, of record in Kanawha County, West Virginia, Assignment Book 115, at page 733, Doridon Corporation assigned all of its right, title and interest in the Lease to Columbia Sussex Corporation.

By Assignment dated as of December 15, 1999, of record in Kanawha County, West Virginia, Assignment Book 172, at page 282, Columbia Sussex Corporation assigned all of its right, title and interest in the Lease to Lance Shaner Hotel Limited Partnership (the "Assignor").

By Lease Amendment and Consent to Assignment dated as of December 15, 1999, of record in Kanawha County, West Virginia, Lease Book 245 at page 961, the Lessor and Assignor amended certain terms of the Lease, and the Lessor consented to the assignment of the Lease.

By Assignment and Assumption of Ground Lease dated as of August 15, 2001, of record in Kanawha County, West Virginia, Assignment Book 183 at page 295, Assignor assigned all of its right, title and interest in the Lease, as amended, to Shaner Hotel Group Properties Three Limited Partnership.

By Assignment and Assumption of Ground Lease dated as of August 15, 2005, of record in Kanawha County, West Virginia, Assignment Book 207 at page 765, Shaner Hotel Group Properties Three Limited Partnership assigned all of its right, title and interest in the Lease, as amended, to Shaner SPE Associates Limited Partnership.

By [Second Amendment to Amended Lease] dated as of _____, 2014, of record in Kanawha County, West Virginia, Lease Book ____ at page _____, Lessor and Tenant amended certain terms of the Lease.

OLD BUSINESS

The Clerk read Bill No. 7633:

Bill No: 7633

Introduction Date:

August 4, 2014

Adoption Date:

Sponsors:

Bobby Reishman , Mary Jean Davis

Jack Harrison

Additional Sponsors: Ed Talkington

Joe Deneault, Mary Beth Hoover,

Susie Salisbury, Tom Lane, John Miller,

Any Richardson, Rick Burka, Jerry Ware,

Bobby Haas, James Ealy, Bill Kirk, Bob White

Referred to:

Finance

Bill No. 7633: An ordinance amending Sections 111-3, 111-4, 111-14 and 111-15 of Chapter 111 of the Code of the City of Charleston increasing the rate of the municipal sales and use tax and creating the Uniform Pensions Reserve Fund, a special revenue fund dedicated to police and fire pension obligations.

WHEREAS, on April 19, 2013, pursuant to the initial Municipal Home Rule Pilot Program under W. Va. Code § 8-1-5a (2007), the Municipal Home Rule Board approved an amendment to the City of Charleston Home Rule Plan authorizing the City of Charleston (“City”) to enact a consumer sales tax and use tax without the limiting restrictions of W. Va. Code § 8-13C-1 *et seq.*; and

WHEREAS, on May 20, 2013, the City lawfully enacted its consumers sales and use tax by ordinance and designated a rate of one-half of one percent; and

WHEREAS, the City’s consumers sales and use taxes have been collected by vendors and paid by taxpayers since October 1, 2013, and revenues from those taxes have been deposited in a special revenue fund, known as the “City Sales and Use Tax Fund”, dedicated to financing improvements to the Charleston Convention and Civic Center or for other related/subsequent economic development or public safety projects. The “City Sales and Use Tax Fund” is not part of the general revenues of the City; and

WHEREAS, the City has determined that it is in the best interest of the City to increase the sales and use tax rate to one percent to help defray the mounting obligations for police and fire pensions that are threatening the City’s ability: to provide essential services at a level necessary to accomplish the objectives to be served by an expansion, improvement and rehabilitation of the Charleston Convention and Civic Center; to operate and maintain the expansion and improvements to the Charleston Convention and Civic Center; to attract more residents and visitors to the City; and to facilitate economic development and growth within the City; and

WHEREAS, pursuant to the W. Va. Code § 8-1-5a, as amended, ordinances enacted by the four participating municipalities in the initial Home Rule Pilot Program are authorized to remain in effect (W. Va. Code § 8-1-5a(b)), but any amendment thereto must be approved by the Municipal Home Rule Board consistent with the procedures set forth in W. Va. Code § 8-1-5a(i);

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

Sections 111-3, 111-4, 111-14 and 111-15 of Chapter 111 of the Code of the City of Charleston are hereby amended to read as follows:

Chapter 111. CONSUMERS SALES AND USE TAXES

Section 111-3. Imposition of consumers sales and service tax.

For the privilege of selling tangible personal property or customer software and for the privilege of furnishing certain selected services, a vendor doing business in this city shall collect from the purchaser the taxes imposed by this section and pay the amount of taxes collected to the tax commissioner at the same time and in the same manner as the consumers sales and service tax imposed by article fifteen, chapter eleven of the Code of West Virginia, 1931, as amended. The rate of tax shall be one-half of one percent of the sales price, as defined in section two, article fifteen-b, chapter eleven of the Code of West Virginia, 1931, as amended, of the tangible personal property, custom software or taxable service purchased: Provided, That for sales of tangible personal property, custom software and taxable services made on and after July 1, 2015, the rate of tax imposed by this section shall be one percent of the sales price.

Section 111-4. Imposition of use tax.

An excise tax is hereby levied and imposed on the use in this city of tangible personal property, custom software and the results of taxable services, to be collected and paid to the tax commissioner as agent for the city in the same manner that state use tax is collected under article fifteen-a and article fifteen-b, chapter eleven of the Code of West Virginia, 1931, as amended. The rate of tax shall be one-half of one percent of the purchase price, as defined in article fifteen-b, chapter eleven of the Code of West Virginia, of the tangible personal property, custom software or taxable service used within the city: Provided, That for tangible personal property, custom software and the results of taxable service used in the City of Charleston on and after July 1, 2015, the rate of tax imposed by this section shall be one percent of the purchase price.

Section 111-14. Deposit of taxes collected in special revenue funds.

(a) The special revenue fund in the City treasury previously established, designated and known as the City Sales and Use Tax Fund is hereby continued. There is hereby established a second special revenue fund in the city treasury, which shall be designated and known as the ~~city sales and use tax fund~~ Uniform Pensions Reserve Fund. The ~~City Sales and Use Tax Fund~~ shall consist of (1) continue to receive all revenues received from collection of the city's sales and use taxes, including any interest, additions to tax and penalties deposited with the city treasurer; until July 1 September 30, 2015. ; During the period of October 1 through October 31, 2015, or at such other time as the city treasurer receives the quarterly remittance from the State Tax Department representing collections for the period of June, July, and August, 2015, sixty percent (60%) of the revenues received from the taxes imposed by this chapter, including interest and additions to tax, shall be deposited in the City Sales and Use Tax Fund and forty percent (40%) of the revenues shall be deposited in the Uniform Pensions Reserve Fund. Beginning July 1 November 1, 2015, one-half (50%) of the revenues received from the taxes imposed by this chapter, including interest and additions to tax, shall be deposited in the City Sales and Use Tax Fund and the second half (50%) of the revenues shall be deposited in the Uniform Pensions Reserve Fund. Additionally, there shall be deposited in each Fund: (2)(1) all appropriations to the particular fund; (3)(2) all interest earned from investment of the particular fund; and (4)(3) any gifts, grants or contributions received and placed by the city into the ~~City Sales and Use Tax Fund~~ or the Uniform Pensions Reserve Fund. Revenues in the ~~City Sales and Use Tax Fund~~ and the Uniform Pensions Reserve Fund shall not be treated by any person to be a as general revenue of the city. Revenues in the ~~City Sales and Use Tax Fund~~ shall be disbursed in the manner and

consistent with the priorities set forth ~~for~~ in subsection (b) below. Revenues in the Uniform Pensions Reserve Fund shall be disbursed in the manner and consistent with the priorities set forth in subsection (c) below.

(b) Revenues in the ~~e~~City ~~s~~Sales and ~~u~~Use ~~t~~Tax ~~f~~Fund shall be used: (i) first, to satisfy the debt service requirements each fiscal year on any bonds issued by, or other obligations incurred by, the City, from time to time, including any refunding bonds, to finance improvements to the Charleston Convention and Civic Center and for any other economic development or public safety projects, including the funding of any reserve funds relating to any such bonds or other obligations, and/or to make lease payments which secure bonds issued to finance improvements to such convention and civic center or other economic development projects; and (ii) second, after providing for payment of first priority items, any unencumbered revenue in the ~~e~~City ~~s~~Sales and ~~u~~Use ~~t~~Tax ~~f~~Fund may periodically be transferred as necessary or convenient to the city's general revenue account.

(c) Revenues in the Uniform Pensions Reserve Fund shall be used: (i) first, to satisfy the balance of the benefit obligations imposed and assumed by the City on a pay-as-you-go basis for those members who have retired after election of as a result of electing the conservation method set forth in W.Va. Code 8-22-20(f) after first applying the member contributions and premium tax proceeds not required to be retained in the closed trusts pursuant to W.Va. Code 8-22-20(f)(2), and any other dedicated or designated income sources as authorized by law, to any such obligations; (ii) second, after providing for payment of first priority items, to satisfy the city's obligations to the Municipal Police Officers and Firefighters Retirement System for the new members hired after adoption of the conservation method as provided by W.Va. Code 8-22-20(f)(3) and 8-22a-1, et. seq.; and (iii) third, at such time as the actuarial report required by W.Va. Code 8-22-20(f) indicates no actuarial deficiency in the closed municipal policemen's or firemen's pension and relief funds, and after providing for payment of first and second priority items and normal costs as contemplated by W.Va. Code 8-22-20(f)(4), any remaining and unencumbered revenues may be transferred as necessary or convenient to the city's general revenue account; Provided: nothing herein shall preclude transfers from the Uniform Pensions Reserve Fund into the city's general revenue account or any other fund or account from time to time in such amounts as may be necessary or convenient to facilitate the payment of obligations or to accomplish the purposes herein, so long as consistent with the priorities set forth in this subsection.

Section 111-15. Effective date.

~~The ordinance from which this chapter derives shall take~~ This chapter was adopted by City Council on May 20, 2013 and took effect from its adoption by city council as provided in Section 41 of the charter of this city. By ordinance, the City suspended the collection of the sales and use taxes until the State Tax Commissioner could provide appropriate notice and lawfully collect the sales and use taxes on behalf of the City. The State Tax Commissioner began collection of the sales and use taxes authorized by this chapter on October 1, 2013. ~~Upon its adoption, the City attorney shall forthwith provide the tax commissioner with a certified copy of this ordinance along with a description of the boundaries of the city, the nine digit zip codes for addresses located within the boundaries of the city and such other information as the tax commissioner may need to administer, collect and enforce the taxes imposed by this chapter. Notwithstanding the fact that the ordinance from which this chapter derives is effective upon its adoption, collection by vendors of the taxes imposed by this chapter and payment of those taxes by purchasers is initially suspended and shall begin and first apply to sales and purchases made on and after the first day of the calendar quarter that begins at least 60 days after the tax commissioner first notifies vendors, as provided in W. Va. Code § 11-15B-35, of the adoption of this ordinance and their obligation to collect and remit the taxes imposed by this chapter, except that both collection and payment of the tax on sales made by catalogue is initially suspended and shall first apply to sales and purchases made by catalogue on and after the first day of the calendar quarter that begins at least 120 days after vendors making catalogue sales are first notified, as provided in W. Va. Code § 11-15B-35, of the adoption of the ordinance from which this chapter derives and their obligation to collect and remit the taxes imposed~~

~~by this chapter. All businesses selling tangible personal property or furnishing services subject to the tax imposed by this chapter on and after the first day of the calendar quarter on which collection begins shall, on and after that day, collect and remit the taxes imposed by this chapter whether or not they received notice from the tax commissioner under W. Va. Code § 11-15B-35.~~

BE IT FURTHER ORDAINED that this ordinance amending Sections 111-3, 111-4, 111-14 and 111-15 of Chapter 111 of the Code of the City of Charleston shall take effect from its adoption as provided in Section 41 of the charter of this City subject to the internal effective dates specified in this ordinance. Upon its adoption, the City Attorney shall forthwith provide the West Virginia State Tax Commissioner with a certified copy of this ordinance and the administration of the City is hereby authorized and directed to take all necessary action to implement the provisions of this ordinance.

The Finance Committee proposes the following amendments to Bill Number 7633:

1. On line 76, strike the date July 1, 2015, and replace it with the date September 30, 2015.
2. On line 76, after the substituted date of September 30, 2015, (See No. 1 above) add the following:

“During the period of October 1 through October 31, 2015, or at such other time as the city treasurer receives the quarterly remittance from the State Tax Department representing collections for the period of June, July, and August, 2015, sixty percent (60%) of the revenues received from the taxes imposed by this chapter, including interest and additions to tax, shall be deposited in the City Sales and Use Tax Fund and forty percent (40%) of the revenues shall be deposited in the Uniform Pensions Reserve Fund.”
3. On line 76, after the word “Beginning” strike the date July 1, 2015, and replace it with the date November 1, 2015.
4. Beginning on line 101 and continuing on to line 102, strike the words “as a result of electing”, and replace with the words “for those members who have retired after election of”.

RECEIVED AND FILED

REPORTS OF OFFICERS

1. City Treasurer’s Report to City Council Month Ending September 2014.

Received and Filed.

2. Report of the City of Charleston Payroll Variance Analysis; September 2014.

Received and Filed.

ADJOURNMENT

The Honorable James M. Reishman, City Clerk, called the closing roll call:

YEAS: Burka, Burton, Clowser, Davis, Deneault, Dodrill, Ealy, Haas, Harrison, Hoover, Kirk, Knauff, Lane, Miller, Nichols, Persinger, Reishman, Richardson, Salisbury, Sheets, Smith, Snodgrass Talkington, Ware, White, Mayor Jones.

ABSENT: Minardi, Russell

At 7:21 p.m., by a motion from Councilmember Harrison, Council adjourned until Monday, November 3, 2014, at 7:00 p.m., in the Council Chamber in City Hall.

Danny Jones, Honorable Mayor

James M. Reishman, City Clerk