

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

November 15, 2010

THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE SECOND MEETING IN THE MONTH OF NOVEMBER ON THE 15th 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 WHITE.

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

**DENEALT
HANNA
HIGGINS
KNAUFF
PAYNE
RUSSELL
SMITH**

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

WITH 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.

PUBLIC SPEAKERS

None

CLAIMS

None

COMMUNICATIONS

The Clerk read the communication;

*Honorable Danny Jones and
City Council Members
Charleston, West Virginia 25301*

Dear Mayor Jones and Councilmember's:

On November 3, 2010, the Municipal Planning Commission held public hearings and its regular monthly meeting. The following cases were heard:

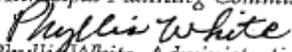
Bill #7439

Petition of the Charleston Sanitary Board to rezone property located along 28th Street, W. at the corner of 2nd Avenue, W. also known as North Charleston Tax Map 88, Parcels 223,224, 225, 226, from R-4 Single Family Dwelling to I-2 Light Industrial use in order to utilize the property as an expansion of the existing utility.

Street Dedication – Extension of Suncrest Road

Application of Stricklen Realty for the acceptance and dedication of the extension of Suncrest Road located from the intersection of Chelsea Drive to the end.

These cases should be referred to the Council Committee on Planning.

*Sincerely,
Municipal Planning Commission

Phyllis White, Administrative Assistant*

The Mayor referred the cases to the Planning Committee.

MISCELLANEOUS RESOLUTIONS

Resolution No. 873-10

Introduced in Council

November 15, 2010

Adopted by Council

November 15, 2010

Introduced by

Referred to:

Bobby Reishman

Resolution 873-10 : A Resolution to set the date of the upcoming City of Charleston Primary Election, Candidate Filing Period, and the last day for a Candidate to Withdraw from the Ballot.

WHEREAS, on March 8, 2011, the City of Charleston desires to hold its Primary Election for the offices of Mayor, Municipal Judge, Treasurer and City Council;

WHEREAS, pursuant to the timing set forth in West Virginia Code Section 3-5-7 and 3-5-23 the filing period for an individual to file his or her certificate of announcement for candidacy for office in the City Of Charleston is to end approximately 11 weeks before any election (the "Candidate Filing Period");

WHEREAS, to comply with the filing period required by West Virginia Code Sections 3-5-7 and 3-5-23 for the upcoming Primary Election, the Candidate Filing Period must begin on November 29, 2010 and continue through the close of regular business on December 10, 2010;

WHEREAS, West Virginia Code Section 3-5-11 establishes the third Tuesday following close of the Candidate Filing Period to be the last date for a candidate to file a statement to withdraw his or her name from the ballot (the "Candidate Withdrawal Deadline");

WHEREAS, to comply with the Candidate Withdrawal Deadline required by West Virginia Code Section 3-5-11, the deadline to withdraw as a candidate for the upcoming Primary Election must be December 28, 2010;

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

That the Council for the City of Charleston hereby approves the dates for the City of Charleston Primary Election, Candidate Filing Period and the Candidate Withdrawal Deadline, as follows:

- Primary Election—to be held on March 8, 2011;
- Candidate Filing Period—November 29, 2010 through December 10, 2010; and
- Candidate Withdrawal Deadline—December 28, 2010.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 873-10, adopted.

ORDINANCE AND RULES

Councilperson Jack Harrison, Chair of the Council Committee on Ordinance and Rules submitted the following reports.

1. Your Committee on Ordinance and Rules has had under consideration Bill No. 7440, and reports the same to Council with the recommendation that the Bill do pass, but first be referred to the Finance Committee.

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.

The Mayor referred the Bill to the Finance Committee.

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 868-10, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 868-10: "Authorizing the Mayor to sign a Subordination Agreement between the City of Charleston and the West Virginia Housing Development Fund to allow a current HOME client to refinance the original mortgage to a lower interest rate."

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

That the Mayor is hereby authorized and directed to sign a Subordination Agreement between the City of Charleston and the West Virginia Housing Development Fund to allow a current HOME client to refinance the original mortgage to a lower interest rate.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas – 26, absent-2, as follows:

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

ABSENT: Clowser, Weintraub,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution 868-10, adopted.

2. Your Committee on Finance has had under consideration Resolution No 869-10, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 869-10: “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 – 26, absent-2, as follows:

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

ABSENT: Clowser, Weintraub,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution 869-10, adopted.

3. Your Committee on Finance has had under consideration Resolution No 870-10, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 870-10: “A Resolution to employ four (4) temporary employees, hired for the period of absentee voting, to be designated as Official Election Representatives to Assist with Absentee Voting (“Absentee Election Representatives”) for the Charleston Primary Election to be held on March 8, 2011, and the General Election to be held on May 17, 2011.”

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

1. That each Absentee Election Representative designated to assist with absentee voting be paid the sum of \$10.00 per hour for his/her services during normal business hours of 8am to 5pm daily from February 16, 2011 to March 5, 2011, for the purpose of early voting for the Charleston Primary Election held on March 8, 2011, as permitted by W.Va. Code §3-3-2(a)(4).

2. That each Absentee Election Representative designated to assist with absentee voting be paid the sum of \$10.00 per hour for his/her services during normal business hours of 8am to 5pm daily from April 27, 2011 to May 14, 2011, for the purpose of early voting for the Charleston General Election held on May 17, 2011, as permitted by W.Va. Code §3-3-2(a)(4).

3. That the political party affiliation of the temporary employees hired as Absentee Election Representatives shall be consistent with the requirements of W.Va. Code §3-3-2(a)(4).

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 870-10, adopted. Sheets-No

4. Your Committee on Finance has had under consideration Resolution No 871-10, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 871-10 : “Fixing the compensation of election officials for the City of Charleston Primary Election on the 8th day of March 2011.”

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

1. Pursuant to WV Code 3-1-44b, that each commissioner of election and each poll clerk be paid the sum of One Hundred Seventy Five (\$175.00) for his/her services such as commissioner and clerk of the election, and an additional sum of Fifty Dollars (\$50.00) for his/her attendance at election 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 to be paid an additional sum of Seventy Dollars (\$70.00) for his/her services and .40 cents per mile. That each commissioner of the opposite party who travels with the commissioner returning the supplies be paid an additional sum of Twenty Dollars (\$20.00) for his/her services.

2. Pursuant to WV Code 3-1-44a, that one Democrat and one Republican Ballot Commissioner be paid the sum of Fifty Dollars (\$50.00) for his/her services, not to exceed One Hundred Twenty-five Dollars (\$125.00) per day, but in no case may the ballot commissioner receive allowance for more than ten (10) days for any election.

3. Pursuant to WV Code 3-1-44b, that one Democrat and one Republican Emergency Absentee Ballot Commissioner be paid the additional sum of Twenty-five Dollars (\$25.00) for his/her services, and not to exceed One Hundred Twenty-five Dollars (\$125.00) per day for his/her services.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 871-10, adopted

5. Your Committee on Finance has had under consideration Resolution No 872-10, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 872-10 : “Authorizing the Mayor to enter into an agreement with Foster Fuels for purchase of E10 Gasoline at \$2.5149 per gallon to serve the City’s vehicle gasoline requirements for a one year period from November 18, 2010 to November 18, 2011. This contract is being entered into through a bid received by Kanawha Valley Regional Transportation Authority (KVRTA) on behalf of the City and area municipalities in an effort to streamline gasoline prices.”

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 Foster Fuels for purchase of E10 Gasoline at \$2.5149 per gallon to serve the City's vehicle gasoline requirements for a one year period from November 18, 2010 to November 18, 2011. This contract is being entered into through a bid received by Kanawha Valley Regional Transportation Authority (KVRTA) on behalf of the City and area municipalities in an effort to streamline gasoline prices.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 872-10, adopted

6. Your Committee on Finance has had under consideration Resolution No 874-10, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 874-10: "Authorizing the Mayor to enter into an agreement with Mansfield for purchase of ULS Diesel Fuel at \$2.6571 per gallon to serve the City's vehicle requirements for diesel fuel for a one year period from November 18, 2010 to November 18, 2011. This contract is being entered into through a bid received by Kanawha Valley Regional Transportation Authority (KVRTA) on behalf of the City and area municipalities in an effort to streamline gasoline prices."

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 Mansfield for purchase of ULS Diesel Fuel at \$2.6571 per gallon to serve the City's vehicle requirements for diesel fuel for a one year period from November 18, 2010 to November 18, 2011. This contract is being entered into through a bid received by Kanawha Valley Regional Transportation Authority (KVRTA) on behalf of the City and area municipalities in an effort to streamline gasoline prices.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 874-10, adopted

7. Your Committee on Finance has had under consideration Bill No. 7440, and reports the same to Council with the recommendation that the bill do pass.

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.

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

That Chapter 86, Article II, Division 6, Section 86-164 of the Municipal Code of the City of Charleston is hereby amended to read as follows:

Sec. 86-164. Annual vacation.

(a) The eligibility of full-time and part-time regular employees, including nonclassified and classified employees, to receive a vacation with pay within the current calendar year shall be determined in accordance with the following schedule:

TABLE INSET:

Net Credited Service as of December 31 of the Calendar Year			Vacation
(1)	a.	Less than six months.....	None
	b.	Six months or more but less than 12 months.....	1/2 day per month of total service
(2)		One year or more but less than five years.....	10 days
(3)		Five years or more but less than 15 years.....	15 days
(4)		15 years or more.....	20 days

Part-time employees earn half the vacation days per month that full-time employees earn.

(b) An employee may carry forward no more than ~~five~~ten days of accumulated annual vacation from one calendar year to another and may accumulate no more than ~~25~~30 vacation days. If an employee's services are terminated for any reason, including his resignation, such employee shall be paid for accumulated annual vacation, but no more than ~~25~~30 days. No employee is entitled to any vacation with pay prior to becoming a regular employee.

(c) An employee's weekly wages for vacation pay purposes shall consist of the basic weekly wage paid on the week prior to the vacation period.

(d) The minimum charge against annual vacation shall be one-half days, and additional vacation shall be charged in multiples of such days.

(e) Annual vacation may be granted to an employee because of illness, provided all earned sick leave has been exhausted.

(f) In the event of death of an employee who has not used all of his earned annual vacation, payment for accumulated vacation shall be made to his heirs or estate.

(g) If a holiday is observed within the vacation period, that day shall not be counted as a vacation day for the employee on vacation.

(h) If an employee begins a leave of absence without first taking all earned vacation leave, such leave will begin to run immediately. When vacation leave has expired, the leave of absence officially begins and runs until the employee returns to work. Leave of absences shall be no longer than six months.

(i) Vacation request of employees shall be permitted to the extent permitted by work requirements, service conditions and availability of employees, as determined by the appointing authority.

(j) Any employee charged with or convicted of a felony or a crime relating to employment with the city, and who has been dismissed because of this misconduct, shall forfeit all or any part of such vacation.

(k) Any employee seeking to receive annual vacation of four or more consecutive workdays must request it three weeks in advance. Supervisors must respond to such requests within one week. Any employee seeking annual leave of three or less consecutive workdays must request such leave at least 48 hours in advance. Supervisors must respond to these requests within 24 hours of the request and may not cancel approved vacation unless in the event of an emergency. Supervisors may, at their discretion, grant request for leave that fail to meet the time requirements in this section. Where two or more employees request the same days as annual vacation and a request must be denied to ensure the efficient operation of the department, then annual vacation will be granted on the basis of seniority. However, if the same individuals again request annual leave on the same days, the supervisor may, in his discretion, grant annual vacation to the individual with less seniority, as fairness dictates.

The question being on the passage of the Bill a roll call was taken and there were; yeas – 26, absent-2, as follows:

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

ABSENT: Clowser, Weintraub,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7440, passed.

REPORTS OF OFFICERS

1. Report of the City of Charleston, Municipal Court Financial Statements; October 2010.

Received and Filed.

2. Report of the City of Charleston Financial Statements for the Four-Month period ended October 31, 2010.

Received and Filed.

3. City Treasurer's Report to City Council Month Ending October 2010.

Received and Filed.

NEW BILLS

Introduced by Council member Robert Reishman on November 15, 2010:

Bill No. 7444 -A Bill and order determining the necessity for continuance of additional levies for the fiscal years beginning July 1, 2011, July 1, 2012, July 1, 2013, and July 1, 2014, for current general governmental expenses, and providing for submission to the voters within the City of Charleston of the question of a continuance of the additional levy at the primary election to be held on March 8, 2011.

Refer Finance Committee.

Introduced by Council member Robert Reishman on November 15, 2010:

Ordinance No. 7446 - an ordinance authorizing the issuance by the city of Charleston, west Virginia, of not more than \$9,500,000 in aggregate principal amount of its multifamily housing revenue bond (Charleston replacement #5 project), 2010 series a, to provide funds to acquire, construct and equip commercial projects in Kanawha county, West Virginia, consisting of the demolition of existing multifamily rental housing projects and the construction of new multifamily rental housing projects and to pay such other costs in connection therewith; approving the loan of said bond proceeds; authorizing the execution and delivery of a trust indenture, a financing agreement, a regulatory agreement, a bond purchase agreement and an assignment, and taking other necessary actions in connection with the issuance and sale of such bonds.

Refer Finance Committee.

ROLL CALL

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

ABSENT: Clowser, Weintraub

At 7:30 p.m., by a motion from Councilmember Harrison, Council adjourned until Monday, December 6, 2010, at 7:00 p.m.

Danny Jones, Honorable Mayor

James M. Reishman, City Clerk