

**JOURNAL  
OF THE  
COUNCIL  
CITY OF CHARLESTON  
WEST VIRGINIA**

**November 1, 2010**

**THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE FIRST MEETING IN THE MONTH OF NOVEMBER ON THE 1<sup>ST</sup> DAY, IN THE YEAR 2010, AND WAS CALLED TO ORDER BY THE HONORABLE MAYOR, DANNY JONES. THE INVOCATION WAS DELIVERED BY HARRISON AND THE PLEDGE OF ALLEGIANCE WAS LED BY EALY.**

**BURKA  
DEITZLER  
HALL  
HARRISON  
KIRK  
MILLER  
REISHMAN  
SHEETS  
WARE  
MAYOR JONES**

**CLOWSER  
DENEALT  
HANNA  
HIGGINS  
KNAUFF  
PAYNE  
RUSSELL  
SMITH  
WEINTRAUB**

**DAVIS  
EALY  
HARRIS  
JONES  
LANE  
REED  
SALISBURY  
TALKINGTON**

**WITH TWENTY-SEVEN 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.**

**PUBLIC SPEAKERS**

None

**CLAIMS**

1. A claim of Jerome Stewart, 701 Kettner Blvd., #90, San Diego, California; alleges damage to property.  
Refer to City Solicitor

**COMMUNICATIONS**

The Mayor read the following, the resignation of Judge Shawn Taylor effective Friday, October 29, 2010 at 12 noon, created a vacancy in the position of Municipal Judge for the City of Charleston. Our current Clerk, Anne Charnock, has been presiding as acting Municipal Judge since the vacancy.

To fill the vacancy of the unexpired term of Municipal Court Judge, I am recommending that Anne Charnock be appointed to the position of Municipal Judge for the City of Charleston.

Councilman Harrison made the motion, and Councilman Reishman 2<sup>nd</sup> the motion. for Motion.

There being no discussion the Mayor called the question on the approval of the nomination, with a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Anne Charnock the New Municipal Court Judge. Ms. Charnock came forward to take the Oath of Office given by James M. Reishman City Clerk.

**MISCELLANEOUS RESOLUTIONS**

Resolution No.866-10

Introduced in Council

Passed by Council

November 5, 2010

\_\_\_\_\_

Introduced by

Referred to:

Bobby Reishman

Resolution No. 866-10, “ Appointing a Select Committee of Council to perform certain functions for the Council in the City of Charleston Primary Election to be held on March 8, 2011.”

WHEREAS, the code of West Virginia, 1931 as amended, requires the Council of a municipality to perform certain functions in the conduct of an election; and

WHEREAS, the size of Council makes it impractical to perform these functions as a body, and the West Virginia Secretary of State has directed that such functions be done by committee; NOW THEREFORE,

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

That Robert Reishman, Chairman, Teresa Reed and Jerry Ware, members of the Council of the City of Charleston, West Virginia, are hereby appointed as the Select Committee to perform all required functions in connection with the City of Charleston Primary Election to be held on March 8, 2011, including but not limited to a canvass of votes cast.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 866-10, adopted.

Resolution No. 867 -10

Introduced in Council

November 1, 2010

Kasey Russell, Teresa Reed, Mary Jean Davis, Cheryle Hall, Susie Salisbury

WHEREAS: The People's Garden is a Charleston-based project that would promote healthier eating, improve knowledge of nutrition and gardening among young people and lead to the availability of fresh produce for several local entities; and

WHEREAS: The Center for Economic Options, a nonprofit based in Charleston and focused on sustainable economic development opportunities, is partnering on a regional proposal to USDA Office of Food and Nutrition that could make The People's Garden a reality in the city of Charleston; and

WHEREAS: The project is designed to include J.E. Robbins Elementary School and will provide a garden on school grounds where students will benefit from the hands-on gardening experience and gain a greater understanding of and agriculture; and

WHEARAS: The project will provide appropriate curriculum and opportunities to both teach about good nutrition and supply healthy, nutritious fresh food to the school's cafeteria; and

WHEREAS: As The People's Garden is developed to full production, produce grown there may also provide a new source of fresh, home-grown foods for local food banks, senior centers and families in need;

WHEREAS: The project model, if funded, can be replicated in other city schools to bring the advantage of school gardens to additional students and communities;

Therefore, be it resolved by The Council of The City of Charleston, West Virginia:

That the Council commends and congratulates the partnering entities involved in the development of The People's Garden and endorses their application for a grant that will produce the desired results for the project.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 867-10, adopted.

### **PLANNING**

Councilperson Mary Jean Davis, Chair of the Council Committee on Planning submitted the following reports.

1. Your Committee on Planning has had under consideration Bill No. 7436, and reports the same to Council with the recommendation that the Bill do pass

Bill No. 7436 - amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 1<sup>st</sup> day of January, 2006, as amended, and the map made a part thereof, by rezoning the whole of those certain parcels of land situate KC Map 11, Parcels 122 and 123 in Charleston, WV from r-6 Medium Density Residential Zoning to C-10 General Commercial Zoning.

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 1<sup>st</sup> day of January, 2006, as amended, is hereby amended by rezoning from an R-6 district to a C-10 district the whole of the following described parcel of land:

All of parcels 122 and 123 as shown upon Charleston Tax Map 11. Said properties being commonly known as Lots 21 and 22 in Block One Hundred Forty-Five of Kanawha City, 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, absent-1, as follows:

YEAS: Burka, Clowser, Davis, Deitzler, Deneault, Ealy, Hall, Hanna, Harrison, Harris, Higgins, Jones, Kirk, Knauff, Lane, Miller, Payne, Reed, Reishman, Russell, Salisbury Sheets, Smith, Talkington, Ware, Weintraub, Mayor Jones.

ABSENT: White

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7436, passed

2. Your Committee on Planning has had under consideration Bill No. 7437, and reports the same to Council with the recommendation that the Bill do pass

Bill No. 7437 amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 1<sup>st</sup> day of January 2006, as amended, and the map made a part thereof, by rezoning from an I-4 district to a C-10 district, those certain parcels of land situate at 1009 Bullitt Street, Charleston, West Virginia.

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

The Zoning Ordinance of the City of Charleston, West Virginia, enacted the 1<sup>st</sup> day of January 2006, as amended, is hereby amended by rezoning from an I-4 district to a C-10 district the whole of the following described parcels of land:

Parcel No. 4 as shown on Charleston East Tax Map No. 6, subject parcel commonly known as Lot 8, 1009 Bullitt Street, Charleston, West Virginia, together with one-half of the alley formerly existing between said Parcel No. 4 and Parcel No. 3 (said Parcel No. 3 commonly known as Lot 7) on said Tax Map, extending from Bullitt Street to the Elk River, and all of the property abutting said Parcel No. 4 and extending to the Elk River, all or part of which abutting property formerly being part of that certain street formerly known as Front Street, and all of which alley and abutting property being the same property conveyed to the predecessor in title to the owner of said Parcel No. 4 by Deed dated January 5, 1932, of record in the office of the Clerk of the County Commission of Kanawha County, West Virginia, in Deed Book 376, at page 25. Said tax map is of record in the Planning Office.

The Zoning Map, attached to and made a part of said Zoning Ordinance, is hereby amended in accordance with Article 27 of this ordinance.

All prior ordinances, or parts of ordinances, inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

PETITION TO REZONE FROM I-4 TO C-10  
THE LAND AT 1009 BULLITT STREET  
CHARLESTON, WEST VIRGINIA

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

I

Petitioner is the contract purchaser of the property situate at 1009 Bullitt Street, Charleston, Kanawha County, West Virginia.

II

Petitioner wishes to have the subject property rezoned from an I-4 use to a C-10 use, said property described as follows: All of Parcel No. 4 as shown upon Charleston East Tax Map No. 6, said property being commonly known as Lot 8, 1009 Bullitt Street, Charleston, West Virginia, together with one-half of the alley formerly existing between said Parcel No. 4 and Parcel No. 3 (said Parcel No. 3 commonly known as Lot 7) on said Tax Map, extending from Bullitt Street to the Elk River, and all of the property abutting said Parcel No. 4 and extending to the Elk River, all or part of which abutting property formerly being part of that certain street formerly known as Front Street, and all of which alley and abutting property being the same property conveyed to the predecessor in title to the owner of said Parcel No. 4 by Deed dated January 5, 1932, of record in the office of the Clerk of the County Commission of Kanawha County, West Virginia, in Deed Book 376, at page 25. The above-mentioned tax map is as of record in the Charleston Planning Department.

III

Petitioner proposes to develop a one-story facility on said property for use as offices in connection with Petitioner's business, consisting of approximately 12,000 sq. ft. At least 100 on-site parking spaces are allocated to the office facility.

Although this area is zoned I-4 (heavy industrial), it is a transitional neighborhood which has been evolving over the last 20+ years to include offices (BB&T Operations), wholesale suppliers, inside mini-storage, as well as restaurants, retail, and a supermarket. The redevelopment of the subject property, which was formerly used as storage and office space for a concrete manufacturing and aggregate business, would further improve the surrounding neighborhood and would be consistent with recent development in the neighborhood. The rezoning does not comply with the Comprehensive Plan, but the removal of the existing dilapidated structures on the lot and the construction of a modern one-story office facility will enhance the appearance and vitality of this east end locality, and improve the overall safety and appearance of the neighborhood without adding any burden to the existing infrastructure.

IV

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

[Signature Page to Follow]

Respectfully submitted this \_\_\_\_ day of September, 2010

WEST VIRGINIA WATER DEVELOPMENT  
AUTHORITY

By: \_\_\_\_\_  
Title: Executive Director

180 Association Drive  
Charleston, West Virginia 25311-1571

Phone: (304) 558-3612

The question being on the passage of the Bill a roll call was taken and there were; yeas – 27, absent-1, as follows:

YEAS: Burka, Clowser, Davis, Deitzler, Deneault, Ealy, Hall, Hanna, Harrison, Harris, Higgins, Jones, Kirk, Knauff, Lane, Miller, Payne, Reed, Reishman, Russell, Salisbury Sheets, Smith, Talkington, Ware, Weintraub, Mayor Jones.

ABSENT: White

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7437, passed

## **FINANCE**

Councilman Robert Reishman, Chairman of the Council Committee on Finance, submitted the following reports.

1. Your Committee on Finance has had under consideration Resolution No 859-10, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 859-10: “Authorizing the Mayor to sign and submit Community Participation Program grant contract and all related documents on behalf of the Charleston Black Ministerial Alliance, Inc., Project No. 09LEDA0247, in the amount of \$2,000.”

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

That the Mayor is hereby authorized and directed to sign and submit Community Participation Program grant contract and all related documents on behalf of the Charleston Black Ministerial Alliance, Inc., Project No. 09LEDA0247, in the amount of \$2,000.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 859-10, adopted.

2. Your Committee on Finance has had under consideration Resolution No 860-10, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 860-10: “Authorizing the Mayor to sign Change Order No. 1 with Garcie R. Marker & Sons, in the amount of \$22,500, for the Concrete Curb and Sidewalk Project, providing for installation of approximately 18 accessible curb-cuts on the East End at the intersections of Quarrier Street with Morris Street, Bradford Street, Beauregard Street and Ruffner Avenue; and the intersections of Bradford Street with

Virginia Street and Lee Street. Change Order No. 1 increases the contract price from \$185,692 to \$208,192.”

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 Garcia

R. Marker & Sons, in the amount of \$22,500, for the Concrete Curb and Sidewalk Project, providing for installation of approximately 18 accessible curb-cuts on the East End at the intersections of Quarrier Street with Morris Street, Bradford Street, Beauregard Street and Ruffner Avenue; and the intersections of Bradford Street with Virginia Street and Lee Street. Change Order No. 1 increases the contract price from \$185,692 to \$208,192.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas – 27, absent-1, as follows:

YEAS: Burka, Clowser, Davis, Deitzler, Deneault, Ealy, Hall, Hanna, Harrison, Harris, Higgins, Jones, Kirk, Knauff, Lane, Miller, Payne, Reed, Reishman, Russell, Salisbury Sheets, Smith, Talkington, Ware, Weintraub, Mayor Jones.

ABSENT: White

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution 860-10, adopted.

3. Your Committee on Finance has had under consideration Resolution No 861-10, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 861-10: “Authorizing the Finance Director to amend the 2010-2011 General Fund Budget as indicated on the attached list of accounts.”

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

That the Finance Director is hereby authorized and directed to amend the 2010-2011 General Fund Budget as indicated on the attached list of accounts.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas – 27, absent-1, as follows:

YEAS: Burka, Clowser, Davis, Deitzler, Deneault, Ealy, Hall, Hanna, Harrison, Harris, Higgins, Jones, Kirk, Knauff, Lane, Miller, Payne, Reed, Reishman, Russell, Salisbury Sheets, Smith, Talkington, Ware, Weintraub, Mayor Jones.

ABSENT: White

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution 861-10, adopted.

4. Your Committee on Finance has had under consideration Resolution No 862-10, and reports the same to Council with the recommendation that the committee report be

adopted.

Resolution No. 862-10: “Authorizing the Mayor to sign and submit Community Participation Program grant contracts and all related documents for eight (8) projects.”

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

That the Mayor is hereby authorized and directed to sign and submit Community Participation Program grant contracts and all related documents on behalf of the following agencies:

Hope Community Development Corp.	10LEDA0157	\$20,000
Kanawha Valley Fellowship Home	10LEDA0154	\$26,000
Good News Mountaineer Garage	10LEDA0047	\$10,000
Spring Street Pantry	10LEDA0041	\$ 6,000
Salvation Army Boys & Girls Club	10LEDA0048	\$ 5,000
Kanawha Valley Historical Society	10LEDA0152	\$ 6,000
Kanawha Valley Historical Society	10LEDA0155	\$ 5,000
Hope Community Development Corp.	05LEDA0157	\$10,000

The question being on the adoption of the Resolution a roll call was taken and there were; yeas – 27, absent-1, as follows:

YEAS: Burka, Clowser, Davis, Deitzler, Deneault, Ealy, Hall, Hanna, Harrison, Harris, Higgins, Jones, Kirk, Knauff, Lane, Miller, Payne, Reed, Reishman, Russell, Salisbury Sheets, Smith, Talkington, Ware, Weintraub, Mayor Jones.

ABSENT: White

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution 862-10, adopted.

5. Your Committee on Finance has had under consideration Resolution No 863-10, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 863-10: “Authorizing the Finance Director to allocate funds in the total amount of \$116,700 for acquisition of two HOME projects.”

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 total amount of \$116,700 for acquisition of the following two HOME projects:

Oakwood Road Area	\$60,250
Weberwood Area	\$56,450

The question being on the adoption of the Resolution a roll call was taken and there were; yeas – 27, absent-1, as follows:

YEAS: Burka, Clowser, Davis, Deitzler, Deneault, Ealy, Hall, Hanna, Harrison, Harris, Higgins, Jones, Kirk, Knauff, Lane, Miller, Payne, Reed, Reishman, Russell, Salisbury Sheets, Smith, Talkington, Ware, Weintraub, Mayor Jones.

ABSENT: White

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution 863-10, adopted.

6. Your Committee on Finance has had under consideration Resolution No 864-10, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 864-10: "Authorizing the Mayor to enter into a contract with the studio i company, in the amount of \$25,000, for Lighting Design Services related to the Haddad Riverfront Park Improvement 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 the studio i company, in the amount of \$25,000, for Lighting Design Services related to the Haddad Riverfront Park Improvement Project.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 864-10, adopted.

7. Your Committee on Finance has had under consideration Resolution No 865-10, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 865-10: "Authorizing the Mayor or his designee to submit a Grant Application to the West Virginia State Historic Preservation Office for training and educational workshops relating to historic preservation projects to be offered by the Charleston Historic Landmarks Commission, in partnership with Preservation Alliance of West Virginia."

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

That the Mayor or his designee is hereby authorized and directed to submit a Grant Application to the West Virginia State Historic Preservation Office for training and educational workshops relating to historic preservation projects to be offered by the Charleston Historic Landmarks Commission, in partnership with Preservation Alliance of West Virginia.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 865-10, adopted.

8. Your Committee on Finance has had under consideration a bid submitted by Wesco Distribution, Inc., in the amount of \$19,384.00, for purchase of various lighting equipment components needed for LED light fixtures previously purchased for Municipal Parking Buildings. To be charged to Account No. 406-571-00-000-4-458, Parking—Capital Outlay, Equipment, and reports the same to Council with the recommendation that the committee report be adopted.

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

9. Your Committee on Finance has had under consideration a proposal submitted by Town Police Supply, in the amount of \$10,674.35, for purchase of thirteen (13) Tasers to be used by the Charleston Police Department. To be charged to Account No. 091-000-11-000-3-341, Police—2010 BJAG Grant, and reports the same to Council with the recommendation that the committee report be adopted.

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

### **REPORTS OF OFFICERS**

1. Report of the City of Charleston Financial Statements for the Fiscal year ended June 30, 2010.  
Received and Filed.

2. Report of the City of Charleston Financial Statements for the One-Month period ended July 31, 2010.  
Received and Filed.

3. Report of the City of Charleston Financial Statements for the Two-Month period ended August 31, 2010.  
Received and Filed.

4. Report of the City of Charleston Financial Statements for the Three-Month period ended September 30, 2010.  
Received and Filed.

### **NEW BILLS**

Introduced by Council member Mary Jean Davis on November 1, 2010:  
Bill No. 7439 a Bill amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the enacted the 1<sup>st</sup> day of January, 2006, as amended and the map made a part thereof, by rezoning the whole of that certain parcel of land identified as

North Charleston Tax Map 88, Parcels 223, 244, 225, and 226, situate along 28<sup>th</sup> St. W. Charleston, West Virginia from a R-4 Single Family Residential District to a I-2 Light Industrial District.

Refer Municipal Planning Commission.

Introduced by Council Members Bobby Reishman, Jack Harrison and Harry Deitzler on November 1, 2010:

Bill No. 7440: "A BILL to amend Chapter 86, Article II, Division 6, Section 86-164 of the Municipal Code of the City of Charleston allowing employees to carry forward a maximum of ten (10) days of accumulated vacation in lieu of five (5) days of accumulated vacation and thereby also increasing the maximum number of accumulated annual vacation days to thirty (30); said Ordinance to take effect immediately upon passage, with the increased maximums applicable to vacation accumulated in the year 2010 and subsequent years thereafter.

Refer to Ordinance and Rules and Finance Committee.

Introduced by Council Members Mary Jean Davis and Marc Weintraub on November 1, 2010:

Bill No. 7442: "A BILL to amend Chapter 38, Article II, Division 3, Section 38-126 of the Municipal Code of the City of Charleston restricting the substitution of community service for fines or incarceration imposed due to conviction of a violation of any of the provisions of Chapter 14 of the Municipal Code of the City of Charleston.

Refer to Ordinance and Rules.

## ROLL CALL

YEAS: Burka, Clowser, Davis, Deitzler, Deneault, Ealy, Hall, Hanna, Harrison, Harris, Higgins, Jones, Kirk, Knauff, Lane, Miller, Payne, Reed, Reishman, Russell, Salisbury, Sheets, Smith, Talkington, Ware, Weintraub, Mayor Jones.

ABSENT: White

At 7:30 p.m., by a motion from Councilmember Harrison, Council adjourned until Monday, November 15, 2010, at 7:00 p.m.

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Danny Jones, Honorable Mayor

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James M. Reishman, City Clerk