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 **JOURNAL of the PROCEEDINGS**

**of the**

**CITY COUNCIL**

CITY OF CHARLESTON, WEST VIRGINIA

Regular Meeting – Tuesday, September 8, 2015

at 7:00 P.M.

Council Chamber – City Hall – Charleston, West Virginia

**OFFICIAL RECORD**

**JB Akers**

**City Clerk**

**Danny Jones**

**Mayor**

***CALL TO ORDER***

The Council met in the Chambers of the City Building at 7:00 P.M., for the first meeting in the month of September on the 8th day, in the year 2015, 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 the Councilman Minardi. The Honorable Clerk, JB Akers, called the roll of members and it was found that there were present at the time:

**BURKA BURTON CEPERLEY**

**CHESTNUT CLOWSER DAVIS**

**EALY FAEGRE HAAS**

**HARRISON HOOVER IRELAND LANE MILLER MINARDI OVERSTREET PERSINGER REISHMAN RICHARDSON SALISBURY SLATER SMITH SNODGRASS STEELE TALKINGTON WARE MAYOR JONES**

With twenty-three 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 David Baisden, 14 Lance Drive, Charleston, WV; alleges damage to vehicle.

*Refer to City Solicitor.*

1. A claim of Julia Beatrice Wager, 203 Russell St., Charleston, WV; alleges damage to property.

*Refer to City Solicitor.*

***COMMUNICATIONS***

**TO: J.B. AKERS**

 **CITY CLERK**

**FROM: DANNY JONES**

 **MAYOR**

**RE: HALLOWEEN 2015**

**DATE: SEPTEMBER 8, 2015**

I recommend that October 29, 2015 from the hours of 6 until 8 PM be designated as Trick or Treat in the City of Charleston.

I respectfully request City Council’s approval of this recommendation.

Councilman Ware moved to approve the recommendation. Councilman Lane seconded the motion. By unanimous vote, the recommendation was approved.

**TO: J.B. AKERS**

 **CITY CLERK**

**FROM: DANNY JONES**

 **MAYOR**

**RE: CIVIC CENTER BOARD**

**DATE: SEPTEMBER 8, 2015**

I recommend that Scott Miller, 300 Eagle Mountain Road, Charleston, WV 25311, be appointed to the Civic Center Board, with an initial term to expire June 22, 2019. He is replacing Larry Pack.

I respectfully request City Council’s approval of this recommendation.

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

**TO: J.B. AKERS**

 **CITY CLERK**

**FROM: DANNY JONES**

 **MAYOR**

**RE: MUNICIPAL PLANNING COMMISSION**

**DATE: SEPTEMBER 8, 2015**

I recommend that Shawn Taylor, 209 Capitol Street, Charleston, WV 25301, be appointed to the Municipal Planning Commission, with an initial term to expire July 1, 2017. He is replacing Gerald Workman.

I respectfully request City Council’s approval of this recommendation.

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

**TO: J.B. AKERS**

 **CITY CLERK**

**FROM: DANNY JONES**

 **MAYOR**

**RE: MUNICIPAL PLANNING COMMISSION**

**DATE: SEPTEMBER 8, 2015**

I recommend that Chad Robinson, 2210 Washington Street, East, Charleston, WV 25311, be reappointed to the Municipal Planning Commission, with an initial term to expire July 1, 2017. He is replacing Gerald Workman.

I respectfully request City Council’s approval of this recommendation.

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

**TO: J.B. AKERS**

 **CITY CLERK**

**FROM: DANNY JONES**

 **MAYOR**

**RE: MUNICIPAL PLANNING COMMISSION**

**DATE: SEPTEMBER 8, 2015**

I recommend that Teresa Moore, 712 Park Avenue, Charleston, WV 25302, be reappointed to the Municipal Planning Commission, with an initial term to expire July 1, 2018.

I respectfully request City Council’s approval of this recommendation.

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

**TO: J.B. AKERS**

 **CITY CLERK**

**FROM: DANNY JONES**

 **MAYOR**

**RE: MUNICIPAL PLANNING COMMISSION**

**DATE: SEPTEMBER 8, 2015**

I recommend that Aric Margolis, 318 Lee Street, West, Suite 200 Charleston, WV 25302, be reappointed to the Municipal Planning Commission, with an initial term to expire July 1, 2018.

I respectfully request City Council’s approval of this recommendation.

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

**TO: J.B. AKERS**

 **CITY CLERK**

**FROM: DANNY JONES**

 **MAYOR**

**RE: MUNICIPAL PLANNING COMMISSION**

**DATE: SEPTEMBER 8, 2015**

I recommend that Rev. Braxton Broady, 101 Florida Street, Charleston, WV 25312, be reappointed to the Municipal Planning Commission, with an initial term to expire July 1, 2018.

I respectfully request City Council’s approval of this recommendation.

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

**TO: J.B. AKERS**

 **CITY CLERK**

**FROM: DANNY JONES**

 **MAYOR**

**RE: MUNICIPAL PLANNING COMMISSION**

**DATE: SEPTEMBER 8, 2015**

I recommend that Margo Teeter, 4307 Kanawha Ave, Charleston, WV 25304, be reappointed to the Municipal Planning Commission, with an initial term to expire July 1, 2018.

I respectfully request City Council’s approval of this recommendation.

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

**TO: J.B. AKERS**

 **CITY CLERK**

**FROM: DANNY JONES**

 **MAYOR**

**RE: MUNICIPAL PLANNING COMMISSION**

**DATE: SEPTEMBER 8, 2015**

I recommend that Nikki Moses, 1350 Johnson Road, Charleston, WV 25314, be reappointed to the Municipal Planning Commission, with an initial term to expire July 1, 2018.

I respectfully request City Council’s approval of this recommendation.

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

**TO: J.B. AKERS**

 **CITY CLERK**

**FROM: DANNY JONES**

 **MAYOR**

**RE: MUNICIPAL PLANNING COMMISSION**

**DATE: SEPTEMBER 8, 2015**

I recommend that Christi Smith, 2022 Huber Road, Charleston, WV 25314, be reappointed to the Municipal Planning Commission, with an initial term to expire July 1, 2017.

I respectfully request City Council’s approval of this recommendation.

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

**TO: J.B. AKERS**

 **CITY CLERK**

**FROM: DANNY JONES**

 **MAYOR**

**RE: BOARD OF ZONING APPEALS**

**DATE: SEPTEMBER 8, 2015**

I recommend that Mary Anne Crickard, 1210 Smith Street, Charleston, WV 25301, be appointed to the Board of Zoning Appeals, with an initial term to expire January 1, 2017. She is replacing Jim Lane.

I respectfully request City Council’s approval of this recommendation.

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

**TO: J.B. AKERS**

 **CITY CLERK**

**FROM: DANNY JONES**

 **MAYOR**

**RE: CHARLESTON HISTORIC LANDMARKS COMMISSION**

**DATE: SEPTEMBER 8, 2015**

I recommend that Terrell Ellis, 1045 ½ Bridge Road, East, Charleston, WV 25314, be reappointed to the Charleston Historic Landmarks Commission, with an initial term to expire September 1, 2018.

I respectfully request City Council’s approval of this recommendation.

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

**TO: J.B. AKERS**

 **CITY CLERK**

**FROM: DANNY JONES**

 **MAYOR**

**RE: CHARLESTON HISTORIC LANDMARKS COMMISSION**

**DATE: SEPTEMBER 8, 2015**

I recommend that Bill Melton, 1555 Lee Street, East, Charleston, WV 25311, be reappointed to the Charleston Historic Landmarks Commission, with an initial term to expire September 1, 2017.

I respectfully request City Council’s approval of this recommendation.

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

**TO: J.B. AKERS**

 **CITY CLERK**

**FROM: DANNY JONES**

 **MAYOR**

**RE: CHARLESTON HISTORIC LANDMARKS COMMISSION**

**DATE: SEPTEMBER 8, 2015**

I recommend that Billy Joe Peyton, 1570 Virginia Street, East, Charleston, WV 25311, be reappointed to the Charleston Historic Landmarks Commission, with an initial term to expire September 1, 2018.

I respectfully request City Council’s approval of this recommendation.

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

**TO: J.B. AKERS**

 **CITY CLERK**

**FROM: DANNY JONES**

 **MAYOR**

**RE: CHARLESTON HISTORIC LANDMARKS COMMISSION**

**DATE: SEPTEMBER 8, 2015**

I recommend that Adam Krason, 222 Lee Street, West, Charleston, WV 25302, be reappointed to the Charleston Historic Landmarks Commission, with an initial term to expire September 1, 2017.

I respectfully request City Council’s approval of this recommendation.

Councilman Ware 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. 638-15, and reports the same to Council with the recommendation that the resolution do pass.

Resolution No. 638-15 : “Authorizing the Mayor to receive and administer supplemental grant funds in the amount of $7,750.00 from the West Virginia Division of Justice and Community Services to partially fund the salary for the Victim Services Advocate with the Charleston Police Department.”

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

That the Mayor is hereby authorized and directed to receive and administer supplemental grant funds in the amount of $7,750.00 from the West Virginia Division of Justice and Community Services to partially fund the salary for the Victim Services Advocate with the Charleston Police Department.

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 638-15 adopted.

1. Your committee on Finance has had under consideration Resolution No. 639-15, and reports the same to Council with the recommendation that the resolution do pass.

Resolution No. 639-15 : “Authorizing the Mayor to receive and administer grant funds from the U.S. Department of Justice, Bureau of Justice Assistance, in the amount of $119,624.00, providing for purchase of body worn cameras and server storage for the Charleston Police Department ($86,425.00) and crime scene supplies for the Kanawha County Sheriff’s Department ($33,199.00).”

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

That the Mayor is hereby authorized and directed to receive and administer grant funds from the U.S. Department of Justice, Bureau of Justice Assistance, in the amount of $119,624.00, providing for purchase of body worn cameras and server storage for the Charleston Police Department ($86,425.00) and crime scene supplies for the Kanawha County Sheriff’s Department ($33,199.00).

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 639-15 adopted.

1. Your committee on Finance has had under consideration Resolution No. 640-15, and reports the same to Council with the recommendation that the resolution do pass.

Resolution No. 640-15 : “Authorizing the Mayor or his designee to sign and submit a grant application to the Governor’s Highway Safety Program in the amount of $646,500.00 to support partial salary reimbursement, overtime costs for enforcement of Target Red, DUI Checkpoints, Click It or Ticket Program, distracted driving, police training and the Car Seat Program for the four county Metro Valley Highway Safety Program of Kanawha, Boone, Clay, and Logan counties.”

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

That the Mayor or his designee is hereby authorized and directed to sign and submit a grant application to the Governor’s Highway Safety Program in the amount of $646,500.00 to support partial salary reimbursement, overtime costs for enforcement of Target Red, DUI Checkpoints, Click It or Ticket Program, distracted driving, police training and the Car Seat Program for the four county Metro Valley Highway Safety Program of Kanawha, Boone, Clay, and Logan counties.

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 640-15 adopted.

1. Your committee on Finance has had under consideration Resolution No. 641-15, and reports the same to Council with the recommendation that the resolution do pass.

Resolution No. 641-15 : “Authorizing the Mayor or City Manager to sign Change Order No. 2 with Thaxton Construction Company in the amount of $307,840.00 for the *Pile Retaining Walls for Slip Repair Project* relating to the extension of the Cato Park retaining wall by eight (8) piles and lagging bays and extending the lagging depth from 10 feet to 16 feet through the deepest portion of the slip, and adding four (4) high strength tension tie backs to the centermost offset piles on an alternating basis; perform excavation and earthwork on Carriage Road; and add three (3) additional retaining walls to correct slips occurring along Fox Chase Road. The change order increases the contract price from $493,550.00 to $801,390.00.”

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 sign Change Order No. 2 with Thaxton Construction Company in the amount of $307,840.00 for the *Pile Retaining Walls for Slip Repair Project* relating to the extension of the Cato Park retaining wall by eight (8) piles and lagging bays and extending the lagging depth from 10 feet to 16 feet through the deepest portion of the slip, and adding four (4) high strength tension tie backs to the centermost offset piles on an alternating basis; perform excavation and earthwork on Carriage Road; and add three (3) additional retaining walls to correct slips occurring along Fox Chase Road. The change order increases the contract price from $493,550.00 to $801,390.00.

*To be charged to Account No. 221-975-00-420-4-458, City Service Fee – Capital Projects*

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 641-15 adopted.

1. Your committee on Finance has had under consideration Resolution No. 642-15, and reports the same to Council with the recommendation that the resolution do pass.

Resolution No. 642-15 : “Authorizing the Mayor or City Manager to execute an Agreement with Vortex/Southern Playgrounds, in the total amount of $369,650.00 for Design-Build Services for the Magic Island Splash Pad Project. The base bid for the Project is $350,000.00 with two alternates added to include a Color Concrete Surface in the amount of $13,650.00, and a Concrete Seat Wall for $6,000.00.”

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 an Agreement with Vortex/Southern Playgrounds, in the total amount of $369,650.00 for Design-Build Services for the Magic Island Splash Pad Project. The base bid for the Project is $350,000.00 with two alternates added to include a Color Concrete Surface in the amount of $13,650.00, and a Concrete Seat Wall for $6,000.00.

To be charged to account no. 222-979-02-900-4-458, Facilities Maintenance Fund – Splash Park

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 642-15 adopted.

1. Your committee on Finance has had under consideration Resolution No. 643-15, and reports the same to Council with the recommendation that the resolution do pass.

**Resolution No. 643-15 :** “Authorizing City Council to rescind Resolution No. 596-15, approved by City Council on June 15, 2015, establishing a “Special Revenue Fund, Slack Plaza Project Grant Fund 074”, and authorizing the Finance Director to remove the words “Special Revenue Fund” and re-establish as “Fund 074, Slack Plaza Project”, to account for revenues received from grants, contributions and transfers, and to record the expenditures of those funds for the construction, renovation and other improvements for the Slack Plaza Project.”

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

That City Council is hereby authorized to rescind Resolution No. 596-15, approved by City Council on June 15, 2015, establishing a “Special Revenue Fund, Slack Plaza Project Grant Fund 074”, and authorizing the Finance Director to remove the words “Special Revenue Fund” and re-establish as “Fund 074, Slack Plaza Project”, to account for revenues received from grants, contributions and transfers, and to record the expenditures of those funds for the construction, renovation and other improvements for the Slack Plaza Project.

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 643-15 adopted.

1. Your committee on Finance has had under consideration Resolution No. 644-15, and reports the same to Council with the recommendation that the resolution do pass.

Resolution No. 644-15 : “Authorizing the Finance Director to amend the 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 the FY-2015-2016 General Fund budget as indicated on the attached list of accounts.



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

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

NAYS: NONE

ABSENT: Burton, Harrison, Persinger, Slater

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the resolution adopted.

1. Your committee on Finance has had under consideration Resolution No. 645-15, and reports the same to Council with the recommendation that the resolution do pass.

 Resolution No. 645-15 : “Authorizing the City Manager to enter into an agreement with Buildview LLC, for Multivista Construction Documentation Services, in the amount of $107,035.55, in relation to the Civic Center Expansion and Renovation Project.”

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

That the City Manager is hereby authorized and directed to enter into an agreement with Buildview LLC, for Multivista Construction Documentation Services, in the amount of $107,035.55, in relation to the Civic Center Expansion and Renovation Project.

*Funds are available in the Civic Center Revenue Bonds Project Fund and these costs will be charged to Account No. 216-979-00-000-4-460, Civic Center Project—Capital Outlay, Construction in Progress*

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 645-15 adopted.

1. Your committee on Finance has had under consideration Resolution No. 646-15, and reports the same to Council with the recommendation that the resolution do pass.

 Resolution No. 646-15 : “Authorizing the Mayor or City Manager to enter into an Agreement with Management Advisory Group International, Inc., in the amount of $43,000.00, for Consulting Services Related to Job Classification and Compensation Studies.”

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 Management Advisory Group International, Inc., in the amount of $43,000.00, for Consulting Services Related to Job Classification and Compensation Studies.

*To be charged to Account No. 001-412-00-000-2-223, City Manager – 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 646-15 adopted.

1. Your committee on Finance has had under consideration Resolution No. 647-15, and reports the same to Council with the recommendation that the resolution do pass.

Resolution No. 647-15 : “Authorizing the Finance Director to issue a refund to Safety Caution Equipment Company in the amount of $64,061.36 for overpayment of Business & Occupation (“B&O”) taxes during the period April 1, 2011 through June 30, 2014, due to the taxpayer paying B&O taxes to the City of Charleston for contracting work that was performed outside the City. The refund has been validated by City auditors.”

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

That the Finance Director is hereby authorized and directed to issue a refund to Safety Caution Equipment Company in the amount of $64,061.36 for overpayment of Business & Occupation (“B&O”) taxes during the period April 1, 2011 through June 30, 2014, due to the taxpayer paying B&O taxes to the City of Charleston for contracting work that was performed outside the City. The refund has been validated by City auditors.

*To be charged to Account No. 001-305-02-000, Prior Year*

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 647-15 adopted.

1. Your committee on Finance has had under consideration the attached Committee Report, and reports the same to Council with the recommendation that the committee report do pass.

A proposal submitted by Western Branch Diesel, Inc., in an amount up to $35,000.00 for purchase and installation of an engine and turbo to repair Fire Station Unit No. 452; and a turbo replacement for Unit No. 455, in the amount of $6,093.25.

*To be charged to Account No. 001-754-00-000-2-216, Equipment Maintenance—*

*Maintenance & Repair, Equipment*

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

***REPORTS OF OFFICERS***

1. Report of the City of Charleston Payroll Variance Analysis; August 2015.

Received and Filed.

1. Municipal Court Report to City Council Month Ending August 2015.

Received and Filed.

***NEW BILLS***

Introduced by Council members Archie Chestnut, Mary Jean Davis, Mary Beth Hoover on September 8, 2015:

Bill No. 7664 – A Bill amending the Zoning Ordinance of the City of Charleston, West Virginia, adopted January 1, 2006, as amended, by adding a definition of “Alcoholic Beverage” and Alcoholic Beverage Sales for Off-premise Consumption” and making it a conditional use permit in the CBD and UCD districts, and changing “Liquor Store” and “Bar or Nightclub” from a permitted use in the CBD to a conditional use permit.

Refer to Planning Committee and Municipal Planning Commission

Introduced by Council member Jack Harrison on September 8, 2015:

Bill No. 7665- A Bill approving the transfer of control of the cable television franchise and cable television system now held by Cequel Corporation, the parent of Cebridge Acquisition LLC dba Suddenlink Communications to Altice S. A.

Refer to Cable Television Committee

Introduced by Council President Tom Lane on September 8, 2015:

Bill No. 7666- An ordinance repealing and reenacting Subdivision II of Division 5, Article V, Chapter 78 of the Code of the City of Charleston, pertaining to the sale, distribution and marketing of drug paraphernalia.

Refer to Ordinance and Rules Committee

***ADJOURNMENT***

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

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

ABSENT: Burton, Harrison, Persinger, Slater

At 7:25 p.m., by a motion from Councilmember Ware, Council adjourned until Monday, September 21, 2015, at 7:00 p.m., in the Council Chamber in City Hall.

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Danny Jones, Honorable Mayor

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JB Akers, City Clerk