



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

CITY OF CHARLESTON, WEST VIRGINIA

Regular Meeting – Monday, May 1, 2017

at 7:00 P.M.

Council Chamber – City Hall – Charleston, West Virginia

OFFICIAL RECORD

**Danny Jones
Mayor**

**JB Akers
City Clerk**

CALL TO ORDER

The Council met in the Chambers of the City Building at 7:00 P.M., for the first meeting in the month of May on the 1st day, in the year 2017, and was called to order by the Honorable Mayor, Danny Jones. The invocation was delivered by Councilmember Richardson and the Pledge of Allegiance was led by a Boy Scout in attendance. The Honorable Clerk, JB Akers, called the roll of members and it was found that there were present at the time:

BURKA

BURTON

CEPERLEY

EALY

FAEGRE

DAVIS

HARRISON

HOOVER

HAAS

LANE

MINARDI

IRELAND

PERSINGER

REISHMAN

OVERSTREET

SALISBURY

SLATER

RICHARDSON

WARE

STEELE

SMITH

WEBB

TALKINGTON

MAYOR JONES

With twenty-four members being present, the Mayor declared a quorum present.

Pending the reading of the Journal of the previous meeting, the reading thereof was dispensed with and the same duly approved.

PUBLIC SPEAKERS

1. Paula Vineyard- on behalf of the Barbara Vineyard Foundation presented a check of \$2,500 to be used for Senior Services associated with the Senior Olympics.

CLAIMS

1. A claim of Robert J. Berry, 5 Culpepper Drive, Cross Lanes, WV;
Alleges personal injury.
Refer to City Solicitor.

2. A claim of John T. Grass III, 1009 Belmont Street, Charleston, WV;
Alleges damage to property.
Refer to City Solicitor.

3. A claim of Kirby Martin, 330 South Pointe Drive, Charleston, WV;
Alleges damage to vehicle.
Refer to City Solicitor.

COMMUNICATIONS

1.

CITY OF CHARLESTON
OFFICE OF THE MAYOR



**TO: J. B. AKERS
CITY CLERK**

**FROM: DANNY JONES
MAYOR**

RE: CIVIC CENTER BOARD

DATE: MAY 1, 2017

I recommend that J. B. Akers, 128 Capitol Street, Charleston, WV 25301, be appointed to the Civic Center Board, with an initial term to expire June 22, 2019. He's replacing Suzanne Moses Persinger.

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

DJ/dmp

Councilmember Harrison moved to approve the appointment. Councilmember Lane seconded that motion. By unanimous vote, the appointment was confirmed.

REPORTS OF COMMITTEES

COMMITTEE ON ENVIRONMENT AND RECYCLING

Councilmember Talkington, Chair of the Council Committee on Environment and Recycling, submitted the following reports:

1. Your committee on Environment and Recycling has had under consideration the following resolution, and reports the same to Council with the recommendation that Resolution No. 887-17 do pass.

Resolution No. 887-17 - Concerning a 10% increase in the monthly tonnage at the City of Charleston Landfill operated by Landfill Services of Charleston, Inc.

WHEREAS, the City entered into an Operating Agreement with Landfill Services of Charleston, Inc., formerly known as West Virginia Waste Services, Inc., on February 15, 1994, to construct and operate the City of Charleston Landfill; and

WHEREAS, the solid waste permit issued to the permittee City of Charleston on December 1, 1994, was modified to reflect a "CLASS A" Landfill with the tonnage authorization of "15,000 tons/month" on April 29, 1997 that was modified to "16,500 tons/month" by a 10% increase on April 19, 1999 by Resolution No. 180-99, modified to 18,150 tons/month on February 2, 2004 by Resolution No. 432-03, modified to 19,965 tons/month on August 7, 2006, by Resolution No. 080-06, modified to 21,962 tons/month on January 5, 2009, by Resolution No. 500-09, modified to 24,157 tons/month on November 7, 2011, by Resolution No. 029-11, and modified to 26,572 tons/month on May 4, 2015, by Resolution No. 577-15; and

WHEREAS, pursuant to West Virginia Code §22-15-1 *et seq.* and West Virginia Solid Waste Management Rule 33-01, a permittee may request a permit modification in alternate years from the West Virginia Division of Environmental Protection ("WVDEP") to increase the volume of solid waste accepted at the landfill facility by an amount of 10% or less, unless such an increase requires a change in the classification of the facility; and

WHEREAS, the City has received an Engineer's Opinion and Recommendation, incorporated herein and attached hereto as Exhibit A, which indicates that a 10% monthly tonnage increase is necessary to provide for continued efficient disposal of waste at the landfill facility; and

WHEREAS, upon information and belief, a 10% increase in monthly tonnage will not change the classification of the landfill facility;

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

That the Council of the City of Charleston directs the administration to take the appropriate action(s), consistent with all state and local laws and rules, to initiate the submittal of an application to the WVDEP, Office of Waste Management, requesting a permit modification allowing permittee to increase the allowable monthly tonnage of the landfill facility by 10%.

Councilmember Talkington moved to approve the Resolution. Councilmember Lane seconded the motion. With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution 887-17 adopted.

COMMITTEE ON PLANNING

Councilmember Davis, Chair of the Council Committee on Planning, submitted the following reports:

1. Your committee on Planning has had under consideration the following bill, and reports the same to Council with the recommendation that Bill No. 7736 do pass.

Bill No. 7736 - amending the Zoning Ordinance of the City of Charleston, West Virginia, adopted January 1, 2006, as amended, by allowing “Animal Hospital/Clinic” as a conditional use permit in the PMC Professional or Medical Campus District.

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

- 1 The Zoning Ordinance for the City of Charleston, West Virginia, effective January 1, 2006, is hereby amended as follows:

Sec. 3-050 Permitted Land Uses

LAND USE	R-2	R-4	R-6	R-8	R-10	R-O	C-4	C-8	C-10	C-12	CB-D	UC-D	PM-C	I-2	I-4	PU-D	SUP P.
<i>Animal Hospital/Clinic</i>								<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>		<u><i>C</i></u>				<i>13</i>
<i>Veterinary Hospital (See Animal Hospital)</i>	<i>C</i>																

Sec. 3-060 Supplemental Regulations Pertaining to Land Use Table

Animal Hospital/Clinic shall comply with the following:

- a. The use shall not constitute a nuisance due to noise or odor.
- 2 All prior ordinances or parts of ordinances, inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

Councilmember Davis moved to approve the Bill. Councilmember Lane seconded the motion. A roll call was taken:

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

NAYS: NONE

ABSENT: Chestnut, Clowser, Snodgrass

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7736 passed.

2. Your committee on Planning has had under consideration the following street naming, and reports the same to Council with the recommendation that the street naming do pass.

Your Committee on Planning had under consideration the Fieldcrest Street request attached hereto and made a part thereof.

Your Committee finds the request is in compliance with all the applicable standards and reports the same to Council with the recommendation that the naming do pass.

Councilmember Davis moved to approve the Street Naming. Councilmember Lane seconded the motion. With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Street Naming adopted.

COMMITTEE ON STREETS AND TRAFFIC

Councilmember Hoover, Chair of the Council Committee on Streets and Traffic, submitted the following reports:

1. Your committee on Streets and Traffic has had under consideration the following bill, and reports the same to Council with the recommendation that Bill No. 7737 do pass.

Bill No. 7737 - A Bill to establish no parking on the South Side of the 1300 Block of Adele Street and amending the Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Laws, Section 263, Division 2, Article 4, Chapter 114, to conform therewith.

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

Section 1. No parking on the South Side of the 1300 Block of Adele Street.

Section 2. The Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Laws, Section 263, Division 2, Article 4, Chapter 114, shall be and hereby are amended, to conform to this Ordinance.

Section 3. All prior Ordinances, inconsistent with this Ordinance are hereby repealed to the extent of said inconsistency.

Councilmember Hoover moved to approve the Bill. Councilmember Lane seconded the motion. A roll call was taken:

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

NAYS: NONE

ABSENT: Chestnut, Clowser, Snodgrass

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7737 passed.

2. Your committee on Streets and Traffic has had under consideration the following bill, and reports the same to Council with the recommendation that Bill No. 7739 do pass.

Bill No. 7739 - A Bill to establish a handicapped parking zone at 1321 Virginia Street East and amending the Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Laws, Section 263, Division 2, Article 4, Chapter 114, to conform therewith.

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

Section 1. A handicapped parking zone at 1321 Virginia Street East is hereby established.

Section 2. The Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Laws, Section 263, Division 2, Article 4, Chapter 114, shall be and hereby are amended, to conform to this Ordinance.

Section 3. It shall be unlawful for any vehicle not displaying the insignia provided for in Section 2 to park in those spaces for the disabled provided for in Section 1. Any vehicle in violation of this section may be ticketed and impounded as provided for in Chapter 114, Vehicles and Traffic Law, Code of the City of Charleston, West Virginia.

Section 4. All prior Ordinances, inconsistent with this Ordinance are hereby repealed to the extent of said inconsistency.

Councilmember Hoover moved to approve the Bill. Councilmember Lane seconded the motion. A roll call was taken:

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

NAYS: NONE

ABSENT: Chestnut, Clowser, Snodgrass

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7739 passed.

3. Your committee on Streets and Traffic has had under consideration the following bill, and reports the same to Council with the recommendation that Bill No. 7743 do pass.

Bill No. 7743 - A Bill to establishing 15 minute parking only on the east side of Clendenin Street between Quarrier Street and Lee Street and establishing Bus and ticket for Civic Center only 15 minute parking on the west side of Clendenin Street between Quarrier Street and Lee Street and amending the Traffic Control Map and File, established by the code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Laws, Section 263, Division 2, Article 4, Chapter 114, to conform therewith.

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

Section 1. 15 minute parking only on the east side of Clendenin Street between Quarrier Street and Lee Street and establishing Bus and ticket for Civic Center only 15 minute parking on the west side of Clendenin Street between Quarrier Street and Lee Street is hereby established.

Section 2. The Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Law, Section 263, Division 2, Article 4, Chapter 114, shall be and hereby are amended, to conform to this Ordinance.

Section 3. All prior Ordinances, inconsistent with this Ordinance are hereby repealed to the extent of said inconsistency.

Councilmember Hoover moved to approve the Bill. Councilmember Lane seconded the motion. A roll call was taken:

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

NAYS: NONE

ABSENT: Chestnut, Clowser, Snodgrass

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7743 passed.

4. Your committee on Streets and Traffic has had under consideration the following bill, and reports the same to Council with the recommendation that Bill No. 7744 do pass.

Bill No. 7744 - A Bill to establish an all way stop intersection on Capitol Street at Donnally Street by installing a stop sign on the northwest corner of the intersection and amending the Traffic Control Map and File, established by the code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Laws, Section 263, Division 2, Article 4, Chapter 114, to conform therewith.

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

Section 1. An all way STOP intersection on Capitol Street at Donnally Street by installing stop signs on the Northeast and Southwest corner on Donnally Street of the intersection is hereby established.

Section 2. The Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Law, Section 263, Division 2, Article 4, Chapter 114, shall be and hereby are amended, to conform to this Ordinance.

Section 3. All prior Ordinances, inconsistent with this Ordinance are hereby repealed to the extent of said inconsistency.

Councilmember Hoover moved to approve the Bill. Councilmember Lane seconded the motion. A roll call was taken:

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

NAYS: NONE

ABSENT: Chestnut, Clowser, Snodgrass

COMMITTEE ON FINANCE

Councilmember Reishman, Chair of the Council Committee on Finance, submitted the following reports:

1. Your committee on Finance has had under consideration the following resolution, and reports the same to Council with the recommendation that Resolution No. 888-17 do pass.

Resolution No. 888-17 - Authorizing the Finance Director to amend the FY 2016-2017 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 2016-2017 General Fund budget as indicated on the attached list of accounts.

General Fund FY 2016-2017 Budget Amendment NO. 12 - May 1, 2017

Account No.	Department	Account Description	Amount
001 369 01 0000	Revenue	Contributions from Health Care Reserve Fund	(2,000,000)
001 700 93 000 1 105	Police - Retirees	Retiree Health Benefits	1,200,000
001 706 93 000 1 105	Fire - Retirees	Retiree Health Benefits	800,000

To record the transfer of resources from the Health Insurance Reserve Fund (047) to offset increased medical claims.

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

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

NAYS: NONE

ABSENT: Chestnut, Clowser, Snodgrass

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 888-17 adopted.

2. Your committee on Finance has had under consideration the following resolution, and reports the same to Council with the recommendation that Resolution No. 889-17 do pass.

Resolution No. 889-17 - Authorizing the Mayor or his designee to receive and administer \$ 15,000 from the Kanawha County Commission's Law Enforcement Public Safety Grant program for the purchase of in-car cameras for the Charleston Police Department.

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 receive and administer \$ 15,000 from the Kanawha County Commission's Law Enforcement Public Safety Grant program for the purchase of in-car cameras for the Charleston Police Department.

Councilmember Reishman moved to approve the Resolution. Councilmember Lane seconded the motion. With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution 889-17 adopted.

- 3. Your committee on Finance has had under consideration the following resolution, and reports the same to Council with the recommendation that Resolution No. 890-17 do pass.

Resolution No. 890-17 - A Resolution authorizing the City Manager or his designee to enter into an Agreement with the West Virginia Department of Transportation Division of Highways, attached as Exhibit A hereto, and further authorizing the City Manager or his designee to enter into an Agreement with Charleston Main Streets, attached as Exhibit B hereto, all for the purpose of installation and maintenance of a public art piece, the Lee Street Gateway Mural, within the Division of Highways’ right-of-way at the eastbound I-64 Lee Street exit ramp.

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

That, upon final review and approval of the Agreements by the City Attorney, the City Manager or his designee is hereby authorized to enter into an Agreement with the West Virginia Department of Transportation Division of Highways, and is further authorized to enter into an Agreement with Charleston Main Streets, all for the purpose of installation and maintenance of a public art piece, the Lee Street Gateway Mural, within the Division of Highways’ right-of-way at the eastbound I-64 Lee Street exit ramp.

WEST VIRGINIA DEPARTMENT OF
TRANSPORTATION
DIVISION OF HIGHWAYS
AGREEMENT

MURAL ALONG EASTBOUND I-64 LEE STREET EXIT KANAWHA
COUNTY

THIS AGREEMENT, executed in duplicate, made and entered into this day of _____, 20___, by and between the West Virginia Department of Transportation, Division of Highways, hereinafter called “Division”, and the City of Charleston, a West Virginia municipality, hereinafter called “City,”

WITNESSETH that,

WHEREAS, in accordance with City’s “Gallery 64 Public Art Project,” City desires to beautify certain portions of Division’s right-of-way of I-64, located within the City limits, by installing a mural along a wall that is part of the eastbound I-64 Lee Street exit ramp, adjacent to US 119 North (Pennsylvania Avenue North); and

WHEREAS, Division considers it to be in the public interest to allow City to enter Division’s property to install the mural and to perform maintenance activities; and

WHEREAS, City has submitted to Division an application concerning the mural and City’s request to implement such mural has been developed in conformance with Division’s approved policy regarding art within Division’s right-of-way;

NOW, THEREFORE, in consideration of the faithful performance of each party of the mutual covenants hereinafter set forth, Division and City agree as follows:

- I. City has submitted, and Division has approved, an application for installation of art within Division's right-of-way, and such application includes appropriate plans regarding a mural that City desires to install on Division's wall that is part of the eastbound I-64 Lee Street exit ramp, adjacent to US 119 North (Pennsylvania Avenue North), and any other work to be performed by City as part of this activity. Division has obtained Federal Highway Administration approval regarding the installation of the mural.
- II. The mural shall not include, illustrate or represent any material deemed by Division to be objectionable or offensive, nor shall mural contain any items deemed by Division to be of a political nature. No commercial advertising of any type may be placed on Division's property and mural shall comply with Division's outdoor advertising rules and regulations. In the event that the Division deems any mural objectionable, offensive or containing content that is political in nature, the mural shall be promptly removed at City's expense.
- III. For as long as mural exists on Division's property, City shall continue oversight of vehicular and pedestrian traffic in the area of the mural for the purpose of identifying any impediment to vehicular and/or pedestrian traffic resulting from the placement of the mural. Upon request by the Division, the City shall provide pertinent comments and/or available information about vehicular and pedestrian traffic concerning the roadways adjacent to the mural that are not available to Division. City shall coordinate with Division for any other City proposals or plans pertinent to the area in which the mural is located.
- IV. After receipt of Division's written authorization to proceed, City shall be permitted to enter Division's property to install the mural and perform other associated activities. All activities on Division's right of way must be first approved by Division. City shall bear the total cost of the project, including all materials, equipment, and labor. City shall secure all approvals and/or permits, if any, required by other governmental agencies for Project. City shall be responsible for any taxes or fees associated with the painting of the mural and associated activities.
- V. Division shall be notified of the construction schedule and shall have the right at all times to review the work. City's project shall conform to applicable OSHA regulations and shall be performed only between the hours 9:00 AM and 3:00 PM, and 7:00 PM and 10:00 PM, Monday through Friday and between the hours of 7:00 AM and 10:00 PM on Saturday, and shall commence no earlier than May 1, 2017, and is anticipated to be completed before August 31, 2017. Should Division's review reveal that the work is not being performed in accordance with the approved plans, Division will report such fact to City for appropriate prompt remedial action.
- VI. City shall comply with all applicable Federal, State and local environmental laws, rules and regulations, including hazardous waste requirements and the proper disposal of any paint or chemicals. City shall take appropriate measures to prevent and mitigate damage caused by spilled or dripped paint or chemicals, and City shall be responsible for the entire cost of any fines levied by any governmental agency as a result of City's project. City shall have no open flames nor shall smoking be permitted on Division's property. City shall obtain any necessary approvals concerning the use of any copyrighted material. Division and the Federal Highway Administration shall be granted an irrevocable, nonexclusive, nontransferable, non-commercial and royalty-free license to use for non-commercial purposes visual reproduction of the artwork that is the subject of this Agreement.

- VII. As between City and Division, City shall be responsible for one hundred percent (100%) of the cost of any repair necessary as a result of City's project, including damage to vehicles.
- VIII. In the performance of work by City, no equipment shall be permitted to be on the travel lanes or shoulders of any public highway except as shown on Plans approved by Division. City's project shall in no way interfere with the safe and efficient movement of traffic along the I-64 mainline, and shall not adversely affect Division's ability to reasonably access Division's property. City's project shall not adversely affect any permitted parking or existing use associated with a lease agreement by Division within area of City's project. City shall coordinate with Division regarding any maintenance or construction activities by Division in the area of City's Project and City's Project shall not adversely affect Division's construction or maintenance activities. City shall reinstall any fencing or other appurtenances that are removed by City.
- IX. Division shall have no responsibility to maintain the mural after completion by City. City shall obtain Division's prior approval regarding any maintenance activities associated with the mural that City desires to perform, including repainting. In the event that any part of the mural is removed from the bridge piers as a result of damage, vandalism, Division's maintenance activities, or for any other reason, Division shall have no responsibility to replace mural or compensate City for same. City shall promptly, appropriately, and to Division's satisfaction remove from the wall upon which mural is placed any graffiti or non-approved items. Division reserves the right to remove such graffiti or non-approved items, and by such act also may remove all or part of any mural, at Division's discretion and without compensation to City.
- X. Division and City agree that as between Division and City, City shall be responsible for any and all suits, claims, liability, losses, liens and demands, fines, costs, criminal and civil penalties, causes of action or any other obligations arising out of or in any manner connected with the work performed by City, its agents, employees, or contractors, under this Agreement, during or any time after such work is being or has been performed, including (without limitation) liability involving bodily injury, death, property damage, or any violation or alleged violation of any Federal, State or local law or regulation, except for any liability or damages due to the willful or intentional unlawful acts or negligence of Division, its employees, agents or contractors.
- XI. If a provision of this Agreement is or becomes illegal, invalid or unenforceable in any jurisdiction, that shall not affect:
- A. the validity or enforceability in that jurisdiction of any other provision of this Agreement; or
 - B. the validity or enforceability in other jurisdictions of that or any other provision of this Agreement.

Further, if contract work by City is to be performed, City shall furnish evidence of having at least the minimum amounts of insurance required of the Contractor in Section 103.6 through and including Section 103.6.5 of the "West Virginia Division of Highways, Standard Specifications, Roads and Bridges, Adopted 2010," and supplements hereto. City also shall require its contractor(s) to have the aforesaid minimum insurance coverage and to provide evidence, as necessary, that contractor has a current license and is qualified to perform work in West Virginia. City shall require that its contractor(s) include the Division as an additional insured on all policies of insurance, except worker's compensation.

- XII. This agreement shall be binding upon the successors and assigns of each party thereto and shall not be assigned without the prior written consent of Division.

- XIII. Any resolutions of the City Council necessary to authorize City’s compliance with the terms of this Agreement are attached hereto. In the absence of any such attached resolution, the duly authorized officer by whose signature City enters this Agreement warrants that no such resolution is necessary.

IN WITNESS WHEREOF, the parties hereto have caused their respective names to be signed by their duly authorized officers.

AGREEMENT FOR
CHARLESTON MAIN STREETS
LEE STREET GATEWAY MURAL

Exhibit B

THIS AGREEMENT is made and entered into this _____ day of _____, 20____, by and between the City of Charleston, a municipality (hereinafter called “City”) and Charleston Main Streets (hereinafter called “CMS”).

WITNESSETH that,

WHEREAS, CMS desires to install and maintain a gateway mural on West Virginia Department of Transportation Division of Highways (hereinafter called “DOH”) property at the eastbound I-64 Lee Street exit ramp (hereinafter “Mural”); and

WHEREAS, City considers it to be in the public interest to coordinate with CMS to facilitate CMS’s installation and maintenance of the Mural;

NOW, THEREFORE, in consideration of the faithful performance of each party of the mutual covenants hereinafter set forth, City and CMS agree as follows:

- 1) CMS acknowledges and agrees that it will be solely responsible for funding, selection of the artist, oversight of installation, and all maintenance related to the Mural.
- 2) City will execute the “West Virginia Department of Transportation Division of Highways Agreement Mural Along Eastbound I-64 Lee Street Exit Kanawha County,” attached as Exhibit A hereto, authorizing and setting forth the requirements for the use of DOH property for the installation and maintenance of the Mural. CMS acknowledges and agrees that it shall comply with and abide by all requirements set forth by the DOH in the West Virginia Department of Transportation Division of Highways Agreement Mural Along Eastbound I-64 Lee Street Exit Kanawha County.
- 3) CMS shall maintain general liability insurance in a minimum amount of one million dollars, and shall name City and DOH as additional insureds with respect to the Mural. CMS shall indemnify, defend, and hold harmless City and DOH from and against any and all suits, claims, liability, losses, liens and demands, fines, costs, criminal and civil penalties, causes of action or any other obligations arising out of or in any manner connected with the work performed by CMS, its agents, employees, or contractors, under this Agreement, during or any time after such work is being or has been performed, including (without limitation) liability involving bodily injury, death, property damage, or any violation or alleged violation of any Federal, State or local law or regulation, except for any liability or damages due to the willful or intentional unlawful acts or negligence of City, its employees, agents or contractors. CMS shall indemnify, defend, and hold harmless City for any claims, demands, or causes of action resulting from a failure to comply with the requirements

set forth in the “West Virginia Department of Transportation Division of Highways Agreement Mural Along Eastbound I-64 Lee Street Exit Kanawha County.”

- 4) The performance of any work by CMS to install and maintain the Mural shall in no way interfere with the safe and efficient movement of traffic on roadways adjacent to the Mural, and CMS shall coordinate with the DOH if any interruption of traffic or modification of the traffic pattern is necessary during installation or maintenance of the Mural.
- 5) During installation and maintenance of the Mural, CMS shall be solely responsible for putting in place adequate safety measures and warnings for pedestrians, including, but not limited to, barricades, flashing lights, and all other measures required by law or necessary under the circumstances.
- 6) If a provision of this Agreement is or becomes illegal, invalid or unenforceable in any jurisdiction, that shall not affect:
 - A. the validity or enforceability in that jurisdiction of any other provision of this Agreement; or
 - B. the validity or enforceability in other jurisdictions of that or any other provision of this Agreement.
- 7) If contract work by CMS is to be performed as part of the installation or maintenance of the Mural, CMS shall require its contractor(s) to have a minimum of one million dollars of general liability insurance coverage and to provide evidence, as necessary, that contractor has a current license and is qualified to perform work in West Virginia. CMS and its contractors shall include the City and DOH as an additional insured on all policies of insurance, except worker’s compensation. This insurance provision does not apply to the installation of artwork by any artist(s).
- 8) Notwithstanding the permission and obligations contained herein, in the event that the Mural ceases to comply with all applicable State and City laws and regulations, or if CMS fails after notice to perform any necessary maintenance or repairs, or if CMS fails to comply with or abide by the provisions of the “West Virginia Department of Transportation Division of Highways Agreement Mural Along Eastbound I-64 Lee Street Exit Kanawha County,” City shall have the right to repair, alter, or remove the Mural. CMS further acknowledges and agrees that in the event the City should have a public need for the property affected by this Agreement, or if the “West Virginia Department of Transportation Division of Highways Agreement Mural Along Eastbound I-64 Lee Street Exit Kanawha County” is cancelled for any reason, the City may terminate this Agreement and remove the Mural from DOH property.
- 9) This agreement shall be binding upon the successors and assigns of each party thereto.

Councilmember Reishman moved to approve the Resolution. Councilmember Lane seconded the motion. With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution 890-17 adopted.

- 4. Your committee on Finance has had under consideration the following resolution, and reports the same to Council with the recommendation that Resolution No. 891-17 do pass.

Resolution No. 891-17 - A Resolution authorizing the City Manager or his designee to enter into an Agreement with Charleston Main Streets, attached as Exhibit A hereto, permitting the use of city right-of-way in the 1600 block of Washington Street East for the purpose of constructing and maintaining a gateway marker at the gateway of Charleston’s East End Historic Business District.

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

That, the City Manager or his designee is hereby authorized to enter into an Agreement with Charleston Main Streets, attached as Exhibit A hereto, permitting the use of city right-of-way in the 1600 block of Washington Street East for the purpose of constructing and maintaining a gateway marker at the gateway of Charleston’s East End Historic Business District.

Exhibit A

AGREEMENT FOR

CHARLESTON MAIN STREETS
EAST END HISTORIC DISTRICT MARKER

THIS AGREEMENT is made and entered into this _____ day of _____, 20____, by and between the City of Charleston, a municipality, hereinafter called “City,” and Charleston Main Streets, hereinafter called “CMS”.

WITNESSETH that,

WHEREAS, CMS desires to construct and maintain a gateway marker at the gateway of the East End’s Historic Business District (hereinafter “Gateway Marker”) on City’s property in the 1600 Block of Washington Street East as set forth in Exhibit A hereto (hereinafter “Planning Area”); and

WHEREAS, prior to implementation of any construction or other use of City’s property, CMS will provide to City appropriate plans and details regarding such construction or use to obtain City’s approval, if appropriate; and

WHEREAS, City considers it to be in the public interest to coordinate with CMS to facilitate CMS’s construction and maintenance of Gateway Marker in the Planning Area;

NOW, THEREFORE, in consideration of the faithful performance of each party of the mutual covenants hereinafter set forth, City and CMS agree as follows:

- 10) In consideration for use of City right-of-way for the placement of the Gateway Marker, CMS shall be solely responsible for all costs and labor related to the construction and ongoing maintenance of the Gateway Marker including, but not limited to, initial construction, repair of any damage, lamp replacement, and cleaning.
- 11) City will provide to CMS for CMS’s use in the construction and maintenance of Gateway Marker publicly available construction, right-of-way, or utility plans and details in its possession concerning City’s right-of-

way within Planning Area. City shall make CMS aware of any concerns associated with any proposed use of City's property within Planning Area.

- 12) The performance of any work by CMS to construct and maintain the Gateway Marker shall in no way interfere with the safe and efficient movement of traffic along Washington Street East (US 60) and CMS shall coordinate with the West Virginia Department of Highways if any interruption of traffic or modification of the traffic pattern is necessary during construction or maintenance of the Gateway Marker.
- 13) During construction and maintenance of the Gateway Marker, CMS shall be solely responsible for putting in place adequate safety measures and warnings for pedestrians, including, but not limited to, barricades, flashing lights, and all other measures required by law or necessary under the circumstances.
- 14) City and CMS agree that as between City and CMS, CMS shall be responsible for any and all suits, claims, liability, losses, liens and demands, fines, costs, criminal and civil penalties, causes of action or any other obligations arising out of or in any manner connected with the work performed by CMS, its agents, employees, or contractors, under this Agreement, during or any time after such work is being or has been performed, including (without limitation) liability involving bodily injury, death, property damage, or any violation or alleged violation of any Federal, State or local law or regulation, except for any liability or damages due to the willful or intentional unlawful acts or negligence of City, its employees, agents or contractors.
- 15) If a provision of this Agreement is or becomes illegal, invalid or unenforceable in any jurisdiction, that shall not affect:
 - C. the validity or enforceability in that jurisdiction of any other provision of this Agreement; or
 - D. the validity or enforceability in other jurisdictions of that or any other provision of this Agreement.
- 16) If contract work by CMS is to be performed as part of the construction or maintenance of the Gateway Marker, CMS shall require its contractor(s) to have a minimum of one million dollars of general liability insurance coverage and to provide evidence, as necessary, that contractor has a current license and is qualified to perform work in West Virginia. CMS and its contractors shall include the City as an additional insured on all policies of insurance, except worker's compensation.
- 17) Notwithstanding the permission and obligations contained herein, the use of City right-of-way by CMS for construction and maintenance of the Gateway Marker is a limited license that may be revoked or altered by the City at any time that the Gateway Marker ceases to comply with all applicable State and City laws and regulations, or if in the opinion of the City Manager or the City Engineer the Gateway Marker becomes unsafe and CMS fails after notice to make all necessary repairs. If permission for the location of the Gateway Marker is revoked by City, City shall have the right to repair, alter, or remove the Gateway Marker. CMS further acknowledges and agrees that in the event the City should have a public need for the property affected by this Agreement, the City may terminate this Agreement and remove the Gateway Marker from City property.
- 18) This agreement shall be binding upon the successors and assigns of each party thereto.

Councilmember Reishman moved to approve the Resolution. Councilmember Lane seconded the motion. With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution 891-17 adopted.

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

Proposal submitted by Advantage Technology for purchase of 1 SAN Server in the total amount of \$ 35,588.62. The server will be used by the Information Systems Department.

To be charged to Account No. 001-975-00-439-4-459, Information Systems – Capital Outlay Equipment

Storage Area Network Server REBID - Information Systems Department

Bid Opening: April 27, 2017 @ 11:00 a.m.

		Acorn Technologies, LLC 1116 Smith Street, Suite 401 Charleston, WV 25301 P: (304) 908-4700 bill@acorntechnologieswv.com		Advantage Technology 950 Kanawha Blvd East Charleston, WV 25301 P: (304) 342-0796 ssantmyer@advantage.tech	
	Quantity	Make/Model	Total Cost	Make/Model	Total Cost
SAN Server	1	Dell Equallogic PS6210E	\$37,497.98	Dell Equallogic PS6210E	\$35,588.62
Shipping, if applicable			\$0.00		\$0.00
Delivery		25 days		14 days	
Total Bid		\$37,497.98		\$35,588.62	

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

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

Proposal submitted by StageRight Corporation for purchase of Portable Performance Staging in the total amount of \$ 112,791.08. The stage will be used by the Charleston Civic Center.

To be charged to Account No. 216-979-00-000-4-460, Civic Center – Capital Outlay, Construction in Progress

Portable Performance Staging for Charleston Civic Center

Bid Opening: Thursday, April 27, 2017 @ 11 a.m.

		StageRight Corporation 495 Pioneer Parkway Clare, MI 48617 P: (989) 430-4967 mwidenmier@stageright.com	
ITEM	QUANTITY	PRICE PER UNIT	TOTAL COST
Modular Reversible Decks, Part# 648AN2D	92	\$509.24	\$46,850.08
ME-3750 Support System, Part# 319348	16	\$2,704.00	\$43,264.00
ME-3750 Support System, Part# 319248	1	\$2,245.00	\$2,245.00
Stairways, Part# 320106	3	\$1,414.00	\$4,242.00
Guardrails, Part# 390503	17	\$208.00	\$3,536.00
Guardrails, Part# 360046	6	\$199.00	\$1,194.00
Black Skirting, Part# 321113	17	\$164.00	\$2,788.00
Black Skirting, Part# 321126	6	\$119.00	\$714.00
Transport/Storage System, Part# 322238	5	\$416.00	\$2,080.00
Transport/Storage System, Part# 322248	1	\$878.00	\$878.00
Shipping			\$5,000.00
TOTAL BID		\$112,791.08	
Delivery		60-75 days	

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

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

Proposal submitted by Advantage Technology for purchase of 70 Dell Optiplex Computers in the total amount of \$118,119.40. The computers will be used by the Information Systems Department.

To be charged to Account No. 001-975-00-439-4-459, Information Systems – Capital Outlay Equipment

		Advantage Technology 950 Kanawha Blvd. East Charleston, WV 25301 P: (304) 545-3700 ssantmyer@advantagetech.biz			Dil Tex Inc. 1750 W Cameron Ave. Suite 110 West Covina, CA 91790 P: (626) 960-1314 dil.singh@diltexinc.com		
	Quantity	Make/Model	Unit Cost	Total Cost	Make/Model	Unit Cost	Total Cost
Group 1 Computers	70	Dell OptiPlex 7040 MFF	\$1,687.42	\$118,119.40	Dell OptiPlex 7040 MFF	\$1,691.67	\$118,416.90
Shipping, if applicable				\$0.00			\$0.00
Total Bid		\$118,119.40			\$118,416.90		
Delivery		14 days			30 days		

SHI International Corp. 290 Davidson Ave. Somerset, NJ 08873 P: (888) 764-8888 cassie_skelton@shi.com		
Make/Model	Unit Cost	Total Cost
Dell Optiplex 7040 MFF	\$1,551.00	\$108,570.00
		\$1,374.94
		\$109,944.94
		7-10 days

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

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

Proposal submitted by OP Aquatics for purchase of Pool Chemicals by the Parks and Recreation Department. The pool chemicals will be purchased on an as needed basis and the prices shall remain in effect for a six month period from date of council approval.

To be charged to Account No. 001-900-00-000-3-341, P&R Materials and Supplies

Pool Chemicals - Parks and Recreation
 Bid Opening: April 13, 2017 @ 11 a.m.

	The C.I. Thornburg Co. Inc. 4034 Altizer Ave. Huntington, WV 25705 P: (304) 523-3484 terry.cremeans@cithornburg.com	OP Aquatics 148 Trade St. Lexington, KY 40511 P: (859) 225-3817 cleonard@opaquatics.com	Chemrite, Inc. 5202 Belle Wood Court, Suite 104 Buford, GA 30518 P: (770) 271-5576 aaron@chemrite.com
Chlorine Tablets 50 lb. Containers	\$119.00	\$112.57	\$108.50
Stablizer 50 lb. Containers	\$72.00*	\$56.81*	No Bid
Muriatic Acid 1 Gal. Containers	\$9.50	\$13.54**	No Bid
Calcium Chloride 50 lb. bags	\$13.50	\$13.84	No Bid
Granular Chlorine 50 lb. containers	\$59.00**	\$90.61	\$84.50
Liquid Chlorine 1 Gal. Containers	No Bid	\$10.64***	No Bid
Liquid Chlorine 5 Gal. Containers	\$17.00	No Bid	No Bid
Liquid Chlorine 10 Gal. Containers	\$31.00***	No Bid	No Bid
Sodium Carbonate 50 lb. Bags	\$17.25	\$18.52	No Bid
Sodium Bicarbonate 50 lb. bags	\$16.25	\$16.52	No Bid

*40 lb. Container *45 lb.
 **25 lb. Container **Sold 4 x
 ***15 Gallon Container ***Sold 4 x 1 Gal. Case

Delivery:	2-3 days	1 day	2-3 days
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Councilmember Reishman moved to approve the Committee Report. Councilmember 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. City of Charleston, WV – Financial Statements, for the nine-month period ending March 31, 2017.

Received and Filed.

NEW BILLS

1. Introduced by Councilmembers Mary Jean Davis, Jack Harrison, Becky Ceperley, Bobby Haas, Andy Richardson, Courtney Persinger, Mary Beth Hoover, Jerry Ware, and Susie Salisbury on May 1, 2017:

Bill No. 7738 – A Bill amending the Zoning Ordinance by amending the front setback exception and adding the definition “Traditional Neighborhood”.

Refer to Municipal Planning Commission and Planning Committee.

2. Introduced by Councilmembers Mary Jean Davis, Jack Harrison, Becky Ceperley, Bobby Haas, Andy Richardson, Courtney Persinger, Mary Beth Hoover, Jerry Ware, and Susie Salisbury on May 1, 2017:

Bill No. 7740 - A Bill amending the Zoning Ordinance by allowing accessory dwelling units in owner occupied single family dwellings with conditions.

Refer to Municipal Planning Commission and Planning Committee.

3. Introduced by Councilmember Rusty Webb on May 1, 2017:

Bill No. 7742 - A Bill amending the Zoning Ordinance by allowing “Greenhouse” as a conditional use permit in the C-8 Village Corridor District and the CBD Central Business District.

Refer to Municipal Planning Commission and Planning Committee.

4. Introduced by Councilmembers Chuck Overstreet and Jeanine Faegre on May 1, 2017:

Bill No. 7745 - A Bill to establish a stop intersection on Helen Avenue at Mathews Avenue by installing a stop sign on the Southwest corner of the intersection.

Refer to Streets and Traffic Committee.

ADJOURNMENT

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

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

NAYS: NONE

ABSENT: Chestnut, Clowser, Snodgrass

At 7:20 p.m., by a motion from Councilmember Harrison, Council adjourned until Monday, May 15, 2017, at 5:30 p.m., in the Council Chamber in City Hall.

Danny Jones, Honorable Mayor

JB Akers, City Clerk