



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

CITY OF CHARLESTON, WEST VIRGINIA

Regular Meeting – Monday, July 20, 2015

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 July on the 20th day, in the year 2015, and was called to order by the Honorable Mayor, Danny Jones. The invocation was delivered by Councilman Ealy and the Pledge of Allegiance was led by the Councilman Ware. The Clerk, James M. Reishman, called the roll of members and it was found that there were present at the time:

BURKA
CHESTNUT
EALY
HARRISON
LANE
OVERSTREET

SMITH
TALKINGTON

BURTON

FAEGRE
HOOVER
MILLER
PERSINGER
SALISBURY
SNODGRASS
WARE

CEPERLEY
DAVIS
HAAS
IRELAND
MINARDI
REISHMAN

STEELE
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 HEARINGS

The Mayor called the public hearing on Bill number 7660, An ordinance amending Section 111-14 of Chapter 111 of the Code of the City of Charleston, and pertaining to the deposit, allocation, and pledge of the City’s Consumer Sales and Use Tax revenue for the purpose of securing favorable bond terms and rates to finance improvements to the Charleston Convention and Civic Center.

No one was heard or seen from the public.

With no one from the public to speak regarding the bill, The Mayor declared the public hearing on Bill No. 7660, closed.

The Mayor called the public hearing on Bill number 7661, Amend and Reenact Sections 2-734, 2-737, and 2-738 of the City Code of the City of Charleston, as amended, all relating to the City’s Service fee.

Jennifer Bauman spoke against the bill, and offered various other ways the City could save money rather than add an additional increase in the Service Fee.

With no one else from the public to speak regarding the bill, The Mayor declared the public hearing on Bill No. 7661, closed.

COMMUNICATIONS

**TO: JAMES REISHMAN
CITY CLERK**

**FROM: DANNY JONES
MAYOR**

RE: SPRING HILL CEMETERY PARK COMMISSION

DATE: JULY 20, 2015

I recommend that Terrell Ellis, 1045 Bridge Road, Charleston, WV 25314, be appointed to the Spring Hill Cemetery Park Commission, with an initial term to expire April 6, 2018. She is replacing Frederick Jesser, III.

Councilman Harrison moved to approve the appointment. Councilman Lane seconded the motion. By unanimous vote, the appointment was approved.

REPORTS OF COMMITTEES

COMMITTEE ON FINANCE

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

1. Your committee on Finance has had under consideration Resolution No. 611-15, and reports the same to Council with the recommendation that the resolution do pass.

Resolution No. 611-15: Authorizing approval to rescind Resolution No. 569-15, Agreement with Fox Engineering, Inc., in the amount of \$27,604, for Replacing Ceiling Tile at the Child Enrichment Center, approved by the Finance Committee and City Council on April 6, 2015. The contractor was unable to provide the required performance and payment bonds for the Project and the bid is being awarded to Shamblin Construction, the second lowest bidder, and the next item on tonight's agenda.

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

That rescinding Resolution No. 569-15, Agreement with Fox Engineering, Inc., in the amount of \$27,604, for Replacing Ceiling Tile at the Child Enrichment Center, approved by the Finance Committee and City Council on April 6, 2015, is hereby approved. The contractor was unable to provide the required performance and payment bonds for the Project and the bid is being awarded to Shamblin Construction, the second lowest bidder, and the next item on tonight's agenda.

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 611-15 adopted.

2. Your committee on Finance has had under consideration Resolution No. 612-15, and reports the same to Council with the recommendation that the resolution do pass.

Resolution No. 612-15: “Authorizing the Mayor or City Manager to enter into an Agreement with Shamblin Construction, Inc., in the amount of \$39,900, for Ceiling Tile Replacement at the Child Enrichment Center, located at 201 Donnally Street.”

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 Shamblin Construction, Inc., in the amount of \$39,900, for Ceiling Tile Replacement at the Child Enrichment Center, located at 201 Donnally Street.

To be charged to the following accounts:

Account No. 009-012-00-002-0-999, CDBG—City-owned Buildings (\$15,604)

Account No. 009-014-00-002-0-999, CDBG—City-owned Buildings (\$12,000)

Account No. 009-015-00-002-0-999, CDBG—City-owned Buildings (\$12,296)

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 612-15 adopted.

3. Your committee on Finance has had under consideration Resolution No. 613-15, and reports the same to Council with the recommendation that the resolution do pass.

Resolution No. 613-15: Authorizing the Finance Director to amend FY 2015-2016 Coal Severance Budget as indicated on the attached list of accounts.

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

That the Finance Director is hereby authorized and directed to amend FY 2015-2016 Coal Severance Budget as indicated on the attached list of accounts.

Coal Severance Fund FY 2015-2016 Budget Amendment No. 1 - July 21, 2015

Account No.	Department	Account Description	Amount
002 299 00 0000	Revenue	Coal Severance Tax - Balance on Hand	(42,000)
002 000 00 000 5 566		Contributions to Other Funds	42,000

To recognize estimate of coal severance tax receivable to establish the beginning balance for FY 2016

Councilman Reishman moved to approve the Resolution. Councilman Lane seconded the motion. A roll call was taken.

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

NAYS: NONE

ABSENT: Clowser, Richardson, Slater

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution 613-15, adopted.

4. Your committee on Finance has had under consideration Resolution No. 614-15, and reports the same to Council with the recommendation that the resolution do pass.

Resolution No. 614-15: “Authorizing the Finance Director to amend FY 2015-2016 Civic Center Budget as indicated on the attached list of accounts.”

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

That the Finance Director is hereby authorized and directed to amend FY 2015-2016 Civic Center Budget as indicated on the attached list of accounts.

Civic Center FY 2015-2016 Budget Amendment No. 1 - July 20, 2015

Account No.	Department	Account Description	Amount
402 358 00 342	Civic Center Revenues	Coal Severance Fund Transfer-In	(42,000)
402 358 00 341	Civic Center Revenues	Gen Fund Transfer-In - Debt Service	42,000

To increase Coal Severance Tax transfer in conjunction with Coal Severance Budget Amendment No. 1 and to true up the resulting General Fund debt service subsidy.

Councilman Reishman moved to approve the Resolution. Councilman Lane seconded the motion. A roll call was taken.

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

NAYS: NONE

ABSENT: Clowser, Richardson, Slater

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution 614-15, adopted.

5. Your committee on Finance has had under consideration Resolution No. 615-15, and reports the same to Council with the recommendation that the resolution do pass.

Resolution No. 615-15: “Authorizing the Finance Director to amend FY 2015-2016 General Fund Budget as indicated on the attached list of accounts.”

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

That the Finance Director is hereby authorized and directed to amend FY 2015-2016 General Fund Budget as indicated on the attached list of accounts.

General Fund FY 2015-2016 Budget Amendment No. 2 - July 20, 2015

Account No.	Department	Account Description	Amount
001 439 00 000 3 353	Information Systems	Computer Software	35,000
001 442 00 000 2 230	Strategy Management	Contract	(35,000)
To transfer budget funding from Strategy Management to Information Systems to facilitate the purchase of new GIS software.			
001 567 00 000 3 345	Public Grounds	Uniforms & Equipment	(24,000)
001 567 00 000 2 214	" "	Travel	1,000
001 712 00 000 3 345	Traffic Engineering	Uniforms & Equipment	2,500
001 754 00 000 3 345	Equipment Maintenance	Uniforms & Equipment	3,500
001 699 00 000 5 598	Contingency		17,000
To correct budget allocation for Uniforms & Equipment in several Public Works departments.			
001 370 00 0000	Revenue	Charges to Other Funds	95,000
001 436 00 000 2 230	Building Commission	Contract Services	(75,000)
001 699 00 000 5 598	Contingency		(20,000)
To remove reimbursements from MOECD for Building Inspector wage expense, remove the budgeted demolition costs in the Building Commission department and reducing the contingency for the difference.			
001 901 01 000 5 566	Civic Center Support	Debt Service Subsidy	(580)
001 901 01 002 5 566	" " "	Operational Subsidy	(12,339)
001 699 00 000 5 598	Contingency		12,919
To adjust General Fund subsidy to align with Civic Center amended budget.			

Councilman Reishman moved to approve the Resolution. Councilman Lane seconded the motion. A roll call was taken.

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

NAYS: NONE

ABSENT: Clowser, Richardson, Slater

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution 615-15, adopted.

6. Your committee on Finance has had under consideration Resolution No. 616-15, and reports the same to Council with the recommendation that the resolution do pass.

Resolution No. 616-15: “Authorizing the Mayor or City Manager to enter into an Agreement with Newcomb & Boyd, in the amount of \$330,000, to provide Fundamental and Enhanced Commissioning services in relation to the Charleston Civic Center Expansion and Renovation Project.”

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 Newcomb & Boyd, in the amount of \$330,000, to provide Fundamental and Enhanced Commissioning services in relation to the Charleston Civic Center Expansion and Renovation Project.

*To be charged to Account No. 216-000-00-000-2-223—Convention & Civic Center Project,
Professional Services*

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 616-15 adopted.

7. Your committee on Finance has had under consideration Resolution No. 617-15, and reports the same to Council with the recommendation that the resolution do pass.

Resolution No. 617-15 : “Authorizing the Mayor or City Manager to execute Change Order No. 1 with Allegheny Restoration, Inc., in an amount not to exceed \$34,780, for Installation of Floor Coating at Fire Station No. 4, located at 1810 Oakridge Drive. This company is currently in agreement with the City to make repairs to Municipal Parking Buildings No. 1 and No. 3, approved by City Council on April 6, 2015, Resolution No. 563-15, and Change Order No. 1 provides for the floor coating tasks under that Agreement, which are applicable, to be used in the flooring process at Fire Station No. 4.”

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 execute Change Order No. 1 with Allegheny Restoration, Inc., in an amount not to exceed \$34,780, for Installation of Floor Coating at Fire Station No. 4, located at 1810 Oakridge Drive. This company is currently in agreement with the City to make repairs to Municipal Parking Buildings No. 1 and No. 3, approved by City Council on April 6, 2015, Resolution No. 563-15, and Change Order No. 1 provides for the floor coating tasks under that Agreement, which are applicable, to be used in the flooring process at Fire Station No. 4.

To be charged to Account No. 222-975-00-440-4-458, Capital Outlay – Major Improvements

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 617-15 adopted.

8. Your committee on Finance has had under consideration Resolution No. 618-15, and reports the same to Council with the recommendation that the resolution do pass.

Resolution No. 618-15 : “Authorizing the Mayor or City Manager to enter into an Agreement with Environmental Systems Research Institute, Inc. (“ESRI”), in the amount of \$127,000.00 for a three year software license agreement to upgrade the current Geographic Information System (“GIS”) software licenses for the Information Systems Department (\$35,000.00 for FY 2015). A payment of \$42,000.00 is due in July 2016, and \$50,000.00 due in July 2017, subject to approval by City Council of the City’s annual budget for the respective years.”

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 Environmental Systems Research Institute, Inc. (“ESRI”), in the amount of \$127,000.00 for a three year software license agreement to upgrade the current Geographic Information System (“GIS”) software licenses for the Information Systems Department (\$35,000.00 for FY 2015). A payment of \$42,000.00 is due in July 2016, and \$50,000.00 due in July 2017, subject to approval by City Council of the City’s annual budget for the respective years.

To be charged to Account No. 001-439-00-000-3-353 – IS DEPT, Computer Software

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 618-15 adopted.

9. Your committee on Finance has had under consideration Resolution No. 619-15, and reports the same to Council with the recommendation that the resolution do pass.

Resolution No. 619-15 – Authorizing and directing the administration of the City of Charleston to file a petition to intervene Public Service Commission of West Virginia case number 15-0676-W-42T, a pending tariff filing by West Virginia-American Water Company to increase water rates and charges, and further authorizing the Mayor, City Manager, City Attorney, and any of their designees to take all action necessary to file and pursue the petition to intervene.

WHEREAS, West Virginia-American Water Company has filed a petition for a 28% rate increase;

WHEREAS, West Virginia-American Water Company states that this proposed rate increase is primarily driven by the company's recent and proposed capital investments;

WHEREAS, the magnitude of the rate increase, and its potential impact on residents and business in Charleston, raises crucial questions about West Virginia-American Water Company's relative commitment to its investors compared to its commitment to customers shown through its inaction regarding urgently needed improvements to its aging infrastructure;

WHEREAS, Charleston and surrounding areas have seen water main breaks this summer that have left thousands of West Virginia-American Water Company customers without water for days;

WHEREAS, main breaks have caused damage to streets and properties within Charleston city limits and caused area businesses to close temporarily;

WHEREAS, Charleston suffered the negative economic impacts of a recent, high-profile water crisis and is acutely aware of the potential impact of failing infrastructure;

WHEREAS, residents of Charleston would benefit from a clear understanding of the water company's investment priorities and close scrutiny of the proposed rate increase; and

WHEREAS, the Kanawha County Commission, expressing similar concerns about the proposed rate increase, has filed a petition to intervene in the matter and has been granted official intervener status by the West Virginia Public Service Commission.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CHARLESTON, WEST VIRGINIA:

That we, the elected leaders of Charleston, hereby authorize and direct the administration of the City of Charleston to file a petition to intervene in Public Service Commission of West

Virginia case number 15-0676-W-42T, a pending tariff filing by West Virginia-American Water Company to increase water rates and charges, to support the petition for intervention previously filed by the Kanawha County Commission in this case, and further authorize the Mayor, City Manager, City Attorney, and any of their designees to take all action necessary to file and pursue the petition to intervene.

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 619-15 adopted. (WARE- ABSTAIN)

10. Your committee on Finance has had under consideration Resolution No. 620-15, and reports the same to Council with the recommendation that the resolution do pass.

Resolution No. 620-15 : “Authorizing the Finance Director to amend the 2015 Community Development Block Grant budget as indicated on the accounts listed below.”

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

That the Finance Director is hereby authorized and directed to amend the 2015 Community Development Block Grant budget as indicated on the accounts listed below:

<u>Account Number</u>	<u>Description</u>	<u>Increase/(Decrease)</u>
009-015-00-034-0-999	Code Enforcement	(95,000)
009-015-00-199-0-999	Unprogrammed Fund	95,000
009-015-00-033-0-999	Demolition	95,000
009-015-00-199-0-999	Unprogrammed Funds	(95,000)

MOECD proposes to cancel CDBG funding for Code Enforcement and allocate additional CDBG funds to Demolition.

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 620-15 adopted.

11. Your committee on Finance has had under consideration Bill No. 7660 Committee Substitute, and reports the same to Council with the recommendation that the bill do pass.

Bill No. : 7660 An ordinance amending Section 111-14 of Chapter 111 of the Code of the City of Charleston, and pertaining to the deposit, allocation, and pledge of the City's Consumer Sales and Use Tax revenue for the purpose of securing favorable bond terms and rates to finance improvements to the Charleston Convention and Civic Center.

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

Section 111-14 of the Code of the City of Charleston is hereby amended to read as follows:

Chapter 111 - CONSUMERS SALES AND USE TAXES.

Sec. 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~~ The second special revenue fund in the city treasury, ~~which shall be previously established,~~ designated and known as the Uniform Pensions Reserve Fund is hereby continued. The City Sales and Use Tax Fund shall 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 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, 60 percent 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 40 percent of the revenues shall be deposited in the Uniform Pensions Reserve Fund. Beginning November 1, 2015, one-half 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 of the revenues shall be deposited in the Uniform Pensions Reserve Fund. Additionally, there shall be deposited in each fund: (1) all appropriations to the particular fund; (2) all interest earned from investment of the particular fund; and (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 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 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 City Sales and Use Tax Fund shall be used each quarter: (i) first, to satisfy the debt service requirements and any prior debt service requirements deficit each fiscal year on, and to replenish any required reserves in accordance with the bond documents for, 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, (a) 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, 40 percent of the revenues received from the taxes imposed by this chapter, or any lessor amount remaining after providing for payment of first priority items, shall be deposited in the Uniform Pensions Reserve Fund and (b) beginning November 1, 2015, one-half of the revenues received from the taxes imposed by this chapter, or any lessor

amount remaining after providing for payment of first priority items, shall be deposited in the Uniform Pensions Reserve Fund; and (iii) third, after providing for payment of first and second priority items, in the event there were insufficient funds available in any prior quarter to transfer 40 percent or one-half, as applicable, of the revenues received from the taxes imposed by this chapter to the Uniform Pensions Reserve Fund, such amounts shall be deposited in the Uniform Pensions Reserve Fund from revenues available in the City Sales and Use Tax Fund; and (iv) fourth, after providing for payment of first, second and third priority items, any unencumbered revenue in the City Sales and Use Tax Fund may periodically be transferred as necessary or convenient to the city's general revenue account. Additionally, there shall be deposited in each fund: (1) all appropriations to the particular fund; (2) all interest earned from investment of the particular fund; and (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 as general revenue of the city.

(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 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.

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

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

NAYS: NONE

ABSENT: Clowser, Richardson, Slater

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7660, Committee Substitute adopted.

12. Your committee on Finance has had under consideration Bill No. 7661 Committee Substitute, and reports the same to Council with the recommendation that the bill do pass.

Bill No. 7661 : A Bill to amend and reenact Sections 2-734, 2-737, and 2-738 of the City Code of the City of Charleston, as amended, all relating to the City's Service Fee.

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

That the Council for the City of Charleston hereby amends and reenacts certain sections of the City Code of the City of Charleston, as amended, all relating to the City's Service Fee, to read as follows:

Sec. 2-734. - Findings.

- (a) The city council of the city finds that the city provides to all individuals within its borders certain services, whether they are residents employed within the city, or individuals living outside the city and employed within the corporate boundaries of the city.
- (b) The city council of the city finds that such services include police protection and traffic and street maintenance.
- (c) The city council of the city finds that such services are within the authority and are the responsibility of the Municipal Government of the City of Charleston as provided under the general laws of the State of West Virginia.
- (d) The city council of the city finds that since such services are essential to the creation and maintenance of those jobs which provide livelihood to all individuals employed within the city, as well as to the property interests of residents and visitors to the city, it is therefore reasonable to derive a portion of the cost of providing and maintaining such services from said individuals.
- (e) The city council of the city finds that W. Va. Code § 8-13-13 provides that every municipality has the plenary power and authority to provide by ordinance for the installation, continuance, maintenance or improvement of such services, to make reasonable regulations with respect thereto, and to impose by ordinance upon the users of such services reasonable rates, fees and charges to be collected in the manner prescribed in the ordinance.
- (f) The city council of the city finds that all of those individuals, who use, enjoy and benefit from these services, should bear an equitable share of the costs thereof.
- (g) The city council of the city finds that the imposition of the city service fee established herein is a reasonable system of distributing the costs to all of the users that the city can reach through reasonable and prudent means and legislation.

(h) The city council of the city finds that the legislature of the State of West Virginia has conferred upon municipalities the plenary power to enact reasonable administrative provisions to ensure the efficient, orderly and equitable implementation and collection of the service fees from all users.

(i) The city council of the city finds that it is in the best interests of the citizens of the city and the users of city services to enact this article to impose a city service fee.

(j) The city council of the city finds that there are tens of thousands of individuals who benefit from municipal services who are not owners of property or residents of the city, but who are employed within the city.

(k) The city council of the city finds that employers located within the city possess important employment information necessary to properly enforce certain aspects and provisions of this article and that, therefore, reasonable regulations concerning obtaining certain information from such employers shall be a necessary and important part of the administration of the city service fee.

(l) The city council of the city finds that raising the fee from ~~\$1.00~~ \$2.00 to ~~\$2.00~~ \$2.50 beginning the calendar week of January 3, 2016, and continuing through January 4, 2020, and from \$2.50 to \$3.00 beginning the calendar week of January 5, 2020, and continuing thereafter, is reasonable, not excessive, and warranted based upon a reasonable allocation of the fee payers' usage of the municipal services contemplated herein.

Sec. 2-737. - Imposition of fee; rate.

There is hereby imposed a city service fee upon each employee and self-employed individual at the rate of \$2.00 per calendar week of employment within the city. Beginning January 3, 2016, and continuing through January 4, 2020, the fee rate imposed shall be \$2.50 per calendar week of employment within the city. Beginning January 5, 2020, and continuing thereafter, the fee rate imposed shall be \$3.00 per calendar week of employment within the city. No individual shall pay the fee more than once for the same week of employment regardless of multiple employment. The fee imposed by ~~the~~ this article is in addition to all other fees imposed by the city. ~~The previous city service fee of \$2.00 per calendar week of employment within the city imposed upon each employee and self-employed individual shall continue to be imposed up to and including January 5, 2008.~~

Sec. 2-738. - Effective date.

The imposition of the city service fee of ~~\$2.00~~ \$2.50 per calendar week of employment within the city shall take effect beginning January ~~6 3, 2008-~~ 2016, and shall remain in effect until January 4, 2020. The imposition of the city service fee of \$3.00 per calendar week of employment within the city, representing an increase from \$2.50 to \$3.00 as set forth in Sec. 2-

737 herein, shall take effect beginning January 5, 2020, and continue thereafter. The previous city service fee of ~~\$1.00~~ \$2.00 per calendar week of employment within the city imposed upon each employee and self-employed individual will continue to be imposed up to and including January ~~5 2, 2008. 2016.~~

Councilman Ware moved to table the Bill. Councilman Chestnut seconded the motion. A roll call was taken.

YEAS: Burka, Chestnut, Faegre, Minardi, Overstreet, Persinger, Smith, Snodgrass, Ware

NAYS: Burton, Ceperley, Davis, Ealy, Haas, Harrison, Hoover, Ireland, Lane, Miller, Reishman, Salisbury, Steele, Talkington, Jones

ABSENT: Clowser, Richardson, Slater

With a majority of members elected recorded thereon as voting in the negative the Mayor declared the motion to table Bill No. 7661, defeated.

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

YEAS: Burka, Burton, Ceperley, Chestnut, Davis, Ealy, Faegre, Haas, Harrison, Hoover, Ireland, Lane, Miller, Minardi, Reishman, Salisbury, Snodgrass, Steele, Talkington, Jones

NAYS: Overstreet, Persinger, Smith, Ware

ABSENT: Clowser, Richardson, Slater

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7661, adopted.

13. Your committee on Finance has had under consideration Bill No. 7662 Committee Substitute, and reports the same to Council with the recommendation that the bill do pass with the following amendments:

On page 6, line 7 of section 15 by deleting the words “the Charleston Gazette and Charleston Daily Mail newspapers” and replacing with the words “a qualified newspaper”

CITY OF CHARLESTON

Sales Tax Revenue Bonds
(Civic Center Project)
Series 2015

AMENDED AND RESTATED
BOND AUTHORIZING ORDINANCE OF
THE CITY OF CHARLESTON

AN AMENDED AND RESTATED ORDINANCE AUTHORIZING THE ISSUANCE OF SALES TAX REVENUE BONDS (CIVIC CENTER PROJECT), SERIES 2015, IN ONE OR MORE SERIES, IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN \$100,000,000 (THE “2015 BONDS”) OF THE CITY OF CHARLESTON (THE “ISSUER”), THE PROCEEDS OF WHICH SHALL BE EXPENDED FOR THE COSTS OF DESIGN, ACQUISITION, CONSTRUCTION, RENOVATION AND EQUIPPING OF CERTAIN CAPITAL IMPROVEMENTS BY THE ISSUER TO THE CHARLESTON CONVENTION AND CIVIC CENTER AND RELATED IMPROVEMENTS (THE “PROJECT”), TO FUND A RESERVE ACCOUNT PLEDGED TO THE PAYMENT OF THE 2015 BONDS, IF NECESSARY, AND TO PAY COSTS OF ISSUANCE IN CONNECTION WITH THE PROJECT; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND INDENTURE AND THE 2015 BONDS AND ANY OTHER DOCUMENTS RELATING THERETO; AUTHORIZING DISTRIBUTION OF A PRIVATE PLACEMENT MEMORANDUM OR OTHER OFFERING DOCUMENT; PROVIDING PARAMETERS FOR THE TERMS OF THE 2015 BONDS; AUTHORIZING EXECUTION AND DELIVERY OF OTHER DOCUMENTS, INSTRUMENTS, CERTIFICATES AND AGREEMENTS AND THE TAKING OF ALL OTHER ACTIONS RELATING TO THE ISSUANCE OF THE 2015 BONDS.

WHEREAS, pursuant to Section 5a of Chapter 8, Article 1 of the Code of West Virginia, 1931, as amended (the “Home Rule Act”), the Issuer has been granted “Home Rule Status” by the Municipal Home Rule Board;

WHEREAS, the City Council of the Issuer (the “City Council”) did, pursuant to the Home Rule Act and Section 2 of Chapter 8, Article 12 of the Code of West Virginia, 1931, as amended (the “Code”), and following all necessary actions, publications, public hearings and approvals, on May 20, 2013, enact an ordinance (the “Initial Sales Tax Ordinance”) levying and imposing an excise tax within the corporate boundaries of the Issuer on (i) the privilege of selling tangible personal property or customer software and furnishing certain selected services and (ii) the use of tangible personal property, custom software and the results of taxable services at a rate of one-half of one percent (0.5%) (the “Municipal Sales Tax”);

WHEREAS, pursuant to the Home Rule Act and Section 2 of Chapter 8, Article 12 of the Code, and following all necessary actions, publications, public hearings and approvals, on November 3, 2014, the City Council enacted an ordinance (the “First Amendatory Sales Tax Ordinance”) increasing the Municipal Sales Tax from one-half of one percent (0.5%) to one percent (1.0%) effective July 1, 2015;

WHEREAS, the City Council did on July 20, 2015, following all necessary actions, publications, public hearings and approvals, enact an ordinance (the “Second Amendatory Sales Tax Ordinance” and collectively with the Initial Sales Tax Ordinance and the First Amendatory Sales Tax Ordinance, the “Sales Tax Ordinance”) pertaining to the deposit, allocation and pledge of the Municipal Sales Tax revenues for the purpose of securing favorable bond terms and rates to finance improvements to the Charleston Convention and Civic Center (the “Civic Center”);

WHEREAS, the Sales Tax Ordinance created a special revenue fund in the City Treasury designated and known as the City Sales and Use Tax Fund (the “Tax Fund”) and a special revenue fund in the City Treasury designated and known as the Uniform Pensions Reserve Fund (the “Pension Fund”);

WHEREAS, the Municipal Sales Tax revenues collected by the Tax Commissioner, less any fee or charge permitted by law to be collected by the Tax Commissioner, are remitted to the Issuer quarterly on or about each January 1, April 1, July 1 and October 1 and deposited into the Tax Fund (the “Municipal Sales Tax Revenues”);

WHEREAS, under Chapter 8, Article 16 of the Code West Virginia, 1931, as amended (the “Bond Act”), the Issuer has plenary power and authority to issue obligations secured by all or a portion of the Municipal Sales Tax Revenues (i) to finance the costs of design, acquisition, construction, renovation and equipping of additions, betterments and improvements to the Civic Center and related improvements (collectively, the “Project”), (ii) to fund a reserve account pledged to the payment of such obligations, if necessary, (iii) to pay the costs of issuance of such obligations, and (iv) to pay other costs associated with such obligations;

WHEREAS, the Issuer hereby determines that it would be to the benefit of the Issuer and the inhabitants of the City of Charleston to finance the Project with proceeds from the issuance of municipal sales tax revenue bonds, in one or more series, to be designated “City of Charleston Sales Tax Revenue Bonds (Civic Center Project) Series 2015 (the “2015 Bonds”);

WHEREAS, the 2015 Bonds shall be payable solely from and secured solely by a lien on the Municipal Sales Tax Revenues deposited in the Tax Fund;

WHEREAS, the 2015 Bonds shall not be payable from or secured by the Municipal Sales Tax Revenues deposited in the Pension Fund in accordance with the Sales Tax Ordinance; and

WHEREAS, the Issuer deems it desirable and in keeping with its purposes under the Bond Act, to issue the 2015 Bonds, in one or more series, in an aggregate principal amount not to exceed \$100,000,000, on a taxable or tax-exempt basis as required under the circumstances, for the purposes of financing the Project.

NOW, THEREFORE, BE IT ORDAINED AND RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHARLESTON, AS FOLLOWS:

Section 1. This Ordinance is adopted and enacted pursuant to and in accordance with the provisions of the Bond Act and other applicable provisions of law. It is hereby found and determined, following the public hearing heretofore held before the City Council, that the 2015 Bonds should be issued as hereinafter described, that the financing of the costs of the Project promotes the purposes of the Bond Act, and that the Project, the issuance of the 2015 Bonds and the financing of the costs of the Project are authorized and approved.

Section 2. To accomplish the purposes of the Bond Act, to provide for the financing of the costs of the Project, to fund a reserve account pledged to the payment of the 2015 Bonds, if necessary, to pay costs of issuance of the 2015 Bonds and to pay other costs and expenses relating thereto, the issuance of the 2015 Bonds, in one or more series, in an aggregate principal amount not to exceed \$100,000,000 is hereby authorized, approved and directed.

Section 3. The Mayor or City Manager of the Issuer (together, the “Authorized Officers” and each an “Authorized Officer”) shall have the power and authority to execute and deliver a Certificate of Determination, which may include, without limitation, provisions (i) fixing the aggregate principal amount of the 2015 Bonds, not to exceed \$100,000,000, (ii) determining whether the 2015 Bonds shall be issued in one or more series and assigning a designation to each such series, (iii) determining whether the 2015 Bonds shall be issued as tax-exempt bonds, taxable bonds, or any combination thereof, with each different mode to be issued as a separate series of bonds, (iv) fixing the maturity schedule for each series of the 2015 Bonds issued by the Issuer, including the amounts of serial bonds and term bonds, such maturities to be not longer than forty (40) years from the date of issuance of each series of the 2015 Bonds, (v) fixing the scheduled debt service payments for the 2015 Bonds in an aggregate amount not to exceed \$7,300,000 in any year, (vi) prescribing the interest rates or yields for each series of 2015

Bonds issued by the Issuer, such rates or yields not to exceed an average interest cost of twelve percent (12%) per annum, (vii) fixing the amounts and times of mandatory redemption for each series of 2015 Bonds issued by the Issuer, (viii) fixing optional redemption provisions for each series of 2015 Bonds issued by the Issuer, including times and redemption prices, (ix) fixing the purchase price for each series of 2015 Bonds issued by the Issuer, which may include an underwriting discount and an original issue discount or premium, (x) dating each series of 2015 Bonds issued by the Issuer, (xi) designating the trustee for the 2015 Bonds (the “Trustee”), (xii) approving the form of the 2015 Bonds of each series, (xiii) approving the form of a Tax Compliance Certificate of the Issuer and (xiv) approving the form of Bond Purchase Agreement to be dated the date of placement and sale of the 2015 Bonds, by and between each purchaser of the 2015 Bonds and the Issuer (“Bond Purchase Agreement”).

Section 4. The 2015 Bonds, together with the interest thereon and other costs incidental thereto, shall be secured solely by the pledges effected by the Bond Indenture (as hereinafter defined) and by the Municipal Sales Tax Revenues deposited in the Tax Fund and other revenues and properties pledged for their payment in accordance with the Bond Act. The 2015 Bonds, together with the interest thereon and other costs incidental thereto, shall not be deemed to be and shall not constitute an indebtedness of the State of West Virginia or the Issuer, but shall be special and limited obligations of the Issuer, payable solely from the Municipal Sales Tax Revenues deposited in the Tax Fund and other revenues and properties pledged under the Bond Indenture. Neither the 2015 Bonds nor the interest thereon, nor any other costs or charges in connection therewith, shall be a charge against or pledge of the property, faith and credit or taxing power, if any, of the State of West Virginia or the Issuer, except as to such property expressly provided therefor in the Bond Indenture, nor shall the same ever constitute an indebtedness of the State of West Virginia, the Issuer within the meaning of any constitutional provision or statutory limitation or constitute or give rise to a pecuniary liability of the State of West Virginia or the Issuer. No recourse shall be had for the payment of the principal of and interest on the 2015 Bonds against any Authorized Officer, official or member of the Issuer. The holders of the 2015 Bonds shall have no right to have taxes levied by the legislature of the State of West Virginia or the taxing authority, if any, of the Issuer for the payment of the principal of, premium, if any, or interest on the 2015 Bonds, but the 2015 Bonds shall be payable solely from Municipal Sales Tax Revenues deposited in the Tax Fund and other revenues and properties pledged under the Bond Indenture.

Section 5. The Bond Indenture by and between the Issuer and the Trustee (the “Bond Indenture”), substantially in the form as submitted to this meeting and made a part of this Ordinance as though set forth in full herein, shall be and the same is hereby approved. The Authorized Officers are hereby authorized and directed to execute, acknowledge, if necessary, and deliver the Bond Indenture with such changes, insertions, variations and omissions as may be approved by the Authorized Officers, subject to review, applicable revision and approval of legal counsel to the Issuer, and the City Clerk is authorized and directed to affix the seal of the Issuer thereto and to attest such seal. The execution of the Bond Indenture by the Authorized

Officers shall be conclusive evidence of the approval of such changes, insertions, variations and omissions.

Section 6. The 2015 Bonds shall be issued in fully registered form in accordance with the provisions of the Bond Indenture and shall be delivered to the Trustee to be authenticated, registered and delivered to the purchaser thereof in accordance with the terms of the Bond Indenture.

Section 7. The Authorized Officers shall execute the 2015 Bonds as necessary and the City Clerk is authorized and directed to affix the seal of the Issuer thereto and to attest such seal. The 2015 Bonds shall contain a recital to the effect that the 2015 Bonds are issued pursuant to the Bond Act. The definitive 2015 Bonds shall be in substantially the form approved in the Certificate of Determination, with such necessary and appropriate changes, insertions, variations and omissions as are approved by the Authorized Officers. The execution of the 2015 Bonds by the Authorized Officers and the City Clerk of the Issuer shall be conclusive evidence of the approval of such changes, insertions, variations and omissions.

Section 8. The Authorized Officers and the City Clerk and any other proper officers and employees of the Issuer, together with all other members and employees thereof, are hereby authorized and directed to execute, acknowledge, if necessary, and deliver any and all papers, documents, agreements, certificates and instruments, to affix the seal of the Issuer and attest the same for and on behalf of the Issuer and to do and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated by this Ordinance, the Bond Indenture, any Bond Purchase Agreement and other documents relating thereto.

Section 9. All covenants stipulations, obligations and agreements of the Issuer contained herein and contained in the Bond Indenture, any Bond Purchase Agreement and other documents relating thereto shall be deemed to be the special and limited covenants, stipulations, obligations and agreements of the Issuer to the full extent permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon the Issuer and its successors from time to time and upon any board or body to which any powers or duties affecting such covenants, stipulations, obligations and agreements, shall be transferred by or in accordance with law. Except as otherwise provided herein, all rights, powers and privileges conferred and duties and liabilities imposed upon the Issuer or the officials thereof and by the Bond Indenture, any Bond Purchase Agreement and other documents relating thereto shall be exercised or performed by the Issuer or by such officers, board or body as may be required or permitted by law to exercise such powers and to perform such duties.

Section 10. No covenant, stipulation, obligation or agreement herein contained or contained in the Bond Indenture, any Bond Purchase Agreement or other documents relating thereto shall be deemed to be a covenant, stipulation, obligation or agreement of any Authorized Officer, officer, agent or employee of the Issuer in his or her individual capacity, and neither the members of the Issuer nor any officer executing the 2015 Bonds shall be subject

to any personal liability or accountability by reason of the issuance of the 2015 Bonds. No Authorized Officer, member, officer or employee of the Issuer shall be individually or personally liable for the payment of the principal of or the interest of any 2015 Bond, but nothing herein contained shall relieve any such Authorized Officer, member, official or employee from the performance of any official duty provided by law or this Ordinance.

Section 11. The laws of the State of West Virginia shall govern the construction of this Ordinance and all 2015 Bonds issued hereunder.

Section 12. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, such invalidity shall not affect any of the remaining provisions of this Ordinance.

Section 13. All previous ordinances, orders, resolutions or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

Section 14. The Issuer covenants that (i) all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption and entry of this Ordinance do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and (ii) the Authorized Officers, City Clerk and members of the City Council were at all times when any actions in connection with this Ordinance occurred and are duly in office and duly qualified for such office.

Section 15. The City Clerk is hereby authorized and directed to have an abstract of this Ordinance, in substantially the form attached hereto as Exhibit A hereto, which abstract has been and is hereby determined by the City Council to contain sufficient information as to give notice of the contents of this Ordinance, published once a week for 2 successive weeks, with not less than six full days between each publication, the first such publication to be not less than 10 days before, and the second publication also being before the date set for the public hearing, in the Charleston Gazette and Charleston Daily Mail, newspapers published and having a general circulation in Kanawha County, West Virginia, together with a notice to all persons concerned, stating that this Ordinance has been enacted, that the Issuer contemplates the issuance of the 2015 Bonds described in this Ordinance and that any person interested may appear before the City Council at the public hearing on Monday, August 3, 2015, at 7:00 p.m., prevailing time, in the Council Chambers located on the third floor of City Hall, 501 Virginia Street East, Charleston, West Virginia, and be heard as to whether this Ordinance shall be made effective, and that a certified copy of this Ordinance is on file in the office of the City Clerk for review by interested persons during regular office hours. At such hearing, all objections and suggestions shall be heard and the Issuer shall then take such action as it shall deem proper.

Section 16. This Ordinance shall take effect as follows:

First Reading:	July 6, 2015
Second Reading and Enactment:	July 20, 2015
Public Hearing and adoption of Resolution making Amended and Restated Ordinance Effective :	August 3, 2015

CERTIFICATION

The undersigned, being the duly qualified, elected and acting City Clerk of the City of Charleston, does hereby certify that the foregoing Ordinance is a true, correct and complete copy of an Ordinance duly adopted and enacted by City Council of the City of Charleston, at a regular meeting duly held at 7:00 p.m. on July 20, 2015 (second reading and enactment), after introduction and first reading on July 6, 2015 (first reading) at a regular meeting duly held at 7:00 p.m., pursuant to proper notice, at which meetings quorums were present and acting throughout, and which Ordinance was enacted following a public hearing thereon, notice of which public hearing was published in publications having a general circulation in Kanawha County, West Virginia, the first publication having been not less than 10 days prior to such public hearing and the second publication having been prior to such public hearing.

Dated this 20th day of July, 2015.

By: _____
Its: City Clerk

Councilman Reishman moved to approve the bill. Councilman Lane seconded the motion. A roll call was taken.

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

NAYS: NONE

ABSENT: Clowser, Richardson, Slater

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7662, adopted as amended.

REPORTS OF OFFICERS

1. City Treasurer's Report to City Council Month Ending June, 2015
Received and Filed

NEW BILLS

Introduced by Council member Ed Talkington on July 20, 2015:

Bill No. 7663: An ordinance repealing Section 98-53 of Chapter 98, Article II, Division 1 of the Code of the City of Charleston which set forth guidelines for alternative receptacles for recyclables.

Refer to Environmental and Recycling Committee

ADJOURNMENT

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

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

ABSENT: Clowser, Richardson, Slater

At 8:10 p.m., by a motion from Councilmember Harrison, Council adjourned until Monday, August 3, 2015, at 7:00 p.m., in the Council Chamber in City Hall.

Danny Jones, Honorable Mayor

James M. Reishman, City Clerk