



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

CITY OF CHARLESTON, WEST VIRGINIA

Regular Meeting – Monday, November 5, 2018

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 second meeting in the month of October on the 16th day, in the year 2018, and was called to order by the Honorable Mayor, Danny Jones. The invocation was delivered by Councilmember Harrison and the Pledge of Allegiance was led by Catherine Nutter. The Honorable Clerk, JB Akers, called the roll of members and it was found that there were present at the time:

CHESTNUT**EALY****HARRISON****JONES****LANE****OVERSTREET****RICHARDSON****STEELE****FAEGRE****HOOVER****B. KING****MCKINNEY****PERSINGER****SALISBURY****WARE****CEPERLEY****DAVIS****HAAS****IRELAND****S. KING****MINARDI****REISHMAN****SNODGRASS****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

None

CLAIMS

1. A claim of Diane Moore, 4005 Fairlawn Ave, Dunbar, WV; alleges personal injury.
Refer to City Solicitor.

PROCLAMATIONS

1.

EXECUTIVE DEPARTMENT

CITY OF CHARLESTON

PROCLAMATION

By the Mayor

WHEREAS: The City of Charleston celebrates our local small businesses and the contributions they make to our local economy and community. According to the United States Small Business Administration, there are currently 30.2 million small businesses in the United States, they represent 99.7 percent of all businesses with employees in the United States, are responsible for 65.9 percent of net new jobs created from 2000 to 2017; and

WHEREAS: Small businesses employ 47.5 percent of the employees in the private sector in the United States; and

WHEREAS: 89 percent of consumers who are aware of Small Business Saturday said the day encourages them to Shop Small all year long; and

WHEREAS: 73 percent of consumers who reportedly Shopped Small at independently-owned retailers and restaurants on Small Business Saturday did so with friends and family; and

WHEREAS: The most reported reason for consumers aware of the day to shop and dine at small, independently-owned businesses was to support their community; and

WHEREAS: Charleston, West Virginia supports our local businesses that create jobs, boost our local economy and preserve our communities; and

WHEREAS: Advocacy groups, as well as public and private organizations, across the country have endorsed the Saturday after Thanksgiving as Small Business Saturday.

NOW THEREFORE, I, Danny Jones, Mayor of the City of Charleston, do hereby proclaim the 23rd day of November, 2018, as

SMALL BUSINESS SATURDAY

in Charleston, West Virginia, and urge the residents of our community, and communities across the country to support small businesses and merchants on Small Business Saturday – and throughout the year.

IN WITNESS WHEREOF, I have set my hand and caused the Seal of the Executive Department to be affixed this 16th day of October 2018.

DANNY JONES, MAYOR

The Mayor presented the proclamation to several small businesses.

MISCELLANEOUS RESOLUTIONS

1. Resolution No. 140-18:

Introduced in Council: November 5, 2018

Introduced by: Robert Reishman

WHEREAS, pursuant to the authority granted by Chapter 8, Article 33, of the Code of West Virginia, 1931, as amended (together with specified provisions of Chapter 8, Article 16 of the Code of West Virginia, 1931, as amended, the “Act”), the Charleston Building Commission (the “Commission”) has authorized the issuance and sale to Branch Banking and Trust Company of not to exceed \$19,000,000 in principal amount of Charleston Building Commission University Facilities Refunding Revenue Bonds (The University of Charleston, Inc.), Series 2018 (the “Bonds”), for the purpose of financing the costs of refunding and redeeming the Commission’s University Facilities Revenue Bonds (The University of Charleston, Inc.), Series 2009 (the “Prior Bonds”) and costs relating thereto, including but not limited to the costs of issuance of the Bonds;

WHEREAS, the proceeds of the Prior Bonds were used to finance the costs of (i) designing, acquiring, constructing and equipping an approximately 150-bed student housing facility upon the University of Charleston campus; (ii) designing, acquiring and constructing an approximately 525-space motor vehicle parking facility upon the University of Charleston campus; and (iii) paying the costs of issuance of the Prior Bonds and related costs;

WHEREAS, as required by the Act and Subsection 147(f) of the Internal Revenue Code of 1986, as amended, the Commission published notice of a public hearing with respect to the Bonds as a Class II legal advertisement in the Charleston Gazette-Mail on September 18 and September 25, 2018, and an affidavit of such publication is attached as Exhibit A hereto;

WHEREAS, the Commission has advised this Council that no person submitted written comments or appeared at the public hearing on October 3, 2018;

WHEREAS, pursuant to Subsection 147(f) of the Internal Revenue Code of 1986, as amended (the “Code”), in order for the interest on the Bonds to be excludable from gross income for federal income tax purposes, the Bonds must be approved by the Mayor of the City; and

WHEREAS, there has previously been presented to the Mayor an Approval which was executed, and forwarded to the Commission, on October 15, 2018, a copy of which is attached as Exhibit B hereto (the “Approval”);

WHEREAS, although not required by Subsection 147(f) of the Code, it has been determined as

appropriate and in the interest of transparency and disclosure that the Council ratify the Mayor's actions in connection with the approval;

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

1. The Mayor's execution and forwarding to the Commission of the Approval are hereby ratified and approved.
2. This Resolution shall take effect immediately upon adoption.

ADOPTED this 5th day of November 2018.

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, with one Abstain from Councilmember Ceperley, the Mayor declared Resolution 140-18 adopted.

PUBLIC HEARINGS

1. After duly being published as required, the Mayor declared the floor open for a Public Hearing on Resolution No. 135-18. No person from the public came to speak in reference to the Public Hearing. The Mayor declared the Public Hearing CLOSED.

REPORTS OF COMMITTEES**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 a request to dedicate as city streets, Willow Tree Way and Maple Leaf Lane in the Woodlands Subdivision attached hereto and made a part thereof.

Your committee finds the construction of the streets conform to all development standards contained in the Subdivision Regulations and reports the same to Council with the recommendation that the street dedication do pass contingent upon final approval of the City Engineer and the submission of a two-year maintenance bond in the amount to be determined by the City Engineer.

Councilmember Davis 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 Willow Tree Way and Maple Leaf Lane street dedication passed.

September 5, 2018

WOODLANDS SUBDIVISION

Please allow this to serve as the official notice to dedicate streets in the Woodlands Subdivision. Below is a list of homeowners with their signatures for approval.

William E. Turner Jr. 11 Maple Leaf Lane 

Mark Miller 6 Willow Tree 

Lewis Whaley 5 Maple Leaf Lane 

Lewis Whaley 3 Maple Leaf Lane 

Tray Frame 9 Willow Tree 

If additional information is necessary please contact Bill Turner at 304 342-2766.

2. Your Committee on Planning had under consideration a request to name a private road in the Jamestown Subdivision as Boulder Drive attached hereto and made a part thereof.

Your committee finds the street name complies with all applicable standards and reports the same to Council with the recommendation that the street name do pass.

Councilmember Davis moved to approve the Resolution. Councilmember Lane seconded the motion. With a majority of members elected recorded thereon as voting in the affirmative, with one Nay from Councilmember Harrison, the Mayor declared Boulder Drive street dedication passed.



CITY OF CHARLESTON, WEST VIRGINIA

PETITION TO NAME A STREET

Charleston, Kanawha County
West Virginia

Official Use Only	
Date Petition Submitted _____	Valid Petition <input type="checkbox"/> Yes <input type="checkbox"/> No
File Number: _____	
Community: _____	

Proposed Street Name: BOULDER DRIVE
Please print and include name suffix (Dr., Rd., Ln....)

We, the undersigned property owners, having been informed of the proposal to name our street as noted above, support the filing of this petition. We understand that the primary purpose of this petition is simply to indicate that a significant level of interest in the proposed street name exists from those whose property would be affected by this street naming. We further understand that this petition is non-binding. It does not mandate that the Metro Emergency Operations Center hear the proposed street name request, nor does it guarantee if it is heard that it will be approved.

PETITION CONTACT PERSON

GEORGE NEILAN

Name of Property Owner (Print)

George Neilan

Signature of Property Owner

2324 WOODLAND AVE.

Address

S. CHARLESTON, WV 25303

City, State, Zip

304 744-8702

Telephone (Home)

304 744-8702

Telephone (Work)

304-206-7824

Telephone (Mobile)

OFF JAMESTOWN ROAD CHARLESTON 25314

Physical Location of Property (Description)

CHAS. SA

Tax District

33

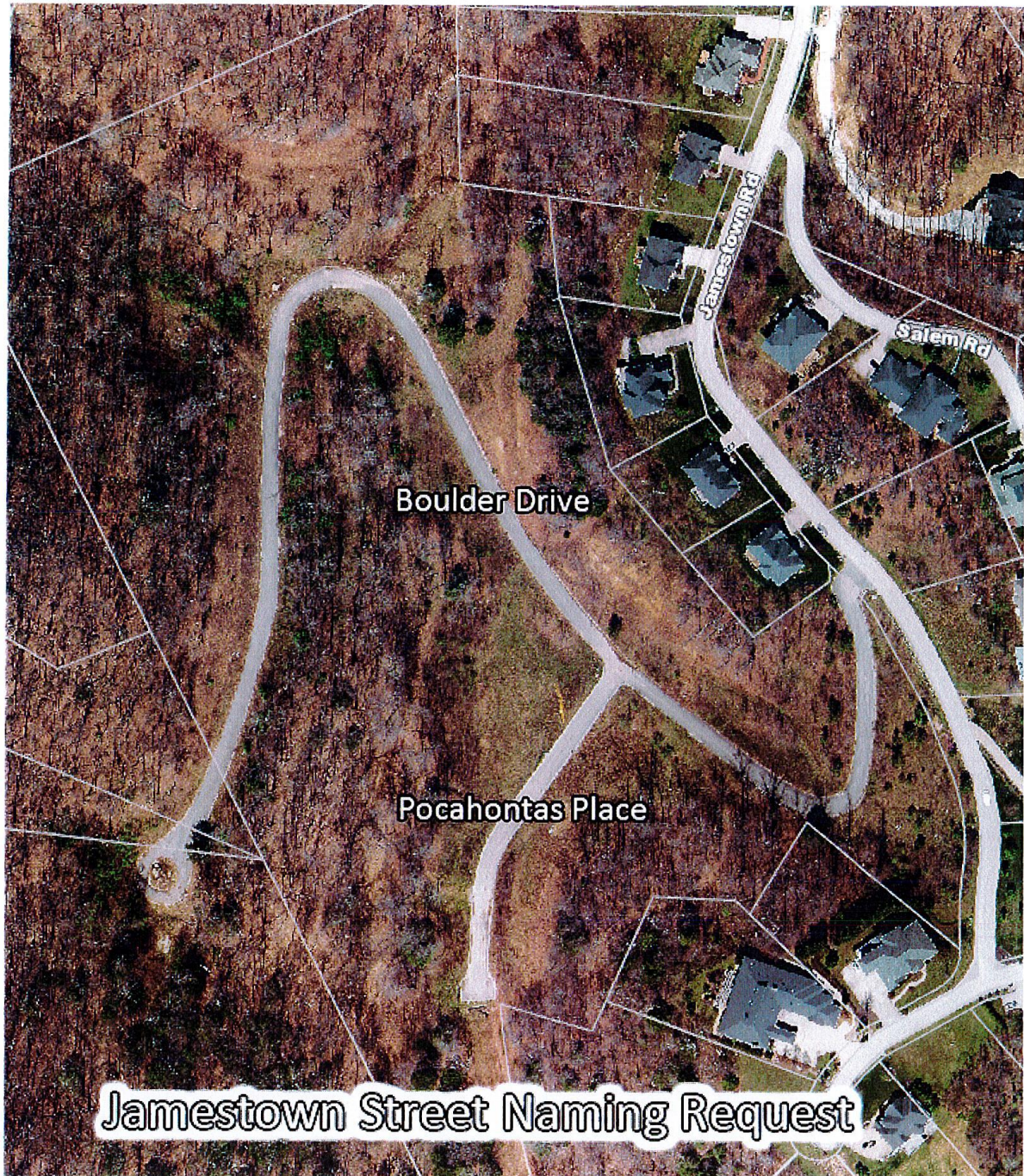
Map

6

Parcel

Return this Petition to:

City of Charleston – Planning Department
Addressing Coordinator
915 Quarrier St., Suite 1
Charleston, WV 25301



3. Your Committee on Planning had under consideration a request to name a private road in the Jamestown Subdivision as Pocahontas Place attached hereto and made a part thereof.

Your committee finds the street name complies with all applicable standards and reports the same to Council with the recommendation that the street name do pass.

Councilmember Davis moved to approve the Resolution. Councilmember Lane seconded the motion. With a majority of members elected recorded thereon as voting in the affirmative, with one Nay from Councilmember Harrison, the Mayor declared Pocahontas Place street dedication passed.



CITY OF CHARLESTON, WEST VIRGINIA

PETITION TO NAME A STREET

Charleston, Kanawha County
West Virginia

Official Use Only	
Date Petition Submitted	Valid Petition
	<input type="checkbox"/> Yes
	<input type="checkbox"/> No
File Number: _____	
Community: _____	

Proposed Street Name: POCAHONTAS PLACE
Please print and include name suffix (Dr., Rd., Ln....)

We, the undersigned property owners, having been informed of the proposal to name our street as noted above, support the filing of this petition. We understand that the primary purpose of this petition is simply to indicate that a significant level of interest in the proposed street name exists from those whose property would be affected by this street naming. We further understand that this petition is non-binding. It does not mandate that the Metro Emergency Operations Center hear the proposed street name request, nor does it guarantee if it is heard that it will be approved.

PETITION CONTACT PERSON

GEORGE NEILAN George Neilan
Name of Property Owner (Print) Signature of Property Owner

2324 WOODLAND AVE S. CHARLESTON, WV 25303
Address City, State, Zip

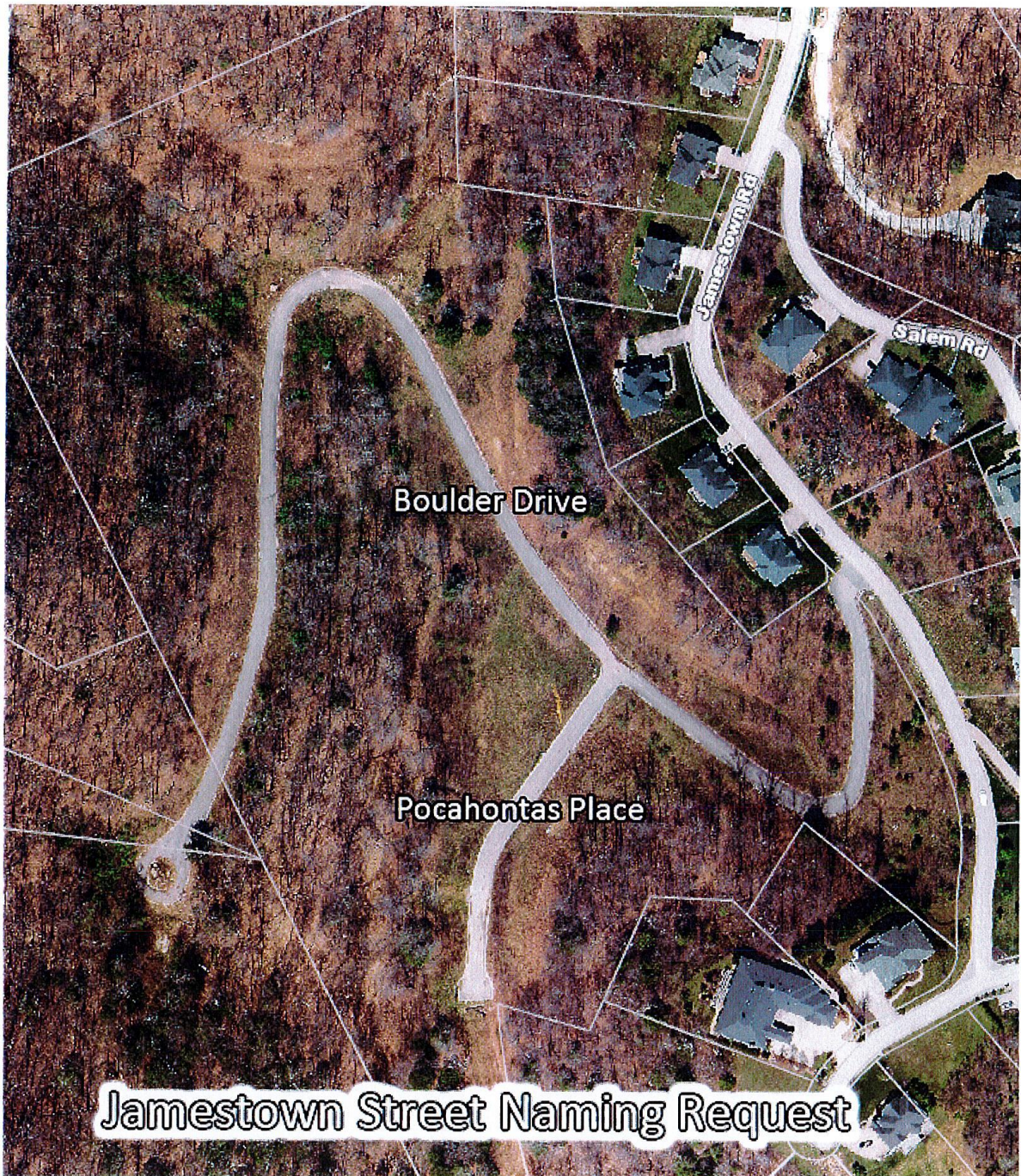
304 744-8702 304 744-8702 304 206-7824
Telephone (Home) Telephone (Work) Telephone (Mobile)

OFF JAMESTOWN ROAD CHARLESTON 25311
Physical Location of Property (Description)

CHAS. SA 33 6
Tax District Map Parcel

Return this Petition to:

City of Charleston – Planning Department
Addressing Coordinator
915 Quarrier St., Suite 1
Charleston, WV 25301



4. Your committee on Planning has had under consideration the following bill, and reports the same to Council with the recommendation that Bill No. 7793 do pass.

Your committee finds the following in regard to the Bill:

1. The rezoning is consistent with the future land use map which designates this property as “Downtown Transition”;
2. The rezoning from R-10 to C-10 would allow for cohesive redevelopment of a property on tracts that are mostly zoned as General Commercial;
3. The rezoning supports the goal identified as an “Interchange Gateway” opportunity allowing for redevelopment of mixed uses and that do not pose conflicts with existing traffic

Bill No. 7793: Amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 1st day of January 2006, as amended, and the map made a part thereof, by rezoning from an R-10 district to a C- 10 district, that certain parcel of land situated at 811 Indiana Avenue, Charleston, West Virginia.

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

1. The Zoning Ordinance of the City of Charleston, West Virginia, enacted the 1st day of January 2006, as amended, is hereby amended by rezoning from an R-10 district to a C-10 district the whole of the following described parcel of land: Parcel No. 309 as shown upon Charleston Tax Map No. 27. Subject Parcel commonly known as 811 Indiana Avenue, Charleston, West Virginia. Said tax map is of record in the Planning Office.
2. The Zoning Map, attached to and made a part of said Zoning Ordinance, is hereby amended in accordance with Article 27 of this ordinance.
3. 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: Ceperley, Chestnut, Davis, Ealy, Faegre, Haas, Harrison, Hoover, Ireland, Jones, B. King, S. King, Lane, McKinney, Minardi, Overstreet, Persinger, Reishman, Richardson, Salisbury, Snodgrass, Steele, Ware, Mayor Jones

NAYS: NONE

ABSENT: Burka, Burton, Clowser

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7793 passed.

**PETITION TO REZONE FROM R-10 TO C-10
THE LAND AT 811 INDIANA AVENUE,
CHARLESTON, WEST VIRGINIA**

TO THE MAYOR AND COUNCIL OF THE CITY OF CHARLESTON, WEST VIRGINIA:

I

Petitioner is the owner of the property situate at 811 Indiana Avenue, Charleston, Kanawha County, West Virginia.

II

Petitioner wishes to have the subject property zoned from an R-10 use to a C-10 use, said property described as follows: All of Parcel No. 309 as shown upon Charleston Tax Map No. 27. Said property being commonly known as 811 Indiana Avenue, Charleston, West Virginia. The above-mentioned tax map is as of record in the Charleston Planning Department.

III

Petitioner proposes to erect a 3,000 sq. ft. metal and block building on the currently vacant lot to serve as a hands-on training area for the adjacent Electrical Apprenticeship school. Thirteen (13) new on-site parking spaces will be constructed adjacent to the building. The property owner plans to combine usage of this lot with the three adjacent C-10 lots to the West.

IV

Although this property is currently zoned R-10 (residential), it is immediately adjacent to C-10 zoning boundaries. The expansion of the Electrical Apprenticeship Training Facilities will serve to further benefit the economic and culture landscape of the neighborhood. The earn-while-you-learn electrical apprenticeship puts the next generation of well paying jobs within the reach of anyone who is willing to work hard. This expansion will help further the goals of the owner to be a positive asset for the community.

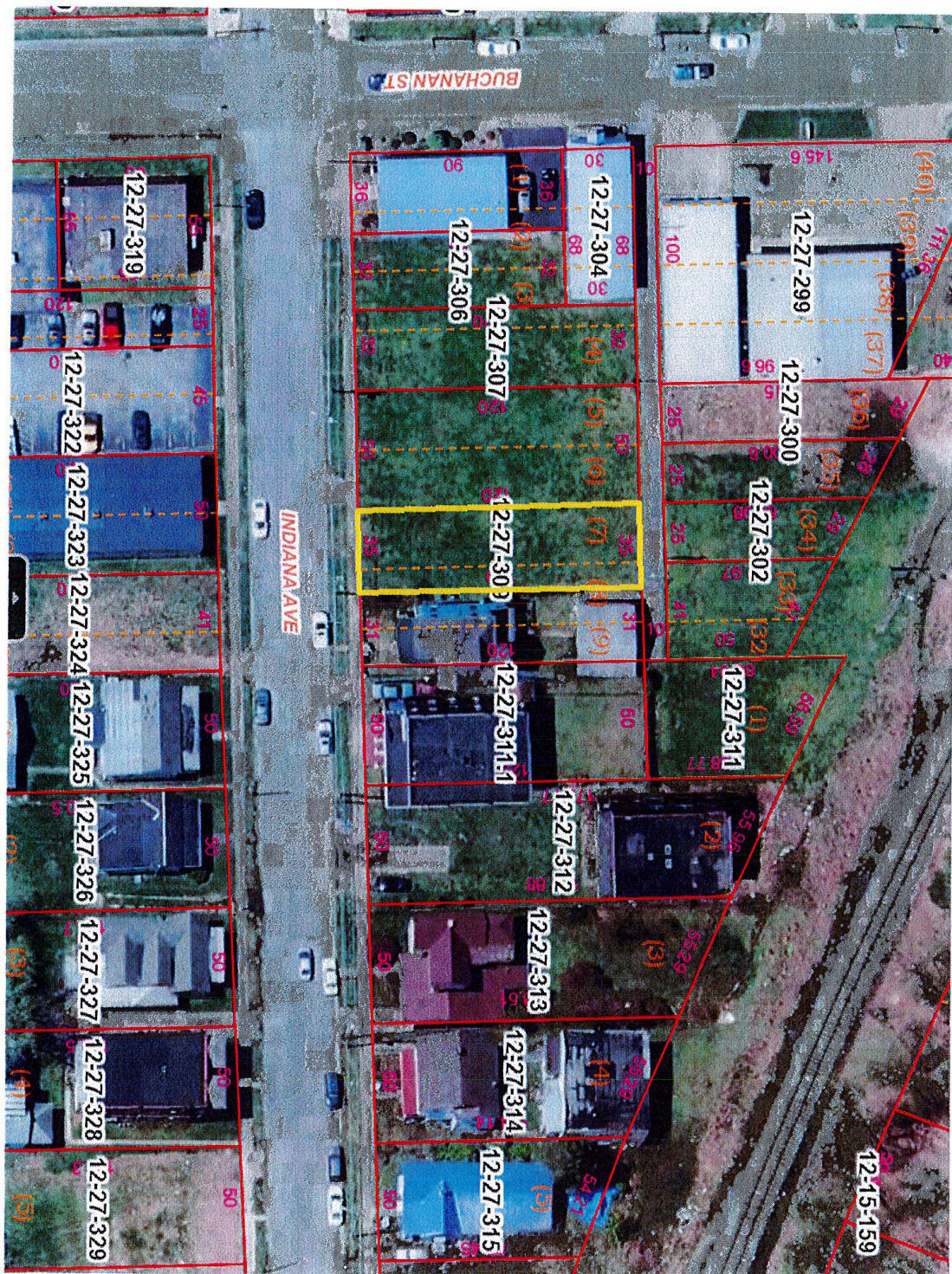
V

Attached hereto is a Bill to accomplish the requested rezoning, a list of property owners who own property within 250 feet of the subject property, a map of the subject property, and a \$125.00 filing fee.

Respectfully submitted on this 15th day of August, 2018.

By: _____

Thomas Samples
800 Indiana Ave.
Charleston, WV 25302
Phone: (304) 345-5166



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. 7795 do pass.

Bill No. 7795 - A Bill to establish a No Parking Tow-Away zone on the easterly side of 27th Street, W. from the intersection of Fifth Avenue to a point 122 feet to the north 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 No Parking Tow-Away zone on the easterly side of 27th Street, W. from the intersection of Fifth Avenue to a point 122 feet to the north.

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: Ceperley, Chestnut, Davis, Ealy, Faegre, Haas, Harrison, Hoover, Ireland, Jones, B. King, S. King, Lane, McKinney, Minardi, Overstreet, Persinger, Reishman, Richardson, Salisbury, Snodgrass, Steele, Ware, Mayor Jones

NAYS: NONE

ABSENT: Burka, Burton, Clowser

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7795 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. 7796 do pass.

Bill No. 7796 - A Bill to repeal Bill Number 7788, that established a No Parking Tow-Away zone on the north side of Indiana Avenue from the intersection of Washington Street, W. to a point 146 feet to the 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, and to re-establish two parking spaces on the north side of Indiana Avenue beginning at the intersection of Washington Street West offering metered parking with a one hour limit, and establishing a 40 foot No Parking Tow-Away zone on the north side of Indiana Avenue from the western border of the Capitol Business Interiors property proceeding east.

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

Section 1. A No Parking Tow-Away zone on the north side of Indiana Avenue from the intersection of Washington Street, W. to a point 146 feet to the east adopted through Bill Number 7788 is hereby repealed and two parking spaces on the north side of Indiana Avenue beginning at the intersection of Washington Street West are hereby re-established offering metered parking with a one hour limit, and establishing a 40 foot No Parking Tow-Away zone on the north side of Indiana Avenue from the western border of the Capitol Business Interiors property proceeding east.

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: Ceperley, Chestnut, Davis, Ealy, Faegre, Haas, Harrison, Hoover, Ireland, Jones, B. King, S. King, Lane, McKinney, Minardi, Overstreet, Persinger, Reishman, Richardson, Salisbury, Snodgrass, Steele, Ware, Mayor Jones

NAYS: NONE

ABSENT: Burka, Burton, Clowser

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7796 passed.

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. 129-18 do pass.

Resolution No. 129-18 - Authorizing approval of the FY 2018- 2019 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 FY 2018- 2019 General Fund Budget as indicated on the attached list of accounts.

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

YEAS: Ceperley, Chestnut, Davis, Ealy, Faegre, Haas, Harrison, Hoover, Ireland, Jones, B. King, S. King, Lane, McKinney, Minardi, Overstreet, Persinger, Reishman, Richardson, Salisbury, Snodgrass, Steele, Ware, Mayor Jones

NAYS: NONE

ABSENT: Burka, Burton, Clowser

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 129-18 adopted.

General Fund FY 2018-2019 Budget Amendment No. 4 - November 5, 2018

Account No.	Department	Account Description	Amount
001 436 00 000 2 230	Building Commission	Contract Services	7,088
001 700 01 000 5 568	Police - Civilian	Other Contributions	24,000
001 297 0	Unassigned Fund Balance		(31,088)

Unassigned Fund Balance - Allocation of unassigned fund balance.

001 369 08 0000	Revenue	Trf-In from Fund 207	(9,978)
001 369 09 0000	Revenue	Trf-In from Fund 218	(3,081)
001 900 00 000 3 341	Parks & Recreation	Material & Supplies	13,059

To transfer balances in Fund 207 and Fund 218 in accordance with Resolution 117-18 passed by Council on October 1, 2018.

001 700 00 000 3 341	Police - Uniform	Material & Supplies	4,740
001 700 00 000 2 217	" "	Maintenance & Repair - Vehicles	(4,740)

To re-allocate existing budget funds to purchase twelve (12) push bars for installation on police cruisers to reduce or eliminate body damage, resulting in savings on repairs.

2. Your committee on Finance has had under consideration the following resolution, and reports the same to Council with the recommendation that Resolution No. 130-18 do pass.

Resolution No. 130-18 - Authorizing the Mayor or City Manager to enter into an agreement with Potesta & Associates in the amount of \$ 17,000 for the firm to provide a subsurface exploration associated with a slope failure near a City storm sewer located at 654 Gordon Drive.

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 Potesta & Associates in the amount of \$ 17,000 for the firm to provide a subsurface exploration associated with a slope failure near a City storm sewer located at 654 Gordon Drive.

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 130-18 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. 131-18 do pass.

Resolution No. 131-18 - Authorizing the Mayor or City Manager to Receive and administer \$39,100.00 from the WV Division of Justice and Community Service to reimburse partial salary for the Charleston Police Department's Crime Victims Advocate and provide travel/training funds.

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 \$39,100.00 from the WV Division of Justice and Community Service to reimburse partial salary for the Charleston Police Department's Crime Victims Advocate and provide travel/training funds.

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 131-18 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. 132-18 do pass.

Resolution No. 132-18 - Ratifying a Memorandum of Understanding (MOU) between the U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and the Charleston Police Department (CPD) to formalize relationships between ATF and CPD with regard to procedures and utilization of resources in order to maximize interagency cooperation and coordination in violent crime investigations and other incidents within the jurisdiction of the CPD and ATF.”

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

That the City Council ratifies a Memorandum of Understanding (MOU) between the U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and the Charleston Police Department (CPD) to formalize relationships between ATF and CPD with regard to procedures and utilization of resources in order to maximize interagency cooperation and coordination in violent crime investigations and other incidents within the jurisdiction of the CPD and ATF

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 132-18 adopted.

5. Your committee on Finance has had under consideration the following resolution, and reports the same to Council with the recommendation that Resolution No. 133-18 do pass.

Resolution No. 133-18 - Authorizing the Mayor or City Manager to enter into a renewal agreement with Compass Energy Services for purchase and delivery of natural gas to City sites at the rate of NYMEX + \$.27 per dth for a two-year period starting November 1, 2018 and ending October 31, 2020.

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 a renewal agreement with Compass Energy Services for purchase and delivery of natural gas to City sites at the rate of NYMEX + \$.27 per dth for a two-year period starting November 1, 2018 and ending October 31, 2020.

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 133-18 adopted.

6. Your committee on Finance has had under consideration the following resolution, and reports the same to Council with the recommendation that Resolution No. 134-18 do pass.

Resolution No. 134-18 - A Resolution granting the Foxchase Homeowner's Association Right-of-Way Privileges for the purpose of installing and maintaining private road signs within the Foxchase subdivision. Further, the Mayor is hereby authorized to execute the Private Sign on Public Right-of-Way Authorization and Agreement attached as Exhibit A hereto.

THEREFORE, Be it Resolved By The Council Of The City Of Charleston, West Virginia that:

The Foxchase Homeowner's Association is hereby granted Right-of-Way Privileges for the purpose of installing and maintaining private road signs within the Foxchase subdivision. Further, the Mayor is hereby authorized to execute the Private Sign on Public Right-of-Way Authorization and Agreement attached as Exhibit A hereto.

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 134-18 adopted.

**PRIVATE SIGN ON PUBLIC RIGHT-OF-WAY AUTHORIZATION AND
AGREEMENT**

This Agreement, is made this _____ day of _____ 2018, by and between the CITY OF CHARLESTON, WEST VIRGINIA, party of the first part (“Grantor”) and, the Foxchase Homeowner’s Association, its agents and contractors, party of the second part, (“Grantee”).

WITNESSETH: Acknowledging that the Private Road Signs within the Foxchase Subdivision, as an established community with a homeowner’s association that has approved and supported the request of maintaining and installing Private Road Signs, which benefits the public, and for other good and valuable consideration, receipt of which is hereby acknowledged, Grantor does hereby grant and convey unto Grantee certain Right-of-Way Privileges on certain lands of Grantor situated in the City of Charleston, Kanawha County, West Virginia, on the Foxchase Subdivision, being more particularly described in the map showing the installation and maintenance agreement areas, which is attached hereto as Exhibit A and made a part of this agreement (the “Subdivision”).

The said Right-of-Way Privileges hereby granted, which are subject to review and approval by Traffic, Parking and Transportation Department prior to installation, are for the sole purpose of maintaining and installing Private Road Signs located on the Property. The “Right-of-Way Privileges” are defined as permission to enter the Property to install the road signs, including, but not limited to, paying for the installation and routine maintenance of the signs, removal of any public signs or other obstructions that may interfere with the installation of Private Road Signs, provided that Grantee shall return to the City any public signs removed with City approval, and shall restore any and all areas disturbed to satisfaction of Grantor upon completion of maintenance work.

It shall be Grantee’s obligation to repair and/or replace while also routinely maintaining the Private Road Signs, with such duties being performed in a good and workmanlike manner and conform to all applicable Federal, State, City laws, including, but not limited to, those located in Chapter 114 Article IV of the Code of the City of Charleston, West Virginia. Grantee shall ensure that the Private Road Signs do not result in problems related to safety, confusion, undue burden, or inconvenience to the City, or its residents. Grantee, and its successors and assigns, on behalf of itself, its agents and contractors, shall hold harmless, indemnify, and defend Grantor from and against any and all claims, actions, damages or other

liabilities arising from or related in any way to the location, construction, operation, use, maintenance, repair or replacement of the Private Road Signs, and in the event of damage to any property of the City, shall promptly reimburse the City for all reasonable costs and expenses of any character upon Grantee's receipt of a demand for reimbursement. In the event that any or all Private Road Signs cease to comply with all applicable Federal, State, City laws and regulations, or become unsafe, and Grantee or any successor fails after notice to make all necessary repairs or other necessary actions, the agreement shall cease, terminate and be of no further effect, and Grantee shall, upon receiving written notice from Grantor, immediately and at Grantee's solo expense, remove the Private Road Signs from Grantor's property. Furthermore, in the event that Grantor should have a public need for the Property affected by the agreement provided herein, including any or all areas on which the Private Road Signs are located, Grantor may in its sole discretion terminate the agreement by providing written notice to Grantee and may, at Grantor's expense, remove any or all Private Road Signs from the Property.

Grantor and Grantee intend for this agreement and the obligations contracted herein to run with the Property perpetually unless and until extinguished in accordance with the terms of this instrument or expressly extinguished by Grantee or Grantor by another recorded writing. The Grantor and Grantee otherwise acknowledge the Grantor agrees to encumber the Property expressly with the aforementioned rights granted to the Grantee.

[signatures follow]

[remainder of page intentionally blank]

WITNESS the following signature(s) executing this PRIVATE SIGN ON PUBLIC RIGHT-OF-WAY AUTHORIZATION AND AGREEMENT:

Date: 8/1/18

Authorized agent of Grantor

Terrill Moore

Authorized agent of Grantee

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA, to-wit

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by
_____, authorized agent of Grantor. My commission expires on
_____.

(Notary Seal)

Notary Public Signature

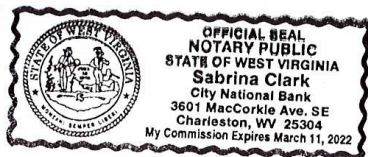
STATE OF WEST VIRGINIA
COUNTY OF KANAWHA, to-wit

The foregoing instrument was acknowledged before me this 15th day of August, 2018, by

Terrill L Moore, authorized agent of Grantee. My commission expires on
March 11, 2022

(Notary Seal)

Sabrina Clark
Notary Public Signature



7. Your committee on Finance has had under consideration the following resolution, and reports the same to Council with the recommendation that Resolution No. 135-18 do pass.

Resolution No. 135-18 - A Resolution authorizing the Mayor or his designee to execute the First Amendment to Landfill Gas Lease between the City of Charleston and Tallarico Energy, LLC, attached hereto as Exhibit A, (1) extending the term of the lease for an additional five years, (2) clarifying the method by which royalties from the Landfill Gas produced are calculated and paid to the City, and (3) clarifying the obligations of Tallarico Energy, LLC upon expiration of the lease.

NOW, THEREFORE, BE IT RESOLVED:

That the Mayor or his designee is hereby authorized to execute the First Amendment to Landfill Gas Lease between the City of Charleston and Tallarico Energy, LLC, (1) extending the term of the lease for an additional five years, (2) clarifying the method by which royalties from the Landfill Gas produced are calculated and paid to the City, and (3) clarifying the obligations of Tallarico Energy, LLC upon expiration of the lease.

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 135-18 adopted.

FIRST AMENDMENT TO LANDFILL GAS LEASE

THIS FIRST AMENDMENT TO LANDFILL GAS LEASE ("First Amendment") made as of this ____ day of October, 2018, by and between the CITY OF CHARLESTON, a West Virginia municipal corporation, hereinafter called "Lessor" and TALLARICO ENERGY LLC, a West Virginia limited liability company, hereinafter called "Lessee."

WHEREAS, Lessor and Lessee entered into that certain Landfill Gas Lease, dated March 14, 2017 ("Lease"); and

WHEREAS, Lessee has requested certain modifications to the Lease and Lessor is agreeable to modifying the Lease as specifically set forth herein; and

WHEREAS, all capitalized terms used but not defined herein shall have the meanings given them in the Lease; and

NOW, THEREFORE, that for and in consideration of the sum of Ten Dollars (\$10.00), cash in hand paid by Lessee to Lessor, the receipt and sufficiency of which is hereby acknowledged, and in further consideration of the mutual covenants and promises hereinafter set forth, the parties agree as follows:

1. Paragraph 3. Paragraph 3 of the Lease, entitled "LEASE TERM", is deleted in its entirety and replaced with the following language:

"This Lease shall take effect as of the execution date hereof and shall remain in full force for an initial term of ten (10) years, expiring at 11:59:59 PM on March 13, 2027 unless sooner terminated pursuant to the terms of this Lease. Unless Lessee has received written notice of default under Paragraph 13 herein and Lessee has failed or refused to cure as required by Paragraph 13, or the Lessor has given written notice of its unwillingness to extend the term of this lease at least six (6) months prior to the expiration of the initial term, this Lease may be extended, at the option of the Lessee, for an additional term of five (5) years upon mutually agreeable terms. Should Lessee desire to extend this Lease beyond the initial term by exercising its option to renew as set forth in this Section, Lessee shall give six (6) months' notice in writing prior to the expiration of the initial term. The terms of such extension shall be negotiated in good faith. Should the parties fail to negotiate a mutually agreeable extension of this Lease within 90 days prior to the expiration of the initial or extended term of this Lease, upon the conclusion of the initial term, or any extension thereof, Lessee shall cooperate in good faith with Lessor to prepare for Lessee's exit of the Leasehold and Lessee shall perform any and all obligations required by this Lease, including, but not limited to, the obligations set forth in Paragraph 10 herein.

2. Paragraph 6. Paragraph 6 of the Lease, entitled "ROYALTY PAYMENTS TO LESSOR" is amended by deleting the first sentence thereof and replacing it with the following sentence:

Lessee covenants to pay monthly to Lessor, as a royalty (herein, the "Royalty") on the total volume of Landfill Gas produced from the Leasehold during the month, measured as the aggregate for the month of all "MCF per Day utilized", a sum equal to seventeen and one-half percent (17.5%) of the Appalachian TCO Index Price for the month of production.

Paragraph 6 of the Lease is further amended by adding the following sentence at the end of the first paragraph:

For demonstrative purposes, a chart illustrating the calculation of the Royalty is attached and referred to herein as Exhibit B of this Lease.

3. Exhibit B. Exhibit B of the Lease is amended by adding the chart, attached to this First Amendment as Annex A, to the existing page of Exhibit B.

4. Paragraph 10. Paragraph 10 of the Lease, entitled "REQUIREMENTS UPON TERMINATION. EXPIRATION. OR SURRENDER" is amended by replacing the last sentence thereof, beginning with "It is further understood that..." with the following sentences, which shall be a new paragraph at the end of Section 10:

"It is further understood that upon expiration, termination, or surrender of this Lease, if requested by Lessor, Lessee shall transfer ownership of; (i) the gas production and collection system, including the flare(s) and

associated facilities required to effectively operate the flare(s); (ii) all assets related to the interconnection to the electric grid; (iii) all buildings now owned by Lessee at the commencement of the Lease; (iv) all tangible or intangible assets transferred to Lessee by Lessor pursuant to Paragraph 5(a) of this Lease; and (v) all agreements related to the conversion of landfill gases to either gas or electrical energy acquired after the commencement of the Lease, including, but not limited to, agreements related to the marketing of such landfill gases and their environmental attributes as referenced in Paragraph 5(a) of this Lease. Lessee agrees to cooperate with Lessor to document the reversion of assets as referred to in Paragraph 3 of this Lease, and the transfer or assignment of any of these assets listed or referred to in this Paragraph, to the extent reasonable or necessary, and shall further cooperate with Lessor with regard to any documentation necessary to obtain transfer of any registration, certificate or authorization from regulatory agencies related to the reversion of assets as referred to in Paragraph (3) and to the assets transferred or assigned pursuant to this paragraph.”

5. Except as otherwise specifically provided herein, the Lease, as amended, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused this First Amendment to be entered into by their duly authorized representatives.

CITY OF CHARLESTON, a West Virginia municipal corporation

Danny Jones, Mayor

TALLARICO ENERGY, LLC, a West Virginia limited liability company

By: Tony Tallarico
Its: Authorized Member

ACKNOWLEDGMENTS

STATE OF WEST VIRGINIA,

COUNTY OF KANAWHA, to-wit;

The foregoing instrument was acknowledged before me this ____ day of October, 2018, by DANNY JONES, the Mayor of the CITY OF CHARLESTON, a West Virginia municipal corporation, for and on behalf of the municipal corporation.

My commission expires: _____

Notary Public

[Notary Seal Required]

STATE OF WEST VIRGINIA,

COUNTY OF KANAWHA, to-wit;

The foregoing instrument was acknowledged before me this ____ day of October, 2018, by TONY TALLARICO, the authorized member of TALLARICO ENERGY LLC, a West Virginia limited liability company, for and on behalf of the limited liability company.

My commission expires: _____

Notary Public

[Notary Seal Required]

Annex A to Exhibit B of the
Landfill Gas Lease

Charleston Landfill Gas Generation and Payments						
Month	MonthlyAggregate MCF per Day utilized LFG (1)	Appalachian TCO Index Price Index (2)	Royalty (3)	Landfill Gas Payment (4)=(1)*(2)*(3)	50% Credit ¹	Amount Paid
Month	9,138	\$2.52	17.5%	\$4,030	\$2,015	\$2,015

¹ Reflects credit toward Lessee Reimbursement Amount set forth in, and subject to the terms and limitations of, Paragraph (8) of the Landfill Gas Lease.

8. Your committee on Finance has had under consideration the following resolution, and reports the same to Council with the recommendation that Resolution No. 136-18 do pass.

Resolution No. 136-18 - Authorizing the Mayor to execute an amendment to extend the term of the February 15, 2004, Operating Agreement, as amended, for a period of five years pursuant to section 5.01 of the Operating Agreement.”

WHEREAS, on February 15, 1994, the City of Charleston, West Virginia, and West Virginia Waste Services, Inc., entered into an Operating Agreement for the City of Charleston Solid Waste Facility (the “Agreement”); and

WHEREAS, Landfill Services of Charleston, Inc. (“Contractor”), is the successor to West Virginia Waste Services, Inc.; and

WHEREAS, Section 5.01 of the Operating Agreement allows for the extension of the Agreement for additional five year periods if the Contractor is not in default of any of the terms, conditions, provisions, and/or covenants it is obligated to keep, perform and/or observe under the terms of the Agreement; and

WHEREAS, in 2006, the estimated site life of the landfill (originally 25 years through 2019) was extended until 2024 and the Operating Agreement was extended for an additional five years, expiring in 2024; and

WHEREAS, due to efforts to maximize the compaction of waste, the projected site life has been extended through the year 2029; and

WHEREAS, the estimated site life now exceeds the term of the original agreement and the 2006 amendment; and

WHEREAS, upon representations by the Contractor and upon information and belief, the Contractor is not currently in default of any of the terms, conditions, provisions, and/or covenants it is obligated to keep, perform and/or observe under the terms of the Agreements; and

WHEREAS, it is consistent with the original intent of the City and Contractor to amend the Agreement to extend the term for five (5) years to maintain continuity of landfill operations through the life of the site; and

WHEREAS, the aforementioned amendment to extend the term of the Agreement shall not in any way modify or amend any other terms or conditions of the Agreement, and the City expressly preserves all other terms and conditions of the Agreement as set forth therein, including, but not limited to, the terms and conditions related to termination of the Agreement;

THEREFORE, Be it Resolved by the Council of the City of Charleston:

That the Mayor is hereby authorized and directed to sign, on behalf of the City of Charleston, an amendment to extend the term of the Agreement for five (5) years (through February 15, 2029); provided, that said amendment shall be consistent with the terms stated herein and with state and local laws, and shall be subject review and approval of legal counsel for the City prior to execution of the amendment.

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 136-18 adopted.

9. Your committee on Finance has had under consideration the following resolution, and reports the same to Council with the recommendation that Resolution No. 138-18 do pass.

Resolution No. 138-18 - A Resolution releasing the reversionary interest contained in the 2016 Equipment Transfer/Donation Agreement between the City of Charleston and the City of Clendenin related to a 2006 International Dump Truck (the “Truck”).

WHEREAS, in 2016, the City of Charleston was in possession of a 2006 International Dump Truck for which it no longer had need, and which was being removed from active service with the City of Charleston and replaced with newer equipment; and

WHEREAS, in 2016, the City of Clendenin experienced devastating flooding and needed heavy equipment to remove the substantial amount of debris that resulted from the flooding; and

WHEREAS, in 2016, the Charleston City Council determined that transferring the Truck to the City of Clendenin to be utilized for a public purpose would result in an overall benefit to the public; and

WHEREAS, the 2016 Equipment Transfer/Donation Agreement between the City of Charleston and City of Clendenin (attached hereto as Exhibit A) included a reverter clause prohibiting the City of Clendenin from reselling or transferring ownership of the Truck without notice to the City of Charleston and offering an opportunity for the City of Charleston to reclaim the Truck; and

WHEREAS, the City of Clendenin has determined that the majority of the flood recovery that required heavy equipment has been completed and the need of the City of Clendenin is now for smaller equipment to continue the restoration of the flood damaged areas; and

WHEREAS, the City has determined that it has no public use for the 12 year old Truck, and that proceeds of the sale of the Truck by the City of Clendenin would aid the City of Clendenin in the purchase of equipment necessary to continue to recover and rebuild ;

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

That the City of Charleston hereby waives its reversionary interest and right under the 2016 Equipment Transfer/Donation Agreement between the City of Charleston and the City of Clendenin for the return of a 2006 International Dump Truck from the City of Clendenin, and hereby releases all interest in, or right or title to, the 2006 International Dump Truck.

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 138-18 adopted.

10. Your committee on Finance has had under consideration the following resolution, and reports the same to Council with the recommendation that Resolution No. 139-18 do pass.

Resolution No. 139-18 – Authorizing the Mayor or City Manager to enter into an Agreement with the Kanawha-Charleston Humane Association for housing and sheltering animals that are taken into possession by the City of Charleston.

WHEREAS, the KCHA operates an Animal shelter facility located at 1248 Greenbrier Street, Charleston, West Virginia;

WHEREAS, the KCHA provides Animal shelter, adoption, foster care, spay and neuter programs, cruelty prevention, community outreach and other Animal programs in Charleston, Kanawha County, West Virginia;

WHEREAS, the City has historically relied on KCHA to house Animals it takes possession of throughout the City pursuant to City Ordinance after such Animals have been abandoned, abused, seized, or are considered strays and City has historically contributed \$24,000 to KCHA for its services benefiting City; and

WHEREAS, the City wants to continue to take Animals to KCHA and the KCHA has agreed to continue to accept such Animals, and the City , recognizing that the number of animals and the cost of their board and treatment has been increasing over the years, has further agreed to increase its contribution to the KCHA for the purpose of the KCHA providing such services as hereinafter set forth and the Parties want to further memorialize the relationship between the parties on the terms and conditions set forth in this Agreement (Attached).

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

That the City of Charleston hereby authorizes the Mayor or City Manager to enter into an Agreement with the Kanawha-Charleston Humane Association for housing and sheltering animals that are taken into possession by the City of Charleston.

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 139-18 adopted.

ANIMAL SHELTER SERVICES AGREEMENT

THIS ANIMAL SHELTER SERVICES AGREEMENT (this “Agreement”) is dated November 6, 2018 and is between the Kanawha-Charleston Humane Association (the “KCHA”) and the City of Charleston, West Virginia (the “City”) (hereinafter referred to collectively as the “Parties”).

RECITALS

WHEREAS, the KCHA operates an Animal shelter facility located at 1248 Greenbrier Street, Charleston, West Virginia;
WHEREAS, the KCHA provides Animal shelter, adoption, foster care, spay and neuter programs, cruelty prevention, community outreach and other Animal programs in Charleston, Kanawha County, West Virginia;

WHEREAS, the City has historically relied on KCHA to house Animals it takes possession of throughout the City pursuant to City Ordinance after such Animals have been abandoned, abused, seized, or are considered strays and City has historically contributed \$24,000 to KCHA for its services benefiting City; and

WHEREAS, the City wants to continue to take Animals to KCHA and the KCHA has agreed to continue to accept such Animals, and the City, recognizing that the number of animals and the cost of their board and treatment has been increasing over the years, has further agreed to increase its contribution to the KCHA for the purpose of the KCHA providing such services as hereinafter set forth and the Parties want to further memorialize the relationship between the parties on the terms and conditions set forth in this Agreement.

NOW THEREFORE, in consideration of the mutual covenants herein expressed, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

ARTICLE 1
DEFINITIONS

The Parties agree that the following definitions shall apply to this Agreement:

1.1 Animals. The term “Animals” shall include, but it not limited to, domestic animals such as dogs, cats, rabbits, guinea pigs, and chinchillas, but shall exclude birds, fowl, and livestock from time to time.

1.2 Annual Payment. The term “Annual Payment” shall mean the annual amount City pays the KCHA for the KCHA’s services pursuant to the terms of this Agreement.

1.3 City Ordinance. The term “City Ordinance” shall refer to Chapter 10 of the City of Charleston’s Code of Ordinances as the same may, from time to time be amended.

1.4 Contract Rate. The term “Contract Rate” shall mean the annual compensation due hereunder.

1.5 Facility. The term “Facility” shall mean the facility used by the KCHA in providing shelter and other services for the City pursuant to this Agreement, currently located at 1248 Greenbrier Street, Charleston, West Virginia 25311, as the same may be replaced or located.

1.6 Humanely Destroyed. The term “Humanely Destroyed” shall mean: (i) humane euthanasia of an Animal by hypodermic injection by a licensed veterinarian, or by a certified Animal euthanasia technician in accordance with the provisions of West Virginia Code Sections 19-20-8 and 30-10-1 *et seq.*, or (ii) any other humane euthanasia procedure approved by the American Veterinary Medical Association, the Humane Society of the United States, or the American Humane Association.

ARTICLE 2
IMPOUNDMENT; VETERINARY TREATMENT

2.1 Facility. The KCHA represents that its Facility is authorized to house and process Animals for the City in such a manner to allow the KCHA to meet its obligations herein as well as meet applicable legal requirements for Animal shelters, including all rules and regulations outlined in West Virginia Code Section 19-9-1 *et seq.* and 19-20-1 *et seq.*

2.2 Impoundment. The KCHA agrees that it will accept all Animals brought to its Facility by the City. Such Animals shall be impounded under the exclusive control and custody of the KCHA for periods of time as required by state law and City Ordinance except as hereinafter set forth. Prior to delivery to the KCHA, the City shall scan for microchips or search for a City license and use all reasonable diligence to notify the licensed owner, if any.

2.3 Impoundment Fees. The KCHA shall require the owner of every impounded Animal to pay all applicable fees including licensing and vaccination fees. To the extent reasonable and permitted by law, the City agrees to cooperate with the KCHA in seeking the collection of such fees from the owner.

2.4 Veterinary Treatment. During KCHA business hours, the City will take all sick and/or injured Animals to KCHA to be treated by their veterinarian. During KCHA non-business hours, City will take all sick and/or injured animals to a veterinarian or Animal clinic for all necessary and appropriate treatment. The owner of such Animal or Animals(s) shall be assessed the fees associated with the treatment of such sick and/or injured Animals; provided that, as between City and KCHA, if fees are not paid by an owner for any reason, then the KCHA shall be responsible for resolving such outstanding veterinarian fees and expenses.

2.5 Cruelty Cases. So long as the KCHA continues to employ a veterinarian, the KCHA agrees to offer the assistance of

such veterinarian to serve at no cost to City as an Animal medical examiner for the City in cases of Animal cruelty, and the City agrees to prosecute or assist in the prosecution of cruelty matters in magistrate court whenever possible to do so until or unless state law is amended to provide municipal courts with the same bonding authority and related procedures available to magistrate courts by law.

ARTICLE 3 ANIMAL DISPOSITION

3.1 Disposition Policy. The KCHA shall have the right, consistent with the City Ordinance, West Virginia Code Sections 19-9-1 *et seq.* and 19-20-1 *et seq.*, and this Agreement, to dispose of every Animal given into its custody.

3.2 Placement. The KCHA shall have the sole and exclusive right to determine the responsibility of persons offering to become the owners of unclaimed Animals and the suitability of the home offered, and shall have the sole and exclusive right to accept or reject such applicants for unclaimed Animals. Pursuant to the terms of this Agreement, the KCHA shall have the sole and exclusive right to determine if and when Animals are to be placed in a new home or destroyed but agrees to make a good faith attempt to place Animals prior to destroying them. Notwithstanding the foregoing, the KCHA shall have the right to Humanely Destroy any Animal impounded that is found to be physically or mentally suffering, injured, to have a communicable disease, or to be unsafe for any reason, including behaviorally unsound, or otherwise incapable of rehabilitation.

3.3 Adoption Fees. The KCHA shall set, in its sole discretion, all fees, if any, it charges to the public for an Animal adoption.

ARTICLE 4 COST OF SERVICES AND FEES

4.1 Cost. For the term of this Agreement, the City agrees to pay and the KCHA agrees to accept in consideration of the services it renders, an Annual Payment of \$48,000.

4.2 Council Approval of Funds. Any and all payments under this Agreement are subject to the annual appropriation and/or approval by Charleston City Council.

ARTICLE 5 REPRESENTATIONS AND OBLIGATIONS

5.1 City's Representations and Obligations. The City represents to the KCHA that the City Ordinance provides for the vaccination and licensing of Animals under appropriate circumstances, impounding of Animals running at large, and the regulation of the sale of Animals, and that while this Agreement is in effect, such City Ordinance will be continued in force, provided, however, that such City Ordinance may be modified from time to time as the City deems appropriate.

5.2 KCHA's Representations and Obligations. The KCHA shall operate in accordance with any zoning and health standards set by state or local law, and shall comply with all federal, state and local laws governing equal employment opportunity, wage and hour requirements, worker's compensation, worker's safety, and all other legal requirements governing employee relations and working conditions.

ARTICLE 6 INDEPENDENT CONTRACTOR RELATIONSHIP

The Parties intend that an independent contractor relationship between the KCHA and the City will be created by this Agreement. No agent, employee or representative of the KCHA shall be deemed to be an employee, agent, servant or representative of the City for any purpose, and the employees of the KCHA are not entitled to any of the benefits the City provides for City employees. The KCHA will be solely and entirely responsible for its acts and for the acts of its agent, employees, servants, subcontractors or otherwise during the performance of this Agreement.

ARTICLE 7 DEFAULT

7.1 KCHA Default. If the KCHA fails in any material term or condition of this Agreement, including failing to obtain or comply with applicable state law requirements for performing services hereunder, the KCHA shall be in default of this Agreement. If City determines it's feasible, City will give the KCHA a reasonable amount of time to correct the default upon written notice as to the nature of the default and the reasonable time period within which to cure same. If the KCHA is unable to timely cure a default, then City shall be excused from performing any further obligations under this Agreement. If the KCHA is in default, the KCHA may only terminate this Agreement with the consent of the City.

7.2 City Default. If City fails in any material term or condition of this Agreement and the KCHA is not in default, the KCHA, at its option, may terminate this Agreement, and the KCHA may thereafter pursue its remedies available at law. In no event, shall City be liable to the KCHA for any consequential damages as a result of its breach. In the event the City fails to remit to the KCHA the Contract Rate the City shall be in default. The KCHA may, in its sole discretion, terminate this agreement for non-payment if the City has not cured its default after sixty (60) days written notice.

ARTICLE 8 INDEMNIFICATION

The KCHA agrees to indemnify and hold harmless the City against all claims, damages or causes of action which might arise as a result of acts, omissions or negligence of the KCHA, its employees or its agents arising out of the KCHA's obligations under this Agreement.

ARTICLE 9 AGREEMENT TERM

This Agreement shall be for a term of one (1) year commencing as of the date of approval by the City Council of Charleston, West Virginia and, subject to the availability and annual appropriation of funds by the City Council of Charleston, and will be renewed each year for additional one (1) year terms unless one party gives the other at least sixty (60) days advance written notice. Either party may cancel this Agreement at any time upon sixty (60) days written notice to the non-cancelling party. In the event of termination, the City shall pay those fees that accrue to the termination date and be refunded any credits that may accrue to the termination date. The termination of this Agreement due to the non-appropriation of funds by Charleston City Council shall not be considered a breach of this Agreement.

ARTICLE 10 NOTICE

Any notice sent under this Agreement except as may be otherwise expressly required in this Agreement shall be written and mailed by certified mail, return receipt requested, or sent by electronic or facsimile transmission confirmed by mailing written confirmation at substantially the same time as such electronic or facsimile transmission, or personally delivered to an officer of the receiving party at the following:

To the KCHA:

The Kanawha Charleston Humane Association
Attn: Executive Director
1248 Greenbrier Street
Charleston, West Virginia 25311

To CITY:

City of Charleston, West Virginia
Attn: Chief of Police and City Manager
501 Virginia Street, East
Charleston, WV 25301

Each party may change its address by written notice to the other party in accordance with this section. Any communication addressed and mailed in accordance with this section shall be deemed to be given when so mailed, any notice so sent by electronic or facsimile transmission shall be deemed to be given when receipt of such transmission is acknowledged or confirmed, and any communication so delivered in person shall be deemed effective upon receipt of, or actually received by, the other party.

ARTICLE 11 MISCELLANEOUS

11.1 Assignment. This Agreement is not assignable by either party without the written consent of the other.

11.2 Prior Matters. All prior agreements, negotiations, representations, understandings, and partial agreements concerning this Agreement's subject matter are superseded by and merged with this Agreement.

11.3 Amendment. Except as may be expressly set forth elsewhere in this Agreement, no amendment, modification,

waiver, or release of the obligations under this Agreement shall be binding unless a writing exists that (a) identifies the amended, modified, waived, or released obligation, (b) describes the nature of the amendment, modification, waiver, or release, and (c) is duly approved by each party and executed by each party's authorized representative.

11.4 Severability. In the event that any provision of this Agreement is held unenforceable for any reason, the remaining provisions of this Agreement shall remain in full force and effect.

11.5 Governing Law; Dispute Resolution; Jurisdiction and Venue. This Agreement shall be deemed to be executed in The City of Charleston, State of West Virginia, and shall be governed by and construed in accordance with the laws of the State of West Virginia. The Parties will attempt to settle any claim or controversy arising out of this Agreement or the Services through consultation and negotiation in good faith and a spirit of mutual cooperation. Any dispute which cannot be resolved between the parties through consultation, negotiation or mediation within a reasonable time may then be submitted to a court of competent jurisdiction in the County of Kanawha, West Virginia. Nothing shall prevent either of the parties from resorting to the judicial proceedings mentioned in this paragraph if (a) good faith efforts to attempt resolution of the dispute under these procedures have been unsuccessful; or (b) interim relief from the court is necessary to prevent serious and irreparable injury to one of the parties or to others. Virginia.

11.6 Exhibits. All exhibits referenced in this Agreement must be attached and initialed by the signatories. All such exhibits/attachments are hereby incorporated by reference as if fully set forth herein.

11.7 Entire Agreement. This Agreement constitutes the entire Agreement between the KCHA and the City and supersedes all prior or contemporaneous communications, whether electronic, oral or written between the parties.

11.8 Headings. The headings and captions herein are inserted for convenience of reference only and are not intended to govern, limit or aid in the construction of any term or provision hereof.

11.9 Counterparts Permitted. This Agreement may be executed in any number of counterparts, and each such counterpart shall be deemed an original of this Agreement for all purposes.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above.

11. 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.

A bid submitted by Demaree Inflatable Boats, INC in the amount of \$31,250, for purchase of an Inflatable Rescue Boat to be used by the Charleston Fire Department. The vendor is a sole source provider for this particular rescue boat and it is built to military specification and approved by the Federal Government for response teams.

To be charged to Account No. 001-97600-706-4-459, Capital Outlay

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.

12. 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.

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.

Fiber Switches

Bid Opening: March 23, 2018 @ 11:00 a.m.

		Alpha Technologies Inc. 4003 Outlook Drive Hurricane, WV 25526 P: (304) 721-8987 dchambers@alpha-tech.us		
	Quantity	Make/Model	Unit Cost	Total Cost
Item 1.01	9	Meraki MS220-8P-HW	\$666.40	\$5,997.60
Item 1.02	3	Meraki MS225-24P-HW	\$2,583.32	\$7,749.96
Item 1.03	8	Meraki MA-SFP-1GB-LX10	\$469.64	\$3,757.12
Item 1.04	16	Meraki MA-SFP-10GB-LR	\$1,885.64	\$30,170.24
Item 1.05	9	Meraki LIC-MS220-8P-5YR	\$84.25	\$758.25
Item 1.06	3	Meraki LIC-MS225-24P-5YR	\$330.99	\$992.97
Shipping				\$0.00
Delivery		14 days		
Total Bid		\$49,426.14		

REPORTS OF OFFICERS

1. Report of the City of Charleston Payroll Variance Analysis;
October 2018.
Received and Filed.

NEW BILLS

Introduced by Councilmembers Jack Harrison, Mary Jean Davis, Mike Clowser, and Andy Richardson on November 5, 2018:

Bill No. 7799 – A BILL amending and re-enacting the Code of the City of Charleston to Change the name of the Charleston Civic Center to the Charleston Coliseum and Convention Center, and make other changes made necessary by the renovations to the new Charleston Coliseum and Convention Center.

Refer to Finance Committee

ADJOURNMENT

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

YEAS: Ceperley, Chestnut, Davis, Ealy, Faegre, Haas, Harrison, Hoover, Ireland, Jones, B. King, S. King, Lane, McKinney, Minardi, Overstreet, Persinger, Reishman, Richardson, Salisbury, Snodgrass, Steele, Ware, Mayor Jones

NAYS: NONE

ABSENT: Burka, Burton, Clowser

At 7:30 p.m., by a motion from Councilmember Harrison, Council adjourned until Monday, November 19, 2018, at 7:00 p.m., in the Council Chamber in City Hall.

Danny Jones, Honorable Mayor

JB Akers, City Clerk