City of Charleston
Home Rule Plan Amendment

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**AUDIO RECORDING OF PUBLIC HEARING HELD JANUARY 20, 2015 IN BACK POCKET**
Proposed Amendment

Introduction

In 2008, pursuant to the authority provided by W. Va. State Code Section 8-1-5a, the Municipal Home Rule Board (the “Board”) selected the City of Charleston (“Charleston”), along with three other municipalities, to participate in the West Virginia Home Rule Pilot Program and approved the original Home Rule Plan of Charleston. As evidenced by the Performance Evaluation and Research Division’s special report on the Municipal Home Rule Pilot Program, Charleston has successfully and responsibly exercised its powers under Home Rule and has, without challenge from either its City Council or citizenry, judiciously implemented its plan.

Under W. Va. State Code Section 8-1-5a(f)(5), the Board has the power to authorize amendments to approved plans and has done so at the request of other participating municipalities. For the reasons set forth herein, Charleston is now requesting that the Board authorize the following amendment to Charleston’s approved plan in the category of Administration.

Specific state laws, policies, rules or regulations

W. Va. State Code Section 16-18-4(e), attached as Exhibit A hereto.

Problem: The City of Charleston’s urban renewal zones have grown in area and diversity to a point where additional board members and active board participation by City Council members would be advantageous.

On November 15, 1951, the City Council of the City of Charleston passed a resolution creating the Slum Clearance and Redevelopment Authority in the City under the authority of W.Va. State Code Section 16-18-1 et seq. In 1958, the City Council of the City of Charleston renamed that entity as the Charleston Urban Renewal Authority (“CURA”). The City’s CURA Board of Commissioners (the “Board”) consists of seven members, the maximum number allowed under W. Va. State Code Section 16-18-4(e). In some West Virginia cities, a seat on the renewal authority’s governing board has been dedicated to be filled by a member of the city council. Historically, members of Charleston’s Board were members of the community and business leaders, with no seats on the Board dedicated to be filled by a member of City Council.

In 1958, the first project undertaken by CURA, the Summers Street/Boulevard Project, covered fewer than three blocks of downtown Charleston. In the mid sixties, an additional 10 block project was initiated. In the 1990’s, redevelopment corridors were established along Washington Street on both the East End and the West Side of Charleston. In 2005, the redevelopment corridor in the East End was expanded and today encompasses roughly 175 acres in the East End. In 2008, the CURA zone along Washington Street on the West Side was expanded, taking an additional 228 acres into the CURA zone.

Today, CURA zones cover approximately 676 acres of the City of Charleston (roughly three percent of the total area of the City), and encompass diverse projects in three distinct areas of the City. A map of current CURA zones is attached as Exhibit B hereto.

Throughout this expansion of the CURA zones, both in size and into different neighborhoods with different development goals and needs, the Board has remained at seven members, all being
community members and business owners appointed in accordance with W. Va. State Code Section 16-18-4. Although CURA has historically worked with the administration of the City and the City Council on development projects, the recent variety of proposed essential economic and revitalization projects in the City requires further active participation, cooperation, and continuity between the City and CURA. Although Council members could be appointed to the Board to fill future vacancies, those appointments would reduce the participation of the community and business leaders whose independent experience and perspective have been beneficial to the City.

Solution: The City of Charleston desires to increase the number of commissioners on The Charleston Urban Renewal Authority Board to nine members to include two permanent seats to be filled by Charleston City Council members.

The limitation on the number of renewal authority board members as set forth in West Virginia State Code § 16-18-4(e) is arbitrary and does not take into account the size of a city, the area of the renewal zone(s), the scope, size, complexity or type of proposed/ongoing projects in a city, or the need for active continuity between a city’s council and the governing body of its renewal authority without limiting the benefits of non-governmental experience and perspective. Cities should have the flexibility to have more than seven board members if desired and beneficial. Charleston is West Virginia’s only Class I city and has urban renewal zones equal to the size of some of the state’s smaller municipalities. However Charleston is limited to the same number of board members as the smallest municipality in the state.

The City of Charleston is proposing that it be given the authority to add two members to its Urban Renewal Authority Board with both seats filled by Mayoral appointment of elected City Council members, without reducing the members of the community and business leaders who have traditionally provided helpful and independent experience, insight and guidance to the City. This is the most effective resolution for Charleston to build on prior success and effectively, efficiently and successfully coordinate and complete the several economic and revitalization projects currently being undertaken in Charleston.

These projects include, but are not limited to: the renovation and revitalization of the Charleston Civic Center, a $60 million improvement project that will draw more people to Charleston and the state through the enhanced ability to attract, service, and support new convention and tourism business; the EDGE Project, a mixed use development focused on attracting young professionals and providing them with modern affordable downtown housing; and Project West Invest, creating a safer atmosphere for residents in one of Charleston’s most challenging neighborhoods by enabling police officers to buy and improve homes in that neighborhood with a commitment to reside there.

Specific Power Requested under Proposed Amendment to Charleston’s Home Rule Plan

Charleston respectfully requests that it be granted the power under W. Va. State Code Section 8-1-5a to amend its approved Home Rule Plan to permit Charleston to increase the membership of its Urban Renewal Authority Board from seven to nine by adding two permanent seats to be filled by appointment of Charleston City Council members and to not be restricted by the membership limitations of W. Va. State Code Section 16-18-4(e).

(e) When the governing body of a municipality adopts a resolution as aforesaid, it shall promptly notify the mayor of such adoption. If the resolution adopted is one approving the exercise of powers hereunder by an urban renewal and redevelopment authority, the mayor, by and with the advice and consent of the governing body shall appoint a board of commissioners of the authority created for such municipality which shall consist of no less than five commissioners nor more than seven, and when the governing body of a county adopts such a resolution, said body shall appoint a board of commissioners of the authority created for such county which shall consist of no less than five commissioners nor more than seven. The commissioners who are first appointed pursuant to this article shall be designated to serve for terms of one, two, three and four years, and three of said commissioners for five years, respectively, from the date of their appointment, but thereafter commissioners shall be appointed as aforesaid for a term of office of five years except that all vacancies shall be filled for the unexpired term.
I, the undersigned City Clerk of Charleston, do hereby certify that the foregoing is a true, correct and complete copy of Bill No. 7643, enacted by the City Council of the City of Charleston on February 2, 2015.

Witness the signature of the undersigned City Clerk of the City of Charleston, West Virginia, and the seal of the City, this 4th day of February, 2015.

[Signature]
James M. Reishman
City Clerk

Seal
Bill No. 7643:

Introduced in Council:

December 1, 2014

Introduced by:

Jack Harrison, Mary Jean Davis

Adopted by Council:

Referred to:

Home Rule Committee

Bill No. 7643:  "A BILL authorizing the City of Charleston to submit to the Municipal Home Rule Board a proposed amendment, attached hereto as Exhibit A, to the City of Charleston Municipal Home Rule Plan consistent with W. Va. State Code Section 8-1-5a, requesting approval to increase the number of commissioners serving on the Charleston Urban Renewal Authority Board of Commissioners from seven to nine by adding two permanent seats to be filled by Charleston City Council members;

WHEREAS, W. Va. State Code Section 16-18-4(e) sets forth the number of commissioners that may serve on a municipality’s urban renewal authority board at no fewer than five and no more than seven; a number arbitrarily assigned to all municipalities within the state regardless of size, scope of projects, or area of a municipality’s urban renewal zone(s); and

WHEREAS, historically the City of Charleston has maintained a Charleston Urban Renewal Authority ("CURA") Board of Commissioners with seven members, the maximum allowed by state law, even though the renewal zones have more than tripled in size since the City’s creation of its urban renewal authority; and

WHEREAS, the expansion of the CURA zones within the city combined with the recent variety and complexity of proposed essential economic and revitalization projects in the City require further active participation, cooperation, and continuity between the City and CURA; and

WHEREAS, although city council members could be appointed to the CURA Board of Commissioners to fill future vacancies, those appointments would reduce the participation of the community and business leaders whose independent experience and perspective have been beneficial to the City; and

WHEREAS, adding two additional permanent seats to the CURA Board to be filled by city council members without reducing the members of the community and business leaders who have traditionally provided helpful and independent insight and guidance to the City is the most effective resolution to successfully coordinate and complete the economic and revitalization projects currently being undertaken in Charleston;
Now, therefore, be it Ordained by the Council of the City of Charleston, West Virginia:

That, on behalf of the City of Charleston, the Mayor and the City Administration are hereby authorized and requested to submit to the Municipal Home Rule Board a proposed amendment, attached hereto as Exhibit A, to the City of Charleston Municipal Home Rule Plan consistent with W. Va. State Code Section 8-1-5a, requesting approval to increase the number of commissioners serving on the Charleston Urban Renewal Authority Board of Commissioners from seven to nine by adding two permanent seats to be filled by Charleston City Council members.
Proposed Amendment

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EXHIBIT A

W. Va. Code § 16-18-4

Text Current Through The 2014 Regular, First and Second Extraordinary Sessions


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LEGAL ADVERTISING INVOICE

INVOICE DATE 12/24/14
ACCOUNT NBR 057478002
SALES REP. ID 0018
INVOICE NBR 934284001

CITY CLERK'S OFFICE
ERIN MCCORMICK
PO BOX 2749
CHARLESTON  WV 25330 USA

Please return this portion with your payment. Make checks payable to: Charleston Newspapers

CHARLESTON NEWSPAPERS
P.O. Box 2993
Charleston, West Virginia 25330
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Classified 348-4848
1-800-WVA-NEWS
FEIN 55-0676079

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State of West Virginia,

I, [Signature]

AFFIDAVIT OF PUBLICATION

[Stamp and Seal]

Notary Public of Kanawha County, West Virginia

Mary C. Smith

My commission expires June 16, 2019

for the respective newspaper(s) and during the dates listed below:
JOURNAL of the PROCEEDINGS
of the
CITY COUNCIL

CITY OF CHARLESTON, WEST VIRGINIA

Regular Meeting — Tuesday, January 20, 2014
at 7:00 P.M.
Council Chamber — City Hall — Charleston, West Virginia

OFFICIAL RECORD

Danny Jones
Mayor

James M. Reishman
City Clerk
CALL TO ORDER

The Council met in the Chambers of the City Building at 7:00 P.M., for the second meeting in the month of January on the 20th day, in the year 2015, and was called to order by the Honorable Mayor, Danny Jones. The invocation was delivered by Councilman Richardson and the Pledge of Allegiance was led by Libby Ballard. The Clerk, James M. Reishman, called the roll of members and it was found that there were present at the time:

BURKA  
DAVIS

BURTON  
DENEAULT

CLOWSER  
DODRILL

HAAS  
HARRISON

KIRK  
KNAUFF

MILLER  
MINARDI

PERSINGER  
REISHMAN

SMITH  
SALISBURY

WARE  
WHITE

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

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

1. A claim of Cynthia Rucker, 618 Hunt Ave., Charleston, WV; alleges damage to personal property. Refer to City Solicitor.

2. A claim of Catherine Layne, 214 Elm Street, Charleston, WV; alleges damage to personal property. Refer to City Solicitor.

PUBLIC HEARING

The Mayor called the public hearing on Bill No. 7643 open and asked for any public speakers to come forward and address council. Russ Young spoke in favor of the bill and stated that having additional council members on the CURA board will ensure that the City is in touch with what business is conducted within the board. With no one else from the public to speak regarding the bill, The Mayor declared the public hearing on Bill No. 7643, closed.
OFFICE OF THE CITY ATTORNEY

Paul D. Ellis
City Attorney of Charleston

Date: February 4, 2015

Applicant: CITY OF CHARLESTON, WEST VIRGINIA

Re: City of Charleston Municipal Home Rule Plan Amendment

Ladies and Gentlemen:

As City Attorney the City of Charleston, I have reviewed West Virginia Code §§1-1-5a, Municipal Home Rule Pilot Program Application Guidelines (rev. November 2, 2007), City of Charleston Municipal Home Rule Plan Proposed Amendment, and other documents related thereto (collectively, the “Amendment”) as I have deemed necessary for the purposes of this opinion.

Based upon the examination of such documents and my understanding of the intent of the proposed provisions contained in the Amendment, it is my opinion that the Amendment complies with the required statutory requirements in that the Amendment does not contain any proposed changes to ordinances, acts, resolutions, rules or regulations that are contrary to the:

   i. US or WV Constitutions,
   ii. Federal Law,
   iii. Chapter 60 – A Uniform Controlled Substances Act,
   iv. Chapter 61 – Crimes and Their Punishment,
   v. Chapter 62 – Criminal Procedure – of this code;
   vi. Prohibited acts set forth in §8-1-5a(j) and (k)

It is my further opinion that if and when the proposed Amendment is approved by the Municipal Home Rule Board, the City does not intend, nor is it required, to enact an ordinance, act, resolution, rule or regulation, or to take any further action to memorialize or otherwise implement the power authorized by the Amendment. Upon approval, the City will provide written notice of the approved Amendment to the Charleston Urban Renewal Authority and will appoint up to two additional members to the CURA Board as authorized by and consistent with the approved Amendment and the appointment process under W.Va. Code Section 16-18-4.

The Municipal Home Rule Board may rely upon this opinion.

Sincerely,

Paul D. Ellis
City Attorney of Charleston

PDE/sde