

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

DECEMBER 7, 2009

THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE FIRST MEETING IN THE MONTH OF DECEMBER ON THE 7th DAY, IN THE YEAR 2009, 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 DENEALT.

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

**DENEALT

HIGGINS
KNAUFF
PAYNE

SMITH
WEINTRAUB**

**EALY
HARRIS
JONES

REED
SALISBURY
TALKINGTON
WHITE**

WITH TWENTY- TWO 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

1. None

CLAIMS

1. A claim of Shirley White, 1573 Quarrier St., Charleston, WV; alleges damage to vehicle.

Refer to City Solicitor

2. A claim of Melissa Elkins, 312 50th St., Charleston, WV; alleges damage to vehicle.

Refer to City Solicitor

3. A claim of Barbara Wilson, 109 Timberlake Circle, Scott Depot, WV; alleges damage to vehicle.

Refer to City Solicitor

4. A claim of Marcia Brockwell, Rt. 7 Box 130, So. Charleston, WV; alleges damage to property.

Refer to City Solicitor

5. A claim of Wenbo Li, 349 Kessinger Rd., Apt. B, Charleston, WV; alleges damage to vehicle.

Refer to City Solicitor

6. A claim of Kimberly Jones, 1311 Renaissance Circle, Apt. 302, Charleston, WV; alleges personal injury.

Refer to City Solicitor

7. A claim of Henry Scott Shreve, 1716 Sugar Creek Dr., Charleston, WV; alleges personal injury.

Refer to City Solicitor

8. A claim of Franklin Coffman, 1947 Grapevine Rd., 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: MUNICIPAL PLANNING COMMISSION

DATE: DECEMBER 7, 2009

I recommend that Jesse Forbes, 1118 Kanawha Blvd, East, Charleston, WV 25301, be appointed to the Municipal Planning Commission, with an initial term to expire on July 1, 2010. He is replacing Dennis Vaughn.

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

Council approved the appointment.

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 676-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 676-09: "Authorizing the Mayor to sign and submit FY 2009 Community Participation Program contracts between the West Virginia Development Office and the City of Charleston and all related documents on behalf of three agencies located within the City of Charleston."

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 FY 2009 Community Participation Program grant contracts between the West Virginia Development Office and the City of Charleston and all related documents on behalf of the following agencies located within the City of Charleston.

| | | |
|-----------------------------------|------------|---------|
| Good News Mountaineer Garage | 09LEDA0255 | \$2,000 |
| East End Community Association | 09LEDA0252 | \$1,000 |
| Boys and Girls Club of Charleston | 09LEDA0242 | \$6,300 |

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-22, absent -6, as follows:

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

ABSENT: Burton Clowser, Davis, Hanna, Lane, Russell,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 676-09, adopted.

2. Your Committee on Finance has had under consideration Resolution No 677-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 677-09: "Authorizing the Mayor to enter into an Agreement with Grandview Systems, in the amount of \$29,100, for purchase and installation of an Audio Visual Room System at the City Service Center located in Municipal Parking Building No. 1."

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

That the Mayor is hereby authorized and directed to enter into an Agreement with Grandview Systems, in the amount of \$29,100, for purchase and installation of an Audio Visual Room system at the City Service Center located in Municipal Parking Building No. 1.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 677-09, adopted.

3. Your Committee on Finance has had under consideration Resolution No 679-09, and reports the same to Council with the recommendation that the committee report be adopted.

A resolution supplementing Bill No. 7403 passed by the Council of The City of Charleston on November 2, 2009, effective November 16, 2009, authorizing the refunding of the Civic Center Improvement Bonds, Series 1999, of The City of Charleston; and authorizing the issuance of Civic Center Improvement Refunding Bonds, Series 2009 A, of The City of Charleston, in the amount of not to exceed \$3,500,000, to finance the cost of such refunding and the cost of issuance for such bonds; defining and prescribing or providing for the terms and provisions of the bonds; providing generally for the rights and remedies and security of the holders of the bonds; providing a statutory mortgage lien on specified tax revenues dedicated for such purposes; designating such bonds as qualified tax-exempt obligations; delegating certain authority regarding the bonds to the Mayor and the City Manager; and providing general terms and providing when this ordinance shall take effect.

WHEREAS, the Council (the "Council") of The City of Charleston, West Virginia (the "City" or the "Issuer"), on November 2, 2009, effective November 16, 2009, adopted Bill No. 7403, which Ordinance authorized the issuance of The City of Charleston Civic Center Improvement Refunding Bonds, Series 2009 A (the "Series 2009 A Bonds"), in an aggregate principal amount not to exceed \$3,500,000, to finance the cost of currently refunding the City's Civic Center Improvement Bonds, Series 1999 (the "Series 1999 Bonds"), to pay other costs in connection therewith, and all as more fully set out therein (said Ordinance is hereinafter referred to as the "Ordinance");

WHEREAS, capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Ordinance when used herein;

WHEREAS, the Ordinance directed the City Clerk to publish an abstract of the Ordinance (the "Abstract"), together with a notice that the Ordinance has been adopted, that the Issuer contemplates the issuance of the Series 2009 A Bonds as described in the Ordinance and that any person interested may appear before the Council upon a certain day and present protests (the "Notice");

WHEREAS, the Ordinance required that the Abstract and Notice be published once a week for two successive weeks, with at least six full days intervening between each publication in the Charleston Gazette, a qualified newspaper published and of general circulation in the City of Charleston, West Virginia, and the first publication of such Abstract and Notice was to be not less than ten (10) days before the date set by the Ordinance and the Notice at which interest persons may appear before the City Council and present protests;

WHEREAS, the Abstract and Notice was published on November 5, 2009, and November 12, 2009;

WHEREAS, the Notice provided for a public hearing to be held before City Council at 7:00 p.m. on Monday, November 16, 2009, in the Council Chambers, City Hall, Charleston, West Virginia, which hearing was held and no protests were received;

WHEREAS, the Ordinance provides that matters relating to the Series 2009 A Bonds not set forth in the Ordinance shall be approved by a resolution supplemental thereto (the "Supplemental Resolution");

WHEREAS, the Series 2009 A Bonds are proposed to be purchased by Crews & Associates, Inc. (the "Original Purchaser"), pursuant to a Bond Purchase Agreement (the "Purchase Agreement") between the Original Purchaser and the City;

WHEREAS, this Council wishes to delegate to the Mayor the authority to approve, within the parameters set forth herein, the final terms of the Series 2009 A Bonds, including the exact principal amount, interest rates, redemption provisions, maturities, purchase price and other terms of the Series 2009 A Bonds as set forth in the form of the Certificate of Determination attached hereto, without the requirement of further official action by this Council; and

WHEREAS, this City Council deems it essential and desirable that this Supplemental Resolution be adopted, that the exact principal amount, date, maturity date, interest rate, payment schedule, sale price and other terms of the Series 2009 A Bonds be fixed as stated herein, that the principal amount, date, maturity date, interest rate, payment schedule, sale price and other terms of the Series 2009 A Bonds be fixed by the Mayor, by and through the execution of Certificates of Determination, within the parameters fixed herein, and that other matters relating to the Series 2009 A Bonds be herein provided for.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF

CHARLESTON, WEST VIRGINIA, AS FOLLOWS:

1. It is hereby found and determined:

(a) The Abstract and Notice were duly published in the The Charleston Gazette, a newspaper of general circulation in The City of Charleston, West Virginia, with the first publication thereof being on November 5, 2009, and with the last publication thereof being on November 12, 2009, and a copy of the affidavit of publication reflecting such publication is attached hereto and incorporated herein as EXHIBIT A;

(b) In accordance with the Ordinance and the Notice, a copy of the Ordinance was maintained at the Office of the City Clerk for review by interested persons during the regular office hours of such office;

(c) At 7:00 p.m., prevailing time, on Monday, November 16, 2009, in the Council Chambers, Charleston, West Virginia, in accordance with the Ordinance and the Notice, City Council met for the purpose of hearing protests and suggestions regarding whether the Ordinance should be put into effect and heard all protests and suggestions with regard thereto;

(d) At the public hearing, no significant reasons and no written protest with regard thereto were presented that would require other modification or amendment of the Ordinance; and

(e) That the Ordinance has been placed into effect as of November 16, 2009, as ratified by this Supplemental Resolution and the Series 2009 A Bonds contemplated thereby shall be issued, all as provided in the Ordinance and this Supplemental Resolution.

2. Pursuant to the Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued:

The City of Charleston Civic Center Improvement Refunding Revenue Bonds, Series 2009 A shall be issued in such aggregate principal amount not to exceed \$3,500,000, shall be dated such date, shall finally mature on December 1, 2024, shall bear interest and prices with interest payable on such dates, and shall have such redemption provisions and other terms as shall be approved by the Mayor or the City Manager in the Certificate of Determination the form of which is attached hereto as EXHIBIT B; provided that such price shall be such that the net present value savings from the Bonds to Be Refunded is not less than 2.5%.

3. The Mayor or the City Manager of The City of Charleston, West Virginia (the "Mayor") is hereby authorized and directed to set forth the exact principal amount, the maturities, the interest rates, the redemption provisions, the price, and other terms and details of the Series 2009 A Bonds, subject to the parameters set forth herein in the Certificate of Determination, substantially in the form attached hereto as

EXHIBIT B and incorporated herein, to be executed and delivered in connection with the sale of the Series 2009 A Bonds. Assuming such parameters are met, the Certificate of Determination shall have full force and effect as if adopted as a part of this Supplemental Resolution.

4. All other provisions relating to the Series 2009 A Bonds and the text of the Series 2009 A Bonds shall be as provided in the Ordinance, and the Series 2009 A Bonds shall be in substantially the form provided in the Ordinance, with such changes, insertions and omissions as may be approved by the Mayor. The execution of the Series 2009 A Bonds by the Mayor shall be conclusive evidence of such approval.

5. A Bond Purchase Agreement for the Series 2009 A Bonds, by and between the Original Purchaser and the Issuer, the form of which is attached hereto as EXHIBIT C and incorporated herein, and the execution and delivery by the Mayor or the City Manager thereof shall be and the same are hereby authorized, approved, and directed. The Mayor or the City Manager shall execute and deliver the Purchase Agreement for the Series 2009 A Bonds with such changes, insertions and omissions as may be approved by the Mayor or the City Manager. The execution of the Purchase Agreement for the Series 2009 A Bonds by the Mayor or the City Manager shall be conclusive evidence of any approval required by this Section, and authorization of any action required by the Purchase Agreement relating to the issuance and sale of the Series 2009 A Bonds, including the payment of all necessary fees and expenses in connection therewith.

6. A Continuing Disclosure Certificate of the Issuer, for the Series 2009 A Bonds, to be dated as of the date of delivery of the Series 2009 A Bonds, the form of which is attached hereto as EXHIBIT D and incorporated herein, and the execution and delivery by the Mayor or the City Manager thereof shall be and the same are hereby authorized, approved and directed. The Mayor or the City Manager shall execute and deliver the Continuing Disclosure Certificate for the Series 2009 A Bonds with such changes, insertions and omissions as may be approved by the Mayor or the City Manager. The execution of the Continuing Disclosure Certificate for the Series 2009 A Bonds by the Mayor or the City Manager shall be conclusive evidence of any approval required by this Section.

7. The Escrow Agreement by and between the Issuer and the West Virginia Municipal Bond Commission as Escrow Agent, to be dated as of the date of delivery of the Series 2009 A Bonds, substantially in the form attached as EXHIBIT E, and the execution and delivery (in multiple counterparts) by the Mayor or the City Manager thereof shall be and the same are hereby authorized, approved and directed. The Mayor or the City Manager shall execute and deliver the Escrow Agreement with such changes, insertions and omissions as may be approved by the Mayor or the City Manager. The execution of the Escrow Agreement by the Mayor or the City Manager shall be conclusive evidence of any approval required by this Section.

8. A Preliminary Official Statement and an Official Statement for the Series 2009 A Bonds, in substantially the form of the Preliminary Official Statement attached hereto as EXHIBIT F and incorporated herein (with such changes, insertions and omissions as may be necessary or advisable in the opinion of the Mayor or the City

Manager), and the distribution of counterparts or copies thereof by the Original Purchaser are hereby approved. The Mayor or the City Manager shall execute and deliver the Official Statement for the Series 2009 A Bonds with such changes, insertions and omissions as may be approved by the Mayor or the City Manager. The execution of the Official Statement for the Series 2009 A Bonds by the Mayor or the City Manager shall be conclusive evidence of any approval required by this Section.

9. City Council hereby appoints and designates The Bank of New York Mellon, West Paterson, New Jersey, to serve as Registrar (the "Registrar") and Depository Bank for the Series 2009 A Bonds and authorizes the Mayor or the City Manager to enter into the Registrar Agreement as deemed appropriate by the Mayor or the City Manager.

10. Upon redemption of the Series 1999 Bonds, all funds remaining in the Series 1999 Bonds Escrow Fund shall be transferred to Series 2009 A Bonds Sinking Fund and applied to the next ensuing interest payment.

11. City Council hereby determines to invest all moneys in the funds and accounts established by the Ordinance held by the Bond Commission in Qualified Investments (except for the Escrow Funds).

12. City Council hereby approves all costs of issuance in connection with the Series 2009 A Bonds and authorizes the payment thereof.

13. The Escrow Agent is hereby authorized to mail the notice of redemption of the Series 1999 Bonds as provided in the Prior Ordinance in order to call the Series 1999 Bonds on or about January 17, 2009.

14. The Issuer shall execute and the Registrar shall authenticate and deliver the Series 2009 A Bonds, as may be directed by the Issuer, upon the filing with the Registrar of the following:

- (i) A copy of the Ordinance certified by the City Clerk of the Issuer;
- (ii) The Series 2009 A Bonds;
- (iii) A list of the names in which the Series 2009 A Bonds are to be registered upon original issue;
- (iv) A request and authorization to the Registrar by the Issuer, signed by the Mayor, to authenticate and deliver the Series 2009 A Bonds to the Original Purchaser upon payment of the Purchase Price; and
- (v) A signed, unqualified approving opinion of Jackson Kelly PLLC, as bond counsel.

15. The Mayor and City Clerk are hereby authorized and directed to execute and deliver such other documents and certificates required as desirable in

connection with the issuance and sale of the 2009 A Bonds to the end that the Series 2009 A Bonds may be delivered on a timely basis to the Original Purchaser pursuant to the Bond Purchase Agreement.

16. This Supplemental Resolution shall go into effect immediately upon adoption.

Adopted this 7th day of December, 2009.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 679-09, adopted.

4. Your committee on Finance has had under consideration a proposal submitted by Stephens Auto Center, in the amount of \$19,661, for purchase of a 2010 Ford Ranger to be assigned to the Refuse Department. To be charged to Account No. 001-978-00 800-4-459, Refuse—Capital Outlay, Equip. (Chase Equipment Finance Lease Purchase Escrow Account, Schedule #1000133565), 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.

5. Your committee on Finance has had under consideration a proposal submitted by Communication Service, Inc., in the amount of \$10,765, for purchase and shipping costs for three (3) Pro Laser III and two (2) Kustom Raptor Radar speed detection devices to be used by the Charleston Police Department. To be charged to the following accounts: \$10,524.00 - Account No. 095-175-10-000-4-459, Police Grant F10HS-08—CO, Equip.; \$ 241.00 - Account No. 095-175-10-000-3-341, Police Grant F10HS-08—Materials and Supplies, 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.

6. Your committee on Finance has had under consideration a proposal submitted by Capitol Business Interiors, in the amount of \$21,935.35, for purchase of furnishings for the City Manager's suite located on the first floor of City Hall. To be charged to Account No. 222-975-00-440-4-458, Facilities Maintenance Fund 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.

7. Your committee on Finance has had under consideration a proposal submitted by Western Branch Diesel, Inc., in the amount of \$23,498.75, for rebuilding the engine in the Aerial Platform truck used by the Charleston Fire Department. To be charged to

Account No. 001-754-00-000-2-216, Equipment Maintenance—Maintenance & Repair, 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.

8. Your committee on Finance has had under consideration a bid submitted by Hajoca Corporation, in the amount of \$11,775, for purchase of three (3) hot water tanks to be installed at the Sojourner's Shelter located at 1418 East Washington Street. To be charged to Account No. 009-008-00-002-0-999, CDBG—Major Renovations 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, Municipal Court Financial Statements; November 2009.

Received and Filed.

2. Report of the City of Charleston Payroll Variance Analysis; October 2009.

Received and Filed.

3. Report of the City of Charleston Payroll Variance Analysis; November 2009.

Received and Filed.

NEW BILLS

Introduced by Council Member Jim Harris on December 7, 2009:

Bill No. 7407 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 a C-4 Neighborhood Commercial District to a C-8 Village Commercial District that parcel of land known as EC 29, 190, 2445 Washington St. E., Charleston, WV.

Refer to Municipal Planning Commission

Introduced by Council Member Ed Talkington on December 7, 2009:

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.

Refer to Environment and Recycling Committee

ROLL CALL

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

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

ABSENT: Burton Clowser, Davis, Russell,

At 7:30 p.m., by a motion from Councilmember Harrison, Council adjourned until Monday, December 21, 2009, at 7:00 p.m.

Danny Jones, Honorable Mayor

James M. Reishman, City Clerk

