

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

DECEMBER 21, 2009

THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE SECOND MEETING IN THE MONTH OF DECEMBER ON THE 21ST DAY, IN THE YEAR 2009, AND WAS CALLED TO ORDER BY THE HONORABLE MAYOR, DANNY JONES. THE INVOCATION WAS DELIVERED BY DEITZLER AND THE PLEDGE OF ALLEGIANCE WAS LED BY JEREMIAH AND CAROLINE WEINTRAUB.

DEITZLER	CLOWSER	DAVIS
HALL	DENEALT	
HARRISON	HANNA	
KIRK	HIGGINS	JONES
MILLER	KNAUFF	LANE
	PAYNE	REED
SHEETS	RUSSELL	SALISBURY
WARE	SMITH	TALKINGTON
MAYOR JONES	WEINTRAUB	WHITE

WITH TWENTY- FOUR 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.

ELECTION OF NEW COUNCILMEMBER FOR WARD 19

“PURSUANT TO THE PROVISIONS OF SECTION 14 CHARTER, I NOW DECLARE THE FLOOR OPEN FOR NOMINATIONS TO FILL THE VACANCY OF THE UNEXPIRED TERM FOR WARD 19 COUNCILMEMBER.”

COUNCILMAN MILLER MADE A NOMINATION TO ELECT RICK BURKA, COUNCILMAN LANE MADE A MOTION TO CLOSE THE NOMINATIONS, COUNCILMAN HARRISON SECOND THE MOTION.

THE QUESTION BEING ON THE APPROVAL TO CLOSE THE NOMIMATIONS, ALL IN FAVOR WILL VOTE “AYE”

ALL OPPOSED WILL VOTE “NAY”

THE NOMINATIONS ARE CLOSED, I DECLARE RICK BURKA , ELECTED BY ACCLAMATION TO THE VACANT UNEXPIRED TERM OF COUNCILMEMBER FOR THE 19TH WARD.

MR. BURKA CAME FORWARD TO TAKE THE OATH OF OFFICE

CITY CLERK CONDUCT ED THE OATH OF OFFICE

PUBLIC SPEAKERS

1. None

CLAIMS

1. A claim of Marnetta Daniels,5109 Sunshine Circle, Charleston, WV; alleges damage to vehicle.

Refer to City Solicitor

The Clerk read the Appointment:

TO: JAMES REISHMAN
CITY CLERK

FROM: DANNY JONES
MAYOR

RE: CHARLESTON CONVENTION AND VISITORS BUREAU BOARD

DATE: DECEMBER 21, 2009

I recommend that Chris Torsleff, Embassy Suites, 300 Court Street, Charleston, WV 25301, be appointed to the Charleston Convention and Visitors Bureau Board, with an initial term to expire February 17, 2011. He is replacing Kim Burton.

I respectfully request City Council’s approval of this recommendation.

DJ/blp
Council approved the appointment.

TO: JAMES REISHMAN
CITY CLERK

FROM: DANNY JONES
MAYOR

RE: CIVIC CENTER BOARD

DATE: DECEMBER 21, 2009

I recommend that A. Lawrence Crimmins, 51 North Abney Circle, Charleston, WV 25314, be reappointed to the Civic Center Board, with a said term to expire June 22, 2013.

I respectfully request City Council's approval of this recommendation.

DJ/blp

Council approved the appointment.

TO: JAMES REISHMAN
CITY CLERK

FROM: DANNY JONES
MAYOR

RE: CIVIC CENTER BOARD

DATE: DECEMBER 21, 2009

I recommend that Paul Nusbaum, 2130 Presidential Road, Charleston, WV 25314, be reappointed to the Civic Center Board, with a said term to expire June 22, 2013.

I respectfully request City Council's approval of this recommendation.

DJ/blp

Council approved the appointment.

TO: JAMES REISHMAN
CITY CLERK

FROM: DANNY JONES
MAYOR

RE: CIVIC CENTER BOARD

DATE: DECEMBER 21, 2009

I recommend that Edward Howard, 1321 Virginia Street East, Charleston, WV 25301, be reappointed to the Civic Center Board, with a said term to expire June 22, 2013.

I respectfully request City Council's approval of this recommendation.

DJ/blp

Council approved the appointment.

The Clerk read the following Communication:

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

Dear Mayor Jones and Councilmember's:

On December 9, 2009, the Municipal Planning Commission held public hearings and its regular monthly meeting. The following case was heard:

Bill No. 7407

A Bill amending the Zoning Ordinance of the City of Charleston, West Virginia enacted January 1, 2006, as amended, by rezoning from C-4 Neighborhood Commercial District to C-8 Village Commercial District the property located at 2445 Washington Street, East, Tax Map EC 29, Parcel 190.

This case should be referred to the Planning Committee of Council.

*Sincerely,
Municipal Planning Commission*

Phyllis White, Administrative Assistant

The Mayor referred the case to the Planning Committee.

MISCELLANEOUS RESOLUTIONS

Resolution No. 695-09 :

Introduced in Council:

Adopted by Council:

December 21, 2009

Introduced by:

Referred to:

Robert Sheets

Resolution No. 695-09: “Authorizing and directing the administration of the City of Charleston to take whatever action necessary to initiate the process of amending Sections 3, 4, 13 and 21 of the City Charter and any applicable sections of the Code of the City of Charleston and placing the proposed changes on a ballot for public election, for the purpose of redistricting the voting wards and reducing the size of Charleston City Council to 15 members, with a makeup of 11 ward members, 3 at-large members, and the Mayor.

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

That the administration of the City of Charleston is hereby authorized and directed to take whatever action necessary to initiate the process of amending Sections 3, 4, 13 and 21 of the City Charter and any applicable sections of the Code of the City of Charleston and placing the proposed changes on a ballot for public election, for the purpose of redistricting the voting wards and reducing the size of Charleston City Council to 15 members, with a makeup of 11 ward members, 3 at-large members, and the Mayor. “

The question being on the adoption of the Resolution a roll call was taken and there were; nays – 24, yeas-1, absent -3, as follows:

YEAS: Sheets

NAYS: Burka, Clowser, Davis, Deitzler, Deneault, Hall, Hanna, Harrison, Higgins, Jones, Kirk, Knauff, Lane, Miller, Payne, Reed, Russell, Salisbury, Smith, Talkington, Ware , Weintraub, White, Mayor Jones.

ABSENT: Ealy, Harris, Reishman

With a majority of members elected recorded thereon as voting in the negative the Mayor declared Resolution No. 695-09, failed.

Resolution No. 696-09 :

Introduced in Council:

Adopted by Council:

December 21, 2009

Introduced by:

Referred to:

Mary Jean Davis

WHEREAS, the City of Charleston recognizes the threat that flooding poses to people and property; and

WHEREAS, significant structural, historical, and economic losses could result from a flood event; and

WHEREAS, undertaking mitigation projects during pre-disaster periods, especially for properties that have sustain repetitive flood damage, could decrease the total losses Charleston incurs as a result of said flood events; and

WHEREAS, Charleston's City Council has a strong interest in reducing losses from future flood events; and

WHEREAS, a repetitive loss plan is a federal requirement for participation in the Community Rating System; and

WHEREAS, participation in the Community Rating System will reduce flood insurance premiums for all the residents of Charleston; and

WHEREAS, The City of Charleston participated jointly with Kanawha County to update the existing *Kanawha County Multi-Jurisdictional Hazard Mitigation Plan*, adopted in March of 2009, in an effort to further identify, define, and characterize the hazards affecting the city as well as to continue identifying and prioritizing projects that could lessen hazard vulnerability; and

THEREFORE BE IT RESOLVED, THE COUNCIL OF THE CITY OF CHARLESTON, WEST VIRGINIA, hereby adopts the Repetitive Loss Plan as an amendment to the Kanawha County Multi-Jurisdictional Hazards Mitigation Plan as an official plan.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas – 25, nays-0, absent -3, as follows:

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

ABSENT: Ealy, Harris, Reishman

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 696-09, adopted.

Resolution No. 697-09

Introduced in Council:
December 21, 2009

Introduced by:

Marc Weintraub, Mary Jean Davis
Jack Harrison, David Higgins, William
Kirk, John Miller, Lewis Payne, Bobby
Reishman, Kasey Russell, Edward
Talkington

Adopted by Council:

December 21, 2009
Referred to:

Resolution No. 697-09: “Accepting and adopting the Metro Government Report of the Mayor’s Ad Hoc Committee on Metro Government.

WHEREAS, a committee of Charleston City Council Members was formed to conduct a broad study of the ways in which various governmental entities within Kanawha County might achieve greater efficiency and provide better services through cooperation or consolidation, including a possible formal merger or the creation of a new entity serving both the citizens of Charleston and Kanawha County; and

WHEREAS, the committee held public hearings and informational meetings with county commissioners, mayors of other incorporated cities in Kanawha County, legislators and representatives from unincorporated areas of Kanawha County; and

WHEREAS, the committee investigated different forms of consolidated governments operating in other states; and

WHEREAS, the committee has discussed its findings, prepared the attached Metro Government Report, and voted to present this report of its findings and recommendations to the full Council;

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

That the Metro Government Report from the Mayor’s Ad Hoc Committee on Metro Government is hereby accepted, and recommendations contained therein are adopted by the Council of the City of Charleston, West Virginia. “

The question being on the adoption of the Resolution a roll call was taken and there were; yeas – 25, nays-0, absent -3, as follows:

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

ABSENT: Ealy, Harris, Reishman

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 697-09, adopted.

PLANNING

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

1. Your Committee on Planning has had under consideration Bill No. 7400, and reports the same to Council with the recommendation that the bill do pass.

A Bill amending the Kanawha City Revitalization Plan for the City of Charleston, West Virginia, pursuant to Chapter 8A, Article 3, of the West Virginia Code, as amended, with respect to amending the Future Land Use Plan.

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

1. The City Council finds that:
 - a. A general plan known as the Comprehensive Plan for the City of Charleston has been adopted by the City Council on May 20, 1996, by Bill No. 6074.
 - b. A more specific plan known as the Kanawha City Revitalization Plan has been adopted by City Council on January 3, 2000, by Bill No. 6511 as an amendment the Comprehensive Plan.
 - c. Chapter 8, Article 3 of the West Virginia Code requires the plan to be reviewed and updated at least every ten years.
 - d. The proposed amendment to the plan is consistent with goals, objectives, plans and priorities established by the Comprehensive Plan for the City of Charleston.
2. Chapter 7, Figure 1 of the Kanawha City Revitalization Plan titled "Kanawha City Community Revitalization Plan, Future Land Use Map, dated April 1, 1999 is hereby amended as shown on Exhibit 1 titled "Kanawha City Community Revitalization Plan, Future Land Use Map, dated September 16, 2009."

The question being on the passage of the Bill a roll call was taken and there were; yeas – 25, nays-0, absent -3, as follows:

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

ABSENT: Ealy, Harris, Reishman

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7400, passed.

2. Your Committee on Planning has had under consideration Bill No. 7401, and reports the same to Council with the recommendation that the bill do pass.

Bill No.7401 amending the Zoning Ordinance for the City of Charleston, West Virginia, adopted November 21, 2005 in order to make corrective additions and deletions as follows:

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CHARLESTON, WEST VIRGINIA

The Zoning Ordinance for the City of Charleston, West Virginia, effective November 21, 2005, is hereby amended as follows:

Sec. 24-070 Bufferyard Landscaping Requirements

- A. New non-residential buildings that abut a residential ~~property~~ zoning district shall provide a landscape buffer ten (10) feet wide and this requirement may supersede the minimum setback requirement for the district.

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 – 25, nays-0, absent -3, as follows:

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

ABSENT: Ealy, Harris, Reishman

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7401, passed.

2. Your Committee on Planning has had under consideration Bill No. 7402, and reports the same to Council with the recommendation that the bill do pass.

Bill No. 7402 amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 1st day of January, 2006, as amended and the map made a part thereof, by rezoning from R-O Residential Office District to C-8 Village Commercial District the parcel of land situate on Roane Street and known as West Charleston Tax District, Map 27, Parcel 33, 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 1st day of January, 2006, as amended, is hereby amended by rezoning from R-O Residential Office District to C-8 Village Commercial District the following described parcel of land:

Parcel situate on Roane Street and known as West Charleston Tax District, Map 27, Parcel 33, Charleston, West Virginia. Said tax map is of record in the City of Charleston Planning Office.

2. The zoning Map, attached to and made a part of said ordinance, is hereby amended in accordance with Article 28 of this ordinance.
3. All prior ordinances, or parts of 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 – 25, nays-0, absent -3, as follows:

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

ABSENT: Ealy, Harris, Reishman

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7402, passed.

ENVIRONMENT AND RECYCLING

Councilman Ed Talkington, of the Council Committee on Environment and Recycling, submitted the following reports.

1. Your Committee on Environment and Recycling has had under consideration Bill No. 7408, and reports the same to Council with the recommendation that the bill do pass, but first be referred to the Finance Committee.

Bill No. 7408: A Bill to repeal Section 98-71, as amended, of the Code of the City of Charleston, and to reenact Section 98-71 of the Code of the City of Charleston relating to refuse fees in the City of Charleston.

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

That the Council for the City of Charleston hereby repeals Section 98-71, as amended, of the Code of the City of Charleston, and reenacts Section 98-71, of the Code of the City of Charleston relating to refuse fees in the City of Charleston, to read as follows:

Sec. 98-71. Charges for refuse services; authority of city collector to promulgate rules and regulations, etc.

(a) In conformity with subsection ~~(h)~~ (g) of this section, and in order to make refuse disposal services self-supporting, the city council shall enact a schedule of rates, fees and charges for refuse disposal services provided by the city which shall include but not be limited to the disposal of all bulky waste, garbage, refuse, rubbish, solid waste, recyclables and yard waste; and any such schedule enacted pursuant to this section shall, while it is in effect, be maintained on file in the office on the city clerk.

(b) For standard weekly service to single-family residential units, including apartment and efficiency apartments, the charges will be as follows: \$180.00 per year (or \$15.00 per month.) For standard weekly service to non-residential units, the charges will be as follows: \$25.00 per month for pick up of bags, which will ~~not~~ not be supplied by the city, and \$40.00 per month per dumpster, not to exceed three cubic yards in size. There shall be no credit or rate reduction applicable to fees accruing on January 1, 2010, and thereafter, for residential or non-residential units that are vacant.

(c) If the billing is not paid within 20 days of the mailing, a ten percent penalty shall be added to the bill.

(d) The billing of the charges provided for above will be made by billing one-twelfth of such amount monthly in conjunction with the billing of the sanitary board and

the fire service charge, under an arrangement providing for equitable sharing of the billing cost; provided, however, that when a user of waste disposal service is not being billed for sewer service, the city reserves the right to bill this service on a quarterly basis.

(e) When the aggregate gross income of all persons residing in a single-family residential unit, including apartments and efficiency apartments, maintained and occupied by a resident of the city during the preceding calendar year of the city, ~~will be~~ is less than \$20,000.00, the rate for refuse may be reduced to \$60.00 a year (or \$5.00 per month); ~~provided,~~ that the refuse fee account for which the reduced rate is requested is not in delinquent status, ~~and that the account~~ is current with no arrearage or penalties owed, ~~and the account~~ has no delinquent fees or penalties due, and ~~that~~ the resident who occupies such ~~domestic establishment~~ single-family residential unit makes an application for such reduced rate to the city collector and files therewith an affidavit ~~pertaining to~~ evidencing the relevant facts required herein. If approved, ~~The~~ the reduced rate and charges shall become effective with the first monthly billing after the filing ~~of~~ of the affidavit.

In the event any person making application for a reduced charge rate shall submit any false, erroneous or untrue information relative to the eligibility or qualifications of the applicant for such reduced charges rate as set forth herein, any such person supplying such false, erroneous or untrue information shall be subject to a penalty equal to 150 percent of the prevailing rate then in effect.

(f) The city collector is hereby authorized to adopt such rules and regulations as may be necessary for him to determine, and he shall determine, the classification of resident, multiple dwellings and other buildings and premises for the application of the rates, fees and charges established by any schedule enacted by the city council pursuant to this section; and any person ~~feeling~~ allegedly aggrieved by the application of any such rule or regulation of the city collector shall have the burden of proof to show that the city collector's rule or regulation is erroneous.

(g) The city council shall have the right to revise from time to time the schedule of rates, fees and charges enacted pursuant to subsections (b) and (e) of this section, so as to accomplish the purposes mentioned in subsection (a) or to so adjust the rates, fees and charges so that costs will be distributed as equitably as possible among all citizens of the city on the basis of benefit received. At no time, however, shall rates be continued which are disclosed to be producing less revenue than is required to meet all obligations and costs involved in rendering refuse disposal costs at the landfill, or more revenue than is required to meet all costs involved in the collection and disposal services.

The mayor referred the Bill to the Finance Committee.

FINANCE

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

1. Your Committee on Finance has had under consideration Resolution No 680-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 680-09: "Authorizing the Finance Director to allocate additional funds in the amount of \$8,932 from Account No. 009-009-00-014-0-999 for a Rehabilitation project located on the West Side of Charleston. The amount of \$8,932 was approved by the City Manager due to the emergency state of completion left by the defaulting contractor. The previous amount of \$17,400 for this project was approved by Council through Resolution No. 636-09 on September 8, 2009. The additional funds bring the total cost of the project to \$26,332."

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

That the Finance Director is hereby authorized and directed to allocate additional funds in the amount of \$8,932 from Account No. 009-009-00-014-0-999 for a Rehabilitation project located on the West Side of Charleston. The amount of \$8,932 was approved by the City Manager due to the emergency state of completion left by the defaulting contractor. The previous amount of \$17,400 for this project was approved by Council through Resolution No. 636-09 on September 8, 2009. The additional funds bring the total cost of the project to \$26,332.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-25, absent -3, as follows:

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

ABSENT: Burton, Ealy, Salisbury,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 680-09, adopted.

2. Your Committee on Finance has had under consideration Resolution No 682-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 682-09: "Authorizing the Finance Director to amend the 2009-2010 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 2009-2010 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-25, absent -3, as follows:

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

ABSENT: Burton, Ealy, Salisbury,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 682-09, adopted.

3. Your Committee on Finance has had under consideration Resolution No 683-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 683-09: "Authorizing the Finance Director to amend the 2009-2010 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 2009-2010 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-25, absent -3, as follows:

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

ABSENT: Burton, Ealy, Salisbury,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 683-09, adopted.

4. Your Committee on Finance has had under consideration Resolution No 684-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 684-09: "Authorizing approval for a contribution to the YWCA, in the amount of \$50,000, as a budgetary item for the Fiscal Year 2010-2011 City of Charleston Municipal Budget Document."

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

That City Council hereby authorizes and approves a contribution to the YWCA, in the amount of \$50,000, as a budgetary item for the Fiscal Year 2010-2011 City of Charleston Municipal Budget Document.

Councilman Lane made a motion to amend the resolution by changing the buget year

from 2010-2011 to 2009-2010, Harrison second the motion, council approved the amendment.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-25, absent -3, as follows:

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

ABSENT: Burton, Ealy, Salisbury,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 684-09, adopted as amended.

5. Your Committee on Finance has had under consideration Resolution No 685-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 685-09: “Authorizing the Mayor to enter into an Agreement with Chase Bank for the City’s commercial banking services to start on the date of execution and acceptance by Chase Bank and continue for an initial term of two (2) years with no increase in the pricing structure, costs or expense contained in or otherwise related to this contract, and subject to the annual appropriation of funds by Charleston City Council. The City shall have the option to renew this Agreement for additional two year terms, up to a total of three additional two year terms. Any proposed increase to the pricing structure or other costs related to the contract during any additional term shall be communicated to the City in writing at least six months prior to the effective date of the proposed increase and shall be agreed to in writing by the City prior to any obligation of the City to pay any proposed increase.”

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 Chase Bank for the City’s commercial banking services to start on the date of execution and acceptance by Chase Bank and continue for an initial term of two (2) years with no increase in the pricing structure, costs or expense contained in or otherwise related to this contract, and subject to the annual appropriation of funds by Charleston City Council. The City shall have the option to renew this Agreement for additional two year terms, up to a total of three additional two year terms. Any proposed increase to the pricing structure or other costs related to the contract during any additional term shall be communicated to the City in writing at least six months prior to the effective date of the proposed increase and shall be agreed to in writing by the City prior to any obligation of the City to pay any proposed increase.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 685-09, adopted.

6. Your Committee on Finance has had under consideration Resolution No 686-09, and

reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 686-09 : “Authorizing the Mayor to enter into an Agreement with the West Virginia Department of Transportation, Division of Highways, for installation of a computerized traffic signal system for eleven (11) intersections of Washington Street and Lee Street, West, and for all other terms and conditions of the Department and City as set out in said 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 the West Virginia Department of Transportation, Division of Highways, for installation of a computerized traffic signal system for eleven (11) intersections of Washington Street and Lee Street, West, and for all other terms and conditions of the Department and City as set out in said Agreement.

The new system includes the following intersections:

1. “Washington Street West (U.S. 60)” at Iowa Street and Sissonville Road
2. at Rebecca Street
3. at Stockton Street
4. at Barton Street
5. at Virginia Street
6. at Park Ave. and Matthews Ave.
7. at Edgewood Dr. and Springdale Dr.
8. “Lee Street West (U.S. 60 East)” at Delaware Avenue
9. at Ohio Avenue
10. at Tennessee Avenue
11. Washington Street West (U.S. 60 West) at Tennessee Avenue

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 686-09, adopted.

7. Your Committee on Finance has had under consideration Resolution No 687-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 687-09 : “Authorizing the Mayor to sign Change Order No. 1 with Birdair, Inc., in the amount of \$468,000, for design-build of a PTFE clad stage cover system relating to the Shoenbaum Performance Stage and extending the time for completion before the imposition of liquidated damages related to construction of the Overlook Pavilion. This change order increases the contract price in an amount up to \$2,070,398.”

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 Birdair, Inc., in the amount of \$468,000, for design-build of a PTFE clad stage cover system relating to the Schoenbaum Performance Stage and extending the time for completion before the imposition of liquidated damages related to construction of the Overlook Pavilion. This change order increases the contract price in an amount up to \$2,070,398.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 687-09, adopted.

8. Your Committee on Finance has had under consideration Resolution No 688-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 688-09: "Authorizing the Mayor to sign a renewal of the contract with J. Arthur Dail for Healthcare Consulting Services for a one year period from January 1, 2010 to December 31, 2010, with the option to renew for an additional year at a cost of \$2.25 per benefit eligible employee per month, plus travel expenses."

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 contract with J. Arthur Dail for Healthcare Consulting Services for a one year period from January 1, 2010 to December 31, 2010, with the option to renew for an additional year at a cost of \$2.25 per benefit eligible employee per month, plus travel expenses.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 688-09, adopted.

9. Your Committee on Finance has had under consideration Resolution No 689-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 689-09: "Authorizing nonrenewal of Stop Loss Insurance for Healthcare Claims and authorizing the City Manager to make plan changes limiting the maximum annual benefit to \$750,000. Estimated savings through June 2010 is approximately \$208,000, which will be transferred to the Healthcare Reserve Fund per Budget Amendment No. 6, Resolution No. 690-09."

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

That authorizing nonrenewal of Stop Loss Insurance for Healthcare Claims and authorizing the City Manager to make plan changes limiting the maximum annual benefit to \$750,000 is hereby approved. Estimated savings through June 2010 is approximately \$208,000, which will be transferred to the Healthcare Reserve Fund per Budget Amendment No. 6, Resolution No. 690-09.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 689-09, adopted.

10. Your Committee on Finance has had under consideration Resolution No 690-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 690-09 : "Authorizing the Finance Director to amend the 2009-2010 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 2009-2010 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-25, absent -3, as follows:

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

ABSENT: Burton, Ealy, Salisbury,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 690-09, adopted

11. Your Committee on Finance has had under consideration Resolution No 691-09, and reports the same to Council with the recommendation that the committee report be adopted.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHARLESTON, WEST VIRGINIA, AUTHORIZING THE ISSUANCE OF UP TO \$8,500,000 OF THE CITY OF CHARLESTON, WEST VIRGINIA MULTIFAMILY HOUSING REVENUE BONDS (CHARLESTON REPLACEMENT HOUSING #5 PROJECT) SERIES 2010, FOR THE PURPOSE OF ASSISTING IN THE FINANCING OF THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A MULTIFAMILY HOUSING PROJECT TO BE LOCATED IN CITY OF CHARLESTON, WEST VIRGINIA

WHEREAS, the City of Charleston, West Virginia (the "Issuer"). acting by and through the City Council of the City of Charleston, West Virginia (the "Council") is a duly organized municipal corporation created by the Constitution of the State of West Virginia (the "State") validly existing and in good standing under the Constitution and laws of the State. is a political subdivision thereof and is authorized by the Industrial Development and Commercial Development Bond Act, Chapter 13. Article 2C, of the Code of West Virginia of 1931, as amended (the "Act"), in furtherance of the public purposes as found and determined by the Legislature of West Virginia as set forth in

Section 2 of the Act. to issue its revenue bonds to pay the cost of commercial and industrial projects;

WHEREAS, the Issuer has been requested by Charleston Replacement Housing L.P. #5, a West Virginia limited partnership, an entity in which Scott Canel and the Charleston Housing Authority are affiliated (the "Applicant"), to issue its revenue bonds to assist in the financing of the acquisition, construction and equipping of a commercial project in City of Charleston. West Virginia, specifically consisting of the demolition of existing multifamily rental housing projects and the construction of new multifamily rental housing projects by the Applicant in the City of Charleston, West Virginia, consisting of approximately 74 units in 11 buildings located at 700 Clendenin Street, Charleston, West Virginia (hereinafter referred to as the "Project") and costs associated with the issuance of the Bonds;

WHEREAS, the Issuer has determined that under the Act the acquisition. construction, and equipping of the Project constitutes an authorized "Project" under the Act;

WHEREAS, after careful study and investigation of the nature of the proposed Project. the Issuer has determined that assisting the Applicant with the financing of the Project in the City of Charleston. West Virginia by the Issuer's issuance of its revenue bonds, will thereby implement the stated purposes of the Act and will benefit the people of the State of West Virginia, and increase their commerce, welfare and prosperity;

WHEREAS, the most feasible method of financing the cost of the acquisition. construction and equipping of the Project is for the Issuer to issue its revenue bonds in the aggregate principal amount of up to \$8,500,000 for the purpose of financing the costs of acquiring, constructing and equipping the Project. and for the further purpose of financing costs relating thereto;

WHEREAS, the Applicant has requested that the Issuer indicate its willingness and commitment to issue such revenue bonds to finance such costs of the Project so that said acquisition, construction and equipping can be commenced; and

WHEREAS, the Internal Revenue Code of 1986, as amended (the "Code"), and the applicable regulations thereunder require the Issuer to take certain action in connection with the pay of certain expenses in connection with the Project prior to the issuance of tax-exempt bonds in order to allow the Issuer to be reimbursed for such expenditures.

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

1. In order to indicate its willingness and its commitment to issue revenue bonds to finance the acquisition, construction and equipping of the Project the execution and

delivery to the Applicant of an Inducement Agreement is hereby authorized, said Inducement Agreement to be in substantially the form as that attached hereto as Exhibit "A" subject to such changes, insertions and omissions as may be approved by the Mayor of the issuer and the execution of said Inducement Agreement by the Mayor of the Issuer as herewith authorized shall be conclusive evidence of such approval.

2. The statements contained in this Resolution with respect to the reimbursement of the expenditures described in this Resolution are intended to be statements of official intent as required by, and in conformance with, the provisions of Treasury Regulation Section 1.150-2(e), promulgated under and pursuant to the Code.

3. The expenditures to be reimbursed pursuant to this Resolution have been incurred within 60 days prior to the date hereof or will be incurred after the date hereof in connection with the acquisition, construction and equipping of the Project.

4. The maximum principal amount of debt expected to be issued for the Project is \$8,500,000 and, therefore, the maximum amount of reimbursable capital expenditures is \$8,500,000 such capital expenditures to consist of capital expenditures for demolition, construction, and equipping the Project and related capital expenditures.

5. The Applicant reasonably expects to reimburse the expenditures set forth in this Resolution with the proceeds of tax-exempt debt to be issued by the Issuer subsequent to the date hereof but this Resolution does not constitute a binding obligation to issue such debt.

6. If any provision of this Resolution shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever.

7. This Resolution shall be in full force and effect immediately upon its passage and approval, and all resolutions and ordinances or parts thereof, in conflict, are hereby repealed.

WITNESS the signature and seal of the City of Charleston, West Virginia, a municipal corporation, at a meeting duly and regularly called and held at City Hall in the City of Charleston, West Virginia, on the ____ day of December, 2009.

(SEAL)

THE CITY OF CHARLESTON, WEST VIRGINIA

By _____
Mayor

City Clerk

EXHIBIT "A"

December ____, 2009

Charleston Replacement Housing L.P. #5,
10 S. LaSalle Street, Suite 3440
Chicago. Il. 60603

Re: Proposed acquisition, construction and equipping of a commercial project in City of Charleston, West Virginia

Gentlemen:

Based upon certain discussions between representatives of the City of Charleston, West Virginia (the "Issuer") and Charleston Replacement Housing L.P. #5, an entity in which Scott Canel and the Charleston Housing Authority are affiliated (the "Applicant"), the Issuer has been informed that the Applicant is seeking financing, for the acquisition, construction, and equipping of a commercial project to be located in City of Charleston, West Virginia (the "Project"). You anticipate up to \$8,500,000 of tax-exempt bond financing will be required for the Project.

In our discussions with the Applicant, we have determined that the Issuer's issuance of its revenue bonds to assist the Applicant in financing the Project in City of Charleston, West Virginia will create employment during the construction of the Project and will create housing for low and moderate income-families in City of Charleston, West Virginia and it is, therefore the belief of the Issuer, that in assisting with the financing and acquisition of the Project, it will be acting in furtherance of the public purposes for which it exists.

Accordingly, in order to induce the Applicant to acquire, construct and equip the Project, and in order to carry out the purposes for which the Issuer was created, we hereby make the following proposals:

1. The Issuer will, at the Applicant's written request, issue its revenue bonds in a principal amount of up to \$8,500,000 for the purpose of paying the costs of acquisition, construction and equipping of the Project. The Project shall consist of the demolition of existing multifamily rental housing projects and the construction of new multifamily rental housing projects by the Applicant in the City of Charleston, West Virginia, consisting of approximately 74 units in 11 buildings located at 700 Clendenin Street, Charleston, West Virginia and the payment of certain costs of issuing the bonds.

2. The terms of said bonds (maturity schedule, interest rates, denominations, redemption provisions, etc.) shall be as mutually agreed upon by the Issuer, the Applicant and the purchasers of the bonds. The bonds will be issued pursuant to documents satisfactory to the Issuer, the Applicant and the purchasers of the bonds.
3. The Issuer hereby requests the Applicant to complete acquisition, construction and equipping of the Project as soon as possible, even prior to the issuance and delivery of the bonds so that City of Charleston, West Virginia may benefit from the Project without delay. The Applicant may advance any interim construction funds required in connection with the Project and he reimbursed from bond proceeds.
4. The Issuer will assist in the prompt preparation of all documents contemplated in the Issuance of the bonds and will proceed with arrangements for the issuance of the bonds. The Issuer will also assist in obtaining any tax rulings from the Internal Revenue Service as may be deemed necessary or desirable by the Applicant or the purchasers of the bonds.
5. It is understood and agreed by and between the Issuer and the Applicant that the Project will not qualify for the real and personal property tax exemptions set forth in §13-2C-15 of the Act.
6. If for any reason the bonds are not delivered by December 31, 2010, the provisions of this proposal and the agreement resulting from its acceptance by the Applicant shall, at the option of the Issuer or the Applicant to be evidenced in writing to the opposite party, be cancelled and neither party shall have any rights against the other and no third parties shall have any rights against either party except:
 - a. The Applicant will pay the Issuer in cash for all reasonable and necessary expenses, which were incurred by the Issuer in connection with the proposed financing, acquisition and equipping of the Project;
 - b. The Applicant will assume and be responsible for all contracts entered into by the Issuer at the request of the Applicant in connection with the Project;
 - c. The Applicant will pay the out-of-pocket expenses of members of the Issuer. attorneys for the Issuer and Bond Counsel incurred in connection with the Project and will pay attorneys for the Issuer and Bond Counsel reasonable fees for legal services related to the Project.
7. It is understood and agreed by and between the Issuer and the Applicant that the provisions hereof are not intended to, and shall not be construed or interpreted to either (a) obligate or authorize the expenditure of, any funds or moneys of the Issuer derived from any source whatsoever other than the proceeds from the

issuance and sale of the Bonds as provided for herein, or (b) create any personal liability of the officers of the Issuer or members of the City Council of the Issuer.

8. The Applicant, in accepting this proposal, will thereby agree to indemnify, defend and hold harmless the Issuer and its City Council, employees and agents against any loss or damage to property or any injury or death of any person or persons occurring in connection, with the construction, equipping and operation of the Project. In the event the bonds are not delivered, this indemnity shall survive the termination of the agreement resulting from the Applicant's acceptance of this proposal.

In the foregoing proposal is acceptable to you in principle, you may so indicate by having the following acceptance executed by an officer of the Applicant and by returning a copy to the Issuer.

(SEAL) CITY OF CHARLESTON, WEST VIRGINIA

By _____
Mayor

Attest:

City Clerk

Certificate

The undersigned Clerk of the City of Charleston, West Virginia (the "Issuer") hereby certifies that the foregoing is a true, correct and complete copy of a resolution adopted by a majority of the members of the City Council of the Issuer present and voting at a meeting duly called and held on the ____ day of December, 2009, in accordance with the law, at which a quorum was present and acting throughout, and that such resolution has not been repealed, revoked, rescinded or amended but is in full force and effect on the date hereof.

WITNESS my hand and the seal this ____ day of December, 2009.

By: James M. Reishman, City Clerk

(SEAL)

Acceptance of Proposal of City of
Charleston, West Virginia

By
Charleston Replacement Housing L.P. #5

Scott I. Canel as Managing Member of the General Partner of Charleston Replacement Housing L.P. #5, hereby accepts the terms and conditions contained in the foregoing proposal by City of Charleston, West Virginia, this _____ day of December, 2009.

CHARLESTON REPLACEMENT HOUSING L.P. #5,
a West Virginia limited partnership

By: CRH V GP LP, its General Partner
By: Alan Ives Construction LLC Series B, its
General Partner

By: _____
Scott Canel, Managing Member

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 691-09, adopted.

11. Your Committee on Finance has had under consideration Resolution No 692-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 692-09: "Authorizing the distribution of funds in the amount of \$95,000 to the U.S. Army Corps of Engineers, representing a portion of the City's cost-share payment of the Patrick Street to Magic Island Streambank Protection Section 14 Project. The City's initial pledge called for matching contributions of up to \$615,000 for this project (Resolution No. 364-08, approved by City Council on April 21, 2008), a portion of which was contemplated as in-kind services related to plantings. The City allocated \$443,700 of its cost-share funds to the Corp through Resolution No. 632-09, approved by Council on August 17, 2009. This additional distribution will eliminate the need for the contemplated plantings by extending the rock covering up to the lower side walk."

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

That authorizing the distribution of funds in the amount of \$95,000 to the U.S. Army Corps of Engineers, representing a portion of the City's cost-share payment of the Patrick Street to Magic Island Streambank Protection Section 14 Project, is hereby approved. The City's initial pledge called for matching contributions of up to \$615,000 for this project (Resolution No. 364-08, approved

by City Council on April 21, 2008), a portion of which was contemplated as in kind services related to plantings. The City allocated \$443,700 of its cost-share funds to the Corp through Resolution No. 632-09, approved by Council on August 17, 2009. This additional distribution will eliminate the need for the contemplated plantings by extending the rock covering up to the lower side walk.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 692-09, adopted.

12. Your Committee on Finance has had under consideration Resolution No 693-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 693-09: “Authorizing the Mayor to sign an agreement with the Financial Commission for Appalachia High Intensity Drug Trafficking Area (“HIDTA”) for funds awarded from the United States Office of National Drug Control Policy (“ONDCP”) in the amount of \$100,000. The funds are designated for purchase of evidence and information (\$10,000); overtime expenses for five (5) CPD officers and one (1) CPD-DEA officer (\$90,000) in the Metro Drug Enforcement Unit (MDENT).”

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

That the Mayor is hereby authorized and directed to sign an agreement with the Financial Commission for Appalachia High Intensity Drug Trafficking Area (“HIDTA”) for funds awarded from the United States Office of National Drug Control Policy (“ONDCP”) in the amount of \$100,000. The funds are designated for purchase of evidence and information (\$10,000); overtime expenses for five (5) CPD officers and one (1) CPD-DEA officer (\$90,000) in the Metro Drug Enforcement Unit (MDENT).

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 693-09, adopted.

13. Your Committee on Finance has had under consideration Resolution No 694-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 694-09: “Authorizing the Mayor to sign Change Order No. 2 with Oval Construction Management, in the amount of \$195,000, for pouring of concrete foundations and stage platform, and installation of a lighting grid relating to the Schoenbaum Performance Stage. The change order increases the Contract price from \$900,595 to \$1,095,595.”

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. 2 with

Oval Construction Management, in the amount of \$195,000, for pouring of concrete foundations and stage platform, and installation of a lighting grid relating to the Schoenbaum Performance Stage. The change order increases the Contract price from \$900,595 to \$1,095,595.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 694-09, adopted.

15. Your committee on Finance has had under consideration a proposal submitted by Cellular Systems of California, Inc., in the amount of \$14,900, for purchase of an E.N.T. Call Box – System 8 to be utilized by the Police Department during hostage negotiations and tactical operations. To be charged to Account No. 043-299-00-000-3-341, Police—Asset Forfeiture 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.

16. Your committee on Finance has had under consideration a proposal submitted by Stephens Auto Center, in the total amount of \$76,804, for purchase of five (5) vehicles; two (2) Ford Fusions (\$16,532 each), and three (3) Dodge Avengers (\$14,580 each). The vehicles will replace five (5) Ford Taurus vehicles, three (3) 2000 models and two (2) 2002 models, currently in use by the Criminal Investigation Division of the Charleston Police Department. To be charged to Account No. 001-976-00-700-4-459, Police—Capital Outlay, Equip.(Chase Equipment Finance Lease Purchase Escrow Acct., Schedule No. 1000133563) 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.

17. Your committee on Finance has had under consideration a proposal submitted by Stephens Auto Center, in the amount of \$276,120, for purchase of twelve (12) 2010 Ford Crown Victoria Police cruisers (\$23,010 each) to be used by the Charleston Police Department. The new vehicles will replace one (1) 2000 model; four (4) 2003 models; and seven (7) 2004 Ford Crown Victoria police cruisers currently in use To be charged to Account No. 001-976-00-700-4-459, Police—Capital Outlay, Equip. (Chase Equipment Finance Lease Purchase Escrow Acct., Schedule No. 1000133563) 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.

18. Your committee on Finance has had under consideration a proposal submitted by NetMotion in the amount of \$28,750, for purchase of NetMotion software licenses for

computer equipment used by the Charleston Police Department. The security software offers encryption, program control and network roaming. To be charged to Account No. 094-000-00-999-3-341, Police—Grant 2009 BJAG ARRA 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.

19. Your committee on Finance has had under consideration a proposal submitted by Mazzella Quarries, Inc., in an amount up to \$18,900, for purchase of approximately 45 tons of footer stone at \$420.00 per ton for the Carriage Trail Wall project. To be charged to Account No. 001-975-01-567-4-458, Public Grounds—Capital Outlay, Major Improvements 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.

20. Your committee on Finance has had under consideration Bill No. 7408, and reports the same to Council with the recommendation that the Bill do pass.

Bill No. 7408: A Bill to repeal Section 98-71, as amended, of the Code of the City of Charleston, and to reenact Section 98-71 of the Code of the City of Charleston relating to refuse fees in the City of Charleston.

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

That the Council for the City of Charleston hereby repeals Section 98-71, as amended, of the Code of the City of Charleston, and reenacts Section 98-71, of the Code of the City of Charleston relating to refuse fees in the City of Charleston, to read as follows:

Sec. 98-71. Charges for refuse services; authority of city collector to promulgate rules and regulations, etc.

(a) In conformity with subsection ~~(h)~~ (g) of this section, and in order to make refuse disposal services self-supporting, the city council shall enact a schedule of rates, fees and charges for refuse disposal services provided by the city which shall include but not be limited to the disposal of all bulky waste, garbage, refuse, rubbish, solid waste, recyclables and yard waste; and any such schedule enacted pursuant to this section shall, while it is in effect, be maintained on file in the office on the city clerk.

(b) For standard weekly service to single-family residential units, including apartment and efficiency apartments, the charges will be as follows: \$180.00 per year (or \$15.00 per month.) For standard weekly service to non-residential units, the charges will be as follows: \$25.00 per month for pick up of bags, which will ~~not~~ not be supplied

by the city, and \$40.00 per month per dumpster, not to exceed three cubic yards in size. There shall be no credit or rate reduction applicable to fees accruing on January 1, 2010, and thereafter, for residential or non-residential units that are vacant.

(c) If the billing is not paid within 20 days of the mailing, a ten percent penalty shall be added to the bill.

(d) The billing of the charges provided for above will be made by billing one-twelfth of such amount monthly in conjunction with the billing of the sanitary board and the fire service charge, under an arrangement providing for equitable sharing of the billing cost; provided, however, that when a user of waste disposal service is not being billed for sewer service, the city reserves the right to bill this service on a quarterly basis.

(e) When the aggregate gross income of all persons residing in a single-family residential unit, including apartments and efficiency apartments, maintained and occupied by a resident of the city during the preceding calendar year of the city, ~~will be~~ is less than \$20,000.00, the rate for refuse may be reduced to \$60.00 a year (or \$5.00 per month); ~~provided,~~ that the refuse fee account for which the reduced rate is requested is not in delinquent status, ~~and that the account~~ is current with no arrearage or penalties owed, ~~and the account~~ has no delinquent fees or penalties due, and ~~that~~ the resident who occupies such ~~domestic establishment~~ single-family residential unit makes an application for such reduced rate to the city collector and files therewith an affidavit ~~pertaining to~~ evidencing the relevant facts required herein. If approved, ~~The~~ the reduced rate and charges shall become effective with the first monthly billing after the filing ~~on~~ of the affidavit.

In the event any person making application for a reduced charge rate shall submit any false, erroneous or untrue information relative to the eligibility or qualifications of the applicant for such reduced ~~charges~~ rate as set forth herein, any such person supplying such false, erroneous or untrue information shall be subject to a penalty equal to 150 percent of the prevailing rate then in effect.

(f) The city collector is hereby authorized to adopt such rules and regulations as may be necessary for him to determine, and he shall determine, the classification of resident, multiple dwellings and other buildings and premises for the application of the rates, fees and charges established by any schedule enacted by the city council pursuant to this section; and any person ~~feeling~~ allegedly aggrieved by the application of any such rule or regulation of the city collector shall have the burden of proof to show that the city collector's rule or regulation is erroneous.

(g) The city council shall have the right to revise from time to time the schedule of rates, fees and charges enacted pursuant to subsections (b) and (e) of this section, so as to accomplish the purposes mentioned in subsection (a) or to so adjust the rates, fees and charges so that costs will be distributed as equitably as possible among all citizens of the city on the basis of benefit received. At no time, however, shall rates be

continued which are disclosed to be producing less revenue than is required to meet all obligations and costs involved in rendering refuse disposal costs at the landfill, or more revenue than is required to meet all costs involved in the collection and disposal services.

The question being on the passage of the Bill a roll call was taken and there were; yeas – 25, nays-0, absent -3, as follows:

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

ABSENT: Ealy, Harris, Reishman

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7408, passed.

REPORTS OF OFFICERS

1. Report of the City of Charleston Financial Statements for the Fiscal year ended June 30, 2009

Received and Filed.

2. Report of the City of Charleston Financial Statements for the One - Month Period Ended July 31, 2009.

Received and Filed.

3. Report of the City of Charleston Financial Statements for the Two - Month Period Ended August 31, 2009.

Received and Filed.

4. Report of the City of Charleston Financial Statements for the Three - Month Period Ended September 30, 2009.

Received and Filed.

5. Report of the City of Charleston Financial Statements for the Four - Month Period Ended October 31, 2009.

Received and Filed.

6. Report of the City of Charleston Financial Statements for the Five - Month Period Ended November 30, 2009.

Received and Filed.

7. City Treasurer's Report to City Council Month Ending November 2009.

Received and Filed.

NEW BILLS

Introduced by Council Member Jack Harrison on December 21, 2009:

Bill No. 7409 - A Bill authorizing a Sublease with the Clay Center for the Arts and Sciences of West Virginia, Inc., the refunding of certain outstanding bonds of the Charleston Building Commission relating thereto and the execution and delivery of the Sublease and related documents; taking all other actions relating to such transactions. Refer to Finance Committee

Introduced by Council Members Robert Sheets and David Higgins on December 21, 2009:

Bill No. 7410 - A Bill to create a No Parking Anytime Tow-Away zone in the alley lying parallel to and between Quarrier Street and Virginia Street from Dunbar Street to a point 80 feet west of Dunbar Street and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Law, Section 263, Division 2, Article 4, Chapter 114, to conform therewith. Refer to Streets and Traffic Committee

ROLL CALL

The Clerk called the roll and the following members were in attendance:

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

ABSENT: Ealy, Harris, Reishman

At 8:15 p.m., by a motion from Councilmember Harrison, Council adjourned until Monday, January 4, 2010, at 7:00 p.m.

Danny Jones, Honorable Mayor

James M. Reishman, City Clerk

