The City of Charleston, West Virginia
$686,229 Sewerage System Revenue Bonds, 1999 Series A
$132,072 Sewerage System Revenue Bonds, 1999 Series B
(Mt. Tyler Public Service District)

CLOSING DATE: June 22, 1999

THE CITY OF CHARLESTON, WEST VIRGINIA
$686,229 SEWERAGE SYSTEM REVENUE BONDS, 1999 SERIES A
$132,072 SEWERAGE SYSTEM REVENUE BONDS, 1999 SERIES B
(MT. TYLER PUBLIC SERVICE DISTRICT)

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The closing of The City of Charleston, West Virginia Sewerage System Revenue Bonds, 1999 Series A and The City of Charleston, West Virginia Sewerage System Revenue Bonds, 1999 Series B (the "Bonds"), will take place at the office of Water Development Authority, Charleston, West Virginia, at 10:30 a.m. prevailing time on June 22, 1999. No transaction shall be deemed to have been completed and no documents shall be deemed to have been delivered unless or until all transactions are complete and all documents delivered.

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PART I.

THE CHARTER.

Editor's note.--According to the West Virginia Blue Book, 1973, page 820, the community which is now Charleston was "originally chartered in 1794, as Charles Town-----, [so] named by George Clendenin, one of the earliest settlers, for his father, Charles Clendenin." It became "Charleston" by Acts of Assembly 1817-18, ch. CXV, p. 160 et seq., passed January 19, 1818, which provided, in pertinent part, that "the town of Charles Town in the county of Kanawha, as the same has been heretofore laid off under the several acts of Assembly for that purpose--- shall be, and the same is hereby erected into a town corporate, to be known and distinguished by the name of 'Charleston'-----." These Acts were, of course, those of the general assembly of the Commonwealth of Virginia. The first Act of the West Virginia legislature amending the town Charter was that of 1867, ch. 127, p. 155; and Charleston became a city by Acts 1875, ch. 38, p. 47, which provided, inter alia, for a common council consisting of a mayor, recorder and nine councilmen, a body politic by name "The City of Charleston."

The present charter, herein set out, is a legislative charter, Acts 1929 (Muni. Ch.), ch. 4 as amended; the historical citations following each section indicating the derivation thereof and amendments, if any. The 1929 charter act was approved by the governor on March 6, 1929, and became effective upon passage. Many section catchlines have been changed by the editors to more clearly and more fully indicate the contents of the sections, and are not to be regarded as official; years have been changed from words to numerals; a uniform system of capitalization has been adopted; in some sections italicized words are printed in Roman; and words and figures in brackets have been supplied by the editors for the purpose of clarity.

For a list of home rule ordinances amendatory of the Charter, see table 3, in part III of this Code.

The legislature, in its 1969 revision and con-

solidation of chapters 8 and 8A of the Code of West Virginia into a new chapter 8, recognized, in section 8-1-6, "that when the provisions of existing special legislative charters are compared with and are considered in the light of the provisions of this chapter, [i.e., the new chapter 8], there are five basic possibilities as to the relationship between such charter provisions and the provisions of this chapter, namely: (1) As to any particular charter provisions, such charter provisions may be inconsistent or in conflict with the pertinent provisions of this chapter; (2) although relating to the same subject matter and although not inconsistent or in conflict with any provisions of this chapter, certain charter provisions may be sufficiently different from pertinent provisions of this chapter as to indicate, as a matter of practical construction, that either the charter provisions or the provisions of this chapter, but not both, should be applicable; (3) although varying in certain respects, certain charter provisions may be similar to and in essential harmony with corresponding provisions of this chapter; (4) as to any particular charter provisions, there may be no counterpart of such provisions in this chapter; and (5) as to any provisions of this chapter, there may be no counterpart charter provisions."

Section 8-1-6, therefore, sets forth certain rules to be applied, in addition to the usual and ordinary rules of statutory construction, with respect to construction and applicability of legislative charters, and it is suggested that users of this city Code refer to W. Va. Code, § 8-1-6, in determining the present construction and applicability of any portion of the Charleston Charter to any given situation.

For state law as to revising or amending a city Charter, see W. Va. Code, §§ 8-4-7, 8-4-8.

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Sec. 1. Charleston made a city corporate and body politic.

The inhabitants of all that part of the County of Kanawha included and centered within the limits hereafter prescribed in section two are hereby made a city corporate and body politic by the name of "The City of Charleston," and as such city it shall have perpetual succession and a common seal, and by that name it may sue and be sued, plead and be impleaded, and may purchase, hold, lease or sell real estate and personal property necessary to the discharge of its corporate duties, or needful or convenient for the good order, government and welfare of said corporation. (Acts 1929 (Muni. ch.), ch. 4, § 1.)

Sec. 2. Corporate limits.

The corporate territorial limits of the City of Charleston shall comprise all that part of the magisterial district of Charleston and all that part of the territory of the magisterial district of Loudon in the County of Kanawha and State of West Virginia, which is bounded and described as follows, to-wit:

Editor's note.--The remainder of this section, which describes by metes and bounds the city boundary as it existed on March 6, 1929, is omitted as obsolete due to annexation of territory and minor boundary adjustments since that date. For complete text of this section, see Acts 1929 (Muni. ch.), ch. 4, § 2. For current city boundary, see the official map of the city which, when completed and approved by the city council, will be placed on file in the office of the city clerk.

For state law as to change of municipal boun-

daries by annexation of territory, see W. Va. Code, §§ 8-6-1 through 8-6-5. As to decrease of corporate limits of municipalities, see W. Va. Code, §§ 8-7-1 through 8-7-4.

Sec. 3. Twenty wards established.

Editor's note.--This section, as initially enacted by the legislature by Acts 1929, (Muni. ch.), ch. 4, § 3, divided the city into seventeen wards. By Ordinance No. 308 amendatory of this section, enacted Nov. 10, 1958, and ratified at a special election held Dec 13, 1958, the city was redivided into nineteen wards. Due to subsequent changes in population and the resulting necessity for more proportionate representation in the city council, the council on Sept. 19, 1966, by affirmative vote of more than two-thirds of the members, enacted Ord. No. 870, amendatory of this section, by redividing the city into eighteen wards, described by metes and bounds, subject to a referendum as provided in W. Va. Code, § 8-4-7; and at a special election on Nov. 8, 1966, held pursuant to prior notice duly published, a majority of the legal votes cast were in favor of the amendment, which thereupon became effective with the declaration by the council of the results of that election, all in conformity with the provisions of W. Va. Code, § 8-4-7. The text of this section, as so amended, is omitted as obsolete in some respects due to subsequent addition of territory, but it has been saved from repeal and is on file in the office of the city clerk. Another reason for omission of the text of this section was that Ordinance No. 1570, 7-1-74, directed the mayor to appoint two special committees, one to take a census of the city and the other, upon completion of such census, to prepare and submit to the council a report, with recommendations for the division of the city into wards and the number and boundaries thereof, the number of councilmen to represent each ward, and the number of councilmen at large, together with a proposed ordinance to effect such recommendations. Ordinance No. 3040, adopted on

preceding sections shall be paid proper salaries which shall be fixed by the council, except as herein otherwise provided, and such salaries shall be within the limits provided for by this act. (Acts 1929 (Muni. ch.), ch. 4, § 5.)

For state law providing that, "notwithstanding any Charter provision to the contrary," the governing body of every municipality shall by ordinance fix the compensation of every munici-

Dec. 20, 1982, redivided the city into twenty wards, described by metes and bounds. For current division of the city into wards and the boundaries thereof, see the official map of the city which, when completed and approved by the city council, will be placed on file in the office of the city clerk.

Sec. 4. Municipal authorities: elective officers and qualifications for holding office.

The municipal authorities of the City of Charleston shall consist of a mayor, city treasurer, municipal judge, and a member of the city council from each ward of the city, and six councilmen at large, who shall be elected by the qualified voters of such city, and such officers shall for the assessment year preceding their respective elections as hereinafter provided, has been assessed with and paid taxes in the City of Charleston upon a valuation of at least one hundred dollars worth of real estate or personal property therein, and any person elected to any one of such offices who has not been assessed with and paid taxes on such amount of property shall not qualify or enter upon the performance of the duties thereof, but such office shall thereby become vacant and shall be filled by a qualified person as provided herein for other vacancies. (Acts 1929 (Muni. ch.), ch. 4, § 4; Ord. No. 870, § 2; 9-19-66; Ord. No. 1620, § 2; Ord. No. 3040, § 2.)

Editor's note.--The ordinance amendatory of this section of the Charter was enacted Sept. 19, 1966, by affirmative vote of more than two-thirds of the members of the city council; and it was ratified by a majority of the legal votes cast at a special election on Nov. 8, 1966, which was held pursuant to prior notice duly published, all in conformity with the provisions of W. Va. Code, § 8-4-7.

Sec. 5. Officers in addition to elective officers; salaries.

In addition to the municipal authorities mentioned in section four of this act [this Charter], the city shall have a manager, city clerk, municipal court clerk, city auditor, collector, chief of police, city solicitor, assistant city solicitor, chief of fire department, engineer, health commissioner, building inspector, lockup keeper, humane officer or officers and such member of policemen as council by ordinance may direct. All the officers named in this and the

pal officer and employee: provided, that the salary of an officer shall not be increased or diminished during his term of office, see W. Va. Code, § 8-5-12.

Sec. 6. Corporate power vested in council.

All the corporate power of said city shall be vested in and exercised by council or under its authority, except as otherwise provided in this act [this Charter]. (Acts 1929 (Muni. ch.), ch. 5, § 6.)

Sec. 7. Enumeration of numerous miscellaneous powers of council: jurisdiction beyond corporate limits.

The council of said city shall have, and is hereby granted power to have said city surveyed, to lay out, open, vacate, straighten, broaden, change grade of, grade, regrade, curb, widen, narrow, repair, pave and re-pave streets, alleys, roads, squares, plots, sidewalks and gutters for public use, and to alter, improve, embellish and ornament and light the same, and to construct and maintain public sewers and laterals, and shall, in all cases, have power and authority to assess upon and collect from the property benefited thereby, such part of the expense thereof as shall be fixed by ordinance, except as hereinafter provided, to have control of all streets, avenues, roads, alleys and grounds for public use in said city, and to regulate the use thereof and driving thereon, and to have the same kept free from obstruction, pollution or litter on or over them; to have the right to control all bridges within said city, and the traffic thereover; to change the name of any street, avenue or road within said city, and regulate and cause the numbering and re-numbering of houses on any street, avenue or road therein; to regulate the naming of streets, avenues and public places; to regulate and determine the width of streets, sidewalks, roads and alleys; to order and direct the curbing, re-curbing, paving, re-paving, and repairing of sidewalks and footways for public use in said city to be done and kept clean and in good order by the owners of adjacent property; to enter into a contract with the County of Kanawha, or any internal improvement company for the joint ownership of any bridge by the city and such county or company, upon such terms as may be prescribed in the contract, but any such bridge shall be a public highway and the interest of the company, county and city shall be only such proportionate part thereof as it may pay for or that may be named in the contract; to prohibit and punish the abuse of animals; to restrain and punish vagrants, mendicants, beggars, tramps, prostitutes, fortunetellers, palmists, drunken or disorderly persons within the city, and to provide for their arrest and manner of punishment; to prohibit and punish by fine the bringing into the city by steamboats, railroads or other carriers of persons known to be paupers, dangerous or objectionable characters or afflicted with contagious diseases; to control and suppress disorderly houses of prostitution or ill-fame, houses of assignation and gaming houses or any part thereof; to punish those guilty of possessing, transporting or selling intoxicating liquors and to confiscate all automobiles, cars, wagons, boats, water and aircraft,

beasts of burden and vehicles of any kind in connection with which intoxicating liquors are had, kept or possessed for the purpose of transportation or carrying in any way within the city; to punish those engaged in gaming and to suppress all gaming or gambling houses, and all places where gambling or betting is in any way carried on or permitted, and to punish all persons in any way connected therewith; to prohibit within the city or within two miles thereof, slaughter houses, soap or glue factories and houses and places of like kind, and any other thing or business dangerous, unwholesome, unhealthy, offensive, indecent or dangerous to life, health, peace or property; to provide for the entry into and the examination of all dwellings, lots, yards, enclosures, buildings and structures, cars, boats and vehicles of every description, and to ascertain their condition for health, cleanliness or safety; to regulate the building and maintenance of party walls, partition fences or lines, fire-walls, fire places, chimneys, boilers, smoke stacks and stove pipes; to provide for and regulate the safe construction, inspection and repairs of all public and private buildings, bridges, basements, culverts, sewers, or other buildings or structures of any description; to take down and remove, or make safe and secure, any and all buildings, walls, structures or superstructures at the expense of the owners thereof, that are or may become dangerous, or to require the owners or their agents to take down and remove them or put them in a safe and sound condition at their own expense; to regulate, restrain or prohibit the erection of wooden or other buildings within the city; to regulate the height, construction and inspection of all new buildings hereafter erected, and the alteration and repair of any buildings already erected or hereafter erected in said city, and to require permits to be obtained for such buildings and structures, and plans and specifications thereof to be submitted to the building inspector; to regulate the limit within which it shall be lawful to erect any steps, porticos, bay windows, bow windows, show windows, awnings, signs, columns, piers or other projection or structural ornaments of any kind for the houses or buildings fronting on any street of said city; to establish fire limits and to provide the kind of buildings and structures that may be erected therein, and to enforce all needful rules and regulations to guard against fire and danger therefrom; to require, regulate and control the construction of fire escapes for any building or other structures in said city, to control the opening and construction of ditches, drains, sewers, cesspools and gutters, and to deepen, widen and clear the same of stagnant water or filth, and to prevent obstruction therein, and to fill, close or abolish the same and to determine at whose expense the same shall be done; and to build and maintain fire station houses, crematories, jails, lockups, and other buildings, police stations and police courts, and to regulate the management thereof; to acquire, establish, lay off, appropriate, regulate, maintain and control public grounds, squares and parks, hospitals, market houses, city buildings, airports, libraries and other educational or charitable institutions, either within or without the city limits, and when the council determines that any real estate rights, or materials in or out of the city is necessary to be acquired by said city for any such city purpose, or for any public purpose, or is necessary in the exercise of its powers herein granted, the power of eminent domain is hereby conferred upon said city, and it shall have the right to institute condemnation proceedings against the owner thereof,

whether said property be in or out of said city, in the same manner, to the same extent, and upon the same conditions as such power is conferred upon public service corporations by chapter forty-two of the Code of West Virginia of the edition of 1923, and is now or may be hereafter amended [see W.Va. Code, 1931, ch. 54, as amended]; to purchase, sell, lease or contract for and take care of all public buildings and structures and real estate deemed proper for the use of such city; and for the protection of the public to cause the removal of unsafe walls, structures or buildings, and the filling of excavations; to acquire or assist in acquiring land to be donated, dedicated or conveyed to, or otherwise vested in, the State of West Virginia as a site for a state capitol or other public buildings, and to donate, dedicate and convey the same to said state or otherwise procure the title to the same to be vested in said state; to prevent injury or annoyance to the business of individuals from anything dangerous, offensive or unwholesome; to abate or cause to be abated all nuisances and to that end and thereabout to summon witnesses and hear testimony; to regulate or prohibit the keeping of gunpowder and other combustible or dangerous articles, and to regulate the transportation of same through the streets, alleys and public places; to regulate, restrain or prohibit the use of fire-crackers or other explosives or fireworks, and all noises or performances which may be dangerous, indecent or annoying to persons or tend to frighten horses or other animals; to provide and maintain proper places for the burial of the dead, in or out of the city, and to regulate interments therein upon such terms and conditions as to price and otherwise as may be determined; to provide for shade and ornamental trees, shrubbery, grass, flowers and other ornamentation, and the protection of the same; to provide for the poor of the city; to make suitable and proper regulations in regard to the use of the streets, public places, sidewalks and alleys by street cars, foot passengers, animals, vehicles, motors, automobiles, traction engines, railroad engines and cars, and to regulate the running and operation of the same so as to prevent obstruction thereon, encroachment thereto, injury, inconvenience or annoyance to the public; and to regulate fares and operation of motor vehicles operating on a fixed route used in the public transportation of passengers or property; to purchase or otherwise secure life, health or accident policies on the group or other convenient plan upon the members of the city police force and fire department, and as an element of compensation of such members may appropriate the money necessary to defray the cost thereof; whenever in its opinion the safety of the public so requires to authorize or require by ordinance any railroad company operating railroad tracks upon or across any public street or streets of the city, to construct and maintain overhead or undergrade crossings wherever the tracks of said company are laid upon or across the public streets of such city, and to apportion according to general law between any such railroad company and city the cost of such construction and maintenance and the cost of the acquisition of the necessary property and rights of way and the damages to abutting properties between any such railroad company and city; to prohibit prize fighting and cock and dog fighting; to license, tax, regulate or prohibit theaters, moving pictures, circuses, and exhibition of showmen and shows of any kind, and the exhibition of natural or artificial curiosities, carnivals, menageries and music exhibitions and performances, and other things or business on which the state does or may exact a

license tax: to organize and maintain fire companies and departments, and to provide necessary apparatus, engines and implements for the same and to regulate all matters pertaining to the prevention and extinguishing of fires; to make proper regulations for guarding against danger and damage from fires, water or other elements; to regulate and control the kind and manner of plumbing and electric wiring, the operation and height of flying of aeroplanes, airships and balloons; to regulate wireless stations, radio stations and other appliances for the protection of the health and safety of said city; to levy taxes on property, property and licenses, to license and tax dogs and other animals and regulate, restrain and prohibit them and all other animals and fowls running at large; to provide revenue for the city and appropriate the same to its expenses; to adopt rules for the transaction of business of its own regulation and government; to promote the general welfare of the city, and to protect the persons and property of citizens therein; to regulate and provide for the weighing of produce and other articles sold in said city and to regulate the transportation thereof and other things, through the streets, alleys and public places; to have the right to grant, refuse or revoke any and all licenses for the carrying on of any business within said city on which the state exacts a license tax; to establish and regulate markets and to prescribe the time for holding the same, and what shall be sold in such market, and to let stalls or apartments and regulate the same; to acquire and hold property for market purposes; to regulate the placing of signs, billboards, posters and advertising on or over the streets, alleys, sidewalks and public grounds of said city; to preserve and protect the peace, order and safety and health of the city and its inhabitants, including the right to regulate the sale and use of cocaine, morphine, opium and poisonous or dangerous drugs; to appoint and fix the place of holding city elections; to erect, own, lease, authorize or prohibit the erection of gas works, electric light works or water works, ferry boats, in or near the city, and to operate the same, and to sell the product of services therefrom and to do any and all things necessary and incidental to the conduct of such business; to build, hold, purchase, own and operate toll bridges; to enter into an agreement with the County of Kanawha, whereby the council and the county court of Kanawha County shall have the power and authority to provide for a full time health officer in charge of all the general health and sanitation activities and of the enforcement of all laws and regulations relating to public health, in the City of Charleston, the County of Kanawha, and to provide for necessary assistants, nurses, clerks and other employees, and the expenses of the administration thereof, and to provide for a proper division of all such expenses between the city and county, and make all needful rules and regulations to fully carry into effect the said joint undertaking between the City of Charleston and the County of Kanawha; to provide for the purity of water, milk, meats and provisions offered for sale in said city, and to that end provide for a system of inspecting the same and making and enforcing rules for the regulation of their sale; and to prohibit the sale of any unwholesome or tainted milk, meats, fish, fruit, vegetables, or the sale of milk, containing water or other things not constituting a part of pure milk; to provide for inspecting dairies and slaughter houses, whether in or outside of the city, where the milk and meat therefrom are offered for sale within said city, and to prohibit the sale of any articles deemed unwholesome, and to condemn

the same or destroy or abate it as a nuisance; to provide for the regulation of public processions so as to prevent interference with public traffic, and to promote the good order of the city; to prescribe and enforce ordinances and rules for the purpose of protecting the health, property, lives, decency, morality, cleanliness and good order of the city and its inhabitants and to protect places of divine worship in and about the premises where held, and to punish violations of all ordinances, although the offense under and against the same shall also constitute an offense under the laws of the State of West Virginia or the common law; to provide for the employment and safe keeping of persons who may be committed in default of payment of fines, penalties or costs under this act [this Charter], who are otherwise unable to discharge the same, by putting them to work for the benefit of the city upon the streets or other places in or out of the city provided by said city, and to use such means to prevent their escape while at work as the council may deem expedient; and the council may fix a reasonable rate per day as wages to be allowed such persons until the fine and costs against him [them] are thereby discharged; to compel the attendance at public meetings of the members of the council; to have and exercise such additional rights, privileges and powers as are granted to municipalities by chapter forty-seven [now chapter 8, the Municipal Code of West Virginia] of the Code of West Virginia as amended.

For all such purposes, except that of taxation and for purposes otherwise limited by this act [this Charter], the council shall have jurisdiction for one mile beyond the corporate limits.

And the council shall have the right to establish, construct and maintain public markets, landing ferries, wharves, parking places and docks on any ground which does or shall belong to said city, or which it shall acquire, by purchase or otherwise, and to sell, release, repair, alter or remove any public markets, landings, ferries, wharves, dikes, buildings or docks which have been or shall be so constructed, and to levy and collect reasonable duty on vessels and other craft coming to or using said landings, ferries, wharves, dikes, docks, parking places and buildings, and to preserve and protect the peace and good order at the same, and regulate the manner in which they shall be used; and to have the sole right, under state laws and in the same manner as now control county courts, to establish, construct, maintain, regulate and control all such wharves, docks, ferries and landings within the corporate limits of said city.

To carry into effect these enumerated powers and all other powers conferred upon said city expressly or by implication in this and other acts of the legislature, the council of said city shall have the power in the manner herein prescribed, to adopt and enforce all needful orders, rules and ordinances not contrary to the laws and constitution of this state; and to prescribe, impose and enforce reasonable fines and penalties, including imprisonment in the city lock-up, jail or stationhouse, and to work prisoners found guilty, as the coun-

cil may prescribe, and market the products of such labor, and with the consent of the county court of Kanawha County, entered of record, shall have the right to use the jail of said county for any purpose necessary to the administration of its affairs. (Acts 1929 (Muni. ch.), ch. 4, § 7.)

For constitutional provisions as to taking of private property for public use, see Const. W. Va., art. III, § 9. As to municipal home rule, see Const. W. Va., art. VI, § 39. For state law relating to municipalities, being the Municipal Code of West Virginia, see W.Va. Code, ch. 8. As to general powers of municipalities and their governing bodies, see W. Va. Code, §§ 8-11-1 et seq., and 8-12-5.

For a case citing this section and holding that where a statute confers power upon a municipal corporation to be exercised for the public good, the exercise of the power is not merely discretionary, but imperative, and the words "the council shall have power to" mean duty and obligation, see Broun v. Charleston, 116 W. Va. 51, 178 S.E. 597 (1935), approving Cavender v. City of Charleston, 62 W.Va. 654, 59 S.E. 732.

*For a case holding that the words of this section "****to provide for and regulate the safe construction, inspection and repairs of all public and private buildings, *** to regulate the height, construction and inspection of all new buildings hereafter erected, and the alteration and repair of any buildings already erected or hereafter erected in said city, and to require permits to be obtained for such buildings and structures, and plans and specifications thereof to be first submitted to the building inspector;" did not confer authority upon the city to enact a building code or a zoning ordinance which could be applicable to a building constructed by the state office building commission, created by chapter 43, Acts of the legislature, 1939, on property purchased under the general appropriation act, contained in chapter 9, Acts of the legislature, 1949, see Charleston v. Southeastern Con. Co., 134 W. Va. 666, 34 S.E. 2d 743 (1950).*

For a case holding that where the city council had enacted an ordinance vacating certain streets in a subdivision, pursuant to authority set out in W. Va. Code, § 8-12-5, subsec. (1), and the words of Char., § 7, "....to lay off, vacate,

close....for the use of the public....", to entitle a property owner to certiorari to review the action of the city council in vacating and closing a street, the petitioner must allege that his property abuts on that part of the street vacated, or that he will suffer special or peculiar damage or inconvenience not common to all, see Barker v. City of Charleston, 132 W. Va. 934, 81 S.E. 2d 743 (1950).

For a case holding that the provisions: "The council of said city shall have, and is hereby granted power*** to establish fire limits and to provide the kind of buildings and structures that may be erected therein, and to enforce all needful rules and regulations to guard against fire and danger therefrom; *** to prevent injury or annoyance to the business of individuals from anything dangerous, offensive or unwholesome; to abate or cause to be abated all nuisances; *** to regulate or prohibit the keeping of gunpowder and other combustible or dangerous articles; *** to organize and maintain fire companies and departments and to provide necessary apparatus, engines and implements for the same, and to regulate all matters pertaining to the prevention and extinguishment of fires; to make proper regulations for guarding against danger and damage from fires, water or other elements; *** to promote the general welfare of the city, and to protect the persons and property of citizens therein; ***," and other provisions similar to provisions of this section, but contained in a prior city charter, were sufficient authority for the city council to enact an ordinance regulating the keeping, storage or transportation of gasoline or other explosives, including dangerous oils, see State ex rel Oil Service Co. v. Stark, 96 W. Va. 176, 122 S.E. 533 (1924).

For a case holding that certain language of section 7 of prior city Charter, i. e.: "The council of said city shall have, and is hereby granted power ....to punish violations of all ordinances, if the offenses under and against the same shall also constitute offenses under the laws of the State of West Virginia or the common law; ....to carry into effect these enumerated powers and all other powers conferred upon said city expressly or by implication in this and other acts of the

Legislature, the council of said city shall have the power, in the manner herein prescribed, to adopt and enforce all needful orders, rules and ordinances not contrary to the laws and Constitution of this state; and to prescribe, impose and enforce reasonable fines and penalties, including imprisonment in the city lock-up, jail or station house," [compare with section 7 of present city Charter] granted authority to the city council to enact an ordinance which prescribed penalties in excess of those prescribed by state law for a similar offense, see State v. Wertz, 91 W. Va. 622, 117 S.E. 242, 29 A.L.R. 391 (1922).

For a case construing certain language of section 7 of prior city Charter [identical to language contained in section 7 of present city Charter]: "The council of said city shall have, and is hereby granted power....to pass ordinances to protect and preserve the health, property, lives, decency, morality, cleanliness, and good order of the city...." to include within its terms authority to pass an ordinance prohibiting work or labor on the Sabbath Day, see State v. Wertz, supra, cited with approval in McGowan v. State of Maryland, 366 U.S. 420 (at page 497), 66 L. Ed. 393, 81 S.Ct. 1153(1961).

For a case construing a section of a prior city Charter which, in language differing from that contained in this section, also granted authority to the city council to establish building lines, and holding that an ordinance establishing a building line on a certain street and inhibiting owners of abutting land from encroaching thereon, based on merely aesthetic considerations, is not within the police power and is unenforceable as a police regulation, see Fruth v. Board of Affairs, 75 W. Va. 456, 84 S.E. 105 (1915).

Sec. 7-a. Authority of council, municipal judge, circuit and common pleas courts and judges relating to city licenses.

The council of the City of Charleston shall have full discretion in the matter of granting, refusing and revoking licenses for keeping hotels, eating houses and restaurants, garages, taxi-cab stands, bowling alleys, pool and billiard tables and like tables, and for selling soft drinks, as in the case of other licenses, and shall supervise, regulate and control all places licensed for said purposes, and the municipal judge shall have jurisdiction when such city license and regu-

lation is sought to be evaded and may prevent such evasion, provided, that no such license, regulation or control shall apply to any fraternal beneficiary society permitted under the state laws. The council shall make no provision for the licensing of automobiles or other motor vehicles, except that in the case of motor vehicles used in the transportation of passengers or property for hire the council may require from the owner or operator of any such vehicle a bond, with sureties, and in such penalty, and with such conditions as it may deem proper. The council shall have power to enact and enforce proper ordinances for the purpose of carrying into effect the powers hereby granted.

If any person fails or refuses to secure a license or to pay any license tax due the city, or fails to obtain a permit to do anything for which a permit is required by ordinance, in addition to all other penalties and remedies provided by the ordinances of the city, the circuit court of Kanawha County and the court of common pleas of Kanawha County, or the respective judge thereof, in vacation, upon application in the name of the city or of any officer of the city, shall grant an injunction, inhibiting such person from continuing the business until the full amount of the license tax and penalty prescribed by the ordinance and due the city is paid, or until the person has obtained the license or permit as required by any ordinance. (Acts 1929 (Muni. ch.), ch. 4, § 7-a.)

For state law as to authority of city to require a city license for anything for which a state license is required, unless prohibited by general law, and to impose a reasonable tax thereon not in excess of state tax, see W.Va. Code, § 8-13-4, as modified by W. Va. Code, § 11-12-4.

Sec. 7-b. Regulation of operation of motor vehicles.

The council of the City of Charleston is hereby granted power, in addition to the powers heretofore granted it, to regulate by ordinance the operation of motor vehicles and other vehicles in said city, and the speed at which the same may be driven, and to provide for the punishment of violations of such ordinances; and said council is given specific authority to punish the violation of ordinances relating to the speed of such vehicles, or the operation thereof, by impounding or taking possession of such vehicles and retaining the same for such time as may be prescribed by ordinance not to exceed thirty days. (Acts 1929 (Muni. ch.), ch. 4, § 7-b.)

For state law as to powers of local authorities, see W.Va. Code, § 17C-2-8.

Sec. 8. Persons entitled to vote.

Every person qualified by law to vote for members of the legislature of this state (and who shall have been a resident of said city for sixty days preceding the day of election, of the ward in which he offers to vote at least ten

days preceding such day and a bona fide resident of the election precinc which he offer to vote) shall be entitled to vote at all elections held in said c by or under the authority and control thereof. (Acts 1929 (Muni. ch.), ch. § 8.)

Editor's note.--Acts 1972, Ex. Sess., ch. 1, amended W.Va. Code, § 3-1-3, as to persons entitled to vote at state elections, by deleting the requirement for sixty days residence in the county or municipality in which he offers to vote; and such requirement is no longer applicable to city elections under this section of the Charter.

Sec. 9. Boundaries of voting precincts; registration books; registering voters; transfer from one precinct to another; duties of county court.

Voting precincts in the several wards for the city election shall be the same as to boundaries as those fixed by the county court for all state and county elections. The county clerk of Kanawha County shall carefully preserve in his office, registration books of each general state and county election for all of the precincts of the City of Charleston, and the original of said books shall be used as the registration for all regular and special city elections, with such corrections as are herein provided for. Said registration books shall never be out of the possession and control of the county court of Kanawha County, or the clerk thereof, except as hereinafter provided:

The county court of Kanawha County shall sit on the three last Saturdays and the last Monday next preceding any regular election or primary in said City of Charleston for the purpose of registering voters who have not been already registered in the various precincts, and for transferring voters from one precinct to another which shall be done, upon a proper showing, by striking the name of the voter from the registration book in which it appears, and placing the same upon the registration book of the precinct in which the voter is entitled to vote, and no other way, and for striking off the name of any voter from the registration books when it shall be shown to the satisfaction of said court that such person is no longer a voter in said city, and said court shall also strike from such registration books the name of any person known or proved to them to be dead. It shall be the duty of the clerk of said city to give notice of the time and place of the sitting of said court by publication in two newspapers of opposite politics printed and circulated in said city, once a week for four successive weeks before any such municipal election or primary. The clerk of the county court of Kanawha County shall transfer on the registration books the names of such voters as present themselves to him, in person, during such days preceding any municipal election after the first Saturday on which the county court sits, as above provided. The two major political parties, through the chairman of their respective municipal executive committees, may appoint challengers to

be present at the office of the clerk of said county court on the days when the said clerk is herein authorized to make transfers, but said clerk's decision in the matter shall control. (Acts 1929 (Munl. ch.), ch. 4, § 9; 1933, Reg. Sess., ch. 117.)

For state law as to integration of municipal elections with system of permanent registration, see W. Va. Code, § 8-5-13. As to arrangement and filing in county clerk's office of registration records to be used in municipal elections, see W. Va. Code, § 3-2-15.

Sec. 9-a. Special registrars: compensation of county court and clerk: delivery of registration books to city clerk: return to clerk of county court.

No special registrars shall be appointed for any municipal election or primary and the county court of Kanawha County and the clerk thereof shall receive nothing for their services as required by this and the last preceding section.

On the day prior to any municipal election or primary the clerk of said county court shall deliver to the city clerk of said City of Charleston all original registration books used in the last general county and state election, as corrected by the county court of said county, and the clerk of said city shall send the same to the various precincts of said city, as provided by law. After said registration books are delivered to said clerk of said city, no person shall add to the same any name, nor erase therefrom any name, and any person found guilty of either adding or erasing one or more names shall be guilty of a felony and confined in the penitentiary not less than one, nor more than five years. As soon as may be possible after the holding of any such municipal election or primary said original registration books shall be returned by the clerk of said city to the clerk of the county court of Kanawha County, West Virginia, who shall carefully preserve all of said registration books for such use as is required by law. (Acts 1929 (Munl. ch.), ch. 4, § 9-a; 1933, Reg. Sess., ch. 117.)

For state law as to integration of municipal elections with system of permanent registration, see W. Va. Code, § 8-5-13. As to arrangement and filing in county clerk's office of registration records to be used in municipal elections, see W. Va. Code, § 3-2-15.

Sec. 10. Nomination of candidates.

Candidates to be voted for at municipal elections may be nominated by convention, or primary election, as may be decided by the executive committees of any of the parties recognized by law in said city, and candidates may be nominated by petition in the manner provided by chapter three of the Code of

West Virginia. Each of the political parties having the right to make a nomination under the election laws of West Virginia shall give notice of the manner of such nomination by publication thereof in some daily newspaper printed in the City of Charleston for ten days prior to the date of such convention or primary election. (Acts 1929 (Muni. ch.), ch. 4, § 10.)

For state law as to municipal political party executive committees and municipal primary elections, see W. Va. Code, § 8-5-14.

For a case holding that a political committee within the purview of this section had the power and authority to rescind, abrogate or alter, at a subsequent meeting, what it did at a previous one, before "consumption" [consummation?], in the absence of a statutory provision inhibiting such action; and that where relator announced his candidacy for the nomination for mayor in reliance upon the executive committee of his party having by resolution set a primary election date and the city council had then enacted an ordinance providing for a primary election to be held on that date and had thereupon appointed election officials for such primary, he did not attain a vested interest in such primary, and that a subsequent resolution of the party executive committee annulling its prior resolution and provided instead for a convention to be held, relator's petition for mandamus to compel the holding of a primary election would be denied, see Reynolds v. Fielder, 110 W. Va. 240, 157 S.E. 597 (1931).

Sec. 11. When county and city voting precincts to be the same: how elections to be held.

Whenever the county court of Kanawha County shall arrange the voting precincts in the City of Charleston for state and county elections, according to the lines of the city wards, then such precincts with the same boundaries and the same voting places as provided for such state and county elections shall be the precincts for all city elections. Except as may be otherwise provided, by this act [this Charter], all city elections shall be held by the council and the officers therefor appointed in the way and manner prescribed in chapter 3 of the Code of West Virginia, but no double election boards shall be appointed for any city election. (Acts 1929 (Muni. ch.), ch. 4, § 11.)

Sec. 12. Law governing preparation of ballot and method of voting.

The preparation of the ballot and the method of voting and all other requirements of chapter 3 of the Code of West Virginia, except as changed or modified

by this act [this Charter], shall govern all city elections held under the provisions hereof. (Acts 1929 (Munl. ch.), ch. 4, § 12.)

Sec. 13. The council--Title: how constituted.

The City of Charleston shall have a council, which shall be known and styled as the "Council of the City of Charleston" and shall consist of one resident of each of the wards of the city, and five councilmen to be voted for by all the voters of said city, all of whom shall be nominated, voted for and elected in the manner herein provided. (Acts 1929 (Munl. ch.), ch. 4, § 13.)

Editor's note.--Since enactment of this section by the legislature in 1929, section 4 of the Charter was amended in 1966 so as to provide for one councilman from each ward and six councilmen at large.

For state law as to election of mayor and councilmen, see W. Va. Code, § 8-5-7.

Sec. 14. Same--Qualifications: vacancies.

Only citizens entitled to vote and residents and voters of their respective wards and having the proper qualifications hereinbefore provided shall be eligible to be elected to the office of councilmen [councilman] from their respective wards and at large, and each councilman so elected from a ward shall continue to be a resident of the ward from which he is elected during his entire term of office.

At the election to be held on the third Monday in April, 1931, there shall be elected one member of the council from each ward and five members of the council from the city at large. If any person elected to council fails to qualify within twenty days after he is declared elected, or resigns as a member of the council, or ceases to be a resident of the ward from which he is elected, then his office shall thereby be vacated and the council shall fill such vacancy by the election of some qualified person for such unexpired term. No person shall be declared elected by the council unless he receives the votes of at least a majority of the members elected thereto and the minutes of such meeting shall show that fact. (Acts 1929 (Munl. ch.), ch. 4, § 14.)

Editor's note.--There are now six councilmen elected at large instead of five, see Char., § 4. As to election and term of elective officers after the year 1931, see Char., § 35.

Sec. 15. Same--Mayor: clerk: president pro tempore.

The mayor shall be the presiding officer of the council and be a member thereof, with the right to vote on all questions the same as any other member of

said council, and the city clerk shall be ex officio clerk of the council, and the mayor and city clerk shall each perform such other duties as the council may require of them. The council shall, at its first meeting after each election, select one of its body as president pro tempore, who shall in the absence of the mayor, preside as chairman of the meeting of the council, and in the absence of both the mayor and president pro tempore at any meeting of the council, some member of the council shall be elected to preside over such meeting. (Acts 1929 (Muni. ch.), ch. 4, § 15.)

For state law as to presiding officer of municipal council, see W. Va. Code, §§ 8-9-1, 8-9-2.

Sec. 16. Same--Representation of new ward.

Whenever by the extension of the corporate boundaries of the city a new ward is created as part of the city, such new ward shall have representation in the city council and within thirty days after the act creating such new ward takes effect, the council shall proceed to elect one qualified resident thereof, as a member of said council, to hold office until the next general city election. (Acts 1929 (Muni. ch.), ch. 4, § 16.)

For state law as to annexation of territory by municipalities, see W. Va. Code, § 8-6-1 et seq.

Sec. 17. Same--Exercise of legislative functions: information, etc., from officers and employees.

The council shall exercise all of the legislative functions of the city government and shall have the right to demand of any city official, or employee, information, explanations, facts, details, correspondence, or other papers affecting the city's interest; and it shall be malfeasance and neglect of duty for any such official or employee to fail or refuse to comply with such demands. (Acts 1929 (Muni. ch.), ch. 4, § 17.)

For state law as to powers of municipal governing bodies generally, see W. Va. Code, §§ 8-11-1 et seq., and 8-12-5.

Sec. 18. Audit of books and accounts.

The council shall by proper ordinance provide for the auditing of all the books and accounts of the city at least once in each year, and shall employ a reputable certified public accountant for such purpose, and such audit shall show the complete financial condition of the city at the time thereof and the receipts and disbursements of all moneys during such year. The council may also provide by ordinance for the publication of the report of the accountant on the financial condition of the city at least once in each year, and such report of

the accountant shall be spread upon the records of the council and be a public record for all purposes. (Acts 1929 (Muni. ch.), ch. 4, § 18.)

Sec. 19. Removal of officers by council or by circuit court of Kanawha County, or by officers having appointment authority.

Any member of the council, and any city official, either elected or appointed, may be removed from his office by the council for any of the following causes: Official misconduct, incompetence, habitual drunkenness, neglect of duty, or gross immorality. The charges against any such officer shall be reduced to writing and entered of record by the council, and a summons shall thereupon be issued by the city clerk containing a copy of the charges and requiring the officer named therein to appear and answer the same on a day to be named therein, which summons may be served in the same manner as a summons commencing an action may be served, and the service must be made at least five days before the return day thereof, and it shall require the affirmative vote of two-thirds of all the members elected to council to remove any such official. The circuit court of Kanawha County shall have concurrent jurisdiction with the council to try, hear and determine any proceedings for the removal of any city official for any of the causes herein mentioned.

The mayor, or any other city official having the power of appointment, shall have the absolute right in his discretion to remove any of his appointees and appoint another qualified person in his place, but such removal shall be in writing and served upon said official so removed, and all the rights and powers of such official shall cease and end from the time of such service. (Acts 1929 (Muni. ch.), ch. 4, § 19.)

Sec. 20. Rules and regulations for government of council; record of meetings.

The council shall make proper rules and regulations for its own government and the conduct of its business, which rules shall not be contrary to, or inconsistent with, any of the provisions of this act [this Charter], and such rules shall be duly entered of record and shall be published by the council in any municipal code or other publication made by the council of this act and the ordinances of said city. The council shall cause a record of its meetings to be kept and recorded by the city clerk in a well bound book provided by the council for that purpose, which book shall remain in the custody and at the office of the city clerk, and all the books containing the proceedings of former councils or other governing bodies of the City of Charleston, shall likewise remain in the custody and be kept at the office of the city clerk, and all such books and all city records shall at reasonable hours and in a reasonable manner be open to the inspection of the public. (Acts 1929 (Muni. ch.), ch. 4, § 20.)

For state law as to proceedings of municipal governing bodies, see W. Va. Code, § 8-9-1 et seq. As to powers and duties of recorders, see W. Va. Code, § 8-10-3. As to authority of municipal

governing bodies to adopt rules for the transaction of business, etc., and to conduct investigations, see W. Va. Code, § 8-12-5, subsecs. (45) and (48).

Sec. 21. Regular meetings of council.

The council shall hold regular meetings on the first and third Mondays of each month, and the hour and place of such meetings shall be fixed by the council in the rules adopted by it. (Acts 1929 (Munl. ch.), ch. 4, § 21.)

Sec. 22. Special meetings of council.

Special meetings of the council shall be held when called by the mayor or ten members thereof. In either case, the call therefor shall be in writing and signed by the mayor or members issuing it, and shall state the time, place and business to be considered thereat, and a copy thereof shall be served upon each member of the council then in the city, and also be published on two successive days in two daily newspapers printed and circulated therein. No business, other than that stated in such call, shall be considered at such meeting. (Acts 1929 (Munl. ch.), ch. 4, § 22.)

Sec. 23. Council procedure for contested elections, and right of appeal to circuit court.

All contested elections shall be heard and determined by the council and such contests shall be made and conducted in the same manner as provided for in the case of contests for county and district officers; and the council shall conduct its proceedings in such cases as nearly as practicable in conformity with the proceedings of the county court in such cases, and there shall be the same right of appeal, in the same way, to the circuit court of Kanawha County. (Acts 1929 (Munl. ch.), ch. 4, § 23.)

For state law as to contested municipal county and district elections, see W. Va. Code, §§ 3-7-6 through 3-7-9; and, see also, as to contested municipal elections, W. Va. Code, § 8-5-17.

Sec. 24. Oath of officers: how and within what time officers must qualify; failure to qualify vacates office.

All officers elected and appointed shall take an oath, before some one authorized to administer oaths, that they will support the Constitution of the United States, the Constitution of this state, and will faithfully and impartially discharge the duties of their respective offices to the best of their skill and judgment; that they are not and will not during their term of office, in any way or manner become pecuniarily interested directly or indirectly in any contract with the city, in any franchise granted by it, or in the purchase of supplies

therefor. When the officer shall have made such oath in writing and filed the same with the city clerk and shall have given the bond required of him, he shall be considered as having qualified for the office to which he was elected or appointed: provided, that if any person so elected or appointed shall not qualify for said office as herein prescribed, within twenty days after he shall have been officially declared elected or appointed thereto, said office shall ipso facto become vacant, and said vacancy shall be filled in the same manner as other vacancies therein are provided for in this act [this Charter]. (Acts 1929 (Muni. ch.), ch. 4, § 24.)

For state law as to oath of municipal officers, see W. Va. Code, § 8-5-8.

Sec. 25. Bonds of officers and employees; record of bonds.

The mayor, manager, city clerk, municipal court clerk, treasurer, city solicitor, city collector, municipal judge, health commissioner, chief of police and chief of fire department, each shall, before entering upon the discharge of their respective duties, give an official bond, conditioned for the faithful performance of such duties as are prescribed in this act [this Charter] or any ordinance now or hereafter passed, in amounts as follows: The mayor, one thousand dollars; manager, ten thousand dollars; city collector, ten thousand dollars; the treasurer, sixty thousand dollars; the city clerk, municipal court clerk, municipal judge and city solicitor, three thousand dollars, respectively; health commissioner, chief of police and chief of the fire department, one thousand dollars, respectively.

The council may require additional bond from any of said appointive officers, and may likewise require bond, in whatever sum they may fix, of any other appointive officer or employee. All bonds of officers or employees shall, before their acceptance, be approved by the council. The minutes of the meeting of council shall show all matters touching the consideration or approval of all bonds, and when said bonds are approved and accepted, they shall be recorded by the city clerk in a well bound book kept by him at his office for that purpose, which book shall be open to public inspection; and the recordation of such bonds as aforesaid shall be prima facie proof of their correctness, and they, as so recorded, as well as copies thereof duly attested by the city clerk under the seal of the city, shall be admitted as evidence in all courts of this state. The city clerk shall be the custodian of all bonds, except that given by him, and as to it, the city treasurer shall be custodian. All bonds, obligations or other writings taken in pursuance of any provisions of this act [this Charter], shall be made payable to "the City of Charleston," and the respective persons, and their heirs, executors, administrators and assigns bound thereby shall be subject to the same proceedings on said bonds, obligations and other writings, for the purpose of enforcing the conditions of the terms thereof, by motion or otherwise, before any court of record held in and for the County of Kanawha, that collectors of county levies and their sureties are or shall be subject to on their bonds for enforcing the payment of the county levies. (Acts 1929 (Muni. ch.), ch. 4, § 25.)

Sec. 26. Quorum of council: compelling attendance of absent members.

A majority of the whole number of members elected to the council shall be necessary for the transaction of business, but a smaller number may adjourn from time to time and may compel the attendance of absent members, in such manner and under such penalties as it may by rules provide. (Acts 1929 (Munl. ch.), ch. 4, § 26.)

For state law as to quorum of a municipal governing body, see W. Va. Code, § 8-9-1.

Sec. 27. Voting in council and recording of votes.

Unless otherwise herein provided, the vote upon any question or motion before the council may be viva voce when unanimous; but if the question or motion does not receive the unanimous vote of the members present, the vote shall be taken by roll call of the members and made a part of the minutes of the meeting, and when the vote is unanimous the minutes shall so state. (Acts 1929 (Munl. ch.), ch. 4, § 27.)

For state law as to voting in council and minutes of proceedings, see W. Va. Code, § 8-9-3.

Sec. 28. City clerk is ex officio clerk of the council: council minutes and admissibility thereof in evidence.

The city clerk shall be ex officio clerk of the council and shall keep detailed minutes of its meetings and proceedings in a well bound book for that purpose, which shall remain in the custody of the city clerk at his office and open to public inspection. The minutes of every meeting after being corrected, shall be signed by the mayor and city clerk, and, if thus recorded and signed, they shall be admitted as evidence in any court of record in this state. (Acts 1929 (Munl. ch.), ch. 4, § 28.)

For state law as to council records and minutes of proceedings, see W. Va. Code, § 8-9-3. As to duty of municipal recorders to keep the journal of proceedings of governing body, see W. Va. Code, § 8-10-3.

Sec. 29. Holding two offices.

No officer of the city shall hold two offices with the city at the same time, or be employed by the city in any other capacity, without first having the consent of the council. (Acts 1929 (Munl. ch.), ch. 4, § 29.)

Sec. 30. Failure of mayor or other officer to make appointments.

Whenever the mayor or other officer shall fail to make any and all appointments under him, or required to be made by him, for a period of thirty days from the time such appointment should have been made, his office may be declared vacant by the council, and his successor appointed, in the manner herein provided. (Acts 1929 (Muni. ch.), ch. 4, § 30.)

Sec. 31. Vacancy in office of mayor or treasurer; vacancy in office of appointive officer; officers hold office until successors qualified, unless previously removed.

Whenever a vacancy for any cause whatever shall occur in the office of mayor or treasurer, the council shall elect some qualified person to fill said vacancy until the next city election, and until his successor shall have been elected and qualified; and when such vacancy shall occur in the office of any appointive officer, his successor shall be appointed by the person making the original appointment, or his successor in office, as hereinbefore provided, and all elective and appointive officers of said city shall hold their respective offices until their successors are elected, or appointed, and qualified, unless sooner removed. (Acts 1929 (Muni. ch.), ch. 4, § 31.)

As to filling vacancy in office of municipal judge, see Char., § 94.
For state law as to filling vacancies in elective municipal offices, see W. Va. Code, § 8-5-10.
As to holding office until successor elected or appointed and has qualified, see W. Va. Code, § 8-5-9.

Sec. 32. Corruption in office.

Any member of council or any officer of, or connected with, the city government pursuant to any law of this state or ordinance of the city now or hereafter passed, who shall, in his official capacity or under color of his office, knowingly or willfully, or corruptly vote for, assent to or report in favor of, or allow, or certify for allowance, any claim or demand against the city, which claim or demand shall be on account or under color of any contract or agreement not authorized by or in pursuance of the provisions of this act [this Charter], or the ordinances of the city, or any claim or demand against the city and which claim or demand or any part thereof shall be for work not performed for and by authority of said city, or for supplies or materials not actually furnished thereto pursuant to law or ordinance, and every such member or officer as aforesaid who shall knowingly vote for, assent to, assist or otherwise permit, or aid in the disbursement or disposition of any money or property belonging to the city to any other than the specific use or purpose for which such money or property shall be or shall have been received or appropriated or collected or authorized by law to be received, appropriated or collected, shall, upon conviction

thereof, be punished by imprisonment in the county jail for a period of not less than sixty days nor more than one year or by fine of not less than five hundred dollars, nor more than two thousand dollars, or by both. But the council shall pay any just obligations made by the city and keep and perform all contracts, agreements and obligations made under the law as it was the day before this act goes into effect [this Charter became effective on 6 March, 1929], and for which and on which the city is liable or obligated. (Acts 1929 (Muni. ch.), ch. 4, § 32.)

Sec. 33. Power of council to compel attendance of witnesses and production of records, administer oaths and punish for contempt.

The council in the exercise of its powers and the performance of its duties, as prescribed by this act [this Charter], and by the laws of the state, shall have the power to enforce the attendance of witnesses, the production of books and papers, and the power to administer oaths in the same manner and with like effect, and under the same penalties, as notaries public, justices of the peace, and other officers of the state authorized to administer oaths under state laws; and said council shall have the power to punish for contempt as is conferred on county courts by section 13 of chapter 39 of the Code. [The provisions of Barnes' W. Va. Code Annotated, 1923, ch. 39, § 13, are now contained in W. Va. Code, § 7-1-6.] All process necessary to enforce the powers conferred by this act on the council shall be signed by the mayor (or acting mayor), and may be executed by any member of the police force. (Acts 1929 (Muni. ch.), ch. 4, § 33.)

Sec. 34. Absence or inability of certain officers to perform duties.

Whenever for any reason the mayor shall be absent from the city, or unable to attend to the duties of his office temporarily, the president pro tempore of the council shall perform them during such absence or inability, and in the absence or inability of the manager to attend to the duties of his office temporarily, the mayor shall designate someone to perform such duties, provided, that such temporary absence or inability shall not exceed thirty days, but if such absence or inability shall exceed thirty days, then such appointment or designation shall be submitted to the council, for confirmation or rejection. In the absence or inability of any other appointive city official to perform the duties of his office, the person or body making the original appointment, or his successor in office, shall designate someone to fill such office temporarily, or if such absence or inability extends over a period of sixty days, he may appoint someone to fill such office permanently. (Acts 1929 (Muni. ch.), ch. 4, § 34.)

Sec. 35. Election and term of office of elective officers; salary of mayor; appointments by mayor; appointment of city clerk; appointments by manager; term of appointive officers; duties of mayor and city solicitor; salary of solicitor; fees.

The mayor, members of council, municipal judge and treasurer elected

on the third Monday in April, 1927 shall hold office until the first Monday in May, 1931, and their successors shall be elected on the third Monday of April, 1931, and at intervals of four years thereafter, and their terms of office shall begin on the first Monday of May after their election. The mayor's salary shall not be less than three thousand nor more than five thousand dollars per annum. The municipal judge elected on the third Monday in April, 1927 shall continue to hold office as the municipal judge until the first Monday in May, 1931.

For state law providing that, "notwithstanding any charter provision to the contrary," the governing body of every municipality shall by ordinance fix the compensation of every municipal officer and employer; provided, that the salary of an officer shall not be increased or diminished during his term of office, see W. Va. Code, § 8-5-12.

The mayor shall appoint the city solicitor, an assistant city solicitor, the chief of police, humane officer or officers, building inspector, collector, city auditor, engineer, health commissioner, lockup keeper, municipal court clerk, and the chief of the fire department, and these appointments shall not require any confirmation by the council but shall be made at the discretion of the mayor, who shall, with like discretion, have the full and complete power of removal thereof. The mayor shall appoint the manager, by and with the advice and consent of the council. The council shall, either at a regular or special meeting called for that purpose, pass upon such nomination and either confirm or reject the same, and if such nomination is rejected, then the mayor shall submit to the council a further nomination of some other person or persons until the nomination is confirmed by council, for said office of manager, but it shall be the duty of the council to pass upon all nominations without unreasonable delay; and in any event within two weeks after the submission of the same, and the failure of members of the council to pass thereon within such time shall be cause for the removal from office of such members of the council as shall have refused to act thereon.

The council shall appoint a city clerk. The manager shall appoint or employ such persons as the ordinances of the city may require or the council may authorize by proper resolution. All such officers shall be appointed for the term of four years and until their successors are appointed and qualified, unless they are removed in the way and manner in this act [this Charter] provided.

It shall be the duty of the mayor to attend all meetings of the council and preside over that body.

It shall be the duty of the mayor to see that all of the laws and ordinances of the city are enforced and he shall have a general oversight over the peace, health and good order of the city.

The duties of the city solicitor or assistant city solicitor shall be to attend the sessions of council [and] to prosecute all suits in behalf of the city and defend all suits against the city, to advise the council and all of the departments of the city and in general to look after the interests of the city when it shall need legal services. The salary of the solicitor shall be not less than three thousand nor more than five thousand dollars per annum.

All fees of every kind collected by any officer or employee, including the municipal judge when acting as a justice, shall be paid to the city treasurer. (Acts 1929 (Muni. ch.), ch. 4, § 35.)

Sec. 36. Appointment, compensation, powers and duties of the manager.

The manager shall be appointed in the way and manner hereinbefore provided and shall receive such salary as council may by ordinance prescribe, provided such amount shall not be less than three thousand nor more than five thousand dollars per annum, and he shall have the right to employ one clerk at such salary as council may fix, and such other help as he may require and as council may from time to time allow.

The manager shall devote his entire time and attention to the duties of his office, and shall have supervision and control of the executive work and management of the heads of all departments under his control as directed by the mayor. He shall make all contracts for labor and supplies, and generally perform all of the administrative work of the city, and such other duties as council may require of him, and shall possess such other powers and perform such other duties as council shall prescribe. (Acts 1929 (Muni. ch.), ch. 4, § 36.)

For state law providing that, "notwithstanding any charter provision to the contrary," the governing body of every municipality shall by ordinance fix the compensation of every municipal officer and employee: provided, that the salary of an officer shall not be increased or diminished during his term of office, see W. Va. Code, § 6-5-12.

Sec. 37. Franchises--Granting: requirements and limitations governing: vote of council required.

Franchises or permits granting the right of occupancy of any portion of the streets or alleys for works of public utility or other use, or granting any right or privilege, which the city has the power to grant to individuals, firms or corporations, in order that the latter may serve the public, may be made only upon the following restrictions and conditions: Such franchises, rights and privileges shall be granted only by ordinance duly passed by the council.

No grant of any such franchise shall be made without, at the time of making it, providing that the grantee shall indemnify the city against all damages caused by construction, maintenance or operation of such works. Additional provisions and conditions shall be made for the protection of the public against damage or inconvenience by reason of the construction, maintenance or operation thereof.

No grant of a franchise for the extension of or an addition to any line or work of public service through, over or under any additional street or territory of the city, shall be made for a period extending beyond the time limit for the expiration of franchise of the principal work of which it is an extension and if the franchise of the principal work is one granted before this act [this Charter] goes into effect and not limited as to time, any franchise granted for an extension or addition thereto shall nevertheless be made subject to the conditions thereof, including a time limit for a period not exceeding twenty-five years. All franchises hereafter granted shall embody therein a plainly expressed condition, where the franchise is for work to be useful chiefly to the citizens of the city, that at the expiration of such franchise or certain periods therein mentioned, the grantee shall, if required by the governing body of the city, sell to the city the plant at its actual value, exclusive of any value for the franchise granted by the city or its earning capacity or productive worth, and no exclusive franchise shall be granted.

If the city and the owner of the plant cannot agree upon its worth, then the value shall be ascertained by an impartial arbitration, one arbitrator to be selected by the city, one by such owner of the plant, these two to select a third and the decision of any two to be binding upon both parties, and if they shall fail for a period of thirty days to select such third arbitrator, then either party may apply to the judge of the circuit court of Kanawha County who shall then appoint such third arbitrator.

No franchise shall be granted without the affirmative vote of two-thirds of all the members elected to said council. (Acts 1929 (Muni. ch.), ch. 4, § 37.)

For state law relating to the granting of franchises by municipalities, see W. Va. Code, §§ 8-31-1, 8-31-2. As to requirement that granting of franchise be by ordinance, see W. Va. Code, § 8-11-3.

Sec. 38. Same--Advertisement of application; submission to voters.

When any franchise, permit or license granting the right to use the streets, alleys, or public grounds, shall be applied for, the application or petition shall be advertised in two newspapers, published in said city, thirty days before the same shall be heard and determined by the council; and any ordinance granting such rights and franchises shall, on the petition of ten per cent of the votes cast

for all candidates for the office of mayor at the last preceding election, be submitted to the voters at a special election, for adoption or rejection, which shall be by a majority of the votes cast; said election to be held and conducted as other municipal elections are held; except that all of the expenses of said election shall be borne by the party or corporation desiring said rights and franchise.

All such ordinances shall protect the interests of the city, as provided in section thirty-seven, as well as such additional conditions, compensations or limitations as council may prescribe. (Acts 1929 (Muni. ch.), ch. 4, § 38.)

Sec. 39. Committees of council; adjournment of council meetings; postponement of announcement of vote.

Council shall have the right to appoint such committees of its own body as it may deem proper, and may give such committees power and authority to perform any duties and make any reports to council concerning the duties of council, and council may adjourn its meetings from time to time, pending the consideration of any matter, franchise or ordinance, and may postpone the announcement of any vote to an adjourned meeting or to a future meeting. (Acts 1929 (Muni. ch.), ch. 4, § 39.)

Sec. 40. Style of ordinances.

The style of all ordinances enacted by the council shall be "Be it Ordained by the Council of the City of Charleston." (Acts 1929 (Muni. ch.), ch. 4, § 40.)

Sec. 41. Passage of ordinances; revision, reenactment or amendment; effective date; publication of caption or title; resolutions and orders.

No ordinance shall be passed, except by bill, and no bill shall be so amended in its passage as to change its original purpose. All bills must be in writing and read in full when presented at a regular or special meeting of council, and except in case of emergency and when so authorized by a vote of four-fifths of the members elected, taken by yeas and nays, ~~no bill shall be considered for final passage at the meeting at which it is introduced, but at any subsequent regular or special meeting bills may be taken up for consideration and final action. No bill except in case of emergency authorized by vote of four-fifths of the members of council elected shall be considered for final passage unless the [illegible] referred to a committee for report.~~ All amendments made by a committee to a bill shall be reported to council and incorporated in said bill, and before final action on said bill, the bill with any amendments shall be fully and distinctly read, after which reading, whether at the meeting at which the bill is reported or a subsequent meeting, the bill may be considered for final action. No bill shall become an ordinance unless on its final passage the vote be taken, the names of the members voting for and against the same be entered of record in the minutes of council, and a majority of all members elec-

ted recorded thereon as voting in its favor. Bills referred to a committee may be withdrawn therefrom at any subsequent meeting for present consideration by an affirmative vote of a majority of the members of council present. No bill except general appropriation bills, which may embrace the various subjects and accounts for and on account of which moneys are appropriated, and bills fixing the annual salaries of officers and employees of the city, and bills, providing for the paving or improving of streets, or construction of sewers, shall contain more than one object and that shall be expressed in the title, but if any object shall be embraced in an ordinance which is not so expressed the ordinance shall be void only as to so much thereof as shall not be so expressed. No ordinance shall be revised or re-enacted by mere reference to the title thereof, but the same shall be set forth at length as if it were an original ordinance, nor shall any ordinance be amended by providing that, designated words thereof be stricken out and others inserted in lieu thereof, but the ordinance or sections amended shall be set forth in full as amended. All ordinances in force at the time [March 6, 1929] this act [this Charter] goes into effect, not inconsistent herewith, shall remain in full force until altered or repealed as herein provided, and all rights, actions, prescriptions and contracts of the city not inconsistent therewith shall continue to be valid as if this act had not been passed.

For state law as to powers and duties of municipal governing bodies with respect to ordinances and ordinance procedures, see W. Va. Code, § 8-11-1 et seq.

Any ordinance heretofore passed which may be void on account of failure of council properly to observe any provisions of the Charter of the City of Charleston or ordinances in force at the time said ordinance was passed shall so far as it may affect the validity of any paving or sewer assessments heretofore laid, be in full force and effect until repealed or amended, the same as if legally passed. No ordinance of the council shall take effect until the expiration of five days after its final passage, unless the council shall by a vote of three-fifths of its members elected, taken by yeas and nays, otherwise direct. It shall be the duty of the city clerk to make publication of the caption or title of every ordinance in a newspaper of general circulation in the City of Charleston within five days after its passage, but failure so to do shall not affect the validity of any such ordinance.

For state law providing that, "notwithstanding any charter provision to the contrary," it shall not be necessary, except as provided in the W. Va. Code, to publish a proposed or enacted ordinance in a newspaper, see W. Va. Code, § 8-11-4, subsec. (a).

Resolutions and orders of council other than ordinances may be considered for final passage at the meeting at which they are proposed, and shall, unless otherwise provided therein, be in force and effect from and after their passage. (Acts 1929 (Muni. ch.), ch. 4, § 41.)

Sec. 42. Ordinances to be spread on records of council: "ordinance record": code of ordinances.

All ordinances passed, shall be spread in extenso upon the records of the council when adopted. The council shall also provide a well-bound book designated as "Ordinance Record," in which shall be copied by the city clerk all ordinances, in the order in which they are passed, which ordinances, when so copied, shall be compared with the originals by the mayor and shall be signed by him when found correct. Such books shall be indexed so as to show in brief form the substance of the ordinance, and shall be received by all courts and justices in this state as evidence, but the council may adopt by ordinance properly designating and describing it, a code of laws and ordinances, which when adopted shall be printed in book form, or said council may designate any committee, or attorney, or the city solicitor to prepare a code of ordinances for the government of the City of Charleston, and said council may by ordinance adopt the code so prepared as a whole, and when said ordinance adopting said code shall have been passed by the council, the said code shall be and become the law and ordinances of said city, and may be printed by order of the council, and the same shall be so received as evidence of what is printed therein, until errors or omissions be affirmatively shown therein. (Acts 1929 (Muni. ch.), ch. 4, § 42.)

For state law requirement that ordinances adopting technical codes by reference be certified by mayor and made a permanent record in office of the recorder (city clerk), see W. Va. Code, § 8-11-4, subsec. (b).

Sec. 43. Officers conservators of the peace.

All persons elected or appointed to the offices named in this act [this Charter] shall be conservators of the peace within said city, and they, and any other officer provided for under this act, may be given authority of police officers by the council. (Acts 1929 (Muni. ch.), ch. 4, § 43.)

Sec. 44. Powers and duties of municipal judge: maximum imprisonment for violation of ordinance: appeal; expense of maintaining persons committed to county jail.

The municipal judge shall be ex officio a justice and a conservator of the peace, and with authority to issue processes for all offenses committed within the police jurisdiction of the City of Charleston, of which a justice of the peace has jurisdiction under state statutes, and for all violations of any city ordinances, and shall have charge of and preside over the municipal court of such city; and may commit persons charged with felony or misdemeanor to jail or take bond for their appearance before the grand jury of the circuit, intermediate or other courts of Kanawha County; he shall keep an accurate record of all his judicial proceedings in said court, showing the style of each case, which

record shall be indexed and numbered. It shall be his duty to hold daily sessions of his said court, Sunday excepted. Before trying any person charged with any violation of any state law or ordinance a warrant specifying the offense or violation charged shall be issued as herein provided and the municipal judge shall render judgment in any case as the law of the state or the ordinance of the city applying thereto may require; he shall also have the power to issue executions for all fines, penalties and costs imposed by him and he may require immediate payment thereof, and in default of such payment, may commit the party so in default to the jail of the City of Charleston or of the County of Kanawha, or other place of imprisonment in said city, until the fine and penalty and costs shall be paid or satisfied, to be employed during the term of imprisonment as hereafter provided, but for violation of any city ordinance the term of imprisonment in any such case shall not exceed thirty days, and in all cases where a person is sentenced to imprisonment or to the payment of a fine of ten dollars or more, such person shall be allowed an appeal from such decision to the intermediate court of said Kanawha County upon the execution of an appeal bond, with surety deemed approved by the said municipal judge or municipal court clerk in a penalty double the amount of the fine and costs imposed by said judge, conditioned that the person proposing to appeal will appear before the intermediate court of Kanawha County on the first day of the next term thereof to answer for the offense wherewith he is charged and not depart thence without leave of the court and to satisfy all costs and fines imposed against him; and in no case shall judgment for a fine of less than ten dollars be given by the municipal judge if the defendant, his agent or attorney object thereto. When the judgment on appeal is against the appellant for any sum of money, judgment shall be rendered by the intermediate court against the appellant and those who signed the appeal bond as surety thereon. Before said municipal judge or clerk shall accept any natural person as surety upon any bond or recognizance under the provisions of this section, such surety shall furnish a certified statement of the clerk of the county court of any county in this state in which such surety owns real estate, and shall also file an affidavit, the form of which may be prescribed by the municipal judge, showing the bonds and recognizances upon which he is then surety and the amount of each bond or recognizance. If the amount of such bond or recognizance, together with other bonds and recognizances as shown by the affidavit aforesaid, exceeds in amount the assessed value of the surety's property as shown by the certificate of the clerk of the county court, or if any such bond or recognizance theretofore given, by such surety be forfeited and unsatisfied, then such surety shall be disqualified; and if any bond or recognizance be accepted and it subsequently appears that the surety thereon is disqualified then such bond shall be declared void by the municipal judge and the person whose appearance in the intermediate court of Kanawha County and whose payment of fine and costs are thereby secured may be forthwith apprehended and held in the city jail until a proper bond or recognizance is given; provided, however, that whenever any surety is offered less than one hour before the county clerk's office is closed or after it is closed, surety shall make an affidavit that he owns real estate in Kanawha County to an assessed value above encumbrances thereon, of at least double the amount of bond required. Any person making or procuring to be made a false statement in any such affidavit, with intent to deceive said municipal judge, shall be guilty of perjury. If such appeal be taken, the warrant of arrest, the transcript of the judgment, the appeal bond and other papers of the case shall be forthwith delivered by

the said judge to the clerk of the intermediate court and the court shall proceed to try the case as upon indictment or presentment and render such judgment, including that of costs, as the law and the evidence may require.

On appeals from said municipal court the intermediate court of Kanawha County shall be governed by the same principles with respect to the forfeiture of bonds and recognizances, and the issuance and execution of capiases and writs of fieri facias as prevail in cases in which the state is a party.

The expense of maintaining persons committed to the jail of the county by such municipal judge shall be paid by the city. The municipal judge shall account for and pay over the amount of all fines collected by him weekly to the treasurer of the city and shall make monthly reports thereof, and of all other matters, pertaining to his office to the council of said city. (Acts 1929 (Muni. ch.), ch. 4, § 44.)

For state law as to justices of the peace, see W. Va. Code, ch. 50. As to criminal procedure, see W. Va. Code, ch. 62.

Sec. 45. Qualifications of municipal judge: not to appear as counsel in criminal cases; absence or inability to perform duties; bond.

The municipal judge shall be an attorney-at-law and shall have attained the age of twenty-eight years at the date of the beginning of his term of service and shall have been a resident of this state for the period of five years and of the City of Charleston previous to the beginning of his term of service for the period of five years. He shall not appear as counsel in any criminal case in any court during his term of service. In the absence of, or in case of the inability of the municipal judge to perform his duties, the municipal court clerk shall act as municipal judge in his stead, and in the event that neither the municipal judge nor the municipal court clerk can for any cause perform such duties, then the mayor shall act as municipal judge. The official bond of a justice of the peace shall not be required of the municipal judge. (Acts 1929 (Muni. ch.), ch. 4, § 45.)

Sec. 46. Bail.

In all cases of arrest by the police of the city, except in cases of murder and rape, the person arrested shall have the absolute right to give a reasonable and proper bond for his appearance at police court [municipal court] for a trial of his case, and the municipal judge, city clerk, municipal court clerk, mayor, chief of police and the desk sergeant or person in charge of police headquarters shall have the power, and it shall be their duty, to accept such bond from such person so arrested, and upon the giving of such bond he shall be released, and it shall be their further duty to permit such person arrested to communicate in any reasonable way with any person or persons with whom he may desire to

have communication in reference to his giving bail in order to obtain his release, and each of said officers and all policemen shall render reasonable aid in assisting such person arrested to communicate with any person that he may desire for the purpose of securing such bail. In case one so arrested fail to give bond as aforesaid, the municipal judge, or if said judge be not then sitting, either of the officers named above may order such person committed to the city jail for safe keeping until the trial of his case. (Acts 1929 (Muni. ch.), ch. 4, § 46.)

For constitutional provision as to excessive bail, see W. Va. Const., art. III, § 5.

Sec. 47. Authority of council, manager and police officers relating to nuisances; duties and responsibilities of owners and occupants of property; enforcement.

The manager of said city shall have authority to abate and remove all nuisances in said city. He may compel the owners, agents, assignees, occupants or tenants of any lot, premises, property, building or structure, upon or in which any nuisance may be, to abate and remove the same by orders therefor, and the council shall by ordinance provide a penalty for the violation of such orders. Council may by ordinance regulate the location, construction, repair, use, emptying and cleaning of all water closets, privies, cesspools, sinks, plumbing drains, yards, lots, areaways, pens, stables and other places, where offensive, unsightly, unwholesome, objectionable or dangerous substances or liquids are, or may accumulate, and provide suitable penalties for the violation of such regulations, which may be enforced against the owner, agent, assignee, occupant or tenant of any premises, or structure where such violation may occur. It shall be the duty of all police officers to report to the manager the facts as to the existence of any nuisance known to them.

If the owner, agent, tenant, assignee or occupant of any such premises, lot, property, building or structure, as is mentioned herein, shall fail or refuse to abate or remove any such nuisance, as mentioned herein, or to comply with the provisions of any such ordinance and the regulations herein contained, the manager may have said nuisance abated or the provisions of said ordinances carried out, after reasonable notice to said owner, occupant, tenant, agent or assignee of his intention so to do, and collect the expenses thereof, with one per centum per month interest added from the date of said notice, from the said owner, occupant, tenant, agent or assignee, by distress or sale, in the same manner in which taxes levied upon real estate for the benefit of said city are herein authorized to be collected, and the expense shall remain a lien upon said lot, or part of lot, the same as taxes levied upon real estate in said city; which lien may be enforced by a suit in equity before any court having jurisdiction, as other liens against real estate are enforced. In case of non-resident owners of real estate such notice may be served upon any tenant, occupant, assignee or rental agent, or by publication thereof once a week for not less than two consecutive weeks in two newspapers of opposite politics, published in said city.

And in all cases where any tenant, occupant or agent is required to abate and remove any nuisance under the provisions of this section, or comply with

the provisions of any such ordinance as is mentioned herein, the expense thereof may be deducted out of the accruing or accrued rent of said property or amount due said owner from said agent, and such tenant, occupant or agent may recover the amount so paid from the owner, unless otherwise especially agreed upon.

Any expense incurred by the manager as herein provided, in the manner aforesaid, may be collected in the manner herein provided, notwithstanding the imposition of any other penalty or penalties upon any of the persons named herein, under any of the provisions of this act [this Charter]. The abatement or removal of any such nuisance by the city at the expense of said city, as herein provided, shall be prima facie proof that the said notice to the owner, occupant, agent or assignee was given as herein prescribed. (Acts 1929 (Muni. ch.), ch. 4, § 47.)

Sec. 48. Connection with sewer system.

The manager may require all owners, tenants or occupants of improved property which may be located upon or near any street or alley along which may be extended any sewer or system of sewerage, which the said city may construct, own or control, to connect with such sewer, or system of sewerage, all privies, ponds, water closets, cesspools, drains or sinks, located upon their respective properties or premises, so that their contents may be made to empty into such sewer or system of sewerage. (Acts 1929 (Muni. ch.), ch. 4, § 48.)

For state law as to authority of municipalities to require sewer connections, see W. Va. Code, § 8-18-22.

Sec. 49. Construction of sidewalks, curbs and gutters: duty of county clerk to record assessments.

The council shall have the right and authority to establish the width of any sidewalk on any street, alley or public square, or any portion thereof in said city, to cause to be put down a suitable curb of brick, stone or other material alone for the footways and sidewalks of the streets, alleys or public squares or portion thereof, and to order the construction, relaying and repair of sidewalks and gutters of such material and width, and in such manner, as the council may reasonably prescribe by the owners or occupiers of the lots or parts of lots facing upon said streets, alleys and public squares; and in case of a failure or refusal of any such owners or occupiers of the lots or parts of lots to construct, re-lay or repair such sidewalks and gutters, when required, it shall be lawful for the council to have such sidewalks and gutters constructed, re-laid or repaired, and levy and collect the expense thereof, with one per centum per month interest added after a demand of thirty days has been made by the treasurer of the city from the said owner, owners, occupier, occupiers or any of them; and in all cases of such assessment, whether for the construction, re-laying or repairing of sidewalks or gutters, payment thereof shall be made to the treasurer

within thirty days after the completion of the work and demand made, and if not so paid the city is hereby authorized to collect or cause to be collected the expense thereof, with one per centum per month interest added after work has been completed and a demand of thirty days, and they shall have the power to collect, or cause to be collected, the same from said owner, owners, occupier or occupiers or any of them, by distress and sale, in same manner in which taxes levied upon real estate for the benefit of the said city are herein authorized to be collected, and in addition there shall be a lien upon the real estate against which such assessment has been levied for the construction, re-laying and repairing of sidewalks and gutters as herein provided, which lien may be enforced by a suit in equity before any court having jurisdiction, as other liens against real estate are enforced, and it shall be the duty of the city clerk to cause to be certified to the clerk of the county court of Kanawha County the order laying an assessment authorized by this section. The clerk of the county court of Kanawha County is hereby required to record and index such assessments in the proper trust deed book in the name of persons against whose property assessments appear therein; provided, however, that a reasonable notice shall first be given to said owner or occupier or their agent, that they are required to construct, re-lay or repair such sidewalks or gutters. In case of non-residents who have no known agent in said city, such notice may be given by publication for a period not less than once a week for two consecutive weeks in any newspaper printed in said city; and in all cases where a tenant shall be required to construct, re-lay or repair sidewalks or gutters in front of the property of his or her occupancy, the expense of such construction or re-laying or repairing may be deducted out of the accruing rent of said property, and he may recover the amounts paid from the owner; unless otherwise especially agreed upon. The laying or construction of any such sidewalks by said city shall be prima facie proof that the said notice to the owner (resident or non-resident) or occupier, or their agent, was given as herein required. (Acts 1929 (Muni. ch.), ch. 4, § 49.)

Sec. 50. Annual estimate for tax levy.

The council shall ascertain the total expense of the city to be provided for by levy for the fiscal year in which said levy is made, and it shall make a detailed itemized estimate of the sum of money necessary to pay interest accruing on the bonded indebtedness of said city, the amount required for the several sinking funds for the reduction of the principal thereof, the amounts necessary for the support of the various departments of the city and for the improvements of its streets, alleys, avenues and public grounds, real and personal property, contingent expenses and other expenses, together with an itemized statement of the estimated receipts other than that to be derived by the annual levy, and after receiving such estimates, and before making the levy, it shall apportion the rate thereof, including the estimated receipts from licenses and all other sources among the several funds so ascertained and provided for, which apportionment shall be spread upon the records of this city, and in making said estimate, providing for the revenue for the fiscal years, etc., it shall be the duty of the council strictly to observe all the provisions of chapter 9 of the Acts

of the Legislature, 1908, entitled, "An act to regulate the rate and manner of laying levies for taxation in counties, magisterial and school and independent school districts, and municipal corporations, and to provide penalties for the illegal expenditure of public moneys, incurring of illegal obligations and the laying of illegal levies by any tax levying body, and for the distribution of a portion of the school fund," [now codified as art. 8, ch. 11 of the Code of West Virginia] and all amendments thereto, except where said last named act shall be inconsistent with this act [this Charter] as to limit of taxation. (Acts 1929 (Muni. ch.), ch. 4, § 50.)

For state law as to municipal general property and benefit taxes, see W. Va. Code, § 8-13-1. As to levy estimates by municipalities, see W. Va. Code, § 11-8-14.

Sec. 51. Authority to levy and collect taxes: limit of taxation.

The council shall have authority to levy and collect an annual tax on real estate and personal property in said city and to impose a license and assess a tax on all dogs kept within the city and to impose a tax upon all other subjects of taxation under the several laws of the state, which shall be uniform with respect to persons and property within the jurisdiction of said city, and shall only be levied on such property, real, personal and mixed, on which the state imposes a tax; provided, that with the exception of the special levies authorized by law, no greater levy shall be laid by said council on the taxable property of said city than fifty cents upon each hundred dollars of the assessed valuation of the property of the municipality; and, provided, further, that the council shall, in making such levy, be subject to all provisions of chapter 9 of the Acts of the Legislature of 1908 [now codified as art. 8, ch. 11 of the Code of West Virginia] and any and all amendments thereto, except as herein provided. There shall be a tax of two dollars annually assessed on each and every male inhabitant of said city over the age of twenty-one years who is subject to a capitation tax under the laws of the State of West Virginia. The same shall be set out and included in the personal property book against every such inhabitant, and shall be collected under the authority of the city at the time of collecting other levies and taxes. (Acts 1929 (Muni. ch.), ch. 4, § 51.)

Editor's note.--Sec. 2 of art. 10 of the W. Va. Const., and sec. 8-13-3 of the W. Va. Code, relating to capitation taxes, have been repealed; the city no longer imposes a capitation tax. For additional limitations on taxation of property, see W. Va. Const., art. 10, § 1.

Sec. 52. Collection of taxes.

The city taxes annually levied by the council shall be collected as follows: Immediately after the annual levy for city taxes is laid the council shall direct

the proper officer of the city to extend the same on the property books made out by him, including therein the proper capitation tax; he shall make out therefrom proper tax tickets in the following manner: That is to say, instead of a single ticket for the whole amount charged to any person, firm or corporation there shall be two tickets, each for one-half of said amount; these half tickets shall be severally numbered or designated "first" and "second" and the same, after being examined and compared by the council and found to be correct, shall be turned over to the treasurer of the city on the first day of October following the levy and the treasurer's receipt for the gross amount thereof shall be returned, entered upon its record and the treasurer charged therewith. The treasurer shall give notice by publication for twenty days in two newspapers of opposite politics published in said city, that said tickets are in his hands for collection stating the penalty for nonpayment thereof and the time and place when the same may be paid; provided, however, that the taxpayers shall have the right to anticipate the payment of the whole or any part of the taxes assessed against them.

The one-half ticket designated "first" may be paid to the treasurer of the city any time before the first day of November next succeeding said levy; the one-half ticket designated "second" may be paid to the treasurer of the city at any time before the first day of May next succeeding said levy. To all the half tickets designated "first" remaining unpaid in the treasurer's hands on the said first day of November succeeding said levy, a penalty of ten per cent shall be added and collected from the taxpayers. To all half tickets designated "second" remaining unpaid in the treasurer's hands on the first day of May succeeding said levy a penalty of ten per cent shall be added as a penalty and shall be collectible from the taxpayers. On said first day of November succeeding said levy all such half tickets designated "first" and on said first day of May succeeding such levy all such half tickets designated "second" remaining unpaid in the treasurer's hands shall be taken up by the council and settlement had with said treasurer on said days respectively, or on the next succeeding days, respectively, if said days shall fall upon Sunday, and thereupon the council shall place said tickets in the hands of the city collector for collection and shall take his receipt therefor; provided, however, that the council shall have the power any year, by resolution, to extend the time within which the tickets may remain in the treasurer's hands and be paid to him without adding the penalty, for a period named therein not exceeding, however, a total of fifteen days.

The city collector shall have the power to collect said tickets so placed in his hands, together with the penalties thereon herein provided to be added thereto, and the compensation of such city collector for making such collection of the taxes aforesaid shall be fixed by the council.

The city collector shall be charged with the gross amount of said tax tickets so delivered to him for collection, including the penalties accrued thereon so delivered, and no deduction therefrom shall be allowed, unless on or before the first day of August of each year he makes out and returns to the council a delinquent list of taxes uncollected for such year, with his oath at-

tached hereto, stating that such list is correct and just and that he has received no part of the taxes mentioned therein, and that he has used due diligence to find property liable to distress for taxes, has found none, and that he could not collect the same.

Neither the treasurer nor the city collector shall take or collect anything but money for payment of taxes. (Acts 1929 (Muni. ch.), ch. 4, § 52.)

Editor's note.--Most of the provisions of §§ 52, 53 and 54 of the Charter have become obsolete due to changes in the Constitution and the Code of West Virginia. Const. art. 10, § 2 and W. Va. Code, § 8-13-3, authorizing a capitation tax, have been repealed. W. Va. Code, § 11A-1-4, provides that the sheriff of the county shall collect all taxes levied in his county, and § 11A-1-15 requires him to pay into the municipal treasury each month all taxes collected for the municipality. Other provisions of Charter §§ 52 through 54 have also been superseded by W. Va. Code, ch. 11A, which relates to the collection and enforcement of property taxes.

Sec. 53. Powers of collector.

The city collector shall have the power to collect the city taxes placed in his hands except as otherwise provided in this act [this Charter], and he shall also have power to collect the city claims which may be placed in his hands by the council for collection, except that fines imposed by the municipal judge shall not be collected by him. (Acts 1929 (Muni. ch.), ch. 4, § 53.)

Editor's note.--See editor's note following text of sec. 52, insofar as it relates to collection of taxes as distinguished from city claims and fines.

Sec. 54. Distress for collection of taxes.

All goods and chattels belonging to a person, firm, corporation or estate, assessed with any city taxes, whether the same be a capitation tax or a tax upon real estate or personal property or an assessment for paving or other improvements, shall be liable for said tax, and may be distrained therefor in whosoever's possession they may be found, and the city collector shall have the same power to collect said tax or assessment from any person owing a debt to or having in his possession any estate belonging to a person assessed with any tax or assessment of any kind that the sheriff has to collect state taxes in such cases. The city collector may distrain and sell for all city taxes and assess-

ments and in all respects have the same power to enforce the collection thereof as the sheriff has to enforce the collection of state taxes. (Acts 1929 (Muni. ch.), ch. 4, § 54.)

Editor's note.--See editor's note following text of sec. 52, insofar as it relates to collection of taxes, as distinguished from assessments for paving or other improvements not turned over by the city to the sheriff for collection as taxes.

Sec. 55. Lien on real estate for taxes--Established; enforcement by suit in court of record; priority of lien.

There shall be a lien upon all real estate within said city for the city taxes assessed thereon, including such penalties added thereto for non-payment thereof as are prescribed by this act [this Charter], from the first day of January of the year in which said taxes are assessed. Said liens may be enforced by appropriate suit in any court of record in Kanawha County; provided, such suit be instituted within five years from the time the said liens attached as herein provided, and such suit may either be instituted by and in the name of the City of Charleston as plaintiff, or said city may intervene by petition in any suit pending to sell or enforce liens against any real estate which is subject to such lien for said taxes. The liens herein created shall have priority over all other liens except those for taxes due the state. (Acts 1929 (Muni. ch.), ch. 4, § 55.)

For state law as to attachment of lien on real property for taxes assessed thereon, see W. Va. Code, § 11A-1-2. As to collection of taxes by appropriate court action, see W. Va. Code, § 11A-2-2.

For a case construing language of a prior city Charter somewhat similar to the language of sections 55 and 56 of the present city Charter, see Horn v. City of Charleston, 91 W. Va. 73, 112 S.E. 239 (1922).

Sec. 56. Same--Enforcement by tax sale.

Said liens for city taxes and attendant penalties may also be enforced by certifying the same to the clerk of the county court of Kanawha County for certification to the state auditor, and the same may be certified down by said auditor, and sold for taxes, interest, penalties and commissions thereon, in the same manner, at the same time, and by the same officer as real estate is sold for taxes, interest, damages, cost and commission due the state thereon, which

officer shall account therefor on settlement with the city and pay over the same to the treasurer of the city. (Acts 1929 (Muni. ch.), ch. 4, § 56.)

Editor's note.--Due to changes in state law since 1929, when the provisions of Barnes' West Virginia Code Annotated, 1923, ch. 31, was in effect, and on which this section is based, this section is obsolete. Real estate tax sales are now conducted by the sheriff of Kanawha County pursuant to the provisions of W. Va. Code, ch. 11A, art. 3.

Sec. 57. Limitation on authority of county to tax persons and property within city for streets, education or poor outside city limits: control of streets and schools within city; joint ownership of bridges.

No taxes or levies shall be assessed upon or collected from the taxable persons or property within the corporate limits of said city, for the construction, improvement or keeping in repair of roads, or the building, leasing or repairing of school houses, or the purchase of lands for the same, or for the support of schools, or for the support of the poor of Kanawha County, outside of said corporate limits, for any year in which it shall appear that said city shall at its own expense provide for its own poor and keep its own roads, streets, sewers and bridges in good order. And neither the county court of Kanawha County nor the authorities of the district in which said city is situated, shall have or exercise jurisdiction within the corporate limits with relation to the roads, streets, alleys, bridges, wharves, docks, ferries, schools or school houses, but the same shall be and remain under the exclusive jurisdiction and control of the municipal authorities of said city, except that the board of education in the independent school district of the City of Charleston shall have jurisdiction, supervision and control of the schools and school houses in said district; and said city shall be liable only for the construction, improvement, repair and good order of the roads, streets, sewers, alleys, wharves and bridges in its corporate limits, except that the County of Kanawha may become a joint owner and controller with the City of Charleston in a bridge or bridges across Kanawha River. (Acts 1929 (Muni. ch.), ch. 4, § 57.)

Sec. 58. Depositories.

It shall be the duty of the treasurer of the city to keep all funds of the city in some bank or banks within said city, which shall pay interest on such deposits and which shall pay interest on the average daily balance of such funds in all accounts of the per cent equal to that paid by state depositors on all funds of the State of West Virginia and in the same manner and at the same time. If no bank within the city is willing at any time to receive deposits of the treasurer and to pay such interest thereon, the treasurer shall report this fact to the

council, who shall thereupon designate a bank or banks in which he shall deposit said funds for the time being and until some bank in said city will receive such deposits on such terms. Before receiving any such deposits such bank or banks shall give bond in such penalty as the council shall prescribe, and with securities to be approved by said council, conditioned for the prompt payment, whenever lawfully required, of all the city moneys or parts thereof which may be deposited with them, which bond shall be renewed at such times as the council may require. (Acts 1929 (Muni. ch.), ch. 4, § 58.)

For state law as to state depositories, see W. Va. Code, ch. 12, art. 1.

Sec. 59. Bonds--Authority to issue; purposes; interest; limit; taxation to pay interest and principal.

The City of Charleston is hereby authorized to issue and sell bonds of said city, for the purposes of buying and building bridges, electric light plants, water works, gas lines and fields, and other public utilities; and for the purpose of acquiring and providing land for public parks, public streets, avenues and alleys, airports and other public grounds, and acquiring or assisting in acquiring property to be donated, dedicated or conveyed to, or otherwise vested in, the State of West Virginia, as a site for a state capitol and other public buildings, which donation, dedication and conveyance are hereby authorized to be made, and also to provide ground for and erect an incinerator plant or garbage crematory, or other plant or means for the disposal of garbage and refuse; and such bonds shall be sold for not less than par, and shall be payable in a period not to exceed thirty-four years, and shall bear interest, not to exceed six percentum per annum; and in the issuance and sale of said bonds the city shall be governed by all the restrictions of the Constitution of this state and the statutes of this state, with respect to the issuance and sale of other bonds; provided, that said city shall not, by the sale or issue of bonds for the purposes above mentioned, cause the aggregate of its indebtedness, of every kind whatever, to exceed five per centum of the value of the taxable property therein, but may for the above purposes issue bonds to the maximum limit of said five per cent; nor shall said city make such issue and sale of bonds without, at the same time, providing for the collection of a direct annual tax sufficient to pay annually the interest on the same, and a sinking fund to pay the principal within the time for which said bonds shall be issued. (Acts 1929 (Muni. ch.), ch. 4, § 59.)

For state law as to municipal public works and revenue bond financing, see W. Va. Code, ch. 8, art. 16. As to public bonded indebtedness generally, see W. Va. Code, ch. 13.

Sec. 59-a. Same--For improvement of streets.

The City of Charleston is hereby authorized to issue and sell bonds of said city, for the purpose of paying the city's part of the cost of grading, curbing, paving, sewering or otherwise improving the avenues, streets, roads and alleys of said city, and for the purpose of providing funds to cover all or any part of the cost of grading, curbing, paving or sewering that may be assessed against abutting property owners in the manner provided for by law; and said city is hereby given full power to employ the proceeds of such bonds in the purchase of paving certificates or other permanent improvement certificates issued under the provisions of the Charter and made liens or assessments against real estate in said city, at not to exceed their par value, and may hold and collect or otherwise dispose of the same; provided, that said city shall not by the sale or issuance of bonds for the purposes above mentioned, cause the aggregate of its indebtedness, of every kind whatever, to exceed five per centum of the value of the taxable property therein.

The proceeds of any bond issue, authorized under this section, shall be set aside as a separate fund, and all special assessments covering improvements, the cost whereof has been advanced out of this fund, shall be paid into and become a part of said special fund and be used for the same purpose and in the same manner as the proceeds of said original fund.

This fund shall continue to be used for the purposes mentioned herein, until such time as the city's part of the cost of grading, curbing, paving, sewering or otherwise improving the avenues, streets, roads or alleys of the city equals the original proceeds of the bond issues authorized for the purposes mentioned herein. The issuance and sale of bonds, authorized by this section, shall be governed by all of the restrictions of the Constitution of this state and statutes of this state with respect to the issuance and sale of other bonds of said city. No issuance and sale of bonds, under this section, shall be made, unless at the same time provision is made for the collection of a direct annual tax, sufficient to pay the annual interest on the same and create a sinking fund to pay the principal within the time for which said bonds shall be issued. The direct annual tax, provided for in this section, shall be set aside as a separate fund, to be known as an interest and sinking fund. All interest collected on special assessments authorized or referred to in this section shall be placed in and become a part of said special interest and sinking fund, until the principal and interest of said bonds are paid.

Whenever, in the opinion of the council, the special improvement fund created by this section, or any part thereof, is no longer needed the council may order direct that said special assessments, when collected, be applied to retiring such of the bonds provided for herein, as may be outstanding at that time. (Acts 1929 (Muni. ch.), ch. 4, § 59-a.)

For state law as to municipal public works and revenue bond financing, see W. Va. Code, ch. 8, art. 16. As to public bonded indebtedness generally, see W. Va. Code, ch. 13.

Sec. 60. Same--In anticipation of special assessments for street improvements or sewer construction: limitation on indebtedness.

The City of Charleston is hereby authorized to issue and sell the bonds of the said city for the purpose of providing for grading, paving and otherwise improving the streets and alleys of said city or constructing sewers for the proper drainage of same in anticipation of special assessments to be made upon the property abutting upon the streets and alleys so improved, or property so sewered or drained, and such bonds may be in such an amount as shall be sufficient to pay the entire estimated cost and expense of said improvements, for which such special assessments are levied: provided, that the price for which said bonds are sold shall not be below par value thereof; said bonds may be payable in groups of one-fifth of the whole issue payable in two, four, six, eight and ten years respectively, and all payable in not to exceed ten years from the date of issue thereof, and shall bear interest at a rate not exceeding six per centum per annum, payable annually; and in the issuance and sale of said bonds, the city shall be governed by all the restrictions and limitations of the Constitution of this state and the restrictions and limitations of the statutes of this state with respect to the issuance and sale of other bonds, and the assessments as paid and provided for in this act [this Charter] shall be applied to the liquidation of said bonds and the interest thereon; and if by reason of the penalties collected with the delinquent assessments, there be any balance after the payment of said bonds and all accrued interest and costs, the said balance shall be turned into the city treasury to the credit of the interest and sinking fund of the city.

Provided, that said city shall not by the sale or issue of such bonds cause the aggregate of its debt of every kind whatsoever to exceed five per centum of the value of the taxable property therein; and provided, further, that nothing herein contained shall be construed as authorizing said city to become indebted in any other manner or for any other purpose, to an amount including the existing indebtedness in the aggregate exceeding two and one-half per centum on the value of the taxable property therein (as provided in chapter 51 of the Acts of 1905)* except for the purpose of grading, paving, sewering and otherwise improving the streets and alleys of said city and as provided for in this act [this Charter], and except for the purpose of buying or building bridges, electric light plants, water works, gas lines and fields and other public utilities; nor shall they make such issue and sale of bonds for grading, paving, sewering and improving the streets and alleys of said city without, at the same time, providing for the collection of a direct annual tax sufficient to pay annually the interest on such debt and principal thereof within a period not exceeding ten years.

*Editor's note.--Acts 1905, ch. 51, § 1, reads as follows: "No county, city, school district or municipal corporation, except in cases where such corporations have already authorized their bonds to be issued, shall hereafter be allowed

to become indebted, in any manner or for any purpose, to an amount, including existing indebtedness, in the aggregate exceeding two and one-half per centum on the value of the taxable property therein, to be ascertained by the last assessment for state and county taxes, previous to the incurring of such indebtedness; nor without, at the same time, providing for the collection of a direct annual tax sufficient to pay annually the interest on such debt, and the principal thereof within and not exceeding thirty-four years; provided, that no debt shall be contracted under this section, unless all questions connected with the same shall have been first submitted to a vote of the people, and have received three-fifths of all the votes cast for and against the same." Section 2 provides that the act shall not take effect until Jan. 1, 1906.

All assessments, interest and penalties thereon, collected from the abutting property owners, on account of grading, paving, sewering or otherwise improving the streets and alleys of such city under the provisions of this act [this Charter], shall annually be applied to the annual tax required to pay the interest on such debt and such principal within and not exceeding said period of ten years and in the event that the assessments, interest and penalties so called do not amount to a sum sufficient to pay annually the interest on such debt, said city shall collect so much of said levy as will pay annually the interest on such debt, and the principal thereof within and not exceeding ten years. (Acts 1929 (Muni. ch.), ch. 4, § 60.)

Editor's note.--This section is substantially in the language of Barnes' West Virginia Code Annotated, 1923, ch. 47, § 49c (1), including the reference to Acts 1905, ch. 51. That section of the 1923 Code, as subsequently amended, is now W. Va. Code, § 8-18-14.

For state law as to municipal public works and revenue bond financing, see W. Va. Code, ch. 8, art. 16. As to public bonded indebtedness generally, see W. Va. Code, ch. 13.

Sec. 61. Contracts for improvement of streets: assessment of cost.

Whenever the council of said city shall deem it expedient to cause any street or alley in said city or portion thereof to be paved, curbed or macadamized, or otherwise improved in a permanent manner; it shall order the work done in the following manner and upon the following terms: The contract for such paving or other improvements shall, after due advertisment in which the coun-

cil shall reserve the right to reject any and all bids, be let to the lowest responsible bidder. The contractor shall look only to the city for the payment of the work, and in no sense to the abutting land owners, except as hereinafter provided. The total cost of grading and paving or otherwise improving any such street or alley (with the exception that where a street is occupied by the street car tracks or other railways, such cost of opening or otherwise improving the distance between the rails and two additional feet outside of each rail, shall be borne and paid entirely by the street car or other railway company operating such street or other railway unless otherwise provided by the franchise of such street car or other railway company granted previous to the passage of this act [this Charter]), shall be borne by the owners of the land abutting upon said street, alley or portion thereof, according to the following plan, that is to say: Payment is to be made by all land owners on either side of such portion of a street or block so paved or improved in such portion of the total cost, less the portion, if any, chargeable to such street or other railway company, as the frontage in feet of his land so abutting bears to the total frontage of all lands so abutting on such street, alley or portion thereof so paved or improved as aforesaid.

When the paving of any street, or alley, or portion thereof shall have been let to contract and the work done as hereinbefore provided, it shall be the duty of the engineer of said city to cause the several frontages abutting thereon to be measured, and to calculate the assessment upon each and every land owner so abutting and to certify the same to the council, showing the proper amount to be determined, as provided in the foregoing plan. It shall be the duty of the council to examine and compare such assessment, amounts and names so certified to it, and thereupon give notice by publication once a week for two successive weeks in a newspaper of general circulation published in said city, that an assessment under this act [this Charter] is about to be laid against the abutting property for paving or improvements done on said streets, or alleys, describing the location of such paving or improvements, and any owner or owners thereof shall have the right to appear before said council, within two weeks from the first publication thereof, and move to correct an apportionment or assessment excessive or improperly made as charged, which correction said council shall have the power to make according to the intent of this act, and if found to be correct or when corrected by the council aforesaid, it shall enter the same, together with a description of the lots of land as to location, frontage, depth and ownership, so far as the same may be ascertained, upon its records and to enter in its records that such owners and lots be assessed and chargeable with the amount so ascertained to be borne by them respectively; and when so approved, certified and entered on record, the same shall be and constitute an assessment against said owners and lots for such respective amounts. And it shall be the duty of the council to immediately certify such assessment to the treasurer for collection as herein provided, and a copy of said order shall be certified by the city clerk to the clerk of the county court of Kanawha County, who shall record and index the same in the proper trust deed book in the name of each person against whose property assessments appear therein. The amount so assessed against said abutting land owners shall be paid in ten payments, as follows: That is to say, one-tenth of said amount, together with

interest on the whole assessment, shall be paid into the city treasury, before the first day of May next after said work is completed and said assessments have been certified to the county clerk. And a like one-tenth, together with interest for one year upon the whole amount remaining unpaid on or before the first day of May in each succeeding year thereafter until all has been paid, and each of said installments of one-tenth beginning with the first, shall bear interest on the amount of said installments as six per centum per annum from the date of record of same in the county clerk's office until paid; provided, however, that any abutting owner so liable for any portion of the cost of such paving shall have the right at any time after the same is certified as aforesaid to the treasurer for collection to anticipate the payment of any or all of said assessments and shall be allowed to pay the face of said assessments with interest at six per cent per annum only from the time of recordation to the time of payment. To each of such installments of assessments remaining unpaid in the treasurer's hands on the day herein specified for the payment thereof, a penalty of ten per centum on the principal sum shall be added and any assessment so remaining unpaid in the treasurer's hands on such date, shall be taken up on such settlements had with the treasurer on such dates, and thereupon place such assessments with the penalty added thereto, in the hands of the city collector to be treated and considered, and payment thereof enforced in all respects as hereinbefore provided for the collection of taxes due the city, and they shall be a lien upon the property liable therefor the same as for taxes, which lien may be enforced in the same manner as provided for taxes. The lien hereinbefore provided for shall have priority over all other liens except those for taxes due the state and shall be on a parity with taxes and assessments due the city, and shall be effective as of the date that the assessment is laid by the council. Whenever all such assessments, for paving, sewerage, macadamizing or other improvements shall be paid in full to the treasurer, he shall deliver to the party paying the same a release of the lien therefor which may be recorded in the office of the clerk of the county court of Kanawha County as other releases of liens, and whenever any such assessments shall not be in the hands of the treasurer for collection, but the same shall be shown to the satisfaction of the city auditor or other official performing the duties of auditor, to have been paid in full or any officer entitled to receive the same, such auditor or the mayor may in like manner execute such release. (Acts 1929 (Muni. ch.), ch. 4, § 61.)

For state law as to collection of assessments, see W. Va. Code, § 8-13-15.

For a case holding that, because of the requirement of this section that each owner of land abutting upon a street to be improved shall be charged with such portion of the total cost of the improvement as the frontage in feet of his land abutting the street bears to the total frontage of all lands so abutting, for the city to assess the cost charged to one such land owner to the other land owners would unbalance this statutory equation, see United States v. City of Charleston, 93 F. Supp. 748

(1950). This Charter section was construed therein as in pari materia with Char., §§ 88, 88b.

Sec. 62. Sewerage assessments against owners of abutting property; requiring connection with sewer; including cost of drains in cost of street improvement.

Whenever the council shall order the construction of any public sewer in said city, the owners of the property abutting upon any street in which such sewer shall be constructed, shall be charged with and liable for sewerage assessments as follows: When said sewer is completed the engineer of said city shall report to the council in writing the total cost of such sewer, and a description of the lots and lands as to the location, frontage, depth and ownership liable for such sewer assessment, so far as the same may be ascertained, together with the amount chargeable against each lot and owner, calculated in the following manner: The total cost of constructing and laying the sewer shall be borne by the owners of the land abutting upon the streets, alleys, right of ways or easements or portions thereof, in which the sewer is laid, according to the following plan: Payment is to be made by each land owner on either side of such portion of a street, alley, right of way or easement in which such sewer is laid, in such proportion as such frontage of his land upon said street, alley, right of way or easement bears to the total frontage of all lands so abutting on such street, alley, right of way or easement; provided, that the charge laid against any owner of property shall not exceed three dollars per linear foot of frontage on each side of the portion of such street, alley, right of way or easement in which any such sewer is laid. In case of a corner lot, frontage is to be measured along the longest dimension thereof abutting on such street, alley, right of way or easement in which such sewer is laid. Any lot having a depth of two hundred feet or more and fronting on two streets, alleys, right of ways or easements, one in the front and one in the rear of said lot shall be assessed on both of said streets, alleys, right of ways or easements, if a sewer is constructed in both such streets, alleys, right of ways or easements. Where a corner lot has been assessed on the end it shall not be assessed on the side, and where it has been assessed on the side, it shall not be assessed on the end. Thereupon said council shall give like notice by publication as is required in case of street paving assessments, and the same rights shall exist as to the persons and property affected and the same duty as to corrections by said council as are prescribed with reference to paving, which report shall in like manner be examined by the council, and if found to be correct, or corrected as aforesaid, and such estimated assessments to be a fair and equitable apportionment of the cost of such sewer upon the basis hereinbefore described, it shall enter an order upon its records, setting forth such location, depth, ownership and said amount of such sewer assessments, against each, respectively, calculated as aforesaid, and the entry of such order shall constitute and be an assessment for such proportion and amount so fixed therein against such respective owners and lots, and if after such advertisements, notice and hearing, said council shall find that such apportionment at

such rate is unjust or inequitable, and contrary to the intent of this act [this Charter], it shall ascertain, fix and assess the cost thereof among and upon the abutting owners respectively, justly and equitably and according to the intent hereof, and in like manner, assess and enter the amount so fixed respectively upon its records, and the council shall, in either event, thereupon certify the same to the treasurer for collection, and certify a copy of such order to the clerk of the county court of Kanawha County, who shall record the same in the proper trust deed book, and index the same in the name of each owner of any such lot so charged with such assessment, and such assessment so made shall constitute and be a lien upon said lots respectively, which shall have priority over all other liens, except those for taxes due the state, and shall be on a parity with other taxes and assessments due the city. Said amounts so assessed against the said several land owners shall be paid by the parties liable therefor to the said treasurer at all times, in the manner and with the attendant penalties for failure to pay promptly at the time prescribed in all respects as hereinbefore provided in the case of assessments for paving streets and alleys in a permanent manner, and the parties liable therefor shall, in the same manner, and to the same extent, have the right and be entitled to anticipate any or all of such installments thereon as in such case provided. The owners of, or the tenants, occupants or agents in control of any lot abutting on or near or adjacent to any street, avenue, alley, right of way or easement in said city, in which a public sewer is or may hereafter be laid and constructed, upon which lot any business or residence building is or may hereafter be erected, or upon which any water stands not connected with a public sewer, may be required and compelled to connect any such building or lot with such sewer. Notice to so connect may be given to the owner, lessee, or occupant of such building. Each day's failure to comply with such notice and connect with such sewer by such owner or owners, ten days after such notice is given, shall be a misdemeanor and a separate and new offense under this section, and every such offense shall be punishable by fine of not less than five nor more than twenty-five dollars. The expense incurred by any tenant, occupant, or agent in complying with the order of said council to make such sewer connection may be deducted out of the accruing rents as provided for in section forty-seven relating to the abatement of nuisances. Jurisdiction to hear, try, determine and sentence for violation of this section is vested in the municipal court of such city.

In the paving, curbing, macadamizing or otherwise improving streets and alleys and providing for the assessment of the cost thereof under section 61 or section 88 of the Charter of the City of Charleston there may be included in any such assessment the cost of constructing the necessary drains for the disposal of surface water. (Acts 1929 (Muni. ch.), ch. 4, § 62.)

For state law as to low cost improvements, see W. Va. Code, ch. 8, art. 17.

Sec. 62-a. Construction of sewer systems or common, lateral, branch, trunk or combined sewers.

The council is authorized and empowered to order and cause to be constructed, in said city, or part within and part outside of the limits of said city, public, common, lateral, branch, trunk and combined sewers or public sewer systems, or both, by contract or directly by the city, for the benfit of said city or any part thereof, and to purchase lands or easements therein or to condemn lands or easements therein in the manner provided by law, for such sewers or sewer systems, and when the council shall order and complete the construction of any such sewer or sewer system or any part thereof in said city, the owners of the property abutting on such sewer or abutting upon an avenue, street, alley, right of way or easement in which such sewer shall be constructed, or abutting on any avenue, street, alley, right of way, easement in which any common sewer, part of a sewer system, is constructed and laid, may be charged with all or any part of the cost thereof, including the cost of such sewer or sewer system at and across intersections at avenues, streets, roads and alleys adjacent thereto. If said work is let to contract, the provisions of the Charter of the City of Charleston relating to street paving contracts shall apply.

A sewer system shall be deemed to include all the common sewers, whether they be lateral, branch, trunk or combined sewers, which serve to drain a definite drainage area as specified in the order of the council directing the work to be done.

A common sewer shall be deemed to be a sewer in which all abutters have equal rights of entrance and use.

A lateral sewer shall be deemed to be a sewer which does not receive the sewage from any other common sewer.

A branch sewer shall be deemed to be a sewer into which the sewage from two or more lateral sewers is discharged, including storm and surface water sewers.

A trunk sewer shall be deemed to be a sewer into which the sewage from two or more branch sewers is discharged.

A combined sewer shall be deemed to be a sewer intended to receive domestic sewage and industrial wastes.

When said sewer or sewer system is completed the engineer of said city shall report to the council in writing the total cost of such sewer or sewer system, and a description of the lots and lands as to the location, frontage, depth and ownership liable for such sewer assessment, so far as the same may be ascertained, together with the amount chargeable against each lot and owner, calculated in the following manner: The total cost of constructing and

laying the sewer or sewer system, including the portions thereof laid in the intersections of streets and alleys, shall be borne by the owners of the land abutting upon the streets, avenues, alleys, rights of way or easements or portions thereof in which the sewer or some part of the sewer system, is constructed and laid; payment is to be made by each land owner on either side of such portion of a street, alley, right of way or easement in which a common sewer is laid, in the proportion that the frontage of his land upon such portion of said street, alley, right of way or easement in which such sewer or sewer system is laid bears to the total frontage of all lands so abutting on such street, alley, right of way or easement; in which the sewer or some part of the sewer system is laid; provided, that the charge laid against any owner of property shall not exceed three dollars per linear foot of frontage on each side of such street, alley, right of way or easement in which any such sewer or part of a sewer system is laid. In case of a corner lot, frontage is to be measured along the longest dimension thereof abutting on such street, alley, right of way or easement in which such sewer is laid, but if sewered on both sides then such a corner lot is to be charged only with the side first sewered. Any lot having a depth of two hundred feet or more and fronting on two streets, alleys, right of ways or easements, one in the front and one in the rear of said lot shall be assessed on both of said streets, alleys, right of ways or easements, if a sewer is constructed on both such streets, alleys, right of ways, or easements. When a corner lot has been assessed on either or both ends, it shall not be assessed on the side, and where it has been assessed on the side, it shall not be assessed on the end.

In the case of corner lots where the cost of sewering along one dimension is not assessed against the owner thereof, and in case of lots less than two hundred feet deep abutting at both ends on a street, alley, right of way or easement in which a sewer is laid, the cost of sewering along the dimension or end not assessed against the property owner shall in every case be borne by the City of Charleston.

Thereupon said council shall give like notice by publication as is required in case of street paving assessments, and the same rights shall exist as to the persons and property affected and the same duty as to corrections by said council as are prescribed with reference to paving. The report of the city engineer shall in like manner be examined by the council, and if found to be correct or corrected as aforesaid, and such estimated assessments to be a fair and equitable apportionment of the cost of such sewer or sewer system upon the basis hereinbefore described, it shall enter an order upon its records, setting forth such location, depth, ownership and said amount of such sewer assessments, against each respectively, calculated as aforesaid, and the entry of such order shall constitute and be an assessment for such proportion and amount so fixed therein against such respective owners and lots; and, if after such advertisement, notice and hearing, said council shall find that such apportionment at such rate is unjust or inequitable, and contrary to the intent of this act [this Charter], it shall ascertain, fix and assess the cost thereof among and upon the abutting owners respectively, justly and equitably and according

to the intent hereof, and in like manner assess and enter the amount so fixed respectively upon its records; and, the council shall, in either event, thereupon certify the same to the treasurer for collection and certify a copy of such order to the clerk of the county court of Kanawha County, who shall record the same in the proper trust deed book, and index the same in the name of each owner of any such lot so charged with such assessment, and such assessment so made shall constitute and be a lien upon said lots respectively, which shall have priority over all other liens, exceptings for taxes due the state, and shall be on a parity with other taxes and assessments due the city. Said amounts so assessed against the said several land owners shall be paid by the parties liable therefor to the said treasurer at all times, in the manner and with the attendant penalties for failure to pay promptly at the time prescribed in all respects as hereinbefore provided in the case of assessments for paving streets and alleys in a permanent manner, and the parties liable therefor shall, in the same manner, and to the same extent, have the right and be entitled to anticipate any or all of such installments thereon as in such case provided. The owners of, or the tenants, occupants or agents in control of any lot abutting on or near or adjacent to any street, avenue, alley, right of way or easement in said city, in which a public sewer is or may hereafter be laid and constructed, upon which lot any business or resident building is or may hereafter be erected, or upon which any water stands not connected with any public sewer, may be required and compelled to connect any such building or lot with such sewer. Notice to so connect may be given to the owner, lessee, or occupant of such building. Each day's failure to comply with such notice and connect with such sewer by such owner or owners, ten days after such notice is given, shall be a misdemeanor and a separate and new offense under this section, and every such offense shall be punishable by fine of not less than five nor more than twenty-five dollars. The expense incurred by any tenant, occupant, or agent in complying with the order of said council to make such sewer connection may be deducted out of the accruing rents as provided for in section 47 relating to the abatement of nuisances. (Acts 1929 (Munl. ch.), ch. 4, § 62-a.)

Sec. 63. Resolution declaring necessity for street improvement--Required: procedure for adoption.

Whenever it is deemed expedient by the council of said city to provide for the grading, paving, sewering, macadamizing or otherwise improving any street or alley therein to be paid for in whole or in part by special assessment said council shall declare by resolution, by aye and no vote, the necessity of such improvement. At the time of the passage of said resolution the said council shall have on file in the office of the city engineer, plans, specifications, estimates and profiles of the proposed improvements, showing the proposed grade of the street and improvement, after completion, with reference to the property abutting thereon, which plans, specifications, estimates and profiles shall be open for the inspection of all persons interested. Said resolution shall determine the general nature of the improvement, what shall be the grade

of the street, alley or other public place to be improved, as well as the grade or elevation of the curb, and said council shall approve the plans, specifications, estimates and profiles for the proposed improvement. The council shall also determine in said resolution the method of paying for the work contemplated in said plans and specifications whether by an appropriation from funds in the treasury unappropriated, or whether or not bonds shall be issued in anticipation of the collection of special assessments, to be made against the abutting property owners as provided for in section 61 of this act [this Charter]. Said resolution shall further show the approximate estimated cost of said proposed improvement per front foot of the property abutting thereon, and shall fix a date, at some regular or special meeting of the council, on which the owners of property to be assessed for such improvement may appear before council and protest against the same or be otherwise heard in reference thereto. Assessments shall be payable in ten installments as provided for in said section 61. The resolution herein provided for, declaring the necessity for said improvement, shall be published at least once a week for two successive weeks after its adoption, in a newspaper of general circulation published in the city, and an affidavit of the publisher showing publication for such time, together with a copy of said notice attached, shall be filed with the city clerk of the said city and spread upon the record of the minutes of the next meeting of the council. Said resolution shall be in effect from and after the first publication thereof as herein provided for. (Acts 1929 (Muni. ch.), ch. 4, § 63.)

Sec. 64. Same--Service on property owners of notice of passage.

A notice of the passage of the resolution required in the last preceding section, embodying a copy of said resolution, shall be served upon the owner of each piece of property to be assessed, said service to be made in the manner provided by this act [this Charter] for serving notices herein required or in other lawful manner; provided, that if any of the owners or persons be not residents of the City of Charleston, or if it appears by the return in any case, that the owner cannot be found, then a notice of the passage of said resolution shall be published in some newspaper of general circulation in said city once a week for two successive weeks, which notice shall be deemed completed on the day of the second publication thereof, and such notice whether by service or publication, shall be completed at least three days before the date fixed for hearing thereon, as aforesaid, and before the introduction of any ordinance providing for said improvement, as hereinafter provided for; and the return of the officer, or sworn return of any other person, serving such notice or a certified copy of said return, or when published, the certificate of the publisher of said newspaper, shall be prima facie evidence of the service of the notice as herein required. Notice upon infants may be served on their guardian, and upon insane persons by service upon their committee. It shall be the duty of the city manager to cause such notice to be served upon said property owners as aforesaid. (Acts 1929 (Muni. ch.), ch. 4, § 64.)

Sec. 65. City executive committees of political parties.

The city executive committees of the two political parties casting the highest vote at the last preceding general election, shall each consist of one person from each of the wards of the city to be selected in the same manner and at the same time that candidates for municipal offices are selected. Vacancies in a committee shall be filled and members to represent newly created wards shall be elected by the committee to serve until the next general city election. (Acts 1929 (Muni. ch.), ch. 4, § 65.)

For state law as to municipal executive committees, see W. Va. Code, § 8-5-14.

Sec. 66. Bonds to pay city's cost of improvement of streets, etc.

It shall be lawful for said City of Charleston to issue and sell its bonds as provided in this act [this Charter] for the sale of other bonds, to pay the city's part of the cost of said improvements as required by this act, and it may levy taxes in addition to all other taxes authorized by law, to pay such bonds and interest thereon, provided that the total indebtedness of the city for all purposes shall not exceed five per centum of the total value of all taxable property therein. (Acts 1929 (Muni. ch.), ch. 4, § 66.)

For state law as to municipal public works and revenue bond financing, see W. Va. Code, ch. 8, art. 16. As to public bonded indebtedness generally, see W. Va. Code, ch. 13.

Sec. 67. Hearing of property owners affected by improvements: ordinance concerning improvement.

After the expiration of not less than ten days from the time of the giving and publication of the notices as provided for in section 64, the council shall sit at the time and place fixed for the purpose of hearing all property owners to be affected, with reference to such proposed improvements, and shall hear and consider any protests or objections thereto; and the council shall thereupon, or as soon as may be, determine whether it will proceed with the proposed improvement or not, and if it decides to proceed therewith an ordinance for the purpose shall be passed. Said ordinance shall set forth the streets and alleys upon which the abutting property is to be assessed for the improvement, and shall contain a statement of the general nature of the improvement, and the character of the materials which may be bid upon therefor, of the mode of payments therefor; a reference to the resolution therefor passed for said improvement, giving the date of its passage and a statement of the intention of the council to proceed therewith in accordance with said resolution and in accordance with the plans, specifications, estimates and profiles provided for said improvement. In setting forth the lots and lands abutting upon the improvement it

shall be sufficient to describe them as the lots and lands abutting upon the improvement it *shall be sufficient to describe them as the lots and lands* [italics supplied by the editors, to indicate probably unintended repetition] bounding and abutting upon said improvements between and including the termini of said improvements, or by the description by which they are described on the land books of the County of Kanawha, and this rule of description shall apply in all proceedings in which lots or lands are to be charged with a special assessment. (Acts 1929 (Muni. ch.), ch. 4, § 67.)

For state law as to municipal public works and revenue bond financing, see W. Va. Code, ch. 8, art. 16. As to public bonded indebtedness generally, see W. Va. Code, ch. 13.

Sec. 68. Special assessments when several kinds of materials have been named in ordinance providing for improvement.

In any case in which special assessments have been made, or shall hereafter be made, upon property for the construction of any improvement authorized by this act [this Charter] or previous statutes and several kinds of materials have been named in the ordinance or ordinances providing for the same, and on which bids have been received for the construction of said improvements with any, either or all of said material, said assessments shall be valid and binding assessments on the property so assessed. In the case of the construction of sewers required under the provisions of this act [this Charter], notice of the passage of said resolution therefor, as provided for in section 64 of this act, shall be given in the manner provided for in said section of this act. (Acts 1929 (Muni. ch.), ch. 4, § 68.)

Sec. 69. Vote of council required for public improvement: petition by property owners.

No pavement, sewer or sewer system, or other public improvement the cost of all or a part of which is to be especially assessed against abutting property, or against the owners thereof, shall be made without the concurrence of two-thirds of all the members elected to council, unless the owners of a majority of the foot frontage of property to be so assessed, petition in writing therefor, in which event the said council shall have power upon the affirmative vote of a majority of all the members elected thereto to proceed with such improvement in the manner provided by law. (Acts 1929 (Muni. ch.), ch. 4, § 69.)

For state law as to low cost municipal improvements, see W. Va. Code, ch. 8, art. 17.

Sec. 70. Assessment when public improvement passes through or by public property or property of institution.

When the whole or any portion of the improvement authorized by this act [this Charter] passes through or by a public wharf, market space, park, ceme-

tery, structure for the fire department, water works, school building, infirmary, market house, work house, hospital, house of refuge, bridge, gas works, public prisons, court house, church or any other public structure or public grounds within said corporation, and belonging to said corporation, or to the county, state, or any church, association or eleemosynary institution, the council may authorize the proper proportion of the estimated cost and expense of the improvement to be certified to the clerk of the county court of Kanawha, and it shall be the duty of those persons having charge of the fiscal affairs of any such property or institution to make proper arrangements for the payment of such assessments when due and payable. (Acts 1929 (Muni. ch.), ch. 3, § 99.)

Sec. 71. What cost of improvement shall include.

The cost of any improvement contemplated in this act [this Charter] and for which assessments may be made, shall include the cost and expense of the preliminary and other surveys, and of printing and publishing all notices required to be published, and serving the notices upon the property owners and the cost of construction and inspection. (Acts 1929 (Muni. ch.), ch. 4, § 71.)

Sec. 72. Filing statement as prerequisite to action for damages arising out of improvement.

No person shall bring any action whatever in any court in this state for damages arising out of improvements or change of grade unless he shall have filed with the council at some time after the publication of the notice provided for in section 64, and before the time of the introduction of the ordinance providing for said improvement a statement of the damage which, in his opinion, he will sustain by reason of said improvement or the change of grade therefor, which statement shall be duly sworn to and be spread upon the minutes of said council. (Acts 1929 (Muni. ch.), ch. 4, § 72.)

For a case which, in construing identical language of a predecessor of the Charter section here codified, held that it is within the legislative power to require a notice and claim for damages to property caused by municipal action to be given and filed prior to bringing suit thereon, and that such legislative act is not a violation of the constitutional rights of the injured party, provided always that such requirement be not unreasonable, see Whit v. City of Charleston, 98 W. Va. 143, 126 S.E. 705 (1925).

Sec. 73. Liberal construction of proceedings with respect to improvements.

Proceedings with respect to improvements shall be liberally construed by the courts to secure a speedy completion of the work at reasonable cost, and

a speedy collection of the assessments after the time has elapsed for their payments and merely formal objection in such cases shall be disregarded. (Acts 1929 (Muni. ch.), ch. 4, § 73.)

Sec. 74. Election and three-fifths vote required for issuance of bonds; regulations governing.

It is especially provided that no bonds shall be issued under the provisions of this act [this Charter] unless and until the question of issuing said bonds shall have first been submitted to a vote of the people of the city and shall have received three-fifths of all votes cast at said election for or against the same.

The council may provide by ordinance for an election every year, at which the question shall be submitted to the people, as to whether the city shall be authorized to issue bonds for the purpose and under the provisions of this act, to an amount not to exceed in the ensuing year the amount recommended by said ordinance for said ensuing year; but the ordinance providing for said election need not specify in detail the location of the improvements contemplated to be paid for during the ensuing year out of said aggregate issue authorized for said year, but before issuing any bonds the council shall pass separate ordinances for such street or alley to be improved, dealing with all the requirements set forth in section 67 of this act [this Charter], and notwithstanding the provisions of sections 2, 3 and 6 of chapter 47 of the Code,* it shall be sufficient description for the purpose for which said election is held if the ordinance providing for said election shall recite that it authorized the council of said city to issue bonds for the purpose of grading, paving, sewering or otherwise improving the streets and alleys of said city, at such time as to the council shall seem fit during the ensuing year ending on the.....day of .....19....., to an amount not exceeding in the aggregate during the said year the sum of.....; and when the council shall have been once authorized by a vote of the people to issue bonds for the purpose and in a sum not to exceed the amount set forth in the ordinance providing for the said election, no further election shall be necessary for the issuing of bonds during said ensuing year up to the amount stipulated in said ordinance providing for said election, but the council shall from time to time during said ensuing year, by ordinance authorize the issue of said bonds, in such sums and for the improvement of such streets or alleys as to it may seem best, providing the requirements of this act are complied with. The aggregate amount of bonds authorized by said annual election shall not be exceeded during said ensuing year, unless and except the same be authorized by special election held at a subsequent time in said year and duly called as provided for the calling of the annual bond election.

*Editor's note.—Secs. 2, 3 and 6 of ch. 47 of "the Code," here mentioned, apparently are §§ 2, 3 and 6 of ch. 47A of the W. Va. Code, Annotated, 1906. For present state law as to financing of municipal public works by revenue bonds, see

W. Va. Code, §§ 8-16-9 through 8-16-17, and, see also, W. Va. Code, ch. 13, relating to public bond issues and indebtedness generally.

The provisions of chapter 47 of the Code [see editor's note, supra] concerning bond elections shall, so far as they are not in conflict with the provisions of this act [this Charter], apply to the annual bond elections and special bond elections herein provided for. (Acts 1929 (Muni. ch.), ch. 4, § 74.)

Sec. 75. Authority of council to lay special levies in years 1929 and 1930 for special purposes.

Editor's note.--*The text of this section, being Acts 1929 (Muni. ch.), ch. 4, § 75, is omitted as executed and obsolete. It authorized special levies in the years 1929 and 1930 for the purposes of (1) construction of trunk and branch line sewers; (2) the acquisition of a ramp at the C. & O. Ry. passenger station on the south side of the Kanawha River; and (3) maintenance and care of a municipal cemetery within the city.*

Sec. 76. Power of council as to public buildings, hospitals, libraries, etc.

The council shall have the authority to erect, buy, sell and lease all buildings necessary for the use of the city government and to provide for and regulate the same, and to establish and maintain public hospitals, libraries and reading rooms, and to purchase books, papers and manuscripts therefor, and to receive donations, gifts or bequests for same in trust or otherwise. (Acts 1929 (Muni. ch.), ch. 4, § 76.)

Secs. 77, 78 and 79. Fire department civil service.

Editor's note.--*The text of these sections, being Acts 1929 (Muni. ch.), ch. 4, §§ 77, 78 and 79, is omitted as obsolete, having been superseded by the provisions of West Virginia Code, chapter 8, article 15, part IV (§ 8-15-11 et seq.), captioned "Civil Service for Paid Fire Departments."*

Sec. 80. Political activities by members of fire or police departments.

No member of the fire department or police department shall actively engage in any primary election, convention or election in which any officer in the city, county or state is to be nominated or elected, nor shall such member, directly or indirectly, give or offer to give, contribute or offer to contribute any money or thing of value or profit to any political committee or party orga-

nization to be expended in behalf of any political party, nor to any candidate or candidates for nomination for or election to any office in the city, county or state. The violation of any of the provisions of this section by any member of the fire department or police department shall be deemed misconduct in office. Any member of the fire department or police department guilty of misconduct, shall be dismissed from the service of the city by the head of his department or by council, upon charges preferred and proven by any citizen of said city. (Acts 1929 (Muni. ch.), ch. 4, § 80.)

For state law as to political activity of members of paid fire department, see W. Va. Code, § 8-15-24. As to political activity of members of paid police departments in class I cities, see W. Va. Code, § 8-14-19.

Sec. 81. Service of notice, summons, warrant, etc.

When any notice is required to be given, or any summons, warrant or other process is required to be served or otherwise executed, under the provisions of this act [this Charter], it shall be sufficient if such notice, summons warrant, or other process be executed by an officer of the police department or other employee of said city in the same way or manner in which the laws of the state prescribe for executing summonses and subpoenas by state officers, unless otherwise provided by this act [this Charter]. (Acts 1929 (Muni. ch.), ch. 4, § 81.)

Sec. 82. Contested elections for council.

Whenever one or more members of the council shall be a candidate for re-election, it shall be the duty of the council to meet and appoint some person or persons, qualified to act in hearing contested election matters and cases. The place and stead of such disqualified member or members shall be filled in each case by a member or members of the same political party as the person or persons respectively, in whose place or places he or they are so appointed. Every person so appointed shall take an oath of office to faithfully and impartially perform the duties of said office. In all matters concerning such contests such person or persons so appointed shall act in the place and stead of such member or members, so being candidates, and it shall be unlawful for any member of the council to act as such in hearing any contest in relation thereto, when such member is a candidate at such election; and anyone violating this section shall be deemed ineligible to the office for which he is a candidate. (Acts 1929 (Muni. ch.), ch. 4, § 82.)

Editor's note.--There is no prior reference in the Charter to any "such disqualified member or members" as mentioned in this section. See, however, Char., § 23, which provides, in pertinent part, that "all contested elections shall be

heard and determined by the council," and a logical assumption may be that, in enacting this section, the legislature intended that incumbent council members whose reelection is contested shall be disqualified to hear and participate in the determination of any such contest, and to provide for qualified persons, not members of the council, to act in the place and stead of those members whose election is contested.

Sec. 83. Duties of city clerk as to municipal elections.

The city clerk, acting under the state laws insofar as they are not in conflict with this act [this Charter], shall perform such duties relating to all municipal elections held under the municipal authorities of said city as the clerks of the county and circuit courts of Kanawha County perform under state laws in relation to state, county and district elections in said county; and he shall likewise be the custodian of all ballots, tally sheets, etc., pertaining to all municipal elections. (Acts 1929 (Muni. ch.), ch. 4, § 83.)

Sec. 84. Valid ordinances and regulations passed on or before May 1, 1915, not inconsistent with this Charter, to remain in effect until repealed.

All valid ordinances and regulations passed and adopted by the council, or by the board of affairs and council on or before the first day of May, 1915, and not inconsistent with this act [this Charter], shall be and remain in force unless and until repealed, and the council now [March 6, 1929] in office shall continue to exercise its powers as such until the officers elected in 1931 shall have been qualified. (Acts 1929 (Muni. ch.), ch. 4, § 84.)

Editor's note.--The "board of affairs" herein referred to was the governing body of the city under a Charter enacted in 1907, which was superseded by a new Charter enacted in 1915 providing for a mayor council form of government.

Sec. 85. Powers and duties of policemen.

The mayor shall appoint such number of policemen as are or may be hereafter prescribed by the city council by ordinance, and the mayor shall have at his discretion, the absolute right and power to dismiss any policeman and appoint another in his stead. The policemen shall be under command of the mayor and the chief of police, to be appointed as in this act [this Charter] provided for, and shall perform any and all duties incident to the office of policeman under the instructions and command of the mayor and the chief of police.

and, in addition to the usual and customary duties prescribed by the laws of this state and under the provisions of this Charter required of them, it shall specially be the duty of each police officer to report to the chief of police, or some one designated by said chief of police to receive such report, daily and oftener if occasion demands, the condition of all streets, sidewalks, alleys, basements, backyards, buildings, unimproved lots and all other things and matters within the limits of said city that may come under the notice of such policemen which may relate to the health of the citizens thereof, the sanitary conditions, the necessity of the removal of any obstructions upon any of the streets, alleys or sidewalks, and it shall be the duty of the policemen under their instructions to perform all the duties and exercise all the powers ordinarily imposed upon or given to the officers now known as health officers. It shall also be the duty of each police officer to perform all the duties of humane officer and to exercise all the functions, power and authority relating thereto which are or may be prescribed by any law of this state or ordinance of the city. A police officer in making arrests shall have all of the power and authority of a constable under the laws of the State of West Virginia. (Acts 1929 (Muni. ch.), ch. 4, § 85.)

Editor's note.--The appointment, promotion and dismissal of police officers in paid police departments of class I cities is now governed by the civil service provisions of W. Va. Code, § 8-14-7 et seq.

Sec. 86. Compensation of members of council; absence from meetings.

Each member of the city council shall be paid during his term of office the sum of two dollars and fifty cents for each meeting of the council that he shall attend; provided, that the aggregate amount to be paid to each member of the council shall not exceed the sum of one hundred dollars per annum. The roll of the members of the council shall be called at the beginning and at the end of each meeting thereof, and those members only who answer in person at each roll call shall be entitled to receive their pay for such meeting. The names of those members present at each roll call shall be entered upon the record. If there should not be a quorum present at the first roll call and the meeting be adjourned for that reason, then it shall not be a meeting that will entitle those present to the payment of the sum of two dollars and fifty cents as provided in this section. It shall be the duty of all councilmen to attend all of its meetings, and if any councilman shall be absent from the meetings of council as shown by its records for three consecutive meetings, then his office shall ipso facto become vacant, unless the council shall authorize or excuse such absence. If the office of any councilman shall become vacant under

the provisions of this section, then the council shall proceed to fill the same as it is authorized to do in the case of vacancies. (Acts 1929 (Munl. ch.), ch. 4, § 86.)

For state law providing that, "notwithstanding any charter provision to the contrary," the governing body of every municipality shall by ordinance fix the compensation of every municipal officer and employee; provided, that the salary of an officer shall not be increased or diminished during his term of office, see W. Va. Code, § 8-5-12.

Sec. 87. Reports by manager to council; reports by officers and employees under supervision of manager.

It shall be the duty of the manager, not later than the tenth day of any month after his appointment, to make a detailed report to the council for the preceding month. Such report shall show under distinct heads, first, the names and salaries of all employees under the control and supervision of manager; second, all expenditures or disbursements in the several departments under the supervision of the manager; third, an itemized statement of all purchases, together with the cost thereof, for each and every such department; fourth, all such other matters and things as the council may by proper ordinance or resolution require of said manager. Such report shall be entered of record in the minutes of the council and be a public record, open to the inspection of all persons. All officers or employees in any of the departments under the supervision of the manager shall, whenever required by said manager, make full and complete reports of all things done by them as such officers or employees in connection with the business of the city. (Acts 1929 (Munl. ch.), ch. 4, § 87.)

Sec. 88. Additional method for paving streets; assessment certificates.

In addition to the method provided for paving streets, by section 61 of the Charter of the City of Charleston, the council may order any street, avenue, public alley, or portion thereof, to be graded and paved, re-paved, or otherwise permanently improved, and the council may order the mayor and city clerk to issue a certificate for each installment of the amount of the assessment to be paid by the owner of any lot or fractional part thereof fronting on such street, avenue, or alley. The amount specified in said assessment certificate shall be a lien as aforesaid [in Char., § 61] in the hands of the holder thereof upon the lot or part of a lot fronting on such street, avenue, or alley, and such certificate shall draw interest from the date of said assessment and the payment may be enforced in the name of the holder of said certificate by proper suit in equity in any court having proper jurisdiction to enforce such lien; the council shall fix the amount of such assessment, advertise for bids and do all other things in connection therewith as is provided for paving or permanently im-

proving any street or alley or any portion thereof in section 61, except that such assessment laid under this section shall include the whole cost of such improvement, including the cost of grading and paving squares at intersections of streets and curbing, the costs of which intersections shall be apportioned against the several properties fronting upon the street or portion thereof so improved; and such certificates shall be issued in the same number of installments and payable at the same time as other paving or permanent improvements are provided to be paid for, and shall be a lien in the hands of the holder thereof upon the particular lot against which they are assessed in the same way and manner that assessments are liens under section 61 of said Charter. And nothing contained in this act [this Charter], or in the Charter of the City of Charleston shall be construed as imposing a time limit upon the enforcement by appropriate suit of any lien for public improvements, heretofore or hereafter created.

Certificates authorized by this section may be issued, sold or negotiated to the contractor doing the work, or to any other person if the council deem it expedient; provided, [that] the city in issuing such certificates shall not be held as guarantor or in any way liable for payment thereof.

Certificates so issued shall contain a provision to the effect that in the event of default in the payment of any one of said certificates, when due, and said default continuing for a period of sixty days, then all unpaid certificates shall become due and payable and the holder of said certificates may proceed to collect all of such unpaid certificates in the manner hereinbefore provided. Certificates issued in pursuance of this section shall be negotiable at any bank in the City of Charleston.

The owner of the land or lot of land assessed under this section may at any time anticipate and pay such assessment or certificate with accrued interest thereon.

Provided, that no street, avenue or alley shall be paved or otherwise permanently improved pursuant to this section except and unless two-thirds of all the members elected to the council shall concur in the passage of the ordinance providing therefor, and the vote thereon shall be taken by ayes and noes, and duly entered upon the record. (Acts 1929 (Muni. ch.), ch. 4, § 88.)

For a case holding that the provisions of this section that an assessment under the certificate plan "shall include the whole cost of such improvement" precluded the city from paying to the paving contractor from general revenues or from monies derived from bonds, since if this were done "the whole cost of such improvement" would not be included in the assessment made under the certificate plan, see United States v. City of Charleston, 93 F. Supp. 748 (1950). This Charter section was construed therein as in pari materia with Char., §§ 61 and 88-b.

Sec. 88-a. Void, irregular or omitted assessments.

In the case of the construction of any pavement, sewer, sidewalk or other permanent improvement under the provisions of this Charter where an assessment has heretofore been laid, or may hereafter be laid for the cost thereof, which said assessment is or shall be void or voidable by reason of errors, irregularities or defects in the proceedings under which such improvement was made, or in case such assessment shall have been made against the wrong person or shall have been omitted to be made in a case where the same was proper, it shall be the duty of the council within two years after the completion of such permanent improvement, or after any court shall have declared such assessment invalid, to cause notice to be given to any person against whom the cost of said improvement might properly be or have been assessed under said Charter, of its intention to lay such assessment against him and fixing a time and place at which he may appear and show cause against the same. Said notice shall be served as provided in the said Charter for the giving of notices in assessment proceedings, or in any other manner provided by law, including by publication where the person is a non-resident of the city or cannot be found. At the time and place fixed for hearing under the notice aforesaid, or at any time thereafter, the council shall proceed to lay and levy an assessment for the cost of such permanent improvement in such manner as would have been lawful under proper proceedings at the time said improvement was made, unless the person so notified shall show good cause against the same, and no further notice of such assessment shall be necessary. The assessment so laid shall be a lien upon the property liable therefor and may be recorded and enforced in the same manner as provided for other liens for permanent improvements. This section shall apply to assessments made and certificates issued under section 88 of this Charter, as well as to other assessments and liens for public improvements. (Acts 1929 (Muni. ch.), ch. 4, § 88-a.)

Sec. 88-b. Assessment certificates to pay for cost of construction of sewers and sewer systems.

In addition to the method for the payment of the cost of construction of sewers and sewer systems provided by sections 62 and 62-a of the Charter of the City of Charleston, the council may order any sewer or sewer system constructed and laid, in any block, street, avenue, alley or in any right of way or easement, or portion thereof, and the council may order the mayor and city clerk to issue a certificate for each installment of the amount of the assessment to be paid by the owner of any lot or fractional part thereof fronting on such street, avenue, alley, right of way or easement in which such sewer system is constructed and laid, and the amount specified in said assessment certificate shall be a lien as aforesaid in the hands of the holder thereof upon the lot or part of lot fronting on such street, avenue or alley, right of way or easement, and such certificate shall draw interest from the date of said assessment and the payment may be enforced in the name of the holder of said certificate by proper suit in equity in any court having proper jurisdiction to enforce such lien; the council shall fix the amount of such assessment, advertise for bids

and do all other things in connection therewith as is provided in section 61 of said Charter for paving or permanently improving any street or alley or any portion thereof, the costs of which shall be apportioned against the several properties fronting upon the street, avenue, alley, right of way or easement or portion thereof in which the sewer or sewer system is laid according to the provisions of section 62 or section 62-a, as the case may be. Such certificates shall be issued in the following number of installments.

Where the assessment shall not exceed fifty dollars, the assessment and certificate issued thereon shall be in one amount, due and payable in ninety days from the completion and acceptance of the work; if over fifty dollars and not more than one hundred dollars, then such amount shall be covered by only two certificates of equal amounts, payable in ninety days and one year, respectively; if over one hundred dollars and not more than one hundred and fifty dollars, then such amount shall be covered by only three certificates of equal amounts payable in ninety days, one year and two years, respectively; if over one hundred and fifty dollars and not more than two hundred dollars, then such amount shall be covered by only four certificates of equal amounts, payable in ninety days, one year, two years and three years, respectively; and if more than two hundred dollars, then in five certificates of equal amounts, payable in ninety days, one year, two years, three years and four years, respectively; and the term "equal amounts" herein shall mean as nearly equal as practicable, that is, four certificates being expressed in terms of blank dollars each, and, when practical, in multiples of five, the cents and odd amounts being covered by the first certificate.

Every such certificate shall be a lien in the hands of the holder thereof upon the particular lot against which it is assessed in the same way and manner that assessments are liens under sections 62 and 62-a of this act [this Charter]. And nothing in this act, or in the Charter of the City of Charleston shall be construed as imposing a time limit upon the enforcement by appropriate suit of any lien for public improvements heretofore or hereafter created.

Certificates authorized by this section may be issued, sold or negotiated to the contractor doing the work, or to any other person if the council deem it expedient; and shall be negotiable at any bank in the City of Charleston; provided, [that] the city in issuing such certificates shall not be held as guarantor or in any way liable for the payment thereof. Certificates so issued shall contain a provision to the effect that in the event of default in the payment of any one of said certificates when due, said default continuing for a period of sixty days, unpaid certificates shall become due and payable and the holder of said certificates may proceed to collect all of such unpaid certificates in the manner hereinbefore provided.

Provided, that no sewer or sewer system shall be constructed or laid pursuant to this section except and unless two-thirds of the members elected to the council shall concur in the passage of the ordinance providing therefor,

and the vote thereon shall be taken by ayes and noes, and duly entered upon the record. (Acts 1929 (Munl. ch.), ch. 4, § 88-b.)

For a case holding that an assessment levied pursuant to this section against the United States for paving a portion of Summers Street which abutted upon federally owned property was void in the absence of an act of congress allowing lands of the United States to be subjected to special assessments for local improvements, and that both the lien filed by the city against the federal building and the certificate issued to the paving contractor were also void, see United States v. City of Charleston, 93 F. Supp. 748 (1950). This Charter section was construed therein as in pari materia with Char., §§ 81 and 88.

Sec. 88-c. Subdividing abutting land for purpose of making assessments.

If the abutting land on any avenue, street, road or alley sought to be graded, paved, repaved or otherwise improved, or on any avenue, street, road, alley, right of way or easement in which a sewer or sewer system is ordered laid, under any of the provisions of the Charter of the City of Charleston, is not subdivided or laid off in lots by a map or deed of record, the council may, for the purpose of making the assessments provided for in this section and other sections herein, subdivide said land into lots of such size as the council deems advisable for the purpose of laying the proper assessment against such land. (Acts 1929 (Munl. ch.), ch. 4, § 88-c.)

Sec. 89. Initiation of ordinances by voters.

Any proposed ordinance, or amendment to any ordinance already in effect, may be submitted to the city council by the petition of qualified voters in said city, but such petition must be signed by such number of voters as shall amount to at least ten per cent of the number of votes cast for the office of mayor at the last preceding municipal election. Such proposed ordinance, or amendment to an ordinance, shall be passed without alteration or change by the city council within thirty days after such petition is filed, or the city council shall, in lieu of passing such ordinance or amendment to an ordinance, submit such proposed ordinance, or amendment to an ordinance, in the manner hereinafter prescribed for ratification or rejection to the qualified voters of the city at the next regular municipal election which is to be held not less than sixty days after such petition is filed. If such petition contains a request for a special election and is signed by sufficient qualified voters to equal in number at least fifteen per cent of the votes so cast for the office of mayor at the last preceding regular municipal election, the ordinance or amendment thereby proposed shall be passed by

the city council without amendment or change, within thirty days after such petition is filed, or the city council shall submit such proposed ordinance or amendment for ratification or rejection to the qualified votes at a special election which shall be called within thirty days and held not less than sixty nor more than ninety days after such petition is filed, unless a general or special election is fixed by law to be held within said period of time. In the latter event, said proposed ordinance or amendment shall be submitted for ratification or rejection at such election. The city council shall cause such proposed ordinance or amendment to be printed and published in some newspaper of general circulation in the city once each week from the time the council decides to submit the same to the voters until such election is held. No ordinance or amendment to an ordinance adopted by the voters at any such election shall be repealed or amended by the city council.

The ballot used for any such election shall have printed on it the title of each ordinance, or amendment to an ordinance, submitted for ratification or rejection and on separate lines under said title the words "for said ordinance" and "against said ordinance" (or the amended part thereof, as the case may be). If a majority of the qualified voters of the city voting on any proposed ordinance, shall vote in favor thereof, the same shall thereupon become a valid ordinance and be in full force and effect at the expiration of the period of ten days from and after said election. If two or more ordinances, or amendments to ordinances, adopted at the same election are inconsistent, then the respective ordinance, or amendment to an ordinance, receiving the largest affirmative vote at such election shall prevail, and the form of submission of inconsistent ordinances, or parts thereof, or amendments to ordinances, shall be in such form that the voters may clearly express their choice. (Acts 1929 (Muni. ch.), ch. 4, § 89.)

Sec. 90. Reconsideration of ordinance protested by petition; submission of ordinances to voters.

If within the period of five days after the passage of any ordinance a petition signed by sufficient qualified voters of said city, being in number at least fifteen per cent of the votes cast for all the candidates for the office of mayor at the last preceding regular municipal election, shall be filed protesting against such ordinance, or any part thereof, taking effect, such ordinance, or such part thereof so protested against, shall thereupon and thereby be suspended from taking effect, and the city council shall immediately again consider the same, and if it be not repealed or so amended as to meet the requirements of the said protest, the city council shall submit the same for ratification or rejection to the qualified voters of the city at the next regular municipal election which shall be held not more than thirty days after such petition is filed, or at a special election to be called thereafter by the city council for that purpose to be held in not less than sixty days nor more than ninety days after such petition is filed, and such ordinance, or part thereof so protested, shall not take effect unless a majority of the votes cast at such election thereon shall be

for the ratification thereof. If such petition shall only be signed by sufficient qualified voters to equal in number at least five per cent but not sufficient to equal in number at least fifteen per cent of the votes cast for the candidate for said office of mayor at the last preceding municipal election, the city council shall submit such ordinance, or such part thereof so protested, for ratification or rejection at the next ensuing regular municipal election which is to be held more than thirty days after such petition is filed. The city council may, on its own motion, without any petition being required therefor, submit at a regular or special municipal election any ordinance passed by it in the same manner and with the same force and effect as hereinbefore provided. No ordinance, or part of an ordinance, rejected at any election shall be enacted or passed by the city council within the period of twelve months thereafter. (Acts 1929 (Muni. ch.), ch. 4, § 90.)

For a case holding that a referendum held pursuant to this section of the city Charter cannot affect the validity of an ordinance when questioned for other reasons, see State v. City of Charleston, 130 W. Va. 490, 45 S.E.2d 7 (1967).

Sec. 91. Recall of officers.

Any officer of the City of Charleston elected by the voters under the provisions of this act [this Charter], may be recalled and the office declared vacant as provided in this act. Such officer may be removed from office by a recall election held thereunder, but no such officer shall be removed from office within the period of four months after he enters upon the discharge of his duties as such. Before any such recall election shall be held a petition, stating the name or names and the office or the officer or officers sought to be recalled, and signed by sufficient qualified voters of the said city as shall equal in number the quantity of twenty-five per cent of the votes in the whole city or in the ward, as the case may be, for all the candidates for the office of mayor at the last preceding regular municipal election, and containing a sworn statement of the grounds upon which it is sought to remove the said officer or officers, shall be filed with the city clerk. No such petition shall be filed within the period of six months before the end of the term of such officer. The city council shall immediately, upon the filing of said petition, call a special election in the manner in this act [this Charter] provided for calling special elections and submit to the voters the question of recalling such officer or officers. The ballot at such election, with respect to each person whose recall is sought, shall be substantially as follows: "Shall (name of person) be removed from the office (name of office) by recall?" Immediately following such question there shall be on the printed ballot the two propositions in the order set forth:

"For the recall of (name of person)."

"Against the recall of (name of person)."

immediately to the left of said proposition shall be printed a square in which the voters, by marking a cross mark (X), or in some other way declaring their intention, may vote for either of such propositions. If sixty per cent of the voters registered voting on said propositions vote in favor of the recall of such officer or officers, then he or they shall thereby be forthwith removed from such office and such vacancy or vacancies shall be filled as provided in this act; provided, however, that within fifteen days after the returns of such recall election shall have been canvassed by the city council, a petition signed by sufficient qualfied voters to equal in number at least thirty per cent of the votes cast in the city, or ward, as the case may be, for the candidates for the office of mayor at the last preceding regular municipal election, and praying that such vacancy or vacancies be filled by a special election to be held not less than thirty days nor more than forty-five days thereafter, the city council shall order a special election to be held in the same manner as other special elections are provided for in this act for the purpose of filling such vacancy or vacancies. (Acts 1929 (Muni. ch.), ch. 4, § 91.)

Sec. 92. Signatures and affidavits to petitions filed under three preceding sections; form of submission of ordinance; all city elections to conform to state law.

The signatures to petitions filed under the provisions of the last three sections need not be all on one paper or one sheet of paper, but separate petitions may be circulated and signed and the aggregate number of names on all of such petitions, if equal to the number required in this act, shall be sufficient. The circulator of each paper shall make and append thereto an affidavit that each signature thereon is the signature of the person whose name it purports to be. The residence address of each signer shall accompany the signature. All such petitions shall be filed with the city clerk and shall be deemed and held to be sufficient if they appear to be signed by the requisite number of signers and such signers shall be deemed and held to be qualified voters, unless a protest in writing, under oath, shall be filed with the city clerk by some qualified voter within fifteen days after such petitions are filed, which protest shall set forth the name of each signer protested against and the ground therefor. It shall be the duty of the city clerk as soon as possible and within twenty-four hours after the filing of such protest to mail a notice to each signer so protested against at his address as given in the petition, requiring him to be and appear before the city registrars at a time fixed in said notice, not less than twenty-four hours nor more than forty-eight hours after the mailing of such notice, for the purpose of defending his right to sign said petition. If it shall be proven by satisfactory evidence that such person is not a qualified signer of such petition, then his name shall be stricken therefrom. All evidence taken shall be under oath, and any signer present at the hearing may be called as a witness by the protestant or testify in his own behalf. All hearings shall be summary, and shall be concluded within fifteen days after such petition is filed. The city registrars [see Char., § 9] shall forthwith certify the result of their examination to the city clerk and such city clerk shall serve a copy of such certificate upon the person or persons named in the petition as represent-

ing the signers thereof. When the petition contains a sufficient number of qualified signatures the city registrars shall forthwith file the same with the city clerk, and he shall transmit the same to the city council, which shall call an election as provided for in the three preceding sections of this act [this Charter]. All petitions filed in the city clerk's office shall be public records. When any petition contains a form of submission of the ordinance petitioned for and such form is a reasonably fair description thereof, the same shall be placed on the ballot and no petition filed subsequently shall be permitted to use any form of submission that is so similar to the one previously filed as to tend to confuse the voter, and, in case of such conflict, the person presenting the subsequent petition may file a form of submission which shall be placed upon the ballot, provided, the same shall fairly describe the ordinance, or amendment to an ordinance, petitioned for and shall not be in conflict with any prior forms of submission or tend to confuse the voter.

The city council shall so frame all forms of submission that the voter can, by making a cross in a square in front of some appropriate words, vote either for the ratification or the rejection of the proposed measure, but no ballot shall be rejected from which the reasonable intention of the voter however he shall have marked the same, can be ascertained. All city elections, regular or special, shall conform as nearly as possible to the election statutes contained in chapter 3 of the Code of West Virginia. (Acts 1929 (Munl. ch.), ch. 4, § 92.)

Sec. 93. Additional method for construction of sidewalks; assessment certificates.

In addition to the method of securing the laying of sidewalks set out in section 49 of this chapter [this Charter], the council of said city may cause any sidewalk to be constructed, laid, relaid, or otherwise permanently improved in the City of Charleston in the following manner and upon the following terms: Plans and specifications shall be prepared and filed, resolutions and ordinances shall be adopted and notices shall be prepared and served in the same way and manner as near as may be, as in the case of the paving and improvement of streets and alleys. The contract for same shall, after due advertisement in which council shall reserve the right to reject any and all bids, be let to the lowest responsible bidder and upon completion and acceptance of the work, council shall order the mayor and city clerk to issue to the contractor doing the work a certificate for the amount of the assessment to be paid by the owner of any lot or fractional part thereof fronting on such sidewalk, and the amount specified in said assessment certificate shall be a lien in the hands of the holder thereof upon the lot or part of a lot fronting on such sidewalk as well as a debt against the owner of said lot, and such certificate shall draw interest from the date of said assessment, and the payment may be enforced in the name of the holder of such certificate by a proper suit in equity in any court having proper jurisdiction to enforce such liens, and council shall fix the amount of such assessments and do all things in connection therewith necessary to make them valid and do all other things in connection therewith as is provided for paving or

improving streets and alleys and such certificates shall be issued one for each abutting lot or portion thereof payable six months from the date of the completion and acceptance of the work and shall be a lien in the hands of the holder thereof upon the particular lot against which they are assessed in the same way and manner that assessments for street paving are liens under the other provisions of the aforesaid act creating and amending the Charter of the City of Charleston: providing, however, that council shall not order any but concrete sidewalks; and, provided, further, that council shall not advertise for bids for any one letting of less than five thousand square feet; and, further, provided, that council shall not receive any bids or let any sidewalk contract between the first day of October and the first day of March of any year. Nothing in this section shall be so construed as to prevent any abutting lot owner from having his own sidewalk put in if done before the advertising hereinbefore mentioned and provided same is done according to the lines, grades and specifications of the city engineer, for which no charge shall be made. The total cost of constructing, laying, relaying, or otherwise permanently improving any sidewalk or walks shall be borne by the owners of the land abutting upon said sidewalk or sidewalks according to the following plan, that is to say, payment is to be made according to the proportion of square feet in front of any lot or portion thereof bears to the whole letting. The contract for sidewalks referred to in this section does not necessarily have to be one continuous sidewalk, but the five thousand square feet required for a letting as aforesaid may be made up of or composed of any number of sidewalks in any parts of the city. (Acts 1929 (Muni. ch.), ch. 4, § 93.)

Sec. 93-a. Transcript of property to be furnished by county assessor.

The county assessor shall furnish transcript of real and personal property on or about the tenth day of September of each year and his fee for same shall be not less than four hundred nor more than one thousand dollars for such work. (Acts 1929 (Muni. ch.), ch. 4, § 93-a.)

Editor's note.--See W. Va. Code, § 11-3-8, which provides that county assessors furnish to the clerk of every municipality in their respective counties a certified statement of the aggregate value of real and personal property not later than March 7th of each year.

Sec. 94. Authority to issue warrants; vacancy in office of municipal judge.

The municipal judge, mayor, city clerk, municipal court clerk, chief of police, or in the absence of the chief of police, the captains of police and lieutenants of police shall each have authority to issue warrants for all offenses committed within the police jurisdiction of the City of Charleston. Any vacancy in the office of municipal judge shall be filled by appointment by the mayor until the next election. (Acts 1929 (Muni. ch.), ch. 4, § 94.)

Sec. 95. Statement of claim before action against city for damages for personal injury.

No action shall be maintained against the City of Charleston for damages for a personal injury alleged to have been sustained by reason of the negligence of the city or of any officer, agent or employee thereof, unless a written verified statement of the nature of the claim and of the time and place at which such injury is alleged to have been received shall have been filed with the city clerk within thirty days after the cause of action shall have accrued. The cause of action shall be deemed to have accrued at the date of the sustaining of the injury, except that where death results therefrom the time for the personal representative to give notice shall run from the date of death. An action at law for damages for personal injuries or death shall not be commenced until the expiration of thirty days after the filing of the notice as provided in this section. (Acts 1929 (Muni. ch.), ch. 4, § 95.)

For a case holding that this section imposes a condition precedent to the right of the claimant to sue the city, and in the absence of allegation and proof that its provisions have been complied with, the omission may be taken advantage of after the verdict, see Thompson v. Charleston, 118 W. Va. 391, 191 S.E. 547 (1937).

Sec. 96. Health commissioner.

The health commissioner shall be a physician of good standing in his profession and may devote his time to city work alone. It shall be his duty to administer to all charity cases that he may, in his discretion, deem deserving. He shall, in conjunction with the city manager, have charge of the general health and sanitation of the city and it shall be his duty to carefully investigate all complaints and make a careful detailed report of all his official acts as health commissioner to the city manager and council at least once every month. He shall be appointed in the way and manner provided in the Charter of the City of Charleston and shall receive such salary as council may by ordinance prescribe. Nothing herein, however, shall be construed as in any way affecting the police officers of the city relative to their powers and duties in regard to city sanitation contained and set forth elsewhere [see Char., § 85] in said Charter. (Acts 1929 (Muni. ch.), ch. 4, § 96.)

Editor's note.--In lieu of a city health commissioner and health department, the Kanawha-Charleston combined board of health now exercises their functions within the city, pursuant to an agreement between the city and the county court dated Oct. 18, 1956, a copy of which is on file in the office of the city clerk. For state law as to combined city-county boards

of health, see W. Va. Code, § 16-2-3. As to local health officers generally, see W. Va. Code, §§ 16-2-1 through 16-2-5.

Sec. 97. Police matron.

It shall be the duty of the mayor to appoint a reputable woman who shall be known as police matron, and such police matron shall have all the qualifications and be subject to all the provisions of chapter 18 of the Acts of the Legislature of 1911 [now codified in W. Va. Code, § 8-14-4]. The council of the City of Charleston shall provide a reasonable salary not to exceed twelve hundred dollars therefor and do all of the things required by the council under the provisions of said chapter 18 of the Acts of the Legislature of 1911 and any amendments thereto. (Acts 1929 (Muni. ch.), ch. 4, § 97.)

Editor's note.--As of Sept. 30, 1974, the city was not operating a jail, and city prisoners were confined in the county jail, pursuant to an agreement with the county court. For that reason, the city does not have a police matron. For state law providing that, "notwithstanding any Charter provision to the contrary," the governing body of every municipality shall by ordinance fix the compensation of every municipal officer and employee; provided, that the salary of an officer shall not be increased or diminished during his term of office, see W. Va. Code, § 8-5-12.

Sec. 98. Codification of ordinances.

The city council shall cause any contract for the codifying and indexing of all the ordinances of the city to be fully completed, and such ordinances shall include all in force and effect up to the last day possible. Before such work is accepted by the council, it shall be completed in every respect and the council shall then cause it to be properly printed and securely bound in a permanent book. The council may by ordinance adopt the code to be prepared as a whole and when said ordinance adopting said code shall have been passed by the council, the said code shall be and become the law and ordinances of said city up to such time according to the tenor and effect thereof, and when printed in a book, the same shall be received as evidence as the ordinances of said city, unless errors or omissions be affirmatively shown therein, and no other publication thereof shall be made or required under the Charter, and the council shall cause all the ordinances of said city, either by printing a supplement thereof, to be brought up to date within a reasonable time after the printing of such ordinances, and in any event such supplement shall be printed, or, if necessary, a new copy of the ordinances shall be printed with-

in every four years, and the council shall cause a sufficient number of said books of the ordinances to be printed and to sell such number thereof as it may do so at such price as may be reasonable, and the number of books printed shall be fixed by the council. (Acts 1929 (Muni. ch.), ch. 4, § 98.)

For state law as to authority of city council to adopt a comprehensive code of ordinances, see W. Va. Code, § 8-11-4, subsec. (b).

Sec. 99. Cemeteries and burials.

It shall be the duty of the City of Charleston to provide suitable and proper places for the burial of the dead, which places may be in or out of the corporate limits of the said city. The city shall cause such places to be laid off into cemetery lots in a reasonable and proper way and shall sell said lots for a reasonable price, but it may take into consideration the location of each of such lots in fixing the prices thereof. The city council shall have all the powers and rights of condemnation of any real estate that it may wish for such purpose in the manner provided by law, and it may acquire by means of condemnation any real estate which has already been laid out as a cemetery by any person, association or corporation.

No burials of the bodies of deceased persons shall hereafter be permitted within the incorporated limits of the City of Charleston or within the space of one mile of such incorporated limits without the permission of said city shall be first had and obtained, and the City of Charleston, through its proper authorities, shall have power to pass all proper ordinances providing suitable penalties to carry out the powers here given said city.

No moneys received from the sale of lots in any cemetery so owned, or hereafter owned, by said city shall be used for any other purpose than the proper care and preparation of the ground, upkeep and expenses of said cemetery, the roads and ways to and through the same and for the purchase of additional property for cemetery purposes. (Acts 1929 (Muni. ch.), ch. 4, § 99.)

For state law as to authority of city council to acquire and maintain cemeteries and to regulate interments therein, see W. Va. Code, § 8-12-5, subsec. (42).

Sec. 100. Building inspector.

The building inspector shall be a competent person for the duties of his office and shall devote all his time to city work. He shall not be engaged or interested in the building business in any way or manner. The council shall by ordinance fix a proper salary for him. He shall see that the ordinances of

the city and laws of the state concerning buildings are enforced and perform such other duties as the manager or council may direct. (Acts 1929 (Muni. ch.), ch. 4, § 100.)

Sec. 101. Power to buy, sell or exchange real estate.

The council shall have power to buy, sell, or exchange any real estate found necessary or convenient, in the opening, construction, straightening, widening or otherwise altering of any street, alley or public way within the city, and by resolution and proper deed to convey to any person, firm or corporation any land used, or heretofore or hereafter used, for street or other public purpose, when in the judgment of the council such land shall no longer be needed for such public use. (Acts 1929 (Muni. ch.), ch. 4, § 101.)

Sec. 102. Zoning--Power of city.

For the purpose of promoting health, safety, morals, or the general welfare of the city and community, the council is hereby empowered to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residents or other purposes; provided, however, that any ordinance or by-laws enacted under the authority of this act [this Charter] shall exempt from the operation thereof any building or structure used or to be used by a public service corporation (not otherwise exempted) as to which proof shall be presented to the council of the City of Charleston provided for in this act, that the exemption of such building or structure is reasonably necessary to the convenience or welfare of the public. (Acts 1929 (Muni. ch.), ch. 4, § 102.)

For state law as to urban and rural planning and zoning generally, see W. Va. Code, ch. 8, art. 24. As to regional planning, see W. Va. Code, ch. 8, art. 25. For state law as to zoning authority of municipalities generally, see W. Va. Code, § 8-24-39.

For a case holding that the provisions of this section did not confer authority on the city to enact a building code or zoning ordinance which would be applicable to a building constructed by the state office building commission, created by chapter 43, Acts of the Legislature, 1939, on property purchased under the general appropriation act, contained in chapter 8, Acts of the Legislature, 1949, see Charleston v. Southeastern Con. Co., 134 W. Va. 666, 64 S.E.2d 878 (1950).

Sec. 102-a. Same--Division of city into zoning districts.

For any or all of said purposes the council may divide the city into districts of such number, shape and area as may be deemed best suited to carry out the purpose of this and the four succeeding sections, and within such districts it may regulate and restrict the erection, construction, alteration, repair or use of buildings, structures, or land. All such regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts. (Acts 1929 (Muni. ch.), ch. 4, § 102-a.)

For state law as to zoning districts generally, see W. Va. Code, § 8-24-40.

For a case holding that the provisions of this section did not confer authority on the city to enact a building code or zoning ordinance which would be applicable to a building constructed by the state office building commission, created by chapter 43, Acts of the Legislature, 1939, on property purchased under the general appropriation act, contained in chapter 9, Acts of the Legislature, 1949, see Charleston v. Southeastern Con. Co., 134 W. Va. 666, 64 S.E.2d 678 (1950).

Sec. 102-b. Same--Design of zoning regulations; considerations in making.

Such regulations shall be made in accordance with a comprehensive plan, and designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; or to facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements. Such regulations shall be made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city. (Acts 1929 (Muni. ch.), ch. 4, § 102-b.)

For state law as to municipal comprehensive plan, see W. Va. Code, § 8-24-16 et seq.

For a case holding that the provisions of this section did not confer authority on the city to enact a building code or zoning ordinance which would be applicable to a building constructed by the state office building commission, created by chapter 43, Acts of the Legislature, 1939, on property purchased under the general appropriation act, contained in chapter 9, Acts of the Legislature, see Charleston v. Southeastern Con. Co., 134 W. Va. 666, 64 S.E.2d 678 (1950).

Sec. 102-c. Same--Establishment, enforcement and change of zoning regulations and boundaries of zoning districts; hearing.

The council shall provide for the manner in which such regulations and restrictions and the boundaries of such districts shall be determined, established and enforced, and from time to time amended, supplemented or changed. However, when demanded by any party in interest, no such regulation, restriction or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen days' notice of the time and place of such hearing shall be published in at least two newspapers of general circulation, published in the City of Charleston. (Acts 1929 (Muni. ch.), ch. 4, § 102-c.)

For state law as to action by municipal governing bodies on zoning ordinances, notice and hearing thereon, etc., see W. Va. Code, § 8-24-44.

Sec. 102-d. Same--Change or repeal of zoning regulations and boundaries; protests.

Such regulations, restrictions and boundaries may from time to time be amended, supplemented, changed, modified or repealed. In case, however, of a protest against such change signed by the owners of twenty per cent or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof, extending one hundred feet therefrom, or of those directly opposite thereto, extending one hundred feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three-fourths of all the members of council. The provisions of the previous section relative to public hearings and official notice shall apply to all changes or amendments. (Acts 1929 (Muni. ch.), ch. 4, § 102-d.)

For state law as to amending, supplementing or changing zoning ordinance rules and regulations, see W. Va. Code, § 8-24-45 et seq.

Sec. 102-e. ¶ 1. Same--Zoning commission.

In order to avail itself of the powers conferred by this act [this Charter], the council shall appoint a commission to be known as the zoning commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. Such commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and such council shall not hold its public hearings or take action until it has received the final report of such commission. (Acts 1929 (Muni. ch.), ch. 4, § 102-e, ¶ 1.)

For state law as to municipal planning commissions, see W. Va. Code, § 8-24-1 et seq. As

to certain powers and duties of municipal planning commissions relating to zoning, see W. Va. Code, §§ 8-24-42 through 8-24-47.

Sec. 102-e. ¶ 2. Repeal of inconsistent laws.

All acts heretofore passed relating to or amendatory of the Charter of the City of Charleston, and all other acts or parts of acts, coming within the purview of this act and inconsistent herewith, are hereby repealed. (Acts 1929 (Muni. ch.), ch. 4, § 102-e, ¶ 2.)

Sec. 25-23. Obstruction.

No person shall obstruct, impede or cause to be impeded or obstructed the flow of any public sewer, nor interfere with the free discharge or ventilation thereof, nor clog up such sewer or any appurtenance thereof. (Code 1957, pt. 9, art. 25, § 8.)

Sec. 25-24. License required to engage in business of laying or constructing sewers or drainways.

It shall be unlawful for any person to engage in the business of laying or constructing sewers or drainways in, under or upon any of the streets, sidewalks or public highways of the city without having first annually secured from the sanitary board a license therefor, paying for such license the sum of twenty five dollars.

No such license shall be issued until the sanitary board is satisfied of the reliability and capacity of the applicant to do and perform in a good and workmanlike manner the particular form, class or kind of work that shall be specified in the application for license for any or all of the purposes set forth in this section, and until the applicant shall also have given any bond required by any other ordinance of the city in relation to such matters. (Code 1957, pt. 9, art. 1, § 3.)

Article II. Sanitary Board.

For a case holding that the ordinance codified in this article is valid and constitutional, and that a contract between the sanitary board created by such ordinance and a construction company in furtherance of the provisions of the ordinance was valid, see West Va. Water Service Co. v. Cunningham, 143 W. Va. 1, 98 S.E. 2d 891 (1957).

As to sewerage service charges when water from commercial wells is discharged from premises into city sewers, see § 32-30 of this Code.

Sec. 25-25. Created; powers and duties; composition; appointment and term of members.

There is hereby created in and for the city a sanitary board, which shall be charged with the custody, supervision, control, administration, operation and maintenance of the municipal sewage system, all as permitted and provided by article 13 of chapter 16 of the Code of West Virginia. The sanitary board shall be composed of the mayor and two persons appointed by the city council, one of whom shall be a registered professional engineer; provided, that when

no city sewer is under construction a registered professional engineer need not be a member of the board. The two appointed members of the board shall each serve for a term of three years and until his successor is duly appointed and has qualified, and vacancies shall be filled for the unexpired term only. (Code 1957, pt. 9, art. 23, §§ 1, 2; Ord. No. 1486, 11-19-73, § 1.)

Editor's note.--Original appointments were made pursuant to the ordinance here codified at such time and for such terms that one vacancy for an appointed member occurs March 16, 1975 and every three years thereafter, and one such vacancy occurs March 16, 1976 and every three years thereafter.

For state law basis of this section, see W. Va. Code, § 16-13-18.

Sec. 25-26. Officers; salaries; bond of treasurer.

The sanitary board shall elect a vice chairman from its members and shall designate a secretary and treasurer (who may be one and the same person) who need not be members of the board and who shall hold office at the will of the board.

Each member of the board, other than the mayor, shall receive such salary as may be provided from time to time by the city council and shall be entitled to payment for his reasonable expenses incurred in the performance of his duties.

The secretary and treasurer shall be paid such reasonable compensation for services as from time to time may be fixed by the city council, and the treasurer shall give bond, with qualified corporate surety, in the amount of five thousand dollars or such other amount as the council may require, conditioned for the proper application of all moneys received by him as such and for the faithful performance of the duties of his office.

All compensation, and all expense, incurred by the sanitary board, its officers and employees, shall be paid solely from funds authorized to be collected and received by the board as provided by article 13, chapter 16 of the Code of West Virginia. (Code 1957, pt. 9, art. 23, § 3.)

For state law basis of this section, see W. Va. Code, § 16-13-18.

Sec. 25-27. Powers and duties.

(a) The construction, acquisition, improvement, equipment, custody, operation, maintenance and administration of all works for the collection, treatment or disposal of sewage within the city and in such other areas as may be

By Mr. Crawford:

Bill No. 1486--A Bill to amend and reenact section one, article twenty-three, Streets and Public Services Law, Code of the City of Charleston, West Virginia, one thousand nine hundred fifty-seven, as amended, appointing two members to the Sanitary Board as provided by chapter sixteen, article thirteen, section eighteen, Code of West Virginia, one thousand nine hundred thirty-one, as amended.

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

1. Section one, article twenty-three, Streets and Public Services Law, Code of the City of Charleston, West Virginia, one thousand nine hundred fifty-seven, as amended, be amended and reenacted to read as follows:

Section 1. Sanitary Board created; membership; terms.

There is hereby created and appointed the Sanitary Board of the City of Charleston consisting of the Mayor and two persons appointed by the governing body of the municipality. Said appointments shall be made by ordinance and members shall serve for a term of three years. The Mayor shall act as chairman of the board.

2. L. M. Milstead, Jr. is hereby appointed as a member of the Sanitary Board for the term expiring the sixteenth day of March, one thousand nine hundred seventy-five.

John D. Smallridge is hereby appointed as a member of the Sanitary Board for the term expiring the sixteenth day of March, one thousand nine hundred seventy-six.

3. The City Council hereby finds that it is a matter of urgent concern and a pressing public emergency requiring immediate action to update the Code of the City of Charleston to be in compliance with the Code of West Virginia.

The question being on the passage of the bill, a roll call was taken and there were--yeas 24, nays none and absent one, as follows:

YEAS: Barnett, Bennett, Bird, Brawley, Carp, Copenhaver, Crawford, Cummings, Duncan, Flint, Hall, Hunt, Kennedy, Layne, Matthews, Nuzum, O'Connor, Preston, Quick, Sheets, Silverstein, Smith, Vanderwilt and Mayor Hutchinson.

NAYS: None.

ABSENT: Mullins.

So, all members present and voting having voted in the affirmative, the Mayor declared the bill (No. 1486) unanimously passed.

(The provisions of section eleven, article four (d), chapter eight of the Code of West Virginia, one thousand nine hundred thirty-one, as amended, requiring the affirmative vote of two-thirds of the members elected to the Council to pass a bill in the case of a pressing public emergency is satisfied.)

OFFICER'S OATH

(Sec. 24. City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, G KEMP MEATON, WHO HAS BEEN DULY ~~APPOINTED~~ ELECTED TO THE OFFICE OF MAYOR OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED, DIRECTLY OR INDIRECTLY, IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

G Kemp Meaton

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

Thomas E McHugh

~~Notary Public in and for the State of West Virginia~~ CHIEF JUSTICE SUPREME COURT OF APPEALS OF WEST VIRGINIA

~~My commission expires on the~~ THIS 1ST day of MAY, 95.

OFFICER'S OATH

(Sec. 24, City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, ~~William~~ FRED M. Frisk, WHO HAS BEEN DULY APPOINTED TO THE OFFICE OF City Clerk OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGOE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

Vickie L. Young
Notary Public in and for the State of West Virginia

My commission expires on the 29th day of April, 95.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
VICKIE L. YOUNG
216 Brooks Street, Suite 301
Charleston, West Virginia 25301
My Commission Expires April 29, 2002

OFFICER'S OATH

(Sec. 24. City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, J.E. "SKEETER" BARRON, WHO HAS BEEN DULY ELECTED TO THE OFFICE OF CITY COUNCILMAN OF 1ST WARD OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

J.E. "Skeeter" Barron

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
VICKIE L. YOUNG
216 Brooks Street, Suite 301
Charleston, West Virginia 25301
My Commission Expires April 29, 2002

Vickie L. Young
Notary Public in and for the State of West Virginia

My commission expires on the 22nd day of April, 2002.

OFFICER'S OATH

(Sec. 24, City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, Carl Hicks, WHO HAS BEEN DULY ELECTED TO THE OFFICE OF 2nd Ward Council OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

Carl Hicks

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

Vickie L. Young
Notary Public in and for the State of West Virginia

My commission expires on the 29th day of April, 2002.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
VICKIE L. YOUNG
216 Brooks Street, Suite 301
Charleston, West Virginia 25301
My Commission Expires April 29, 2002

OFFICER'S OATH

(Sec. 24, City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, James E. Lanham, WHO HAS BEEN DULY ELECTED TO THE OFFICE OF City Councilman Third Ward OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

James E. Lanham

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

Patricia E. Lucas
Notary Public in and for the State of West Virginia

My commission expires on the 12th day of March, 1996.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
PATRICIA E. LUCAS
Office of City Clerk Rm. 301 City hall
Charleston, West Virginia 25333
My Commission Expires March 12, 1996

OFFICER'S OATH

(Sec. 24. City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, Robert C. Redman Jr., WHO HAS BEEN DULY ELECTED TO THE OFFICE OF City Council OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

Patricia E. Lucas
Notary Public in and for the State of West Virginia

My commission expires on the 12th day of March, 1996.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
PATRICIA E. LUCAS
Office of City Clerk Rm. 331 City Hall
Charleston, West Virginia 25330
My Commission Expires March 12, 1996

OFFICER'S OATH

(Sec. 24, City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, Ernest A. Layne, WHO HAS BEEN DULY ELECTED TO THE OFFICE OF City Council 5th Ward OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

Ernest A. Layne

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

Patricia Lucas
Notary Public in and for the State of West Virginia

My commission expires on the 12th day of March, 1996.

OFFICER'S OATH

(Sec. 24. City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, Ivalou Barth, WHO HAS BEEN DULY ELECTED TO THE OFFICE OF COUNCILMAN OF THE SIXTH WARD OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

Ivalou H. Barth

Ivalou H. Barth

Subscribed and sworn to before me the undersigned authority, this 3rd day of June, 1996.

Patricia L. Crouse

Notary Public in and for the State of West Virginia

My commission expires on the 3rd day of June, 1996.
5th April 2006

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
PATRICIA L. CROUSE
Office of City Clerk
Rm. 301, City Hall, P.O. Box 2749
Charleston, WV 25330
My Commission Expires April 5, 2006

OFFICER'S OATH

(Sec. 24, City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, Paul Gilmer, WHO HAS BEEN DULY ELECTED TO THE OFFICE OF COUNCILMAN OF THE SEVENTH WARD OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

Subscribed and sworn to before me the undersigned authority, this 21st day of January, 1997.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
PATRICIA L. CROUSE
Office of City Clerk
Rm. 301, City Hall, P.O. Box 2749
Charleston, WV 25330
My Commission Expires April 5, 2006

Patricia L. Crouse
Notary Public in and for the State of West Virginia

My commission expires on the 5th day of April, 2006.

OFFICER'S OATH

(Sec. 24. City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, George W. McCloskie, WHO HAS BEEN DULY ELECTED TO THE OFFICE OF Councilman 8th Ward OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

George W. McCloskie

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

Vickie Young
Notary Public in and for the State of West Virginia

My commission expires on the 29th day of April, 2002.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
VICKIE L. YOUNG
216 Brooks Street, Suite 301
Charleston, West Virginia 25301
My Commission Expires April 29, 2002

OFFICER'S OATH

(Sec. 24. City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, Betty Morton, WHO ~~HAS~~ HAVE BEEN DULY ELECTED TO THE OFFICE OF COUNCIL~~MAN~~PERSON OF THE SIXTH WARD OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

Betty Morton

Subscribed and sworn to before me the undersigned authority, this 1st day of July 1996.

Patricia L. Crouse
Notary Public in and for the State of West Virginia

My commission expires on the 5th day of April 2006.

OFFICER'S OATH

(Section 24. City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, Sara M. Crikenberger, WHO HAVE BEEN DULY ELECTED TO THE OFFICE OF 10th WARD COUNCIL REPRESENTATIVE, FOR THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES OF AMERICA AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGEMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

Sara M. Crikenberger
(signature)

Subscribed and sworn to before me the undersigned authority, this 2nd day of November, year 1998.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
CYNTHIA L. CROWDER
Office of City Clerk
Rm. 301, City Hall, P.O. Box 2749
Charleston, WV 25330
My Commission Expires April 17, 2006

Cynthia L. Crowder
Notary Public in and for the State of West Virginia

My commission expires on the 17th day of April, and year of 2006.

OFFICER'S OATH

(Sec. 24. City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, Fred Snuffer, WHO HAS BEEN DULY ELECTED TO THE OFFICE OF City Council 11th Ward OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

Fred Snuffer

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

Patricia A Grover
Notary Public in and for the State of West Virginia

My commission expires on the 5th day of April 2006.

OFFICER'S OATH

(Sec. 24, City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, Joyce Horan, WHO HAS BEEN DULY ELECTED TO THE OFFICE OF City Council 12th Ward OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

Joyce F. Horan

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

Patricia E. Lucas
Notary Public in and for the State of West Virginia

My commission expires on the 12th day of March, 1996.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
PATRICIA E. LUCAS
Office of City Clerk Rm. 301 City Hall
Charleston, West Virginia 25330
My Commission Expires March 12, 1996

OFFICER'S OATH

(Sec. 24. City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, Linda M. Nielsen, WHO HAS BEEN DULY ELECTED TO THE OFFICE OF Ward 13 Councilman OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

Linda M. Nielsen

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

Patricia E. Lucas
Notary Public in and for the State of West Virginia

My commission expires on the 12th day of March, 1996.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
PATRICIA E. LUCAS
Office of City Clerk Rm 301 City Hall
Charleston, West Virginia 25333
My Commission Expires March 12, 1996

OFFICER'S OATH

(Sec. 24, City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, Jeanne Goodwin, WHO HAS BEEN DULY ELECTED TO THE OFFICE OF CITY COUNCIL OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

Jeanne Goodwin

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

Patricia E Lucas
Notary Public in and for the State of West Virginia

My commission expires on the 12th day of March, 1996.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
PATRICIA E LUCAS
Office of City Clerk Rm. 331 City Hall
Charleston, West Virginia 25330
My Commission Expires March 12, 1996

OFFICER'S OATH

(Sec. 24. City Charter)

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The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, Lawrence J. Malone, WHO HAS BEEN DULY ELECTED TO THE OFFICE OF 15th Ward Council OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
VICKIE L. YOUNG
215 Brooks Street, Suite 301
Charleston, West Virginia 25301
My Commission Expires April 29, 2002

Notary Public in and for the State of West Virginia

My commission expires on the 22nd day of April, 2002.

OFFICER'S OATH

(Sec. 24. City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, William Ward Huffman, II, WHO HAS BEEN DULY ELECTED TO THE OFFICE OF City Council 16th Ward OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

William Ward Huffman II

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
PATRICIA L. CROUSE
Office of City Clerk
Rm. 301, City Hall, P.O. Box 2749
Charleston, WV 25330
My Commission Expires April 5, 2006

Patricia L. Crouse
Notary Public in and for the State of West Virginia

My commission expires on the 5th day of April, 2006.

OFFICER'S OATH

(Sec. 24, City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, BRENDAN S. LEARY, WHO HAS BEEN DULY ELECTED TO THE OFFICE OF City Council 17th Ward OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

Brendan S. Leary

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

Patricia E. Lucas
Notary Public in and for the State of West Virginia

My commission expires on the 12th day of March, 1996.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
PATRICIA E. LUCAS
My Commission Expires March 12, 1996

OFFICER'S OATH

(Sec. 24. City Charter)

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The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, William R. Kimberling, WHO HAS BEEN DULY ELECTED TO THE OFFICE OF 18th Ward Council OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

William R. Kimberling

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

Vickie L. Young

Notary Public in and for the State of West Virginia

My commission expires on the 29th day of April, 2002.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
VICKIE L. YOUNG
216 Brooks Street, Suite 301
Charleston, West Virginia 25301
My Commission Expires April 29, 2002

OFFICER'S OATH

(Sec. 24, City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, LOREN E. SWODERAS WHO HAS BEEN DULY ELECTED TO THE OFFICE OF COUNCIL OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

Loren E. Swoderas

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

Patricia E. Lucas
Notary Public in and for the State of West Virginia

My commission expires on the 12th day of March, 1996.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
PATRICIA E. LUCAS
Office of City Clerk Rm. 301 City Hall
Charleston, West Virginia 25330
My Commission Expires March 12, 1996

OFFICER'S OATH

(Sec. 24, City Charter)

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The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, David J. Hardy, WHO HAS BEEN DULY ELECTED TO THE OFFICE OF Council Member OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

David J. Hardy

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

Patricia E. Lucas
Notary Public in and for the State of West Virginia

My commission expires on the 12th day of March, 1996.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
PATRICIA E. LUCAS
Office of City Clerk Rm. 201 City Hall
Charleston West Virginia 25330
My Commission Expires March 12, 1996

OFFICER'S OATH

(Sec. 24, City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, Sam Haddad, WHO HAS BEEN DULY ELECTED TO THE OFFICE OF City Council at Large OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

Sam Haddad

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

Patricia E. Lucas
Notary Public in and for the State of West Virginia

My commission expires on the 12th day of March, 1996.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
PATRICIA E. LUCAS
Office of City Clerk Rm 301 City Hall
Charleston, West Virginia 25330
My Commission Expires March 12, 1996

OFFICER'S OATH

(Sec. 24, City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

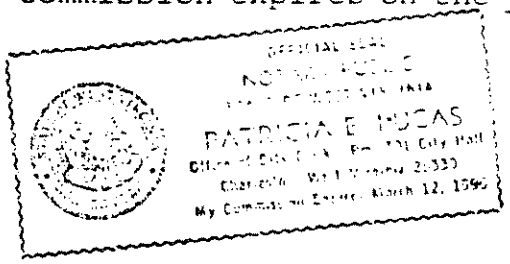
I, J. Thomas Lane, WHO HAS BEEN DULY ELECTED TO THE OFFICE OF Council OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

J Thomas Lane

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

Patricia E Lucas
Notary Public in and for the State of West Virginia

My commission expires on the 12th day of March, 1996.



OFFICER'S OATH

(Sec. 24. City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, Charles W. Loeb, Jr., WHO HAS BEEN DULY ELECTED TO THE OFFICE OF Council At Large OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

Charles W. Loeb, Jr.

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
VICKIE L. YOUNG
216 Brooks Street, Suite 301
Charleston, West Virginia 25301
My Commission Expires April 29, 2002

Vickie L. Young
Notary Public in and for the State of West Virginia

My commission expires on the 29th day of April, 2002.

OFFICER'S OATH

(Sec. 24. City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, Mary Jane Lopez, WHO HAS BEEN DULY ELECTED TO THE OFFICE OF City Council at Large OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

Mary Jane Lopez

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

Patricia E. Lucas
Notary Public in and for the State of West Virginia

My commission expires on the 12th day of March, 1996.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
PATRICIA E. LUCAS
Office of City Clerk Rm. 301 City Hall
Charleston, West Virginia 25330
My Commission Expires March 12, 1996

OFFICER'S OATH

(Sec. 24. City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, Y. HOWARD QUICK, JR. WHO HAS BEEN DULY APPOINTED TO THE OFFICE OF COUNCILMAN-at-LARGE OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGQE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

Y. Howard Quick Jr

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

Patricia Lucas
Notary Public in and for the State of West Virginia

My commission expires on the 12th day of March, 1996

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
PATRICIA E. LUCAS
Office of City Clerk Rm 301 City Hall
Charleston, West Virginia 25330
My Commission Expires March 12, 1996

OFFICER'S OATH

(Sec. 24, City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, Chris Smith, WHO HAS BEEN DULY ELECTED TO THE OFFICE OF Council At Large OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

Patricia E. Lucas
Notary Public in and for the State of West Virginia

My commission expires on the 12th day of March, 1996.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
PATRICIA E. LUCAS
Office of City Clerk, Rm. 201 City Hall
Charleston, West Virginia 25333
My Commission Expires March 12, 1996

C E R T I F I C A T E

I, Fred M. Frisk, Jr., City Clerk of Charleston, West Virginia, do hereby certify that the attached is a true and correct copy of that certain Ordinance No. 6544, duly filed and of record in the office of the Clerk of the City of Charleston, West Virginia, ~~XXXXXXXXXX adopted~~ passed by Council of the City of Charleston at a meeting held on First, of February, 19 99.

Given under my hand and the official seal of the City of Charleston, West Virginia, this First day of April, 1999.

(seal)

Cynthia L. Crowder
Deputy City Clerk

Bill No. 6544

Ordinance No. 6544

Introduced in Council:
January 19, 1999

Referred to:
Council Committee on Finance

Introduced by:
David J. Hardy

Passed by Council:
February 1, 1999

A Bill supplementing Ordinance No. 4828 passed by the Council of The City of Charleston, West Virginia, on April 20, 1992, as supplemented by Ordinances No. 4954, No. 6276, No. 6349 and No. 6532, which authorized the acquisition and construction of certain extensions, additions, betterments and improvements to the sewerage system of The City of Charleston; authorizing the merger of the assets of the Mt. Tyler Public Service District into the sewerage system of the City; authorizing the assumption of certain debt of the Mt. Tyler Public Service District; authorizing the issuance of not more than $850,000 in aggregate principal amount of Sewerage System Revenue Bonds, in one or more additional series as may be required, of said The City of Charleston to be used, along with other funds and moneys of, or available to, The City of Charleston which may be lawfully expended for such purposes, to evidence the assumption of said debt; providing for the rights and remedies of and security for the holders of such bonds; and adopting other provisions related thereto.

Be It Ordained by the Council of The City of Charleston, West Virginia, as Follows:

ARTICLE I

STATUTORY AUTHORITY, DEFINITIONS AND FINDINGS

Section 1.01. Authority for this Ordinance. This Ordinance is enacted pursuant to the provisions of Chapter 16, Article 13, of the Code of West Virginia, 1931, as amended (the "Act"), and other applicable provisions of law, and as a supplement to Ordinance No. 4828, passed by the Council of The City of Charleston (the "Council") on the 20th day of April, 1992, as supplemented by Ordinance No. 4954, passed by the Council on May 3, 1993, as supplemented by Ordinance No. 6276, passed by the Council on September 3, 1996, as supplemented by Ordinance No. 6349, passed by the Council on June 2, 1997, and as supplemented by Ordinance No. 6532 passed by the Council on November 16, 1998.

Section 1.02. Findings. It is hereby found, determined and declared as follows:

A. The City of Charleston, West Virginia (the "City") now owns a sewerage system (the "System"), both within and without the corporate limits of the City, consisting of a sewage treatment plant and a composting facility and its collecting, intercepting and outlet sewers, lateral sewers, drains, force mains, conduits, pumping stations and all other appurtenances, extensions, improvements and betterments necessary, appropriate, useful, convenient or incidental for the collection, treatment and disposal in a sanitary manner of sanitary sewage and industrial wastes.

B. In accordance with Section 2 of the Act, the System is under the supervision and control of the Sanitary Board of the City (the "Sanitary Board").

C. Mt. Tyler Public Service District (the "District") is a public service district created pursuant to Chapter 16, Article 13A of the West Virginia Code, 1931, as amended (the "Code") and currently provides sewer collection service to approximately 549 customers. The City treats sewerage from District pursuant to a treatment agreement dated June 9, 1987.

D. The City and the District signed a September 16, 1997, agreement concerning the proposed merger providing that the City will take possession of all the property and assets of the District, the City will assume all of the legal and financial obligations of the District and the customers served by the District will become customers to be served by the City.

E. On February 26, 1998, the District and the City jointly petitioned the Public Service Commission of West Virginia (the "Commission") for permission to merge the District's system into the City's System, thereby lowering the rates paid by the District's customers.

F. The Commission approved the merger by an order dated October 15, 1998 (the "Order").

G. The acquisition and construction of the System were financed or refinanced in part by the proceeds of prior bond and note issues of the City, including The City of Charleston $1,912,194 Sewer Revenue Bonds, Series 1989 dated March 21, 1989 and The City of Charleston $829,856 Sewer Revenue Bonds, Series 1989 B dated November 21, 1989 (the "WDA First Lien Bonds") and The City of Charleston $283,458 Supplemental Sewer Revenue Bonds, Series 1989 dated March 21, 1989 and The City of Charleston $123,015 Supplemental Sewer Revenue Bonds, Series 1989 B, dated November 21, 1989 (the "WDA Subordinate Bonds," and collectively with the WDA First Lien Bonds, the "WDA Bonds"), the $2,955,000 The City of Charleston Sewerage System Refunding Revenue Bonds, Series 1992 A, and the $6,670,000 The City of Charleston Sewerage System Refunding and Improvement Revenue Bonds, Series 1992 B (the "1992 Bonds"), the

$773,237 The City of Charleston Sewerage System Revenue Bonds, 1993 Series A (the "1993 Bonds"), the $2,671,058 The City of Charleston Sewerage System Revenue Bonds, Series 1996 A, the $395,299 The City of Charleston Sewerage System Revenue Bonds, Series 1996 B (the "1996 Bonds"), the $732,688 The City of Charleston Sewerage System Revenue Bonds, Series 1997 A and the $5,237,584 The City of Charleston Sewerage System Revenue Bonds, Series 1997 B (collectively, the "1997 Bonds"), and the $994,537 The City of Charleston Sewerage System Revenue Bonds, 1998 Series A (the "1998 Bonds"), (the 1993 Bonds, the 1996 Bonds, the 1997 Bonds and the 1998 Bonds, collectively with the WDA First Lien Bonds and the 1992 Bonds, are hereinafter called the "Prior Bonds"). The Prior Bonds are equally and ratably secured under the provisions of Ordinance No. 4828 passed by Council of the City on April 20, 1992, as supplemented by Ordinance No. 4954 passed by Council on May 3, 1993, as supplemented by Ordinance No. 6276 passed by the Council on September 3, 1996, as supplemented by Ordinance No. 6349, passed by the Council on June 2, 1997, and, as supplemented by Ordinance No. 6532, passed by the Council on November 16, 1998 (collectively, the "Prior Ordinance") which amended and superseded several prior ordinances of the City relating to the System and the issuance of bonds and notes to finance the acquisition and construction of portions of the System. The WDA Subordinate Bonds are subordinate and junior as to lien and sources of payment to the Prior Bonds. (The Prior Bonds and the WDA Subordinate Bonds are hereinafter referred to from time to time as the "Prior Debt.")

H. The Prior Bonds are currently outstanding in the approximate aggregate principal amount of $21,000,000, and the WDA Subordinate Bonds are currently outstanding in the aggregate principal amount of $323,094.

I. The acquisition and construction of the District's system were financed in part by the proceeds of District's $730,760 Mt. Tyler Public Service District Sewer Revenue Bonds, Series 1987 A (the "Series 1987 A Bonds") and the Mt. Tyler Public Service District Sewer Revenue Bonds, Series 1987 B (the "Series 1987 B Bonds") in the principal amount of $179,240 (collectively, the "District Bonds"). The Series 1987 B Bonds were issued subordinate and junior as to lien and source of payment to the Series 1987 A Bonds. The District sold the Bonds to the West Virginia Water Development Authority (the "Authority"). The Authority through correspondence with the Commission has stated that it will permit the City's assumption of the District's Bonds on parity with the City's Prior Bonds and the WDA Subordinate Bonds.

J. The City derives revenues from the System, and, except for the pledges thereof to secure and pay the Prior Debt, said revenues are not pledged or encumbered in any manner.

K. It is necessary and essential to acquire the assets of the District and to assume the District's outstanding debt in order to preserve the public health, to be financed through the issuance of bonds pursuant to this Ordinance in one or more series (the "1999 Bonds") in an aggregate principal amount not to exceed $850,000.

L. The estimated revenues to be derived in each year after the enactment of this Ordinance from the operation of said System, after the merger, will be sufficient to pay all the costs of the operation and maintenance of said System, the principal of and interest on the Prior Debt and the 1999 Bonds authorized to be issued pursuant to this Ordinance and all sinking fund, reserve account and other payments provided for in this Ordinance or the Prior Ordinance.

M. The 1999 Bonds and the Certificate of Authentication and Registration to be endorsed thereon are to be in substantially the form set forth in Exhibit A attached hereto and incorporated herein by reference with necessary and appropriate variations, omissions and insertions as permitted or required by this Ordinance or a Supplemental Resolution or as deemed necessary by the Registrar or the City.

N. All things necessary to make the 1999 Bonds, when authenticated by the Registrar and issued as in this Ordinance provided, the valid, binding and legal special obligations of the City according to the import thereof, and to validly pledge and assign those funds pledged hereby to the payment of the principal of and interest on the 1999 Bonds, will be timely done and duly performed.

O. The enactment of this Ordinance, and the execution and issuance of the 1998 Bonds, subject to the terms thereof, will not result in any breach of, nor constitute a default under, any instrument to which the City is a party or by which it may be bound or affected.

P. The City is a governmental unit which has general taxing powers to finance operations of or facilities of the nature of the Project and the System; 95% or more of the Net Proceeds of the Series 1999 Bonds are to be used for local government activities of the City (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the City).

Q. It is deemed necessary for the City to issue its 1999 Bonds in the aggregate principal amount of not more than $850,000 to evidence the assumption of the District's Bonds, said 1999 Bonds to be issued simultaneously with the completion of the merger.

R. It is in the best interests of the City that its 1999 Bonds be delivered to the West Virginia Water Development Authority in exchange for the District's Bonds.

S. The Commission has approved a surcharge of $2.14 per month for the customers of the District to be charged until the District's outstanding bond debt is retired. The reserve funds for the Series 1987 A Bonds and Series 1987 B Bonds respectively are funded at the level required therefor and will be transferred to the 1999 Bonds as part of the merger.

T. The revenues of the System of the City after the merger, together with the surcharge, will be sufficient to pay all the costs of the operation and maintenance of said System and the debt service on the Prior Debt and the 1999 Bonds.

U. Prior to the merger, the City shall receive a certificate from an independent certified public accountant that the City will meet the coverage requirement established in the Prior Ordinance. The 1999 Bonds, which replace the District's Series 1987 A Bonds, shall be issued with a lien on the Net Revenues on a parity with the lien held by the registered owners of the Prior Bonds, but the lien of such 1999 Bonds shall be senior and superior to the lien of the registered owners of the WDA Subordinate Bonds. The lien of the 1999 Bonds, which replace the District's Series 1987 B Bonds, will be on parity with the WDA Subordinate Bonds and junior to the Prior Bonds and the first lien 1999 Bonds.

V. It is in the best interests of the City and the District for the City to acquire the District's assets by merger.

W. The City will not permit, at any time, any of the proceeds of the 1999 Bonds or any other funds of the City to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from the treatment afforded by Section 103(a) of the Code.

Section 1.03. Ordinance Constitutes Contract. In consideration of the acceptance of the 1999 Bonds authorized to be issued hereunder by those who shall hold the same from time to time, this Ordinance shall be deemed to be and shall constitute a contract between the City and such Bondholders, and the covenants and agreements herein set forth to be performed by said City shall be for the equal benefit, protection and security of the legal holders of any and all of such 1999 Bonds issued hereunder, all of which shall be of equal rank and without preference, priority or distinction between any one 1999 Bond and any other 1999 Bonds by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

Section 1.04. Definitions. Except as provided below, terms used in this Supplemental Ordinance have the meanings set forth in the Prior Ordinance, as supplemented by this Supplemental Ordinance, unless the context expressly requires otherwise.

"Bondholder" or "Owner of the 1999 Bonds" or "Registered Owner" or any similar term shall mean any person who shall be the registered owner of any Outstanding Bond as hereinafter defined.

"Closing Date" shall mean the date or dates upon which the acquisition by merger of the assets of Mt. Tyler Public Service District by The City of Charleston is complete.

"Code" shall mean the Internal Revenue Code of 1986, as amended, including the rules and regulations promulgated pursuant thereto or any predecessors or successors thereto.

"Debt Service" shall mean the scheduled amount of interest and amortization of principal payable on the 1999 Bonds during the period of computation, excluding amounts scheduled during such period which relate to principal which has been retired before the beginning of such period.

"1999 Bonds" or "Bonds originally authorized hereby" or similar phrases shall mean the not more then $850,000 in aggregate principal amount of Sewerage System Revenue Bonds issued in one or more series for the purpose of assuming the District's Bonds and for such other purposes permitted hereby and authorized by a resolution supplemental hereto.

"Outstanding" when used with reference to 1999 Bonds, as of any particular date, describes all such 1999 Bonds theretofore and thereupon being authenticated and delivered except (i) any such 1999 Bond cancelled by the Registrar, at or prior to said date; (ii) any such 1999 Bond for the payment of which moneys, equal to its principal amount, with interest to the date of maturity of any such 1999 Bond, shall be in trust hereunder and set aside for such payment (whether upon or prior to maturity); (iii) any such 1999 Bond deemed to have been paid as provided in Article X of the Prior Ordinance; and (iv) for purposes of consents or other action by a specified percentage of Bondholders, any such 1999 Bond registered to the City.

"Registrar" shall mean the entity named as such in the Supplemental Resolution.

"Supplemental Ordinance" or "this Ordinance" shall mean this ordinance as hereafter amended or supplemented.

"Supplemental Resolution" shall mean any resolution, ordinance or order of the City supplementing or amending this Ordinance and, when preceded by the article "the", refers specifically to the supplemental resolutions authorizing the sale of one or more series of the 1999 Bonds; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the 1999 Bonds and not so included may be included in another Supplemental Resolution.

"System" shall mean the complete existing sewerage system now owned by the City and managed by the Sanitary Board, consisting of a sewerage treatment and collection system, and shall include any extensions, additions, betterments and improvements thereto, including the wastewater treatment facility, hereafter acquired or constructed for said sewerage system from any sources whatsoever, both within and without said City, including after the merger, the assets of the District.

Words importing singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations. Words importing the masculine gender include all other genders.

Additional terms and phrases are defined in this Ordinance as they are used. Accounting terms not specifically defined herein shall be given meaning in accordance with general accepted accounting principles.

The terms "herein", "hereunder", "hereby", "hereto", "hereof" and any similar terms refer to this Ordinance; and the term "hereafter" means after the date of the enactment of this Ordinance.

Articles, sections and subsections mentioned by number only are the respective articles, sections and subsections of this Ordinance so numbered.

ARTICLE II

AUTHORIZATION OF ACQUISITION OF MT. TYLER PUBLIC SERVICE DISTRICT

Section 2.01. Authorization of Acquisition and Assumption. The acquisition by merger of the assets of the District and assumption of the District's Bonds by the issuance of the 1999 Bonds by the City is hereby authorized.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION AND REGISTRATION OF 1999 BONDS

Section 3.01. Authorization and Terms of 1999 Bonds. For the purpose of assuming the District's Bonds, there shall be issued the 1999 Bonds of the City. The 1999 Bonds shall be issued in one or more series with the first series to be designated 1999 Series A, the second series as 1999 Series B, and so on, of "Sewerage System Revenue Bonds" in an aggregate principal amount of not more than $850,000. Each series of 1999 Bonds shall be dated as of the date of delivery of each series thereof, shall bear such interest not to exceed the legal interest rate (12%), shall mature at such times, not to exceed forty years, and in such amount as shall be set out in the Supplemental Resolution. The repayment of principal and interest, if any, on each series of 1999 Bonds shall be as set forth on Schedule Y to the District's Loan Agreement. The 1999 Bonds shall contain such other terms, provisions, conditions and limitations, all as provided by this Ordinance and as the Council of the City shall prescribe by resolution (or by supplemental or amendatory ordinance of said Council as said Council shall determine) adopted in connection with the delivery of such 1999 Bonds.

The 1999 Bonds shall be payable as to principal at the principal office of the Paying Agent in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the 1999 Bonds shall be paid by check or draft mailed to the registered owner thereof at the address as it appears on the books of the Bond Registrar, provided, that so long as the Authority is the owner thereof, interest on the 1999 Bonds may be paid by wire transfer or other methods satisfactory to the City, the Paying Agent and the Authority.

Unless otherwise provided by the Supplemental Resolution, the 1999 Bonds shall be issued in the form of a single bond for each series, fully registered to the Authority, with a record of advances and a payment record attached, representing the aggregate principal amount, and shall mature in principal installments, all as provided in the Loan Agreement and said Supplemental Resolution. The 1999 Bonds shall be exchangeable at the option and expense of the Bondholder for other fully registered 1999 Bonds in aggregate principal amount equal to the amount of said 1999 Bonds then Outstanding, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said 1999 Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Section 3.02. Execution of Bonds. Said Bonds shall be executed in the name of the City by the Mayor and attested by the Recorder, and the seal of the City shall be affixed thereto or imprinted thereon. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officer of the City before the Bonds so signed and sealed have been sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Bonds may be signed and sealed on behalf of the City by such person as, at the actual time of the execution of such Bonds, shall hold the proper office in the City, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.03. Authentication and Registration. No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Ordinance unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in Section 3.08, shall have been duly manually executed by the Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Ordinance. The Certificate of Authentication and Registration on any Bond shall be deemed to have been executed by the Registrar if manually signed by an authorized officer of the Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

Section 3.04. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Bonds shall be, and have all of the qualities and incidents of, negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive owner, in accepting any of said Bonds shall

be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive owner shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide holder for value in the manner provided hereinafter in the form of said Bonds.

So long as any of the 1999 Bonds remain Outstanding, the City, through the Registrar, shall keep and maintain books for the registration and transfer of the Bonds.

The 1999 Bonds shall be transferable only upon the books of the Registrar, by the registered Owner thereof in person or by the Owner's attorney duly authorized in writing, upon surrender thereto together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered Owner or the Owner's duly authorized attorney.

In all cases in which the privilege of exchanging Bonds or transferring Bonds is exercised, Bonds shall be delivered in accordance with the provisions of this Ordinance. All Bonds surrendered in any such exchanges or transfers shall forthwith be canceled by the Registrar. For every such exchange or transfer of Bonds, the Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Registrar incurred in connection therewith, which sum or sums shall be paid by the City. The Registrar shall not be obliged to make any such exchange or transfer of Bonds during the 15 days preceding an interest payment date on the Bonds, or, in the case of any proposed redemption of Bonds, next preceding the date of the selection of Bonds to be redeemed.

Section 3.05. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Bond shall become mutilated or be destroyed, stolen or lost, the City may, in its discretion, issue and deliver a new Bond in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Owner's furnishing the City proof of ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the City may prescribe and paying such expenses as the City may incur and the Registrar shall authenticate the new Bond. All Bonds so surrendered shall be canceled by the Registrar and held for the account of the City. If such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the City may pay the same, upon being indemnified as aforesaid, and, if such Bond be lost, stolen, or destroyed, without surrender therefor.

Any such duplicate Bonds issued pursuant to this Section shall constitute original, additional contractual obligations on the part of the City, whether or not the lost, stolen or destroyed Bonds be at any time found by anyone, and such duplicate Bonds shall be entitled to equal and proportionate benefits and rights as to lien and source of security for payment from the revenues pledged herein with all other Bonds issued hereunder.

Section 3.06. Bonds not to be Indebtedness of the City. The 1999 Bonds shall not, in any event, be or constitute an indebtedness of the City within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided on parity with the Prior Bonds but senior and superior to the WDA Subordinate Bonds or on a parity with the WDA Subordinate Bonds, as the case may be. No Owner or Owners of any of the Bonds shall ever have the right to compel the exercise of the taxing power of the City to pay the Bonds or any interest thereon.

Section 3.07. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of all the 1999 Bonds, issued to assume the District's Series 1987 A Bonds, shall be secured forthwith equally and ratably with each other by a first lien on the Net Revenues derived from the System on parity with the Prior Bonds but senior and superior to the WDA Subordinate Bonds. The 1999 Bonds issued to assume the District's Series 1987 B Bonds shall be on parity with the WDA Subordinate Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the 1999 Bonds and the Prior Debt and to make the payments into the sinking funds and the reserve accounts therein and in the Renewal and Replacement Fund established herein or in the Prior Ordinance are hereby irrevocably pledged to the payment of the principal of and any interest on the 1999 Bonds and the Prior Debt as the same become due.

Section 3.08. Form of 1999 Bonds. The text of the 1999 Bonds shall be of substantially as set forth in Exhibit A, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted by this Ordinance or any subsequent resolution or ordinance adopted or enacted prior to the issuance thereof.

Section 3.09. Delivery of 1999 Bonds. Each series of 1999 Bonds shall be issued to the Authority in exchange for the District's Bonds.

Section 3.10. 1999 Bonds are Issued as Parity Bonds. The 1999 Bonds are issued as and shall constitute additional Parity Bonds in accordance with Section 6.08 of the Prior Ordinance. Prior to the issuance of the 1999 Bonds, the following must occur:

A. The City must receive the written approval of the Authority for the issuance of the 1999 Bonds.

B. The conditions of Section 6.08 of the Prior Ordinance must be satisfied.

C. The redesignation by the Commission of the reserve funds for the Series 1987 A Bonds and Series 1987 B Bonds.

D. The 1999 Bonds shall not be issued unless all the payments into the respective funds and accounts provided for in the Prior Ordinance on account of the Prior Debt Outstanding and any other payments provided for in the Prior Ordinance, shall have been made in full as required to the date of delivery of the 1999 Bonds.

ARTICLE IV

FUNDS AND ACCOUNTS

Section 4.01. Funds and Accounts. The funds and accounts established by the Prior Ordinance are hereby continued. In addition to the funds and accounts established by the Prior Ordinance, there is hereby created at the Commission a sinking fund and a reserve account with respect to each series of 1999 Bonds. Following the monthly payment of operation and maintenance expense, the City shall make monthly payments to the Commission of the debt service on the Prior Debt and the 1999 Bonds.

Simultaneously with the transfers made pursuant to Section 4.02A(2) of the Prior Ordinance with respect to the Prior Bonds, the City shall simultaneously deposit on the first day of each month a sum equal to one-sixth of the amount of interest which will become due on the 1999 Bonds on the next ensuing semi-annual interest payment date and shall simultaneously deposit with the Commission on the first of each month beginning on the first day of the month which is thirteen months prior to the first principal payment date of the 1999 Bonds a sum equal to one-twelfth of the principal which will mature or become due on the 1999 Bonds on the next principal payment date.

To the extent not funded with proceeds of the Bonds or otherwise previously funded, the City shall simultaneously with the payments required under Section 4.02A(3) of the Prior Ordinance deposit with the Commission an amount equal to one and one hundred twentieth of the reserve account requirement to the respective reserve account.

Moneys in the respective Sinking Funds shall be used only for the purposes of paying principal of and interest on the respective series of Bonds as the same shall become due. Moneys in the Reserve Account in the respective Sinking Funds shall be used only for the purpose of paying principal of or interest on the respective series of Bonds, as the same shall come due, when other moneys in the respective Sinking Fund are insufficient therefor, and for no other purpose. Except for the funds required to be deposited in the Rebate Fund, all investment earnings on moneys in the respective Reserve Accounts shall be transferred, not less than once each year, to the Bond Construction Trust Fund prior to completion of the Project and thereafter, pro rata, to the respective Sinking Funds.

Any withdrawals from the Reserve Accounts which result in a reduction in the balance of any Reserve Account to an amount below the applicable Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments to the Sinking Funds for payment of debt service on the Bonds have been made in full.

Moneys in the Reserve Accounts shall be invested and reinvested by the Commission in accordance with Section 4.04 hereof.

If on any monthly payment date the revenues are insufficient to place the required amount in any of the funds or accounts as hereinabove and in the Prior Ordinance as provided, the deficiency is to be made up in subsequent payments, in addition to the payments which would otherwise be required to remain in the funds and accounts on subsequent payment dates. During such short period of insufficient funds, the funds received shall be distributed pro rata among the various Bonds outstanding. Additionally, at such time as required by the Authority, the City shall make its debt service payments to the Commission through automatic debit or other automatic bank transfer.

Except as provided above, all sinking fund, reserve, and renewal and replacement payments shall remain as governed by Section 4.02 of the Prior Ordinance.

Section 4.02. Investments. Any moneys held as a part of the funds and accounts created by this Ordinance, other than the Revenue Fund, shall be invested and reinvested by the Commission, the Depository Bank or such other bank or national banking association holding such fund or account, as the case may be, at the direction of the City in any Qualified Investments to the fullest extent possible under applicable laws, this Ordinance, the need for such moneys for the purposes set forth herein and the specified restrictions and provisions set forth in this Section 4.02.

Any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The investments held for any fund or account shall be valued at the lower of cost or then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including the value of accrued interest and giving effect to the amortization of discount. The Commission, the Depository Bank or such other bank or national banking association, as the case may be, shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss of such liquidation. The Depository Bank or such other bank or national banking association may make any and all investments permitted by this section through its own bond department and shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

ARTICLE V

ADDITIONAL COVENANTS OF THE CITY

All the covenants, agreements and provisions of the Prior Ordinance shall remain in full force and effect as long as the Prior Debt and the 1999 Bonds are outstanding and shall apply to the 1999 Bonds as if fully set out herein. The following covenants are supplemented and in addition to the covenants set forth in the Prior Ordinance.

Section 5.01. Tax Covenants. The City hereby further covenants and agrees as follows:

A. PUBLIC PURPOSE BONDS. The System, after the merger, will be solely operated as a public purpose and as local governmental activity of the City.

B. PRIVATE ACTIVITY BOND COVENANT. The City shall not permit at any time or times any of the proceeds of the 1999 Bonds or any other funds of the City to be used directly or indirectly in a manner which would result in the exclusion of the 1999 Bonds from the treatment afforded by Section 103(a) of the Code by reason of the classification of the 1999 Bonds as "private activity bonds" within the meaning of the Code. The City will take all actions necessary to comply with the Code in order to assure the tax-exempt status of the 1999 Bonds.

C. PRIVATE LOAN LIMITATION. The City shall assure that not in excess of 5% of the Net Proceeds of the 1999 Bonds are used, directly or indirectly, to make or finance a loan (other than loans constituting Nonpurpose Investments) to persons other than state or local government units.

D. FEDERAL GUARANTEE PROHIBITION. The City shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the 1999 Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

E. INFORMATION RETURN. The City will file all statements, instruments and returns necessary to assure the tax exempt status of the 1999 Bonds, including without limitation the information return required under Section 149(e) of the Code.

F. FURTHER ACTIONS. The City will take any and all actions that may be required of it (including those deemed necessary by the Authority) so that the interest on the 1999 Bonds will be and remain excludable from gross income for federal income tax purposes, and will not take any actions, or fail to take any actions (including those determined by the Authority) which would adversely affect such exclusion.

Section 5.02. Rebate Covenant. The City is a governmental unit with general taxing powers to finance operations of or facilities of the nature of the System. As covenanted above, the 1999 Bonds are not private activity bonds within the meaning of the Code, and ninety-five percent (95%) or more of the net proceeds (as defined with respect to the Code) of the 1999 Bonds will be used for local governmental activities of the City. The City reasonably expects to expend the proceeds of the 1999 Bonds within the time period that would provide an exception from the rebate requirements of Section 148(f) of the Code. Notwithstanding the foregoing, if the City is in fact subject to such rebate requirements, the City hereby covenants to rebate to the United States the amounts required by the Code and to take all steps necessary to make such rebates. In the event the City fails to make such

rebates as required, the City shall pay any and all penalties and obtain a waiver from the Internal Revenue Service in order to maintain the tax-exempt status of interest on the 1999 Bonds.

Section 5.03. Arbitrage. The City covenants that (i) it will restrict the use of the proceeds of the 1999 Bonds in such manner and to such extent as may be necessary, in view of the City's reasonable expectations at the time of issuance of the 1999 Bonds, so that the 1999 Bonds will not constitute "arbitrage bonds" under Section 148 of the Code, and (ii) it will take all actions that may be required of it (including, without implied limitation, the timely filing of a federal information return with respect to the 1999 Bonds so that the interest on the 1999 Bonds will be and remain excluded from gross income for federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

Section 5.04. Tax Certificate and Rebate. The City shall deliver a certificate of arbitrage, a tax certificate or other similar certificate to be prepared by nationally recognized bond counsel or tax counsel relating to payment of arbitrage rebate and other tax matters as a condition to issuance of the 1999 Bonds. In addition, the City covenants to comply with all regulations from time to time in effect and applicable to the 1999 Bonds as may be necessary in order to maintain the exclusion from gross income for federal income tax purposes of interest on the 1999 Bonds and fully comply with Section 148(f) of the Code, and covenants to take such actions, and refrain from taking such actions, as may be necessary to fully comply with such Section 148(f) of the Code and such regulations, regardless of whether such actions may be contrary to any of the provisions of the Ordinance.

If it is determined that the City does not quality for an exception to Section 148 of the Code or the City is otherwise subject to rebate in connection with the 1999 Bonds, the City shall calculate, annually, the rebatable arbitrage, determined in accordance with Section 148(f) of the Code. Upon completion of each such annual calculation, unless otherwise agreed by the Authority, the City shall deposit, or cause to be deposited, with the Depository Bank in a separate fund designated the Rebate Fund, such sums as are necessary to cause the aggregate amount on deposit in the Rebate Fund to equal the sum determined to be subject to rebate to the United States, which, notwithstanding anything herein to the contrary, shall be paid from investment earnings on the underlying fund or account established hereunder and on which such rebatable arbitrage was earned or from other lawfully available sources. Notwithstanding anything herein to the contrary, the Rebate Fund shall be held free and clear of any lien or pledge hereunder, if any, and used only for payment of rebatable arbitrage to the United States. The City shall pay, or cause to be paid, to the United States, from the Rebate Fund, the rebatable arbitrage in accordance with Section 148(f) of the Code and such Regulations. In the event that there are any amounts remaining in the Rebate Fund following all such payments required by the preceding sentence, the Depository Bank shall pay said amounts to the City to be used for any lawful purpose of the System. The City shall remit payments to the United States in the time and at the address prescribed by the regulations as the same may be from time to time in effect with such reports and statements as may be prescribed by such regulations. In the event that,

for any reason, amounts in the Rebate Fund are insufficient to make the payments to the United States which are required, the City shall assure that such payments are made by the City to the United States, on a timely basis, from any funds lawfully available therefor. In addition, the City shall cooperate with the Authority in preparing rebate calculations and in all other respects in connection with rebates and hereby consents to the performance of all matters in connection with such rebates by the Authority at the expense of the City. To the extent not so performed by the Authority, the City and the Depository Bank (at the expense of the City) may provide for the employment of independent attorneys, accountants or consultants compensated on such reasonable basis as the City or the Depository Bank may deem appropriate in order to assure compliance with this Section 5.11. The City shall keep and retain, or cause to be kept and retained, records of the determinations made pursuant to this Section 5.11 in accordance with the requirements of Section 148(f) of the Code. In the event the City fails to make such rebates as required, the City shall pay any and all penalties and other amounts, from lawfully available sources, and obtain a waiver from the Internal Revenue Service, if necessary, in order to maintain the exclusion of interest on the 1999 Bonds from gross income for federal income tax purposes.

The City shall submit to the Authority within 15 days following the end of each Bond Year a certified copy of its rebate calculation and certificate with respect thereto or, if the City qualifies for the small governmental issue exception to rebate or any other exception therefrom, then the City shall submit to the Authority a certificate stating that it is exempt from such rebate provisions and that no event has occurred to its knowledge during the Bond Year which would make the 1999 Bonds subject to rebate. The City shall also furnish to the Authority, at any time, such additional information relating to rebate as may be reasonably requested by the Authority, including information with respect to earnings on all funds constituting "gross proceeds" of the 1999 Bonds (as defined in the Code).

The City shall furnish to the Authority, annually, at such time as it is required to perform its rebate calculations under the Code, a certificate with respect to its rebate calculations and, at any time, any additional information relating thereto as may be requested by the Authority and shall furnish to the Authority such information with respect to earnings on all funds constituting "gross proceeds" of the 1999 Bonds (as that term is defined in the Code) from time to time as the Authority may request.

Section 5.05. Securities Laws Compliance. The City will provide the Authority, in a timely manner, with any and all information that may be requested of it (including its annual audit report, financial statements, related information and notices of changes in usage and customer base) so that the Authority may comply with the provisions of SEC Rule 15c2-12 (17CFR Part 240).

Section 5.06. Defeasance of Bonds. If the City shall pay or cause to be paid, or there shall otherwise be paid, to the Owners of all 1999 Bonds the principal thereof, and redemption premium, if applicable, and interest due or to become due thereon, at the times and in the manner stipulated therein and in the Ordinance, then the pledge of Net Revenues and any other moneys and securities pledged under this Ordinance and all covenants,

agreements and other obligations of the City to the Bondholders shall thereupon cease, terminate and become void and be discharged and satisfied.

The 1999 Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agent at the same or earlier time, shall be sufficient to pay, as and when due, the principal of and interest on the Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this Section. All Bonds shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section if there shall have been deposited with the Commission or its agents, either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with other moneys, if any, deposited with the Commission at the same time, shall be sufficient to pay when due the principal installments and interest due and to become due on said Bonds on and prior to the maturity dates thereof. Neither securities nor moneys deposited with the Commission pursuant to this Section nor principal or interest payments on any such securities shall be withdrawn or used for any purposes other than, and shall be held in trust for, the payment of the principal of and redemption premium, if applicable, on and interest on said Bonds; provided, that any cash received from such principal or interest payments on such securities deposited with the Commission, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the principal of and redemption premium, if applicable, on and interest to become due on said Bonds on and prior to such redemption date or maturity date thereof, as the case may be, and interest earned from such reinvestments shall be paid over to the City, as received by the Commission, free and clear of any trust, lien or pledge. For the purpose of this Section, securities shall mean and include only Government Obligations.

ARTICLE VI

MISCELLANEOUS

Section 6.01. Modification or Amendment. No material modification or amendment of this Ordinance or of any ordinance or resolution amendatory hereof or supplemental hereto which would materially and adversely affect the rights of Bondholders shall be made without the consent in writing of the owners of two-thirds (2/3) or more in principal amount of the 1999 Bonds then Outstanding and to be affected by said modification; provided, however, that no change shall be made in the maturity of any 1999 Bond or 1999 Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the City to pay such principal and interest out of the revenues of the System without the consent of the owner thereof. No amendment or modification shall be made which would reduce the percentage of the principal amount of 1999 Bonds required for consent to the above permitted amendments or modifications.

Section 6.02. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, such invalidity shall not affect any of the remaining provisions of this Ordinance.

Section 6.03. Repeal of Conflicting Ordinances. All ordinances, resolutions and orders, or parts thereof, other than the Prior Ordinance, in conflict with this Ordinance are to the extent of such conflict repealed.

Section 6.04. Covenant of Due Procedure. The City covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the final enactment and passage of this Ordinance do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Mayor, the City Clerk and members of Council were at all times when any actions in connection with this Ordinance occurred, and are, duly in office and duly qualified for such office.

Section 6.05. Abstract of Ordinance and Notice of Public Hearing. Upon adoption hereof, the abstract of this Ordinance in the form set forth in Exhibit B attached hereto and incorporated herein by reference, shall be published once a week for two successive weeks, with at least six full days intervening between each publication, in the Charleston Gazette and Charleston Daily Mail, newspapers of general circulation in the City of Charleston, together with a notice stating that this Ordinance has been adopted and that the City contemplates the issuance of the Bonds, and that any person interested may appear before the City upon a certain date, not less than ten days subsequent to the date of the first publication of such abstract of this Ordinance and notice, and present protests, and that a certified copy of this Ordinance is on file with the City for review by interested persons during office hours of the City. The Council hereby determines that the Abstract contains sufficient information as to give notice of the contents hereof. At such hearing, all objections and suggestions shall be heard and the City shall take such action as it shall deem proper in the premises.

Section 6.06. Effective Date. This Ordinance shall take effect after passage, public hearing and otherwise in the manner prescribed by law.

EXHIBIT A

[FORM OF THE 1999 BOND]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
COUNTY OF KANAWHA
THE CITY OF CHARLESTON
SEWERAGE SYSTEM REVENUE BONDS, 1999 SERIES __

No. R-__ $_____

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF CHARLESTON, a municipal corporation of the State of West Virginia, in Kanawha County of said State (the "City"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to West Virginia Water Development Authority (the "Authority "), or registered assigns, the sum of _____ ($___ _____), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as Exhibit A hereto and incorporated herein by reference, in installments on October 1 commencing _____, 199__, as set forth on the "Schedule of Annual Debt Service" attached as Schedule A hereto and incorporated herein by reference, with interest on each installment at the rate of _____ percent (___%) per annum as set forth on said Schedule A.

Principal installments of this 1999 Bond are payable in any coin or currency which, on the respective dates of payment of principal, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the Paying Agent. The interest on this 1999 Bond is payable by check or draft mailed to the Payee at the address as it appears on the books of the Registrar on the 15th day of the month preceding an interest payment date or by such other method as shall be mutually agreeable so long as the Authority is registered owner hereof.

This 1999 Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority.

This 1999 Bond is issued to evidence the City's assumption of the Mt. Tyler Public Service District's _____. This 1999 Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act"), Ordinance No. 4828 enacted on April 20, 1992, as amended, Ordinance No. _____ enacted by the City on the ___ day of _____, 1999, and a Supplemental Resolution adopted by the City on the __ day of _____, 1999 (collectively called the "Ordinance"), and is subject to all the terms and conditions thereof. The

Ordinance provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the 1999 Bonds under the Ordinance.

This 1999 Bond ranks equally as to lien and security with the _____, as are defined in the Ordinance.

This 1999 Bond is payable only from and secured by a pledge of a first lien on the Net Revenues as defined in the Ordinance, to be derived from the operation of the System, moneys in the Reserve Account created under the Ordinance and unexpended proceeds of the 1999 Bonds on parity with the Prior Bonds [but senior to the WDA Subordinate Bonds.] Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This 1999 Bond does not constitute a corporate indebtedness of the City within the meaning of any constitutional or statutory provisions or limitations, nor shall the City be obligated to pay the same or the interest thereon except from said special fund provided from the Net Revenues, the moneys in the Reserve Account and unexpended 1999 Bond proceeds. Pursuant to the Ordinance, the City has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the amount required to pay the maximum amount due in any ensuing fiscal year of principal of and interest on all obligations on a parity with or prior to the 1999 Bonds, payable from such revenues, provided however, that so long as there exists in the Reserve Account an amount equal to the maximum amount of principal and interest which will become due on the 1999 Bonds and any bonds on a parity therewith in any succeeding fiscal year and in each of the reserve accounts for the Prior Bonds, respectively, an amount equal to the requirement therefor, such percentage may be reduced to 110%. The City has entered into certain further covenants with the registered owners of the 1999 Bonds for the terms of which reference is made to the Ordinance. Remedies provided the registered owners of the 1999 Bonds are exclusively as provided in the Ordinance, to which reference is here made for a detailed description thereof.

This 1999 Bond is transferable, as provided in the Ordinance, only upon the books of the Registrar, kept for that purpose at the office of the Registrar, by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this 1999 Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or its attorney duly authorized in writing.

This 1999 Bond, under the provision of the Act is, and has provided all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this 1999 Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be

applied solely to the payment of the Costs of the Project described in the Ordinance or to the appurtenant sinking fund, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the owner of this 1999 Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this 1999 Bond have existed, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this 1999 Bond, together with all other obligations of the City, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the revenues of the System has been pledged to and will be set aside into said special fund by the City for the prompt payment of the principal of and interest on this 1999 Bond.

All provisions of the Ordinance, resolutions and statutes under which this 1999 Bond is issued shall be deemed to be a part of the contract evidenced by this 1999 Bond to the same extent as if written fully herein.

IN WITNESS WHEREOF, THE CITY OF CHARLESTON has caused this 1999 Bond to be signed by its Mayor and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Clerk, and has caused this 1999 Bond to be dated ____, 1999.

[SEAL]

_____
Mayor

ATTEST:

_____
City Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This 1999 Bond is one of the 1999 Bonds described in the within-mentioned Ordinance and has been duly registered in the name of the registered owner set forth above.

_____,
as Registrar

By _____
Its Authorized Officer

Dated: _____

1
2
3
4
5

SCHEDULE A

SCHEDULE OF ANNUAL DEBT SERVICE

[Form of Assignment]

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto

_____

_____

_____

_____

_____

the within 1999 Bond and does hereby irrevocably constitute and appoint _____ ____, Attorney to transfer the said 1999 Bond on the books kept for registration of the within 1999 Bond of the said City with full power of substitution in the premises.

Dated: _____, ___.

_____

In the presence of:

_____

[THIS IS THE END OF EXHIBIT A]

EXHIBIT B

THE CITY OF CHARLESTON, WEST VIRGINIA

NOTICE OF PUBLIC HEARING and ABSTRACT OF BOND ORDINANCE

Notice is hereby given to any person interested that on February 1, 1999, the Council of The City of Charleston, West Virginia (the "City") adopted an ordinance which:

1. Authorized the acquisition by merger of the assets of Mt. Tyler Public Service District (the "District") to be incorporated in the City's wastewater treatment system (the "System") and the assumption of the District's outstanding bond debt through the issuance of not more than $850,000 in aggregate principal amount of Sewerage System Revenue Bonds, Series 1999 (the "Bonds").

2. Directed that the Bonds be issued in two or more series and in the form of one bond each, fully registered with a payment record attached; that interest on the Bonds shall be no more than twelve percentum (12%) per annum, that said Bonds mature in not more than forty years and that said Bonds be issued for the par value thereof; that the Bonds be executed in the name of the City by the Mayor, and the seal of the City be affixed thereto and attested to by the City Clerk; that such Bonds be duly authenticated by the Registrar and delivered to the West Virginia Water Development Authority.

4. Directed the continuation of the Revenue Fund and the disposition of the System revenues; provided for the payment of operating expenses; provided for the monthly payment of principal and interest when due; provided for the creation of reserve accounts for the Bonds and continuation of a Renewal and Replacement Fund; and provided for the use of excess funds of the System.

5. Pledged the Net Revenues of the System to payment of the Bonds.

The City contemplates the issuance of the Bonds described in, and under the conditions set forth in the Ordinance abstracted above. Any person interested may appear before the Council of the City of Charleston at a regular meeting thereof at 8:00 p.m., prevailing time, on February 16, 1999, at the

Council Chambers, City Hall, Charleston, West Virginia, and present objections and be heard as to whether the above described Ordinance shall be put into effect.

A certified copy of the Ordinance as adopted by the Council of City on February 1, 1999, is on file with the City Clerk for review by interested persons at the City Hall during regular office hours, to-wit: 8:00 a.m. to 4:00 p.m., Monday through Friday.

/s/

City Clerk -- The City of Charleston,
West Virginia

CERTIFICATE OF TRUTH AND ACCURACY

I, the undersigned, as Clerk of The City of Charleston, Kanawha County, West Virginia, do hereby certify that the foregoing document is a true and accurate copy of an official record of The City of Charleston, such records being in the custody of the undersigned and maintained at The City of Charleston, City Hall, Charleston, Kanawha County, West Virginia, and that the action taken by the Council in the foregoing document remains in full force and effect and has not been amended or repealed.

Dated this ___ day of _____, 1999.

_____
City Clerk

[SEAL]

137651

City of Charleston
P.O. Box 2749
Charleston, West Virginia 25330

CERTIFICATE

I, the undersigned City Clerk of the City of Charleston, do hereby certify that the foregoing is a true, correct and complete copy of Council Minutes, enacted by the City Council of the City on January 19, 1999.

Witness the signature of the undersigned City Clerk of the City of Charleston, West Virginia, and the seal of said City, this 18 day of June, 1999

Melissa W. Hughes
Deputy II City Clerk

Seal

JOURNAL

OF THE

COUNCIL

CITY OF CHARLESTON

WEST VIRGINIA

JANUARY 19, 1999

The Council met in its Chamber in the City Building at 8:00 P.M. for the second meeting in the month of January and was called to order by the Mayor, the Honorable G. Kemp Melton.

Prayer was offered by the Honorable Ernest "Ernie" Layne, Councilman for the 5th Ward.

The Clerk called the roll and the following members answered to their names:

Barron
Barth
Connell
Crickenberger
Gilmer
Haddad
Hardy
Horan
Huffman
Kimberling
Lanham
Layne
Leary
Loeb
Lopez
Malone
McClaskie
Morton
Nielsen
Quick
McKnight
Smith
Snodgrass
Snuffer
Mayor Melton

Twenty-five members being present, two being absent for roll call , Councilman Hicks and Lane, the Mayor declared a quorum.

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

January 19, 1999 2nd MEETING

PUBLIC SPEAKERS

1. Margaret Bishop
2. Walter A. Case
3. Rev. James Murray
4. Rev. L. Allan Hill

CLAIMS

1. A Claim of Daniel R. Barnett; 828 Mammouth Street, St. Albans, WV; alleges damages to property; Referred to City Solicitor

2. A Claim of Jennifer L. Campbell; 327 Maple Avenue, Morgantown, WV; alleges damages to vehicle; Referred to City Solicitor

3. A Claim of Mansour Saghabashi; 1811 Whitney Street, Charleston, WV; alleges damages to property; Referred to City Solicitor

COMMUNICATIONS

APPOINTMENTS

TO: Fred M. Frisk, Jr., City Clerk
Members of Charleston City Council
FROM: G. Kemp Melton, Mayor
SUBJECT: Council Committee Appointments
DATE: January 19, 1999

Please be advised that I am appointing Paul Gilmer, Jr. as Chairman of the Select Committee on Human Rights due to the resignation of Bob Redman.

Received and Filed.

TO: Fred M. Frisk, Jr., City Clerk
Members of Charleston City Council
FROM: G. Kemp Melton, Mayor
SUBJECT: Kenneth McKnight Committee Appointments
DATE: January 19, 1999

Please be advised that I am appointing Kenneth McKnight to the following Council Committees.

Civil Service Procedures	Public Safety
Streets & Traffic	Select Committee on Human Rights
Select Committee on Urban Renewal	

Received and Filed.

TO: Fred M. Frisk, Jr., City Clerk
Members of Council
FROM: G. Kemp Melton, Mayor
SUBJECT: Architectural Review Committee
DATE: January 19, 1999

I am aware of the expiration of the term of Robert Shay as a member of the Architectural Review Committee.

I am recommending the following:

The re-appointment of Robert Shay, to a term that will expire January 21, 2002.

I respectfully request City Council approval of this recommendation.

The question being on the confirmation of the appointment a vote was taken. There being no dissent the Mayor declared the appointment confirmed unanimously.

MUNICIPAL PLANNING COMMISSION REPORTS

Honorable G. Kemp Melton, Mayor
and Members of City Council
Charleston, WV 25301

Dear Mayor Melton and Councilmembers:

On January 6, 1999, the Municipal Planning Commission held public hearings and its regular monthly meeting: Below are the cases they considered and their recommendations for your consideration:

Bill No. 6499 - Petition of R. C. Elmore Memorial Advent Christian Church requesting permission to close, abandon & discontinue as a public alley that certain 10' alley which lies behind 1001 Crescent Road, 114 Avon Street, and 315 Market Drive. The Commission recommended passage of the bill.

Bill No. 6524 - Petition of Patricia Holcomb, Doris Warlick & Teresa Weible to close, abandon & discontinue as a public right-of-way an unimproved portion of Milton Street situate between 1408 Milton Street, 1506 Hansford Street & Lots 9 & 10 Cart Street. The Commission recommended passage of the bill.

Bill No. 6540 - Petition of Homer Kincaid on behalf of Human Resources Development and Employment to rezone property at the northwest corner of Garvin Avenue and West Washington Street from an R-4 district to an R-10 district in order to develop the property as a multi-family dwelling unit. The Commission recommended passage of the bill.

Special Permit No. 877 - Application of John W. Albaugh & Alice Hypes-Brown to establish a business or professional office at 1612 Kanawha Boulevard, East. The Commission recommended approval of the special permit.

Sincerely,
MUNICIPAL PLANNING COMMISSION
/s/ Phyllis White
Phyllis White, Administrative Assistant

Mayor Melton referred all cases to the Council Committee on Planning.

MISCELLANEOUS RESOLUTIONS

Introduced by Councilwoman Jody Connell on January 19, 1999.

Resolution No. 117-99--"Appointing election officials; fixing the compensation of election officials; establishing voting places to serve the several precincts to conduct the City of Charleston Primary Election on the ninth day of March, 1999; and providing for the use of electronic voting systems."

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

1. That the Council of the City of Charleston does hereby appoint the following persons to serve as election officials in the capacity and in the precincts designated as set forth in the list which is hereby attached.

2. That each commissioner of election and each poll clerk be paid the sum of $90.00 for his/her services as such commissioner and clerk of the election, and an additional sum of $40.00 for his/her attendance at schools of instruction for election officials. That each commissioner of election designated to attend at the Kanawha County Voter's Registration Office to receive election supplies from the City Clerk of the City of Charleston and deliver the returns of said election be paid an additional sum of $50.00 for his/her services. That each commissioner of the opposite party who travels with the commissioner returning the supplies be paid an additional sum of $10.00 for his/her services.

3. That one Democrat and one Republican Ballot Commissioner be paid the sum of $50.00 per day for his/her services which includes being present for the Public Test on March 2, 1999, being present at Kanawha County Voter's Registration Office on election night, and be available to sign absentee ballots.

4. That one Democrat and one Republican Emergency Absentee Ballot Commissioner be paid the sum of $50.00 for his/her services as required by the WV *Code* 3-3-5c.

5. That electronic voting devices shall be used in said election and the City Clerk is hereby

authorized and directed to arrange for the rental of those electronic voting devices for each voting precinct from the County Commission of Kanawha County, West Virginia, and make such other arrangements as are necessary incident to the use thereof.

WARD 1
PRECINCT 297

POLLING PLACE:	Charleston Fire Station #8 26th Street, West and 5th Avenue 348-8088	
DEMOCRAT CLERK:	Glenda J. White 2310 4th Avenue Charleston, WV 25312	344-4929
REPUBLICAN CLERK:	Misty W. White 2310 4th Avenue Charleston, WV 25312	344-4949
DEMOCRAT SUPPLY COMMISSIONER:	Gary Sutton 1111 Rosalie Drive Charleston, WV 25302	345-4887
DEMOCRAT COMMISSIONER:	Betty Carpenter 306 30th Street West Charleston, WV 25312	744-3350
REPUBLICAN ESCORT COMMISSIONER:	Mary Anderson 3921 Washington Street W. Charleston, WV	744-2316

WARD 1
PRECINCT 298

POLLING PLACE:	Grandview Elementary 959 Woodward Drive Charleston, WV 348-1928	Custodian
DEMOCRAT CLERK:	Delores Reed 1063 Woodward Drive Charleston, WV 25312	744-4230
REPUBLICAN CLERK:	Pauline Hemlepp 2304 Blackwell Drive Charleston, WV 25312	744-6680

DEMOCRAT SUPPLY COMMISSIONER:	Guy Corey 2106 Zabel Drive Charleston, WV 25312	744-9888
DEMOCRAT COMMISSIONER:	Betty Shawver 914 Woodward Drive Charleston, WV 25312	744-0536
REPUBLICAN ESCORT COMMISSIONER:	Mabel Corey 2106 Zabel Drive Charleston, WV 25312	744-9888

WARD 1
PRECINCT 299

POLLING PLACE:	North Charleston Rec. Center 2009 7th Avenue	
DEMOCRAT CLERK:	Glenda L. Johnson 411 21st Street West Charleston, WV 25312	342-4408
REPUBLICAN CLERK: ESCORT	Linda Marshall 2370 Savay Drive Charleston, WV 25312	744-6620
DEMOCRAT SUPPLY COMMISSIONER:	Jean Smith 417 21st West Charleston, WV 25312	346-3177
DEMOCRAT COMMISSIONER:	George Shawver 914 Woodward Drive Charleston, WV 25312	744-0536
REPUBLICAN COMMISSIONER:	Betty Basham 2290 Blackwell Drive Charleston, WV	744-0536

WARD 2
PRECINCT 401

POLLING PLACE:	Iron Workers Local #301 2425 Hampshire Drive

DEMOCRAT CLERK:	Helen Thomas 869 Hanna Drive Charleston, WV 25312	342-0671
REPUBLICAN CLERK:	Blddie Hatcher 1629 Sugar Creek Drive Charleston, WV 25312	343-7909
DEMOCRAT SUPPLY COMMISSIONER:	Verna Burford 1867 Sugar Creek Drive Charleston, WV 25312	345-8863
DEMOCRAT POLL COMMISSIONER:	Lucy Ann Smith 2355 Hampshire Drive Charleston, WV 25312	346-1045
REPUBLICAN ESCORT COMMISSIONER:	Alice Stanley 1754 Sugar Creek Drive Charleston, WV 25312	342-4480

WARD 2
PRECINCT 402

POLLING PLACE:	Chandler Drive Rec. Center 2000 Arnold Drive	
DEMOCRAT CLERK:	Joe Burford 1533 Chandler Drive Charleston, WV 25312	343-5855
REPUBLICAN CLERK:	Tessa B. Vance 622 Granada Way Charleston, WV 25304	925-8612
DEMOCRAT SUPPLY COMMISSIONER:	Juanita Gibson 1591 Pansey Drive Charleston, WV	344-9072

DEMOCRAT COMMISSIONER:	Georgie Hamric 715 Randolph Street Box 110 Charleston, WV 25302	342-3145
REPUBLICAN ESCORT COMMISSIONER:	Tony Broyles 1518 Chandler Drive Charleston, WV 25312	345-6428

WARD 2
PRECINCT 403

POLLING PLACE:	J.E. Robbins Elementary School 915 Beech Avenue	
DEMOCRAT CLERK:	Tiny Surbaugh 815 Amity Drive Charleston, WV	342-0712
REPUBLICAN CLERK:	Juanita Duff 914 Beech Avenue Charleston, WV 25302	343-2766
DEMOCRAT SUPPLY COMMISSIONER:	Parker Shamblin 1204 Garvin Avenue Charleston, WV	343-6350
DEMOCRAT POLL COMMISSIONER:	Reba Jones 1756 Sugar Creek Drive	343-1230
REPUBLICAN ESCORT COMMISSIONER:	Inez Batman 788 Amity Drive Charleston, WV 25302	344-8677

WARD 3
PRECINCT 404

POLLING PLACE:	Tiskelwah Elementary School 600 Florida Street

DEMOCRAT CLERK:	Betty Boggess 910 Michael Avenue Charleston, WV 25312	343-0293
REPUBLICAN CLERK:	Bess Kessler 1627 Clay Avenue Charleston, WV 25312	342-6668
DEMOCRAT SUPPLY COMMISSIONER:	Jean Wilkinson 1319 Red Oak Street Charleston, WV 25312	343-4943
DEMOCRAT POLL COMMISSIONER:	Margaret Higgins 1625 Horns Avenue Charleston, WV 25312	346-8681
REPUBLICAN CLERK COMMISSIONER:		

WARD 3
PRECINCT 405

POLLING PLACE:	Chandler Elementary School 1900 School Street	
DEMOCRAT CLERK:	Virginia Nesmith-Sibe 900 Griffith Drive Charleston, WV	345-8768
REPUBLICAN COMMISSIONER:	James Reed 766 Amity Drive Charleston, WV 25302	345-9728
DEMOCRAT SUPPLY COMMISSIONER:	Jackie Watson 905 Griffith Drive	343-0071
DEMOCRAT POLL COMMISSIONER:	Wayne House 619 Carroll Terrace	

REPUBLICAN ESCORT CLERK:	Helen Reed 47 Garrison Avenue Charleston, WV 25302	

WARD 4
PRECINCT 406

POLLING PLACE:	Tiskelwah Elementary School 600 Florida Street	
DEMOCRAT CLERK:	Betty Hamric 927 Sixth Street Charleston, WV 25302	343-3306
REPUBLICAN COMMISSIONER:	Norma Arrington 307 Elm Street Charleston, WV 25302	343-0037
DEMOCRAT SUPPLY COMMISSIONER:	Darnell Smith 913 Thompson Street Charleston, WV	345-7854
DEMOCRAT COMMISSIONER:	William Henry 112 North Arthur Drive Charleston, WV 25312	744-0689
REPUBLICAN ESCORT CLERK:	Margaret Sharp 613 Florida Street Charleston, WV 25302	342-6826

WARD 4
PRECINCT 407

POLLING PLACE:	Cabell School 1301 Florida Street	
DEMOCRAT CLERK:	Betty Hamric 927 Sixth Street Charleston, WV 25302	343-3306
REPUBLICAN CLERK:	Joyce Guthrie 1112 Rosalie Drive Charleston, WV 25302	345-6492

DEMOCRAT SUPPLY COMMISSIONER:	Dwight Belcher 1425 4th Avenue Charleston, WV 25312	925-0536
DEMOCRAT COMMISSIONER:	Ronald DuBois 808 Maple Road Charleston, WV 25302	343-6578
REPUBLICAN ESCORT COMMISSIONER:	Virginia J. Lawson 1507 4th Avenue Charleston, WV 25312	346-3486

WARD 5
PRECINCT 408

POLLING PLACE:	Stonewall Jackson Jr. High School 812 Park Avenue	
DEMOCRAT CLERK:	Mary Stewart 1404 Viewmont Drive Charleston, WV 25302	346-5532
REPUBLICAN CLERK:	E.R. Murray 200 Pennsyvania Avenue Charleston, WV	346-4397
DEMOCRAT SUPPLY COMMISSIONER:	Jane Hicks 917 7th Avenue West Charleston, WV 25302	342-6447
DEMOCRAT COMMISSIONER:	Deborah Phillips 405 Sheridan Circle Charleston, WV 25314	343-3324
REPUBLICAN ESCORT COMMISSIONER:	Harold Straughter 138 ½ Wertz Avenue Charleston, WV 25311	342-8031

WARD 5
PRECINCT 409

POLLING PLACE:	Stonewall Jackson Jr. High 812 Park Avenue

DEMOCRAT CLERK:	Betty Harris 920 Garden Street Charleston, WV 25302	346-4465
REPUBLICAN CLERK:		
DEMOCRAT SUPPLY COMMISSIONER:	Barbara Ferrell 847 Maple Road Charleston, WV 25302	344-2961
DEMOCRAT COMMISSIONER:	Betty Jo Beulike 702 Amity Drive Charleston, WV 25302	344-3110
REPUBLICAN ESCORT COMMISSIONER:	Julia Halloran 1620 Greystone Place Charleston, WV 25314	342-7080

WARD 5
PRECINCT 410

POLLING PLACE:	Cato Park 200 Baker Lane	
DEMOCRAT CLERK:	Mary C. Henson 705 Amity Drive Charleston, WV 25302	346-1585
REPUBLICAN CLERK:		
DEMOCRAT SUPPLY COMMISSIONER:	Bill Stewart 1404 Viewmont Drive Charleston, WV 25302	346-5532
DEMOCRAT COMMISSIONER:	Barbara King 1310 Summit Drive Charleston, WV 25302	346-2310

REPUBLICAN
ESCORT
COMMISSIONER:

WARD 6
PRECINCT 411

POLLING PLACE: Jarrett Terrace
824 Central Avenue

DEMOCRAT CLERK: Mariam F. Hanna
110 Forest Drive 344-1222
Charleston, WV 25302

REPUBLICAN CLERK:

DEMOCRAT SUPPLY COMMISSIONER: Florence Williams
97 Glenwood Avenue 345-7606
Charleston, WV 25302

DEMOCRAT COMMISSIONER: Doris Walker
619 B. Tennessee Avenue 345-0835
Charleston, WV 25302

REPUBLICAN
ESCORT
COMMISSIONER:

WARD 6
PRECINCT 412

POLLING PLACE: Knights of Pythias Hall
211 Tennessee Avenue

DEMOCRAT CLERK: Lydia Browning
213 Wyoming Street 345-0176
Charleston, WV 25302

REPUBLICAN
COMMISSIONER:

DEMOCRAT SUPPLY COMMISSIONER:	Gloria J. Myers 613 Main Street Charleston, WV 25302	344-9037
DEMOCRAT COMMISSIONER:	Francis Wines 231 Garrison Avenue Charleston, WV 25302	345-5874
REPUBLICAN ESCORT CLERK:	Dorothy Otey 502 Grant Street Charleston, WV 25302	342-5257

WARD 7
PRECINCT 413

POLLING PLACE: International Brotherhood Electrical Workers
800 Indiana Avenue

DEMOCRAT CLERK:	Elizabeth Alderman 904 Indiana Avenue	342-6302
REPUBLICAN CLERK:		
DEMOCRAT SUPPLY COMMISSIONER:	Eva Bevino 515 Main Street	346-3511
DEMOCRAT COMMISSIONER:	Rene Bevino 213 Libby Lane Charleston, WV 25312	
REPUBLICAN ESCORT COMMISSIONER:		

WARD 7
PRECINCT 414

POLLING PLACE: Watts Elementary
230 Costello Street

DEMOCRAT CLERK:	Melina Monroe 505 Butler Street Charleston, WV 25302	
REPUBLICAN CLERK:	Hobart Fisher 761 Amity Drive Charleston, WV 25302	346-2428
DEMOCRAT SUPPLY COMMISSIONER:	Joyce Taylor 907 Anaconda Avenue Charleston, WV 25302	343-0458
DEMOCRAT COMMISSIONER:	Patrick Smith 342 Butler Street Charleston, WV 25302	
REPUBLICAN ESCORT COMMISSIONER:		

WARD 7
PRECINCT 415

POLLING PLACE:	Watts Elementary 230 Costello Street
DEMOCRAT CLERK:	Bernie Chazans 905 Amaconda Avenue Charleston, WV 25302
REPUBLICAN CLERK:	

DEMOCRAT SUPPLY COMMISSIONER:	Gloria High 704 Butler Street Charleston, WV 25302	346-7481
DEMOCRAT COMMISSIONER:	Victoria Forward 704 ½ Butler Street Charleston, WV 25302	
REPUBLICAN ESCORT COMMISSIONER:		

WARD 8
PRECINCT 416

POLLING PLACE:	Taft Elementary 1719 Bigley Avenue	
DEMOCRAT CLERK:	June Russell 207 Ash Street Charleston, WV 25302	343-0837
REPUBLICAN COMMISSIONER:	Freddy VanKamp 401 Cora Street Charleston, WV 25302	346-5552
DEMOCRAT SUPPLY COMMISSIONER:	Iris J. Stone 145 Garrison Avenue Charleston, WV 25302	346-5826
DEMOCRAT POLL COMMISSIONER:	Karen K. Stone 117 Garrison Avenue Charleston, WV 25302	345-0270
REPUBLICAN ESORT CLERK:	Curtis Eugene Sheets 1409 Camden Drive Charleston, WV 25302	343-8351

WARD 8
PRECINCT 417

POLLING PLACE:	Taft Elementary 1719 Bigley Avenue	
DEMOCRAT CLERK:	Karen Taylor 540 Earle Street Charleston, WV 25302	343-2857
REPUBLICAN COMMISSIONER:	Fontanie M. Taylor 141 Garrison Avenue Charleston, WV 25302	343-1093
DEMOCRAT SUPPLY COMMISSIONER:	Juanita McComas 1613 Woodbine Avenue Charleston, WV 25302	343-1008

DEMOCRAT COMMISSIONER:	Beulah Marie James 227 Garrison Avenue Charleston, WV 25302	346-6285
REPUBLICAN ESCORT CLERK:	C. Fred Fox 719 Red Oak Street Charleston, WV 25302	345-7519

WARD 9
PRECINCT 166

POLLING PLACE:	Kanawha Valley Sr. Center 415 Bibby Street	
DEMOCRAT CLERK:	Dollie Moore 1412 Red Oak Street Charleston, WV 25312	342-7453
REPUBLICAN CLERK:		
DEMOCRAT SUPPLY COMMISSIONER:	Janice Wren Sugar Creek Drive Charleston, WV 25312	343-6840
DEMOCRAT COMMISSIONER:	Irena W. Mann 100 Washington Street East Apt.401 Charleston, WV 25302	345-1984
REPUBLICAN ESCORT COMMISSIONER:		

WARD 9
PRECINCT 168

POLLING PLACE:	Garnet Adult Center 22 Dickenson Street	
DEMOCRAT CLERK:	Emma Gregg 213 Clark Drive Apt. 213 Charleston, WV 25301	345-7713

REPUBLICAN CLERK:

DEMOCRAT SUPPLY COMMISSIONER:	Annabelle Sheets 1517 Jackson Street Charleston, WV 25311	346-1153
DEMOCRAT COMMISSIONER:	Robert L. Cyrus 213 Clark Drive Apt. 212 Charleston, WV 25301	346 8526
REPUBLICAN ESCORT COMMISSIONER:		

WARD 9
PRECINCT 169

POLLING PLACE:	Roosevelt Jr. High School 502 Ruffner Avenue	
DEMOCRAT CLERK:	June M. Board 912 Kanawha Blvd. West Charleston, WV 25302	346-9247
REPUBLICAN CLERK:		
DEMOCRAT SUPPLY COMMISSIONER:	Hazel B. Ellis 610 Margaret Street Charleston, WV 25301	342-3282
DEMOCRAT COMMISSIONER:	Tiffany N. Ellis 610 Margaret Street Charleston, WV 25301	342-3282
REPUBLICAN ESCORT COMMISSIONER:		

WARD 10
PRECINCT 167

POLLING PLACE:	Kanawha-Charleston Health Department 108 Lee Street, East	
DEMOCRAT CLERK:	Antoinette Maxwell 614 Davis Court Apt. 281 Charleston, WV	345-5308
REPUBLICAN CLERK:	Phyllis Skeens 100 Washington Street East Apt.819 Charleston, WV 25301	342-7538
DEMOCRAT SUPPLY COMMISSIONER:	Calvin Ford 1013 Stephen Street Charleston, WV 25302	346-9105
DEMOCRAT COMMISSIONER:	Cheryl Ford 1013 Stephen Street Charleston, WV 25302	346-9105
REPUBLICAN ESCORT COMMISSIONER:	Margaret W. Davis 100 Washington Street East Apt.202 Charleston, WV 25301	342-0626

WARD 10
PRECINCT 172

POLLING PLACE:	Piedmont Elementary 203 Bradford Street	
DEMOCRAT CLERK:	Robert Kuhns 4007 Virginia Avenue Charleston, WV 25304	925 3429
REPUBLICAN CLERK:		
DEMOCRAT SUPPLY COMMISSIONER:	Mary Smith 913 Thompson Street Charleston, WV 25311	345-7854

DEMOCRAT COMMISSIONER:	Peggy A. Cavender 21 Arlington Court Charleston, WV 25301	342-3454
REPUBLICAN ESCORT COMMISSIONER:		

WARD 11
PRECINCT 170

POLLING PLACE:	Roosevelt Jr. High School 502 Ruffner Avenue	
DEMOCRAT CLERK:	Elizabeth Sue Millen 1330 Kanawha Blvd. East Apt.107 Charleston, WV 25301	346-6605
REPUBLICAN CLERK:		
DEMOCRAT SUPPLY COMMISSIONER:	William L. Meadow Jr. 1517 Jackson Street Apt.310 Charleston, WV 25311	345-0491
DEMOCRAT COMMISSIONER:	Sue McElwee 1330 Kanawha Blvd. East Apt. 310 Charleston, WV 25301	342-3324
REPUBLICAN ESCORT COMMISSIONER:		

WARD 11
PRECINCT 174

POLLING PLACE:	Carroll-Terrace Community Room 1546 Kanawha Blvd.

DEMOCRAT CLERK:	Reva Byus 1546 Kanawha Blvd. East Charleston, WV 25311	343-0776
REPUBLICAN CLERK:		
DEMOCRAT SUPPLY COMMISSIONER:	M. Wesley McDaniel 414 Porter Road Charleston, WV 25314	346-4930
DEMOCRAT COMMISSIONER:	Burl Miller 1546 Kanawha Blvd. East Charleston, WV 25311	343-4797
REPUBLICAN ESCORT COMMISSIONER:		

WARD 11
PRECINCT 178

POLLING PLACE:	Terrace Park East 2106 Kanawha Blvd. East	
DEMOCRAT CLERK:	Polly Diller 2106 Kanawha Blvd. East Charleston, WV 25311	346-6792
REPUBLICAN CLERK:		
DEMOCRAT SUPPLY COMMISSIONER:	David Shumate 520 Maxwell Street Charleston, WV 25311	345-6934
DEMOCRAT COMMISSIONER:	Ruth Hall 2019 Quarrier Street Charleston, WV 25311	342-7706
REPUBLICAN COMMISSIONER:	Margaret Warner 1601 Longridge Road Charleston, WV 25314	342-0222

WARD 12
PRECINCT 171

POLLING PLACE:	Board of Education Building 200 Elizabeth Street	
DEMOCRAT CLERK:	Ella Mae Austin 4420 MacCorkle Avenue Apt.501 Charleston, WV 25304	925-8723
REPUBLICAN CLERK:		
DEMOCRAT SUPPLY COMMISSIONER:	Helen L. Rinehart 1021 ½ Bigley Avenue Charleston, WV 25302	343-5938
DEMOCRAT COMMISSIONER:	Naomi Wilgosh 1591 Jackson Street #A Charleston, WV 25301	344-8870
REPUBLICAN ESORT COMMISSIONER:		

WARD 12
PRECINCT 175

POLLING PLACE:	Ruffner Elementary School 808 Lity Drive	
DEMOCRAT CLERK:	Elaine Abnathy 1925 Bona Vista Drive Charleston, WV 25311	343-0783
REPUBLICAN CLERK:		
DEMOCRAT SUPPLY COMMISSIONER:	John L. Mitchell 811 Hamilton Circle Charleston, WV 25311	346-0208

DEMOCRAT COMMISSIONER:	Russell Burs 612 Hall Street Charleston, WV 25302	346-0212
REPUBLICAN ESORT COMMISSIONER:		

WARD 12
PRECINCT 177

POLLING PLACE:	Ruffner Elementary School 808 Lity Drive	
DEMOCRAT CLERK:	Patsy Griffith Route 6 Box 51 Charleston, WV 25311	342-2595
REPUBLICAN CLERK:		
DEMOCRAT SUPPLY COMMISSIONER:	William Ferrell 178 Wertz Avenue Charleston, WV 25311	343-8324
DEMOCRAT COMMISSIONER:	Betty Tolliver 2516 Bench Road Charleston, WV 25311	344-2769
REPUBLICAN ESCORT COMMISSIONER:		

WARD 12
PRECINCT 179

POLLING PLACE:	Ruffner Elementary 808 Lity Drive	
DEMOCRAT CLERK:	Doris Foster 1947 Hardman Drive Charleston, WV 25311	346-5618

REPUBLICAN CLERK:		
DEMOCRAT SUPPLY COMMISSIONER:	Pamela King #9 Park Avenue Charleston, WV 25302	345-3921
DEMOCRAT COMMISSIONER:	Debra Smith 903 Miller Street Charleston, WV 25301	342-1658
REPUBLICAN ESCORT COMMISSIONER:		

WARD 13
PRECINCT 232

POLLING PLACE:	Vandalia Rec. Center 613 Clifton Road	
DEMOCRAT CLERK:	Carla White 618 Jakes Street Charleston, WV 25303	344-1904
REPUBLICAN CLERK:	Emma Pinkard 1321 Mountain Road Charleston, WV 25303	744-2735
DEMOCRAT SUPPLY COMMISSIONER:	Cleota Thacher 611 Cliffton Road Charleston, WV 25303	744-8107
DEMOCRAT COMMISSIONER:	Ramona Samuels 210 32nd Street Charleston, WV 25312	744-7774
REPUBLICAN ESCORT COMMISSIONER:	Edna Wilson 605 Amber Road Charleston, WV 25303	744-1761

WARD 13
PRECINCT 233

POLLING PLACE:	Weberwood Elementary School. 732 Gordon Drive	
DEMOCRAT CLERK:	Steve Webb 5123 Venable Avenue Charleston, WV 25304	926-6621
REPUBLICAN CLERK:	Micheal Lacy 1301 Mountain Road Charleston, WV 25303	346-3855
DEMOCRAT SUPPLY COMMISSIONER:	Betty Zitzelberger 513 Sheridan Circle Charleston, WV 25314	344-3146
DEMOCRAT COMMISSIONER:	Katy Brewer 528 Sheridan Circle Charleston, WV 25314	346-0248
REPUBLICAN ESCORT COMMISSIONER:	Mary B. Johnson 403 McKinley Avenue Charleston, WV 25314	342-1694

WARD 13
PRECINCT 234

POLLING PLACE:	Weberwood Elementary School 732 Gordon Drive	
DEMOCRAT CLERK:	Emma Durbin 1017 Belmont Charleston, WV 25314	
REPUBLICAN CLERK:	Janice Lessley 906 Churchill Circle Charleston, WV 25414	342-6846
DEMOCRAT SUPPLY COMMISSIONER:	Paul Zitzelberger 513 Sheridan Circle Charleston, WV 25314	344-3146

DEMOCRAT COMMISSIONER:	Joesphine Anania 695 Gordon Drive Charleston, WV 25314	344-3800
REPUBLICAN ESCORT COMMISSIONER:	Harry R. Lessley 906 Churchill Circle Charleston, WV 25414	342-6846

WARD 14
PRECINCT 238

POLLING PLACE:	Overbrook Elementary School 218 Oakwood Road	
DEMOCRAT CLERK:	Robert L. Campbell 934 Ridgemont Road Charleston, WV 25314	342-4346
REPUBLICAN CLERK:		
DEMOCRAT SUPPLY COMMISSIONER:	Catherine M. Marks 1812 Huber Road Charleston, WV 25314	342-2490
DEMOCRAT COMMISSIONER:	Floyd Ellis 1718 Rolling Hills Charleston, WV 25314	342-1783
REPUBLICAN ESCORT COMMISSIONER:	John A. Bell 1603 Ravina Road Charleston, WV	744-1827

WARD 14
PRECINCT 240

POLLING PLACE:	George Washington High School 1522 Tennis Club Road

DEMOCRAT CLERK:	Robert Ruckle 1581 Clark Road Charleston, WV 25314	346-9537
REPUBLICAN CLERK:	Glenn Smith 1806 Rosewood Road Charleston, WV 25314	346-7161
DEMOCRAT SUPPLY COMMISSIONER:	Lorraine Patrick 1524 Skyline Road Charleston, WV 25314	343-1298
DEMOCRAT COMMISSIONER:	Dorothy Lawson 1342 Milton Street Charleston, WV 25301	342-0871
REPUBLICAN ESCORT COMMISSIONER:	Dorothy Toney 215 Hayes Avenue Charleston, WV 25314	346-1164

WARD 12
PRECINCT 241

POLLING PLACE:	George Washington High School 1522 Tennis Club Road	
DEMOCRAT CLERK:	Jonothan Battles 832 Greendale Drive Charleston, WV 25314	343-4217
REPUBLICAN CLERK:	Jean Londeree 1503 Autumn Road Charleston, WV 25314	343-8748
DEMOCRAT SUPPLY COMMISSIONER:	Annabell Parsons 1143 Mulberry Circle Charleston, WV 25314	342-5573
DEMOCRAT POLL COMMISSIONER:	Beulah H. Hash 1704 Rolling Hills Road Charleston, WV 25314	342-0380

REPUBLICAN ESCORT COMMISSIONER:	Lucille Cooke 678 Autumn Road Charleston, WV 25314	342-2854

WARD 14
PRECINCT 246

POLLING PLACE:	Overbrook Elementary 218 Oakwood Road	
DEMOCRAT CLERK:	Carolyn Myers 402 Hunters Ridge Road Charleston, WV 25314	744-2673
REPUBLICAN CLERK:		
DEMOCRAT SUPPLY COMMISSIONER:	Jean Ann Baker 5012 Staunton Avenue S. E. Charleston, WV 25304	925-9878
DEMOCRAT POLL COMMISSIONER:	Thomas L. Pickens 1010 Oakmont Road Charleston, WV 25314	346-5858
REPUBLICAN ESCORT COMMISSIONER:	William K. Rogers 1716 Sierra Road Charleston, WV	346-1885

WARD 15
PRECINCT 244

POLLING PLACE:	South Hills Presbyterian Church 804 Myrtle Road
DEMOCRAT CLERK:	
REPUBLICAN CLERK:	

DEMOCRAT SUPPLY COMMISSIONER:	Melissa Mitchell 1171 Emerald Road Charleston, WV 25314	345-5337
DEMOCRAT POLL COMMISSIONER:	Rhonda Hunt 829 Watts Street Apt.1 Charleston, WV	344-3393
REPUBLICAN ESCORT COMMISSIONER:		

WARD 15
PRECINCT 247

POLLING PLACE: Elizabeth Memorial Methodist Church
108 Oakwood Road

DEMOCRAT CLERK: Gail Mayfield

REPUBLICAN CLERK:

DEMOCRAT SUPPLY COMMISSIONER:	Cathy Johnson 753 Canterbury Drive Charleston, WV 25314	343-3387
DEMOCRAT COMMISSIONER:	David Lanham 1425 4th Avenue Charleston, WV 25312	925-0536
REPUBLICAN ESCORT COMMISSIONER:		

WARD 15
PRECINCT 250

POLLING PLACE: Elizabeth Memorial Methodist Church
108 Oakwood Road

DEMOCRAT CLERK:		
REPUBLICAN CLERK:	Deborah Derenburgun 1990 Parkwood Road Charleston, WV 25314	
DEMOCRAT SUPPLY COMMISSIONER:	Rick Martin 1142 Central Avenue Charleston, WV	343-5357
DEMOCRAT POLL COMMISSIONER:	Danny Baker 5012 Staunton Ave S.E Charleston, WV 25304	925-9878
REPUBLICAN ESCORT COMMISSIONER:	Hugh Gilpin 1566 Nottingham Road Charleston, WV 25314	744-5112

WARD 16
PRECINCT 252

POLLING PLACE:	Holtz Elementary School 1505 Hampton Road	
DEMOCRAT CLERK:	Martha Scruggs 1119 Mountain Road Charleston, WV 25303	346-6564
REPUBLICAN CLERK:	Dora Mynes	343-8714
DEMOCRAT SUPPLY COMMISSIONER:	Lloyd C. Hart 3 Hilltop Court Charleston, WV 25314	343-0047
DEMOCRAT COMMISSIONER:	H. Glenn Murphy 965 Gordon Drive Charleston, WV 25303	744-0812
REPUBLICAN ESCORT COMMISSIONER:	Pauline Shaver 3308 Noise Avenue Charleston, WV 25314	345-5464

WARD 16
PRECINCT 253

POLLING PLACE:	Holtz Elementary School 1505 Hampton Road	
DEMOCRAT CLERK:	Bonnie L. Hill 617 Shady Lane Charleston, WV 25314	346-6407
REPUBLICAN CLERK:	Linda Hanson Hilltop Court	
DEMOCRAT SUPPLY COMMISSIONER:	William E. Miller 1513 Bedford Road Charleston, WV 25314	342-7653
DEMOCRAT COMMISSIONER:	Laura Ann Starks 1102 1st Avenue Charleston, WV 25312	344-3927
REPUBLICAN ESCORT COMMISSIONER:	Micheal Carter	344-4254

WARD 16
PRECINCT 254

POLLING PLACE:	Holtz Elementary School 1505 Hampton Road	
DEMOCRAT CLERK:	Jerry Burgess 655 South Park Road#C Charleston, WV 25304	925-1188
REPUBLICAN CLERK:	Rebecca Adams	344-4398 556-1117
DEMOCRAT SUPPLY COMMISSIONER:	Eva Knapp 907 Senica Drive Charleston, WV 25311	342-1335

DEMOCRAT COMMISSIONER:	Thomas Lloyd 1505 Long Ridge Road Charleston, WV 343-6973	343-6973
REPUBLICAN ESCORT COMMISSIONER:	George Warner 1601 Long Ridge Road Charleston, WV 25314	342-0222

WARD 17
PRECINCT 257

POLLING PLACE:	University of Charleston 2300 MacCorkle Avenue	
DEMOCRAT CLERK:	Doris Dunlap 818 Adrian Road Charleston, WV 25314	343-7088
REPUBLICAN CLERK:	Thomas Booth 2923 Noise Avenue Charleston, WV	346-2786
DEMOCRAT SUPPLY COMMISSIONER:	Abigale Wade 739 Indiana Avenue Charleston, WV 25311	345-9127
DEMOCRAT COMMISSIONER:	Sylvia Snodgrass 805 Adrian Road Charleston, WV 25314	342-2696
REPUBLICAN ESCORT COMMISSIONER:	James G. Porter 1893 Roundhill Road Charleston, WV 25314	343-7152

WARD 17
PRECINCT 258

POLLING PLACE:	University of Charleston 2300 MacCorkle Avenue

DEMOCRAT CLERK:	Bonnie L. Hill 540 South Ruffner Road Charleston, WV 25304	346-6407
REPUBLICAN CLERK:	Jane Ingram 301 30th Street Charleston, WV 25304	344-2234
DEMOCRAT SUPPLY COMMISSIONER:	David Brandon Ball 739 Indiana Avenue Apt.A Charleston, WV 25311	345-9127
DEMOCRAT COMMISSIONER:	Kathleen Lacy 3206 Virginia Avenue Charleston, WV 25304	346-7560
REPUBLICAN ESCORT COMMISSIONER:	Betty Ruch 302 30th Street Charleston, WV 25304	344–0220

WARD 17
PRECINCT 260

POLLING PLACE:	Kanawha City Elementary 3701 Staunton Avenue	
DEMOCRAT CLERK:	Jeannene Frances 828 Lower Donnally Road Charleston, WV 25304	925-4402
REPUBLICAN CLERK:	Maryanna Hogue 1603 Whitney Street Charleston, WV 25302	346-3407
DEMOCRAT SUPPLY COMMISSIONER:	Maxine Butler 624 Granada Way Charleston, WV 25304	925-1668
DEMOCRAT COMMISSIONER:	Robert Craig 624 Granada Way Charleston, WV 25304	925-1668

REPUBLICAN ESCORT COMMISSIONER: Judith Sarrett 925-9145

WARD 18
PRECINCT 160

POLLING PLACE: Kanawha City Elementary
3701 Staunton Avenue

DEMOCRAT CLERK: Amy Ball
1062 ½ South Park Road
Charleston, WV 25304

REPUBLICAN CLERK:

DEMOCRAT SUPPLY COMMISSIONER: Lucy Suphin
247 Chesterfield Avenue
Charleston, WV 25304

DEMOCRAT COMMISSIONER: Sperry Ramano
6612 Roosevelt Avenue
Charleston, WV 25304

REPUBLICAN ESCORT COMMISSIONER:

WARD 18
PRECINCT 161

POLLING PLACE: Chamberlain Elementary School
4901 Venable Avenue

DEMOCRAT CLERK: Lois Sisson
4401 Chesterfield Avenue
Charleston, WV 25304

REPUBLICAN COMMISSIONER:

DEMOCRAT SUPPLY COMMISSIONER:	Eva Sue Ellard 4200 Venable Avenue Charleston, WV 25304	
DEMOCRAT COMMISSIONER:	Joe Payne 4200 Venable Avenue Charleston, WV 25304	
REPUBLICAN ESCORT CLERK:	Jim Maddox 106 52nd Street Charleston, WV 25304	925-6510

WARD 18
PRECINCT 162

POLLING PLACE:	Kanawha City Elementary School 3701 Staunton Avenue
DEMOCRAT CLERK:	Jean Giannakis 4711 Noyes Avenue Charleston, WV
REPUBLICAN CLERK:	
DEMOCRAT SUPPLY COMMISSIONER:	Louellen Toler 1019 South Park Road Charleston, WV 25304
DEMOCRAT COMMISSIONER:	George P. Tardy 3357 Alcoa Drive Charleston, WV 25304
REPUBLICAN ESCORT COMMISSIONER:	

WARD 19
PRECINCT 163

POLLING PLACE:	Chamberlain Elementary School 4901 Venable Avenue	
DEMOCRAT CLERK:	Barbara J. DeWeese 6546 A Roosevelt Avenue Charleston, WV 25304	925-7568
REPUBLICAN CLERK:		
DEMOCRAT SUPPLY COMMISSIONER:	Chilion Profitt 5716 Victory Avenue Charleston, WV 25304	925-5252
DEMOCRAT COMMISSIONER:	Gloria M. Tyler 181 Wertz Avenue Charleston, WV 25311	342-5944
REPUBLICAN ESCORT COMMISSIONER:		

WARD 19
PRECINCT 164

POLLING PLACE:	Chamberlain Elementary School 4901 Venable Avenue	
DEMOCRAT CLERK:	Eleanor Brooks 737 57th Street Charleston, WV 25304	925-9417
REPUBLICAN CLERK:		
DEMOCRAT SUPPLY COMMISSIONER:	Wayne H. Bollinger 721 Chappell Road Charleston, WV 25309	925-0688

DEMOCRAT COMMISSIONER:	Leona McCown 5513 Kanawha Avenue Charleston, WV 25304	925-2369
REPUBLICAN ESCORT COMMISSIONER:		

WARD 19
PRECINCT 165

POLLING PLACE:	Chamberlain Elementary School 4901 Venable Avenue	
DEMOCRAT CLERK:	John Brannon 627 Roosevelt Avenue Charleston, WV 25304	925-2785
REPUBLICAN CLERK:		
DEMOCRAT SUPPLY COMMISSIONER:	Elizabeth D. Ballard 5521 Washington Avenue Charleston, WV 25304	925-1947
DEMOCRAT COMMISSIONER:	Mary Berry 5705 Chesterfield Avenue Charleston, WV 25304	925-7879
REPUBLICAN ESCORT COMMISSIONER:		

WARD 20
PRECINCT 239

POLLING PLACE:	Oakwood Elementary School 909 Oakhurst Drive	
DEMOCRAT COMMISSIONER:	Estelle Lude 105 Lude Road Charleston, WV 25309	744-3967

REPUBLICAN CLERK:		
DEMOCRAT CLERK:	Elizabeth J. Bowles 28 Carriage Road Charleston, WV 25314	
DEMOCRAT COMMISSIONER:	Anna Bell Parsons 1143 Mulberry Circle Charleston, WV 25314	342-5573
REPUBLICAN ESCORT COMMISSIONER:		

WARD 20
PRECINCT 277

POLLING PLACE:	Kenna Elementary School 198 Eureka Road	
DEMOCRAT COMMISSIONER:	Carolyn Myers 402 Hunters Ridge Charleston, WV 25314	744-2673
REPUBLICAN CLERK:		
DEMOCRAT CLERK:	Nancy Brown 107 Sunset Drive Charleston, WV 25301	343-1392
DEMOCRAT COMMISSIONER:	Joshua Sadolf #3 Cook Drive Charleston, WV 25314	346-6243

The question being on the adoption of the resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 117-99 adopted unanimously.

Introduced by Mayor G. Kemp Melton and Members of Charleston City Council on January 19, 1999.

Resolution No. 118-99--"Expressing thankful appreciation for service to Bob Redman as the elected representative of Charleston City Council in the 4th Ward.

WHEREAS, Bob Redman was elected to the office of Charleston City Councilman representing the 4th Ward on April 17, 1995; and

WHEREAS, on December 21, 1998 Bob Redman resigned from his position due to moving outside of the 4th Ward; and

WHEREAS, in a letter to Council dated December 21, 1998, Bob expressed his gratitude, to the citizens of the 4th Ward; and

WHEREAS, he also expresses gratitude to each council member, administrative employee, and uniformed service employee of the city for their assistance, support and kindness.

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

That on behalf of the citizens of Charleston and members of this Council, we express our sincere appreciation to Bob Redman for his dedicated service to the City of Charleston.

FURTHER RESOLVED, that the City Clerk is hereby directed to provide a copy of this resolution to Bob Redman.

The question being on the adoption of the resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 118-99 adopted unanimously.

SELECT COMMITTEE

URBAN RENEWAL

Councilman Brendan S. Leary, Chairman of the Select Committee on Urban Renewal, submitted the following report.

1. Your Select Committee on Urban Renewal has had under consideration Bill No. 6534 attached hereto and made a part hereof,

Your Committee finds that the Bill should be amended as follows:
Line 43, after the word "center" by deleting the words "or as a commercial project", and reports the same to Council with the recommendation that the Bill, as amended, do pass.

Councilman Leary made a motion to amend Bill No. 6534, after the word "center" by deleting the words "or as a commercial project". Motion was seconded.

The question being on the passage of the amendment a vote was taken. There being no dissent the Mayor declared the ammendment to the bill passed unanimously.

Bill No. 6534, as amended, a Bill approving a certain modification of the Shrewsbury/Smith Streets Urban Renewal Plan for the City of Charleston, West Virginia, with respect to:

Adding a Public Redevelopment Project for the development of green space or a commercial project.

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

1. The City Council finds that:
(a) The Charleston Urban Renewal Authority has recommended a certain modification of the Shrewsbury/Smith Streets Urban Renewal Plan;

(b) A general plan known as the Comprenhensive Plan for the City of Charleston has been adopted by the City Council and is recognized and used as a general guide for the development of the City;

(c) The Municipal Planning Commission of the City of Charleston has submitted to the Charleston Urban Renewal Authority its finding that the propsed modification conforms with said Comprenhensive Plan;

(d) City Council has duly considered the findings; and

(e) Section "F" of said Shrewsburry/Smith Streets Urban Renewal Plan provides that the Plan may be changed from time to time in compliance with the requirements of the law.

2. The modification of the Shrewsburry/Smith Streets Urban Renewal Plan set forth in the following section of this ordinance is hereby found to be feasible and in compliance with the Comprenhensive Plan for the City of Charleston.

3. A Public Redevelopment Project is added in Section C.4 as follows:

Acquisition and Redevelopment of the Property bounded by Broad Street, Washington Street, East and Sentz Court including Parcels 17, 18 and 19 of Tax Map 16. These parcels to be redeveloped as green space to compliment the Preforming Arts Center.

The question being on the passage of the bill a roll call was taken and there were; yeas-25, nays-0, absent-0, abstentions-2, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lanham, Layne, Leary, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass, Snuffer and Mayor Melton.

NAYS: None.

ABSENT: None.

ABSTAIN: Lane and Loeb.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 6534, as amended, passed.

REPORTS OF OFFICERS

1. City of Charleston Financial Statements for the Six-Month Period Ended December 31, 1998; Received and Filed.

2. City Treasurer's Report to City Council for month ending December 1998; Received and Filed.

NEW BILLS

Introduced by Councilwoman Ivalou H. Barth on January 19, 1999:
BILL NO. 6542, a Bill amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 7th day of March 1983, as amended, and the map made a part thereof, by rezoning from a R-8 district and a R-0 district, that certain parcel of land situate at 326 Wyoming Street, Charleston, West Virginia.
Referred to Council Committee on Planning

Introduced by Councilman Carl Hicks on January 19, 1999:
BILL NO. 6543, a Bill amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 7th day of March 1983, as amended, and the map made a part thereof, by rezoning from an R-4 district and a C-10 district, that certain parcel of land situate at 2182 Falcon Drvie, Charleston, West Virginia.
Referred to Council Committee on Planning

Introduced by Councilman David J. Hardy on January 19, 1999:
BILL NO. 6544, a Bill supplementing Ordinance No.4828 passed by Council of The City of Charleston, West Virginia, on April 20, 1992, as supplemented by Ordinances No. 4954, No. 6276, No. 6349 and No. 6532, which authorized the acquisition and construction of certain extensions, additions, betterments and improvements to the sewerage system of The City of Charleston; authorizing the merger of the assets of the Mt. Tyler Public Service District into the sewerage system of the City; authorizing the assumption of certain debt of the Mt. Tyler Public Service District; authorizing the issuance of not more than $850,000 in aggregate principal amount of Sewerage System Revenue Bonds, in one or more additional series as may be required, of said The City of Charleston to be used, along with other funds and moneys of, or available to, The City of Charleston which may be lawfully expended for such purpose, to evidence the assumption of said debt; providing for the rights and remedies of and security for the holders of such bonds; and adopting other provisions related thereto.
Referred to Council Committee on Finance.

REPORTS OF STANDING COMMITTEES

FINANCE

Councilman David J. Hardy, Chairman of the Council Committee on Finance, submitted the following reports.

1. Your Committee on Finance has had under consideration proposal submitted by B & C Communications, in the amount of $3,241, for purchase of one (1) Motorola Spectra Mobile Radio to be used in the MDENT unit of the Police Department; To be charged to Account No. 29-173-0-0-4-059, Police--MDENT, Capital Outlay/Equipment, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted unanimously.

2. Your Committee on Finance has had under consideraiton proposal submitted by The Computer Store, in the amount of $11,024, for purchase of eight (8) computers and related materials to be installed at various Centers within the Parks and Recreation Department;
To be charged to the following accounts:
$2,756 - 25-096-00-011, CDBG--Public Services/Riverview Center
$2,756 - 25-098-00-011, CDBG--Public Services/Chandler Center
$2,756 - 25-098-00-011, CDBG--Public Services/Vandalia Center
$2,756 - 25-098-00-011, CDBG--Public Services/Second Ave. Center, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a roll call was taken and there were; yeas-27, nays-0, absent-0, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass, Snuffer and Mayor Melton.

NAYS: None.

ABSENT: None.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared the committee report adopted unanimously.

3. Your Committee on Finance has had under consideration proposal submitted by Lowe's Companies, in the amount of $4,221.69, for purchase of kitchen cabinets and related materials to be installed in-house at Fire Station No.2, located at 808 Virginia Street; To be charged to Account No. 25-0-98-00-054, CDBG--Neighborhood Facilities/FS #2, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a rolll call was taken and there were; yeas-27, nays-0, absent-0, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass, Snuffer and Mayor Melton.

NAYS: None.

ABSENT: None.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared the committee report adopted unanimously.

4. Your Committee on Finance has had under consideration Resolution No. 106-99, authorizing the Finance Department to make revisions to the 1998-99 General Fund budget as indicated on the attached list of accounts, and reports the same to Council with the recommendation that the committee report be adopted.

Resoltuion No. 106-99--"Authorizing the Finance Director to make revisions to the 1998-99 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 make revisions to the 1998-99 Genreal Fund budget as indicated on the attached list of accounts; and be it

FURTHER RESOLVED that this budgetary revision is being made prior to the expenditures or obligation of funds for which no appropriation or insufficient appropriation currently exists.

General Fund 1998-99 Budget Amendment No. 9 - January 19, 1999 (REVISED)

01-299-00-0000	Unencumbered Fund Balance		35,672.00
01-700-00-000-1-007	Police-Uniform	Contribution to Pension	(24,741.00)
01-706-00-000-1-007	Fire-Uniform		(3,273.00)
01-699-00-000-5-098	Contingency		(7,658.00)
To adjust budget for difference in projected and actual Unreserved Fund Balance			0.00
01-420-00-000-4-061	Engineering	C/O-Lease Purchase	(4,300.00)
01-436-00-000-4-061	Building Commission		5,300.00
01-700-00-000-4-061	Police-Uniform		45,000.00
01-706-00-000-4-061	Fire-Uniform		(26,600.00)
01-712-00-000-4-061	Traffic Engineering		(3,500.00)
01-750-00-000-4-061	Street		(19,500.00)
01-754-00-000-4-061	Equipment Maintenance		(700.00)
01-800-00-000-4-061	Refuse & Recycling		(71,000.00)
01-900-00-000-4-061	Parks & Recreation		(25,500.00)
01-952-00-000-4-061	Spring Hill Cemetery		(2,300.00)
01-427-00-000-5-072	Rehabilitation of Property		(250,000.00)
01-699-00-000-5-098	Contingency		3,100.00
01-440-92-000-1-005	COBRA	Medical & Life Insurance	50,000.00
01-440-93-000-1-005	Regular Retirees		250,000.00
01-700-93-000-1-005	Police Retirees		150,000.00
01-706-93-000-1-005	Fire Retirees		(100,000.00)
To adjust Lease Purchases to reconciliation and Medical & Life Insurance to avoid budget shortfall.			0.00

REPORTABLE:
To maintain compliance with budgetary guidelines of the State of West Virginia, Department of Tax and Revenue, Chief Inspector Division.

The question being on the adoption of the resolution a roll call was taken and there were; yeas-27, nays-0, absent-0, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass, Snuffer and Mayor Melton.

NAYS: None.

ABSENT: None.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 106-99 adopted unanimously.

5. Your Committee on Finance has had under consideration Resolution No. 107-99, authorizing the Mayor to enter into a time and materials contract with Environmental Design Group, in an amount not to exceed $55,000, to provide professional services for the ADA Transition Plan for the City Buildings and Parks/Phase I; To be charged to Account No. 25-098-00-032, CDBG--ADA Curb & Gutter, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 107-99--"Authorizing the Mayor to enter into a time and materials contract with Environmental Design Group, in an amount not to exceed $55,000, to provide professional services for the ADA Transition Plan for City Buildings and Parks/Phase I."

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

That the Mayor is hereby authorized and directed to enter into a time and materials contract with Environmental Design Group, in an amount not to exceed Fifty-five Thousand Dollars ($55,000), to provide professional services for the ADA Transition Plan for the City Buildings and Parks/Phase I (see attached list for facilities to be surveyed).

The question being on the adoption of the resolution a roll call was taken and there were; yeas-27, nays-0, absent-0, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass, Snuffer and Mayor Melton.

NAYS: None.

ABSENT: None.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 107-99 adopted unanimously.

6. Your Committee on Finance has had under consideration Resolution No. 108-99, authorizing the Mayor to enter into a contract with Mandaren Construction, Inc., in the amount of $60,211 (final payment amount to be determined by applying contract bid unit prices to quantities used), for the Concrete Sidewalk Accessibility Ramp project; To be charged to the folowing accounts:

$50,000.00 - 25-098-00-032, CDBG--ADA Curb and Gutter

$ 4,688.47 - 25-097-00-032, CDBG--ADA Curb & Gutter

$ 5,522.53 - 25-097-00-032, CDBG--Curb & Gutter, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 108-99--"Authorizing the Mayor to enter into a contract with Mandaren Construction, Inc., in the amount of $60,211 (final payment amount to be determined by applying contract bid unit priced to quantities used), for Concrete Sidewalk Accessibility Ramp project."

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

That the Mayor is hereby authorized and directed to enter into a contract with Mandaren Construction, Inc., in the amount of Sixty Thousand Two Hundred Eleven Dollars ($60,211 - final payment amount to be determined by applying contract bid unit prices to quantities used), for the Concrete Sidewalk Accessibility Rmp project.

The question being on the adoption of the resolution a roll call was taken and there were; yeas-27, nays-0, absent-0, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass, Snuffer and Mayor Melton.

NAYS: None.
ABSENT: None.
So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 108-99 adopted unanimously.

7. Your Committee on Finance has had under consideration Resolution No. 109-99, authorizing the Mayor to enter into a contract with R. L. Allen, in the amount of $6,958.84, for lighting along the Vandalia Walkway; To be charged to Account No. 25-095-00-032, CDBG--Curb & Gutter, Walkway Construction/Vandalia, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 109-99--"Authorizing the Mayor to enter into a contract with R. L. Allen, in the amount of $6,958.84, for lighting along the Vandalia Walkway."

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

That the Mayor is hereby authorized and directed to enter into a contract with R. L. Allen, in the amount of Six Thousand Nine Hundred Fifty-eight Dollars and Eighty-four Cents ($6,958.84), for lighting along the Vandalia Walkway.

The question being on the adoption of the resolution a roll call was taken and there were; yeas-27, nays-0, absent-0, as follows:
YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass, Snuffer and Mayor Melton.
NAYS: None.
ABSENT: None.
So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 109-99 adopted unanimously.

8. Your Committee on Finance has had under consideration Resolution No. 112-99, authorizing the Mayor to sign an amendment to the Charleston/Kanawha County Housing Consortium Agreement to shorten the period of time before funds can be reallocated from 15 months from the end of the fiscal year to six (6) months from the end of the fiscal year, to become effective immediately, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 112-99--"Authorizing the Mayor to sign an amendment to the Charleston/Kanawha County Housing Consortium Agreement to shorten the period of time before funds can be reallocated from 15 months from the end of the fiscal year to six (6) months from the end of the fiscal year, to become effective immediately."

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

That the Mayor is hereby authorized and directed to sign an amendment to the Charleston/Kanawha County Housing Consortium Agreement to shorten the period of time before funds can be reallocated from 15 months from the end of the fiscal year to six (6) months from the end of the fiscal year, to become effective immediately.

The question being on the adoption of the resoltuion a roll call was taken and there were; yeas-27, nays-0, absent-0, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass, Snuffer and Mayor Melton.

NAYS: None.

ABSENT: None.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 112-99 adopted unanimously.

9. Your Committee on Finance has had under consideration Resolution No. 113-99, recognizing that $400,000 of City funding is necessary during this fiscal year to provide support for the location of the Ticketmaster Project within Charleston; provided, that as a condition to the expenditure of any such funds that there be a lease or other agreement executed between Regional Development Authority (RDA) and Ticketmaster containing the terms set forth in the attached resolution; and allocate $100,000 of General Funds; $100,000 of CDBG funds; and $200,000 of Rental Rehabilitation Program Income funds to this endeavor at the point of formal commitment by Ticketmaster, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 113-99, as amended --" Recognizing that $400,000 of funding is necessary during this fiscal year in order to support the location of the Ticketmaster Project within the City of Charleston.

WHEREAS, the Ticketmaster Project proposed for location within the corporate limits of Charleston, West Virginia, represents the type of economic development initiative that will bring new jobs and resources to the City; and

WHEREAS, the new payroll dollars that result from the opening of the Ticketmaster Project will be spent and invested in the greater Charleston area; and,

WHEREAS, the City in partnership with the United States Department of Housing and Urban Development (HUD) and with the Regional Development Authority of Charleston, Kanawha County, W. Va. Metropolitan Region (RDA) to develop the Ticketmaster Project; and,

WHEREAS, this project will have to satisfy a number of HUD and RDA requirements prior to receiving and City funding; NOW, THEREFORE,

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

That Council hereby recognizes that $400,000 of City funding is necessary during this fiscal year to provide support for the location of the Ticketmaster Project within Charleston; provided, that as a condition to the expenditure of any such funds that there be a lease or other agreement executed by Ticketmaster containing the following provisions:

(A) An agreement by Ticketmaster to provide a minimum of 400 initial jobs within three (3) years of its first day of occupation of the Charleston facility.

(B) An agreement by Ticketmaster that it shall reimburse $400,000 to the City of Charleston in Business and Occupation (B&)) tax revenues (or any other tax structure that may replace the current B&) tax structure) paid by Ticketmaster by December 31, 2004. Ticketmaster shall pay all B&O taxes incurred through its operations. Ticketmaster agrees to pay a minimum of $100,000 per year in B&O tax revenues (or any other tax structure that may replace the current B&O tax structure) during each of the first 4 years of operation at the Charleston facility. Under this agreement the first year will commence on January 1, 2000. In the event that Ticketmaster begins operation prior to January 1, 2000, any B&O tax generated through Ticketmaster shall count toward the $400,000 reimbursement requirements.

(C) That, in the event, Ticketmaster shall cease to operate in Charleston, Corotoman In. shall be responsible for the total amount of funds disbursed by the City, that have not been paid to the City in the form of B&O Taxes (or any other tax structure that may replace the current B&O tax structure) directly related to their operations;

(D) That funds pledged be released only after all other financial support necessary for the completion of Ticketmaster is in place.

(E) Ticketmaster shall make 51% of the inital jobs created available to low to moderate income persons. That Corotoman Inc. shall repay to the City, the total amount of the funds disbursed by the City to RDA for support of Ticketmaster (to be recouped through the lease agreement with Ticketmaster) if the City or the federal government determines that the Federal regulations applicable to the granting of CDBG funds have not been complied with and the City is required to reimburse such funds to the federal government;

(F) That Charleston City Council will review and approve that said lease or other agreement containing the terms set forth in this Resolution. Said lease shall be for a minimum term of 10 years. This will be on the City Council agenda at the first meeting following receipt of the lease agreement.

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

That the Mayor is hereby authorized to allocate $100,000 of General Funds, $100,000 of CDBG funds, $200,000 of Rental Rehabilitation Program Income to this endeavor at the point of formal commitment by Ticketmaster.

The question being on the adoption of the resolution a roll call was taken and there were; yeas-23, nays-4, absent-0, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Huffman, Kimberling, Lane, Lanham, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snuffer and Mayor Melton.

NAYS: Hicks, Horan, Layne and Snodgrass.

ABSENT: None.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 113-99, as amended, adopted.

10. Your Committee on Finance has had under consideration Resolution No. 114-99, acknowledging and approving the lease agreement between Corotoman, Inc. and Ticketmaster, pursuant to requirements set forth in Resolution No. 113-99, previously approved, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 114-99--"Acknowledging and approving the lease agreement between Corotoman, Inc, and Ticketmaster, pursuant to requirements set forth in Resolution No. 113-99, previously approved."

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

That the lease agreement between Corotoman, Inc. and Ticketmaster is hereby acknowledged and approved, pursuant to requirements set forth in Resolution No. 113-99, previously approved.

Resolution No. 113-99

Introduced to Council

January 19, 1999

Introduced By

Dave Hardy

Passed By Council

January 19, 1999

Referred To

Resolution No. 113-99:Recognizing that $400,000 of funding is necessary during this fiscal year in order to support the location of the Ticketmaster Project within City of Charleston.

WHEREAS, the Ticketmaster Project proposed for location within the corporate limits of Charleston, West Virginia, represents the type of economic development initiative that will bring new jobs and resources to the City; and,

WHEREAS, the new payroll dollars that result from the opening of the Ticketmaster Project will be spent and invested in the greater Charleston area; and,

WHEREAS, the City in partnership with the United States Department of Housing and Urban Development (HUD) and with the **Rural Development Authority (RDA)** of Charleston to develop the Ticketmaster Project; and

WHEREAS, this project will have to satisfy a number of HUD and RDA requirements prior to receiving and City funding; now, therefore,

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

That Council hereby recognizes that $400,000 of City funding is necessary during this fiscal year to provide support for the location of the Ticketmaster Project within Charleston; provided, that as a condition to the expenditure of any such funds that there be a lease or other agreement executed between RDA and Ticketmaster containing the following provisions:

a) An agreement by Ticketmaster to provide a minimum of 400 initial jobs within three (3) years of its first day of occupation of the Charleston facility.

b) An agreement by Ticketmaster that it shall reimburse $400,000 to the City of Charleston in Business and Occupation (B & O) tax revenues (or any other tax structure that may replace the current B & O tax structure) paid by Ticketmaster by December 31, 2004. Ticketmaster shall pay all B & O taxes incurred through its operations. Ticketmaster agrees to pay a minimum of $100,000 per year in B & O tax revenues (or any other tax structure that may replace the current B & O tax structure) during each of the first 4 years of operation at the Charleston facility. Under this agreement the first year will commence on January 1, 2000. In the event that Ticketmaster begins operation prior to January 1, 2000, any B & O tax generated through Ticketmaster shall count toward the $400,000

reimbursement requirements.

c) That, in the event, Ticketmaster shall cease to operate in Charleston, RDA shall be responsible for the total amount of funds disbursed by the City, that have not been paid to the City in the form of B & O Taxes (or any other tax structure that may replace the current B & O tax structure) directly related to their operations;

d) That funds pledged be released only after all other financial support necessary for the completion of Ticketmaster is in place.

e) Ticketmaster shall make 51% of the initial jobs created available to low to moderate income persons. That RDA shall repay to the City, the total amount of the funds disbursed by the City to RDA for support of Ticketmaster (to be recouped through the lease agreement with Ticketmaster) if the City or the federal government determines that the Federal regulations applicable to the granting of CDBG funds have not been complied with and the City is required to reimburse such funds to the federal government;

f) That Charleston City Council will review and approve that said lease or other agreement containing the terms set forth in this Resolution. Said lease shall be for a minimum term of 10 years. This will be on the City Council agenda at the first meeting following receipt of the lease agreement.

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

That the Mayor is hereby authorized to allocate $100,000 of General Funds, $100,000 of CDBG funds, **$200,000 of Rental Rehabilitation Program Income** to this endeavor at the point of formal commitment by Ticketmaster.

The question being on the adoption of the resolution a roll call was taken and there were; yeas-24, nays-3, absent-0, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snuffer and Mayor Melton.

NAYS: Hicks, Horan and Snodgrass.

ABSENT: None.

So, a majority of all membes elected recorded thereon as voting in the afirmative the Mayor declared Resolution No. 114-99 adopted.

11. Your Committee on Finance has had under consideration Resolution No. 115-99, authorizing the Mayor to sign a Release of Lien in the amount of $55,639.98 for the forgiveness of the Mattie V. Lee rehabilitation loan, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 115-99--"Authorizing the Mayor to sign a Release of Lien in the amount of $55,639.98 for the forgiveness of the Mattie V. Lee rehabilitation loan."

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

That the Mayor is hereby authorized and directed to sign a Release of Lien in the amount of Fifty-five Thousand Six Hundred Thirty-nine dollars and Ninety-eight Cents ($55,639.98) for the forgiveness of the Mattie V. Lee rehabilitation loan.

The question being on the adoption of the resolution a roll call was taken and there were; yeas-26, nays-0, absent-1, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Hadddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass and Mayor Melton.

NAYS: None.

ABSENT: Snuffer.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 115-99 adopted unanimously.

12. Your Committee on Finance has had under consideration payment of an invoice from Dill's Fire and Safety Equipment Co., Inc., in the amount of $2,325, for repair of the 1996 pumper truck used by the Charleston Fire Department; To be charged to Account No. 01-706-0-0-2-017, Fire Department--Maintenance & Repair, Auto/Truck, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted unanimously.

13. Your Committee on Finance has had under consideration payment of an invoice from Spilman, Thomas & Battle, in the amount of $2,948.14, for professional services rendered during the month of November 1998 regarding defense of zoning position for BZA; To be charged to Account No. 01-417-0-0-2-023, Legal Department--Professional Services, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted unanimously.

14. Your Committee on Finance has had under consideration payment of an invoice from Bowles, Rice, McDavid, Graff & Love, in the amount of $3,185.63, for professional services rendered during the month of November 1998 regarding claims filed with the Police Civil Service Commission; To be charged to Account No. 01-417-0-0-2-023, Legal Department--Professional Services, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent, with Lane and Loeb abstaining, the Mayor declared the committee report adopted unanimously.

15. Your Committee on Finance has had under consideration payment of an invoice from The Christmas Factory, in the amount of $3,168.24, for holiday decorating lights used by the Parks & Recreation Department; To be charged to Account No. 01-900-0-0-3-041, P&R Department--Materials & Supplies, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted unanimously.

16. Your Committee on Finance has had under consideraiton payment of an invoice from King's Grant II, in the amount of $2,081.25, for purchase and shipping charges for 15 Polaroid Point and Shoot Camera Kits to be used by the various local law enforcement agencies; To be charged to Account No. 39-177-96-0-0-041, Police--Violence Against Women Act Grant, Materials & Supplies, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted unanimously.

17. Your Committee on Finance has had under consideration payment of an invoice from General Truck Sales Corporation, in the amount of $46,000, for a van to be used by Shawnee Hills; To be charged to Account No. 25-098-00-011, CDBG--Public Services, Shawnee Hills, and reports the same to Council with the recommendaiton that the committee report be adopted.

The question being on the adoption of the committee report a roll call was taken and there were; yeas-26, nays-0, absent-1, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen Quick, McKnight, Smith, Snodgrass and Mayor Melton.

NAYS: None.

ABSENT: Snuffer.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared the committee report adopted unanimously.

18. Your Committee on Finance has had under consideration payment of an invoice from Covenant House, in the amount of $4,959.04, for reimbursement of HOPWA operating expenses for the month of December 1998; To be charged to Account No. 25-098-00-011, CDBG--Public Services, Covenant House/HOPWA, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a roll call was taken and there were; yeas-26, nays-0, absent-1, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass and Mayor Melton.

NAYS: None.

ABSENT: Snuffer.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared the committee report adopted unanimously.

19. Your Committee on Finance has had under consideration payment of an invoice from Charleston Newspapers, in the amount of $2,380.40, for publication of Public Notices for the MOECD Action Plan; To be charged to Account No. 25-098-00-001, CDBG--Administration, and reports the same to Council with the recommendaiton that the committee report be adopted.

The question being on the adoption of the committee report a roll call was taken and there were; yeas-26, nays-0, absent-1, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass and Mayor Melton.

NAYS: None.

ABSENT: Snuffer.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared the committee report adopted unanimously.

20. Your Committee on Finance has had under consideration payment of an invoice from Tabor Service America, in the amount of $4,500, for completion of a rehabilitation project at 1575 Quarrier Street; To be charged to Account No. 25-097-00-014, CDBG--CORP/Rehabilitation, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a roll call was taken and there were; yeas-26, nays-0, absent-1, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass and Mayor Melton.

NAYS: None.

ABSENT: Snuffer.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared the committee report adopted unanimously.

21. Your Committee on Finance has had under consideration payment of an invoice to the Regional Development Authority, in the amount of $200,000, for asquisition of property for the Ticketmaster Project, subject to receipt by the City of Charleston of the Guarantee Agreement described in Resolution No. 113-99 and proof of approval by RDA of the proposed transaction; To be charged to Account No. 32-098-00-001, MOECD--Rental Rehabilitation Program, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a roll call was taken and there were; yeas-26, nays-0, absent-1, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass and Mayor Melton.

NAYS: None.

ABSENT: Snuffer.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared the committee report adopted unanimously.

At 9:20 p.m., on motion of Councilman Quick, Council adjourned until Monday, February 1, 1999.

G. Kemp Melton, Mayor

Fred M. Frisk, Jr., City Clerk

City of Charleston
P.O. Box 2749
Charleston, West Virginia 25330

CERTIFICATE

I, the undersigned City Clerk of the City of Charleston, do hereby certify that the foregoing is a true, correct and complete copy of Council Minutes, enacted by the City Council of the City on February 1, 1999.

Witness the signature of the undersigned City Clerk of the City of Charleston, West Virginia, and the seal of said City, this 18 day of June, 1999.

Melissa M. Hughes
~~Deputy~~ City Clerk

Seal

JOURNAL

OF THE

COUNCIL

CITY OF CHARLESTON

WEST VIRGINIA

FEBRUARY 1, 1999

The Council met in its Chamber in the City Building at 8:00 P.M. for the first meeting in the month of February and was called to order by the Mayor, the Honorable G. Kemp Melton.

Prayer was offered by the Honorable William "Bill" Kimberling, Councilman for the 18th Ward.

The Clerk called the roll and the following members answered to their names:

Barron
Barth
Connell
Crickenberger
Gilmer
Haddad
Hardy

Horan
Huffman

Kimberling
Lane
Lanham
Layne
Leary
Loeb
Lopez
Malone
McClaskie
Morton

Nielsen
Quick
McKnight
Smith
Snodgrass
Snuffer
Mayor Melton

Twenty-six members being present, one being absent for roll call , Councilman Hicks, the Mayor declared a quorum.

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

February 1, 1999 1st MEETING

The invocation was given and Mayor Melton asked that a moment of silence be observed for former Mayor Mike Roark.

PUBLIC SPEAKERS

1. John T. Lyons
2. John Harris
3. Danny O'Donavan

CLAIMS

1. A Claim of Eddie D. Jackson; 1421 New Castle Road, Charleston, WV; alleges damage to property; Referred to City Solicitor

2. A Claim of Ann A. Spanner; 10 Chatwood Road, Charleston, WV; alleges damage to vehicle; Referred to City Solicitor

3. A Claim of Linda K. Lanham; Route 10 Box 132, Charleston, WV; alleges damage to vehicle; Referred to City Solicitor

COMMUNICATIONS

Bob Huxall presented to Charleston Police Officer Cpl. Curtis Robinson a plaque for being chosen "Officer of the Year".

Delegate Mark Hunt and Senator Vic Sprouse presented to the City a certificate representing a $40,000 Governor's Community Partnership Award for the West Side.

APPOINTMENTS

TO: Fred M. Frisk, Jr., City Clerk
FROM: G. Kemp Melton, Mayor
SUBJECT: Charleston Sanitary Board
DATE: February 1, 1999

I am aware of the resignation of David Brown as a member of the Charleston Sanitary Board.

I am recommending the following:

The appointment of Don Richardson, 1611 Ridgeview Drive, Charleston, to fill the unexpired term vacated by the resignation of David Brown. Said term will expire March 17, 1999.

I respectfully request City Council approval of this recommendation.

The question being on the confirmation of the appointment a vote was taken. There being no dissent the Mayor declared the appointment confirmed unanimously.

TO: Fred M. Frisk, Jr., City Clerk
FROM: G. Kemp Melton, Mayor
SUBJECT: Municipal Beautification Commission
DATE: February 1, 1999

I am aware of the resignation of William J. Mills as a member of the Municipal Beautification Commission. I am aware of the expiration of the terms of Mrs. Howard B. Johnson, Barbara McCabe, Mary Jane Vanderwilt and Jack Arnett.

I am recommending the following:

The appointment of Clara Thomas, 910 Newton Road, Charleston to fill the unexpired term vacated by the resignation of William J. Mills. Said term will expire September 19, 1999.

The re-appointment of Mrs. Howard B. Johnson. Said term will expire September 19, 2001.

The re-appointment of Barbara McCabe. Said term will expire September 19, 2001.

The re-appointment of Mary Jane Vanderwilt. Said term will expire September 19, 2001.

The re-appointment of Jack Arnet. Said term will expire September 19, 2001.

I respectfully request City Council approval of this recommendation.

The question being on the confirmation of the appointments a vote was taken. There being no dissent the Mayor declared the appointments confirmed unanimously.

MISCELLANEOUS RESOLUTION

Introduced by Mayor G. Kemp Melton and Members of Charleston City Council on February 1, 1999.

Resolution No. 125-99--"Paying tribute to the late James Edward "Mike" Roark on behalf of the citizens of Charleston; expressing sympathy to his family."

WHEREAS, former Charleston Mayor James Edward "Mike" Roark, one of the region's most flamboyant and controversial political figures, died January 24, 1999 of Leukemia in a St. Louis hospital; and

WHEREAS, born in Nitro, Roark attended Nitro High School, won all-state honorable mention in football, and was a weekend announcer at station WKLC in St. Albans; and

WHEREAS, a steady rise from serving on a federal strike force based in Pittsburg to being elected Kanawha County Prosecutor and eventually mayor of Charleston; and

WHEREAS, his friends called him brilliant, talented and tenacious, qualities that would have served him well as an Episcopal priest; and

WHEREAS, James Edward "Mike" Roark, died last week at the age of 53; he will be missed by many, particularly by those who were lucky enough to call him colleague and friend; NOW THEREFORE,

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

That the Council observe a moment of silence in honor of James "Mike" Roark, who served the City and County in his carrer and who cared and loved the City of Charleston.

FURTHER RESOLVED, that the City Clerk is hereby directed to provide a copy of this resolution to the family of James Edward "Mike" Roark.

The question being on the adoption of the resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 125-99 adopted unanimously.

Introduced by Councilman Y. Howard Quick, Jr. on February 1, 1999

Resolution No. 126-99--"Reaffirming the Parks and Recreation Committee's prior proposal that the construction of the new ice rink for the City of Charleston shall be located on the west side of the Watt Powell Park parking lot."

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

That the Charleston City Council's Committee on Parks and Recreation does hereby reaffirm their prior proposal that the proposed new ice rink for the City of Charleston shall be built on the west side of the Watt Powell Park parking lot; and

FURTHER RESOLVES said construction shall not exceed Three Million Dollars ($3,000,000.00)

REPORTS OF STANDING COMMITTEES

FINANCE

Councilman David J. Hardy, Chairman of the Council Committee on Finance, submitted the following reports.

1. Your Committee on Finance has had under consideration bid submitted by Precision Pump & Valve Service, Inc., in the amount of $6,778, for replacement of the sewage lift pump at the Municipal Auditorium; To be charged to Account No. 01-910-0-0-4-059, Municipal Auditorium--Capital Outlay, Equipment, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted unanimously.

2. Your Committee on Finance has had under consideration bid submitted by Phillips Supply Co., in the amount of $88,236, for 19,000 cases of Plastic Refuse Bags at $46.44 per 1000 to be distributed to the citizens of Charleston for the six month period from March 1999 to September 1999; To be charged to Account No. 01-800-0-0-3-041, Refuse Collection--Materials & Supplies, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted unanimously.

3. Your Committee on Finance has had under consideration Resolution No. 124-99, amending Resolution No. 001-98 and 002-98, adopted by the Council of the City of Charleston, West Virginia on August 12, 1998, relating to public projects being undertaken by the City. This amendment will more precisely define the projects and the proposed costs for the projects, as more fully set forth in this resolution, and reports the same to Council with the recommendation that the committee report be adopted, as amended.

Councilman Dave Hardy made a motion to amend the resolution under the number 3. by adding the words "Council shall be provided during the 1999-2000 budget process further definitive information with respect to the proposed new police station to be located on the West Side of the City and its costs; provided, however, that all approvals and actions taken by the Council in prior resolutions with respect to the proposed new police station are reaffirmed as if stated herein."

The question being on the adoption of the amendment a vote was taken. There being no dissent the Mayor declared the amendment adopted unanimously.

Resolution No. 124-99, as amended --"amending Resolution No. 001-98 and No. 002-98, adopted by the Council of the City of Charleston, West Virginia (the "Council") on August 12, 1998.

WHEREAS, by previous resolutions Council took certain action relating to puublic projects being undertaken by the City of Charleston, West Virginia (the "City");

WHEREAS, the Council desires to amend the aforesaid resolutions so as to more precisely define certain of the projects and the amount of the project costs. NOW, therefore;

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

1. The new ice rink proposed by the City shall be located on the parking lot on the West side of Watt Powell Park and shall cost $3,000,000 or less. All other approvals and actions directed to be taken in prior resolutions of the Council with respect to said ice rink are reaffirmed as if stated herein.

2. All approvals and actions taken by the Council in prior resolutions with respect to the proposed new public safety center to be located on Corridor G (U.S. Route 119) are reaffirmed as if stated herein, with a cost of $1,500,000 or less.

3. Council shall be provided during the 1999-2000 budget process further definitive information with respect to the proposed new police station to be located on the West Side of the City and its costs; provided, however, that all approvals and actions taken by the Council in prior resolutions with respect to the proposed new police station are reaffirmed as if stated herein.

4. Any legal or other expenses associated with the issuance of the bonds for the Projects incurred by the Charleston Building Commission shall be reimbursed or paid by the City, unless otherwisw reimbursed by the lease-revenue bond proceeds.

5. The City shall bear responsibility for all actions related to the Projects and the issuance of the bonds in its capacity as the lessee of the Projects as will be more fully addressed in the lease agreements between the Charleston Building Commission and the City, said agreements to be approved by City Council.

This resolution is made this 1st day of February, 1999.

The question being on the adoption of the resoltuion a roll call was taken and there were; yeas-25, nays-2, absent-0, as foll;ows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Horan, Huffman, Kimberling, Lane, Lanham, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass, Snuffer and Mayor Melton.

NAYS: Hicks and Layne.

ABSENT: None.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared Resoltuion No. 124-99, as amended, adopted.

4. Your Committee on Finance has had under consideration bid submitted by Phillips Supply Co., in the amount of $29,160.25, for purchase of 19,000 rolls of clear yard waste bags, packaged 35 bags per roll at $43.85 per 1,000, to be distributed to the citizens of Charleston for the six month period from March 1999 to September 1999; To be charged to Account No. 01-800-0-0-3-041, Refuse Collection--Materials & Supplies, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted unanimously.

5. Your Committee on Finace has had under consideration proposal submitted by West Virginia Uniforms, in the amount of $2,848, for uniforms and miscellaneous equipment items for six (6) Charleston police officers that are scheduled for graduation from the Police Academy on February 11, 1999; To be charged to Account No. 01-700-0-0-3-045, Police--Uniforms, and reports the same to Council with the recommendtion that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted unanimously

6. Your Committee on Finance has had under consideraiton proposal submitted by Electronic Speciality Comany, in the amount of $15,658.80, for one (1) stand alone automated fee collection system for Municipal Parking Building No. 2, located at Summers and Washington streets. The new equipment is Y2K compatible; To be charged to Account No. 85-571-0-0-4-059, Parking System--Capital Outlay, Equipment, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted unanimously.

7. Your Committee on Finance has had under consideration Resolution No. 119-99, authorizing the Mayor to sign a renewal of the Letter of Credit with Bank One for Parking System Revenue Bonds, Series 1994-A, 1994-B, and 1995-A; and further authorizing payment in the total amount of $117,104.49 for the Letter of Credit; To be charged to Account No. 85-571-0-0-5-072, Parking--Interest on Bonds, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 119-99--"Authorizing the Mayor to sign a renewal of the Letter of Credit with Bank One for Parking System Revenue Bonds, Series 1994-A, 1994-B, and 1995-A; and further authorizing payment in the total amount of $117,104.49 for the Letter of Credit."

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

That the Mayor is hereby authorized and directed to sign a renewal of the Letter of Credit with Bank One for Parking System Revenue Bonds, Series 1994-A, 1994-B, and 1995-A; and further authorizing payment in the total amount of One Hundred Seventeen Thousand One Hundred Four Dollars and Forty-nine Cents ($117,104.49) for the Letter of Credit.

The question being on the adoption of the resolution a roll call was taken and there were; yeas-27, nays-0, absent-0, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass, Snuffer and Mayor Melton.

NAYS: None.

ABSENT: None.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 119-99 adopted unanimously.

8. Your Committee on Finance has had under consideraiton Resolution No. 121-99, authorizing the Mayor to sign a grant application with Environmental System Research Institute, in the approximate amount of $20,000, for purchase of GIS related software for the Engineering Department. The program assists local governments in establishing organizational GIS projects by providing software to create parcels, street rights-of-ways, and street centerline data. The grant also provides for training services, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 121-99--"Authorizing the Mayor to sign a grant application with the Environmental System Research Institute, in the approximate amount of $20,000 for purpose of GIS related software for the Engineering Department. The program assists local governments in establishing organizational GIS projects by providing software to create parcels, street rights-of-ways, and street centerline data. The grant also provides for training services."

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

That the Mayor is hereby authorized and directed to sign a grant application with Environmental System Research Institute, in the approximate amount of Twenty Thousand Dollars ($20,000) for purchase of GIS related software for the Engineering Department. The program assists local governments in establishing organizational GIS projects by providing software to create parcels, street rights-of-ways, and street centerline date. The grant also provides for training services.

The question being on the adoption of the resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 121-99 adopted unanimously.

9. Your Committee on Finance has had under consideration Resolution No. 122-99, authorizing the Mayor to enter into an agreement with the State of West Virginia, Division of Criminal Justice Services, Law Enforcement Training, to receive and administer grant funds in the amount of $66,000 to be used to fund the Charleston Regional Police Academy 6th Basic Class, and

reports the same to Council with the recommendation that the committee report be adopted.

Resolution No.122-99--"Authorizing the Mayor to enter into an agreement with the State of West Virginia, Division of Criminal Justice Services, Law Enforcement Training, to receive and administer grant funds in the amount of $66,000 to be used to fund the Charleston Regional Police Academy 6th Basic Class."

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

That the Mayor is hereby authorized and directed to enter into an agreement with the State of West Virginia, Division of Criminal Justice Services, Law Enforcement Training, to receive and administer grant funds in the amount of Sixty-six Thousand Dollars ($66,000) to be used to fund the Charleston Regional Police Academy 6th Basic Class.

The question being on the adoption of the resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 122-99 adopted unanimously.

10. Your Committee on Finance has had under consideration Resolution No. 123-99, authorizing the Mayor to enter into a contract with Environmental Design Group, in an amount not to exceed $12,000, for professional services in the preliminary planning and preparation of construction documents for the Meadowbrook Soccer Facility; To be charged to Account No. 01-900-0-0-4-058, P&R--Capital Outlay, Special Projects, and reports the same to Council with the recommendaiton that the committee report be adopted.

Resolution No. 123-99--"Authorizing the Mayor to enter into a contract with Environmental Design Group, in the amount not to exceed $12,000, for professional services in the preliminary planning and preparation of construction documents for the Meadowbrook Soccer Facility."

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

That the Mayor is hereby authorized and directed to enter into a contract with Environmental Design Group, in an amount not to exceed Twelve Thousand Dollars ($12,000), for professional services in the preliminary planning and preparation of construction documents for the Meadowbrook Soccer Facility.

The question being on the adoption of the resolution a vote was taken. There being no dissent, with the exception of one nay, Councilman Lane, the Mayor declared Resolution No. 123-99 adopted.

11. Your Committee on Finance has had under consideration Resolution No. 120-99, directing and authorizing the City Clerk to publish notice to all persons concerned that a Bill has been introduced at a meeting of the City Council, proposing certain amendments to the rates and charges for the use of, and the service rendered by, the sewer system and works of the Sanitary Board of the City of Charleston, specifically by providing for a surcharge of Two Dollars and Twelve Cents ($2.12) per month, to be effective forty-five (45) days from passage, for all

customers being served, directly or indirectly, by the facilities acquired from Mt. Tyler Public Service District, which surcharge will be used to retire the outstanding bonds of the Mt. Tyler Public Service District; and providing for a hearing at which interested persons may appear, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 120-99--"

A Resolution directing and authorizing the City Clerk to publish notice to all persons concerned that a Bill has been introduced at a meeting of the City Council proposing certain amendments to the rates and charges for the use of, and the service rendered by, the sewer system and works of the Sanitary Board of The City of Charleston, specifically by providing for a surcharge of Two Dollars and Twelve Cents ($2.12) per month, to be effective forty-five (45) days from passage, for all customers being served, directly or indirectly, by the facilities acquired from Mt. Tyler Public Service District, which surcharge will be used to retire the outstanding bonds of the Mt. Tyler Public Service District; and providing for a hearing at which interested persons may appear.

WHEREAS, on February 1, 1999, a Bill was introduced in the Council of this City which would amend and re-enact Section 25-7 of Article 1, Chapter 25, of *The Code of the City of Charleston*. The text of said Bill is as follows:

"Bill No. _____

Introduced in Council

_____

Passed by Council

_____

Introduced by

Jody Connell, Linda Nielson

Referred to

_____

An Ordinance to amend and re-enact Section 25-7 of Article 1, of *The Code of the City of Charleston, as amended*, establishing a schedule of just and equitable rates or charges for the use of and services rendered by the sewer system of The City of Charleston, by providing for a surcharge of Two Dollars and Twelve Cents ($2.12) per month, to be effective forty-five (45) days from passage, for all customers being served, directly or indirectly, by the facilities acquired from Mt. Tyler Public Service District, which surcharge will be used to retire the outstanding bonds of the Mt. Tyler Public Service District, all as provided for by Chapter 16, Article 13, and Chapter 24, Article 2, Section 4b of *The Code of West Virginia, 1931, as amended.*

Be It Ordained By The Council Of The City of Charleston, West Virginia:

That Section 25-7 of Article 1, of Chapter 25 of *The Code of the City of Charleston, as amended*, be further amended and re-enacted by establishing a schedule of rates and charges for the use of and services rendered by the sewer system of The City of Charleston, all of said section as hereby amended to read as follows:

Section 25-7 ESTABLISHMENT OF A SCHEDULE OF JUST AND EQUITABLE RATES OR CHARGES: USE OF WATER METERS.

For the payment of proper and reasonable expense of operations, repair, replacements, improvements, additions, betterments, extensions, and maintenance of the sewer system and for the payment of the sums required to pay the principal and interest of all sewer revenue bonds as the same become due, there is hereby established a schedule of just and equitable rates or charges for the use of The City of Charleston, West Virginia, which schedule of rates or charges, based upon the metered amount of water supplied the premises, shall be as follows:

Rules and Regulations

I. Rules and Regulations for the Government of Sewerage Utilities adopted by the Public Service Commission of West Virginia, and now in effect, and all amendments thereto, and modifications thereof hereafter made by said Commission.

II. On all premises having a private water supply and connected with the sewer system and works there shall be installed a meter for measuring the amount of water supplied said premises.

III. If for any reason there be no record of the amount of water supplied any month, then the charge shall be based upon the last available monthly meter reading.

IV. Users, the nature and character of whose use is such that the amount of water discharged into the said system is deemed by the Sanitary Board to be substantially less than the amount of metered water supplied the premises, shall be charged for sewer service substantially on the basis of the amount of water discharged into the sewer system, as may be determined according to formulae approved by the Sanitary Board.

V. In apartment buildings, mobile home courts, shopping centers and other places where more than one occupancy unit is served with water through one water meter, the customer shall be required to pay not less than the minimum monthly charge provided in the tariff for each occupancy.

Rates

I. *For Sewage That Does Not Contain Industrial Waste:*

First	2,000 Gallons used per month	$3.52 per thousand gallons
Next	3,000 Gallons " " "	2.56 " " "
Next	25,000 Gallons " " "	2.36 " " "
Next	70,000 Gallons " " "	2.06 " " "
Next	100,000 Gallons " " "	1.67 " " "
Next	100,000 Gallons " " "	1.46 " " "
Next	700,000 Gallons " " "	1.31 " " "
All over	1,000,000 Gallons " " "	1.15 " " "

II. *For Sewage That Contains Industrial Waste:*

The charge for the treatment of industrial waste will be calculated on the basis of the following formula:

$$Ci=VoVi+BoBi+SoSi$$

Ci = Charge to industrial users per year.

Vo=Average unit cost of transport and treatment chargeable to volume, in dollars per gallon.

Vi=Volume of waste water from industrial users, in gallons per year.

Bo=Average unit cost of treatment, chargeable to Brochemical Oxygen Demand (BOD), in dollars per pound.

Bi=Weight of BOD from industrial users, in pounds per year.

So=Average unit cost of treatment (including sludge treatment) chargeable to total solids, in dollars per pound.

Si=Weight of total solids from industrial users, in pounds per year.

When an industrial user is to be served, a preliminary study of its waste, and the cost of transport and treatment thereof, will be made. Waste containing materials which, in the judgment of the Sanitary Board, should not be introduced into the sewer system, need not be handled by it. The results of this preliminary study will be used to determine the feasibility of the proposed sewer service and the charge therefor, based upon the formula set out above.

Thereafter, industrial sewage will be monitored on a regular basis and at the conclusion of each fiscal year, based on the investigation aforesaid and audit of Sanitary Board records, new cost figures will be calculated for use in the above formula. The cost of establishing the monitoring facilities shall be paid by the industrial user. Based on these audited figures, additional billings covering the past fiscal year will be made for payment by each industrial user, or refund given by the Sanitary Board, as the case may be. Such audited figures will then be used for the preliminary billing for the next fiscal year, at the end of which an adjustment will be made as aforesaid.

III. *Minimum Charge.* A charge of $7.05 shall be the minimum for each month or fraction thereof. If, for any reason, there be no record of the amount of water supplied in any month, then the charge shall be based upon the last available monthly meter reading.

IV. *Recovery of Bank Charges.* If a bank returns a customer's check to the Sanitary Board due to insufficient funds in such customer's account and charges a fee to the Sanitary Board for such service, the bank charge will be added to the account of the customer whose check is returned.

V. *Pretreatment Charge.* In addition to all other charges contained herein, all customers who operate under a pretreatment permit will pay an annual charge of $2500.00, payable on July 1, 1994, and on each following July 1.

VI. *Disconnect, Lien, and Reconnect Fees.* If the Sanitary Board gives notice to a provider of water service to disconnect water service to a customer of the Sanitary Board, the following charges will be added to the account of such customer:

a. A charge of $20.00, plus any legally required certified mail charge, will be added to such customer's account at the time notice to disconnect is given to the water provider.

b. A charge of $4.00 to cover the cost of placing a lien on the property served will be added to the account of such customer at the time such lien is filed in the Office of the Clerk of the County Commission of the County where the property served is located.

c. A reconnect charge of $20.00 will be made at the time the customer pays the amounts due on such customer's account and requests the reconnection of water and sewer service.

VII. *New Service Fee.* A fee of $250.00 shall be paid before sewer service can be obtained at any location not previously connected to the collection system of a sewer utility. The New Service Fee shall be paid for each water meter installed, regardless of the number of sewer connections made at said location

VIII. *Grease Trap Charge.* In addition to all other charges contained herein, all customers who are required by the Sanitary Board to install a grease trap shall pay an annual charge of $250.00, payable on July 1 of each year.

IX. *Mt. Tyler Public Service District Surcharge.* There is hereby imposed upon the customers formerly served directly or indirectly by the lines of Mt. Tyler Public Service District a surcharge of Two Dollars and Twelve Cents ($2.12) per month, to be used to retire the bonds of Mt. Tyler Public Service District that have become the obligation of the City of Charleston.

The rates and charges set forth above shall become effective forty-five (45) days after passage.

Any ordinance inconsistent with the provisions hereof are hereby expressly repealed to the extent of such inconsistency."

WHEREAS, the cited *Code* section provides that notice of such hearing shall be given by publication in compliance with the provisions of Chapter 16, Article 13, Section 16 of *The Code of West Virginia, 1931, as amended.*

NOW, THEREFORE, BE IT RESOLVED BY THIS COUNCIL: That the City Clerk is hereby authorized and directed to publish a copy of this resolution once each week for two successive weeks in *The Charleston Daily Mail* and *The Charleston Gazette*, two newspapers of opposite political faith, in the City of Charleston, West Virginia, and the same shall constitute notice to all persons concerned that the Bill herein stated has been introduced at a meeting of the City Council on February 1, 1999, and that the City Council contemplates the amendment of the Schedule of Rates and Charges as set forth in said Bill as just and equitable rates or charges for use of, and the service rendered by, the sewer system and works of the City of Charleston, West Virginia, and that any person interested may appear before the Council on the 16th day of February, 1999, at 8:00 p.m., in the Council Chamber, in the City Building, in the City of Charleston, and present to the Council any protest or objection he may have to the rates or charges proposed in such Bill. The first day of the successive publications aforesaid shall be at least ten (10) days prior to the date set for the hearing of protests.

A copy of the proposed ordinance is available for public inspection in the office of the City Clerk.

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The question being on the adoption of the resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 120-99 adopted unanimously.

12. Your Committee on Finance has had under consideration Bill No. 6544, a Bill supplementing Ordinance No. 4828 passed by the Council of The City of Charleston, West Virginia, on April 20, 1992, as supplemented by Ordinances No. 4954, No. 6276, No. 6349 and No. 6532, which authorized the acquisition and construction of certain extensions, additions, betterments and improvements to the sewerage system of The City of Charleston; authorizing the merger of the assets of the Mt. Tyler Public Service District into the sewerage system of the City; authorizing the assumption of certain debt of the Mt. Tyler Public Service District; authorizing the issuance of not more than $850,000 in aggregate principal amount of Sewerage System Revenue Bonds, in one or more additional series as may be required, of said The City of Charleston to be used, along with other funds and moneys of, or available to, The City of Charleston which may be lawfully expended for such purposes, to evidence the assumption of said debt; providing for the rights and remedies of and security for the holders of such bonds; and adopting other provisions related thereto; and calling for a Public Hearing, and reposrts the same to Council with the recommendation that the bill do pass.

Bill No. 6544,

A Bill supplementing Ordinance No. 4828 passed by the Council of The City of Charleston, West Virginia, on April 20, 1992, as supplemented by Ordinances No. 4954, No. 6276, No. 6349 and No. 6532, which authorized the acquisition and construction of certain extensions, additions, betterments and improvements to the sewerage system of The City of Charleston; authorizing the merger of the assets of the Mt. Tyler Public Service District into the sewerage system of the City; authorizing the assumption of certain debt of the Mt. Tyler Public Service District; authorizing the issuance of not more than $850,000 in aggregate principal amount of Sewerage System Revenue Bonds, in one or more additional series as may be required, of said The City of Charleston to be used, along with other funds and moneys of, or available to, The City of Charleston which may be lawfully expended for such purposes, to evidence the assumption of said debt; providing for the rights and remedies of and security for the holders of such bonds; and adopting other provisions related thereto.

Be It Ordained by the Council of The City of Charleston, West Virginia, as Follows:

ARTICLE I

STATUTORY AUTHORITY, DEFINITIONS AND FINDINGS

Section 1.01. Authority for this Ordinance. This Ordinance is enacted pursuant to the provisions of Chapter 16, Article 13, of the Code of West Virginia, 1931, as amended (the "Act"), and other applicable provisions of law, and as a supplement to Ordinance No. 4828, passed by the Council of The City of Charleston (the "Council") on the 20th day of April, 1992, as supplemented by Ordinance No. 4954, passed by the Council on May 3, 1993, as supplemented by Ordinance No. 6276, passed by the Council on September 3, 1996, as supplemented by Ordinance No. 6349, passed by the Council on June 2, 1997, and as supplemented by Ordinance No. 6532 passed by the Council on November 16, 1998.

Section 1.02. Findings. It is hereby found, determined and declared as follows:

A. The City of Charleston, West Virginia (the "City") now owns a sewerage system (the "System"), both within and without the corporate limits of the City, consisting of a sewage treatment plant and a composting facility and its collecting, intercepting and outlet sewers, lateral sewers, drains, force mains, conduits, pumping stations and all other appurtenances, extensions, improvements and betterments necessary, appropriate, useful, convenient or incidental for the collection, treatment and disposal in a sanitary manner of sanitary sewage and industrial wastes.

B. In accordance with Section 2 of the Act, the System is under the supervision and control of the Sanitary Board of the City (the "Sanitary Board").

C. Mt. Tyler Public Service District (the "District") is a public service district created pursuant to Chapter 16, Article 13A of the West Virginia Code, 1931, as amended (the "Code") and currently provides sewer collection service to approximately 549 customers. The City treats sewerage from District pursuant to a treatment agreement dated June 9, 1987.

D. The City and the District signed a September 16, 1997, agreement concerning the proposed merger providing that the City will take possession of all the property and assets of the District, the City will assume all of the legal and financial obligations of the District and the customers served by the District will become customers to be served by the City.

E. On February 26, 1998, the District and the City jointly petitioned the Public Service Commission of West Virginia (the "Commission") for permission to merge the District's system into the City's System, thereby lowering the rates paid by the District's customers.

F. The Commission approved the merger by an order dated October 15, 1998 (the "Order").

G. The acquisition and construction of the System were financed or refinanced in part by the proceeds of prior bond and note issues of the City, including The City of Charleston $1,912,194 Sewer Revenue Bonds, Series 1989 dated March 21, 1989 and The City of Charleston $829,856 Sewer Revenue Bonds, Series 1989 B dated November 21, 1989 (the "WDA First Lien Bonds") and The City of Charleston $283,458 Supplemental Sewer Revenue Bonds, Series 1989 dated March 21, 1989 and The City of Charleston $123,015 Supplemental Sewer Revenue Bonds, Series 1989 B, dated November 21, 1989 (the "WDA Subordinate Bonds," and collectively with the WDA First Lien Bonds, the "WDA Bonds"), the $2,955,000 The City of Charleston Sewerage System Refunding Revenue Bonds, Series 1992 A, and the $6,670,000 The City of Charleston Sewerage System Refunding and Improvement Revenue Bonds, Series 1992 B (the "1992 Bonds"), the

$773,237 The City of Charleston Sewerage System Revenue Bonds, 1993 Series A (the "1993 Bonds"), the $2,671,058 The City of Charleston Sewerage System Revenue Bonds, Series 1996 A, the $395,299 The City of Charleston Sewerage System Revenue Bonds, Series 1996 B (the "1996 Bonds"), the $732,688 The City of Charleston Sewerage System Revenue Bonds, Series 1997 A and the $5,237,584 The City of Charleston Sewerage System Revenue Bonds, Series 1997 B (collectively, the "1997 Bonds"), and the $994,537 The City of Charleston Sewerage System Revenue Bonds, 1998 Series A (the "1998 Bonds"), (the 1993 Bonds, the 1996 Bonds, the 1997 Bonds and the 1998 Bonds, collectively with the WDA First Lien Bonds and the 1992 Bonds, are hereinafter called the "Prior Bonds"). The Prior Bonds are equally and ratably secured under the provisions of Ordinance No. 4828 passed by Council of the City on April 20, 1992, as supplemented by Ordinance No. 4954 passed by Council on May 3, 1993, as supplemented by Ordinance No. 6276 passed by the Council on September 3, 1996, as supplemented by Ordinance No. 6349, passed by the Council on June 2, 1997, and, as supplemented by Ordinance No. 6532, passed by the Council on November 16, 1998 (collectively, the "Prior Ordinance") which amended and superseded several prior ordinances of the City relating to the System and the issuance of bonds and notes to finance the acquisition and construction of portions of the System. The WDA Subordinate Bonds are subordinate and junior as to lien and sources of payment to the Prior Bonds. (The Prior Bonds and the WDA Subordinate Bonds are hereinafter referred to from time to time as the "Prior Debt.")

H. The Prior Bonds are currently outstanding in the approximate aggregate principal amount of $21,000,000, and the WDA Subordinate Bonds are currently outstanding in the aggregate principal amount of $323,094.

I. The acquisition and construction of the District's system were financed in part by the proceeds of District's $730,760 Mt. Tyler Public Service District Sewer Revenue Bonds, Series 1987 A (the "Series 1987 A Bonds") and the Mt. Tyler Public Service District Sewer Revenue Bonds, Series 1987 B (the "Series 1987 B Bonds") in the principal amount of $179,240 (collectively, the "District Bonds"). The Series 1987 B Bonds were issued subordinate and junior as to lien and source of payment to the Series 1987 A Bonds. The District sold the Bonds to the West Virginia Water Development Authority (the "Authority"). The Authority through correspondence with the Commission has stated that it will permit the City's assumption of the District's Bonds on parity with the City's Prior Bonds and the WDA Subordinate Bonds.

J. The City derives revenues from the System, and, except for the pledges thereof to secure and pay the Prior Debt, said revenues are not pledged or encumbered in any manner.

K. It is necessary and essential to acquire the assets of the District and to assume the District's outstanding debt in order to preserve the public health, to be financed through the issuance of bonds pursuant to this Ordinance in one or more series (the "1999 Bonds") in an aggregate principal amount not to exceed $850,000.

L. The estimated revenues to be derived in each year after the enactment of this Ordinance from the operation of said System, after the merger, will be sufficient to pay all the costs of the operation and maintenance of said System, the principal of and interest on the Prior Debt and the 1999 Bonds authorized to be issued pursuant to this Ordinance and all sinking fund, reserve account and other payments provided for in this Ordinance or the Prior Ordinance.

M. The 1999 Bonds and the Certificate of Authentication and Registration to be endorsed thereon are to be in substantially the form set forth in Exhibit A attached hereto and incorporated herein by reference with necessary and appropriate variations, omissions and insertions as permitted or required by this Ordinance or a Supplemental Resolution or as deemed necessary by the Registrar or the City.

N. All things necessary to make the 1999 Bonds, when authenticated by the Registrar and issued as in this Ordinance provided, the valid, binding and legal special obligations of the City according to the import thereof, and to validly pledge and assign those funds pledged hereby to the payment of the principal of and interest on the 1999 Bonds, will be timely done and duly performed.

O. The enactment of this Ordinance, and the execution and issuance of the 1998 Bonds, subject to the terms thereof, will not result in any breach of, nor constitute a default under, any instrument to which the City is a party or by which it may be bound or affected.

P. The City is a governmental unit which has general taxing powers to finance operations of or facilities of the nature of the Project and the System; 95% or more of the Net Proceeds of the Series 1999 Bonds are to be used for local government activities of the City (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the City).

Q. It is deemed necessary for the City to issue its 1999 Bonds in the aggregate principal amount of not more than $850,000 to evidence the assumption of the District's Bonds, said 1999 Bonds to be issued simultaneously with the completion of the merger.

R. It is in the best interests of the City that its 1999 Bonds be delivered to the West Virginia Water Development Authority in exchange for the District's Bonds.

S. The Commission has approved a surcharge of $2.14 per month for the customers of the District to be charged until the District's outstanding bond debt is retired. The reserve funds for the Series 1987 A Bonds and Series 1987 B Bonds respectively are funded at the level required therefor and will be transferred to the 1999 Bonds as part of the merger.

T. The revenues of the System of the City after the merger, together with the surcharge, will be sufficient to pay all the costs of the operation and maintenance of said System and the debt service on the Prior Debt and the 1999 Bonds.

U. Prior to the merger, the City shall receive a certificate from an independent certified public accountant that the City will meet the coverage requirement established in the Prior Ordinance. The 1999 Bonds, which replace the District's Series 1987 A Bonds, shall be issued with a lien on the Net Revenues on a parity with the lien held by the registered owners of the Prior Bonds, but the lien of such 1999 Bonds shall be senior and superior to the lien of the registered owners of the WDA Subordinate Bonds. The lien of the 1999 Bonds, which replace the District's Series 1987 B Bonds, will be on parity with the WDA Subordinate Bonds and junior to the Prior Bonds and the first lien 1999 Bonds.

V. It is in the best interests of the City and the District for the City to acquire the District's assets by merger.

W. The City will not permit, at any time, any of the proceeds of the 1999 Bonds or any other funds of the City to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from the treatment afforded by Section 103(a) of the Code.

Section 1.03. Ordinance Constitutes Contract. In consideration of the acceptance of the 1999 Bonds authorized to be issued hereunder by those who shall hold the same from time to time, this Ordinance shall be deemed to be and shall constitute a contract between the City and such Bondholders, and the covenants and agreements herein set forth to be performed by said City shall be for the equal benefit, protection and security of the legal holders of any and all of such 1999 Bonds issued hereunder, all of which shall be of equal rank and without preference, priority or distinction between any one 1999 Bond and any other 1999 Bonds by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

Section 1.04. Definitions. Except as provided below, terms used in this Supplemental Ordinance have the meanings set forth in the Prior Ordinance, as supplemented by this Supplemental Ordinance, unless the context expressly requires otherwise.

"Bondholder" or "Owner of the 1999 Bonds" or "Registered Owner" or any similar term shall mean any person who shall be the registered owner of any Outstanding Bond as hereinafter defined.

"Closing Date" shall mean the date or dates upon which the acquisition by merger of the assets of Mt. Tyler Public Service District by The City of Charleston is complete.

"Code" shall mean the Internal Revenue Code of 1986, as amended, including the rules and regulations promulgated pursuant thereto or any predecessors or successors thereto.

"Debt Service" shall mean the scheduled amount of interest and amortization of principal payable on the 1999 Bonds during the period of computation, excluding amounts scheduled during such period which relate to principal which has been retired before the beginning of such period.

"1999 Bonds" or "Bonds originally authorized hereby" or similar phrases shall mean the not more then $850,000 in aggregate principal amount of Sewerage System Revenue Bonds issued in one or more series for the purpose of assuming the District's Bonds and for such other purposes permitted hereby and authorized by a resolution supplemental hereto.

"Outstanding" when used with reference to 1999 Bonds, as of any particular date, describes all such 1999 Bonds theretofore and thereupon being authenticated and delivered except (i) any such 1999 Bond cancelled by the Registrar, at or prior to said date; (ii) any such 1999 Bond for the payment of which moneys, equal to its principal amount, with interest to the date of maturity of any such 1999 Bond, shall be in trust hereunder and set aside for such payment (whether upon or prior to maturity); (iii) any such 1999 Bond deemed to have been paid as provided in Article X of the Prior Ordinance; and (iv) for purposes of consents or other action by a specified percentage of Bondholders, any such 1999 Bond registered to the City.

"Registrar" shall mean the entity named as such in the Supplemental Resolution.

"Supplemental Ordinance" or "this Ordinance" shall mean this ordinance as hereafter amended or supplemented.

"Supplemental Resolution" shall mean any resolution, ordinance or order of the City supplementing or amending this Ordinance and, when preceded by the article "the", refers specifically to the supplemental resolutions authorizing the sale of one or more series of the 1999 Bonds; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the 1999 Bonds and not so included may be included in another Supplemental Resolution.

"System" shall mean the complete existing sewerage system now owned by the City and managed by the Sanitary Board, consisting of a sewerage treatment and collection system, and shall include any extensions, additions, betterments and improvements thereto, including the wastewater treatment facility, hereafter acquired or constructed for said sewerage system from any sources whatsoever, both within and without said City, including after the merger, the assets of the District.

Words importing singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations. Words importing the masculine gender include all other genders.

Additional terms and phrases are defined in this Ordinance as they are used. Accounting terms not specifically defined herein shall be given meaning in accordance with general accepted accounting principles.

The terms "herein", "hereunder", "hereby", "hereto", "hereof" and any similar terms refer to this Ordinance; and the term "hereafter" means after the date of the enactment of this Ordinance.

Articles, sections and subsections mentioned by number only are the respective articles, sections and subsections of this Ordinance so numbered.

ARTICLE II

AUTHORIZATION OF ACQUISITION OF MT. TYLER PUBLIC SERVICE DISTRICT

Section 2.01. Authorization of Acquisition and Assumption. The acquisition by merger of the assets of the District and assumption of the District's Bonds by the issuance of the 1999 Bonds by the City is hereby authorized.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION AND REGISTRATION OF 1999 BONDS

Section 3.01. Authorization and Terms of 1999 Bonds. For the purpose of assuming the District's Bonds, there shall be issued the 1999 Bonds of the City. The 1999 Bonds shall be issued in one or more series with the first series to be designated 1999 Series A, the second series as 1999 Series B, and so on, of "Sewerage System Revenue Bonds" in an aggregate principal amount of not more than $850,000. Each series of 1999 Bonds shall be dated as of the date of delivery of each series thereof, shall bear such interest not to exceed the legal interest rate (12%), shall mature at such times, not to exceed forty years, and in such amount as shall be set out in the Supplemental Resolution. The repayment of principal and interest, if any, on each series of 1999 Bonds shall be as set forth on Schedule Y to the District's Loan Agreement. The 1999 Bonds shall contain such other terms, provisions, conditions and limitations, all as provided by this Ordinance and as the Council of the City shall prescribe by resolution (or by supplemental or amendatory ordinance of said Council as said Council shall determine) adopted in connection with the delivery of such 1999 Bonds.

The 1999 Bonds shall be payable as to principal at the principal office of the Paying Agent in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the 1999 Bonds shall be paid by check or draft mailed to the registered owner thereof at the address as it appears on the books of the Bond Registrar, provided, that so long as the Authority is the owner thereof, interest on the 1999 Bonds may be paid by wire transfer or other methods satisfactory to the City, the Paying Agent and the Authority.

Unless otherwise provided by the Supplemental Resolution, the 1999 Bonds shall be issued in the form of a single bond for each series, fully registered to the Authority, with a record of advances and a payment record attached, representing the aggregate principal amount, and shall mature in principal installments, all as provided in the Loan Agreement and said Supplemental Resolution. The 1999 Bonds shall be exchangeable at the option and expense of the Bondholder for other fully registered 1999 Bonds in aggregate principal amount equal to the amount of said 1999 Bonds then Outstanding, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said 1999 Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Section 3.02. Execution of Bonds. Said Bonds shall be executed in the name of the City by the Mayor and attested by the Recorder, and the seal of the City shall be affixed thereto or imprinted thereon. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officer of the City before the Bonds so signed and sealed have been sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Bonds may be signed and sealed on behalf of the City by such person as, at the actual time of the execution of such Bonds, shall hold the proper office in the City, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.03. Authentication and Registration. No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Ordinance unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in Section 3.08, shall have been duly manually executed by the Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Ordinance. The Certificate of Authentication and Registration on any Bond shall be deemed to have been executed by the Registrar if manually signed by an authorized officer of the Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

Section 3.04. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Bonds shall be, and have all of the qualities and incidents of, negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive owner, in accepting any of said Bonds shall

be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive owner shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide holder for value in the manner provided hereinafter in the form of said Bonds.

So long as any of the 1999 Bonds remain Outstanding, the City, through the Registrar, shall keep and maintain books for the registration and transfer of the Bonds.

The 1999 Bonds shall be transferable only upon the books of the Registrar, by the registered Owner thereof in person or by the Owner's attorney duly authorized in writing, upon surrender thereto together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered Owner or the Owner's duly authorized attorney.

In all cases in which the privilege of exchanging Bonds or transferring Bonds is exercised, Bonds shall be delivered in accordance with the provisions of this Ordinance. All Bonds surrendered in any such exchanges or transfers shall forthwith be canceled by the Registrar. For every such exchange or transfer of Bonds, the Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Registrar incurred in connection therewith, which sum or sums shall be paid by the City. The Registrar shall not be obliged to make any such exchange or transfer of Bonds during the 15 days preceding an interest payment date on the Bonds, or, in the case of any proposed redemption of Bonds, next preceding the date of the selection of Bonds to be redeemed.

Section 3.05. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Bond shall become mutilated or be destroyed, stolen or lost, the City may, in its discretion, issue and deliver a new Bond in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Owner's furnishing the City proof of ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the City may prescribe and paying such expenses as the City may incur and the Registrar shall authenticate the new Bond. All Bonds so surrendered shall be canceled by the Registrar and held for the account of the City. If such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the City may pay the same, upon being indemnified as aforesaid, and, if such Bond be lost, stolen, or destroyed, without surrender therefor.

Any such duplicate Bonds issued pursuant to this Section shall constitute original, additional contractual obligations on the part of the City, whether or not the lost, stolen or destroyed Bonds be at any time found by anyone, and such duplicate Bonds shall be entitled to equal and proportionate benefits and rights as to lien and source of security for payment from the revenues pledged herein with all other Bonds issued hereunder.

Section 3.06. Bonds not to be Indebtedness of the City. The 1999 Bonds shall not, in any event, be or constitute an indebtedness of the City within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided on parity with the Prior Bonds but senior and superior to the WDA Subordinate Bonds or on a parity with the WDA Subordinate Bonds, as the case may be. No Owner or Owners of any of the Bonds shall ever have the right to compel the exercise of the taxing power of the City to pay the Bonds or any interest thereon.

Section 3.07. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of all the 1999 Bonds, issued to assume the District's Series 1987 A Bonds, shall be secured forthwith equally and ratably with each other by a first lien on the Net Revenues derived from the System on parity with the Prior Bonds but senior and superior to the WDA Subordinate Bonds. The 1999 Bonds issued to assume the District's Series 1987 B Bonds shall be on parity with the WDA Subordinate Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the 1999 Bonds and the Prior Debt and to make the payments into the sinking funds and the reserve accounts therein and in the Renewal and Replacement Fund established herein or in the Prior Ordinance are hereby irrevocably pledged to the payment of the principal of and any interest on the 1999 Bonds and the Prior Debt as the same become due.

Section 3.08. Form of 1999 Bonds. The text of the 1999 Bonds shall be of substantially as set forth in Exhibit A, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted by this Ordinance or any subsequent resolution or ordinance adopted or enacted prior to the issuance thereof.

Section 3.09. Delivery of 1999 Bonds. Each series of 1999 Bonds shall be issued to the Authority in exchange for the District's Bonds.

Section 3.10. 1999 Bonds are Issued as Parity Bonds. The 1999 Bonds are issued as and shall constitute additional Parity Bonds in accordance with Section 6.08 of the Prior Ordinance. Prior to the issuance of the 1999 Bonds, the following must occur:

A. The City must receive the written approval of the Authority for the issuance of the 1999 Bonds.

B. The conditions of Section 6.08 of the Prior Ordinance must be satisfied.

C. The redesignation by the Commission of the reserve funds for the Series 1987 A Bonds and Series 1987 B Bonds.

D. The 1999 Bonds shall not be issued unless all the payments into the respective funds and accounts provided for in the Prior Ordinance on account of the Prior Debt Outstanding and any other payments provided for in the Prior Ordinance, shall have been made in full as required to the date of delivery of the 1999 Bonds.

ARTICLE IV

FUNDS AND ACCOUNTS

Section 4.01. Funds and Accounts. The funds and accounts established by the Prior Ordinance are hereby continued. In addition to the funds and accounts established by the Prior Ordinance, there is hereby created at the Commission a sinking fund and a reserve account with respect to each series of 1999 Bonds. Following the monthly payment of operation and maintenance expense, the City shall make monthly payments to the Commission of the debt service on the Prior Debt and the 1999 Bonds.

Simultaneously with the transfers made pursuant to Section 4.02A(2) of the Prior Ordinance with respect to the Prior Bonds, the City shall simultaneously deposit on the first day of each month a sum equal to one-sixth of the amount of interest which will become due on the 1999 Bonds on the next ensuing semi-annual interest payment date and shall simultaneously deposit with the Commission on the first of each month beginning on the first day of the month which is thirteen months prior to the first principal payment date of the 1999 Bonds a sum equal to one-twelfth of the principal which will mature or become due on the 1999 Bonds on the next principal payment date.

To the extent not funded with proceeds of the Bonds or otherwise previously funded, the City shall simultaneously with the payments required under Section 4.02A(3) of the Prior Ordinance deposit with the Commission an amount equal to one and one hundred twentieth of the reserve account requirement to the respective reserve account.

Moneys in the respective Sinking Funds shall be used only for the purposes of paying principal of and interest on the respective series of Bonds as the same shall become due. Moneys in the Reserve Account in the respective Sinking Funds shall be used only for the purpose of paying principal of or interest on the respective series of Bonds, as the same shall come due, when other moneys in the respective Sinking Fund are insufficient therefor, and for no other purpose. Except for the funds required to be deposited in the Rebate Fund, all investment earnings on moneys in the respective Reserve Accounts shall be transferred, not less than once each year, to the Bond Construction Trust Fund prior to completion of the Project and thereafter, pro rata, to the respective Sinking Funds.

Any withdrawals from the Reserve Accounts which result in a reduction in the balance of any Reserve Account to an amount below the applicable Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments to the Sinking Funds for payment of debt service on the Bonds have been made in full.

Moneys in the Reserve Accounts shall be invested and reinvested by the Commission in accordance with Section 4.04 hereof.

If on any monthly payment date the revenues are insufficient to place the required amount in any of the funds or accounts as hereinabove and in the Prior Ordinance as provided, the deficiency is to be made up in subsequent payments, in addition to the payments which would otherwise be required to remain in the funds and accounts on subsequent payment dates. During such short period of insufficient funds, the funds received shall be distributed pro rata among the various Bonds outstanding. Additionally, at such time as required by the Authority, the City shall make its debt service payments to the Commission through automatic debit or other automatic bank transfer.

Except as provided above, all sinking fund, reserve, and renewal and replacement payments shall remain as governed by Section 4.02 of the Prior Ordinance.

Section 4.02. Investments. Any moneys held as a part of the funds and accounts created by this Ordinance, other than the Revenue Fund, shall be invested and reinvested by the Commission, the Depository Bank or such other bank or national banking association holding such fund or account, as the case may be, at the direction of the City in any Qualified Investments to the fullest extent possible under applicable laws, this Ordinance, the need for such moneys for the purposes set forth herein and the specified restrictions and provisions set forth in this Section 4.02.

Any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The investments held for any fund or account shall be valued at the lower of cost or then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including the value of accrued interest and giving effect to the amortization of discount. The Commission, the Depository Bank or such other bank or national banking association, as the case may be, shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss of such liquidation. The Depository Bank or such other bank or national banking association may make any and all investments permitted by this section through its own bond department and shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

ARTICLE V

ADDITIONAL COVENANTS OF THE CITY

All the covenants, agreements and provisions of the Prior Ordinance shall remain in full force and effect as long as the Prior Debt and the 1999 Bonds are outstanding and shall apply to the 1999 Bonds as if fully set out herein. The following covenants are supplemented and in addition to the covenants set forth in the Prior Ordinance.

Section 5.01. Tax Covenants. The City hereby further covenants and agrees as follows:

A. PUBLIC PURPOSE BONDS. The System, after the merger, will be solely operated as a public purpose and as local governmental activity of the City.

B. PRIVATE ACTIVITY BOND COVENANT. The City shall not permit at any time or times any of the proceeds of the 1999 Bonds or any other funds of the City to be used directly or indirectly in a manner which would result in the exclusion of the 1999 Bonds from the treatment afforded by Section 103(a) of the Code by reason of the classification of the 1999 Bonds as "private activity bonds" within the meaning of the Code. The City will take all actions necessary to comply with the Code in order to assure the tax-exempt status of the 1999 Bonds.

C. PRIVATE LOAN LIMITATION. The City shall assure that not in excess of 5% of the Net Proceeds of the 1999 Bonds are used, directly or indirectly, to make or finance a loan (other than loans constituting Nonpurpose Investments) to persons other than state or local government units.

D. FEDERAL GUARANTEE PROHIBITION. The City shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the 1999 Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

E. INFORMATION RETURN. The City will file all statements, instruments and returns necessary to assure the tax exempt status of the 1999 Bonds, including without limitation the information return required under Section 149(e) of the Code.

F. FURTHER ACTIONS. The City will take any and all actions that may be required of it (including those deemed necessary by the Authority) so that the interest on the 1999 Bonds will be and remain excludable from gross income for federal income tax purposes, and will not take any actions, or fail to take any actions (including those determined by the Authority) which would adversely affect such exclusion.

Section 5.02. Rebate Covenant. The City is a governmental unit with general taxing powers to finance operations of or facilities of the nature of the System. As covenanted above, the 1999 Bonds are not private activity bonds within the meaning of the Code, and ninety-five percent (95%) or more of the net proceeds (as defined with respect to the Code) of the 1999 Bonds will be used for local governmental activities of the City. The City reasonably expects to expend the proceeds of the 1999 Bonds within the time period that would provide an exception from the rebate requirements of Section 148(f) of the Code. Notwithstanding the foregoing, if the City is in fact subject to such rebate requirements, the City hereby covenants to rebate to the United States the amounts required by the Code and to take all steps necessary to make such rebates. In the event the City fails to make such

rebates as required, the City shall pay any and all penalties and obtain a waiver from the Internal Revenue Service in order to maintain the tax-exempt status of interest on the 1999 Bonds.

Section 5.03. Arbitrage. The City covenants that (i) it will restrict the use of the proceeds of the 1999 Bonds in such manner and to such extent as may be necessary, in view of the City's reasonable expectations at the time of issuance of the 1999 Bonds, so that the 1999 Bonds will not constitute "arbitrage bonds" under Section 148 of the Code, and (ii) it will take all actions that may be required of it (including, without implied limitation, the timely filing of a federal information return with respect to the 1999 Bonds so that the interest on the 1999 Bonds will be and remain excluded from gross income for federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

Section 5.04. Tax Certificate and Rebate. The City shall deliver a certificate of arbitrage, a tax certificate or other similar certificate to be prepared by nationally recognized bond counsel or tax counsel relating to payment of arbitrage rebate and other tax matters as a condition to issuance of the 1999 Bonds. In addition, the City covenants to comply with all regulations from time to time in effect and applicable to the 1999 Bonds as may be necessary in order to maintain the exclusion from gross income for federal income tax purposes of interest on the 1999 Bonds and fully comply with Section 148(f) of the Code, and covenants to take such actions, and refrain from taking such actions, as may be necessary to fully comply with such Section 148(f) of the Code and such regulations, regardless of whether such actions may be contrary to any of the provisions of the Ordinance.

If it is determined that the City does not quality for an exception to Section 148 of the Code or the City is otherwise subject to rebate in connection with the 1999 Bonds, the City shall calculate, annually, the rebatable arbitrage, determined in accordance with Section 148(f) of the Code. Upon completion of each such annual calculation, unless otherwise agreed by the Authority, the City shall deposit, or cause to be deposited, with the Depository Bank in a separate fund designated the Rebate Fund, such sums as are necessary to cause the aggregate amount on deposit in the Rebate Fund to equal the sum determined to be subject to rebate to the United States, which, notwithstanding anything herein to the contrary, shall be paid from investment earnings on the underlying fund or account established hereunder and on which such rebatable arbitrage was earned or from other lawfully available sources. Notwithstanding anything herein to the contrary, the Rebate Fund shall be held free and clear of any lien or pledge hereunder, if any, and used only for payment of rebatable arbitrage to the United States. The City shall pay, or cause to be paid, to the United States, from the Rebate Fund, the rebatable arbitrage in accordance with Section 148(f) of the Code and such Regulations. In the event that there are any amounts remaining in the Rebate Fund following all such payments required by the preceding sentence, the Depository Bank shall pay said amounts to the City to be used for any lawful purpose of the System. The City shall remit payments to the United States in the time and at the address prescribed by the regulations as the same may be from time to time in effect with such reports and statements as may be prescribed by such regulations. In the event that,

for any reason, amounts in the Rebate Fund are insufficient to make the payments to the United States which are required, the City shall assure that such payments are made by the City to the United States, on a timely basis, from any funds lawfully available therefor. In addition, the City shall cooperate with the Authority in preparing rebate calculations and in all other respects in connection with rebates and hereby consents to the performance of all matters in connection with such rebates by the Authority at the expense of the City. To the extent not so performed by the Authority, the City and the Depository Bank (at the expense of the City) may provide for the employment of independent attorneys, accountants or consultants compensated on such reasonable basis as the City or the Depository Bank may deem appropriate in order to assure compliance with this Section 5.11. The City shall keep and retain, or cause to be kept and retained, records of the determinations made pursuant to this Section 5.11 in accordance with the requirements of Section 148(f) of the Code. In the event the City fails to make such rebates as required, the City shall pay any and all penalties and other amounts, from lawfully available sources, and obtain a waiver from the Internal Revenue Service, if necessary, in order to maintain the exclusion of interest on the 1999 Bonds from gross income for federal income tax purposes.

The City shall submit to the Authority within 15 days following the end of each Bond Year a certified copy of its rebate calculation and certificate with respect thereto or, if the City qualifies for the small governmental issue exception to rebate or any other exception therefrom, then the City shall submit to the Authority a certificate stating that it is exempt from such rebate provisions and that no event has occurred to its knowledge during the Bond Year which would make the 1999 Bonds subject to rebate. The City shall also furnish to the Authority, at any time, such additional information relating to rebate as may be reasonably requested by the Authority, including information with respect to earnings on all funds constituting "gross proceeds" of the 1999 Bonds (as defined in the Code).

The City shall furnish to the Authority, annually, at such time as it is required to perform its rebate calculations under the Code, a certificate with respect to its rebate calculations and, at any time, any additional information relating thereto as may be requested by the Authority and shall furnish to the Authority such information with respect to earnings on all funds constituting "gross proceeds" of the 1999 Bonds (as that term is defined in the Code) from time to time as the Authority may request.

Section 5.05. Securities Laws Compliance. The City will provide the Authority, in a timely manner, with any and all information that may be requested of it (including its annual audit report, financial statements, related information and notices of changes in usage and customer base) so that the Authority may comply with the provisions of SEC Rule 15c2-12 (17CFR Part 240).

Section 5.06. Defeasance of Bonds. If the City shall pay or cause to be paid, or there shall otherwise be paid, to the Owners of all 1999 Bonds the principal thereof, and redemption premium, if applicable, and interest due or to become due thereon, at the times and in the manner stipulated therein and in the Ordinance, then the pledge of Net Revenues and any other moneys and securities pledged under this Ordinance and all covenants,

agreements and other obligations of the City to the Bondholders shall thereupon cease, terminate and become void and be discharged and satisfied.

The 1999 Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agent at the same or earlier time, shall be sufficient to pay, as and when due, the principal of and interest on the Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this Section. All Bonds shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section if there shall have been deposited with the Commission or its agents, either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with other moneys, if any, deposited with the Commission at the same time, shall be sufficient to pay when due the principal installments and interest due and to become due on said Bonds on and prior to the maturity dates thereof. Neither securities nor moneys deposited with the Commission pursuant to this Section nor principal or interest payments on any such securities shall be withdrawn or used for any purposes other than, and shall be held in trust for, the payment of the principal of and redemption premium, if applicable, on and interest on said Bonds; provided, that any cash received from such principal or interest payments on such securities deposited with the Commission, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the principal of and redemption premium, if applicable, on and interest to become due on said Bonds on and prior to such redemption date or maturity date thereof, as the case may be, and interest earned from such reinvestments shall be paid over to the City, as received by the Commission, free and clear of any trust, lien or pledge. For the purpose of this Section, securities shall mean and include only Government Obligations.

ARTICLE VI

MISCELLANEOUS

Section 6.01. Modification or Amendment. No material modification or amendment of this Ordinance or of any ordinance or resolution amendatory hereof or supplemental hereto which would materially and adversely affect the rights of Bondholders shall be made without the consent in writing of the owners of two-thirds (2/3) or more in principal amount of the 1999 Bonds then Outstanding and to be affected by said modification; provided, however, that no change shall be made in the maturity of any 1999 Bond or 1999 Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the City to pay such principal and interest out of the revenues of the System without the consent of the owner thereof. No amendment or modification shall be made which would reduce the percentage of the principal amount of 1999 Bonds required for consent to the above permitted amendments or modifications.

Section 6.02. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, such invalidity shall not affect any of the remaining provisions of this Ordinance.

Section 6.03. Repeal of Conflicting Ordinances. All ordinances, resolutions and orders, or parts thereof, other than the Prior Ordinance, in conflict with this Ordinance are to the extent of such conflict repealed.

Section 6.04. Covenant of Due Procedure. The City covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the final enactment and passage of this Ordinance do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Mayor, the City Clerk and members of Council were at all times when any actions in connection with this Ordinance occurred, and are, duly in office and duly qualified for such office.

Section 6.05. Abstract of Ordinance and Notice of Public Hearing. Upon adoption hereof, the abstract of this Ordinance in the form set forth in Exhibit B attached hereto and incorporated herein by reference, shall be published once a week for two successive weeks, with at least six full days intervening between each publication, in the Charleston Gazette and Charleston Daily Mail, newspapers of general circulation in the City of Charleston, together with a notice stating that this Ordinance has been adopted and that the City contemplates the issuance of the Bonds, and that any person interested may appear before the City upon a certain date, not less than ten days subsequent to the date of the first publication of such abstract of this Ordinance and notice, and present protests, and that a certified copy of this Ordinance is on file with the City for review by interested persons during office hours of the City. The Council hereby determines that the Abstract contains sufficient information as to give notice of the contents hereof. At such hearing, all objections and suggestions shall be heard and the City shall take such action as it shall deem proper in the premises.

Section 6.06. Effective Date. This Ordinance shall take effect after passage, public hearing and otherwise in the manner prescribed by law.

EXHIBIT A

[FORM OF THE 1999 BOND]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
COUNTY OF KANAWHA
THE CITY OF CHARLESTON
SEWERAGE SYSTEM REVENUE BONDS, 1999 SERIES __

No. R-__ $_____

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF CHARLESTON, a municipal corporation of the State of West Virginia, in Kanawha County of said State (the "City"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to West Virginia Water Development Authority (the "Authority "), or registered assigns, the sum of _____ ($___ _____), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as Exhibit A hereto and incorporated herein by reference, in installments on October 1 commencing _____, 199__, as set forth on the "Schedule of Annual Debt Service" attached as Schedule A hereto and incorporated herein by reference, with interest on each installment at the rate of _____ percent (___%) per annum as set forth on said Schedule A.

Principal installments of this 1999 Bond are payable in any coin or currency which, on the respective dates of payment of principal, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the Paying Agent. The interest on this 1999 Bond is payable by check or draft mailed to the Payee at the address as it appears on the books of the Registrar on the 15th day of the month preceding an interest payment date or by such other method as shall be mutually agreeable so long as the Authority is registered owner hereof.

This 1999 Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority.

This 1999 Bond is issued to evidence the City's assumption of the Mt. Tyler Public Service District's _____. This 1999 Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act"), Ordinance No. 4828 enacted on April 20, 1992, as amended, Ordinance No. _____ enacted by the City on the ___ day of _____, 1999, and a Supplemental Resolution adopted by the City on the __ day of _____, 1999 (collectively called the "Ordinance"), and is subject to all the terms and conditions thereof. The

Ordinance provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the 1999 Bonds under the Ordinance.

This 1999 Bond ranks equally as to lien and security with the _____, as are defined in the Ordinance.

This 1999 Bond is payable only from and secured by a pledge of a first lien on the Net Revenues as defined in the Ordinance, to be derived from the operation of the System, moneys in the Reserve Account created under the Ordinance and unexpended proceeds of the 1999 Bonds on parity with the Prior Bonds [but senior to the WDA Subordinate Bonds.] Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This 1999 Bond does not constitute a corporate indebtedness of the City within the meaning of any constitutional or statutory provisions or limitations, nor shall the City be obligated to pay the same or the interest thereon except from said special fund provided from the Net Revenues, the moneys in the Reserve Account and unexpended 1999 Bond proceeds. Pursuant to the Ordinance, the City has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the amount required to pay the maximum amount due in any ensuing fiscal year of principal of and interest on all obligations on a parity with or prior to the 1999 Bonds, payable from such revenues, provided however, that so long as there exists in the Reserve Account an amount equal to the maximum amount of principal and interest which will become due on the 1999 Bonds and any bonds on a parity therewith in any succeeding fiscal year and in each of the reserve accounts for the Prior Bonds, respectively, an amount equal to the requirement therefor, such percentage may be reduced to 110%. The City has entered into certain further covenants with the registered owners of the 1999 Bonds for the terms of which reference is made to the Ordinance. Remedies provided the registered owners of the 1999 Bonds are exclusively as provided in the Ordinance, to which reference is here made for a detailed description thereof.

This 1999 Bond is transferable, as provided in the Ordinance, only upon the books of the Registrar, kept for that purpose at the office of the Registrar, by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this 1999 Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or its attorney duly authorized in writing.

This 1999 Bond, under the provision of the Act is, and has provided all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this 1999 Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be

applied solely to the payment of the Costs of the Project described in the Ordinance or to the appurtenant sinking fund, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the owner of this 1999 Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this 1999 Bond have existed, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this 1999 Bond, together with all other obligations of the City, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the revenues of the System has been pledged to and will be set aside into said special fund by the City for the prompt payment of the principal of and interest on this 1999 Bond.

All provisions of the Ordinance, resolutions and statutes under which this 1999 Bond is issued shall be deemed to be a part of the contract evidenced by this 1999 Bond to the same extent as if written fully herein.

IN WITNESS WHEREOF, THE CITY OF CHARLESTON has caused this 1999 Bond to be signed by its Mayor and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Clerk, and has caused this 1999 Bond to be dated ____, 1999.

[SEAL]

_____
Mayor

ATTEST:

_____
City Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This 1999 Bond is one of the 1999 Bonds described in the within-mentioned Ordinance and has been duly registered in the name of the registered owner set forth above.

_____,
as Registrar

By _____
Its Authorized Officer

Dated: _____

SCHEDULE A

SCHEDULE OF ANNUAL DEBT SERVICE

[Form of Assignment]

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto

_____

_____

_____

_____

_____

the within 1999 Bond and does hereby irrevocably constitute and appoint _____ ____, Attorney to transfer the said 1999 Bond on the books kept for registration of the within 1999 Bond of the said City with full power of substitution in the premises.

Dated: _____, ___.

_____

In the presence of:

_____

[THIS IS THE END OF EXHIBIT A]

EXHIBIT B

THE CITY OF CHARLESTON, WEST VIRGINIA

NOTICE OF PUBLIC HEARING and ABSTRACT OF BOND ORDINANCE

Notice is hereby given to any person interested that on February 1, 1999, the Council of The City of Charleston, West Virginia (the "City") adopted an ordinance which:

1. Authorized the acquisition by merger of the assets of Mt. Tyler Public Service District (the "District") to be incorporated in the City's wastewater treatment system (the "System") and the assumption of the District's outstanding bond debt through the issuance of not more than $850,000 in aggregate principal amount of Sewerage System Revenue Bonds, Series 1999 (the "Bonds").

2. Directed that the Bonds be issued in two or more series and in the form of one bond each, fully registered with a payment record attached; that interest on the Bonds shall be no more than twelve percentum (12%) per annum, that said Bonds mature in not more than forty years and that said Bonds be issued for the par value thereof; that the Bonds be executed in the name of the City by the Mayor, and the seal of the City be affixed thereto and attested to by the City Clerk; that such Bonds be duly authenticated by the Registrar and delivered to the West Virginia Water Development Authority.

4. Directed the continuation of the Revenue Fund and the disposition of the System revenues; provided for the payment of operating expenses; provided for the monthly payment of principal and interest when due; provided for the creation of reserve accounts for the Bonds and continuation of a Renewal and Replacement Fund; and provided for the use of excess funds of the System.

5. Pledged the Net Revenues of the System to payment of the Bonds.

The City contemplates the issuance of the Bonds described in, and under the conditions set forth in the Ordinance abstracted above. Any person interested may appear before the Council of the City of Charleston at a regular meeting thereof at 8:00 p.m., prevailing time, on February 16, 1999, at the

Council Chambers, City Hall, Charleston, West Virginia, and present objections and be heard as to whether the above described Ordinance shall be put into effect.

A certified copy of the Ordinance as adopted by the Council of City on February 1, 1999, is on file with the City Clerk for review by interested persons at the City Hall during regular office hours, to-wit: 8:00 a.m. to 4:00 p.m., Monday through Friday.

/s/

City Clerk -- The City of Charleston,
West Virginia

CERTIFICATE OF TRUTH AND ACCURACY

I, the undersigned, as Clerk of The City of Charleston, Kanawha County, West Virginia, do hereby certify that the foregoing document is a true and accurate copy of an official record of The City of Charleston, such records being in the custody of the undersigned and maintained at The City of Charleston, City Hall, Charleston, Kanawha County, West Virginia, and that the action taken by the Council in the foregoing document remains in full force and effect and has not been amended or repealed.

Dated this ___ day of _____, 1999.

_____
City Clerk

[SEAL]

137651

The question being on the passage of the bill a roll call was taken and there were; yeas-25, nays-0, absent-0, abstentions-2, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass, Snuffer and Mayor Melton.

NAYS: None.

ABSENT: None.

ABSTAIN: Hardy and Loeb.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 6544 passed unanimously.

13. Your Committee on Finance has had under consideration payment of an invoice from West Virginia Uniforms, in the amount of $2,065.75, for purchase of five (5) uniforms at $413.15 each for new firefighters; To be charged to Account No. 01-706-0-0-1-010, Fir Department--Uniforms, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent, with the exception of one abstention, Councilman Loeb, the Mayor declared the committee report adopted unanimously.

14. Your Committee on Finance has had under consideration payment of two invoices in the total amount of $4,014.27, for professional services rendered during the month of December 1998 covering claims filed through the Police Civil Service Commission; To be charged to Account No. 01-417-0-0-2-023, Legal Department--Professional Services, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent, with the exception of one abstention, Councilman Lane, the Mayor declared the committee report adopted unanimously.

15. Your Committee on Finance has had under consideration payment of an invoice from West Virginia Division of Criminal Justice Services, in the amount of $6,300, covering tuition fees for Charleston Police Department officers attending Basic Recruit classes at West Virginia State Police Academy; To be charged to Account No. 01-700-0-0-2-021, Police--Training, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken.There being no disssent the Mayor declared the committee report adopted unanimously.

16. Your Committee on Finance has had under consideration payment of an invoice from Electronic Communications, in the amount of $2,531.20, for installation of computer mounts in 22 police vehicles; To be charged to Account No. 01-700-0-0-4-059, Police--Capital Outlay, Equipment, and reports the same to Council with the recommendaiton that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted unanimously.

17. Your Committee on Finance has had under consideraiton payment of an invoice from West Virginia Health Right, Inc., in the amount of $150,000, for acquisition of property at 1520 - 1526 Washington Street, East, for the West Virginia Health Right Medical Clinic; To be charged to the following accounts:

$75,000 - 25-098-00-006, CDBG--Acquisition of Property

$75,000 - 01-110-5, MOECD--Accounts Receivable (CURA), and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a roll call was taken and there were; yeas-27, nays-0, absent-0, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass, Snuffer and Mayor Melton.

NAYS: None.

ABSENT: None.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared the committee report adopted unanimously.

18. Your Committee on Finance has had under consideration authorizing the Charleston Home Programs to charge Account No. 25-098-00-014 in the amount of $7,595 for rehabilitation of one residential unit (see attachment), and reports the same to Council with the recommendation that the committee report be adopted.

OWNER OCCUPIED
RESIDENTIAL LOAN PROGRAM

Contractor: Kennedy Construction

Council Action: February 1, 1999

Project Address: 405 Piccadilly St.

Total Estimated Cost:	$7,595.00
Construction Costs:	$
Insurance:	$
Legal Fees:	$
Recording Fees:	$
Appraisal:	$
Other:	
Total Loan	$7,595.00

The question being on the adoption of the committee report a roll call was taken and there were; yeas-27, nays-0, absent-0, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass, Snuffer and Mayor Melton.

NAYS: None.

ABSENT: None.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared the committee report adopted unanimuosly.

19. Your Committee on Finance has had under consideration payment to Charleston Urban Renewal Authority, in the amount of $9,332.36, representing a refund due as a result of the computation of costs and a final accounting of the funds contributed by the local sponsors for the Riverfront Park Project. The Park Cooperation Agreement, dated December 17, 1992, stipulates that a refund be issued to the Sponsor if the total contribution for the Project exceeds the Sponsor's required share; To be charged to Account No. 01-110-5, MOECD--Accounts Receivable, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a roll call was taken and there were; yeas-27, nays-0, absent-0, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass, Snuffer and Mayor Melton.

NAYS: None.

ABSENT: None.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared the committee report adopted unanimously.

20. Your Committee on Finance has had under consideration payment to Charleston Renaissance, in the amount of $9,332.36, representing a refund due as a result of the computation of costs and a final accounting of the funds contributed by the local sponsors for the Riverfront Project. The Project Cooperation Agreement, dated December 17, 1992, stipulates that a refund be issued to the Sponsor if the total contributions for the Project exceeds the Sponsor's required share; To be charged to Account No. 01-110-5, MOECD--Accounts Receivable, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a roll call was taken and there were; yeas-27, nays-0, absent-0, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass, Snuffer and Mayor Melton.

NAYS: None.
ABSENT: None.
So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared the committee report adopted unanimously.

21. Your Committee on Finance has had under consideration payment of an invoice from Community Council of Kanawha Valley, Inc., in the amount of $25,311.22, for reimbursement of expenses for the Schoenbaum Center for October through December 1998; To be charged to Account No. 25-094-00-043, CDBG--Schoenbaum Center, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a roll call was taken and there were; yeas-26, nays-0, absent-0, abstentions-1, as follows:
YEAS: Barron, Barth, Connell, Crickenberger, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass, Snuffer and Mayor Melton.
NAYS: None.
ABSENT: None.
ABSTAIN: Gilmer
So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared the committee report adopted unanimously.

PLANNING

Councilwoman Jody Connell, Chairman of the Council Committee on Planning, submitted the following reports.

1. Your Committee on Planning has had under consideration Bill No. 6524, a Bill closing, abandoning and discontinuing as a public Right-of-Way an unimproved portion of Milton Street that is situated between 1408 Milton Street, 1506 Hansford Street and Lots 9 and 10 on Cart Street; and reserving sewer easements for the City of Charleston, West Virginia.

Your Committee finds that since a portion of the alley has already been closed there should be little, if any, adverse impact on the neighborhood; and

Your Committee further finds this will provide green space for the home built by Habitat for Humanity, and reports the same to Council with the recommendation that the Bill do pass, but first be referred to the Finance Committee for a determination of the consideration.

Mayor Melton referred Bill No. 6524 to the Council Committee on Finance.

2. Your Committee on Planning has had under consideration Bill No. 6499, a Bill closing, abandoning and discontinuing as a public alley that 10' alley which lies behind 1001 Crescent

Avenue and 114 Avon Street, Charleston, West Virginia; and reserving sewer easements for the City of Charleston.

Your Committee finds that the closing of the alley will allow the church to fence it in and prevent unknown persons from traveling behind their property; and

Your Committee further finds that since the alley is unimproved there should be little, if any, adverse affect on the neighborhood, and reports the same to Council with the recommendation that the Bill do pass, but first be referred to the Finance Committee for a determination of the consideration.

Mayor Melton referred Bill No. 6499 to the Council Committee on Finance.

3. Your Committee on Finance has had under consideration Bill No. 6539, a Bill amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 7th day of March, 1983, as amended, and the map made a part thereof, by rezoning from the R-4 district to a R-6 district, that certain parcel of land situate at 2307, 2309 and 2311 Chesterfield Avenue, Charelston, West Virginia.

Your Committee finds that:

1. There is no negative impact on the area; and
2. The proposed townhouses will be an improvement; and
3. There is a trend in the area towards multi-family dwellings; and
4. The proposed development is consistent with the Comprehensive Plan; and
5. The City Engineer has advised that with the roof drains tied into the storm sewers there will be no problems from water run-off; and

Your Committee further finds that passage of the bill subject to maintaining the steep part of the hill in vegetation would enhance the project, and reports the same to Council with the recommendation that the bill do pass, subject to the vegetation on the steep part of the hill being maintained.

Bill No. 6539, a bill amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 7th day of March, 1983, as amended, and the map made a part thereof, by rezoning from the R-4 district to a R-6 district, that certain parcel of land situate at 2307, 2309 and 2311 Chesterfield Avenue, Charleston, West Virginia.

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

1. The Zoning Ordinance of the City of Charleston, West Virginia, enacted the 7th day of March, 1983, as amended, is hereby amended by rezoning from an R-4 district to a R-6 district, the whole of the following parcels of land.

Parcels 75, 76, 77 and 78 as shown on Kanawha City Tax Map Nos. 20. Subject parcel commonly known as 2307, 2309 and 2311 Chesterfield 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 Section 1 of this Ordinance.

3. All prior ordinances, or parts of ordinances, inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

The question being on the passage of the bill a roll call was taken and there were; yeas-27, nays-0, absent-0, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass, Snuffer and Mayor Melton.

NAYS: None.

ABSENT: None.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 6539 passed unanimously.

4. Your Committee on Planning has had under consideration Bill No. 6540, a Bill amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 7th day of March 1983, as amended, and the map made a part thereof, by rezoning from a R-4 district to a R-10 district that certain parcel of land situated at the northwest corner of Garvin Avenue and West Washington Street.

Your Committee finds that:

1. The property is more suitable for multi-family use than for single family residential; and
2. There is a need for elderly family housing in the community; and
3. The proposed use respects the steep topography of the site; and
4. They are providing recreational amenities suitable to the problem to be housed which will also provide more green space to the City, and reports the same to Council with the recommendation that the bill do pass.

Bill No. 6540--a bill amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 7th day of March 1983, as amended, and the map made a part thereof, by rezoning from a R-4 district to a R-10 district that certain parcel of land situated at the northwest corner of Garvin Avenue and West Washington Street.

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

1. The Zoning Ordinance of the City of Charleston, West Virginia, enacted the 7th day of March 1983, as amended, is hereby amended by rezoning from a R-4 district to a R-10 district the whole of the following described parcel of land;

Parcel 492 as shown on West Charleston Tax Map No. 11. Subject parcel being situated at the northwest corner of Garvin Avenue and West Washington Street (commonly known as the Woodrow Wilson Junior High School property) Charleston, West Virginia. Said tax map is on 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 Section 1 of this ordinance.

3. All prior ordinances, or parts of ordinances, inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

The question being on the passage of the bill a roll call was taken and there were; yeas-27, nays-0, absent-0, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass, Snuffer and Mayor Melton.

NAYS: None.

ABSENT: None.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declred Bill No. 6540 passed unanimously.

5. Your Committee on Planning has had under consideration Special Permit No. 869.

Your Committee finds that the City Engineer has advised there will be no water problems from run-off; and

Your Committee further finds that with the approved landscaping as submitted on the plans there should be little, if any, adverse affects on the neighborhood, and reports the same to Council with the recommendation that the special permit be approved.

The question being on the approval of the special permit a vote was taken. There being no dissent the Mayor declared Special Permit No. 869 approved unanimously.

6. Your Committee on Planning has had under consideration Special Permt No.877.

Your Committee finds that the property should be restricted as follows:

1. No medical or dental offices; and
2. The off-street parking requirements of the Zoning Ordinance being met and that the off-street parking area be properly landscaped; and
3. Any installed lighting in the parking lot does not intrude on neighboring residences; and
4. That all signs and landscaping are approved by the East End Historic District Review Board; and
5. The storage area above the garage is to be used for storage only with no plumbing or kitchen fixtures.

Your Committee further finds that the special permit as restricted would not have an adverse affect on the neighborhood, and reports the same to Council with the recommendation that the Special Permit as restricted be approved.

The question being on the approval of the special permit a vote was taken. There being no dissent the Mayor declared Special Permit No. 877 approved unanimously.

REPORTS OF OFFICERS

1. Application to operate a private club, private wine restaurant or tavern serving alcohol located at 200 Kanawha Mall; Received and Filed.

2. Application to operate a private club, private wine restaurant or tavern serving alcohol located at 3 Dudley Farms; Received and Filed.

NEW BILLS

Introduced by Councilman Fred Snuffer on February 1, 1999:
BILL NO. 6545, a Bill to establish a **State Vehicle Parking Only Tow-Away** zone on the westerly side of Jefferson Street from a point 178 feet north of Washington Street East to a point 218 feet north of Washington Street East from 7:00 a.m. to 6:00 p.m. Monday through Friday and amending the Traffic Control Map and Traffic Control File, established by the *Code* of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith;
Referred to Council Committee on Streets and Traffic

Introduced by Councilwoman Sara Crickenberger on February 1, 1999:
BILL NO. 6546, a Bill to amend and re-enact Ordinance No. 6216, passed by Council on April 15, 1996, establishing a **No Parking-School Bus Loading and Unloading Only Tow-Away** zone on the east side of Summers Street from a point 20 feet south of Quarrier Street to a point 166 feet south of Quarrier Street and amending the Traffic Control Map and Traffic Control File, established by the *Code* of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith;
Referred to Council Committee on Streets and Traffic

Introduced by Councilwoman Sara Crickenberger on February 1, 1999:
BILL NO. 6547, a Bill to amend and re-enact Ordinance No. 3250, passed by Council on December 5, 1983, establishing a **One Hour Vehicular Parking** zone for the physically disabled on the southerly side of Quarrier Street from a point 75 feet east of Summers Street to a point 120 feet east of Summers Street and amending the Traffic Control Map and Traffic Control File, established by the *Code* of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.
Referred to Council Committee on Streets and Traffic

Introduced by Councilwoman Sara Crickenberger on February 1, 1999:
BILL NO. 6548, a Bill to establish a **One Hour Vehicular Parking** zone for the exclusive use of the physically disabled on the southerly side of Summers Street from a point 116 feet south of Quarrier Street to a point 136 feet south of Quarrier Street, to provide for the removal of vehicles illegally parked in these spaces, to incorporate the provisions of West Virginia *Code*, Chapter 17C, Article 13, Section 6, and amending the Traffic Control Map and Traffic Control File, established by the *Code* of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith;
Referred to Council Committee on Streets and Traffic

Introduced by Councilman Ernest "Ernie" Layne on February 1, 1999:
BILL NO. 6549, Bill authorizing and directing the City to sell at public auction a certain parcel of land situate on the northerly side of White Oak Road, between Arnold Drive and Harless Lane, Charleston, West Virginia;
Referred to Council Committee on Finance

Introduced by Councilmembers Jody Connell and Linda Nielsen on February 1, 1999;
BILL NO. 6550, a Bill to amend and re-enact Section 25-7 of Article 1, of *The Code of the City of Charleston, as amended*, establishing a schedule of just and equitable rates or charges for the use of and services rendered by the sewer system of The City of Charleston, by providing for a surcharge of Two Dollars and Twelve Cents ($2.12) per month, to be effective forty-five (45) days from passage, for all customers being served, directly or indirectly, by the facilities acquired from Mt. Tyler Public Service District, which sur-charge will be used to retire the outstanding bonds of the Mt. Tyler Public Service District, all as provided for by Chapter 16, Article 13, and Chapter 24, Article 2, Section 4b of *The Code of West Virginia, 1931, as amended.*
Referred to Council Committee on Finance

At 9:15 p.m., upon motion of Councilman Quick, Council adjourned until Tuesday, February 16, 1999.

G. Kemp Melton, Mayor

Fred M. Frisk, Jr., City Clerk

CERTIFICATE

I, the undersigned City Clerk of the City of Charleston, do hereby certify that the foregoing is a true, correct and complete copy of February 16, 1999 Minutes, enacted by the City Council of the City on March 1, 1999.

Witness the signature of the undersigned City Clerk of the City of Charleston, West Virginia, and the seal of said City, this 28th day of July, 1999.

Cynthia L. Crowder
City Clerk

Seal

JOURNAL

OF THE

COUNCIL

CITY OF CHARLESTON

WEST VIRGINIA

FEBRUARY 16, 1999

The Council met in its Chamber in the City Building at 8:00 P.M. for the second meeting in the month of February and was called to order by the Mayor, the Honorable G. Kemp Melton.

Prayer was offered by the Honorable Kenneth E. McKnight, Councilman for the 4th Ward.

The Clerk called the roll and the following members answered to their names:

Barron	*Kimberling*	*Nielsen*
Barth	*Lane*	*Quick*
Connell	*Lanham*	*McKnight*
Crickenberger	*Layne*	*Smith*
Gilmer	*Leary*	*Snodgrass*
Haddad	*Loeb*	
Hardy	*Lopez*	*Mayor Melton*
Hicks	*Malone*	
Horan	*McClaskie*	
Huffman	*Morton*	

Twenty-six members being present, one being absent, Councilman Snuffer, the Mayor declared a quorum.

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

February 16, 1999 2nd MEETING

PUBLIC SPEAKERS

None.

PUBLIC HEARING

PURSUANT TO CHAPTER 16, ARTICLE 13 OF THE WEST VIRGINIA *CODE*, AND AFTER DULY BEING PUBLISHED AS REQUIRED BY CHAPTER 16, ARTICLE 13, SECTION 6 OF THE WEST VIRGINIA *CODE*, I NOW DECLARE THE FLOOR OPEN FOR A PUBLIC HEARING ON BILL NO. 6544, A BILL SUPPLEMENTING ORDINANCE NUMBERS 4828, 4954, 6276, 6349, AND 6532, AS IT RELATES TO THE ASSUMPTION OF DEBT, AND ISSUANCE OF BONDS AS MAY BE REQUIRED OF THE CITY OF CHARLESTON SEWERAGE SYSTEM.

THE CHAIR SEES NO ONE FROM THE PUBLIC.

THE CHAIR HEARS NO ONE FROM THE PUBLIC.

THE CHAIR DECLARES PUBLIC HEARING ON BILL NO. 6544 CLOSED.

PUBLIC HEARING

PURSUANT TO CHAPTER 16, ARTICLE 13, CHAPTER 24, ARTICLE 2, SECTION 4b OF THE WEST VIRGINIA *CODE*, AND AFTER DULY BEING PUBLISHED AS REQUIRED BY CHAPTER 16, ARTICLE 13, SECTION 6 OF THE WEST VIRGINIA *CODE*, I NOW DECLARE THE FLOOR OPEN FOR A PUBLIC HEARING ON BILL NO. 6550, AS IT RELATES TO ESTABLISHING A SCHEDULE OF JUST AND EQUITABLE RATES OR CHARGES FOR THE USE OF AND SERVICES RENDERED BY THE CITY OF CHARLESTON SEWER SYSTEM.

THE CHAIR SEES NO ONE FROM THE PUBLIC.

THE CHAIR HEARS NO ONE FROM THE PUBLIC.

THE CHAIR DECLARES PUBLIC HEARING ON BILL NO. 6550 CLOSED.

CLAIMS

1. A Claim of Elizabeth D. Audia; 723 Amity Drive, Charleston, WV; alleges personal injury; Referred to City Solicitor.

2. A Claim of Marnetta Camille Lightfoot; 109 Maryland Avenue No. B, Charleston, WV; alleges damage to vehicle; Referred to City Solicitor.

3. A Claim of Nancy Brown; 422 Porter Road, Charleston, WV; alleges personal injury; Referred to City Solicitor.

COMMUNICATIONS

February 8, 1999

Honorable G. Kemp Melton, Mayor
and Members of Charleston City Council
Charleston, WV 25301

Dear Mayor Melton and Councilmembers:

On February 3, 1999, the Municipal Planning Commission held public hearings and its regular monthly meeting. Below are cases they considered and their recommendations for your consideration:

Special Permit No. 874 - Application of Chris Heavens requesting a special permit for a law office without restrictions at 2438 Kanawha Boulevard, East. The Planning Commission voted 3 to 4 on a motion for approval. The motion failed and the special permit will be recommended for denial.

Bill No. 6541 - Petition of Charles E. Snodgrass dba Charleston Auto, to establish a motor vehicle towing and wrecker service use on property located at 1914-1915 & 1916 Washington Street, West. The Planning Commission recommended rejection of the bill.

Special Permit No. 878 - Application of Joyce Pullen seeking permission to operate a professional office on the first floor only at 1631 Kanawha Boulevard, East. The Planning Commission recommended denial of the permit.

Sincerely,
MUNICIPAL PLANNING COMMISSION
/S/ Phyllis White
Phyllis White, Administrative Assistant

Mayor Melton referred all cases to the Council Committee on Planning.

MISCELLANEOUS RESOLUTION

Introduced by Councilwoman Jody Connell on February 16, 1999;

Resolution No. 136-99

A Resolution adopting the following General Rules for the Board of Canvassers to be observed for the March 9, 1999, Primary Election.

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

That the following General Rules for the Board of Canvassers to be observed for the March 9, 1999, Primary Election are hereby adopted:

1. The Canvass will be conducted at the Voter's Registration Office and will commence on Friday, March 12, 1999, starting at 9:00a.m. and will be conducted each day until the conclusion of all canvass procedures, excepting Saturday, Sunday and holidays. The hours will be from 9:00a.m. until not later than 4:00p.m. The Canvass will be open to all candidates on the ballot, their representatives, the press, and the public. Courtroom decorum shall be maintained at all times. There will be seating available for all observers. At least on Charleston Police officer or Kanawha County Deputy Sheriff will be employed to help maintain order and insure ballot security.

2. A Quorum of the Board of Canvassers shall be present during all procedures of the Canvass.

3. The Board will handle only one precinct at a time; and each precinct will be handled in the same way.

4. Each precinct will have its own precinct canvassing worksheet which will become a part of the official canvass record

5. All records relative to a precinct will be examined, including but not limited to, the following poll tickets, log sheets, write-in envelopes, statements of ballots used, unofficial election results and ballots

6 Challenged Ballots. The Board will vote on all Challenges using the following guidelines

(A) The ballot of any properly registered poll worker working out of their precinct WILL be counted.

(B) If the challenge is for a name change and the voter is registered in the City of Charleston and changes the name at the polling place, the ballot WILL be counted,

(C) Any ballots challenged which were cast by voters whose precincts did not open on time due to the late arrival of poll workers in the voters' precincts, WILL be counted after proper verification;

(D) The ballot cast by a voter who moved outside the precinct more than thirty (30) days before the election and did not change his or her address will NOT be counted;

(E) If the voter's registration form is not in the precinct book due to an office error- that voter's ballot WILL be counted;

(F) The ballot cast by a voter who registered by post card and did not show the poll clerks identification on election day will NOT be counted;

(G) The ballot cast by a handicapped voter whose polling place was not handicapped accessible on election day WILL be counted if it is determined that the precinct in which the handicapped voter was properly registered voter was in a non-handicapped accessible location;

(H) The Board will NOT open any challenge envelope until the challenge has been ruled upon;

(I) If the Board rules to count the ballot, the ballot WILL be removed from the challenge envelope and that ballot shall be initialed by a majority of the Board and then tabulated by the election computer with the rest of that precinct's ballots;

(J) If the Board rules not to count the ballot, the envelope will NOT be opened and a majority of the Board shall initial the outside of that envelope

(K) The ballot cast by a voter registered within the City of Charleston who has moved within the city limits of Charleston and who voted at their new precinct WILL be counted

7 Absentee Ballots

The Board will NOT count any late absentee ballots except those which sere received by the City Clerk prior to the start of the canvass and which were postmarked by March 9, 1999 Further, any absentee ballot sent to properly registered

voter which ballot was returned to the City Clerk bearing a postmark within Kanawha County will NOT be counted However, absentee ballots mailed to the City Clerk at a post office outside the County which were postmarked within Kanawha County as a result of the failure of the out-of-county post office to cancel all stamps WILL be counted, the Board being advised that the postmark affixed in the latter case is readily identifiable it being a different postmark than is regularly affixed by the post office

8 Pink ballot WILL be used for the duplication of any damaged ballot.

9 Improperly Signed Ballots: I the absence of a showing of fraud or other substantial impropriety, ballots which do not have the signatures of both poll clerks, as well as ballots which do not have the signatures of either poll clerk WILL be counted.

10. The hand count of five percent (5%) of the 56 precincts will be conducted at the Voter's Registration Office by persons employed or designed to do the hand count who will be under the supervision of the Board of Canvassers. These three (3) precincts will be drawn at random. Those precincts which are to be hand counted will be designed by the Board at the beginning of the hand count.

11. The unofficial returns printed by the tabulating equipment, to which have been added write-in and other valid votes ordered counted by the Board of Canvassers, shall constitute the official returns for each precinct. The official returns shall be on a precinct by precinct basis.

12. After canvassing the returns of the election, the Board shall publicly declare the election results. They shall enter an Order certifying the election results forty-eight (48) hours, excluding Sunday, after their declarations if there is no request for a recount.

13. Other actions on specific matters will be considered and officially adopted during the Canvass process should any unique situations arise.

14. Write-In Ballots and Votes:

(A) Only write-in votes naming an official write-in candidate WILL be counted and be certified as part of the official election results;

(B) If any official write-in candidate receives a higher number of votes than the candidates on the official ballot for that particular office, theat person will be certified the winner for that office.

15. Secrecy Envelope: In the event a secrecy envelope is found during the canvass without a ballot enclosed upon which a write-in vote has been cast, the write-in vote will NOT be counted during the canvass To count such write-in votes would give rise to potential for fraud

16 The Uncounted Ballots If during the canvass ballots are found in ballot boxes which were not counted at the counting center immediately after the closing of the polls on

March 9, 1999, these ballots WILL be counting in the absence of a potential for fraud. In determining whether there is a potential for fraud in regard to such ballots, the Board of Canvassers will consider whether the number on the ballot indicates that the ballot was sent to the precincts in which precinct's ballot box the ballot was found and the poll tickets and the registration books to determine whether counting the ballot would result in counting more ballots than poll tickets and registration books would indicate had properly voted in that precinct on election day. The Board of Canvassers may further consider such other matters which might deem proper to determine whether a potential for fraud exists.

Further, the Council directs the City Clerk, to post a copy of these General Rules at the entrances of City Hall and Voters Registration Building effective immediately. Such notice shall continue to be posted for public review until the formal conclusion of the March 9, 1999 Primary Election Canvass.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 136-99 adopted unanimously.

REPORTS OF STANDING COMMITTEES

STREETS AND TRAFFIC

Councilman Loren Snodgrass, Chairman of the Council Committee on Streets and Traffic, submitted the following reports.

1. Your Committee on Streets and Traffic has had under consideration Bill No.6545, and reports the same to Council with the recommendation that the Bill be denied due to extreme congestion on the street.

Bill No. 6545, a Bill

A Bill to establish a **State Vehicle Parking Only Tow-Away** zone on the westerly side of Jefferson Street from a point 178 feet north of Washington Street East to a point 218 feet north of Washington Street East from 7:00 A.M. to 6:00 P.M. Monday through Friday and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.

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

Section 1. A **State Vehicle Parking Only Tow-Away** zone on the westerly side of Jefferson Street from a point 178 feet north of Washington Street East to a point 218 feet north of Washington Street East from 7:00 A.M. to 6:00 P.M. Monday through Friday is hereby established.

Section 2. The Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, shall be and hereby are amended to conform to this Ordinance.

The question being on the passage of the Bill a roll call was taken and there were; yeas-0, nays-26, absent-1, as follows:

YEAS: None.

NAYS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass and Mayor Melton.

ABSENT: Snuffer.

So, a majority of all members elected recorded thereon as voting in the negative the Mayor declared Bill No. 6545 as failed unanimously.

2. Your Committee on Streets and Traffic has had under consideration Bill No. 6546, and reports the same to Council with the recommendation that the Bill pass.

Bill No. 6546

A Bill to amend and re-enact Ordinance No. 6216 passed by Council April 15, 1996, establishing a No Parking-School Bus Loading and Unloading Only Tow-Away zone on the east side of Summers Street from a point 20 feet south of Quarrier Street to a point 136 feet south of Quarrier Street; 116 feet south of Quarrier Street and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred Seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.

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

Section 1. Amend and re-enact Ordinance No. 6216 a No Parking-School Bus Loading and Unloading Only Tow-Away zone on the east side of Summers Street from a point 20 feet south of Quarrier Street to a point 136 feet south of Quarrier Street; 116 feet south of Quarrier Street.

Section 2. The Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, 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.

The question being on the passage of the Bill a roll call was taken and there were; yeas-26, nays-0, absent-1, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass and Mayor Melton.

NAYS: None.

ABSENT: Snuffer.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 6546 passed unanimously.

3. Your Committee on Streets and Traffic has had under consideration Bill No. 6547, and reports the same to Council with the recommendation that the Bill pass.

Bill No. 6547.

A Bill to amend and re-enact **Ordinance No. 3250** passed by Council December 5, 1983, establishing a one hour vehicular parking zone for the physically disabled on the southerly side of Quarrier Street from a point 75 feet east of Summers Street to a point 100 feet east of Summers Street; **120 feet east of Summers Street** and amending the Traffic Control Map and Traffic control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.

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

Section 1. Amend and re-enact Ordinance No. 3250 a one hour vehicular parking zone for the physically disabled on the southerly side of Quarrier Street from a point 75 feet east of Summers Street to a point 100 feet east of Summers Street; **120 feet east of Summers Street.**

Section 2. The Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, 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.

The question being on the passage of the Bill a roll call was taken and there were; yeas-26, nays-0, absent-1, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass and Mayor Melton.

NAYS: None.

ABSENT: Snuffer.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 6547 passed unanimously.

4. Your Committee on Streets and Traffic has had under consideration Bill No. 6548, and recommends the Bill be amended on Line 2 and 14 by changing southerly to easterly, and reports the same to Council with the recommendation that the Bill pass as amended.

Councilman Hardy made a motion to amend the Bill on Lines 2 and 14, by striking the words "easterly" and inserting in lieu of the words "southerly".

The question being on the passage of the amendments a vote was taken. There being no dissent the Mayor declared the amendments passed unanimously.

Bill No. 6548, as amended

A Bill to establish a **One Hour Vehicular Parking** zone for the exclusive use of the physically disabled on the southerly side of Summers Street from a point 116 feet south of Quarrier Street to a point 136 feet south of Quarrier Street, to provide for the removal of vehicles illegally parked in these spaces, to incorporate the provisions of West Virginia Code, Chapter 17C, Article 13, Section 6, and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, Wes Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.

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

Section 1. A **One Hour Vehicular Parking** zone for the exclusive use of the physically disabled on the southerly side of Summers Street from a point 116 feet south of Quarrier Street to a point 136 feet south of Quarrier Street is hereby established.

Section 2. In order for a physically disabled person to utilized the parking spaces provided in the preceding section the vehicle which they are driving or in which they are being transported must display the distinguishing insignia provided for in West Virginia code, Chapter 17C, Article 13, Section 6.

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 31, Vehicles and Traffic Law, Code of the City of Charleston, West Virginia.

Section 4. The Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one Article three, shall be and hereby are, amended to conform to this Ordinance.

The question being on the passage of the Bill a roll call was taken and there were; yeas-26, nays-0, absent-1, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass and Mayor Melton.

NAYS: None.

ABSENT: Snuffer.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 6548, as amended, passed unanimously.

FINANCE

Councilman David Hardy, Chairman of the Council Committee on Finance, submitted the following reports.

1. Your Committee on Finance has had under consideration bid submitted by Shanklin Greenhouse for approximately 7,000 yards of Bluegrass sod, in the mout of $1.75 per yard, or approximately $12,250, for the soccer field at Cato Park; To be charged to Account No. 01-900-0-0-4-058, P&R--Capital Outlay, Special Projects, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent with the exceptions of Councilmen Hicks and Layne, the Mayor declared the committee report adopted.

2. Your Committee on Finance has had under consideration proposal submitted by American Office Systems, in the amount of $225 per month for 36 months, for purchase of a Lanier 7335 copier to be used by the Fire Department; To be charged to Account No. 01-706-0-0-2-016, Fire--Maintenance & Repair, Equipment, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted unanimously.

3. Your Committee on Finance has had under consideration bid submitted by Tees Plus, in the amount of $4,158, for purchase of 1,100 D.A.R.E. T-Shirts to be distributed to area students upon graduation from the D.A.R.E. Program; To be charged to Account No. 39-176-00-8-0-041, D.A.R.E. Donations, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted unanimously.

4. Your Committee on Finance has had under consideration proposal submitted by Evans Lumber Company, in the amount of $7,981.11, for purchase of treated lumber, bolts, and stain for construction of replacement benches in Davis Park. All labor will be provided in-house by the Parks & Recreation Department; To be charged to Account No. 01-420-0-0-4-058, Engineering--Capital Outlay, Special Projects, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted unanimously.

5. Your Committee on Finance has had under consideration bid submitted by State Equipment, Inc., in the amount of $9,565, for a Low Boy Trailer to be used by the Street Department for transporting heavy equipment to construction sites; To be charged to Account No. 01-750-0-0-4-061, Street--Capital Outlay, Lease/Purchase, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted unanimously.

6. Your Committee on Finance has had under consideration proposal submitted by General Truck Sales Corporation, in the amount of $19,899, for purchase of a van to be used by the Parks & Recreation Department; To be charged to Account No. 01-900-0-0-4-061, P&R--Capital Outlay, Lease/Purchase, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted unanimously.

7. Your Committee on Finance has had under consideration proposal submitted by Fuller & D'Albert in the amount of $6,754, for purchase of 440 Twin Packs of Polaroid Spectra Film to be used by 10 law enforcement agencies in the greater Kanawha Valley to collect domestic violence and sexual assault evidence; To be charged to Account No. 39-177-96-0-0-041, Police STOP/VAWA Grant, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted unanimously.

8. Your Committee on Finance has had under consideration proposal submitted by Verbal Judo Institute, Inc., in the amount of $3,800, for purchase of a software program and services of a representative to train and certify up to ten (10) Charleston Police officers to teach "Verbal Judo, Train the Trainer" anger management classes to all officers of the Police Department; To be charged to Account No. 01-700-0-0-2-021, Police--Training, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no disent the Mayor declared the committee report adopted unanimously.

9. Your Committee on Finance has had under consideration proposal submitted by Gateway 2000, in the amount of $2,476, for purchase of one (1) laptop computer to be used by the Domestic Violence team in the Criminal Investigation Division of the Charleston Police Department; To be charged to Account No. 39-177-96-0-0-59, Police STOP/VAWA Grant, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted unanimously.

10. Your Committee on Finance has had under consideration Resolution No. 127-99, authorizing the Mayor to sign a year-to-year lease, automatically renewing for a total of three years, with James L. Cabell, et al, for space at 1500-1506 Washington Street, East, for use as a police substation. Rent for the first year will be $200. per month, or $2,400. annually; To be charged to Account No. 01-700-00-000-2-019, Police Dept--Building & Rents, and reports the same to Council with the recommendation that the committee report be adopted.

Councilman Hardy made a motion to amend the committee report by striking the numbers "$200." and inserting in lieu of "$2,000." and by striking the numbers "$2,400" and inserting in lieu of "$24,000."

The question being on the adoption of the amendments a vote was taken. There being no dissent the Mayor declared the amendments adopted unanimously.

Resolution No. 127-99, as amended-- "Authorizing the Mayor to sign a year to year lease automatically renewing for a total of three years, with James L. Cabell, et. al., for space at 1500-1506 Washington Street East, for use as a police substation."

WHEREAS, there is a need for a police substation in the East End of the City of Charleston; and,

WHEREAS, the City has negotiated a lease for space at 1500-1506 Washington Street, East; now therefore

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

That the Mayor be authorized to enter into a Lease with James L. Cabell, et. al., for space at 1500-1506 Washington Street, East, for use as a police substation, pursuant to the terms set forth in the attached lease.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 127-99, as amended, adopted unanimously.

11. Your Committee on Finance has had under consideration Resolution No. 128-99, authorizing the Mayor to enter into an agreement with Maddox Risk Management Services, in the amount of $8,540, for appraisal of City structures at 15 locations, as set forth in the resolution, followed by a valuation report to be complected within 45 days following approval of agreement; To be charged to Account No. 01-412-0-0-2-027, City Manager--Insurance, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 128-99--"Authorizing the Mayor to enter into an agreement with Maddox Risk Management Services, in the amount of $8,540, for appraisal of City structures at 15 locations, followed by a valuation report to be completed within 45 days following of agreement."

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

That the Mayor is hereby authorized and directed to enter into an agreement with Maddox Risk Management Services, in the amount of Eight Thousand Five Hundred Forty Dollars ($8,540), for appraisal of City structures at 15 locations, followed by a valuation report to be completed within 45 days following approval of agreement. The buildings to be appraised are:

1. City Hall
2. Municipal Auditorium
3. Civic Center
4. North Charleston CC
5. Cato Park - Main Bldg.
6. Central Comm. Center
7. Coal Branch Heights CC
8. Spring Hill Cemetary Bldg.
9. Fire Station No. 1
10. Street Dept., Pennsylvania Ave.
11. Electric/Traffic Building
12. YWCA Day Care Center
13. Sojourners, 1418 Washington St.
14. Men's Shelter, 505 Broad Street
15. Smith Street Station

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 128-99 adopted unanimously.

12. Your Committee on Finance has had under consideration Resolution No. 129-99, authorizing the Mayor to sign Change Order No. 1 with Wiseman Construction Company, in the amount of $2,600, for labor and materials to tie existing stone wall into new soldier pile. The original contract price for this project was $76,387.50. Change Order No. 1 increases the total cost to $78,987.50; To be charged to Account No. 01-420-0-0-4-058, Engineering--Capital Outlay, Special Projects, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 129-99--"Authorizing the Mayor to sign Change Order No. 1 with Wiseman Construction Company, in the amount of $2,600, for labor and materials to tie existing stone wall into a new soldier pile."

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

That the Mayor is hereby authorized and directed to sign Change Order No. 1 with Wiseman Construction Company, in the amount of Two Thousand Six Hundred Dollars ($2,600), for labor and materials to tie existing stone wall into new soldier pile. The original contract price for this project was $76,387.50. Change Order No. 1 increases the total cost to $78,987.50.

The question being on the adoption of the resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 129-99 adopted unanimously.

13. Your Committee on Finance has had under consideration Resolution No. 131-99, authorizing the Mayor to enter into an agreement with the State of West Virginia, Commission on Drunk Driving Prevention (CDDP) to receive and administer grant funds in the amount of $15,000. This grant will be used to fund overtime for police officers to work roving patrols, conduct sobriety checkpoints, and fund underage alcohol buys within the City of Charleston. The grant period commences April 1, 1999, and continues through June 27, 1999, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 131-99--"Authorizing the Mayor to enter into an agreement with the State of West Virginia, Commission on Drunk Driving Prevention (CDDP) to receive and administer grant funds in the amount of $15,000."

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

That the Mayor is hereby authorized and directed to enter into an agreement with the State of West Virginia, Commission on Drunk Driving Prevention (CDDP) to receive and administer grant funds in the amount of Fifteen Thousand Dollars ($15,000). This grant will be used to fund overtime for police officers to work roving patrols, conduct sobriety checkpoints, and fund underage alcohol buys within the City of Charleston. The grant period commences April 1, 1999, and continues through June 27, 1999.

The question being on the adoption of the resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 131-99 adopted unanimously.

14. Your Committee on Finance has had under consideration Resolution No. 132-99, authorizing the Mayor to sign a contract with the West Virginia Development Office for a Governor's Community Partnership Grant in the amount of $40,000, for development of a West Side Neighborhood Streetscape Plan, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 132-99--"Authorizing the Mayor to sign a contract with the West Virginia Development Office for a Governor's Community Partnership Grant in the amount of $40,000, for development of a West Side Neighborhood Streetscape Plan."

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

That the Mayor is hereby authorized and directed to sign a contract with the West Virginia Development Office for a Governor's Community Partnership Grant in the amount of Forty Thousand Dollars ($40,000) for development of a West Side Neighborhood Streetscape Plan.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-26, nays-0, absent-1, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass and Mayor Melton.

NAYS: None.

ABSENT: Snuffer.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 132-99 adopted unanimously.

15. Your Committee on Finance has had under consideration Resolution No. 133-99, authorizing the Mayor to sign a two year contract with Moore's Lumber & Building Supplies to provide building materials in support of the Christmas in April and World Changers projects, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 133-99--"Authorizing the Mayor to sign a two year contract with Moore's Lumber & Building Supplies to provide building materials in support of the Christmas in April and World Changers projects."

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

That the Mayor is hereby authorized and directed to sign a two year contract with Moore's Lumber & Building Supplies to provide building materials in support of the Christmas in April and World Changers projects.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-26, nays-0, absent-1 as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass and Mayor Melton.

NAYS: None.

ABSENT: Snuffer.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 133-99 adopted unanimously.

16. Your Committee on Finance has had under consideration Resolution No. 134-99, authorizing the Finance Director to allocate HOME Program funds in the amount of $25,000 for acquisition

of a single family dwelling at 2001 Carson Street; To be charged to Account No. 30-098-00-005, HOME Program--Acquisition of Property, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 134-99--"Authorizing the Finance Director to allocate HOME Program funds in the amount of $25,000 for acquisition of a single family dwelling at 2001 Carson Street."

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

That the Finance Director is hereby authorized and directed to allocate HOME Program funds in the amount of Twenty-five Thousand Dollars ($25,000) for acquisition of a single family dwelling at 2001 Carson Street.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-26, nays-0, absent-1, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass and Mayor Melton.

NAYS: None.

ABSENT: Snuffer.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 134-99 adopted unanimously.

17. Your Committee on Finance has had under consideration Resolution No. 135-99, authorizing the Charleston HOME Program to charge Account No. 25-098-00-014 in the amount of $11,250 for three (3) change orders in the rehabilitation of a residential project at 1514 Second Avenue, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 135-99--"Authorizing the Charleston HOME Program to charge Account No. 25-098-00-014 in the amount of $11,250 for three (3) change orders in the rehabilitation of a residential project at 1514 Second Avenue."

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

That the Charleston HOME Program is hereby authorized and directed to charge Account No. 25-098-00-014 in the amount of Eleven Thousand Two Hundred Fifty Dollars ($11,250) for three (3) change orders in the rehabilitation of a residnetial project at 1514 Second Avenue.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-26, nays-0, absent-1, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass and Mayor Melton.

NAYS: None.
ABSENT: Snuffer.
So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 135-99 adopted unanimously.

18. Your Committee on Finance has had under consideration Bill No. 6499, closing, abandoning and discontinuing as a public alley that certain 10' alley which lies behind 1002 Crescent Avenue and 114 Avon Street, Charleston, West Virginia, containing 740 square feet m/l, and reserving sewer easements for the City of Charleston, and authorizing the Mayor to execute, acknowledge and deliver a proper deed conveying to the R. C. Elmore Memorial Advent Christian Church all right, title and interest in and to said alley upon payment of _____ ($ _____) to be paid to the City of Charleston by the petitioner, and reports the same to Council with the recommendation that the Bill do pass, as amended.

Councilman Hardy made a motion to amend the bill by inserting "One Dollar" and "$1.00" in the blank spaces.

The question being on the passage of the motion a vote was taken. There being no dissent the Mayor declared the amendments passed unanimously.

Bill No. 6499, as amended--" a Bill closing, abandoning and discontinuing as a public alley that certain 10' alley which lies behind 1001 Crescent Avenue and 114 Avon Street, Charleston, West Virginia, and reserving sewer easements for the City of Charleston.

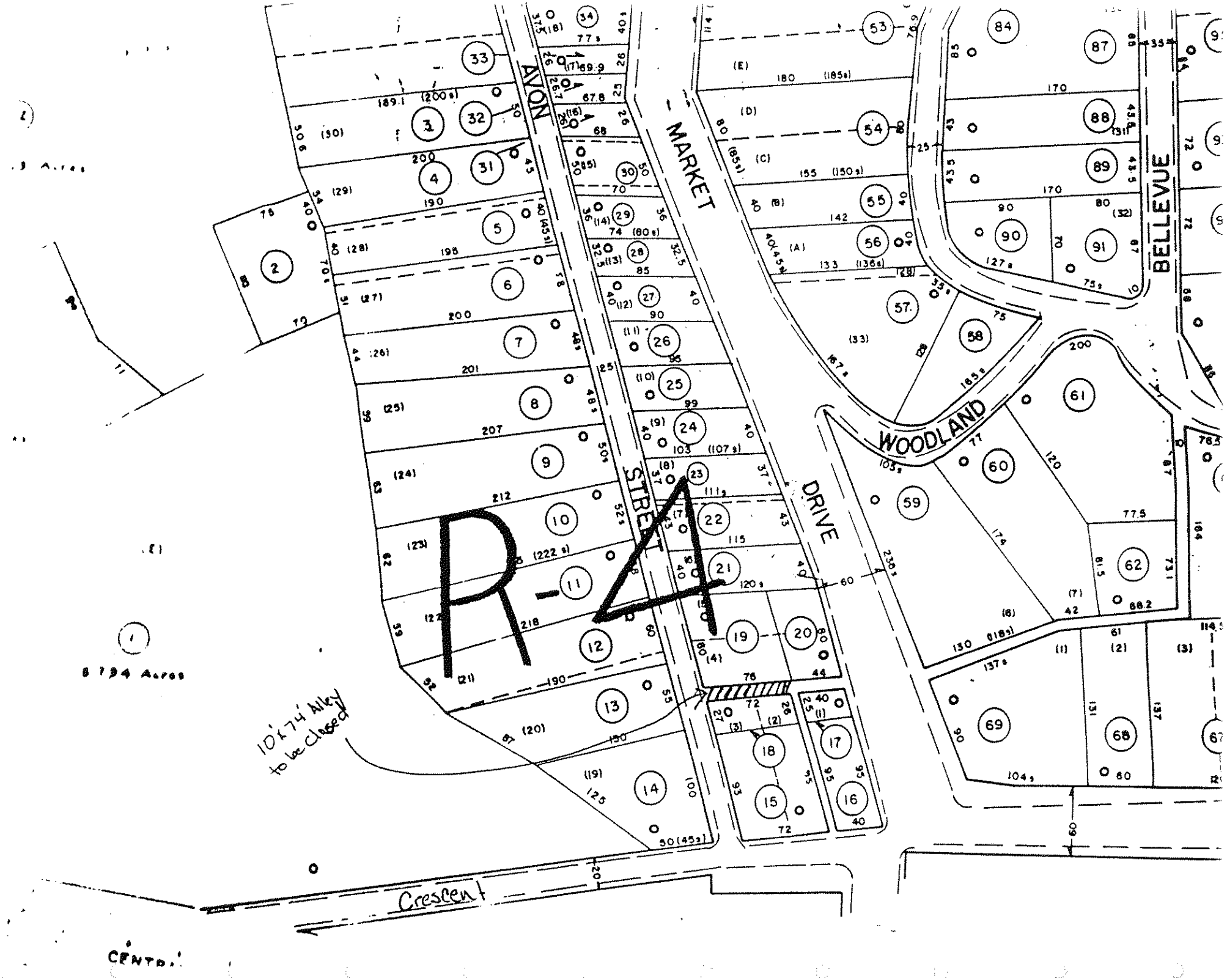
Be it Ordained by the Council of the City of Charleston, West Virginia:

1. That a portion of a 10' X 74± unimproved alley which lies between Parcels 19 and 18 on West Charleston Tax Map 17 or commonly known as 1001 Crescent Avenue & 114 Avon Street, Charleston, West Virginia is hereby closed, abandoned and discontinued.

2. The City of Charleston hereby reserves a sewer easement for the full length and width of the above described right-of-way for the purpose of construction, maintenance, repair and removal of storm and sanitary sewer lines. No person shall construct improvements, plant trees or other vegetation, or take any other action which would interfere with this easement, nor alter the present surface profile or contour of the subject right-of-way by more than one (1) foot without the written permission of the Charleston Sanitary board and the City Engineer of the City of Charleston.

3. The Mayor of the City of Charleston be, and is hereby authorized and directed to execute, acknowledge and deliver a proper deed conveying to the R. C. Elmore Memorial Advent Christian Church all right, title and interest in and to said alley which lies behind their property, except as provided in section two of this ordinance upon payment of One Dollar ($1.00) to be paid to the City Charleston by the Petitioner

4. All ordinances, or parts of ordinances, inconsistent with this ordinance are hereby repealed to the extent of the inconsistency.


AVON
MARKET
STREET
DRIVE
WOODLAND
BELLEVUE
Crescent
R-4
10'x74' Alley to be closed
8.794 Acres

The question being on the passage of the Bill a roll call was taken and there were; yeas-26, nays-0, absent-1, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass and Mayor Melton.

NAYS: None.

ABSENT: Snuffer.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 6499, as amended, passed unanimously.

19. Your Committee on Finance has had under consideration Bill No. 6524, closing, abandoning and discontinuing as a public right-of-way an unimproved portion of Milton Street situated between 1408 Milton Street, 1506 Hansford Street and Lots 9 and 10 on Cart Street, containing 2,490 square feet m/l, and reserving sewer easements for the City of Charleston; and authorizing the Mayor to execute, acknowledge and deliver a proper deed conveying to Patricia Holcomb, Doris Warlick and Teresa Weible, all right, title and interest in and to said Right-of-Way - Milton Street, upon payment of _____ ($_____) to be paid to the City of Charleston by the petitioner, to General Chemical and Coatings Corporation, all right, title and interest in and to said Right-of-Way - Milton Street, upon payment of _____($_____) to be paid to the City of Charleston by the petitioner, and to Mark and Crystal Gardner, all right, title and interest in and to said Right-of-Way - Milton Street, upon payment of _____($_____)to be paid to the City of Charleston by the petitioner, and reports the same to Council with the recommendation that the Bill do pass, as amended.

Councilman Hardy made a motion to amend the Bill by inserting "One Dollar/sq.ft." in the blank spaces, and "1.00 sq. ft." in the brackets.

The question being on the passage of the motion a vote was taken. There being no dissent the Mayor declared the amendments to the Bill passed unanimously.

Bill No. 6524, as amended, --a Bill closing, abandoning and discontinuing as a public Right-of-Way an unimproved portion of Milton Street that is situated between 1408 Milton Street, 1506 Hansford Street and Lots 9 and 10 on Cart Street; and reserving sewer easements for the City of Charleston, West Virginia.

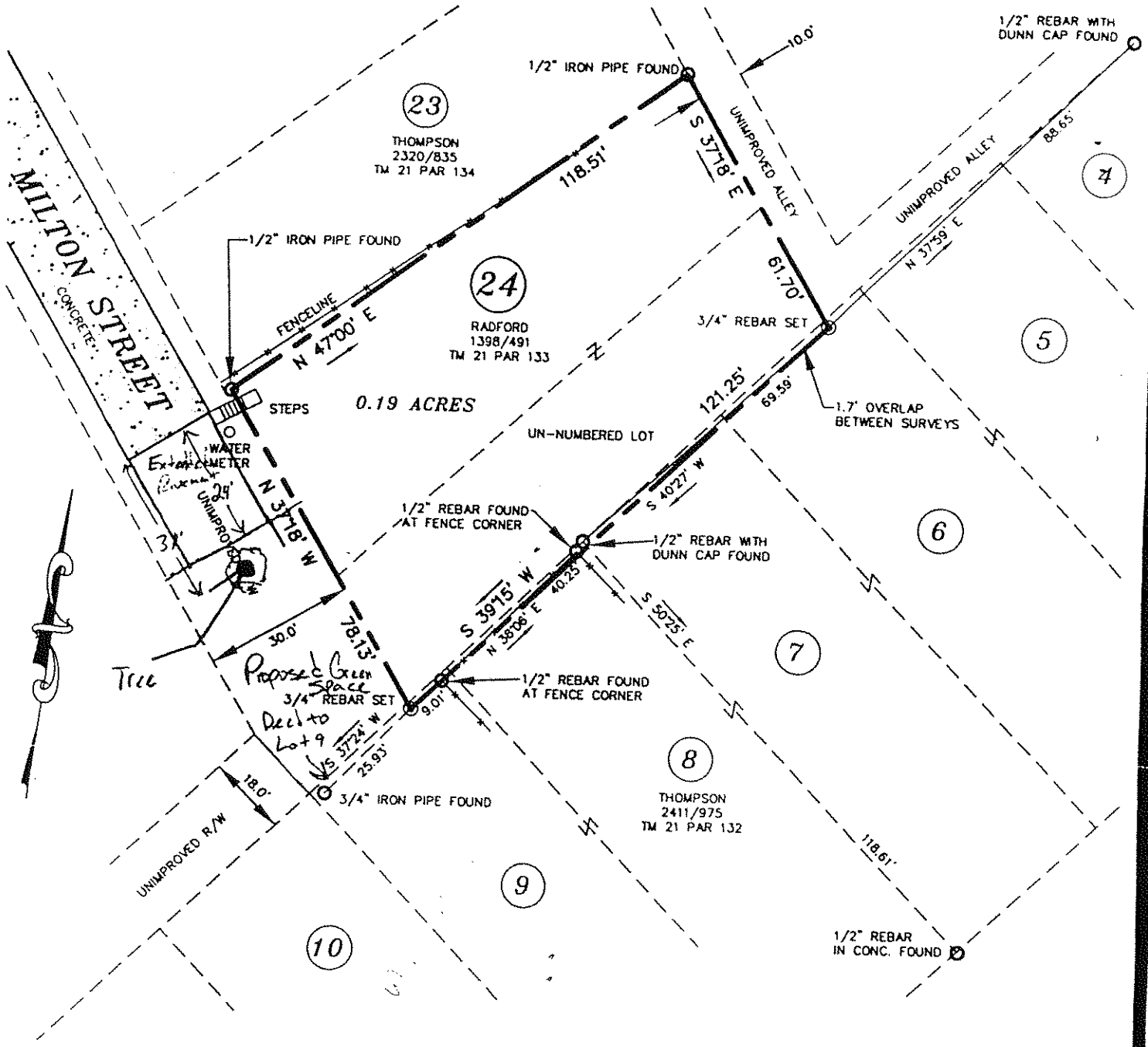
Be it Ordained by the Council of the City of Charleston, West Virginia:

1. See attached description.

2. The City of Charleston hereby reserves a sewer easement for the full length and width of the above described right-of-way for the purpose of construction, maintenance, repair and removal of storm and sanitary sewer lines. No person shall construct improvements, plant trees or other vegetation, or take any other action which would interfere with this easement, nor alter the present surface profile or contour of the subject right-of-way by more than one (1) foot without the written permission of the Sanitary Board of the City of Charleston and the City Engineer of the City of Charleston.

3. The Mayor of the City of Charleston be, and is hereby authorized and directed to execute, acknowledge and deliver a proper deed conveying to PATRICIA HOLCOMB, DORIS WARLICK AND TERESA WEILBLE all right, title and interest in and to said Right of Way - Milton Street except as provided in section two of this ordinance, under payment of One Dollar/sq. ft ($1.00 sq.ft.) to be paid to the City of Charleston by the petitioner, to GENERAL CHEMICAL AND COATINGS CORPORATION all right, title and interest in and to said Right of Way - Milton Street except as provided in section two of this ordinance, under payment of One Dollar/sq. ft ($1.00 sq ft.) to be paid to the City of Charleston by the petitioner, and to MARK AND CRYSTAL GARDNER all right, title and interest in and to said Right of Way - Milton Street except as provided in section two of this ordinance, under payment of One Dollar/sq ft ($1.00 sq ft.) to be paid to the City of Charleston by the petitioner.

4. All ordinances, or parts of ordinances, inconsistent with this ordinance are hereby repealed to the extent of the inconsistency.



PLAT OF SURVEY

FOR

MOUNTAINEER HABITAT FOR HUMANITY

SHOWING

LOT 24 OF CHILTON ADDITION &

UN-NUMBERED LOT FROM THE CART PROPERTY

LOCATED AT

1408 MILTON STREET, CHARLESTON, WV

The question being on the passage of the Bill a roll call was taken and there were; yeas-26, nays-0, absent-1, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass and Mayor Melton.

NAYS: None.

ABSENT: Snuffer.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 6524, as amended, passed unanimously.

20. Your Committee on Finance has had under consideration Bill No. 6549, authorizing the City to sell at public auction, for a price not less than its fair market value, a certain parcel of land situate on the northerly side of White Oak Road, between Arnold Drive and Harless Lane, and containing 8,258.17 square feet, m/l; and further authorizing the Mayor to execute, acknowledge and deliver a proper deed conveying said parcel to the person purchasing it at the public auction, and reports the same to Council with the recommendation that the Bill do pass.

Bill No. 6549, a Bill authorizing and directing the City to sell at public auction a certain parcel of land situate on the northerly side of White Oak Road, between Arnold Drive and Harless Lane, Charleston, West Virginia.

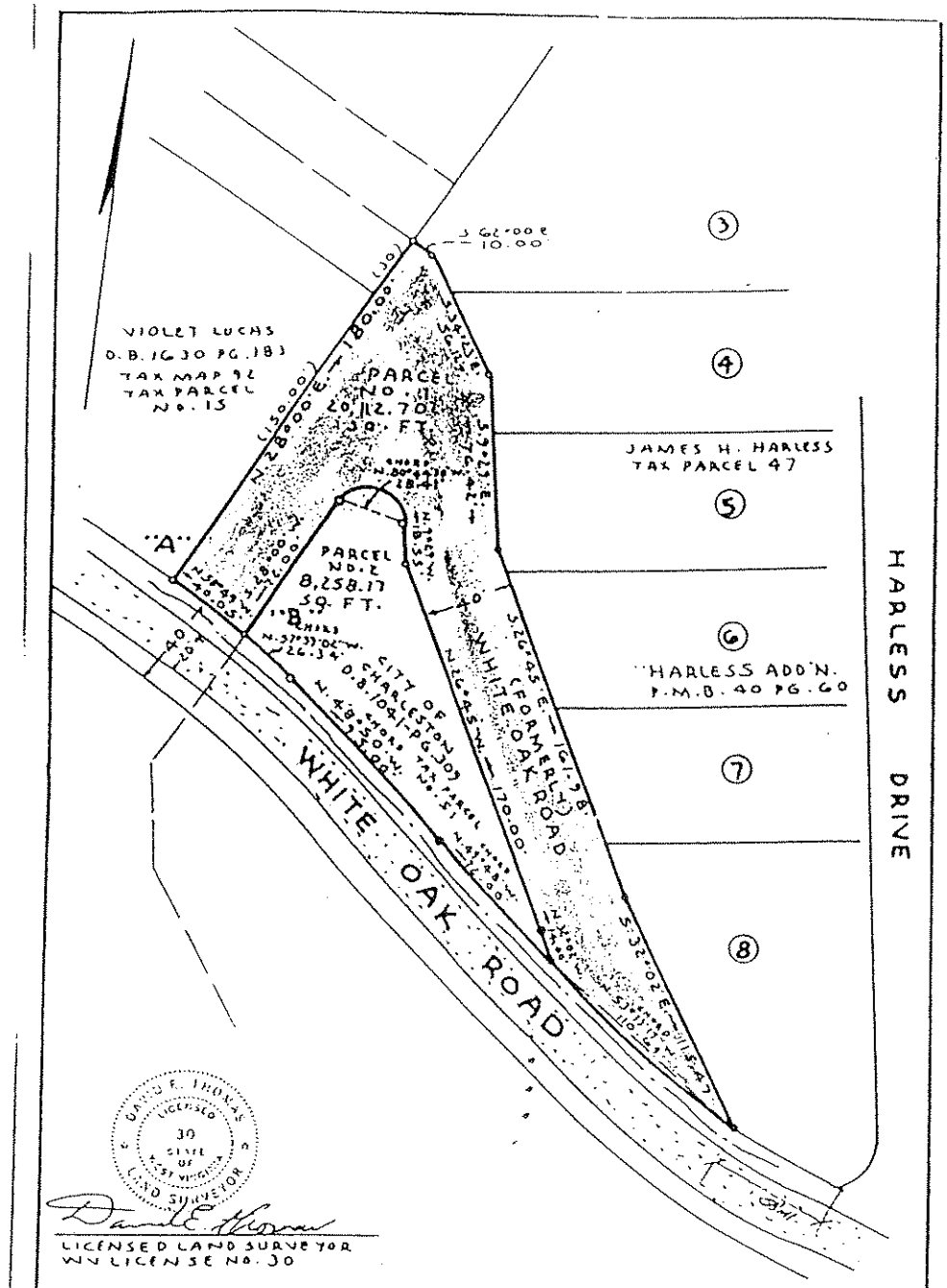
Be it Ordained by the Council of the City of Charleston, West Virginia:

1. That City Council has determined that certain parcel of land on the northerly side of White Oak Road is no longer needed for, nor does it serve any, public interest, and it would be in the best interest of the City to sell it at a public auction.

2. The subject parcel of land is described as follows:
Beginning at a point at which the old and new White Oak Road rights-of-way intersect at the southeasterly corner of the subject parcel; thence running with the new White Oak Road right-of-way line on a chord N 49°48' W 72.0 ft to a point; thence on a chord N 48°50' W 95.0 ft to a point; thence on a chord 57°59'02" W 26.34 ft to a point; thence leaving the new White Oak Road right-of-way line in a northerly direction with the old White Oak Road right-of-way line N 28°00' E 72.0 ft to a point; thence continuing to run with the right-of-way line of old White Oak Road for the next four calls: on a chord S 80°44'30" E 28.41 ft to a point; S 9°29' E 18.55 ft; S 26°45' E 170.0 ft and S 32°02' W 14.0 ft back to the point of beginning, and containing 8,258.17 square feet. Said parcel is as shown on the map entitled "MAP SHOWING PARCEL NO.1 - BEING PART OF FORMER WHITE OAK ROAD & PARCEL NO. 2 BEING PART OF PARCEL D.B. 1041 - PG 309 LOCATED IN CHARLESTON NORTH TAX DIST., CITY OF CHARLESTON, KAN. CO., WV" dated April 21, 1997, prepared by Field Surveying Co., Inc.

3. That the City is hereby authorized and directed to sell said parcel at public auction for not less than its fair market value.

4. That the Mayor is hereby authorized and directed to execute, acknowledge and deliver a proper deed conveying said parcel to the person purchasing it at the public auction.



LICENSED LAND SURVEYOR
WV LICENSE NO. 30

MAP SHOWING

PARCEL NO. 1 - BEING PART OF FORMER WHITE OAK ROAD &
PARCEL NO. 2 - BEING PART OF PARCEL D.B. 1041 - PG 309

LOCATED IN CHARLESTON NORTH TAX DIST., CITY OF CHARLESTON, KAN. CO., WV

OWNED BY

CITY OF CHARLESTON

SCALE 1" = 80' APRIL 21, 1997

FIELD SURVEYING CO., INC.

CHARLESTON, WV

The question being on the passage of the Bill a roll call was taken and there were; yeas-26, nays-0, absent-1, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass and Mayor Melton.

NAYS: None.

Absent: Snuffer.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 6549 passed unanimously.

21. Your Committee on Finance has had under consideration Bill No. 6550, to amend and re-enact Section 25-7 of Article 1 of the Code of the City of Charleston, as amended, establishing a schedule of just and equitable rates or charges for the use of and services rendered by the sewer system of The City of Charleston, by providing for a surcharge of Two Dollars and Twelve Cents ($2.12) per month, to be effective forty-five (45) days from passage, for all customers being served, directly or indirectly, by the facilities acquired from Mt. Tyler Public Service District, which surcharge will be used to retire the outstanding bonds of the Mt. Tyler Public Service District, all as provided for by Chapter 16, Article 13, and Chapter 24, Article 2, Section 4b of The Code of West Virginia, 1931, as amended, and reports the same to council with the recommendation that the bill do pass.

Bill No. 6550, a Bill

An Ordinance to amend and re-enact Section 25-7 of Article 1, of *The Code of the City of Charleston, as amended*, establishing a schedule of just and equitable rates or charges for the use of and services rendered by the sewer system of The City of Charleston, by providing for a surcharge of Two Dollars and Twelve Cents ($2.12) per month, to be effective forty-five (45) days from passage, for all customers being served, directly or indirectly, by the facilities acquired from Mt. Tyler Public Service District, which surcharge will be used to retire the outstanding bonds of the Mt. Tyler Public Service District, all as provided for by Chapter 16, Article 13, and Chapter 24, Article 2, Section 4b of *The Code of West Virginia, 1931, as amended.*

Be It Ordained By The Council Of The City of Charleston, West Virginia:

That Section 25-7 of Article 1, of Chapter 25 of *The Code of the City of Charleston, as amended*, be further amended and re-enacted by establishing a schedule of rates and charges for the use of and services rendered by the sewer system of The City of Charleston, all of said section as hereby amended to read as follows:

Section 25-7 ESTABLISHMENT OF A SCHEDULE OF JUST AND EQUITABLE RATES OR CHARGES: USE OF WATER METERS.

For the payment of proper and reasonable expense of operations, repair, replacements, improvements, additions, betterments, extensions, and maintenance of the sewer system and for the payment of the sums required to pay the principal and interest of all sewer revenue bonds as the same become due, there is hereby established a schedule of just and equitable rates or charges for the use of The City of Charleston, West Virginia, which schedule of rates or charges, based upon the metered amount of water supplied

Rules and Regulations

I. Rules and Regulations for the Government of Sewerage Utilities adopted by the Public Service Commission of West Virginia, and now in effect, and all amendments thereto, and modifications thereof hereafter made by said Commission.

II. On all premises having a private water supply and connected with the sewer system and works there shall be installed a meter for measuring the amount of water supplied said premises.

III. If for any reason there be no record of the amount of water supplied any month, then the charge shall be based upon the last available monthly meter reading.

IV. Users, the nature and character of whose use is such that the amount of water discharged into the said system is deemed by the Sanitary Board to be substantially less than the amount of metered water supplied the premises, shall be charged for sewer service substantially on the basis of the amount of water discharged into the sewer system, as may be determined according to formulae approved by the Sanitary Board.

V. In apartment buildings, mobile home courts, shopping centers and other places where more than one occupancy unit is served with water through one water meter, the customer shall be required to pay not less than the minimum monthly charge provided in the tariff for each occupancy.

Rates

I. *For Sewage That Does Not Contain Industrial Waste:*

First	2,000 Gallons used per month	$3.52 per thousand gallons
Next	3,000 Gallons " " "	2.56 " " "
Next	25,000 Gallons " " "	2.36 " " "
Next	70,000 Gallons " " "	2.06 " " "
Next	100,000 Gallons " " "	1.67 " " "
Next	100,000 Gallons " " "	1.46 " " "
Next	700,000 Gallons " " "	1.31 " " "
All over	1,000,000 Gallons " " "	1.15 " " "

II. *For Sewage That Contains Industrial Waste:*

The charge for the treatment of industrial waste will be calculated on the basis of the following formula:

$$Ci = VoVi + BoBi + SoSi$$

Ci = Charge to industrial users per year.

Vo=Average unit cost of transport and treatment chargeable to volume, in dollars per gallon.

Vi=Volume of waste water from industrial users, in gallons per year.

Bo=Average unit cost of treatment, chargeable to Brochemical Oxygen Demand (BOD), in dollars per pound.

Bi=Weight of BOD from industrial users, in pounds per year.

So=Average unit cost of treatment (including sludge treatment) chargeable to total solids, in dollars per pound.

Si=Weight of total solids from industrial users, in pounds per year.

When an industrial user is to be served, a preliminary study of its waste, and the cost of transport and treatment thereof, will be made. Waste containing materials which, in the judgment of the Sanitary Board, should not be introduced into the sewer system, need not be handled by it. The results of this preliminary study will be used to determine the feasibility of the proposed sewer service and the charge therefor, based upon the formula set out above.

Thereafter, industrial sewage will be monitored on a regular basis and at the conclusion of each fiscal year, based on the investigation aforesaid and audit of Sanitary Board records, new cost figures will be calculated for use in the above formula. The cost of establishing the monitoring facilities shall be paid by the industrial user. Based on these audited figures, additional billings covering the past fiscal year will be made for payment by each industrial user, or refund given by the Sanitary Board, as the case may be. Such audited figures will then be used for the preliminary billing for the next fiscal year, at the end of which an adjustment will be made as aforesaid.

III. *Minimum Charge.* A charge of $7.05 shall be the minimum for each month or fraction thereof. If, for any reason, there be no record of the amount of water supplied in any month, then the charge shall be based upon the last available monthly meter reading.

IV. *Recovery of Bank Charges.* If a bank returns a customer's check to the Sanitary Board due to insufficient funds in such customer's account and charges a fee to the Sanitary Board for such service, the bank charge will be added to the account of the customer whose check is returned.

V. *Pretreatment Charge.* In addition to all other charges contained herein, all customers who operate under a pretreatment permit will pay an annual charge of $2500.00, payable on July 1, 1994, and on each following July 1.

VI. *Disconnect, Lien, and Reconnect Fees.* If the Sanitary Board gives notice to a provider of water service to disconnect water service to a customer of the Sanitary Board, the following charges will be added to the account of such customer:

a. A charge of $20.00, plus any legally required certified mail charge, will be added to such customer's account at the time notice to disconnect is given to the water provider.

b. A charge of $4.00 to cover the cost of placing a lien on the property served will be added to the account of such customer at the time such lien is filed in the Office of the Clerk of the County Commission of the County where the property served is located.

c. A reconnect charge of $20.00 will be made at the time the customer pays the amounts due on such customer's account and requests the reconnection of water and sewer service.

VII. *New Service Fee.* A fee of $250.00 shall be paid before sewer service can be obtained at any location not previously connected to the collection system of a sewer utility. The New Service Fee shall be paid for each water meter installed, regardless of the number of sewer connections made at said location

VIII. *Grease Trap Charge.* In addition to all other charges contained herein, all customers who are required by the Sanitary Board to install a grease trap shall pay an annual charge of $250.00, payable on July 1 of each year.

IX. *Mt. Tyler Public Service District Surcharge.* There is hereby imposed upon the customers formerly served directly or indirectly by the lines of Mt. Tyler Public Service District a surcharge of Two Dollars and Twelve Cents ($2.12) per month, to be used to retire the bonds of Mt. Tyler Public Service District that have become the obligation of the City of Charleston.

The rates and charges set forth above shall become effective forty-five (45) days after passage.

Any ordinance inconsistent with the provisions hereof are hereby expressly repealed to the extent of such inconsistency."

WHEREAS, the cited *Code* section provides that notice of such hearing shall be given by publication in compliance with the provisions of Chapter 16, Article 13, Section 16 of *The Code of West Virginia, 1931, as amended.*

NOW, THEREFORE, BE IT RESOLVED BY THIS COUNCIL: That the City Clerk is hereby authorized and directed to publish a copy of this resolution once each week for two successive weeks in *The Charleston Daily Mail* and *The Charleston Gazette*, two newspapers of opposite political faith, in the City of Charleston, West Virginia, and the same shall constitute notice to all persons concerned that the Bill herein stated has been introduced at a meeting of the City Council on February 1, 1999, and that the City Council contemplates the amendment of the Schedule of Rates and Charges as set forth in said Bill as just and equitable rates or charges for use of, and the service rendered by, the sewer system and works of the City of Charleston, West Virginia, and that any person interested may appear before the Council on the 16th day of February, 1999, at 8:00 p.m., in the Council Chamber, in the City Building, in the City of Charleston, and present to the Council any protest or objection he may have to the rates or charges proposed in such Bill. The first day of the successive publications aforesaid shall be at least ten (10) days prior to the date set for the hearing of protests.

A copy of the proposed ordinance is available for public inspection in the office of the City Clerk.

r004c906mt12903

BEFORE THE PUBLIC SERVICE COMMISSION OF WEST VIRGINIA
CHARLESTON

CASE NO. 98-0218-PSD-S-PC

MT. TYLER PUBLIC SERVICE DISTRICT
and the SANITARY BOARD OF THE CITY
OF CHARLESTON

Application for permission to merge Mt. Tyler Public Service District into the City of Charleston Sanitary Board.

PETITION OF CHARLESTON SANITARY BOARD
TO THE CITY COUNCIL OF THE CITY OF CHARLESTON

The Sanitary Board of the City of Charleston hereby petitions the City Council to amend the Sanitary Sewer Rate Ordinance to add a surcharge of Two Dollars and Twelve Cents ($2.12) per month for all customers being served, directly or indirectly, by the facilities acquired from Mt. Tyler Public Service District, which surcharge will be used to retire the outstanding bonds of the Mt. Tyler Public Service District, which, as part of the arrangement, will become the obligation of the City of Charleston.

Respectfully submitted,

Mayor and Chairman

Member

r004c906m112801

The question being on the passage of the Bill a roll call was taken and there were; yeas-26, nays-0, absent-1, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass and Mayor Melton.

NAYS: None.

ABSENT: Snuffer.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 6550 passed unanimously.

22. Your Committee on Finance has had under consideration payment of an invoice from Jackson and Kelly, in the amount of $3,625.65, for professional services rendered and expenses incurred in providing legal services with respect to the Charleston Parking System; To be charged to Account No. 85-571-0-0-2-030, Parking System--Contracted Services, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent, with Councilmembers Hardy and Loeb abstaining, the Mayor declared the committee report adopted unanimously.

23. Your Committee on Finance has had under consideration payment of an invoice from Religious Coalition for Community Renewal, in the amount of $6,503.22, for reimbursement of operational expenses for the months of October and November 1998 for Smith Street Station; To be charged to Account No. 25-098-00-011, CDBG--Public Services, Smith Street Station, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a roll call was taken and there were; yeas-26, nays-0, absent-1, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass and Mayor Melton.

NAYS: None.

ABSENT: Snuffer.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared the committee report adopted unanimously.

24. Your Committee on Finance has had under consideration payment of an invoice from Covenant House, in the amount of $4,956.95, for reimbursement of program expenses for the month of January 1999; To be charged to Account No. 25-098-00-011, CDBG--Public Services, Covenant House, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a roll call was taken and there were; yeas-24, nays-0, absent-2, abstain-1, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Lane, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass and Mayor Melton.

NAYS: None.

ABSENT: Lanham and Snuffer.

ABSTAIN: Kimberling.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared the committee report adopted unanimously.

25. Your Committee on Finance has had under consideration payment of an invoice from West Virginia Health Right, Inc., in the amount of $2,787.12, for reimbursement of expenses for medications and medical supplies; To be charged to Account No. 25-098-00-011, CDBG--Public Services, West Virginia Health Right, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a roll call was taken and there were; yeas-25, nays-0, absent-2, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass and Mayor Melton.

NAYS: None.

ABSENT: Lanham and Snuffer.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared the committee report adopted unanimously.

26. Your Committee on Finance has had under consideration payment of an invoice from Spilman, Thomas & Battle, in the amount of $2,712.50, for professional services rendered for the HOME Program; To be charged to Account No. 25-098-00-015, CDBG--CORP Administration, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a roll call was taken and there were; yeas-26, nays-0, absent-1, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass and Mayor Melton.

NAYS: None.

ABSENT: Snuffer.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared the committee report adopted unanimously.

REPORTS OF OFFICERS

1. City Treasurer's Report to City Council for Month Ending January 1999; Received and Filed.

NEW BILLS INTRODUCED

Introduced by Councilman Loren E. Snodgrass on February 16, 1999;
BILL NO. 6551, a Bill amending the Zoning Ordinance for the City of Charleston, West Virginia, adopted the 7th day of March, 1983, as amended, and the map made a part thereof, by changing from an R-0 district, with restricted use imposed by Bill Nos. 2623 and 2905, to an C-6 district the entire Revised Block 193 of Kanawha City.
Referred to Municipal Planning Commission

Introduced by Councilwoman Jody Connell on February 16, 1999;
BILL NO. 6552, a Bill amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 7th day of March 1983, as amended, by permitting Greenhouse/nursery, as a special permit use in the R-4 Single-Family Residential District.
Referred to Municipal Planning Commission

Introduced by Councilwoman Jody Connell on February 16, 1999;
BILL NO. 6553, a Bill amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 7th day of March 1983, as amended, by permitting towing/wrecking service, as a special permit use in the C-10 General Commercial District.
Referred to Municipal Planning Commission

Introduced by Councilwoman Joyce Horan on February 16, 1999;
BILL NO. 6554, a Bill amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 7th day of March 1983, as amended, and the map made a part thereof, by rezoning from an R-6 district to an R-0 district, that certain parcel of land situate at Hillcrest Drive, Charleston, West Virginia.
Referred to Municipal Planning Commission

Introduced by Councilman Loren Snodgrass on February 16, 1999;
BILL NO. 6555, a Bill amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 7th day of March, 1983, as amended, and the map made a part thereof, by rezoning from an R-6 district to a C-4 district that certain parcel of land situate at 6600 MacCorkle Avenue, SE, Charleston, West Virginia.
Referred to Municipal Planning Commission

Introduced by Councilman Ernest "Ernie" Layne on February 16, 1999;
BILL NO. 6556, a Bill to establish a No Parking Anytime Tow-Away zone on the westerly side of Garvin Avenue between Beech Avenue and Red Oak Street and amending the Traffic Control Map and the Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.
Referred to Council Committee on Streets and Traffic

Introduced by Councilwoman Sara M. Crickenberger on February 16, 1999;
BILL NO. 6557, a Bill to repeal Ordinance No. 3739 passed by Council on April 2, 1984, prohibiting vehicular parking for more than ten minutes on the westerly side of Broad Street from a point 123 feet south of the intersection of Broad Street and Lee Street to a point 173 feet south of the intersection of Broad Street and Lee Street and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.
Referred to Council Committee on Streets and Traffic

Introduced by Councilwoman Sara M. Crickenberger on February 16, 1999;
BILL NO. 6558, a Bill to repeal Ordinance No. 3775 passed by Council on July 2, 1984, relating to a one hour parking zone on the northerly side of Lewis Street (between the two alleys either side of 1010-1012 Lewis Street) beginning 52 feet west of Broad Street and extending to 115 feet west of Broad Street and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.
Referred to Council Committee on Streets and Traffic

Introduced by Councilwoman Sara M. Crickenberger on February 16, 1999;
BILL NO. 6559, a Bill to repeal Ordinance No. 2860 passed by Council on September 21, 1981, relating to a two hour parking zone under the Interstate Exit Ramp at Broad Street between Smith Street and Lewis Street and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.
Referred to Council Committee on Streets and Traffic

Introduced by Councilwoman Sara M. Crickenberger on February 16, 1999;
BILL NO. 6560, a Bill to repeal Ordinance No. 2986 passed by Council on July 19, 1982, relating to a two hour parking zone on the easterly side of Broad Street from the intersection of Broad Street and Smith Street to a point 150 feet south of the intersection of Broad Street and Smith Street and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.
Referred to Council Committee on Streets and Traffic

Introduced by Councilwoman Sara M. Crickenberger on February 16, 1999;
BILL NO. 6561, a Bill to repeal Ordinance No. 4120 passed by Council on February 17, 1987, relating to a ten minute parking zone on the east side of Broad Street from a point 576 feet north of Washington Street to a point 596 feet north of Washington Street, and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.
Referred to Council Committee on Streets and Traffic

Introduced by Councilman David J. Hardy on February 16, 1999;
BILL NO. 6562, a Bill amending and re-enacting Chapter Thirty-one, Article Seven, Section Two Hundred Thirteen of the Vehicles and Traffic law of the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, amending and supplementing certain parking fees for certain municipal parking facilities.
Referred to Council Committee on Finance

Introduced by Councilwoman Jody Connell on February 16, 1999;
BILL NO. 6563, a Bill amending and re-enacting Section 31-109 of Charleston City Code regarding driving under the influence of alcohol, controlled substances or drugs.
Referred to Council Committee on Ordinance and Rules

Introduced by Councilwoman Sara M. Crickenberger on February 16, 1999;
BILL NO. 6564, a Bill to repeal Ordinance No. 6204 passed by Council on March 18, 1996, relating to a ten minute parking zone on the east side of Broad Street north of Washington Street from a point 454 feet north of Washington Street East to a point 476 feet north of Washington Street East and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.
Referred to Council Committee on Streets and Traffic

Introduced by Councilwoman Sara M. Crickenberger on February 16, 1999;
BILL NO. 6565, a Bill to repeal Ordinance No. 536 passed by Council on July 31, 1961, relating to a 10 minute stopping and standing zone on the east side of Broad Street beginning at the entrance to the parking lot adjacent to Sheets Bakery and extending in a southerly direction toward Quarrier Street, extending to and including the space now marked by parking meters numbered 210 and 212, and the installation of a 10 minute stopping and standing sign therewith, and providing for 30 minute parking, and the installation of 30 minute meters on the east side of Broad Street where meters nos. 206 and 208 are now located and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.
Referred to Council Committee on Streets and Traffic

Introduced by Councilwoman Ivalou Barth on February 16, 1999;
BILL NO. 6566, a Bill to repeal Ordinance No. 6126, as amended, passed by Council on August 21, 1995, relating to a No Parking School Drop-Off Only on the south side of Roane Street beginning 26 feet west of Maryland Avenue extending to a point 115 feet west of Maryland Avenue from 8:00 a.m. to 12:30 p.m. when school is in session and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.
Referred to Council Committee on Streets and Traffic

Introduced by Councilwoman Sara M. Crickenberger on February 16, 1999;
BILL NO. 6567, a bill to repeal Ordinance No. 2003, as amended, passed by Council on February 22, 1977, relating to one (1) hour parking in front of 506 Broad Street and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.
Referred to Council Committee on Streets and Traffic

Special Permit No. 880, application for Assisted Living Facility located at Lawndale Lane;
Referred to Municipal Planning Commission

Special Permit No. 881, application to operate a business located at 3501 MacCorkle Avenue, S.E.;
Referred to Municipal Planning Commission

Special Permit No. 882, application to operate a business at 6600 MacCorkle Avenue, S.E.;
Referred to Municipal Planning Commission

At 9:15 p.m. on motion of Councilman Quick, Council adjourned until Monday, March 1 1999.

G. Kemp Melton, Mayor

Fred M. Frisk, Jr., City Clerk

C E R T I F I C A T E

I, Fred M. Frisk, Jr., City Clerk of Charleston, West Virginia, do hereby certify that the attached is a true and correct copy of that certain Resolution No. 179-99, duly filed and of record in the office of the Clerk of the City of Charleston, West Virginia, adopted ~~XXXXXXX~~ by Council of the City of Charleston at a meeting held on 19th, of April, 1999.

Given under my hand and the official seal of the City of Charleston, West Virginia, this 20th day of April, 1999.

(seal)

Cynthia L. Crawford
Deputy City Clerk

Resolution No. 179-99

Introduced in Council

April 19, 1999

Introduced By: Dave Hardy

Adopted by Council April 19, 1999

Resolution No. 179-99 finding that the Council of The City of Charleston, West Virginia (the "City"), adopted Ordinance No. 6544 on February 1, 1999, all as more fully set out therein; finding that notice was given of a public hearing to be held with regard to placing the Ordinance into effect; finding that the public hearing on the Ordinance was held and that no significant protest was made; finding that the Ordinance should be placed into effect; providing for the terms and conditions for the merger of the Mt. Tyler Public Service District (the "District") into the sewerage system of the City; authorizing the assumption of the debt of the District; providing for the dates, maturities, interest rates, principal payment schedules and other terms of Sewerage System Revenue Bonds, re-designating the registrar and paying agent; and making other provisions as to the Bonds.

WHEREAS, the Council of The City of Charleston, West Virginia (the "Council"), on February 1, 1999, adopted Ordinance No.6544, all as more fully set out therein (said Ordinance is hereinafter referred to as the "Ordinance");

WHEREAS, capitalized terms used herein and not otherwise defined shall have the meanings given such terms in the Ordinance;

WHEREAS, the Ordinance, pursuant to Chapter 16, Article 13, Section 6, of the Code of West Virginia, 1931, as amended (the "Act"), directed the Clerk of the City (the "City Clerk") to publish an abstract of the Ordinance (the "Abstract"), together with a notice that the Ordinance has been adopted, that the City contemplates the issuance of the 1999 Bonds as described in the Ordinance and that any person interested may appear before the Council upon a certain day and present protests (the "Notice");

WHEREAS, the Ordinance required that the Abstract and Notice be published as a Class II legal advertisement in the Charleston Daily Mail and Charleston Gazette, newspapers of general circulation of the City, and the first publication of such Abstract and notice was to be not less than ten (10) days before the date set by the Ordinance and the Notice at which interested persons might appear before the Council and present protests, and the last publication of such Abstract and Notice was to be prior to said date set by the Ordinance and the Notice;

WHEREAS, the Ordinance and the Notice provided for a public hearing to be held at 8:00 p.m., prevailing time, on February 16, 1999, in Council Chambers in City Hall;

WHEREAS, the Ordinance provides for the issuance of The City of Charleston, West Virginia Sewerage System Revenue Bonds, in an aggregate principal amount not to exceed $850,000, in two or more series of bonds, and further provides that the dates, interest rates, maturities and other terms of and matters relating to the assumption of the District Bonds should be established by a supplemental resolution; and

WHEREAS, the 1999 Bonds are being issued to evidence the City's acquisition of the assets of the District and the assumption of certain outstanding debt of the District; and

WHEREAS, the Council of the City deems it essential and desirable that this resolution (the "Supplemental Resolution"), be adopted and that the assumption of the District's Bonds be herein provided for.

NOW, THEREFORE, be it resolved by the Council of The City of Charleston, West Virginia, as follows:

Section 1. It is hereby found and determined:

(A) That the Abstract and Notice were duly published in the Charleston Gazette and The Daily Mail, newspapers of general circulation in The City of Charleston with the first publication thereof being on February 5, 1999, which first publications were not less than ten (10) days before the day set by the Notice for the public hearing at which interested persons might appear before the Council of the City and present protests and suggestions and with the last publications thereof being on February 12, 1999, which last publication date was prior to said date set by the Notice for the public hearing, and a copy of the Affidavit of Publications reflecting such publications are attached hereto and incorporated herein;

(B) That in accordance with the Notice, the Clerk of the City has maintained in his office a certified copy of the Ordinance for review by interested persons during the regular office hours of such office;

(C) That, at Council Chambers, City Hall, Charleston, West Virginia on Monday, February 16, 1999, at 8:00 p.m. prevailing time, in accordance with the Notice, the Council met for the purpose of hearing protests and suggestions regarding whether the Ordinance should be put into effect and heard all protests and suggestions with regard thereto;

(D) That, at the public hearing, no significant reasons were presented that could require modification or amendment of the Ordinance and no written protest with regard thereto was filed by 30 percent or more of the freeholders of the City; and

(E) The Ordinance shall be put into effect as of the date hereof and the 1999 Bonds contemplated thereby shall be issued, all as provided in the Ordinance and this Supplemental Resolution.

Section 2. There are hereby authorized and ordered to be issued The City of Charleston Sewerage System Revenue Bonds, Series 1999 A and The City of Charleston Sewerage System Revenue Bonds, Series 1999 B for the purpose of assuming the District's Bonds, as set forth in the Ordinance:

(A) The first series of bonds of the City shall be originally represented by a single bond, designated "Sewerage System Revenue Bonds, Series 1999 A", numbered AR-1 shall be used to assume the District's Series 1987 A Bonds, shall be in the aggregate principal amount of $686,229, shall be dated the date of delivery thereof, shall finally mature on October 1, 2026, shall continue to bear interest at the rate of 8.38 percent (8.38%) per annum, and shall continue to be payable semi-annually on each April 1 and October 1 of each year. The principal shall continue to be payable annually on October 1 of each year, in the amounts as set forth in Schedule X attached to the District Loan Agreement and incorporated herein. The Bond shall be subject to redemption upon the written consent of the Authority, and upon payment of the interest and redemption premium, if any, and otherwise in compliance with the District Loan Agreement, so long as the Authority shall be the registered owner of the Bond.

(B) The second series of bonds of the City shall be issued originally represented by a single bond, designated "Sewerage System Revenue Bonds, Series 1999 B", numbered BR-1 shall be used to assume the District's Series 1987 B Bonds, shall be in the aggregate principal amount of $132,072, shall be dated the date of delivery thereof, shall finally mature on October 1, 2026, and shall continue to bear no interest. The principal shall continue to be payable annually on October 1 of each year in the amounts as set forth in Schedule X attached to the District Supplemental Loan Agreement and incorporated herein. The Bond shall be subject to redemption upon the written consent of the Authority, and upon payment of the redemption premium, if any, and otherwise in compliance with the District Supplemental Loan Agreement, so long as the Authority shall be the registered owner of the Bond.

(C) The Series 1999 A Bonds and Series 1999 B Bonds are being issued to evidence the City's assumption of the District Bonds. Therefore, no bond proceeds will be received. The reserve funds for the District's 1987 A Bonds and Series 1987 B Bonds, respectively, held at the West Virginia Municipal Bond Commission will be transferred to the respective 1999 Bonds reserve accounts established by the Ordinance as part of the merger.

(D) The assumption of the District Bonds through delivery of the 1999 Bonds to the Authority is hereby approved. The Mayor is hereby authorized and directed to execute the Bonds by his manual signature and attested by the City Clerk by his manual signature and the seal of the City shall be impressed thereon.

Section 3. All other provisions relating to the 1999 Bonds shall be as provided in the Ordinance, and the 1999 Bonds shall be in substantially the form provided in the Ordinance with such changes, insertions and omissions as may be approved by the Mayor of the City. The execution of the 1999 Bonds by the Mayor shall be conclusive evidence of such approval.

Section 4. The City hereby re-appoints and designates One Valley Bank, National Association, Charleston, West Virginia (formerly, Kanawha Valley Bank, National Association), as Registrar for the 1999 Bonds. The Registrar is hereby authorized to take the appropriate action to note the assumption of the District Bonds by the 1999 Bonds in its records.

Section 5. The City hereby re-appoints and designates the West Virginia Municipal Bond Commission, Charleston, West Virginia, as Paying Agent for the 1999 Bonds. The Commission is hereby authorized to transfer the District's reserve accounts for the District Bonds to the respective 1999 Bonds' reserve accounts.

Section 6. The City hereby affirms all covenants and representations made in the District Loan Agreement and the District Supplemental Loan Agreement to the Authority. The price of the 1999 Bonds shall be 100% of par value.

Section 7. The Mayor and City Clerk are hereby authorized and directed to execute and deliver such other documents and certificates, including the Registrar's Agreement, required or desirable in connection with the 1999 Bonds in order for the 1999 Bonds to be delivered on or about April 30, 1999.

Section 8. The City shall not permit at any time or times any of the proceeds of the 1999 Bonds or any other funds of the City to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from the treatment afforded by Section 103(a) of the Code, by reason of the classification of the 1999 Bonds as "private activity bonds" within the meaning of the Code. It will take all actions necessary to comply with the Code, including the Treasury Regulations promulgated thereunder.

Section 9. The acquisition by merger of the assets of the District and assumption of the District's Bonds by the 1999 Bonds is in the public interest, serves a public purpose of the City and will promote the health, welfare and safety of the residents of the City, as approved by the Public Service Commission of West Virginia in Case No. 98-0215-PSD-S-PC.

Section 13. This Supplemental Resolution shall be effective immediately upon adoption.

140799

CERTIFICATE

I, the undersigned City Clerk of the City of Charleston, do hereby certify that the foregoing is a true, correct and complete copy of Council Minutes, enacted by the City Council of the City on April 19, 1999.

Witness the signature of the undersigned City Clerk of the City of Charleston, West Virginia, and the seal of said City, this 23 day of July, 1999.

Melissa Y. Hughes
City Clerk Deputy II

Seal

JOURNAL

OF THE

COUNCIL

CITY OF CHARLESTON

WEST VIRGINIA

APRIL 19, 1999

The Council met in its Chamber in the City Building at 8:00 P.M. for the second meeting in the month of April and was called to order by the Mayor, the Honorable G. Kemp Melton.

Prayer was offered by the Honorable William R. "Bill" Kimberling, Councilman for the 18th Ward.

The Clerk called the roll and the following members answered to their names:

Barron	*Kimberling*	*Nielsen*
Barth	*Lane*	*Quick*
Connell	*Lanham*	*McKnight*
Crickenberger	*Layne*	*Smith*
Gilmer	*Leary*	*Snodgrass*
Haddad		*Snuffer*
Hardy	*Lopez*	*Mayor Melton*
Hicks	*Malone*	
Horan	*McClaskie*	
Huffman	*Morton*	

Twenty-six members being present, the Mayor declared a quorum.

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

April 19, 1999 2nd MEETING

PUBLIC SPEAKERS

1. Sandy Hayes
2. Glenn Booker

CLAIMS

1. A Claim of Glenn Booker; 706 Grace Avenue, Charleston, WV; alleges damage to property; Referred to City Solicitor

2. A Claim of Sarah Hatcher; 1538 Ravinia Road, Charleston, WV; alleges damage to property; Referred to City Solicitor

3. A Claim of Kimberly Gilmer; 701 Walnut Road, Charleston, WV; alleges damage to vehicle; Referred to City Solicitor

4. A Claim of M. B. Squires Company; 12 Hawley Avenue, Pittsburg, PA; alleges damage to property; Referred to City Solicitor

COMMUNICATIONS

Municipal Planning Commission

April 15, 1999

Honorable G. Kemp Melton, Mayor
and Members of City Council
Charleston, WV 25301

Dear Mayor Melton and Councilmembers:

On April 7, 1999, the Municipal Planning Commission held public hearings and its regular monthly meeting. Below are those cases they considered and their recommendations for your consideration.

Bill No. 6542 - Petition of Joseph Brumley requesting a rezoning on the property located at 326 Wyoming Street from an R-8 to an R-O in order to use the property as an office. The Commission recommended passage of the bill.

Bill No. 6551 - Petition of the Energy Centre, Inc., requesting a rezoning from an R-O district to a C-6 district that property located on Venable Avenue between 55th Street and 56th Street in order to expand the existing structure. The Commission recommended passage of the bill.

Special Permit No. 880 - Application of The Arbor Investment Co. requesting a special permit to construct a 63 unit assisted living facility on property located at the corner of Lawndale Lane & Oakhurst Drive. The Commission recommended approval of the special permit.

Special Permit No. 881 - Application of Park Systems, Inc. requesting a special permit to operate a restaurant serving alcoholic beverages at 3501 MacCorkle Avenue, S.E. The Commission recommended denial of the special permit.

Bill No. 6571 - Petition of University of Charleston requesting a rezoning from an R-4 Residential District to an R-O Residential/Office District for tax parcel number 28 on property located near the intersection of Cherokee Avenue and 22nd Street.

Special Permit No. 884 - Application of University of Charleston to construct a 55,000 sq. ft. residence hall to house 250 students at 2300 MacCorkle Avenue, S.E. near the intersection of Cherokee Avenue and 22nd Street. The Commission recommended approval of the special permit.

Special Permit No. 885 - Application of University of Charleston to remove 3 houses located at 304, 306, and 308, 22nd Street to construct a restricted accessory parking lot. The Commission recommended approval of the special permit.

Special Permit No. 886 - Application of University of Charleston to remove 3 houses located at 317, 319, and 321 22nd Street to construct a restricted accessory parking. At the hearing the applicant asked to amend the application to remove only two houses at 317 & 319 22nd Street. The Commission voted to amend the special permit as requested and recommend that the special permit as amended be approved.

Bill No. 6570 - Petition of University of Charleston to close, abandon and discontinue as a public street that portion of 22nd Street which extends from 317 22nd Street to 321 22nd Street in the area surrounded by the campus of the University of Charleston. The Commission voted to recommend passage of the bill.

NEXT VOTE ON 4-19-99

"Corporate Landing" - Street naming request. The street feeds off of our main road - Dietrick Boulevard. Ticketmaster will be the first occupant in the area previously referred to as Corporate Center.

All of the cases, with the exception of Corporate Landing, should be referred to the Committee on Planning. Corporate Landing will be a final vote of City Council.

Mayor Melton referred all cases, with the exception of the new street request at NorthGate Business Park, to the Council Committee on Planning.

March 31, 1999

Ms. Ann Beckman
Planning Director
City of Charleston
P.O. Box 2749
Charleston, WV 25301

RE: New Street Request at NorthGate Business Park

Dear Ms. Beckman,

To accommodate our newest tenant - TicketMaster, we are proud to present this request to the City of Charelston for approval of a new street at NorthGate. The proposed name for the new street is Corporate Landing.

TicketMaster is our first occupant in the area previously referred to as Corporate Center. The enclosed map shows Corporate Landing feeding off our main road - Deitrick Boulevard. Occupancy date for TicketMaster is expected between June and July 1, 1999.

Thank you for considering our request at the next City Council meeting on April 5th. If you have any questions or if you would like to visit NorthGate for a tour, please call me at 346-2900.

Sincerely,
/s/ Sheila
Sheila A. Saab
Sales & Marketing

The question being on the approval of the street name request a vote was taken. There being no dissent the Mayor declared Corporate Landing as a street approved unanimously.

PROCLAMATION

EXECUTIVE DEPARTMENT

CITY OF CHARLESTON

PROCLAMATION

By the Mayor

WHEREAS: The **GFWC** Capitol Woman's Club is a member of the **GENERAL FEDERATION OF WOMEN'S CLUBS OF WEST VIRGINIA** and the **GENERAL FEDERATION OF WOMEN'S CLUBS**, the world's largest organization of volunteer women; and

WHEREAS: The **GFWC** Capitol Woman's Club is a volunteer service organization which has been actively serving this community for 25 years; and

WHEREAS: The **GFWC** Capitol Woman's Club is on of the 156 Clubs in the GFWC West Virginia Federation which promotes community service and volunteerism; and

WHEREAS: The **GFWC** West Virginia Federation has designated April as "GFWC Federation Month " in honor of the 109th Birthday of GFWC.

NOW THEREFORE, I, G. Kemp Melton, Mayor of the City of Charleston, do hereby proclaim April 24, 1999 as

GFWC WEST VIRGINIA FEDERATION DAY

in the City of Charleston, West Virginia.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the Executive Department to be affixed this 19th day of April, 1999.

G. Kemp Melton

G. KEMP MELTON, MAYOR

Received and Filed.

APPOINTMENTS

TO: Fred M. Frisk, Jr., City Clerk
FROM: G. Kemp Melton, Mayor
SUBJECT: Appointment of City Manager
DATE: April 19, 1999

I am aware of the resignation of Greg Burton, City Manager effective April 30, 1999.

I would like to appoint Paul J. McClung to fill the position of City Manager effective May 1, 1999.

I respectfully request City Council approval of this recommendation.

The question being on the confirmation of the appointment a vote was taken. There being no dissent the Mayor declared the appointment confirmed unanimously.

TO: Fred M. Frisk, Jr., City Clerk
FROM: G. Kemp Melton, Mayor
SUBJECT: Municipal Planning Commission
DATE: April 19, 1999

I am aware of the resignation of William Rice as a member of the Charleston Municipal Planning Commission.

I am recommending the following.

The appointment of Ryan Henry, 1402 Jackson Street, Charleston, to fill the unexpired term vacated by the resignation of William Rice. Said term will expire July 1, 2001.

I respectfully request City Council approval of this recommendation.

The question being on the confirmation of the appopintment a vote was taken. There being no dissent the Mayor declared the appointment confirmed unanimously.

TO: Fred M. Frisk Jr., City Clerk
FROM: G. Kemp Melton, Mayor
SUBJECT: Civil Service Commission
DATE: April 19, 1999

I am aware of the expiration of the term of James S. Arnold as a member of the Charleston Civil Service Commission.

I am recommending the following:

The re-appointment of James S. Arnold. Said term will expire September 3, 2001.

I respectfully request City Council approval of this recommendation.

The question being on the confirmation of the appointment a vote was taken. There being no dissent the Mayor declared the appointment confirmed unanimously

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TO: Fred M. Frisk Jr., City Clerk
FROM: G. Kemp Melton, Mayor
SUBJECT: Fireman's Civil Service Commission
DATE: April 19, 1999

I am aware of the expiration of the term of Brian R. Cokeley as a member of the Charleston Fireman's Civil Service Commission.

I am appointing Matt Jackson, 1529 Washington Street East, Charleston, West Virginia. Said term will expire February 17, 2003.

Please advise City Council of this appointment.

Received and Filed.

MISCELLANEOUS RESOLUTIONS

Introduced by Councilwoman Linda Nielsen, Chairman of the Council Committee on Environment and Recycling, on April 19, 1999:

Resolution No. 180-99 – "Concerning a ten (10%) percent 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 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; and

WHEREAS, West Virginia Code §47-38-3, Item 3.18.2.a.A. mandates that a minor modification may be approved by the director (WVDEP) for a permittee proposing to increase the volume of solid waste accepted at the facility by an amount of ten (10%) percent or less upon application in alternate years, unless such an increase requires a change in the classification of the facility; and

WHEREAS, two years time has elapsed since the modification to the Solid Waste Permit; therefore

Be It Resolved By The Council Of The City Of Charleston, West Virginia:

That the Council of the City of Charleston directs the administration to take the appropriate action to initiate the submittal to the West Virginia Division of Environmental Protection, Office of Waste Management requesting a ten (10%) percent increase in the allowable monthly tonnage.

The question being on the adoption of the resolution a roll call was taken and there were: yeas-16, nays-11, absent-0, as follows:

YEAS: Connell, Gilmer, Haddad, Hardy, Horan, Lane, Lanham, Layne, Loeb, Lopez, Nielsen, Quick, McKnight, Snodgrass, Snuffer and Mayor Melton.

NAYS: Barron, Barth, Crickenberger, Hicks, Huffman, Kimberling, Leary, Malone, McClaskie, Morton and Smith.

ABSENT: None.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 180-99 adopted.

Introduced by Councilman Charles Loeb, Chairman of the Council Committee on Ordinance and Rules, on April 19, 1999.

Resolution No. 181-99--"Authorizing the City Clerk to deliver the Memorandum to the Municipal Code Corporation instructing such Corporation to prepare an ordinance for the adoption of the City Code recodified and amended as set forth in the Memodandum".

A motion was made to lay over Resolution No. 181-99 until the May 3, 1999 Council meeting.

The question being on the motion a vote was taken. There being no dissent the Mayor declared Resolution No. 181-99 layed over until May 3, 1999.

REPORTS OF STANDING COMMITTEES

FINANCE

Councilman David J. Hardy, Chairman of the Council Committee on Finance, submitted the following reports.

1. Your Committee on Finance has had under consideration Bill No. 6573, authorizing the Mayor of the City of Charleston, pursuant to West Virginia Code Section 8, Article 32-2, to grant and convey unto Business and Industrial Development Corporation of Kanawha Valley, Inc., ("BIDCO"), a corporation created and existing under the laws of the State of West Virginia, all of those two tracts or parcels of land and all improvements thereon and appurtenances thereto at the intersection of Bibby Street and Joseph Street in the City of Charleston, Kanawha County, West Virginia, said parcels being more particularly described in the Bill; and further authorizing the Mayor to execute a deed conveying such, less any exceptions and reservations set forth in the deed, to BIDCO for the sum of ten dollars ($10.00) and other valuable consideration. The City finds that the donation of said property to BIDCO and the eventual transfer of the property to Kanawha Valley Senior Services, Inc., current occupant of said property, will preserve and foster economic development within the City of Charleston by providing jobs and fostering activities for senior citizens, and reports the same to Council with the recommendation that the bill do

pass.

Bill No. 6573, a Bill to

A Bill to authorize the Mayor of the City of Charleston pursuant to West Virginia Code § 8-32-2 to grant and convey unto Business and Industrial Development Corporation of Kanawha Valley, Inc., ("BIDCO") a corporation created and existing under the laws of the state of West Virginia, all of those two tracts or parcels of land and all improvements thereon and appurtenances thereto at the intersection of Bibby Street and Joseph Street in the City of Charleston, Kanawha County, West Virginia, said parcels being more particularly described below;

Whereas, the City of Charleston owns property at the intersection of Bibby Street and Joseph Street in the City of Charleston, Kanawha County, West Virginia, which is currently being used and occupied by Kanawha Valley Senior Services;

Whereas, said property is more particularly described as follows:

Lot No. One (1) of Disposition Block No. Ten (10) and all of Disposition Parcel No. Eleven (11) as shown and designated on the map titled "Map Showing Resubdivision of Disposition Block No. 10 & Disposition Parcel No. 11 of Triangle Urban Renewal Project W.Va. R-21 Located in the City of Charleston, W.Va., Owned by Charleston Urban Renewal Authority" made by Field Engineering Co., dated November 18, 1981, and filed February 1, 1982, in the Office of the Clerk of the County Commission of Kanawha County, West Virginia, and there of record in Map Book 35, at Page 95- to which map reference is here made for a more particular description of the property conveyed by this deed.

Whereas, the City of Charleston desires to convey said property and improvements and appurtenances to Kanawha Valley Senior Services by first granting and conveying the property less the exceptions and reservations set forth in the deed to BIDCO;

Whereas, West Virginia *Code* § 8-32-2 permits and allows the City of Charleston to grant and convey said property to BIDCO for little or no consideration;

Whereas, the City of Charleston finds that the donation of said property to BIDCO and the eventual transfer of the property to Kanawha Valley Senior Services, Inc., will preserve and foster economic development within the City of Charleston, by providing jobs and fostering activities for seniors citizens; and

Be It Ordained By The Council of the City of Charleston, West Virginia:

That the Mayor of Charleston be authorized to grant and convey those two tracts or parcels of land, together with all improvements thereon and the appurtenances thereunto situate at the intersection of Bibby Street and Joseph Street in the City of Charleston, Kanawha County, West Virginia more particularly described as follows:

> Lot No. One (1) of Disposition Block No. Ten (10) and all of Disposition Parcel No. Eleven (11) as shown and designated on the map titled "Map Showing Resubdivision of Disposition Block No. 10 & Disposition Parcel No. 11 of Triangle Urban Renewal Project W.Va. R-21 Located in the City of Charleston, W.Va., Owned by Charleston Urban Renewal Authority" made by Field Engineering Co., dated November 18, 1981, and filed February 1, 1982, in the Office of the Clerk of the County Commission of Kanawha County, West Virginia, and there of record in Map Book 35, at Page 95- to which map reference is here made for a more particular description of the property conveyed by this deed.

and execute a deed conveying such less any exceptions and reservations set forth in the deed to Business and Industrial Development Corporation, of Kanawha Valley, Inc. (BIDCO) for the sum of ten dollars ($10.00) and other valuable consideration.

The question being on the passage of the bill a roll call was taken and there were; yeas-26, nays-0, absent-1, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Quick, McKnight, Smith, Snodgrass, Snuffer and Mayor Melton.

NAYS: None.

ABSENT: Nielsen.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 6573 passed unanimously.

2. Your Committee on Finance has had under consideration Resolution No. 170-99, authorizing the Finance Director to make revisions to the 1998-99 General Fund budget as indicated on the attached list of accounts, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 170-99--"Authorizing the Finance Director to make revisions to the 1998-99 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 make revisions to the 1998-99 General Fund budget as indicated on the attached list of accounts; and be it

FURTHER RESOLVED that this budgetary revision is being made prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists.

General Fund 1998-99 Budget Amendment No. 11 - April 19, 1999

01-409-00-000-5-068	Mayors Office	Other Contributions	3,500.00
01-699-00-000-5-098	Contingency		(3,500.00)

To provide additional funds for a total contribution of $5,000 to the Western Generals Midget Football Team, Inc. to help replace football equipment and supplies destroyed by fire.

01-406-00-000-1-005	Consumer Protection	Medical & Life Insurance	585.00
01-409-00-000-1-005	Mayors Office		1,265.00
01-410-00-000-1-005	City Council		1,749.00
01-412-00-000-1-005	City Manager		1,096.00
01-413-00-000-1-005	City Treasurer		876.00
01-414-00-000-1-005	City Collector		8,278.00
01-415-00-000-1-005	City Clerk		1,753.00
01-416-00-000-1-005	Municipal Court		(2,534.00)
01-417-00-000-1-005	Legal		1,753.00
01-418-00-000-1-005	Accounting		4,091.00
01-420-00-000-1-005	Engineering		2,024.00
01-421-00-000-1-005	MOECD		3,461.00
01-422-00-000-1-005	Human Resources		2,338.00
01-431-00-000-1-005	Mail Room		1,753.00
01-436-00-000-1-005	Building Commission		4,675.00
01-437-00-000-1-005	Planning		943.00
01-439-00-000-1-005	Information Systems		(1,482.00)
01-440-00-000-1-005	Building Maintenance		3,249.00
01-442-00-000-1-005	Internal Audit		585.00
01-566-00-000-1-005	Public Works		2,338.00
01-700-00-000-1-005	Police-Uniform		92,161.00
01-700-01-000-1-005	Police-Civilian		22,888.00
01-706-00-000-1-005	Fire-Uniform		85,437.00
01-706-01-000-1-005	Fire-Civilian		1,148.00
01-712-00-000-1-005	Traffic Engineering		5,793.00
01-716-00-000-1-005	C-K Emergency Services		585.00
01-750-00-000-1-005	Street		38,885.00
01-754-00-000-1-005	Equipment Maintenance		15,145.00
01-800-00-000-1-005	Refuse Coll. & Recycling		52,014.00
01-900-00-000-1-005	Parks & Recreation		23,966.00
01-910-00-000-1-005	Municipal Auditorium		1,753.00
01-950-00-000-1-005	Environ. Res. & Recycling		1,169.00
01-952-00-000-1-005	Spring Hill Cemetery		3,507.00
01-954-00-000-1-005	Human Rights		1,753.00
01-440-92-000-1-005	COBRA		90,000.00
01-440-93-000-1-005	Regular Retirees		175,000.00
01-700-93-000-1-005	Police Retirees		40,000.00
01-706-93-000-1-005	Fire Retirees		(40,000.00)
01-700-93-000-1-008	Police Retirees	Dental/Optical Insurance	55,000.00
01-706-93-000-1-008	Fire Retirees		45,000.00
01-301-00-0002	Revenue	Property Tax	(250,000.00)
01-369-00-0095	Transfers from Other Fund		(500,000.00)

To provide funds to avoid budget shortfall for Medical & Life and Dental/Optical Insurance.

REPORTABLE:
To maintain compliance with budgetary guidelines of the State of West Virginia, Department of Tax and Revenue, Chief Inspector Division.

01-706-00-000-2-015	Fire-Uniform	M&R-Buildings & Grounds	(1,970.00)
01-706-00-000-4-057		C/O-Major Repairs	1,970.00

Transfer funds to cover additional cost for roof replacement at South Hills Station.

01-706-00-000-2-015	Fire-Uniform	M&R-Buildings & Grounds	(3,795.00)
01-706-00-000-4-059		C/O-Equipment	3,795.00

Transfer funds to cover cost of air conditioning unit at Lee Strreet Training Center.

57-101-0	Cash	(500,000.00)
57-057-00-000-5-066	Contributions	500,000.00

To provide funds to avoid budget shortfall for Medical & Life and Dental/Optical Insurance.

NOT REPORTABLE:
To maintain compliance with budgetary guidelines of the State of West Virginia, Department of Tax and Revenue, Chief Inspector Division.

The question being on the adoption of the resolution a roll call was taken and there were; yeas-25, nays-1, absent-1, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Lopez, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass, Snuffer and Mayor Melton.

NAYS: Malone.

ABSENT: Loeb.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 170-99 adopted.

3. Your Committee on Finance has had under consideration Resolution No. 171-99, authorizing the Finance Director to allocate funds in the amount of $5,000 for the Western Generals Midget League Football Team, Inc., to assist in purchasing new football equipment and supplies to replace items destroyed by fire on March 16, 1999, in a storage building/concession stand at North Charleston Recreation Center. The City building was insured, but the contents were not covered; To be charged to Account No. 01-409-0-0-5-068, Mayor's Office--Other Contributions, and reports the same to Council with the recomendation that the committee report be adopted.

A motion was made to remove an amendment to the resolution that was made in the Finance Committee meeting.

The question being on the adoption of the motion a vote was taken. There being no dissent the Mayor declared the amendment to the resolution removed unanimously.

Resolution No. 171-99--"Authorizing the Finance Director to allocate funds in the amount of $5,000 for the Western Generals Midget League Football Team, Inc., to assist in purchasing new football equipment and supplies to replace items destroyed by fire on March 16, 1999, in a storage building/concession stand at North Charleston Recreation Center. The City building was insured, but the contents were not covered."

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

That the Finance Director is hereby authorized and directed to allocate funds in the amount of Five Thousand Dollars ($5,000) for the Western Generals Midget League Football Team, Inc., to assist in purchasing new football equipment and supplies to replace items destroyed by fire on March 16, 1999, in a storage building/concession stand at North Charleston Recreation Center. The City building was insured, but contents were not covered.

The question being on the adoption of the resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 171-99 adopted unanimously.

4. Your Committee on Finance has had under consideration Resolution No. 172-99, authorizing the Mayor to enter into an agreement with West Virginia Radio Corporation to provide media advertisement and coverage for Parks and Recreation Department programs and events in exchange for advertisement on outfield wall billboards at Watt Powell Park. Total value of the

proposal is approximately $21,600, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 172-99--"Authorizing the Mayor to enter into an agreement with West Virginia Radio Corporation to provide media advertisement and coverage for Parks & Recreation Department programs and events in exchange for advertisement on outfield wall billboards at Watt Powell Park. Total value of the proposal is approximately $21,600."

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

That the Mayor is hereby authorized and directed to enter into an agreement with West Virginia Radio Corporation to provide media advertisement and coverage for Parks & Recreation Department programs and events in exchange for advertisement on outfield wall billboards at Watt Powell Park. Total value of the proposal is approximately Twenty-one Thousand Six Hundred Dollars ($21,600).

The question being on the adoption of the resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 172-99 adopted unanimously.

5. Your Committee on Finance has had under consideration Resolution No. 173-99, authorizing the Mayor to enter into an Agreement with Hartford Life-Acordia to offer a Deferred Compensation 457 Plan containing investment options for City employees for the period June 1, 1999 to May 31, 2000, and reports the same to Council with the recommendation that the committee report be adopted.

A motion was made to table the resolution.

The question being on the motion a vote was taken. There being no dissent the Mayor declared Resolution No. 173-99 tabled.

6. Your Committee on Finance has had under consideration Resolution No. 174-99, authorizing the Mayor to enter into a unit price contract with Wiseman Construction Company, in the amount of approximately $59,055, for tree and cobbled concrete replacemnet at Slack Plaza; To be charged to Account No. 01-420-0-0-4-058, Engineering--Capital Outlay, Special Projects, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 174-99--"Authorizing the Mayor to enter into a unit price contract with Wiseman Construction Company, in the amount of $59,055, for tree and cobbled concrete replacemnet at Slack Plaza."

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

That the Mayor is hereby authorized and directed to enter into a unit price contract with Wiseman Construction Company, in the amount of Fifty-nine Thousand Fifty-five Dollars ($59,055), for tree and cobbled concrete replacement at Slack Plaza.

The question being on the adoption of the resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 174-99 adopted unanimously.

7. Your Committee on Finance has had under consideration Resolution No. 175-99, authorizing the Mayor to enter into a time and materials contract with THP Limited, Inc., in an amount not to exceed $23,000, for preparation of plans and specifications for repairs to Municipal Parking Building No. 1; To be charged to Account No. 85-571-0-0-4-060, Parking System--Capital Outlay, Major Repairs, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 175-99--"Authorizing the Mayor to enter into a time and materials contract with THP Limited, Inc., in an amount not to exceed $23,000, for preparation of plans and specifications for repairs to Municipal Parking Building No. 1".

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

That the Mayor is hereby authorized and directed to enter into a time and materials contract with THP Limited, Inc., in an amount not to exceed Twenty-three Thousand Dollars ($23,000), for preparation of plans and specifications for repairs to Municipal Parking Building No.1.

The question being on the adoption of the resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 175-99 adopted unanimously.

8. Your Committee on Finance has had under consideration Resolution No. 176-99, authorizing the Mayor to enter into a contract with Ray's Plastering, in the amount of $38,898, for facade restoration at Municipal Parking Building No. 3 (Greyhound), located at Washington and Reynolds streets; To be charged to Account No. 85-571-0-0-4-060, Parking System--Capital Outlay, Major Improvements, and reports the same to Council with the recommendation that the committee report be adopted.

Resoltuion No. 176-99--"Authorizing the Mayor to enter into a contract with Ray's Plastering, in the amount of $38,898, for facade restoration at Municipal Parking Building No. 3 (Greyhound), located at Washington and Reynolds streets."

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

That the Mayor is hereby authorized and directed to enter into a contract with Ray's Plastering, in the amount of Thirty-eight Thousand Eight Hundred Ninety-eight Dollars ($38,898), for facade restoration at Municipal Parking Building No. 3 (Greyhound), located at Washington and Reynolds streets.

The question being on the adoption of the resolution a vote was taken. There being no dissent the Mayor declared Resoltuion No. 176-99 adopted unanimously.

9. Your Committee on Finance has had under consideration Resolution No. 177-99, authorizing approval of the 1999-2000 Parking System Budget as indicated on the attached list of accounts, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 177-99--"Authorizing the approval of the 1999-2000 Parking System Budget as indicated on the attached list of accounts."

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

That the 1999-2000 Parking System Budget, as indicated on the attached list of accounts, is hereby approved.

City of Charleston
Parking System Budget
Fiscal Year 1998-1999

14-Apr-99
01:24 PM

Revenues	1997-98 Received	1998-99 Total Bdgt	1998-99 Recv'd YTD (Thru Dec)	1999-2000 Estimate	1999-2000 Finance
Building #1	400,428	455,000	236,690	455,000	
Building #2	527,365	521,000	269,975	525,000	
Building #3	17,911	26,000	9,577	52,200	
Building #4	36,131	50,000	9,242	25,000	
Building #5	393,130	435,000	187,716	400,000	
Building #6	419,519	457,000	228,967	480,000	
Parking Meter Revenues	377,972	430,000	226,897	530,000	
Coupons	5,810	5,000	6,275	10,000	
Auditorium Parking Lot	30,161	100,000	2,610	0	
Pa Avenue Parking	9,763	5,000	2,423	8,000	
Watt Powell Parking	10,779	9,000	5,878	10,000	
Lee Street Parking	100,894	0	43,091	0	
Interest	67,091	60,000	33,810	60,000	
Interest on MBC deposits	143,317	240,000	0	240,000	
Rents, Concess, Leases	36,792	39,917	22,313	40,000	
Police Fines/Court Costs	14,150	15,000	10,525	20,000	
Parking Violations	469,777	410,000	231,502	430,000	
Other Non-moving	150,010	140,000	72,592	140,000	
Reimbursements	19,257	14,000	67	14,000	
Miscellaneous	5,802	10,000	3,944	10,000	
Total Revenues	3,236,059	3,421,917	1,604,094	3,449,200	
Transfers from Other Funds	0	416,700	0	180,000	
Total Revenues & Transfers In	3,236,059	3,838,617	1,604,094	3,629,200	

Expenditures	1997-98 Expended	1998-99 Total Bdgt	1998-99 Expend YTD (Thru Dec)	1999-2000 Dept Req.	1999-2000 Finance
Salaries & Wages	625,965	685,987	349,705	746,428	
FICA	46,236	52,478	25,848	57,102	
Medical & Life Insurance	133,921	116,250	66,016	132,000	
Retirement	53,341	63,411	30,415	66,636	
Dental/Optical Insurance	4,517	8,215	4,372	9,075	
Insurance - P/R Deduct.	(18,183)	(21,164)	(10,161)	(21,043)	
Telephone	6,702	4,200	2,693	5,000	
Utilities	173,981	150,000	46,275	150,000	
M & R - Bldg/Grounds	27,229	42,000	26,350	48,000	
M & R - Equipment	49,072	35,000	17,874	35,000	
M & R - Auto/Truck	953	5,000	234	5,000	
Postage	5,422	6,000	4,695	10,000	
Advertising/Legal Pub	293	500	0	500	
Dues & Subscriptions	10	150	0	150	
Training	0	0	0	1,000	
Audit Costs	0	0	0	0	
Insurance - WC & UC	43,405	43,400	22,530	47,355	
Insurance	46,783	50,000	17,663	50,000	
Contracted Services	167,151	50,000	15,330	25,000	
Materials & Supplies	68,222	68,000	32,850	68,000	
Uniforms	4,561	5,000	1,331	5,000	
Court Costs	3,100	0	4,850	10,000	
Capital Outlay-Special Projects	0	20,000	0	0	
Capital Outlay - Equipment	0	20,000	11,834	90,900	
Capital Outlay-Major Improvements	0	0	772	180,000	
Capital Outlay - Lease Purchase	0	54,500	5,963	52,200	
Depreciation	1,005,009	1,066,235	533,117	1,011,675	
Principal Maturities-Bonds	0	510,000	0	525,000	
Interest on Bonds	1,219,284	1,187,704	748,659	1,071,408	
Bond Service Charge	4,861	6,000	0	6,000	
Bad Debts	0	2,000	0	2,000	
Other	0	4,300	0	25,000	
Total Expenditures	3,671,835	4,235,166	1,959,215	4,414,386	
Transfers to Other Funds	0	416,700	0	226,000	
Total Expenditures & Transfers Out	3,671,835	4,651,866	1,959,215	4,640,386	

Staffing Schedule

Position/Expenditure	Grade/ Class	Maximum Annual Comp	1998-99 Budget # Emp	1998-99 Budget Amount	Grade/ Class	Maximum Annual Comp	1999-00 Requested # Emp	1999-00 Requested Amount	Grade/ Class	Maximum Annual Comp	1999-00 Finance # Emp	1999-00 Finance Amount
Parking System												
Director	G-6	41,212	1	41,212	G-7	49,798	1	49,798				
Asst. Director-Operations	G-3	29,603	1	29,603	G-3	30,349		0				
Assistant Manager	G-1	25,560	1	25,560	G-1	26,071		0				
Administrative Assistant	C-6	25,257		0	C-6	27,044	1	27,044				
Accounting Clerk Sr	C-3	20,812	1	20,812	C-3	21,229	1	21,229				
Accounting Clerk	C-1	19,573	1	19,573	C-1	19,964	2	39,928				
Maint. & Security Supervisor	PG-6	23,860	1	23,860	PG-6	25,243		0				
Maintenance & Security	PG-5	22,949	2	45,898	PG-5	24,277		0				
Meter Attendant	PG-5	22,949		0	PG-5	24,277		0				
Head Cashier	PG-5	22,949	3	68,847	PG-5	24,277	4	97,108				
Cashiers	PG-3	20,326	9	182,934	PG-3	20,732	8	165,856				
Meter Enforcement Supervisor	PG-4	21,201		0	PG-4	21,625	1	21,625				
Meter Repair	PG-3	20,326	2	40,652	PG-3	20,732	2	41,464				
Meter Enforcement	PG-2	19,485	4	77,940	PG-2	19,875	4	79,500				
Janitorial & Security	PG-1	18,574	4	74,296	PG-1	18,947	8	151,576				
Part-time Cashier	R-PT				R-PT							
Civic Center Parking	R-PT		1	6,300	R-PT		1	6,300				
Floaters	I-PT			-	I-PT							
Parking Attendants	I-PT			18,500	I-PT			30,000				
Overtime & Holiday	I-PT			10,000	I-PT			15,000				
Total			31	685,987			33	746,428				

Fringe Benefits	Rates	
F.I.C.A.	7.65%	57,102
Medical & Life Insurance	4,000	132,000
Retirement	9.50%	66,636
Dental/Optical Insurance	275	9,075
Insurance-P/R Deduct.	-3.00%	(21,043)
Insurance-WC & UC	1,435	47,355

Capital Outlay-Major Improvements 180,000

Capital Outlay-Equipment		
Y2K Equipment Upgrades	Buildings #5 & #6	4,000
Fee Collection System	Building #1	15,700
Ticket Spitters (Replacements)	Building #1	47,300
Bar Code Reader	Building #1	4,900
Networking	Building #1	13,000
Used Truck		6,000
Total		90,900

The question being on the adoption of the resolution a roll call was taken and there were; yeas-21, nays-5, absent-1, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Huffman, Kimberling, Lane, Lanham, Leary, Lopez, Malone, Morton, Quick, McKnight, Smith, Snodgrass, Snuffer and Mayor Melton.

NAYS: Hicks, Horan, Layne, McClaskie and Nielsen.

ABSENT: Loeb.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 177-99 adopted.

10. Your Committee on Finance has had under consideration Resolution No. 178-99, finding that the Council of the City of Charleston, West Virginia, introduced Bill No. 6562 on February 22, 1999, providing for amendments to the City Code relating to specific parking fees/charges for certain municipal parking facilities, as more fully set out therein; finding that notice was given of a public hearing to be held with regard to placing Bill No. 6562 into effect; finding that the public hearing on Bill No. 6562 was held and that no significant protest was made; and finding that Bill No. 6562 should be placed into effect, and reports the same to Council with the recommendation that the committee report be adopted

Resolution No. 178-99 Finding that the Council of The City of Charleston, West Virginia, introduced Bill No. 6562 on February 22, 1999 as more fully set out therein; finding that notice was given of a public hearing to be held with regard to placing Bill No. 6562 into effect; finding that the public hearing on Bill No. 6562 was held and that no significant protest was made; and finding that Bill No. 6562 should be placed into effect.

WHEREAS, the Council of The City of Charleston, West Virginia (the "Council"), on February 22, 1999 introduced Bill No. 6562, all as more fully set out therein (said Bill is hereinafter referred to as the "Bill");

WHEREAS, capitalized terms used herein and not otherwise defined shall have the meanings given such terms in the Bill;

WHEREAS, the Council of the City, on March 15, 1999 adopted a resolution (the "Resolution") which pursuant to Chapter 8, Article 16, Section 18, of the Code of West Virginia, 1931, as amended (the "Act"), directing the City Clerk to publish a Notice of Public Hearing and that any person interested may appear before the Council upon a certain day and present protests (the "Notice");

WHEREAS, the Resolution required that the Notice be published as a Class I legal advertisement in the Charleston Daily Mail and Charleston Gazette, newspapers of general circulation of the City, and the first publication of such Notice was to be not less than five (5) days before the date set by the Resolution and the Notice at which interested persons might appear before the Council and present protests;

WHEREAS, the Resolution and the Notice provided for a public hearing to be held at 8:00 p.m., prevailing time, on April 5, 1999, in Council Chambers in City Hall;

WHEREAS, the Bill amends and supplements certain parking fees/charges for certain municipal parking facilities;

WHEREAS, the Council of the City deems it essential and desirable that this resolution be adopted.

NOW, THEREFORE, be it resolved by the Council of The City of Charleston, West Virginia, as follows:

Section 1. It is hereby found and determined:

(A) That the Notice was duly published in the Charleston Gazette and The Daily Mail, newspapers of general circulation in the City of Charleston with the first publications thereof being on March 24, 1999, which first publications were not less than five (5) days before the day set for the public hearing at which interested persons might appear before the Council of the City and present protests and suggestions, and a copy of the Affidavit of Publication reflecting such publications is attached hereto and incorporated herein;

(B) That in accordance with the Bill and the Notice, the Clerk of the City has maintained in his office a certified copy of the Bill for review by interested persons during the regular office hours of such office;

(C) That, at Council Chambers, City Hall, Charleston, West Virginia on Monday, April 5, 1999, at 8:00 p.m. prevailing time, in accordance with the Bill and Notice, the Council met for the purpose of hearing protests as to whether the Bill should be adopted and put into effect and heard all with regard thereto;

(D) That, at the public hearing, no significant reasons were presented that could require modification or amendment of the Bill and no protests with regard thereto were filed; and

(E) The Bill shall hereby by adopted by the Council of the City and shall be put into effect as of the date hereof and certain municipal parking fees and charges shall be amended all as provided in the Bill.

Section 2. A copy of the schedule of rates and charges so established shall be kept on file in the office of the City of Charleston Parking System and the office of the City Clerk of the City of Charleston, and shall be open to inspection by all parties in interest.

Section 3. This Resolution shall be effective immediately upon adoption of the Bill by the Council of the City.

The question being on the adoption of the resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 178-99 adopted unanimously.

11. Your Committee on Finance has had under consideration Resolution No. 179-99, finding that the Council of the City of Charleston, West Virginia (the "City"), adopted Bill No. 6544 on February 1, 1999, all as more fully set out therein; finding that notice was given of a public hearing to be held with regard to placing the Ordinance into effect; finding that the public hearing on the Ordinance was held and that no significant protest was made; finding that the Ordinance should be placed into effect; providing for the terms and conditions for the merger of the Mt. Tyler Public Service Disrtict (the "District") into the sewerage system of the City; authorizing the assumption of the debt of the District; providing for the dates, maturities, interest rates, principal payment schedules and other terms of Sewerage System Revenue Bonds, redesignating the registrar and paying agnet; and making other provisions as to the Bonds, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 179-99--"

Resolution No. 179-99

Introduced in Council

April 19, 1999

Introduced By:

Dave Hardy

Adopted by Council

April 19, 1999

Resolution No. 179-99 finding that the Council of The City of Charleston, West Virginia (the "City"), adopted Ordinance No. 6544 on February 1, 1999, all as more fully set out therein; finding that notice was given of a public hearing to be held with regard to placing the Ordinance into effect; finding that the public hearing on the Ordinance was held and that no significant protest was made; finding that the Ordinance should be placed into effect; providing for the terms and conditions for the merger of the Mt. Tyler Public Service District (the "District") into the sewerage system of the City; authorizing the assumption of the debt of the District; providing for the dates, maturities, interest rates, principal payment schedules and other terms of Sewerage System Revenue Bonds, re-designating the registrar and paying agent; and making other provisions as to the Bonds.

WHEREAS, the Council of The City of Charleston, West Virginia (the "Council"), on February 1, 1999, adopted Ordinance No.6544, all as more fully set out therein (said Ordinance is hereinafter referred to as the "Ordinance");

WHEREAS, capitalized terms used herein and not otherwise defined shall have the meanings given such terms in the Ordinance;

WHEREAS, the Ordinance, pursuant to Chapter 16, Article 13, Section 6, of the Code of West Virginia, 1931, as amended (the "Act"), directed the Clerk of the City (the "City Clerk") to publish an abstract of the Ordinance (the "Abstract"), together with a notice that the Ordinance has been adopted, that the City contemplates the issuance of the 1999 Bonds as described in the Ordinance and that any person interested may appear before the Council upon a certain day and present protests (the "Notice");

WHEREAS, the Ordinance required that the Abstract and Notice be published as a Class II legal advertisement in the Charleston Daily Mail and Charleston Gazette, newspapers of general circulation of the City, and the first publication of such Abstract and notice was to be not less than ten (10) days before the date set by the Ordinance and the Notice at which interested persons might appear before the Council and present protests, and the last publication of such Abstract and Notice was to be prior to said date set by the Ordinance and the Notice;

WHEREAS, the Ordinance and the Notice provided for a public hearing to be held at 8:00 p.m., prevailing time, on February 16, 1999, in Council Chambers in City Hall;

WHEREAS, the Ordinance provides for the issuance of The City of Charleston, West Virginia Sewerage System Revenue Bonds, in an aggregate principal amount not to exceed $850,000, in two or more series of bonds, and further provides that the dates, interest rates, maturities and other terms of and matters relating to the assumption of the District Bonds should be established by a supplemental resolution; and

WHEREAS, the 1999 Bonds are being issued to evidence the City's acquisition of the assets of the District and the assumption of certain outstanding debt of the District; and

WHEREAS, the Council of the City deems it essential and desirable that this resolution (the "Supplemental Resolution"), be adopted and that the assumption of the District's Bonds be herein provided for.

NOW, THEREFORE, be it resolved by the Council of The City of Charleston, West Virginia, as follows:

Section 1. It is hereby found and determined:

(A) That the Abstract and Notice were duly published in the Charleston Gazette and The Daily Mail, newspapers of general circulation in The City of Charleston with the first publication thereof being on February 5, 1999, which first publications were not less than ten (10) days before the day set by the Notice for the public hearing at which interested persons might appear before the Council of the City and present protests and suggestions and with the last publications thereof being on February 12, 1999, which last publication date was prior to said date set by the Notice for the public hearing, and a copy of the Affidavit of Publications reflecting such publications are attached hereto and incorporated herein;

(B) That in accordance with the Notice, the Clerk of the City has maintained in his office a certified copy of the Ordinance for review by interested persons during the regular office hours of such office;

(C) That, at Council Chambers, City Hall, Charleston, West Virginia on Monday, February 16, 1999, at 8:00 p.m. prevailing time, in accordance with the Notice, the Council met for the purpose of hearing protests and suggestions regarding whether the Ordinance should be put into effect and heard all protests and suggestions with regard thereto;

(D) That, at the public hearing, no significant reasons were presented that could require modification or amendment of the Ordinance and no written protest with regard thereto was filed by 30 percent or more of the freeholders of the City; and

(E) The Ordinance shall be put into effect as of the date hereof and the 1999 Bonds contemplated thereby shall be issued, all as provided in the Ordinance and this Supplemental Resolution.

Section 2. There are hereby authorized and ordered to be issued The City of Charleston Sewerage System Revenue Bonds, Series 1999 A and The City of Charleston Sewerage System Revenue Bonds, Series 1999 B for the purpose of assuming the District's Bonds, as set forth in the Ordinance:

(A) The first series of bonds of the City shall be originally represented by a single bond, designated "Sewerage System Revenue Bonds, Series 1999 A", numbered AR-1 shall be used to assume the District's Series 1987 A Bonds, shall be in the aggregate principal amount of $686,229, shall be dated the date of delivery thereof, shall finally mature on October 1, 2026, shall continue to bear interest at the rate of 8.38 percent (8.38%) per annum, and shall continue to be payable semi-annually on each April 1 and October 1 of each year. The principal shall continue to be payable annually on October 1 of each year, in the amounts as set forth in Schedule X attached to the District Loan Agreement and incorporated herein. The Bond shall be subject to redemption upon the written consent of the Authority, and upon payment of the interest and redemption premium, if any, and otherwise in compliance with the District Loan Agreement, so long as the Authority shall be the registered owner of the Bond.

(B) The second series of bonds of the City shall be issued originally represented by a single bond, designated "Sewerage System Revenue Bonds, Series 1999 B", numbered BR-1 shall be used to assume the District's Series 1987 B Bonds, shall be in the aggregate principal amount of $132,072, shall be dated the date of delivery thereof, shall finally mature on October 1, 2026, and shall continue to bear no interest. The principal shall continue to be payable annually on October 1 of each year in the amounts as set forth in Schedule X attached to the District Supplemental Loan Agreement and incorporated herein. The Bond shall be subject to redemption upon the written consent of the Authority, and upon payment of the redemption premium, if any, and otherwise in compliance with the District Supplemental Loan Agreement, so long as the Authority shall be the registered owner of the Bond.

(C) The Series 1999 A Bonds and Series 1999 B Bonds are being issued to evidence the City's assumption of the District Bonds. Therefore, no bond proceeds will be received. The reserve funds for the District's 1987 A Bonds and Series 1987 B Bonds, respectively, held at the West Virginia Municipal Bond Commission will be transferred to the respective 1999 Bonds reserve accounts established by the Ordinance as part of the merger.

(D) The assumption of the District Bonds through delivery of the 1999 Bonds to the Authority is hereby approved. The Mayor is hereby authorized and directed to execute the Bonds by his manual signature and attested by the City Clerk by his manual signature and the seal of the City shall be impressed thereon.

Section 3. All other provisions relating to the 1999 Bonds shall be as provided in the Ordinance, and the 1999 Bonds shall be in substantially the form provided in the Ordinance with such changes, insertions and omissions as may be approved by the Mayor of the City. The execution of the 1999 Bonds by the Mayor shall be conclusive evidence of such approval.

Section 4. The City hereby re-appoints and designates One Valley Bank, National Association, Charleston, West Virginia (formerly, Kanawha Valley Bank, National Association), as Registrar for the 1999 Bonds. The Registrar is hereby authorized to take the appropriate action to note the assumption of the District Bonds by the 1999 Bonds in its records.

Section 5. The City hereby re-appoints and designates the West Virginia Municipal Bond Commission, Charleston, West Virginia, as Paying Agent for the 1999 Bonds. The Commission is hereby authorized to transfer the District's reserve accounts for the District Bonds to the respective 1999 Bonds' reserve accounts.

Section 6. The City hereby affirms all covenants and representations made in the District Loan Agreement and the District Supplemental Loan Agreement to the Authority. The price of the 1999 Bonds shall be 100% of par value.

Section 7. The Mayor and City Clerk are hereby authorized and directed to execute and deliver such other documents and certificates, including the Registrar's Agreement, required or desirable in connection with the 1999 Bonds in order for the 1999 Bonds to be delivered on or about April 30, 1999.

Section 8. The City shall not permit at any time or times any of the proceeds of the 1999 Bonds or any other funds of the City to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from the treatment afforded by Section 103(a) of the Code, by reason of the classification of the 1999 Bonds as "private activity bonds" within the meaning of the Code. It will take all actions necessary to comply with the Code, including the Treasury Regulations promulgated thereunder.

Section 9. The acquisition by merger of the assets of the District and assumption of the District's Bonds by the 1999 Bonds is in the public interest, serves a public purpose of the City and will promote the health, welfare and safety of the residents of the City, as approved by the Public Service Commission of West Virginia in Case No. 98-0215-PSD-S-PC.

Section 13. This Supplemental Resolution shall be effective immediately upon adoption.

140799

The question being on the adoption of the resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 179-99 adopted unanimously.

12. Your Committee on Finance has had under consideration bid submitted by Hayhurst Equipment, Inc., in the amount of $37,150, for purchase of one (1) tractor and 17 foot articulated boom with cutting attachment, to be used by the Parks & Recreation Department for right-of-way cutting; To be charged to Account No. 01-900-0-0-4-061, P&R--Capital Outlay, Lease/Purchase, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted unanimously.

13. Your Committee on Finance has had under consideration purchase of various chemical supplies to be used by the Parks & Recreation Department in City swimming pools. The supplies will be purchased on an as needed basis at prices quoted from the following vendors:

PB&S Chemical Company

Chlorine Tablets - 100 lb. Container	$138.00
Calcium Chlorida - 50 lb. Bag	7.00
Liquid Chlorine - 5 gal. Container	12.50
Sodium Bicarbonate - 50 lb. Bag	10.50

Alford Enterprise, Inc.

Muriatic Acid - 1 gal. Jugs @ 4/Case	$ 11.08

Leslie's Swimming Pool Supplies

Stablizer - 100 lb. Bag	$ 78.99
Granular Chlorine - 100 lb. Container	89.97
Diatomaceous Earth - 50 lb. Bag	11.69

To be charged to Account No. 01-900-0-0-3-041, P&R--Materials & Supplies, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted unanimously.

14. Your Committee on Finance has had under consideration bid submitted by American Office Systems for lease/purchase of one (1) Lanier Digital Copier at a cost of $252.00 per month for 48 months and an annual cost of $3,744, for a total cost of approximately $12,096, to be used by the Parks & Recreation Department; To be charged to Account No. 01-900-0-0-2-019, P&R--Building and Equipment Rents, and reports the same to Council with the recommendation that the committee report be adopted.

PARKS & RECREATION: DIGITAL COPIES with OPTIONAL FAX & PRINTER

BID TABULATION* – BID OPENING: TUESDAY, 6 APRIL 1999

Basic specifications with the following options: 3,000 sheet offset finisher; staple up to 50 sheets with four staple positions; annual maintenance costs; supplies and service costs including cost per copy; service technicians and guaranteed service response time.

**** Denotes does not meet specifications.***

	Sharp Electronics [5 days]	Superior Office Service [2 days]	American Office Systems [10 days]	Xerox Corporation [20 days]
1999 Model Digital Copier Rated # copies per month [c/m]	Sharp AR-405 160,000 c/m	Cannon Imagerunner 400 250,000 c/m	Lanier 5245 100,000 c/m	Document Centre 230 No Rating Given
Offset Finisher: # of Sheets	1,500 sheets*	1,250 sheets*	3,000 sheets	1,000 sheets*
Maximum Sheets to Staple / # of Staple Positions	50 sheets 3 positions*	50 sheets 3 positions*	50 sheets 4 positions	50 sheets 1 position*
# Service Technicians / Response Time	8 Technicians 2 - 4 hours	11 Technicians 4 hours or less	45 Technicians 6 hrs or less guaranteed	52 Technicians 4 Hours
Monthly Lease / 48 Months	$231.84 / month	$237.96 / month	$252.00 / month	$381.52 / month
Annual Maintenance	$254.52 / year	$695.00 includes Toner & Service for 60,000 copies / year	.012/copy, bill in arrears; All Supplies & Service	Included in per copy cost
Cost per Copy [cpc]	.011 cpc	.0116 cpc [over 60,000 year]	.012 cpc [no min / max]	.012 / Recycled Toner .013 / Single Use Toner
Other Costs	Drum = $71 / 20,000 cps Toner = $80 / 5,600 cps	Included in Maintenance except Paper & Staples	Included in Maintenance except Paper & Staples	Toner = $274/23,000 cps *or* $299/23,000 cps
Annual Cost @ 60,000 copies: Specs Met out of 36 items	$4,789.60 24 / 36	$3,550.52 30 / 36	$3,744.00 36 / 36	$5,298.24 27 / 36
Optional Fax: Cost per Month	$47.82	$22.20	$19.00	No Bid
Optional Printer: Cost per Month	$39.54	$69.17	$30.00	No Bid

C:\DOC\Bids.'99\Digital.Copier.Tabulation

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted unanimously.

15. Your Committee on Finance has had under consideration proposal submitted by Charleston Heating Co., in the amount of $3,795, for one (1) air conditioning unit to be installed in the Fire Department Training Center locted at 115 Lee Street, West; To be charged to Account No. 01-706-0-0-4-059, Fire--Capital Outlay, Equipment, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted unanimously.

16. Your Committee on Finance has had under consideration proposal submitted by West Virginia Uniforms, in the amount of $2,610, for purchase of six (6) Safariland Body Armors to be issued to Charleston Police Department probationary officers; To be charged to Account No. 01-700-0-0-3-045, Police--Uniforms, and reports the same to Council with the recommendaiton that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted unanimously.

17. Your Committee on Finance has had under consideration proposal submitted by Mountaineer Custom Cartridge, in the amount of $3,826, for purchase of 32,000 rounds of ammunition to be used for firearms training and qualification at the Regional Police Academy; To be charged to Account No. 39-172-99-0-0-041, Police--Law Enforcement Training Grant, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted unanimously.

18. Your Committee on Finance has had under consideration proposal submitted by Dell Marketing, L.P., in the total amount of $52,623, for purchase of two (2) Dell computer servers ($38,390); seven (7) Cisco switches ($6,708); and Microsoft Systems Exchange software ($7,525) for the necessary hardware and software needed to set up the beginning of the new network system for the City; To be charged to Account No. 01-439-0-0-4-059, Information Systems--Capital Outlay, Equipment, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted unanimously.

19. Your Committee on Finance has had under consideration payment of an invoice from Steptoe & Johnson, in the amount of $2,381.07, for professional services rendered for December 1998 and January 1999, in Case No. 143120.980001, Board of Zoning v. Whitco; To be charged to Account No. 01-417-0-0-2-023, Legal Department--Professional Services, and reports the

same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted unanimously.

20. Your Committee on Finance has had under consideration payment of an invoice from Community Council of Kanawha Valley, in the amount of $21,250, for the second quarter 1998 operating expenses for Family Resource Center; To be charged to Account No. 25-098-00-011, CDBG--Public Services, Family Resource Center, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a roll call was taken and there were; yeas-25, nays-0, absent-1, abstentions-1, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass, Snuffer and Mayor Melton.

NAYS: None.

ABSENT: Loeb.

ABSTAIN: Gilmer.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared the committee report adopted unanimously.

21. Your Committee on Finance has had under consideration payment of an invoice from Covenant House, in the amount of $5,885.38, for operating expenses for the month of March 1999; To be charged to Account No. 25-098-00-011, CDBG--Public Services, Covenant House, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a roll call was taken and there were; yeas-26, nays-0, absent-1, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass, Snuffer and Mayor Melton.

NAYS: None.

ABSENT: Loeb.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared the committee report adopted unanimously.

22. Your Committee on Finance has had under consideration payment of an invoice from Smith Street Station, in the amount of $2,776.79, for operating expenses for the month of January 1999; To be charged to Account No. 25-098-00-011, CDBG--Public Services, Smith Street Station, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a roll call was taken and there were; yeas-26, nays-0, absent-1, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass, Snuffer and Mayor Melton.
NAYS: None.
ABSENT: Loeb.
So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared the committee report adopted unanimously.

23. Your Committee on Finance has had under consideration payment of an invoice from Garcie R. Marker and Sons, Inc., in the amout of $22,282.52, for relocation of a sewer line in connection with the Garrison Avenue Headwall Project; To be charged to Account No. 25-098-00-027, CDBG--Flood Drain Facilities, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a roll call was taken and there were; yeas-26, nays-0, absent-1, as follows:
YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass, Snuffer and Mayor Melton.
NAYS: None.
ABSENT: Loeb.
So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared the committee report adopted unanimously.

24. Your Committee on Finance has had under consideraiton payment of an invoice from Mountaineer Habitat for Humanity, in the amount of $8,096.68, for purchase of Lots 1, 2 and 3 in Hanna Addition No. 2; To be charged to Account No. 25-095-00-006, CDBG--Acquisition of Property, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a roll call was taken and there were; yeas-24, nays-0, absent-1, abstentions-2, as follows:
YEAS: Barron, Barth, Connell, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, Smith, Snodgrass, Snuffer and Mayor Melton.
NAYS: None.
ABSENT: Loeb.
ABSTAIN: Crickenberger and McKnight.
So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared the committee report adopted unanimously.

25. Your Committee on Finance has had under consideration authorizing the Charleston HOME Programs to charge Account No. 25-097-00-014 in the amount of $7,170.25 for rehabilitation of one residential project, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a roll call was taken and there were; yeas-26, nays-0, absent-1, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass, Snuffer and Mayor Melton.

NAYS: None.

ABSENT: Loeb.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared the committee report adopted unanimously.

STREETS AND TRAFFIC

Councilman William Kimberling, Chairman of the Council Committee on Streets and Traffic, submitted the following reports.

1. Your Committee on Streets and Traffic has had under consideration Bill No. 6568, and reports the same to Council with the recommendation that the bill do pass.

Bill No. 6568, a Bill to establish a No Parking Anytime Tow-Away zone on the northerly side of Watson Avenue from the intersection of Watson Avenue and Victory Avenue to a point 240 feet west of the intersection of Watson Avenue and Victory Avenue and amending the Traffic Control Map and Traffic Control File established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.

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

Section 1. A No Parking Anytime Tow-Away zone on the northerly side of Watson Avenue from the intersection of Watson Avenue and Victory Avenue to a point 240 feet west of the intersection of Watson Avenue and Victory Avenue is hereby established.

Section 2. The Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, shall be and hereby are amended, to conform to this Ordinance.

The question being on the passage of the bill a roll call was taken and there were; yeas-26, nays-0, absent-1, as follows;

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass, Snuffer and Mayor Melton.

NAYS: None.

ABSENT: Loeb.

So, a majority of all members elected recorded thereon as voting in the affirmmative the Mayor declared Bill No. 6568 passed unanimously.

2. Your Committee on Streets and Traffic has had under consideration Bill No. 6569, and reports the same to Council with the recommendation that the bill do pass.

Bill No. 6569, a Bill to establish a 3 Way Stop intersection at the intersection of Churchill Drive and Maefair Drvie and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.

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

Section 1. A 3 Way Stop intersection at the intersection of Churchill Drvie and Maefair Drive is hereby established.

Section 2. The Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, shall be and hereby are amended to conform to this Ordinance.

The question being on the passage of the bill a roll call was taken and there were; yeas-26, nays-0, absent-1, as follows:

YEAS: Barron, Barth, Connell, Crickenberger, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, McKnight, Smith, Snodgrass, Snuffer and Mayor Melton.

NAYS: None.

ABSENT: Loeb.

So, a majority of all members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 6569 passed unanimously.

REPORTS OF OFFICERS

1. City Treasurer's Report to City Council Month Ending March 1999; Received and Filed.

NEW BILLS

Introduced by Councilwoman Crickenberger on April 19, 1999;

BILL NO. 6576, a Bill to repeal Ordinance No. 3876 passed by Council May 6, 1985, relating to a two hour parking zone Monday thru Friday between the hours of 8:00 A.M. and 5:00 P.M. on the easterly side of Clendenin Street from a point 366 feet north of Washington Street to a point 452 feet north of Washington Street and amending the Traffic Control Map and the Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.

Referred to Council Committee on Streets and Traffic

Introduced by Councilman Leary on April 19, 1999;
BILL NO. 6577, a Bill to establish a 20 Mile Per Hour speed limit on 19th Street S.E. and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.
Referred to Council Committee on Streets and Traffic

Introduced by Councilman Leary on April 19, 1999;
BILL NO. 6578, a Bill to establish a 20 Mile Per Hour speed limit on 20th Street S.E. and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.
Referred to Council Committee on Streets and Traffic

Introduced by Councilman Leary on April 19, 1999;
BILL NO. 6579, a Bill to establish a 20 Mile Per Hour speed limit on 21st Street S.E. and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.
Referred to Council Committee on Streets and Traffic

Introduced by Councilman Leary on April 19, 1999;
BILL NO. 6580, a Bill to establish a 20 Mile Per Hour speed limit on 22nd Street S.E. and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to Conform therewith.
Referred to Council Committee on Streets and Traffic

Introduced by Councilman Leary on April 19, 1999;
BILL NO. 6581, a Bill to establish a 3 Way Stop intersection at Kanawha Avenue and 21st Street S.E. and amending the Trafic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.
Referred to Council Committee on Streets and Traffic

Introduced by Councilman Snodgrass on April 19, 1999;
BILL NO. 6582, a Bill closing, abandoning and discontinuing as a public right of way that portion of the Seventh Avenue right of way as shown on a map drawn by William R. Gunnoe entitled, "Plat showing a proposed abandonment of a portion of the right of way of Seventh Avenue in the City of Charleston, Kanawha County, West Virginia, prepared for West Side Associates Limited Partnership, April 12, 1999," and reserving sewer easements for the City of Charlestonm, West Virginia;
Referred to Municipal Planning Commission

Special Permit No. 889, Application to operate a conveinance store located at 820 Quarrier Street;
Referred to Municipal Planning Commission

Special Permit No. 890, Application to operate a church located at 166 Sunset Drive;
Referred to Municipal Planning Commission

Special Permit No. 891, Application to operate an office located at 2310 Kanawha Blvd. East;
Referred to Municipal Planning Commission

Special Permit No. 892, Application to operate a business located at 119 McGovran Road;
Referred to Municipal Planning Commission

Special Permit No. 894, Application to serve beer at rib-festival located on Magic Island;
Referred to Municipal Planning Commission

UNFINISHED BUSINESS

None.

At 10:40 p.m., on motion of Councilman Quick, Council adjourned until Tuesday, April 20, 1999.

G. Kemp Melton, Mayor

Fred M. Frisk, Jr., City Clerk

Affidavit of Publication

STATE OF WEST VIRGINIA,

Kanawha County, to-wit:

I, Robin J. Clark of the

[XX] Sunday Gazette-Mail [XX] Charleston Gazette, a daily Democratic newspaper [X] Daily Mail, a daily Republican newspaper, published in the City of Charleston, Kanawha County, West Virginia, do solemnly swear that the annexed notice of ~~XXXXXX~~ Legal Advertisement

was duly published in said paper once a week for two successive weeks commencing with the issue of the 5th day of February, 19 99, and ending with the issue of the 12th day of February, 19 99,

Dates Published:

February 5, 1999

February 12, 1999

Robin J. Clark

Subscribed and sworn to before me this 11th day of June, 1999

Sierra S. Shaffer

Notary Public of Kanawha County, West Virginia

My Commission expires July 22, 2007

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
SIERRA S. SHAFFER
The Charleston Gazette
1001 Virginia St., E.
Charleston, WV 25301
My Commission Expires July 22, 2007

THE CITY OF
CHARLESTON,
WEST VIRGINIA

NOTICE OF PUBLIC HEARING and ABSTRACT OF BOND ORDINANCE

Notice is hereby given to any person interested that on February 1, 1999, the Council of The City of Charleston, West Virginia (the "City") adopted an ordinance which:

1. Authorized the acquisition by merger of the assets of Mt. Tyler Public Service District (the "District") to be incorporated in the City's wastewater treatment system (the "System") and the assumption of the District's outstanding bond debt through the issuance of not more than $850,000 in aggregate principal amount of Sewerage System Revenue Bonds, Series 1999 (the "Bonds").

2. Directed that the Bonds be issued in two or more series and in the form of one bond each, fully registered with a payment record attached; that interest on the Bonds shall be no more than twelve percentum (12%) per annum, that said Bonds mature in not more than forty years and that said Bonds be issued for the par value thereof; that the Bonds be executed in the name of the City by the Mayor, and the seal of the City be affixed thereto and attested to by the City Clerk; that such Bonds be duly authenticated by the Registrar and delivered to the West Virginia Water Development Authority.

3. Directed the continuation of the Revenue Fund and the disposition of the System revenues; provided for the payment of operating expenses; provided for the monthly payment of principal and interest when due; provided for the creation of reserve accounts for the Bonds and continuation of a Renewal and Replacement Fund; and provided for the use of excess funds of the System.

4. Pledged the Net Revenues of the System to payment of the Bonds.

The city contemplates the issuance of the Bonds described in, and under the conditions set forth in the Ordinance abstracted above. Any person interested may appear before the Council of the City of Charleston at a regular meeting thereof at 8:00 p.m., prevailing time, on February 16, 1999, at the Council Chambers, City Hall, Charleston, West Virginia, and present objections and be heard as to whether the above interested Ordinance shall be put into effect.

A certified copy of the Ordinance as adopted by the Council of City on February 1, 1999, is on file with the City Clerk for review by interested persons at the City Hall during regular office hours, to-wit: 8:00 a.m. to 4:00 a.m., Monday through Friday.

Fred M. Frisk, Jr.
City Clerk
The City of Charleston,
West Virginia

(453662)

"Bill No. 6550

Introduced in Council

February 1, 1999

Passed by Council

February 16, 1999

Introduced by

Jody Connell, Linda Nielson

Referred to

Council Committee on Finance

An Ordinance to amend and re-enact Section 25-7 of Article 1, of *The Code of the City of Charleston, as amended*, establishing a schedule of just and equitable rates or charges for the use of and services rendered by the sewer system of The City of Charleston, by providing for a surcharge of Two Dollars and Twelve Cents ($2.12) per month, to be effective forty-five (45) days from passage, for all customers being served, directly or indirectly, by the facilities acquired from Mt. Tyler Public Service District, which surcharge will be used to retire the outstanding bonds of the Mt. Tyler Public Service District, all as provided for by Chapter 16, Article 13, and Chapter 24, Article 2, Section 4b of *The Code of West Virginia, 1931, as amended.*

Be It Ordained By The Council Of The City of Charleston, West Virginia:

That Section 25-7 of Article 1, of Chapter 25 of *The Code of the City of Charleston, as amended*, be further amended and re-enacted by establishing a schedule of rates and charges for the use of and services rendered by the sewer system of The City of Charleston, all of said section as hereby amended to read as follows:

Section 25-7 ESTABLISHMENT OF A SCHEDULE OF JUST AND EQUITABLE RATES OR CHARGES: USE OF WATER METERS.

For the payment of proper and reasonable expense of operations, repair, replacements, improvements, additions, betterments, extensions, and maintenance of the sewer system and for the payment of the sums required to pay the principal and interest of all sewer revenue bonds as the same become due, there is hereby established a schedule of just and equitable rates or charges for the use of The City of Charleston, West Virginia, which schedule of rates or charges, based upon the metered amount of water supplied the premises, shall be as follows:

Rules and Regulations

I. Rules and Regulations for the Government of Sewerage Utilities adopted by the Public Service Commission of West Virginia, and now in effect, and all amendments thereto, and modifications thereof hereafter made by said Commission.

II. On all premises having a private water supply and connected with the sewer system and works there shall be installed a meter for measuring the amount of water supplied said premises.

III. If for any reason there be no record of the amount of water supplied any month, then the charge shall be based upon the last available monthly meter reading.

IV. Users, the nature and character of whose use is such that the amount of water discharged into the said system is deemed by the Sanitary Board to be substantially less than the amount of metered water supplied the premises, shall be charged for sewer service substantially on the basis of the amount of water discharged into the sewer system, as may be determined according to formulae approved by the Sanitary Board.

V. In apartment buildings, mobile home courts, shopping centers and other places where more than one occupancy unit is served with water through one water meter, the customer shall be required to pay not less than the minimum monthly charge provided in the tariff for each occupancy.

Rates

I. *For Sewage That Does Not Contain Industrial Waste:*

First	2,000 Gallons used per month	$3.52 per thousand gallons
Next	3,000 Gallons " " "	2.56 " " "
Next	25,000 Gallons " " "	2.36 " " "
Next	70,000 Gallons " " "	2.06 " " "
Next	100,000 Gallons " " "	1.67 " " "
Next	100,000 Gallons " " "	1.46 " " "
Next	700,000 Gallons " " "	1.31 " " "
All over	1,000,000 Gallons " " "	1.15 " " "

II. *For Sewage That Contains Industrial Waste:*

The charge for the treatment of industrial waste will be calculated on the basis of the following formula:

$$Ci=VoVi+BoBi+SoSi$$

Ci = Charge to industrial users per year.

Vo=Average unit cost of transport and treatment chargeable to volume, in dollars per gallon.

Vi=Volume of waste water from industrial users, in gallons per year.

Bo=Average unit cost of treatment, chargeable to Brochemical Oxygen Demand (BOD), in dollars per pound.

Bi=Weight of BOD from industrial users, in pounds per year.

So=Average unit cost of treatment (including sludge treatment) chargeable to total solids, in dollars per pound.

Si=Weight of total solids from industrial users, in pounds per year.

When an industrial user is to be served, a preliminary study of its waste, and the cost of transport and treatment thereof, will be made. Waste containing materials which, in the judgment of the Sanitary Board, should not be introduced into the sewer system, need not be handled by it. The results of this preliminary study will be used to determine the feasibility of the proposed sewer service and the charge therefor, based upon the formula set out above.

Thereafter, industrial sewage will be monitored on a regular basis and at the conclusion of each fiscal year, based on the investigation aforesaid and audit of Sanitary Board records, new cost figures will be calculated for use in the above formula. The cost of establishing the monitoring facilities shall be paid by the industrial user. Based on these audited figures, additional billings covering the past fiscal year will be made for payment by each industrial user, or refund given by the Sanitary Board, as the case may be. Such audited figures will then be used for the preliminary billing for the next fiscal year, at the end of which an adjustment will be made as aforesaid.

III. *Minimum Charge.* A charge of $7.05 shall be the minimum for each month or fraction thereof. If, for any reason, there be no record of the amount of water supplied in any month, then the charge shall be based upon the last available monthly meter reading.

IV. *Recovery of Bank Charges.* If a bank returns a customer's check to the Sanitary Board due to insufficient funds in such customer's account and charges a fee to the Sanitary Board for such service, the bank charge will be added to the account of the customer whose check is returned.

V. *Pretreatment Charge.* In addition to all other charges contained herein, all customers who operate under a pretreatment permit will pay an annual charge of $2500.00, payable on July 1, 1994, and on each following July 1.

VI. *Disconnect, Lien, and Reconnect Fees.* If the Sanitary Board gives notice to a provider of water service to disconnect water service to a customer of the Sanitary Board, the following charges will be added to the account of such customer:

a. A charge of $20.00, plus any legally required certified mail charge, will be added to such customer's account at the time notice to disconnect is given to the water provider.

b. A charge of $4.00 to cover the cost of placing a lien on the property served will be added to the account of such customer at the time such lien is filed in the Office of the Clerk of the County Commission of the County where the property served is located.

c. A reconnect charge of $20.00 will be made at the time the customer pays the amounts due on such customer's account and requests the reconnection of water and sewer service.

VII. *New Service Fee.* A fee of $250.00 shall be paid before sewer service can be obtained at any location not previously connected to the collection system of a sewer utility. The New Service Fee shall be paid for each water meter installed, regardless of the number of sewer connections made at said location

VIII. *Grease Trap Charge.* In addition to all other charges contained herein, all customers who are required by the Sanitary Board to install a grease trap shall pay an annual charge of $250.00, payable on July 1 of each year.

IX. *Mt. Tyler Public Service District Surcharge.* There is hereby imposed upon the customers formerly served directly or indirectly by the lines of Mt. Tyler Public Service District a surcharge of Two Dollars and Twelve Cents ($2.12) per month, to be used to retire the bonds of Mt. Tyler Public Service District that have become the obligation of the City of Charleston.

The rates and charges set forth above shall become effective forty-five (45) days after passage.

Any ordinance inconsistent with the provisions hereof are hereby expressly repealed to the extent of such inconsistency."

CHARLESTON NEWSPAPERS
1001 VIRGINIA STREET EAST
CHARLESTON, WEST VIRGINIA 25301

The Charleston Gazette
morning

Sunday GAZETTE-MAIL

Charleston Daily Ma
evening

AFFIDAVIT OF PUBLICATION

This is to certify that a 1 column by 9.75 inches line advertisement of NOTICE OF FILING appeared in the X Charleston Gazette, ____ Charleston Daily Mail, ____ Sunday Gazette-Mail on MAY27, 1998 & JUNE 2, 1998

Signed Sandra Legg

Title HEAD BILLING CLERK

Subscribed and sworn to and before me this 28 day of JUNE in the year 1999.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
LYNN R. FIELDER
3245 PUTNAM AVE.
HURRICANE, WV 25526
My Commission Expires December 11, 2006

Signed Lynn R. Fielder
(NOTARY PUBLIC)

My Commission expires December 11, 2006

PUBLIC SERVICE
COMMISSION OF
WEST VIRGINIA
CHARLESTON

Entered by the Public Service Commission of West Virginia, in the City of Charleston on the 20th day of May, 1998.

CASE NO. 98-0215-PSD-S-PC

MT. TYLER PUBLIC SERVICE DISTRICT and THE SANITARY BOARD OF CHARLESTON

Petition for consent and approval for the merger of Mt. Tyler Public Service District and the Sanitary Board of Charleston.

NOTICE OF FILING

On February 26, 1998, the Mt. Tyler Public Service District (District) and the Sanitary Board of Charleston (Sanitary Board) filed a joint petition for consent and approval to merge their utilities; pursuant to West Virginia Code 24-2-12.

The operating agreement between the Charleston Sanitary Board and Mt. Tyler Public Service District provides the Sanitary Board to take possession of all the property and obligations of the District and the District's customers will become customers of the Sanitary Board.

The customers who are currently Mt. Tyler Public Service District, who currently pay an average bill of $28.92 per month, will see no deterioration in service and rates will decrease by approximately 30% even with the surcharge of $2.14 per customer per month.

Under the proposed merger, the Sanitary Board acquires all assets and liabilities of the District, including cash revenues of $380,000 and long term debt of $839,711.

The Sanitary Board's projected operating cash flow from the proposed merger before operating

THIS AGREEMENT, made this 16 day of September, 1997, by and between the SANITARY BOARD OF THE CITY OF CHARLESTON, a municipal corporation, sometimes hereinafter referred to as the "Sanitary Board," party of the first part, and MT. TYLER PUBLIC SERVICE DISTRICT, sometimes hereinafter referred to as the "District," party of the second part.

WHEREAS, pursuant to an Agreement entered into in 1987 between the parties hereto, the Sanitary Board has furnished sanitary sewer services to Mt. Tyler, maintained lines, performed billing and collection services, prepared financial statements, and assisted in securing rate increases and many other functions; and

WHEREAS, the District has requested that the Sanitary Board request the consent and approval of the Public Service Commission for the acquisition of the District's distribution system by the Sanitary Board, all without payment except for the assumption of the District's debts and liabilities.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH: the Sanitary Board does now agree to acquire the District's distribution system and the District does hereby convey the same to the Sanitary Board, subject to the approval of the Public Service Commission and the City Council of Charleston.

1. The entire District's system and all its assets, including bank accounts, accounts receivable, lines, tanks, rights-of-way, and liabilities shall henceforth be the property of the Sanitary Board.

2. Henceforth the Sanitary Board shall be responsible for the full operation of said sanitary system which shall become part of the Sanitary Board's system and service area for

the future. All of the District's customers will be billed at the rates provided in the Sanitary Board's tariff, plus a surcharge of $2.14 per month, per customer, which will remain in effect until retirement of the District's outstanding bonds.

3. The District will assist in whatever manner legally necessary for the formal transfer of its assets to the Sanitary Board.

4. The District will join with the Sanitary Board in requesting Public Service Commission approval for said transfer.

5. The Sanitary Board will assume all obligations under the outstanding bonds of the District. The District will join with the Sanitary Board in seeking the approval of the bondholders for said transfer. Attached hereto and made a part hereof is a letter from the Water Development Authority, stating its requirements for transfer of the bond obligations, which requirements must be met.

6. The District shall provide, prior to execution, an itemized listing of the outstanding obligations of the District on the date this Agreement is executed and further agrees not to assume any obligation in excess of the amount of unencumbered and unobligated funds that the District has on hand without prior approval of the Sanitary Board from the date this Agreement is executed until the date the transfer of assets is completed. The District further agrees to pay all operation and maintenance expenses and bond payments on a timely basis during said time period.

7. The transfer of assets should take place thirty (30) days after all necessary approvals are received. If any necessary approval of this Agreement is denied, or conditions unacceptable to the parties are imposed, this Agreement will be null and void.

WITNESS the following signatures:

CHARLESTON SANITARY BOARD
By

Its Chairman

MT. TYLER PUBLIC SERVICE DISTRICT
By

Chairman
Its

g004c701m

STATE OF WEST VIRGINIA

COUNTY OF KANAWHA, to-wit:

I, Sheila Melton, a Notary Public in and for the State aforesaid, do hereby certify that D. Kemp Melton, whose name is signed to the writing above, bearing date the 16th day of September 1997, as the Chairman of the Charleston Sanitary Board, a municipal corporation, has this day acknowledged the same before me, on behalf of the said corporation.

Given under my hand this 2nd day of December, 1997.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
SHEILA MELTON
152 New River Road
Elkview, West Virginia 25071
My Commission Expires Feb. 3, 1999

Sheila Melton
Notary Public

STATE OF WEST VIRGINIA

COUNTY OF KANAWHA, to-wit:

I, CHARLOTTE R. CROOKS, a Notary Public in and for the State aforesaid, do hereby certify that JIMMIE SKIDMORE, whose name is signed to the writing above, bearing date the 16TH day of SEPTEMBER, 1997, as the CHAIRMAN of Mt. Tyler Public Service District, a municipal corporation, has this day acknowledged the same before me, on behalf of the said corporation.

Given under my hand this 16TH day of SEPTEMBER, 1997.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
CHARLOTTE R. CROOKS
508 Fairview Drive
St. Albans, WV 25177
My Commission Expires Feb. 6, 2000

Charlotte R. Crooks
Notary Public

A RESOLUTION AUTHORIZING THE CHAIRMAN OF THE MT. TYLER PUBLIC SERVICE DISTRICT TO EXECUTE ALL DOCUMENTS RELATING TO THE MERGER OF THE MT. TYLER PUBLIC SERVICE DISTRICT WITH THE CITY OF CHARLESTON SANITARY SEWER SYSTEM AND FOR THE DISSOLUTION OF THE DISTRICT

WHEREAS, the Council (the "City Council") of The City of Charleston, Kanawha County, West Virginia, (the "City"), has introduced and passed an Ordinance approving the merger of the Mt. Tyler Public Service District with the City of Charleston sanitary sewer system and authorizing the issuance of sewage system revenue bonds to retire the outstanding bonds of the Mt. Tyler Public Service District held by the West Virginia Water Development Authority; and,

WHEREAS, the City Council, pursuant to a Resolution introduced in Council on April 19, 1999, and adopted by the City Council on April 19, 1999, found that the terms and conditions of the merger of the Mt. Tyler Public Service District into the sewage system of the City of Charleston should be approved, said City Council authorized the assumption of the debt of the District and the retirement of its outstanding bonds; and,

WHEREAS, the Mt. Tyler Public Service District will at the regular monthly meeting held during the month of April, 1999, authorize the merger, subject to certain terms and conditions; and,

WHEREAS, pursuant to an Order of the Public Service Commission dated October 15, 1998, in Case No. 98-0215-PSD-S-PC, the Public Service Commission authorized the proposed merger; and,

WHEREAS, the County Commission, pursuant to public notice, will hold a hearing on June 3, 1999, to consider the proposed merger and dissolution of the District; and,

WHEREAS, it is in the best interest of the City of Charleston and the Mt. Tyler Public Service District to complete this merger and dissolve the District.

NOW, THEREFORE, Be It Resolved by the Commissioners of the Mt. Tyler Public Service District, Kanawha County, West Virginia, as Follows:

1. That the Chairman of the District and the Commissioners are hereby authorized and directed to execute all documents concerning the proposed merger of the Mt. Tyler Public Service District with the City of Charleston sanitary sewer system, including but not limited to, execution of a Deed and Bill of Sale conveying all of the assets of the Mt. Tyler Public Service District, both real and personal, unto the City of Charleston.

2. That the Commissioners of the District are vested with the appropriate authority to take any and all action necessary to complete the merger of the Mt. Tyler Public Service District with the sanitary sewer system of the City of Charleston and to dissolve the Mt. Tyler Public Service District.

3. This Resolution shall become effective immediately upon adoption.

Adopted by the Commissioners of the Mt. Tyler Public Service District at a meeting held on the 20th day of April, 1999.

MT. TYLER PUBLIC SERVICE DISTRICT

[SEAL]

Jimmie Skidmore

Jimmie Skidmore, Chairman

Alicia R. Marion

Alicia Marion, Secretary

MT. TYLER
PUBLIC SERVICE DISTRICT

P.O. Box 10315 Charleston, WV 25357

JIMMIE G. SKIDMORE
Chairman

ALICIA MARION
Secretary

ERNEST L. SANDERS, JR.
Treasurer

Monthly Meeting

April 20, 1999

Present: Jimmie Skidmore, Chairman
Alicia Marion, Commissioner
Ernest Sanders, Jr., Commissioner
Todd Dingess, CPA for District

Meeting called to order at 5:30 PM.

Motion by Jimmie Skidmore, second by Alicia Marion to approve merger with the City of Charleston Sanitary Board, subject to the insurance issue related to future claims being resolved. Approved unanimously.

General discussion was held regarding Pennington Complaint and merger with the City of Charleston Sanitary Board.

Todd Dingess made a report regarding unconnected and unbilled customers on Woodrums Lane.

Motion by Mrs. Marion, second by Mr. Skidmore to pay the following invoices. Approved unanimously.

2637	Chris Marlow	25.45
2638	Lydia Miller	54.24
2639	Hanna & Bonham	1,057.50
2640	Ernest Sanders, Jr.	100.00
2641	Alicia Marion	100.00
2642	Jimmie Skidmore	100.00
2643	AEP	8.11
2644	AEP	31.08
2645	AEP	11.03
2646	AEP	9.93
2647	AEP	177.08
2648	AEP	10.71
2649	AEP	8.17
2650	AEP	11.00

Being no further business meeting adjourned at 6:30 P.M.

99-158

At a Regular Session of the County Commission of Kanawha County, West Virginia, held at the Courthouse thereof, on the 3rd day of June, 1999, the following order was made and entered:

SUBJECT: DISSOLUTION OF THE MT. TYLER PUBLIC SERVICE DISTRICT

The following motion was offered by Louis H. Bloom Commissioner:

The County Commission of Kanawha County, West Virginia, having held a Public Hearing on the merger of Mt. Tyler Public Service District with the sewer system of the City of Charleston and the subsequent dissolution of the Mt. Tyler Public Service District upon completion of the merger on the 3rd day of June, 1999, at 5:30 p.m., pursuant to West Virginia Code, Chapter 16, Article 13A, Section 2, does hereby ORDER that the said Mt. Tyler Public Service District be merged with the sewer system of the City of Charleston and upon the completion of the merger the said Mt. Tyler Public Service District shall be dissolved.

The adoption of the foregoing motion having been moved by Louis H. Bloom, Commissioner, and duly seconded by Henry C. Shores, Commissioner, the vote thereon was as follows:

W. Kent Carper, President	Aye
Louis H. Bloom, Commissioner	Aye
Henry C. Shores, Commissioner	Aye

RECORDED 01
BOOK/PAGE : 30- / 806-
KANAWHA COUNTY, WV
DTE/TIME RECORDED06/16/1999 14:49:22:00
INST #: 715937 TYPE: MISC A
CLERK OF THE COUNTY COMMISSION
TOTAL REC'D/DUE: .00 .00

WHEREUPON, W. Kent Carper, President, declared said motion duly adopted; and it is therefore ADJUDGED and ORDERED that said motion be, and the same is hereby adopted.

W. Kent Carper, President

Louis H. Bloom, Commissioner

Henry C. Shores, Commissioner

Approved By: _____
County Attorney

NOTICE

Please take notice that a hearing will be held before the County Commission of Kanawha County, West Virginia, in its Courtroom located in the Kanawha County Courthouse in the City of Charleston, West Virginia, at 5:30 P.M. on the 3rd day of June, 1999, in regard to the proposed **MERGER OF THE MT. TYLER PUBLIC SERVICE DISTRICT AND WITH THE SEWER SYSTEM OF THE CITY OF CHARLESTON AND FOR THE DISSOLUTION** of Mt. Tyler Public Service District upon completion of such merger.

The said Mt. Tyler Public Service District is composed of the following area:

BEGINNING, at the intersection of the City of Dunbar boundary line and the City of Charleston boundary line near the intersection of Seventh Avenue and Roxalana Drive, and proceeding along the City of Dunbar boundary line for approximately 13,600 feet to the north most point wine cellar parcel part of the City of Dunbar,

THENCE, proceeding northerly to the hill top Microwave Tower for approximately 2,800 feet,

THENCE, proceeding northeasterly for approximately 750 feet to the hill top at Brick Cemetery,

THENCE, proceeding northerly along the ridge line for approximately 2,100 feet to another hill top 1,099,

THENCE, proceeding northeasterly for approximately 3,600 feet to a hill top of elevation 1,100.

THENCE, proceeding northeasterly for approximately 3,000 feet to a hill top of elevation 1,100, said hill top being situated approximately 5,000 feet west of Bethel Church on Woodward Drive and approximately 5,000 feet northeast of the intersection of Woodrum's Lane and Big Tyler Mountain Road. This hill top is also situated on the western boundary line of Guthrie Public Service District.

THENCE, following and forming a common boundary with Guthrie Public Service District in a southeasterly direction for approximately 14,000 feet along the ridge line to a point on the Corporate Limits of the City of Charleston which is situated approximately 600 feet west of the intersection of Woodward Drive and the City of Charleston City Limits,

THENCE, following the City of Charleston boundary line for approximately 8,600 feet to the point of beginning comprising of approximately 3.6 square miles.

Given under my hand this 6th Day of May, 1999.

ALMA Y. KING

CLERK OF THE COUNTY COMMISSION OF KANAWHA COUNTY WEST VIRGINIA

(454634)

CHARLESTON NEWSPAPERS

P.O. Box 2993
Charleston, West Virginia 25330
Billing 348-4898
Classified 348-4848
1-800-WVA-NEWS
FEIN 55-06/6079

INVOICE DATE	05/19/99
ACCOUNT NBR	034900003
SALES REP ID	0014
INVOICE NBR	638570001

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ISSUE DATE	AD TYPE	PUB	DESCRIPTION / REFERENCE NBR PURCHASE ORDER #	AD NUMBER	AD SIZE / TOTAL RUN	RATE	GROSS AMOUNT	NET AMOUNT
05/17	LEGF	GZ	HEARING 638570001	L454634	1X0950 9.50	6.19	58.80	
05/17	LEGF	DM	HEARING 638570001	L454634	1X0950 9.50	6.19	58.80	117.60
			TOTAL INVOICE AMOUNT					117.60

State of West Virginia,

AFFIDAVIT OF PUBLICATION

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
LYNN R. FIELDER
3245 PUTNAM AVE.
HURRICANE, WV 25526
My Commission Expires December 11, 2006

I, Sonara Legg of
THE CHARLESTON GAZETTE, A DAILY DEMOCRATIC NEWSPAPER,
THE DAILY MAIL, A DAILY REPUBLICAN NEWSPAPER,
published in the city of Charleston, Kanawha County, West Virginia, do solemnly swear that the annexed notice of:
HEARING
was duly published in said paper(s) during the dates listed below, and was posted at the front door of the court house of said Kanawha County, West Virginia, on the 18TH day of MAY 1999. Published during the following dates: 05/17/99 05/17/99
Subscribed and sworn to before me this 20 day of May
Printers fee $ 117.60

Lynn R. Fielder
Notary Public of Kanawha County, West Virginia

Kanawha County Planning and Community Development

Second Floor, 407 Virginia Street, East Charleston, West Virginia 25301 (304) 357-0570

STATE OF WEST VIRGINIA

COUNTY OF KANAWHA, to-wit:

William Thaxton, being first duly sworn, says that:

On Wednesday, May 26, 1999, I William Thaxton, posted a Notice of Public Hearing in the matter of the proposed dissolution of the Mt. Tyler Public Service District by the County Commission of Kanawha County, said Public Hearing being scheduled on Thursday, June 3, 1999 at 5:30 p.m. in the County Commission Hearing Room, 1st Floor, Kanawha County Courthouse, 409 Virginia Street, East, Charleston, West Virginia; said Notice was posted within the boundaries of the aforementioned Public Service District at the following locations:

1. Marion's Auto Ranch – 4400 Washington Street, West
2. Jiffy Mart – 4225 Washington Street, West
3. Capitol City Lodge – 4284 Woodrum's Lane
4. Stop & Shop – 4050 Washington Street, West
5. WV Humane Services – Woodrum's Lane & Washington Street, West

Wm. J. Thaxton

William Thaxton

Taken, subscribed and sworn to before the undersigned authority by William Thaxton, in the county aforesaid this 2nd day of June, 1999.

My commission expires March 21, 2000

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
KATRINA J. KESSEL
7706-D Sissonville Dr.
Sissonville, West Virginia 25330
My Commission Expires March 21, 2000

Katrina J. Kessel

Notary Public

ALMA Y. KING, do hereby certify that this is a true copy from the original.
Teste: ALMA Y. KING, Clerk
Kanawha County Commission
Date 6/16/99 By Elizabeth K. Torres
Deputy

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

At a session of the Public Service Commission of West Virginia, in the City of Charleston, on the 15th day of October, 1998.

CASE NO. 98-0215-PSD-S-PC

MT. TYLER PUBLIC SERVICE DISTRICT and
THE SANITARY BOARD OF THE CITY OF CHARLESTON

COMMISSION ORDER

PROCEDURE

On February 26, 1998, the Mt. Tyler Public Service District (District) and the Sanitary Board of Charleston (City) filed a joint petition for consent and approval to merge their utilities, pursuant to West Virginia Code §24-2-12. Both of the Applicants have certificates of convenience and necessity from this Commission and operate under the provisions of Chapter 24 of the Code of West Virginia, 1931, as amended, and Chapter 16, Articles 13 and 13A of the Code of West Virginia, 1931, as amended.

On March 10, 1998, Technical Staff recommended the approval of the petition to transfer the District's assets to the City and the surcharge of $2.14 per month for those customers currently served by the District. On April 1, 1998, Legal Staff filed a memorandum stating the Commission could approve the merger, when certain data was submitted, including: proof of publication of notice of the proposed merger by a Class II legal advertisement; the District's board minutes where the District's board approved the merger; a statement from the Kanawha County Commission that it favors the merger; and, a clarifying statement from the West Virginia Water Development Authority (WDA) as to whether the WDA's long term loan would have priority over all debt outstanding after the merger is consummated.

On April 16, 1998, the Petitioners filed a letter from the Commissioners of the Kanawha County Commission stating they approved the merger. On June 9, 1998, the Petitioners filed the original affidavit of publication indicating the requested Notice of Filing had been published in the Charleston Newspapers on May 27, 1998 and June 2, 1998. On May 4, 1998, filed a copy of the Minutes of the monthly meeting of the Commissioners of the Mt. Tyler Public Service District held on September 16, 1997. These minutes reflect that by motion made and seconded, the District unanimously authorized the chairman to sign the merger agreement between the District and the Sanitary Board. At this time, the Commission had not received the above mentioned clarifying statement.

On September 22, 1998, the Commission issued an order stating the requested data had been submitted with the exception of the statement from WDA. The order also directed the District to complete the filing for the proposed merger.

On September 10, 1998, the WDA submitted the requested correspondence from WDA stating that it would permit the acquisition of the Mt. Tyler Public Service District sewerage system by the Sanitary Board of the City of Charleston provided the assumption of the District's Sewerage System Revenue bonds, Series 1986A, is on a parity with the City's first lien sewerage system revenue bonds. The District's Sewerage System Revenue Bonds Series 1986B, issued to the Authority on a junior and subordinated basis, may be assumed by the City on the same lien basis.

DISCUSSION

In this case, the Petitioners seek Commission approval for the merger of two utility operations with the surviving entity being the City. As has been pointed out by Technical Staff, in its Initial and Final Internal Memorandum, the proposed merger is a natural progression considering the District's flows are treated by the City and the City has an operating agreement with the District which includes billing and collection services. Additionally, the customers who are currently District customers will see no deterioration in services and their rates will decrease even with the surcharge necessary to retire the District's long term debt.

By contract dated the 16th day of September, 1997, the Sanitary Board of the City of Charleston and the Mt. Tyler Public Service District signed an agreement providing for the proposed merger The agreement essentially provides that the City of Charleston will take possession of all of the property and obligations of the Mt. Tyler Public Service District and render service to the customers and meet the obligations now being met by the Mt. Tyler Public Service District. The agreement further provides that the customers of the Mt. Tyler Public Service District will become customers of the City of Charleston and be charged the Charleston Sanitary Board rates, except for the imposition of a surcharge on the customers now and in the future attached to the present Mt. Tyler system that is sufficient to retire the presently outstanding bonds. The proposed surcharge will be $2.14 per customer, per month, subject to change depending on financing arrangements and number of customers to be surcharged. The Mt. Tyler Public Service District customers, including the surcharge, will have an approximately 30% lower bill than they are now paying. A tariff filing will be made reflecting this charge. The City of Charleston Sanitary Board will benefit from the merger, as it will have additional customers to support its fixed costs. The Sanitary Board of the City of Charleston's facilities are adequate to continue treating the sewage of the present customers of Mt. Tyler Public Service District.

The Commission has reviewed the information submitted with the merger proposal, including financial statements, rate schedules and rate comparisons in considering this matter.

In accordance with the Commission's lawful authority set forth in Chapter 24, previously identified, the Commission finds that the Petitioners have satisfied the requirements promulgated to insure that the public interest is protected when utilities seek to merge their operations. Therefore,

Public Service Commission
of West Virginia
Charleston

the Commission finds it reasonable to grant approval of the proposed merger between Mt. Tyler Public Service District and the Sanitary Board of Charleston.

FINDINGS OF FACT

1. On February 26, 1998, the Mt. Tyler Public Service District (District) and the Sanitary Board of Charleston (City) filed a joint petition for consent and approval to merge their utilities. See, Petition.

2. On April 1, 1998, Legal Staff filed a memorandum stating the Commission could approve the merger upon receipt of the following: proof of publication of notice of the proposed merger by a Class II legal advertisement; the District's board minutes where the District's board approved the merger; a statement from the Kanawha County Commission that it favors the merger; and, a clarifying statement from the West Virginia Water Development Authority (WDA)as to whether the WDA's long term loan would have priority over all debt outstanding after the merger is consummated. See, Initial Joint Staff Memorandum, dated March 26, 1998.

3. The Commission received the proof of publication of notice of the proposed merger by a Class II legal advertisement indicating publication was made during May 27, 1998-June 2, 1998. No protests were received during the protest period following publication. See, Affidavit of Publication filed June 9, 1998.

4. The Commission received the District's board minutes where the District's board sanctioned the acquisition of the District's operations by the City. See, Minutes of monthly meeting of Mt. Tyler Public Service District, dated September 16, 1997.

5. The Commission received a statement from the Kanawha County Commission that the acquisition of Mt. Tyler Public Service District will be a positive move for both the City of Charleston and the residents of Mt. Tyler. See, letter from Kanawha County Commission to Ms. Amy Swann, Director Water and Wastewater Division, dated April 9, 1998.

6. The Commission received the statement of the West Virginia Water Development Authority as to whether the WDA's long term loan would have priority over all debt outstanding after the merger. Specifically, WDA stated that it would permit the acquisition of the Mt. Tyler Public Service District sewerage system by the Sanitary Board of Charleston provided the assumption of the District's Sewerage System Revenue bonds, Series 1986A, is on a parity with the City's first lien sewerage system revenue bonds. See, Memorandum from the Water Development Authority to Commission Staff filed September 10, 1998.

7. By contract dated the 16th day of September, 1997, the Sanitary Board of the City of Charleston and the Mt. Tyler Public Service District signed an agreement providing for the proposed merger. See, Application filed February 26, 1998.

Public Service Commission
of West Virginia
Charleston

8. The agreement provides that the City of Charleston will take possession of all of the property and obligations of the Mt. Tyler Public Service District and render service to the customers now being met by the Mt. Tyler Public Service District. Customers of the Mt. Tyler Public Service District will become customers of the City of Charleston and be charged the Charleston Sanitary Board rates, except for the imposition of a surcharge on the customers now and in the future attached to the present Mt. Tyler system. See, Application filed February 26, 1998.

9. The Mt. Tyler Public Service District customers, including the surcharge, will have an approximately 30% lower bill than they are now paying. See, Application filed February 26, 1998.

10. The Sanitary Board of the City of Charleston's facilities are adequate to continue treating the sewage of the present customers of Mt. Tyler Public Service District. See, Application filed February 26, 1998.

CONCLUSION OF LAW

It reasonable to grant approval of the proposed merger between Mt. Tyler Public Service District and the Sanitary Board of Charleston since all requested data has been submitted and it is in the best interests of the parties and the customers of the utilities.

ORDER

IT IS THEREFORE ORDERED that the joint petition filed by Mt. Tyler Public Service District and the Sanitary Board of the City of Charleston requesting the merger of the two utilities be, and hereby is, approved.

IT IS FURTHER ORDERED that upon consummation of the merger, the City shall file a tariff setting forth the rates applicable to the customers served from the facilities of Mt. Tyler Public Service District, which rates will include an additional surcharge of $2.14 per month until the presently outstanding Public Service District bonds are retired .

IT IS FURTHER ORDERED that this case shall be removed from the Commission's docket of open cases.

IT IS FURTHER ORDERED that the Commission's Executive Secretary shall serve a copy of this order upon all parties of record by United States First Class Mail, and upon the Commission Staff by hand delivery.

A True Copy, Teste:

Sandra Squire

Sandra Squire
Executive Secretary

ARC

THE CITY OF CHARLESTON, WEST VIRGINIA
$686,229 SEWERAGE SYSTEM REVENUE BONDS, 1999 SERIES A
$132,072 SEWERAGE SYSTEM REVENUE BONDS, 1999 SERIES B
(MT. TYLER PUBLIC SERVICE DISTRICT)

CERTIFICATE OF:

1. TERMS
2. NO LITIGATION
3. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
4. SIGNATURES
5. PUBLIC SERVICE COMMISSION ORDER; RATES
6. INCUMBENCY AND OFFICIAL NAME
7. MERGER AGREEMENT
8. MEETINGS
9. LOAN AGREEMENT
10. TRUTH AND ACCURACY
11. SPECIMEN BONDS
12. EXCLUSION
13. NO FEDERAL GUARANTY
14. IRS INFORMATION RETURN
15. YEAR 2000 COMPLIANCE
16. COUNTERPARTS

We, the undersigned MAYOR and the undersigned CITY CLERK of The City of Charleston, West Virginia (herein called the "Issuer"), and the undersigned ATTORNEY for the Issuer, hereby certify in connection with the single, fully registered The City of Charleston, West Virginia Sewerage System Revenue Bonds, 1999 Series A, numbered AR-1, dated the date hereof, in the principal amount of $686,229 and bearing interest at the rate of 8.38% percent per annum (the "1999A Bonds") and the single, fully registered The City of Charleston, West Virginia Sewerage System Revenue Bonds, 1999 Series B, numbered BR-1, dated the date hereof, in the principal amount of $132,072 and bearing no interest (the "1999B Bonds," and collectively with the 1999A Bonds, the "1999 Bonds"), as follows:

1. TERMS: All capitalized words and terms used in this Certificate and not otherwise defined shall have the same meaning as in the Sewerage System Bond Ordinance duly passed by the Council (the "Council") of the Issuer on February 1, 1999, effective April 19, 1999, and the Supplemental Resolution adopted April 19, 1999, relating to the 1999 Bonds (collectively, the "Ordinance"). Capitalized terms, not defined herein, shall have the meanings set forth in the Ordinance.

2. NO LITIGATION: No controversy or litigation of any nature is now pending, or, to the knowledge of any of the undersigned, threatened, restraining, enjoining or affecting the issuance and delivery of the 1999 Bonds; nor questioning the proceedings and authority by which the Council of the Issuer authorized the merger and assumption of Mt. Tyler Public Service District (the "District") Sewer Revenue Bonds, Series 1987A and Series 1987B (the "District Bonds"); nor affecting the validity of the 1999 Bonds or any provisions made or authorized for the payment thereof; nor questioning the existence of the Issuer or the title of the members or officers of the Issuer or of the Council thereof to their respective offices; nor questioning the assumption of the assets of the District and the assumption of certain outstanding debt of the District.

3. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS: There has been no adverse change in the financial condition of the Issuer since January 1, 1999. The Issuer has met the coverage requirements and parity test of the Prior Ordinance. The 1999A Bonds, which replace the District's Series 1987 A Bonds, shall be issued with a lien on the Net Revenues on a parity with the lien held by the registered owners of the Prior Bonds, but the lien of such 1999A Bonds shall be senior and superior to the lien of the registered owners of the WDA Subordinate Bonds. The lien of the 1999B Bonds, which replace the District's Series 1987 B Bonds, will be on parity with the WDA Subordinate Bonds and junior to the Prior Bonds and the first lien 1999A Bonds.

The Issuer has received the certificate of Grigoraci, Trainer, Wright & Paterno, independent certified public accountants, to the effect that the Issuer has met the parity test set forth in the Prior Ordinance. The Issuer has received the written consent of the West Virginia Water Development Authority with respect to the assumption of the District Bonds and the lien position of the 1999 Bonds.

4. SIGNATURES: The undersigned Mayor and City Clerk are the duly elected or appointed, qualified and serving officers of the Issuer as indicated by the official titles opposite their signatures below, and were duly authorized to execute and seal the 1999 Bonds for the Issuer. The seal impressed upon the 1999 Bonds and this Certificate is the duly authorized, proper and only seal of the Issuer.

5. PUBLIC SERVICE COMMISSION ORDER; RATES: The Issuer has taken all actions required to maintain the Public Service Commission order dated October 15, 1998, in full force and effect, which Order approved the merge of the District's System into the Issuer's System. The appeal periods have expired.

On February 16, 1999, the Council amended and reenacted the City's Sewer Rate Ordinance which Ordinance as amended is in full force and effect including the provision for a surcharge of $2.14 per month for the customersof the District to be charged until the 1999 Bond outstanding bond debt is retired.

6. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the Issuer is "The City of Charleston", and it is a municipal corporation of the State of

West Virginia in Kanawha County of said State. The names and dates of commencement and termination of current terms of office of the Mayor, City Clerk, members of Council and the Sanitary Board are as follows:

City Council

Name	Title	Date of Commencement Of Term	Date of Expiration Of Term
G. Kemp Melton	Mayor	May 1, 1995	June 22, 1999
Fred M. Frisk, Jr.	City Clerk	May 1, 1995	June 22, 1999
J. E. Barron	Council Member	May 1, 1995	June 22, 1999
Carl Hicks	Council Member	May 1, 1995	June 22, 1999
James Lanham	Council Member	May 1, 1995	June 22, 1999
Bob E. Redman	Council Member	May 1, 1995	June 22, 1999
Ernest A. Layne	Council Member	May 1, 1995	June 22, 1999
Ivalou Barth	Council Member	May 1, 1995	June 22, 1999
Paul Gilmer	Council Member	May 1, 1995	June 22, 1999
George W. McClaskie	Council Member	May 1, 1995	June 22, 1999
Betty Morton	Council Member	May 1, 1995	June 22, 1999
Sara M. Crickenburger	Council Member	May 1, 1995	June 22, 1999
Fred Snuffer	Council Member	May 1, 1995	June 22, 1999
Joyce Horan	Council Member	May 1, 1995	June 22, 1999
Linda M. Nielsen	Council Member	May 1, 1995	June 22, 1999
Jody Connell	Council Member	May 1, 1995	June 22, 1999
Lawrence J. Malone	Council Member	May 1, 1995	June 22, 1999
William Ward Huffman, II	Council Member	May 1, 1995	June 22, 1999
Brendan S. Leary	Council Member	May 1, 1995	June 22, 1999
William R. Kimberling	Council Member	May 1, 1995	June 22, 1999
Loren E. Snodgrass	Council Member	May 1, 1995	June 22, 1999
David J. Hardy	Council Member	May 1, 1995	June 22, 1999
Sam Haddad (At-Large)	Council Member	May 1, 1995	June 22, 1999
J. Thomas Lane (At-Large)	Council Member	May 1, 1995	June 22, 1999
Charles W. Loeb, Jr. (At-Large)	Council Member	May 1, 1995	June 22, 1999
Mary Jane Lopez (At-Large)	Council Member	May 1, 1995	June 22, 1999
Y. Howard Quick, Jr. (At-Large)	Council Member	May 1, 1995	June 22, 1999
Chris Smith (At-Large)	Council Member	May 1, 1995	June 22, 1999

Sanitary Board

G. Kemp Melton	Ex-Officio Chairman
John Tinney	Secretary/Treasurer
Don Richardson	Member and P.E.

The duly appointed and acting Attorney for the Issuer is Jill M. Jerabek, Esquire, of Charleston, West Virginia. The duly appointed and acting Attorneys for the Sanitary Board are Kauffelt & Kauffelt, Charleston, West Virginia.

7. MERGER AGREEMENT: The Issuer and the District signed an agreement dated September 16, 1997, concerning the proposed merger, providing that the Issuer will take possession of all the property and assets of the District, the Issuer will assume all of the legal and financial obligations of the District and the customers served by the District will become customers to be served by the Issuer, thereby lowering the rates paid by the District's customers.

8. MEETINGS: All actions, ordinances, resolutions, orders and agreements taken, adopted and entered into by or on behalf of the Issuer in any way connected with the construction, acquisition, operation and financing of the Project were authorized or adopted at meetings of the Council duly and regularly or specifically called and held pursuant to all applicable statutes and the rules of procedure of Council, and a quorum of duly appointed, qualified and acting members of the Council was present and acting at all times during all such meetings. All notices required to be posted and/or published were so posted and/or published.

9. LOAN AGREEMENT: The District's Loan Agreement and Supplemental Loan Agreement, both dated March 20, 1987, and the payment of principal and interest and covenants thereunder are being assumed by the Issuer by merger. Each of the Loan Agreements, as assumed, will remain in full force and effect.

10. TRUTH AND ACCURACY: As of the date hereof, G. Kemp Melton, Mayor and Fred M. Frisk Jr., City Clerk hereby certify that the copies of documents previously or on the date hereof certified by them as being true and accurate are true and accurate as of the date hereof and that none of such documents has been repealed, rescinded, amended or otherwise modified.

11. SPECIMEN BONDS: Attached hereto as Exhibit A and Exhibit B are specimens of the 1999 Bonds which, except as to execution and authentication, are identical in all respects with such 1999 Bonds this day delivered to the Authority and being substantially in the form prescribed in the Ordinance.

12. EXCLUSION: The Issuer will not permit, at any time, any of the proceeds of the 1999 Bonds or any other funds of the Issuer to be used directly or indirectly in a manner which would result in the exclusion of the 1999 Bonds from the treatment afforded by Section 103(a) of the Code.

13. NO FEDERAL GUARANTY: The 1999 Bonds are not and will be, in whole or part, directly or indirectly, federally guaranteed within the meaning of Section 149(b) of the Code.

14. IRS INFORMATION RETURN: On the date hereof, the undersigned Mayor did officially sign a properly completed IRS Form 8038-G and will cause such executed Form 8038-G to be filed in a timely manner with the Internal Revenue Service Center, Philadelphia, Pennsylvania.

15. YEAR 2000 COMPLIANCE: The Issuer represents that it has undertaken or will undertake an investigation to determine whether the operations of the Issuer's System and the District's System, now collectively, the "System", including but not limited to any billing, collection and inventory computer programs of the System and any electronic or mechanical components of the System's wastewater collection and treatment facilities, are Year 2000 Compliant. The Issuer further represents that if it determines as a result of this investigation that any Mission-Critical Component of the System is not Year 2000 Compliant, the Issuer (i) will take timely and affirmative action to repair or replace any such component, and (ii) will perform adequate testing to ensure the sound operation and Year 2000 Compliant status of the repaired or replaced component. For purpose of this paragraph, "Year 2000 Compliant" means, with respect to the information technology the Issuer uses or will use in the operation of the System (including any date-sensitive microprocessors embedded in electronic or mechanical components of the System), the information technology is designed to be used prior to, during and after calendar Year 2000 A.D., and the information technology used during each such time period will accurately receive, provide and process data-time data (including, but not limited to, calculating, comparing and sequencing) from, into and between the twentieth and twenty-first centuries, including the years 1999 and 2000, and leap-year calculations, and will not malfunction, cease to function, or provide invalid or incorrect results as a result of date-time data. For purposes of this paragraph, "Mission-Critical Component" means any component of the System that would be critical to (a) the System's continued operation after January 1, 2000; (b) the Issuer's ability to continue to bill its customers and collect amounts billed from those customers after January 1, 2000; or (c) the Issuer's ability to make all principal and interest payments for the 1999 Bonds contemplated by the Resolution as and when they become due.

18. COUNTERPARTS: This Certificate may be executed in counterpart and such parts shall be deemed to be the Certificate.

[The Remainder of This Page is Intentionally Left Blank.]

WITNESS our signatures and the official corporate seal of The City of Charleston, West Virginia on this 22nd day of June, 1999.

[SEAL]

SIGNATURE	OFFICIAL TITLE
_____	Mayor
_____	City Clerk
_____	Assistant City Attorney

CHASFS3:141614

EXHIBIT A

SPECIMEN BOND

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
COUNTY OF KANAWHA
THE CITY OF CHARLESTON
SEWERAGE SYSTEM REVENUE BONDS, 1999 SERIES A

No. AR-1

$686,229

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF CHARLESTON, a municipal corporation of the State of West Virginia, in Kanawha County of said State (the "City"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority "), or registered assigns, the sum of Six Hundred Eighty-Six Thousand Two Hundred Twenty-Nine Dollars ($686,229), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as Exhibit A hereto and incorporated herein by reference, in installments continuing on October 1, as set forth on the "Schedule of Annual Debt Service" attached as Schedule A hereto and incorporated herein by reference, with interest on each installment at the rate of 8.38% per annum as set forth on said Schedule A.

Principal installments of this 1999 Bond are payable in any coin or currency which, on the respective dates of payment of principal, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the Paying Agent. The interest on this 1999 Bond is payable by check or draft mailed to the Payee at the address as it appears on the books of the Registrar, as hereinafter defined, on the 15th day of the month preceding an interest payment date or by such other method as shall be mutually agreeable so long as the Authority is registered owner hereof.

This 1999 Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority.

This 1999 Bond is issued to evidence the City's assumption of the Mt. Tyler Public Service District's Sewer Revenue Bonds, Series 1987A issued in the aggregate principal amount of $730,760 (the "Series 1987 A Bonds"). This 1999 Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act"), Ordinance No. 4828 enacted on April 20, 1992, as amended, Ordinance No. 6544 enacted by the City on the 16th day of February, 1999, and a Supplemental Resolution adopted by the City on the 16th day of February, 1999 (collectively called the "Ordinance"), and is subject to all the terms and conditions thereof. The Ordinance provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the 1999 Bonds under the Ordinance.

This 1999 Bond ranks equally as to lien and security with the Prior Bonds, and senior to the Sewerage System Revenue Bonds, 1999 Series B (the "1999 Series B Bonds") and the WDA Subordinate Bonds, all as defined in the Ordinance.

This 1999 Bond is payable only from and secured by a pledge of a first lien on the Net Revenues as defined in the Ordinance, to be derived from the operation of the System, moneys in the Reserve Account created under the Ordinance and unexpended proceeds of the 1999 Bonds on parity with the Prior Bonds, but senior to the 1999 Series B Bonds and the WDA Subordinate Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This 1999 Bond does not constitute a corporate indebtedness of the City within the meaning of any constitutional or statutory provisions or limitations, nor shall the City be obligated to pay the same or the interest thereon except from said special fund provided from the Net Revenues, the moneys in the Reserve Account and unexpended 1999 Bond proceeds. Pursuant to the Ordinance, the City has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the amount required to pay the maximum amount due in any ensuing fiscal year of principal of and interest on all obligations on a parity with or prior to the 1999 Bonds, payable from such revenues, provided however, that so long as there exists in the Reserve Account an amount equal to the maximum amount of principal and interest which will become due on the 1999 Bonds and any bonds on a parity therewith in any succeeding fiscal year and in each of the reserve accounts for the Prior Bonds, respectively, an amount equal to the requirement therefor, such percentage may be reduced to 110%. The City has entered into certain further covenants with the registered owners of the 1999 Bonds for the terms of which reference is made to the Ordinance. Remedies provided the registered owners of the 1999 Bonds are exclusively as provided in the Ordinance, to which reference is here made for a detailed description thereof.

This 1999 Bond is transferable, as provided in the Ordinance, only upon the books of One Valley Bank, National Association, Charleston, West Virginia (the "Registrar"), kept for that purpose at the office of the Registrar, by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this 1999 Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or its attorney duly authorized in writing.

This 1999 Bond, under the provision of the Act is, and has provided all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this 1999 Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the assumption of the Series 1987 A Bonds described in the Ordinance or to the appurtenant sinking fund, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the owner of this 1999 Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this 1999 Bond have existed, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this 1999 Bond, together with all other obligations of the City, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the revenues of the System has been pledged to and will be set aside into said special fund by the City for the prompt payment of the principal of and interest on this 1999 Bond.

All provisions of the Ordinance, resolutions and statutes under which this 1999 Bond is issued shall be deemed to be a part of the contract evidenced by this 1999 Bond to the same extent as if written fully herein.

IN WITNESS WHEREOF, THE CITY OF CHARLESTON has caused this 1999 Bond to be signed by its Mayor and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Clerk, and has caused this 1999 Bond to be dated the 22nd day of June, 1999.

[SEAL]

Mayor

ATTEST:

City Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This 1999 Bond is one of the 1999 Bonds described in the within-mentioned Ordinance and has been duly registered in the name of the registered owner set forth above.

ONE VALLEY BANK, NATIONAL ASSOCIATION,
as Registrar

By Charlotte S Morgan
Its Authorized Officer

Dated: June 22, 1999

SCHEDULE A

SCHEDULE OF ANNUAL DEBT SERVICE

PERIOD ENDING 10/1	COUPON	PRIN.	INTEREST	SERVICE
1987	8.38		19,051.75	19,051.75
1988	8.38		61,237.77	61,237.77
1989	8.38	3,019	61,237.77	64,256.77
1990	8.38	3,272	60,984.78	64,256.78
1991	8.38	3,546	60,710.59	64,256.59
1992	8.38	3,843	60,413.43	64,256.43
1993	8.38	4,165	60,091.39	64,256.39
1994	8.38	4,514	59,742.36	64,256.36
1995	8.38	4,893	59,364.09	64,257.09
1996	8.38	5,303	58,954.05	64,257.05
1997	8.38	5,747	58,509.66	64,256.66
1998	8.38	6,229	58,028.06	64,257.06
1999	8.38	6,751	57,506.07	64,257.07
2000	8.38	7,316	56,940.34	64,256.34
2001	8.38	7,929	56,327.26	64,256.26
2002	8.38	8,594	55,662.81	64,256.81
2003	8.38	9,314	54,942.63	64,256.63
2004	8.38	10,094	54,162.12	64,256.12
2005	8.38	10,940	53,316.24	64,256.24
2006	8.38	11,857	52,399.47	64,256.47
2007	8.38	12,851	51,405.85	64,256.85
2008	8.38	13,928	50,328.94	64,256.94
2009	8.38	15,095	49,161.77	64,256.77
2010	8.38	16,360	47,896.81	64,256.81
2011	8.38	17,731	46,525.84	64,256.84
2012	8.38	19,217	45,039.99	64,256.99
2013	8.38	20,827	43,429.60	64,256.60
2014	8.38	22,573	41,684.30	64,257.30
2015	8.38	24,464	39,792.68	64,256.68
2016	8.38	26,514	37,742.60	64,256.60
2017	8.38	28,736	35,520.73	64,256.73
2018	8.38	31,144	33,112.65	64,256.65
2019	8.38	33,754	30,502.78	64,256.78
2020	8.38	36,583	27,674.20	64,257.20

SCHEDULE OF ANNUAL DEBT SERVICE

PERIOD ENDING 10/1	COUPON	PRIN.	INTEREST	SERVICE
2021	8.38	39,648	24,608.54	64,256.54
2022	8.38	42,971	21,286.04	64,257.04
2023	8.38	46,572	17,685.07	64,257.07
2024	8.38	50,474	13,782.33	64,256.33
2025	8.38	54,704	9,552.61	64,256.61
2026	8.38	59,288	4,968.42	64,256.42
		730,760	1,791,284.39	2,522,044.39

[Form of Assignment]

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto

_____

_____

_____

_____

_____

the within 1999 Bond and does hereby irrevocably constitute and appoint _____, Attorney to transfer the said 1999 Bond on the books kept for registration of the within 1999 Bond of the said City with full power of substitution in the premises.

Dated: _____.

_____

In the presence of:

_____

EXHIBIT B

SPECIMEN BOND

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
COUNTY OF KANAWHA
THE CITY OF CHARLESTON
SEWERAGE SYSTEM REVENUE BONDS, 1999 SERIES B

No. BR-1

$132,072

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF CHARLESTON, a municipal corporation of the State of West Virginia, in Kanawha County of said State (the "City"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority "), or registered assigns, the sum of One Hundred Thirty Two Thousand Seventy-Two Dollars ($132,072), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as Exhibit A hereto and incorporated herein by reference, in installments continuing on October 1, as set forth on the "Schedule of Annual Debt Service" attached as Schedule A hereto and incorporated herein by reference, bearing no interest as set forth on said Schedule A.

Principal installments of this 1999 Bond are payable in any coin or currency which, on the respective dates of payment of principal, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the Paying Agent.

This 1999 Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority.

This 1999 Bond is issued to evidence the City's assumption of the Mt. Tyler Public Service District's Sewer Revenue Bonds, Series 1987B issued in the aggregate principal amount of $179,240 (the "Series 1987 B Bonds"). This 1999 Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West

Virginia, including particularly Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act"), Ordinance No. 4828 enacted on April 20, 1992, as amended, Ordinance No. 6544 enacted by the City on the 16th day of February, 1999, and a Supplemental Resolution adopted by the City on the 16th day of February, 1999 (collectively called the "Ordinance"), and is subject to all the terms and conditions thereof. The Ordinance provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the 1999 Bonds under the Ordinance.

This 1999 Bond ranks equally as to lien and security with the WDA Subordinate Bonds and junior and subordinate with the Sewerage System Revenue Bonds, 1999 Series A (the "1999 Series A Bonds") and the Prior Bonds, all as are defined in the Ordinance.

This 1999 Bond is payable only from and secured by a pledge of a first lien on the Net Revenues as defined in the Ordinance, to be derived from the operation of the System, moneys in the Reserve Account created under the Ordinance and unexpended proceeds of the 1999 Bonds on parity with the WDA Subordinate Bonds, but junior and subordinate with the 1999 Series A Bonds and the Prior Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This 1999 Bond does not constitute a corporate indebtedness of the City within the meaning of any constitutional or statutory provisions or limitations, nor shall the City be obligated to pay the same or the interest thereon except from said special fund provided from the Net Revenues, the moneys in the Reserve Account and unexpended 1999 Bond proceeds. Pursuant to the Ordinance, the City has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the amount required to pay the maximum amount due in any ensuing fiscal year of principal of and interest on all obligations on a parity with or prior to the 1999 Bonds, payable from such revenues, provided however, that so long as there exists in the Reserve Account an amount equal to the maximum amount of principal and interest which will become due on the 1999 Bonds and any bonds on a parity therewith in any succeeding fiscal year and in each of the reserve accounts for the Prior Bonds, respectively, an amount equal to the requirement therefor, such percentage may be reduced to 110%. The City has entered into certain further covenants with the registered owners of the 1999 Bonds for the terms of which reference is made to the Ordinance. Remedies provided the registered owners of the 1999 Bonds are exclusively as provided in the Ordinance, to which reference is here made for a detailed description thereof.

This 1999 Bond is transferable, as provided in the Ordinance, only upon the books of One Valley Bank, National Association, Charleston, West Virginia (the "Registrar"), kept for that purpose at the office of the Registrar, by the registered owner, or

by its attorney duly authorized in writing, upon the surrender of this 1999 Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or its attorney duly authorized in writing.

This 1999 Bond, under the provision of the Act is, and has provided all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this 1999 Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the assumption of the Series 1987 B Bonds described in the Ordinance or to the appurtenant sinking fund, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the owner of this 1999 Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this 1999 Bond have existed, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this 1999 Bond, together with all other obligations of the City, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the revenues of the System has been pledged to and will be set aside into said special fund by the City for the prompt payment of the principal of and interest on this 1999 Bond.

All provisions of the Ordinance, resolutions and statutes under which this 1999 Bond is issued shall be deemed to be a part of the contract evidenced by this 1999 Bond to the same extent as if written fully herein.

IN WITNESS WHEREOF, THE CITY OF CHARLESTON has caused this 1999 Bond to be signed by its Mayor and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Clerk, and has caused this 1999 Bond to be dated the 22nd day of June, 1999.

[SEAL]

Mayor

ATTEST:

City Clerk

NUMBER

BR-1

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This 1999 Bond is one of the 1999 Bonds described in the within-mentioned Ordinance and has been duly registered in the name of the registered owner set forth above.

ONE VALLEY BANK, NATIONAL ASSOCIATION,
as Registrar

By Charlotte S Morgan
Its Authorized Officer

Dated: June 22, 1999

SCHEDULE A

SCHEDULE OF ANNUAL DEBT SERVICE

PERIOD ENDING 10/1	ZERO COUPON BONDS
1987	.00
1988	.00
1989	4,716.66
1990	4,716.82
1991	4,716.82
1992	4,716.82
1993	4,716.82
1994	4,716.82
1995	4,716.82
1996	4,716.82
1997	4,716.82
1998	4,716.82
1999	4,716.82
2000	4,716.82
2001	4,716.82
2002	4,716.82
2003	4,716.82
2004	4,716.82
2005	4,716.82
2006	4,716.82
2007	4,716.82
2008	4,716.82
2009	4,716.82
2010	4,716.82
2011	4,716.82
2012	4,716.82
2013	4,716.82
2014	4,716.82
2015	4,716.82
2016	4,716.82
2017	4,716.82
2018	4,716.82
2019	4,716.82
2020	4,716.82

SCHEDULE OF ANNUAL DEBT SERVICE

PERIOD ENDING 10/1	ZERO COUPON BONDS
2021	4,716.82
2022	4,716.82
2023	4,716.82
2024	4,716.82
2025	4,716.82
2026	4,717.82
	179,240.00

[Form of Assignment]

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto

_____

_____

_____

_____

_____

the within 1999 Bond and does hereby irrevocably constitute and appoint _____, Attorney to transfer the said 1999 Bond on the books kept for registration of the within 1999 Bond of the said City with full power of substitution in the premises.

Dated: _____.

_____

In the presence of:

_____

THE CITY OF CHARLESTON, WEST VIRGINIA
$686,229 SEWERAGE SYSTEM REVENUE BONDS, 1999 SERIES A
$132,072 SEWERAGE SYSTEM REVENUE BONDS, 1999 SERIES B
(MT. TYLER PUBLIC SERVICE DISTRICT)

CERTIFICATE OF CITY CLERK AS TO TRUTH
AND ACCURACY OF DOCUMENTS DELIVERED

I, the undersigned Fred M. Frisk, Jr., the duly elected Clerk of The City of Charleston, West Virginia (the "City"), hereby certify that the copies of the following documents being delivered in connection with the closing of the sale of the $686,229 The City of Charleston, West Virginia Sewerage System Revenue Bonds, 1999 Series A and $132,072 The City of Charleston, West Virginia Sewerage System Revenue Bonds, 1999 Series B (the "1999 Bonds"), are, as of the date hereof, true and accurate copies of the originals of those documents maintained on file with the City and delivered in the transcript of proceedings, and that said documents are still in full force and effect as of the date hereof and have not been repealed, rescinded, superseded, amended or modified in any way unless the document effecting such repeal, rescission, supersedence, amendment or modification is also listed below:

1. Charter of the City.

2. Oaths of Office of the Mayor, City Clerk, and members of Council.

3. Sewerage System Bond Ordinance No. 6544.

4. Minutes of Council meeting held January 19, 1999 regarding first reading of the Ordinance.

5. (A) Minutes of meeting held by Council on February 1, 1999, regarding second reading and adoption of the Ordinance, which included abstract and notice of public hearing and (B) minutes of meeting held by Council on February 16, 1999, regarding the public hearing.

6. Resolution No. 179-99 adopted by Council on April 19, 1999, placing the Ordinance into effect and authorizing the above-referenced Bonds (the "Supplemental Resolution") and Minutes of April 19, 1999 Council meeting.

7. Copy of the Commission Order in Case No. 98-0215-PSD-S-PC, dated October 13, 1998, approving the merger of Mt. Tyler Public Service District into the City's Sanitary Board, approving the assumption of debt and approving the rates.

8. Merger Agreement between the Sanitary Board of the City of Charleston and Mt. Tyler Public Service District.

9. Rate Ordinance, as amended on February 16, 1999.

WITNESS my signature and the official seal of The City of Charleston, West Virginia as of the 22nd day of June, 1999.

City Clerk
The City of Charleston, West Virginia

(SEAL)

CHASFS3:141617

THE CITY OF CHARLESTON, WEST VIRGINIA
$686,229 SEWERAGE SYSTEM REVENUE BONDS, 1999 SERIES A
$132,072 SEWERAGE SYSTEM REVENUE BONDS, 1999 SERIES B
(MT. TYLER PUBLIC SERVICE DISTRICT)

CERTIFICATE AS TO NON-ARBITRAGE

I, G. Kemp Melton, Mayor of The City of Charleston, West Virginia (the "Issuer"), being one of the officials of the Issuer duly charged with the responsibility for the issuance of $686,229 aggregate principal amount of Sewerage System Revenue Bonds, 1999 Series A, of The City of Charleston, West Virginia, dated June 22, 1999 (the "1999 A Bonds"), hereby certify as follows:

1. This certificate is being executed and delivered pursuant to Section 148 of the Internal Revenue Code of 1986, as amended, and applicable regulations (the "Code"). I am one of the officers of the Issuer charged with the responsibility of issuing the Bonds. I am familiar with the facts, circumstances and estimates herein certified and am duly authorized to execute and deliver this certificate on behalf of the Issuer.

2. This certificate may be relied upon as the certificate of the Issuer.

3. The Issuer has not been notified by the Internal Revenue Service of any listing or proposed listing of it as an issuer and certification of which may not be relied upon by holders of obligations of the Issuer or that there is any disqualification of the Issuer by the Internal Revenue Service because a certification made by the Issuer contains a material misrepresentation.

4. This certificate is based upon facts, circumstances, estimates and expectations of the Issuer in existence on June 22, 1999, the date on which the Bonds are to be physically delivered in exchange for the issue price thereof, and to the best of my knowledge and belief, the expectations of the Issuer set forth herein are reasonable.

5. In the Sewerage System Bond Ordinance (the "Ordinance") pursuant to which the Bonds are issued, the Issuer has covenanted to make no use of the proceeds of the Bonds which would cause the Bonds to be "arbitrage bonds" within the meaning of the Code.

6. The Bonds were assumed by merger by the Issuer approved by the West Virginia Public Service Commission by an order dated October 15, 1998.

7. The Bonds are being delivered simultaneously with the delivery of this certificate and are issued for the purposes of evidencing the assumption of the District's Sewerage Revenue Bonds, Series 1987 A (the "District Bonds").

8. Pursuant to Section 4.01 of the Ordinance, a sinking fund and a reserve account with respect to the 1999 A Bonds have been created at the Commission.

9. Moneys held in the Sinking Fund will be used solely to pay principal of and interest on the 1999 A Bonds as the same shall become due. Moneys in the Reserve Account in the Sinking Fund shall be used only for the purpose of paying principal of and interest on the 1999 A Bonds, as the same shall become due, when other moneys in the Sinking Fund are insufficient therefor, and for no other purpose. All investment earnings on moneys in the Sinking Fund and Reserve Account shall be transferred, not less than once each year to the Revenue Fund, continued by the Ordinance.

10. Except for the Sinking Fund and the Reserve Account, there are no other funds or accounts established or held by the Issuer which are reasonably expected to be used to pay debt service on the 1999 A Bonds, or which are pledged as collateral for the 1999 A Bonds, and for which there is a reasonable assurance that amounts therein will be available to pay debt service on the 1999 A Bonds, if the Issuer encounters financial difficulties. The Issuer does not expect that moneys in the Renewal and Replacement Fund will be used or needed for payments upon the 1999 A Bonds. Except as provided herein, no funds which have been or will be used to acquire directly or indirectly securities, obligations, annuity contracts or other investment-type property producing a yield in excess of the yield on the 1999 A Bonds, have been or will be pledged to payment of the 1999 A Bonds. The reserve account is fully funded and the amount will not exceed 125% of average annual principal and interest on the Bonds. The establishment of the Reserve Account is required by the Authority, is vital to the assumption of the District Bonds by the 1999 A Bonds and is reasonably required to assure payments of debt service on the 1999 A Bonds. The establishment of the Sinking Fund is required by the Authority and the West Virginia Division of Environmental Protection, is vital to the assumption of the District Bonds of the 1999 A Bonds and is reasonably required to assure payments of debt service on the 1999 A Bonds.

11. The Series 1999 A Bonds are being issued to evidence the City's assumption of the District Bonds. Therefore, no bond proceeds will be received. The reserve funds for the District's 1987 A Bonds, will be transferred to the 1999 A Bonds reserve accounts established by the Ordinance as part of the merger.

12. The City and the District signed an agreement dated September 16, 1997, concerning the proposed merger providing that the City will take possession of all the property and assets of the District, the City will assume all of the legal and financial obligations of the District and the customers served by the District will become customers to be served by the City.

13. Any money deposited in the Sinking Fund for payment of the principal and interest on the Bonds (other than the Reserve Account therein) will be spent within a 13-month period beginning on the date of receipt and any moneys received from the investment of amounts held in the Sinking Fund (other than in the Reserve Account therein) will be spent within a 1-year period beginning the date of receipt.

14. All property financed with the proceeds of the Bonds will be held for Federal income tax purposes by (or on behalf of) a qualified governmental unit.

15. The Issuer shall file Form 8038-G in a timely fashion with the Internal Revenue Service Center, Philadelphia, Pennsylvania 19255.

16. The Issuer shall not permit at any time or times any of the proceeds of the Bonds, or any other funds of the Issuer, to be used directly or indirectly in a manner which would result in the exclusion of 1999 A Bonds from treatment afforded by Section 103(a) of the Code by reason of classification of the 1999 A Bonds as "private activity bonds" within the meaning of the Code. The Issuer will take all actions and refrain from taking such actions as shall be necessary to comply with the Code in order to ensure the interest on the 1999 A Bonds is excludable from gross income for Federal income tax purposes.

17. The Bonds, in whole or in part, are not and will not be, directly or indirectly, federally guaranteed within the meaning of Section 149(b) of the Code.

18. The Issuer will rebate to the United States the amount, if any, required by the Code and to take all steps necessary to make such rebates. In the event the Issuer fails to make such rebates as required, the Issuer shall pay any and all penalties and obtain a waiver from the Internal Revenue Service in order to maintain the exclusion from gross income for federal income tax purposes of the interest on the Bonds.

19. The Issuer has retained the right to amend or supplement its authorizing documents if such amendment or supplement is necessary to preserve the exclusion of the interest on the 1999 A Bonds from gross income for Federal Income Tax purposes.

20. The Issuer shall comply with the yield restriction on the proceeds of the Bonds as set forth in the Code.

21. The Issuer has either (a) funded the Reserve Account at the maximum amount of principal and interest which will mature and become due on the 1999 A Bonds in the then current or any succeeding year with the proceeds of the Bonds, or (b) created the Reserve Account which will be funded with equal payments on a monthly basis over a 10 year period until such Reserve Account holds an amount equal to the maximum amount of principal and interest which will mature and become due on the Bonds in the then current or any succeeding year. Moneys in the Reserve Account and the Sinking Fund (established

for the annual payment of principal and interest) will be used solely to pay principal of and interest on the Bonds and will not be available to pay costs of the Project.

22. The Issuer shall continue to submit to the Authority within thirty (30) days following the end of the Issuer's bond year a certified copy of its rebate calculation or if the Issuer qualifies for the small governmental issuer exception to rebate, then the Issuer shall submit to the Authority a certificate stating that it is exempt from the rebate provisions and that no event has occurred to its knowledge during the bond year which would make the 1999 A Bonds subject to rebate.

23. The Issuer expects that no part of the System will be sold or otherwise disposed of prior to the last maturity date of the Bonds.

24. The Issuer covenants and agrees to comply with the rebate requirements of the Code if not exempted therefrom, and with all other requirements of the Code necessary, proper or desirable to maintain the tax-exempt status of the Bonds.

25. Jackson & Kelly PLLC is entitled to rely upon the representations, expectations, covenants, certifications and statements contained herein in rendering its opinions regarding the tax-exempt status of interest on the 1999 A Bonds.

26. To the best of my knowledge, information and belief, the foregoing expectations are reasonable.

IN WITNESS WHEREOF, I have set my hand this 22nd day of June, 1999.

THE CITY OF CHARLESTON, WEST VIRGINIA

By _____
Mayor

CHASFS3:141620

G & W | T P

GRIGORACI, TRAINER, WRIGHT & PATERNO

CERTIFIED PUBLIC ACCOUNTANTS & CONSULTANTS

(A PARTNERSHIP OF ACCOUNTING CORPORATIONS)

608 TENNESSEE AVENUE

P. O. BOX 1191
CHARLESTON, WV 25324
(304) 343-5511
FAX: (304) 343-5514

June 18, 1999

Sanitary Board of The City of Charleston
City Building
Charleston, West Virginia

RE: The City of Charleston, West Virginia
$686,229 Sewerage System Revenue Bonds, 1999 Series A
$132,072 Sewerage System Revenue Bonds, 1999 Series B
(Mt. Tyler Public Service District)

Gentlemen:

We have been asked to determine if the Sanitary Board of The City of Charleston has achieved or will achieve sufficient coverage of its existing and proposed debt service prior to the issuance of additional parity bonds.

The City of Charleston currently has outstanding the $1,912,194 Sewer Revenue Bonds, Series 1989 (the "1989 Bonds"), the $829,856 Sewer Revenue Bonds, Series 1989B (the "1989B Bonds"), the $2,955,000 Sewerage System Refunding Revenue Bonds, Series 1992A (the "1992A Bonds"), the $6,670,000 Sewerage System Refunding and Improvement Revenue Bonds, Series 1992B (the "1992B Bonds"), the $773,237 Sewerage System Revenue Bonds, 1993 Series A (the "1993A Bonds"), the $2,671,058 Sewerage System Revenue Bonds, Series 1996 A (the "1996A Bonds"), the $395,299 The City of Charleston Sewerage System Revenue Bonds, Series 1996 B (the "1996B Bonds"), the $732,688 Sewerage System Revenue Bonds, Series 1997 A (the "1997A Bonds"), the $5,237,584 Sewerage System Revenue Bonds, Series 1997 B (the "1997B Bonds"), and the $994,537 Sewerage System Revenue Bonds, 1998 Series A (the "1998A Bonds," and collectively with the above-referenced bonds, the "First Lien Bonds"). The City intends to issue $686,229 in Sewerage System Revenue Bonds, 1999 Series A (the "1999A Bonds") on June 18, 1999, on a parity with the First Lien Bonds and senior to the Second Lien Bonds and the 1999B Bonds, hereinafter defined.

The City of Charleston currently has outstanding the $283,458 Supplemental Sewer Revenue Bonds, Series 1989 (the "Supplemental 1989 Bonds") and the $123,015 Supplemental Sewer Revenue Bonds, Series 1989B (the "Supplemental 1989B Bonds," and collectively with the Supplemental 1989 Bonds, the "Second Lien Bonds"). The City intends to issue $132,072 Sewerage System Revenue Bonds, 1999 Series B (the "1999B Bonds") on a parity with the Second Lien Bonds and subordinate and junior to the First Lien Bonds and the 1999A Bonds.

It is our opinion that the Net Revenues actually derived from the System during twelve (12) consecutive months, within the eighteen (18) months immediately preceding the date of the actual issuance of the Bonds, plus the estimated average annual Net Revenues to be received in each of the three succeeding years after the completion of the Project being financed by the Bonds, are not less than 115% of the maximum annual amount that will mature and become due in any succeeding fiscal year for the principal of and interest on the Bonds and the Prior Bonds.

Capitalized terms used and not otherwise defined herein shall have the meanings assigned to such terms in the Bond Ordinance.

Very truly yours,

Bryan, Tanner, Wright & Paterno

THE CITY OF CHARLESTON, WEST VIRGINIA
$686,229 SEWERAGE SYSTEM REVENUE BONDS, 1999 SERIES A
$132,072 SEWERAGE SYSTEM REVENUE BONDS, 1999 SERIES B
(MT. TYLER PUBLIC SERVICE DISTRICT)

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 22nd day of June, 1999, by and between THE CITY OF CHARLESTON, WEST VIRGINIA, a municipal corporation (the "Governmental Agency"), and ONE VALLEY BANK, NATIONAL ASSOCIATION, Charleston, West Virginia (the "Registrar").

WHEREAS, the Governmental Agency has, contemporaneously with the execution hereof, issued and sold its $686,229 The City of Charleston, West Virginia Sewerage System Revenue Bonds, 1999 Series A, in the form of one bond, numbered AR-1, and its $132,072 The City of Charleston, West Virginia Sewerage System Revenue Bonds, 1999 Series B, in the form of one bond, numbered BR-1, in fully registered form pursuant to an Ordinance duly passed February 1, 1999, effective April 19, 1999 and the Supplemental Resolution adopted April 19, 1999 relating to the Bonds (collectively, the "Ordinance");

WHEREAS, capitalized words and terms used in this Registrar's Agreement and not otherwise defined herein shall have the respective meanings given them in the Ordinance, a copy of which is attached as Exhibit A hereto and incorporated herein by reference;

WHEREAS, the Ordinance provides for an appointment by the Governmental Agency of a Registrar for the Bonds; and

WHEREAS, the Governmental Agency desires to appoint, and by the Ordinance and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Ordinance and to take certain other actions hereinafter set forth;

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. Upon the execution of this Registrar's Agreement by the Governmental Agency and the Registrar and during the term hereof, the Registrar does accept and shall have and carry out the powers and duties of Registrar, for the Bonds, all as set forth in the Ordinance, such duties including, among other things, the duties to authenticate, register and deliver Bonds upon original issuance and when properly presented for exchange or transfer, and shall do so with the intention of maintaining the exclusion of interest on the Primary Bonds from gross income for federal income tax purposes, in accordance with any rules and

regulations promulgated by the United States Treasury Department or by the Municipal Securities Rulemaking Board or similar regulatory bodies as the Governmental Agency advises it of and with generally accepted industry standards.

2. The Registrar agrees to furnish the Governmental Agency with appropriate records of all transactions carried out by it as Registrar and to furnish the Governmental Agency with the names and specimen signatures of the Registrar's authorized officers for the purposes of acting as the Registrar and with such other information and reports as the Governmental Agency may from time to time reasonably require.

3. The Registrar shall have no responsibility or liability for any action taken by it at the specific direction of the Governmental Agency.

4. As compensation for acting as Registrar pursuant to this Registrar's Agreement, the Governmental Agency hereby agrees to pay to the Registrar, from time to time, the compensation for services rendered as provided in the annexed schedule and reimbursement for reasonable expenses incurred in connection with this Registrar's Agreement.

5. It is intended that this Registrar's Agreement shall carry out and implement provisions of the Ordinance with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Ordinance, the terms of the Ordinance shall govern.

6. The Governmental Agency and the Registrar each warrants and represents that it is duly authorized and empowered to execute and enter into this Registrar's Agreement and that neither such execution nor the performance of its duties hereunder or under the Ordinance will violate any order, decree or agreement to which it is a party or by which it is bound.

7. This Registrar's Agreement may be terminated by either party upon 60 days' written notice sent by registered or certified mail to the other party, at the following respective address:

GOVERNMENTAL AGENCY:

The City of Charleston
City Hall
P. O. Box 2749
Charleston, WV 25330
Attention: Mayor

REGISTRAR:

One Valley Bank, National Association
P. O. Box 1793
Charleston, West Virginia 25326
Attention: One Financial Place

The Governmental Agency and the Registrar shall notify the other in writing of any change of address.

8. The Registrar is hereby requested and authorized to authenticate and deliver the Bonds in accordance with the Ordinance.

IN WITNESS WHEREOF, THE CITY OF CHARLESTON, WEST VIRGINIA and ONE VALLEY BANK, NATIONAL ASSOCIATION, have respectively caused this Registrar's Agreement to be signed in their names and on their behalf, all as of the day and year first above-written.

THE CITY OF CHARLESTON, WEST VIRGINIA

By _____
Mayor

ONE VALLEY BANK, NATIONAL ASSOCIATION

By: _____
Authorized Officer

141625

EXHIBIT A

See Bond Ordinance (Tab No. 4)

141625

THE CITY OF CHARLESTON, WEST VIRGINIA
$686,229 SEWERAGE SYSTEM REVENUE BONDS, 1999 SERIES A
$132,072 SEWERAGE SYSTEM REVENUE BONDS, 1999 SERIES B
(MT. TYLER PUBLIC SERVICE DISTRICT)

REQUEST AND AUTHORIZATION AS TO AUTHENTICATION
AND DELIVERY OF THE BONDS

June 22, 1999

One Valley Bank, National Association
P. O. Box 1793
Charleston, West Virginia 25326

Ladies and Gentlemen:

We herewith hand to you, duly executed, $686,229 The City of Charleston, West Virginia Sewerage System Revenue Bonds, 1999 Series A, in the form of one bond numbered AR-1 and $132,072 The City of Charleston, West Virginia Sewerage System Revenue Bonds, Series 1999 B, in the form of one bond, numbered BR-1 (the "1999 Bonds") of the City of Charleston, West Virginia (the "City"), authorized to be issued under and pursuant to the Sewerage System Bond Ordinance, duly passed by the Council of the City on February 1, 1999, effective April 19, 1999 and the Supplemental Resolution adopted April 19, 1999 relating to the Bonds (collectively, the "Ordinance").

You are hereby requested and authorized to register, authenticate and deliver the Bonds on behalf of the City to the West Virginia Water Development Authority.

THE CITY OF CHARLESTON, WEST VIRGINIA

By _____
Mayor

(SEAL)

Attest:

_____
City Clerk
141631

THE CITY OF CHARLESTON, WEST VIRGINIA
$686,229 SEWERAGE SYSTEM REVENUE BONDS, 1999 SERIES A
$132,072 SEWERAGE SYSTEM REVENUE BONDS, 1999 SERIES B
(MT. TYLER PUBLIC SERVICE DISTRICT)

CERTIFICATE OF REGISTRATION OF BONDS

The undersigned authorized officer of One Valley Bank, National Association, Charleston, West Virginia, as Registrar (the "Registrar"), hereby certifies that on the 22nd day of June, 1999, the bonds of The City of Charleston, West Virginia in the aggregate principal amount of $686,229 designated the "The City of Charleston, West Virginia Sewerage System Revenue Bonds, 1999 Series A" and numbered AR-1, and the "$132,072 The City of Charleston, West Virginia Sewerage System Revenue Bonds, 1999 Series B" and numbered BR-1 dated as of the date hereof, were registered as to principal and interest in the name of "West Virginia Water Development Authority" in the books of the City kept for that purpose at our office, by a duly authorized officer on behalf of One Valley Bank, National Association, Charleston, West Virginia, as Registrar.

WITNESS my signature as of the 22nd day of June, 1999.

ONE VALLEY BANK, NATIONAL
ASSOCIATION, as Registrar

By Charlotte S. Morgan
Authorized Officer

CHASFS3:141632

THE CITY OF CHARLESTON, WEST VIRGINIA
$686,229 SEWERAGE SYSTEM REVENUE BONDS, 1999 SERIES A
$132,072 SEWERAGE SYSTEM REVENUE BONDS, 1999 SERIES B
(MT. TYLER PUBLIC SERVICE DISTRICT)

RECEIPT FOR BONDS

The undersigned, Barbara B. Meadows, Secretary-Treasurer of the West Virginia Water Development Authority, for and on behalf of the West Virginia Water Development Authority (the "Authority"), hereby certifies as follows:

1. On the 22nd day of June, 1999, in Charleston, West Virginia, the Authority received the entire original issue of $686,229 in aggregate principal amount of The City of Charleston, West Virginia Sewerage System Revenue Bonds, 1999 Series A (the "Bonds"), said Bond being dated the 22nd day of June, 1999; and issued in the form of one bond, fully registered to the Authority, and numbered AR-1.

2. On the 22nd day of June, 1999, in Charleston, West Virginia, the Authority received the entire original issue of $132,072 in aggregate principal amount of The City of Charleston, West Virginia Sewerage System Revenue Bonds, 1999 Series B (the "Bonds"), said Bond being dated the 22nd day of June, 1999; and issued in the form of one bond, fully registered to the Authority, and numbered BR-1.

3. At the time of receipt of such Bonds, it had been executed by G. Kemp Melton, as Mayor of The City of Charleston, by manual signature, and attested by Fred M. Frisk, Jr. as Clerk of The City of Charleston, by manual signature, and the official seal of said City had been impressed upon each Bond.

IN WITNESS WHEREOF, Barbara B. Meadows duly signed and delivered this receipt on behalf of the West Virginia Water Development Authority on the 22nd day of June, 1999.

WEST VIRGINIA WATER DEVELOPMENT
AUTHORITY

By Barbara B Meadows
Secretary-Treasurer

Form 8038-G (Rev. May 1995) Department of the Treasury Internal Revenue Service

Information Return for Tax-Exempt Governmental Obligations

▶ Under Internal Revenue Code section 149(e)

▶ See separate instructions.

(Note: *Use Form 8038-GC if the issue price is under $100,000.*)

OMB No. 1545-0720

Part I Reporting Authority

If Amended Return, check here ▶ ☐

1 Issuer's name: City of Charleston, West Virginia

2 Issuer's employer identification number: 55 : 6000610

3 Number and street (or P.O. box if mail is not delivered to street address): City Hall, Court and Virginia Streets

Room/suite:

4 Report number: G1999 - 1

5 City, town, or post office, state, and ZIP code: Charleston, West Virginia 25301

6 Date of Assumption*: June 22, 1999

7 Name of issue: The City of Charleston, West Virginia $686,229 Sewerage System Revenue Bonds, 1999 Series A (Mt. Tyler Public Service District)

8 CUSIP number: N/A

Part II Type of Issue (check applicable box(es) and enter the issue price)

9	☐ Education (attach schedule–see instructions)	9	$
10	☐ Health and hospital (attach schedule–see instructions)	10	
11	☐ Transportation	11	
12	☐ Public safety	12	
13	☒ Environment (including sewage bonds)	13	730,760
14	☐ Housing	14	
15	☐ Utilities	15	
16	☐ Other. Describe (see instructions) ▶	16	
17	If obligations are tax or other revenue anticipation bonds, check box ▶ ☐		
18	If obligations are in the form of a lease or installment sale, check box ▶ ☐		

Part III Description of Obligations

	(a) Maturity date	(b) Interest rate	(c) Issue price	(d) Stated redemption price at maturity	(e) Weighted average maturity	(f) Yield	(g) Net interest cost
19 Final maturity	10-1-2026	8.38%	$59,288	$59,288			
20 Entire issue			$730,760	$59,288	29.9 years	8.38 %	8.38 %

Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)

21	Proceeds used for accrued interest		21	$ 95,500
22	Issue price of entire issue (enter amount from line 20, column (c))		22	$730,760
23	Proceeds used for bond issuance costs (including underwriters' discount)	23 $ 12,000		
24	Proceeds used for credit enhancement	24 -0-		
25	Proceeds allocated to reasonably required reserve or replacement fund	25 -0-		
26	Proceeds used to currently refund prior issues	26 -0-		
27	Proceeds used to advance refund prior issues	27 -0-		
28	Total (add lines 23 through 27)		28	12,000
29	Nonrefunding proceeds of the issue (subtract line 28 from line 22 and enter amount here)		29	$718,760

Part V Description of Refunded Bonds (Complete this part only for refunding bonds.)

30	Enter the remaining weighted average maturity of the bonds to be currently refunded ▶	N/A years
31	Enter the remaining weighted average maturity of the bonds to be advance refunded ▶	N/A years
32	Enter the last date on which the refunded bonds will be called ▶	N/A
33	Enter the date(s) the refunded bonds were issued ▶	

Part VI Miscellaneous

34	Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)	34	-0-
35	Enter the amount of the bonds designated by the issuer under section 265(b)(3)(B)(i)(III) (small issuer exception)	35	-0-
36a	Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (see instructions)	36a	-0-
b	Enter the final maturity date of the guaranteed investment contract ▶		
37	Pooled financings: a Proceeds of this issue that are to be used to make loans to other governmental units	37a	-0-

b If this issue is a loan made from the proceeds of another tax-exempt issue, check box ▶ ☒ and enter the name of the issuer ▶ West Virginia Water Dev. Authority and the date of the issue ▶ May 1, 1986

38 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box ▶ ☐

39 If the issuer has identified a hedge, check box ▶ ☐

Please Sign Here

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete.

▶ G. Kemp Melton — Signature of issuer's authorized representative

Date: 6/22/99

▶ G. Kemp Melton, Mayor — Type or print name and title

For Paperwork Reduction Act Notice, see page 1 of the instructions.

Cat. No. 63773S Form 8038-G (Rev. 5-95)

Printed on recycled paper

*The City of Charleston assumed Mt. Tyler Public Service District Sewer Revenue Bonds, Series 1987A, as listed on the attached 8038-G, through merger on June 22, 1999. The above information is derived from the original 1987 filing.

Form **8038-G**
(December 1986)
Department of the Treasury
Internal Revenue Service

Information Return for Tax-Exempt Governmental Bond Issues

▶ Under Section 149(e)
(Use Form 8038-GC if issue price is under $100,000.)

OMB No 1545-0720
Expires 12-31-89

Part I Reporting Authority — Check box if Amended Return ▶ ☐

1 Issuer's name: MT. TYLER PUBLIC SERVICE DISTRICT
2 Issuer's employer identification number: 55-0660693
3 Number and street: 4462 Washington Street, W.
4 Report number: G198 7 - 1
5 City or town, state, and ZIP code: Charleston, West Virginia 25312
6 Date of issue: 6/9/87

Part II Type of Issue (check box(es) that applies)

		Issue Price
7	Check box if bonds are tax or other revenue anticipation bonds ▶ ☐	
8	Check box if bonds are in the form of a lease or installment sale ▶ ☐	
9	☐ Education	
10	☐ Health and hospital	
11	☐ Transportation	
12	☐ Public safety	
13	☒ Environment (including sewage bonds) Sewer Revenue Bonds	$730,760
14	☐ Housing	
15	☐ Utilities	
16	☐ Other. Describe (see instructions) ▶	

Part III Description of Bonds

	(a) Maturity date	(b) Interest rate	(c) Issue price	(d) Stated redemption price at maturity	(e) Weighted average maturity	(f) Yield	(g) Net interest cost
17 Final maturity	10-1-26	8.38 %	$59,288	$59,288			
18 Entire issue			$730,760	$59,288	*29.9years	8.38%	8.38%

Part IV Uses of Original Proceeds of Issue (including underwriters' discount)

19 Proceeds used for accrued interest	19	$95,500
20 Proceeds used for bond issuance costs (including underwriters' discount)	20	$12,000
21 Proceeds used for credit enhancement	21	-0-
22 Proceeds allocated to reasonably required reserve or replacement fund	22	-0-
23 Proceeds used to refund prior issues	23	-0-
24 Nonrefunding proceeds of the issue (subtract lines 20, 21, 22, and 23 from line 18, column (c))	24	$623,260

Part V Description of Refunded Bonds (complete this part only for refunding bonds)

25 Enter the remaining weighted average maturity of the bonds to be refunded ▶ _____ years
26 Enter the last date on which the refunded bonds will be called ▶
27 Enter the date(s) the refunded bonds were issued ▶

Part VI Miscellaneous

28 Enter the amount (if any) of the state volume cap allocated to this issue ▶ -0-
29 Arbitrage rebate:
a Check box if the small governmental unit exception to the arbitrage rebate requirement applies ☐
b Check box if the 6-month temporary investment exception to the arbitrage rebate requirement is expected to apply ☐
c Check box if you expect to earn and rebate arbitrage profits to the U.S. ☒
30 Enter the amount of the bonds designated by the issuer under section 265(b)(3)(B)(ii) ▶
31 Pooled financings:
a Check box if any of the proceeds of this issue are to be used to make loans to other governmental units ▶ ☐ and enter the amount ▶
b Check box if this issue is a loan made from the proceeds of another tax-exempt issue ▶ ☒ and enter the name of the issuer ▶ West Virginia Water Devel. Authority and the date of the issue ▶ May 1, 1986

Please Sign Here

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief they are true, correct, and complete.

Signature of officer: [signature] Date: 6/9/87 Title: Chairman

For Paperwork Reduction Act Notice, see page 1 of the instructions.

Form 8038-G (12-86)

*Level amortized payments of principal and interest, principal payments commencing October 1, 1989 and ending October 1, 2026

WV MUNICIPAL BOND COMMISSION
Suite 300 - L & S Building
12 Quarrier Street, Charleston, WV 25301
(304) 348-3971

NEW ISSUE REPORT FORM
Date of Report: June 22, 1999

ISSUE: $686,229 The City of Charleston, West Virginia Sewerage System Revenue Bonds, 1999 Series A (Mt. Tyler Public Service District)
ADDRESS: City Hall, Charleston, WV 25330 COUNTY: Kanawha
PURPOSE OF ISSUE: New Money _____ Other: Assumption of Bonds
Refunding _____ Refunds issue(s) dated: _____

ISSUE DATE: June 22, 1999 CLOSING DATE: June 22, 1999
ISSUE AMOUNT: $686,229 RATE: 0%
1st DEBT SERVICE DUE: 64,257.07 1st PRINCIPAL DUE: 6,751
1st DEBT SERVICE AMOUNT: $64,257.07 PAYING AGENT: WV Municipal Bond Commission

ISSUERS
BOND COUNSEL: Jackson & Kelly PLLC
Contact Person: Samme L. Gee, Esquire
Phone: (304) 340-1318

UNDERWRITERS
BOND COUNSEL: N/A
Contact Person: _____
Phone: _____

(DEPOSITORY)
CLOSING BANK: _____
Contact Person: _____
Phone: _____

ESCROW TRUSTEE: N/A
Contact Person : _____
Phone: _____

KNOWLEDGEABLE ISSUER CONTACT:
Contact Person: Bill Collison
Position: Finance Director
Phone: (304) 348-8134

OTHER: _____
Contact Person: _____
Function: _____
Phone: _____

DEPOSITS TO MBC AT CLOSE:
By _____ Wire
_____ Check(s)

_____ Accrued Interest: $_____
_____ Capitalized Interest: $_____
_____ Reserve Account: $_____
_____ Other: _____ $_____

REFUNDS & TRANSFERS BY MBC AT CLOSE:
By _____ Wire
_____ Check
_____ IGT

_____ To Escrow Trustee: $_____
_____ To Issuer: $_____
_____ To Cons.Invest.Fund $_____
_____ To Other: _____ $_____

NOTES: This is an assumption only. The original debt service schedule will remain the same and payments will continue as originally due. The Sinking Fund and Debt Service Reserve Fund should be renamed to reflect the assumption by the City of Charleston.

FOR MUNICIPAL BOND COMMISSION USE ONLY:
Documents Required: _____
Transfers Required: _____

148342

WV MUNICIPAL BOND COMMISSION
Suite 300 - L & S Building
12 Quarrier Street, Charleston, WV 25301
(304) 348-3971

NEW ISSUE REPORT FORM
Date of Report: June 22, 1999

ISSUE: $132,072 The City of Charleston, West Virginia Sewerage System Revenue Bonds, 1999 Series B (Mt. Tyler Public Service District)
ADDRESS: City Hall, Charleston, WV 25330 COUNTY: Kanawha
PURPOSE OF ISSUE: New Money _____ Other: Assumption of Bonds
Refunding _____ Refunds issue(s) dated: _____

ISSUE DATE: June 22, 1999 CLOSING DATE: June 22, 1999
ISSUE AMOUNT: $132,072 RATE: 0%
1st DEBT SERVICE DUE: 4,716.82 1st PRINCIPAL DUE: 4,716.82
1st DEBT SERVICE AMOUNT: $4,716.82 PAYING AGENT: WV Municipal Bond Commission

ISSUERS
BOND COUNSEL: Jackson & Kelly PLLC
Contact Person: Samme L. Gee, Esquire
Phone: (304) 340-1318

UNDERWRITERS
BOND COUNSEL: N/A
Contact Person: _____
Phone: _____

(DEPOSITORY)
CLOSING BANK: _____
Contact Person: _____
Phone: _____

ESCROW TRUSTEE: N/A
Contact Person : _____
Phone: _____

KNOWLEDGEABLE ISSUER CONTACT:
Contact Person: Bill Collison
Position: Finance Director
Phone: (304) 348-8134

OTHER: _____
Contact Person: _____
Function: _____
Phone: _____

DEPOSITS TO MBC AT CLOSE:
By _____ Wire
_____ Check(s)

_____ Accrued Interest: $_____
_____ Capitalized Interest: $_____
_____ Reserve Account: $_____
_____ Other: _____ $_____

REFUNDS & TRANSFERS BY MBC AT CLOSE:
By _____ Wire
_____ Check
_____ IGT

_____ To Escrow Trustee: $_____
_____ To Issuer: $_____
_____ To Cons.Invest.Fund $_____
_____ To Other: _____ $_____

NOTES: This is an assumption only. The original debt service schedule will remain the same and payments will continue as originally due. The Sinking Fund and Debt Service Reserve Fund should be renamed to reflect the assumption by the City of Charleston.

FOR MUNICIPAL BOND COMMISSION USE ONLY:
Documents Required: _____
Transfers Required: _____

148343

THE CITY OF CHARLESTON, WEST VIRGINIA
$686,229 SEWERAGE SYSTEM REVENUE BONDS, 1999 SERIES A
$132,072 SEWERAGE SYSTEM REVENUE BONDS, 1999 SERIES B
(MT. TYLER PUBLIC SERVICE DISTRICT)

CONSENT OF THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

I, Daniel B. Yonkosky, Director of the West Virginia Water Development Authority (the "WDA"), registered owner of the entire outstanding aggregate principal amount of the WDA Bonds, hereinafter defined and described, in reliance on the parity test certification of Grigoraci, Trainer, Wright & Paterno, CPAs, hereby consent to the issuance of The City of Charleston, West Virginia (the "Issuer") Sewerage System Revenue Bonds, 1999 Series A (the "1999A Bonds"), in the original aggregate principal amount of $686,229, under the terms of the ordinance authorizing the Bonds, on a parity, with respect to liens, pledge and source of and security for payment, with the Issuer's outstanding $1,912,194 Sewer Revenue Bonds, Series 1989 (the "1989 Bonds"), the $829,856 Sewer Revenue Bonds, Series 1989B (the "1989B Bonds"), the $2,955,000 Sewerage System Refunding Revenue Bonds, Series 1992A (the "1992A Bonds"), the $6,670,000 Sewerage System Refunding and Improvement Revenue Bonds, Series 1992B (the "1992B Bonds"), the $773,237 Sewerage System Revenue Bonds, 1993 Series A (the "1993A Bonds"), the $2,671,058 Sewerage System Revenue Bonds, Series 1996 A (the "1996A Bonds"), the $395,299 The City of Charleston Sewerage System Revenue Bonds, Series 1996 B (the "1996B Bonds"), the $732,688 Sewerage System Revenue Bonds, Series 1997 A (the "1997A Bonds"), the $5,237,584 Sewerage System Revenue Bonds, Series 1997 B (the "1997B Bonds"), and the $994,537 Sewerage System Revenue Bonds, 1998 Series A (the "1998A Bonds," and collectively with the above-referenced bonds, the "First Lien Bonds"), and also hereby consents to the issuance of Issuer's Sewerage System Revenue Bonds, 1999 Series B (the "1999B Bonds"), in the original aggregate principal amount of $132,072, with respect to liens, pledge and source of and security for payment to the Issuer's outstanding $283,458 Supplemental Sewer Revenue Bonds, Series 1989 (the "Supplemental 1989 Bonds") and the $123,015 Supplemental Sewer Revenue Bonds, Series 1989B (the "Supplemental 1989B Bonds," and collectively with the Supplemental 1989 Bonds, the "Second Lien Bonds"), which Second Lien Bonds are subordinate and junior to the First Lien Bonds and the 1999A Bonds.

WITNESS my signature this 22nd day of June, 1999.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

By: Daniel B. Yonkosky
Daniel B. Yonkosky, Director

CHASFS3:141636

THE CITY OF CHARLESTON, WEST VIRGINIA
$686,229 SEWERAGE SYSTEM REVENUE BONDS, 1999 SERIES A
$132,072 SEWERAGE SYSTEM REVENUE BONDS, 1999 SERIES B
(MT. TYLER PUBLIC SERVICE DISTRICT)

CITY'S CERTIFICATE WITH RESPECT TO PARITY BONDS

Pursuant to requirements of Section 6.08 of the Prior Ordinances, the undersigned Mayor and Clerk of The City of Charleston, West Virginia (the "Issuer") hereby certify:

1. The City of Charleston Sewerage System Revenue Bonds, 1999 Series A and The City of Charleston Sewerage System Revenue Bonds, 1999 Series B (the "Bonds") are being issued to evidence the Issuer's assumption of Mt. Tyler PSD outstanding Bonds (the "District Bonds").

2. The City has received the Certificate of an Independent Accountant with respect to additional parity bonds as required by Section 6.08 and by the West Virginia Water Development Authority for approval of the merger.

3. The City has funded the Reserve Fund for the Bonds simultaneously with the issuance of the Bonds by the transfer of the existing reserve funds for the District Bonds to the 1999 Bonds.

WITNESS our signatures as of this 22nd day of June, 1999.

THE CITY OF CHARLESTON, WEST VIRGINIA

By: _____
Mayor

[SEAL]

_____
Clerk

141647

THIS DEED, Made this 22nd day of June, 1999, by and between the MT. TYLER PUBLIC SERVICE DISTRICT, a public corporation and instrumentality of the State of West Virginia, party of the first part, and THE CITY OF CHARLESTON, a West Virginia municipal corporation, party of the second part.

WITNESSETH:

That for and in consideration of the sum of Ten Dollars ($10.00), cash in hand paid and other good and valuable consideration, paid by the party of the second part to the party of the first part, the receipt and sufficiency of which are hereby acknowledged, the party of the first part does hereby GRANT, CONVEY and ASSIGN unto the party of the second part all of its right, title and interest in and to all tracts or parcels of real estate owned by it, together with the improvements thereon and the appurtenances thereunto belonging, situate and being in Union District, Kanawha County, West Virginia, and all of its right, title and interest in and to all of the rights of way and easements, whether acquired by grant, assignment or otherwise, situate and being in Union District, Kanawha County, West Virginia.

The real estate described herein was obtained or improved with federal financial assistance and is subject to the nondiscrimination provisions of Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973 and other similarly worded federal statutes, and the regulations issued pursuant thereto that prohibit discrimination on the basis of race, color, national origin, handicap, religion, age or sex in programs or activities receiving federal financial assistance. Such provisions apply for as long as the real estate continues to be used for the same or similar purposes for which the federal assistance was extended or for so long as the purchaser owns it, whichever is later.

RECORDED 05
BOOK/PAGE : 2473- / 414-
KANAWHA COUNTY, WV
DTE/TIME RECORDE06/22/1999 12:41:52:00
INST #: 716885 TYPE: DEED
CLERK OF THE COUNTY COMMISSION
TOTAL RECD/DUE: 3.00 .00

The party of the first part does hereby covenant that it has good and lawful power to convey the property herein conveyed, that it will WARRANT GENERALLY the title to the property therein conveyed, that the same is free from all liens and encumbrances and that it will execute such further assurances of title as shall be required by the party of the second part, its grantees, successors or assigns.

The undersigned does hereby state that the real estate transferred by this instrument is not subject to the West Virginia excise tax upon the privilege of transferring real estate for the reason that this is a transfer from an instrumentality of the State of West Virginia, as defined by Chapter 16, Article 13A, Section 3 of the *Code of West Virginia of 1931*, as amended.

IN WITNESS WHEREOF, the Mt. Tyler Public Service District, a public corporation and instrumentality of the State of West Virginia, has caused its name to be hereunto signed by the members of its Board of Directors thereunto duly authorized.

MT. TYLER PUBLIC SERVICE DISTRICT,
a public corporation

By _____
Jimmie Skidmore
Its Chairman

_____
Alicia Marion
Its Board Member

_____
Ernest Sanders, Jr.
Its Board Member

STATE OF WEST VIRGINIA,

COUNTY OF KANAWHA, to-wit:

The foregoing instrument was acknowledged before me this 22nd day of June, 1999, by Jimmie Skidmore, the Chairman of the PUBLIC SERVICE BOARD OF THE MT. TYLER PUBLIC SERVICE DISTRICT, a public corporation and instrumentality of the State of West Virginia, on behalf of said public corporation.

My Commission expires January 17, 2004.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
BARBARA B. MEADOWS
WV WATER DEVELOPMENT AUTHORITY
180 ASSOCIATION DRIVE
CHARLESTON, WV 25311
My Commission Expires Jan. 17, 2004

Barbara B Meadows
Notary Public

STATE OF WEST VIRGINIA,

COUNTY OF KANAWHA, to-wit:

The foregoing instrument was acknowledged before me this 22nd day of June, 1999, by Alicia Marion, Board Member of the PUBLIC SERVICE BOARD OF THE MT. TYLER PUBLIC SERVICE DISTRICT, a public corporation and instrumentality of the State of West Virginia, on behalf of said public corporation.

My Commission expires January 17, 2004.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
BARBARA B. MEADOWS
WV WATER DEVELOPMENT AUTHORITY
180 ASSOCIATION DRIVE
CHARLESTON, WV 25311
My Commission Expires Jan. 17, 2004

Barbara B Meadows
Notary Public

BILL OF SALE

THIS BILL OF SALE, made this 22nd day of June, 1999, by and between the PUBLIC SERVICE BOARD OF THE MT. TYLER PUBLIC SERVICE DISTRICT, a public corporation ("Seller"), and THE CITY OF CHARLESTON, a West Virginia municipal corporation ("Buyer").

WITNESSETH:

That for and in consideration of ten dollars ($10.00) cash in hand paid and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller hereby BARGAINS, SELLS, TRANSFERS, ASSIGNS and SETS OVER unto Buyer all of the personal property owned by Seller, including both tangible and intangible, and money in any form, including all bank deposits, and all franchises and all certificates of convenience and necessity issued to it.

Seller hereby WARRANTS that it is the true and lawful owner of said property; that it has the right to sell and convey the same; that said property is free and clear of all liens, security interests, encumbrances and all debts of whatever nature and description; that Seller has good, valid and absolute marketable title thereto; that Buyer shall have quiet enjoyment of said property; and that Seller shall execute such further assurance as may be requisite.

Seller further agrees that it will deliver to Buyer all certificates of title or other evidences of ownership of said property and equipment now in Seller's possession.

Such property was obtained or improved with federal financial assistance and is subject to the nondiscrimination provisions of Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and other similarly worded federal statutes, and the regulations issued pursuant thereto that prohibit

RECORDED 05
BOOK/PAGE : 2473- / 410-
KANAWHA COUNTY, WV
DTE/TIME RECORDE06/22/1999 12:40:49:00
INST #: 716884 TYPE: DEED
CLERK OF THE COUNTY COMMISSION
TOTAL RECD/DUE: 3.00 .00

discrimination on the basis of race, color, national origin, handicap, religion, age, or sex in programs or activities receiving federal financial assistance. Such provisions apply for as long as the property continues to be used for the same or similar purposes for which the Federal assistance was extended, for so long as the purchaser owns it, whichever is later.

IN WITNESS WHEREOF, the Mt. Tyler Public Service District, a public corporation and instrumentality of the State of West Virginia, has caused its name to be hereunto signed by the members of its Board of Directors thereunto duly authorized.

MT. TYLER PUBLIC SERVICE DISTRICT,
a public corporation

By _____
Jimmie Skidmore
Its Chairman

_____
Alicia Marion
Its Board Member

_____
Ernest Sanders, Jr.
Its Board Member

STATE OF WEST VIRGINIA,

COUNTY OF KANAWHA, to-wit:

The foregoing instrument was acknowledged before me this 22nd day of June, 1999, by Jimmie Skidmore, the Chairman of the PUBLIC SERVICE BOARD OF THE MT. TYLER PUBLIC SERVICE DISTRICT, a public corporation, on behalf of said public corporation.

My Commission expires January 17, 2004.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
BARBARA B. MEADOWS
WV WATER DEVELOPMENT AUTHORITY
180 ASSOCIATION DRIVE
CHARLESTON, WV 25311
My Commission Expires Jan. 17, 2004

Barbara B Meadows
Notary Public

STATE OF WEST VIRGINIA,

COUNTY OF KANAWHA, to-wit:

The foregoing instrument was acknowledged before me this 22nd day of June, 1999, by Alicia Marion, Board Member of the PUBLIC SERVICE BOARD OF THE MT. TYLER PUBLIC SERVICE DISTRICT, a public corporation, on behalf of said public corporation.

My Commission expires January 17, 2004.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
BARBARA B. MEADOWS
WV WATER DEVELOPMENT AUTHORITY
180 ASSOCIATION DRIVE
CHARLESTON, WV 25311
My Commission Expires Jan. 17, 2004

Barbara B Meadows
Notary Public

STATE OF WEST VIRGINIA,

COUNTY OF KANAWHA, to-wit:

The foregoing instrument was acknowledged before me this 22nd day of June, 1999, by Ernest Sanders, Jr., Board Member of the PUBLIC SERVICE BOARD OF THE MT. TYLER PUBLIC SERVICE DISTRICT, a public corporation and instrumentality of the State of West Virginia, on behalf of said public corporation.

My Commission expires January 17, 2004

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
BARBARA B. MEADOWS
WV WATER DEVELOPMENT AUTHORITY
180 ASSOCIATION DRIVE
CHARLESTON, WV 25311
My Commission Expires Jan. 17, 2004

r004c906mt61809

Barbara B Meadows
Notary Public

THIS INSTRUMENT PREPARED BY:

T. D. Kauffelt
Kauffelt & Kauffelt
803 Kanawha Valley Building
P. O. Box 3082
Charleston, WV 25331-3082
(304) 345-1272

This instrument was presented to the Clerk of the County Commission of Kanawha County, West Virginia, on JUN 22 1999 and the same is admitted to record.

Teste: Alma [illegible] Clerk
Kanawha County Commission

JACKSON & KELLY PLLC
ATTORNEYS AT LAW
1600 LAIDLEY TOWER
P. O. BOX 553
CHARLESTON, WEST VIRGINIA 25322

TELEPHONE 304-340-1000 TELECOPIER 304-340-1130

http://www.jacksonkelly.com

300 FOXCROFT AVENUE
MARTINSBURG, WEST VIRGINIA 25401
TELEPHONE 304-263-8800

256 RUSSELL AVENUE
NEW MARTINSVILLE, WEST VIRGINIA 26155
TELEPHONE 304-455-1751

6000 HAMPTON CENTER
MORGANTOWN, WEST VIRGINIA 26505
TELEPHONE 304-599-3000

412 MARKET STREET
PARKERSBURG, WEST VIRGINIA 26101
TELEPHONE 304-424-3490

1000 TECHNOLOGY DRIVE
FAIRMONT, WEST VIRGINIA 26554
TELEPHONE 304-368-2000

1144 MARKET STREET
WHEELING, WEST VIRGINIA 26003
TELEPHONE 304-233-4000

1660 LINCOLN STREET
DENVER, COLORADO 80264
TELEPHONE 303-390-0003

175 EAST MAIN STREET
LEXINGTON, KENTUCKY 40595
TELEPHONE 606-255-9500

2401 PENNSYLVANIA AVENUE N.W.
WASHINGTON, D.C. 20037
TELEPHONE 202-973-0200

MEMBER OF LEX MUNDI,
THE WORLD'S LEADING ASSOCIATION
OF INDEPENDENT LAW FIRMS.

June 22, 1999

West Virginia Water Development Authority
180 Association Drive
Charleston, WV 25311-1571

5.1

Re: The City of Charleston, West Virginia
$686,229 Sewerage System Revenue Bonds, 1999 Series A

Ladies and Gentlemen:

We are bond counsel to The City of Charleston, West Virginia, (the "Issuer"), a municipal corporation.

We have examined a certified copy of proceedings and other papers relating to (i) the authorization of a loan agreement dated March 20, 1987, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and between the Mt. Tyler Public Service District (the "District"), and the West Virginia Water Development Authority (the "Authority") and (ii) the issue of a series of revenue bonds of the Issuer, dated June 22, 1999 (the "Local Bonds"), to evidence the assumption of the District's Sewerage System Revenue Bonds, Series 1987 A (the "District Bond"). The Local Bonds are in the principal amount of $686,229, issued in the form of one bond registered as to principal and interest to the Authority. Interest shall continue to be paid on the unpaid principal balance at the rate of eight and sixty-three hundredths percent (8.63%) per annum. Principal shall continue to be payable annually on October 1 of each year and interest shall continue to be payable semi-annually on each April 1 and October 1, as set forth in "Schedule X," attached to the Loan Agreement and incorporated in and made a part of the Local Bonds.

The Local Bonds are issued for the purpose of evidencing the assumption of the District Bond.

We have also examined the applicable provisions of Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (the "Local Statute"), and the Sewerage System Bond Ordinance duly enacted by the Issuer on February 16, 1999, (the "Local Act"), pursuant to and under which Local Statute and Local Act the Local Bonds are authorized and

issued, and the existing Loan Agreement has been assumed by the Issuer. The Local Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

In connection with the issuance of the Bond, the Issuer has executed a Certificate as to Non-Arbitrage, dated as of the date hereof (the "Certificate as to Non-Arbitrage"), which, among other things, continues to set forth restrictions on the investment and earnings on the 1999 A Bond, to ensure that the arbitrage requirements of the Internal Revenue Code of 1986, as amended, and regulations thereunder (collectively, the "Code"), necessary to establish and maintain the excludability of interest on the 1999 A Bond from gross income for federal income tax purposes, are and will continue to be met.

Based upon the foregoing and upon our examination of such other documents as we have deemed necessary, we are of the opinion as follows:

1. The Loan Agreement has been duly assumed by the Issuer and is a valid and binding special obligation of the Issuer enforceable in accordance with the terms thereof.

2. The Loan Agreement inures to the benefit of the Authority and cannot be amended so as to affect adversely the rights of the Authority or diminish the obligations of the Issuer without the consent of the Authority.

3. The Issuer is a duly organized and presently existing municipal corporation of the State of West Virginia, with full power and authority to acquire by merger the District's assets and assume the District Bond and to operate and maintain the System, which now includes the District's System, referred to in the Loan Agreement and to issue the Local Bonds, all under the Local Statute and other applicable provisions of law.

4. The Issuer has legally and effectively enacted the Local Act and all other necessary resolutions in connection with the assumption of the District Bond by the Local Bonds. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The Local Bonds are valid and legally enforceable special obligations of the Issuer, payable from the net revenues of the System referred to in the Local Act and secured by a first lien on and pledge of the net revenues of said System, on a parity, with respect to liens, pledge and source of and security for payment with the Issuer's outstanding Prior Bonds and senior to the Sewerage System Revenue Bonds, 1999 Series B Bonds and the WDA Subordinate Bonds, as both are defined in the Ordinance, all in accordance with the terms of the Local Bonds and the Local Act, and have been duly issued and delivered to the Authority.

6. The Issuer has reserved the right to issue additional bonds ranking on a parity with the Local Bonds, as provided in the Local Act.

7. The interest on the Local Bonds continues to be excludable from gross income for federal income tax purposes and is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations; however, it should be noted that with respect to corporations (as defined for federal income tax purposes), such interest is taken into account in determining adjusted current earnings for the purpose of computing the alternative minimum tax imposed on such corporations. The opinion set forth in the preceding sentence is subject to the condition that the Issuer continue to comply, on a continuing basis, with all certifications, covenants and representations which may affect the excludability from gross income of the interest on the Local Bonds set forth in the Local Act and the Certificate as to Non-Arbitrage and with all requirements of the Internal Revenue Code of 1986, as amended, that must be satisfied subsequent to the issuance of the Local Bonds in order that interest thereon continue to be excludable from gross income for federal income tax purposes. The Issuer has covenanted to continue to comply with all such requirements. Failure to comply with such certifications, covenants, representations and requirements could cause the interest on the Local Bonds to be includable in gross income retroactive to the date of issuance of the Local Bonds. We express no opinion regarding other federal tax consequences with respect to the Local Bonds.

8. The Local Bonds and the interest thereon are and continue to be, under the Act, exempt from all taxation by the State of West Virginia, or any county, municipality, political subdivision, or agency thereof.

It is to be understood that the rights of the holders of the 1999 A Bond and the enforceability of the Bond and the Local Act may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that such enforcement may also be subject to the exercise of judicial discretion in appropriate cases.

We have examined the executed and authenticated Local Bonds numbered AR-1, and in our opinion the form of said bond and its execution and authentication are regular and proper.

Very truly yours,

Jackson & Kelly PLLC

141654

JACKSON & KELLY PLLC
ATTORNEYS AT LAW
1600 LAIDLEY TOWER
P. O. BOX 553
CHARLESTON, WEST VIRGINIA 25322

TELEPHONE 304-340-1000 TELECOPIER 304-340-1130

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300 FOXCROFT AVENUE
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256 RUSSELL AVENUE
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6000 HAMPTON CENTER
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TELEPHONE 304-599-3000

412 MARKET STREET
PARKERSBURG, WEST VIRGINIA 26101
TELEPHONE 304-424-3490

1000 TECHNOLOGY DRIVE
FAIRMONT, WEST VIRGINIA 26554
TELEPHONE 304-368-2000

1144 MARKET STREET
WHEELING, WEST VIRGINIA 26003
TELEPHONE 304-233-4000

1660 LINCOLN STREET
DENVER, COLORADO 80264
TELEPHONE 303-390-0003

175 EAST MAIN STREET
LEXINGTON, KENTUCKY 40595
TELEPHONE 606-255-9500

2401 PENNSYLVANIA AVENUE N.W.
WASHINGTON, D.C. 20037
TELEPHONE 202-973-0200

MEMBER OF LEX MUNDI, THE WORLD'S LEADING ASSOCIATION OF INDEPENDENT LAW FIRMS.

June 22, 1999

West Virginia Water Development Authority
180 Association Drive
Charleston, WV 25311-1571

5.1

Re: The City of Charleston, West Virginia
$132,072 Sewerage System Revenue Bonds, 1999 Series B

Ladies and Gentlemen:

We are bond counsel to The City of Charleston, West Virginia, (the "Issuer"), a municipal corporation.

We have examined a certified copy of proceedings and other papers relating to (i) the authorization of a loan agreement dated March 20, 1987, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and between the Mt. Tyler Public Service District (the "District"), and the West Virginia Water Development Authority (the "Authority") and (ii) the issue of a series of revenue bonds of the Issuer, dated June 22, 1999 (the "Local Bonds"), to evidence the assumption of the District's Sewerage System Revenue Bonds, Series 1987 B (the "District Bond"). The Local Bonds are in the principal amount of $132,072, issued in the form of one bond registered as to principal and interest to the Authority. The Local Bonds shall continue to bear no interest. Principal shall continue to be payable annually on October 1 of each year, as set forth in "Schedule X," attached to the Loan Agreement and incorporated in and made a part of the Local Bonds.

The Local Bonds are issued for the purpose of evidencing the assumption of the District Bond.

We have also examined the applicable provisions of Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (the "Local Statute"), and the Sewerage System Bond Ordinance duly enacted by the Issuer on February 16, 1999, (the "Local Act"), pursuant to and under which Local Statute and Local Act the Local Bonds are authorized and issued, and the existing Loan Agreement has been assumed by the Issuer. The Local Bonds

are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

Based upon the foregoing and upon our examination of such other documents as we have deemed necessary, we are of the opinion as follows:

1. The Loan Agreement has been duly assumed by the Issuer and is a valid and binding special obligation of the Issuer enforceable in accordance with the terms thereof.

2. The Loan Agreement inures to the benefit of the Authority and cannot be amended so as to affect adversely the rights of the Authority or diminish the obligations of the Issuer without the consent of the Authority.

3. The Issuer is a duly organized and presently existing municipal corporation of the State of West Virginia, with full power and authority to acquire by merger the District's assets and assume the District Bond and to operate and maintain the System, which now includes the District's System, referred to in the Loan Agreement and to issue the Local Bonds, all under the Local Statute and other applicable provisions of law.

4. The Issuer has legally and effectively enacted the Local Act and all other necessary resolutions in connection with the assumption of the District Bond by the Local Bonds. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The Local Bonds are valid and legally enforceable special obligations of the Issuer, payable from the net revenues of the System referred to in the Local Act and secured by a first lien on and pledge of the net revenues of said System, on a parity, with respect to liens, pledge and source of and security for payment with the Issuer's outstanding WDA Subordinate Bonds and junior and subordinate to the Sewerage System Revenue Bonds, 1999 Series A and the Prior Bonds, as both are defined in the Ordinance, all in accordance with the terms of the Local Bonds and the Local Act, and have been duly issued and delivered to the Authority.

6. The Issuer has reserved the right to issue additional bonds ranking on a parity with the Local Bonds, as provided in the Local Act.

7. The Local Bonds and the interest thereon are and continue to be, under the Act, exempt from all taxation by the State of West Virginia, or any county, municipality, political subdivision, or agency thereof.

It is to be understood that the rights of the holders of the Local Bonds and the enforceability of the Bond and the Local Act may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that such enforcement may also be subject to the exercise of judicial discretion in appropriate cases.

We have examined the executed and authenticated Local Bonds numbered BR-1, and in our opinion the form of said bond and its execution and authentication are regular and proper.

Very truly yours,

Jackson & Kelly PLLC

142092

CITY OF CHARLESTON
P.O. BOX 2749
CHARLESTON, WEST VIRGINIA 25330

G. KEMP MELTON, MAYOR

June 22, 1999

West Virginia Water
Development Authority
180 Association Drive
Charleston, WV 25311-1571

5.2

Jackson & Kelly PLLC
P. O. Box 553
Charleston, WV 25322

Re: The City of Charleston, West Virginia
$686,229 Sewerage System Revenue Bonds, 1999 Series A
$132,072 Sewerage System Revenue Bonds, 1999 Series B
(Mt. Tyler Public Service District)

Ladies and Gentlemen:

I am Assistant City Attorney for The City of Charleston, West Virginia (the "City"). As such Assistant City Attorney, I have examined copies of the approving opinion of Jackson & Kelly, as bond counsel, relating to the above-captioned bonds of the City (the "Bonds"), the Loan Agreement by and among the West Virginia Water Development Authority (the "Authority"), the West Virginia Division of Environmental Protection (the "DEP"), and Mt. Tyler PSD (the "District"), dated March 20, 1987, and a Sewerage System Bond Ordinance duly passed by the Council (the "Council") of the City on February 1, 1999, effective April 19, 1999, (the "Ordinance"), and other documents relating to the Bonds. Terms used in said opinions, the Loan Agreement, and Ordinance and not otherwise defined herein have the same meanings herein.

I am of the opinion that:

1. The City is a duly created and validly existing municipal corporation and the Mayor, the City Clerk and the other members of the Council were duly and properly elected or appointed, as applicable, have taken the requisite oaths, and are thereby authorized to act on behalf of the City in their respective capacities.

2. The assumption of the Loan Agreement has been duly authorized by the City and constitutes a valid and binding agreement of the City in accordance with its terms.

3. The members of the Council were duly and properly elected or appointed and are thereby authorized to act on behalf of the City.

4. The Ordinance has been duly enacted by the Council of the City and is in full force and effect.

5. The execution and delivery of the Bonds and the assumption of the Loan Agreement and the consummation of the transactions contemplated by the Loan Agreement, and the carrying out of the terms thereof, do not and will not in any material respect conflict with or constitute on the part of the City a breach of or default under any agreement or other instrument to which the City is a party or any existing law, regulation, court order or consent decree to which the City is subject.

6. The City has received all permits, licenses, approvals and authorizations necessary for the issuance of the Bonds, operation of the System, including, without limitation, the receipt of all requisite orders and approvals from the Public Service Commission of West Virginia (the "Public Service Commission"), and has taken any other action required. The Order of the Public Service Commission of West Virginia was entered on October 15, 1998 (Case No. 98-0215-PSD-S-PC), which approved the assumption of the District's assets by merger and the assumption of the District Bonds.

7. To the best of my knowledge, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public council or body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by or the validity of the Bonds or the collection or pledge of the Revenues therefor.

All counsel to this transaction may rely upon this opinion as if specifically addressed to them.

Very truly yours,

Assistant City Attorney

CHASFS3:141656

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June 22, 1999

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The City of Charleston
P. O. Box 2749
Charleston, WV 25330

Samme L. Gee, Esquire
Jackson & Kelly PLLC
P. O. Box 553
Charleston, WV 25322

Mr. Daniel B. Yonkosky, Director
West Virginia Water Development Authority
180 Association Drive
Charleston, WV 25311-1571

Re: The City of Charleston, West Virginia
$686,299 Sewerage System Revenue Bonds, 1999 Series A
$132,072 Sewerage System Revenue Bonds, 1999 Series B
(Mt. Tyler Public Service District)

Ladies and Gentlemen:

We have served as counsel to The City of Charleston (the "Issuer") in regard to certain matters concerning the Public Service Commission of West Virginia. In our role as special counsel, we were active in obtaining an Order dated October 15, 1998. Pursuant to the above, I am of the opinion as follows:

The Issuer has received a Commission Order Approving the Merger from the Public Service Commission of West Virginia and said Order is in full force and effect.

This opinion may be relied upon as if addressed to all counsel.

Very truly yours,

T. D. Kauffelt

T. D. Kauffelt
Counsel for Public Service Commission matters

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