

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

SEPTEMBER 8, 2009

THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE SECOND MEETING IN THE MONTH OF SEPTEMBER ON THE 8th 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 CLOUSER.

DEITZLER	CLOUSER	DAVIS
HALL	DENEALT	EALY
HARRISON	HANNA	HARRIS
KIRK	KNAUFF	JONES
MILLER	PAYNE	LANE
REISHMAN	RUSSELL	REED
SHEETS	SMITH	SALISBURY
	WEINTRAUB	TALKINGTON
MAYOR JONES		WHITE

TWENTY- FIVE 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

Captain Eddie Moore
Jerald Burns
Patty Pitrolo

CLAIMS

1. A claim of Sylvia Underwood Lewis, 401 Margaret Street, Charleston, WV; alleges personal injury.
Refer to City Solicitor

2. A claim of Melissa Lee, 929 7th St., Charleston, WV; alleges damage to vehicle.
Refer to City Solicitor

3. A claim of Douglas Nelson, 208 Shasta Dr., Cross Lanes, WV; alleges damage to vehicle.
Refer to City Solicitor

4. A claim of Gregory Isaacs, 14 Druid Place., Charleston, WV; alleges damage to property.
Refer to City Solicitor

5. A claim of Mark Smithson, 413 33rd St., Charleston, WV; alleges damage to property.
Refer to City Solicitor

6. A claim of Faith Dangerfield, 4714 Venable Ave., Charleston, WV; alleges damage to vehicle.
Refer to City Solicitor

The Mayor read the Public Hearing:

PUBLIC HEARING

AFTER DULY BEING PUBLISHED AS REQUIRED, I NOW
DECLARE THE FLOOR OPEN FOR A PUBLIC HEARING ON BILL NO. 7395 - A BILL
TO AMEND CHAPTER 114, ARTICLE VII, SECTION 114-622 OF THE MUNICIPAL
CODE OF THE CITY OF CHARLESTON FOR THE PURPOSE OF AMENDING PER
HOUR PARKING FEES IN THE DOWNTOWN AREA.

THE CHAIR SEES NO ONE FROM THE PUBLIC.

THE CHAIR HEARS NO ONE FROM THE PUBLIC.

THE CHAIR DECLARES PUBLIC HEARING ON BILL NO. 7395, CLOSED.

The Clerk read the Appointment:

TO: JAMES REISHMAN
CITY CLERK

FROM: DANNY JONES
MAYOR

RE: CHARLESTON CONVENTION AND VISITORS BUREAU BOARD

DATE: SEPTEMBER 8, 2009

I recommend that Troy Giatras, Capitol, Charleston, WV 25301, be appointed to the Charleston Convention and Visitors Bureau Board, with a said term to expire February 17, 2012.

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

Council approved the appointment.

The Clerk read the Communication:

TO: JAMES REISHMAN
CITY CLERK

FROM: DANNY JONES
MAYOR

RE: HALLOWEEN 2008

DATE: SEPTEMBER 8, 2009

I recommend that October 29, 2009, from the hours of 6:00 p.m. until 8:00 p.m. be designated as Trick or Treat night in the City of Charleston.

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

Council approved the Halloween date.

Miscellaneous Resolutions

Resolution No.: 633-09

Introduced in Council:

Adopted by Council:

September 7, 2009

Introduced by:

Referred to:

Mary Jean Davis

Municipal Planning Commission
Council Committee on Planning
Council Committee on Finance

Resolution No. 633-09, Granting NewPort One, LLC, an Easement for use of air rights over a fifteen foot alley and parcel located behind 225 Capitol Street to construct and connect a skyway for pedestrian foot traffic between the apartment building known as 225 Capitol Street on the West Side of Capitol Street, and the City of Charleston Parking Garage No. 6 on the East side of Summers Street, in the City of Charleston, West Virginia.

WHEREAS, NewPort One, LLC is the contract/purchaser of the property situate at 225 Capitol Street, Charleston, Kanawha County, West Virginia; and

WHEREAS, a connecting skyway access between the apartment building situate at 225 Capitol Street, Charleston, West Virginia on the West Side of Capitol Street and the City of Charleston Parking garage designated as Parking Garage #6 on the East side of Summers Street is in the best interests of the residents and visitors to the City in order to connect the 225 Capitol Street apartment building with the City's parking garage which will promote the safety and welfare of pedestrian and motorists whether they be residents, employees, visitors, or the general public in the vicinity of Summers and Capitol Street; and

WHEREAS, it is considered by Council that granting the easement for the use of air rights over the alley and parcel and the right to use City property to attach a skyway to the Parking Garage #6 is reasonable and necessary and that the interests of the City and its citizens will be promoted by the granting of the said easement rights.

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CHARLESTON, WEST VIRGINIA

(1) That NewPort One, LLC and its successors and assigns, are hereby granted an easement for the use of air rights over the 15' alley and parcel between 225 Capitol Street and the City of Charleston Parking Garage #6 for the purpose of constructing, operating, maintaining, repairing and replacing a skyway for pedestrian foot traffic between the building owned known as 225 Capitol Street on the West side of Capitol Street and the City of Charleston Parking Garage #6 on the East side of Summers Street, Charleston, West Virginia, generally in conformance with the design drawings which are attached hereto, incorporated herein, and made a part hereof. The easement for the use of air rights are further defined to be a minimum of 14 feet clearance above

said alley, a minimum of eight feet wide, being approximately 99.8 feet in length;

(2) That NewPort One, LLC is further granted an easement to use so much of the City's property to enable NewPort One, LLC to attach a skyway for pedestrian foot traffic to the City's Parking Garage #6, subject to the obligations and restrictions as the City Engineer may impose on the design and construction of the said skyway;

(3) The City shall have the right to inspect by qualified personnel in accordance with the American Association of State Highway and Transportation Officials (AASHTO) requirements, the reasonable cost of which shall be paid by NewPort One, LLC and NewPort One, LLC shall provide the City with copies of any and all inspection reports to assure the City that the skywalk is structurally sound and safe for pedestrian foot traffic and for motorists and pedestrians on the alley and the sidewalk under and near the skywalk;

(4) That the connecting skyway access construction and maintenance by NewPort One, LLC shall be enclosed and conform to all applicable State and City laws;

(5) That NewPort One, LLC, its successors or assigns, shall indemnify and save the City harmless from any damages to any person or property by reason of construction, operation, maintenance, repair or replacement of said skywalk over alley.

(6) That the Mayor of the City of Charleston be and hereby is authorized and directed to execute a Deed granting an easement for the use of air rights and the right to use so much of the City's property as is reasonably necessary to attach the skyway to the City's Parking Garage #6, subject to and conditioned upon NewPort One, LLC complying with paragraphs 1, 2, 3, 4, and 5 of this Resolution, and the payment of a total of Five Hundred Dollars (\$500.00) to the City of Charleston.

Danny Jones, Mayor

Attest:

City Clerk

The Mayor referred the Resolution to the Planning Committee, Municipal Planning Commission, Finance Committee.

PLANNING COMMITTEE

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 7394, Committee Substitute, and reports the same to Council with the recommendation that the committee report be adopted.

Bill No.7394 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. 2-020 Definitions of Terms

Structure, Principal. A building in which is conducted the principal use of the lot on which it is located.

Sec. 3-060 Supplemental Regulations Pertaining to Land Use Table

12. **A bar or nightclub** in the C-4 or C-8 zoning districts shall comply with the following:

- a. The applicant must be licensed and in good standing with the Alcoholic Beverage Control Administration of the State of West Virginia. Violations and enforcement actions on record at the ABCA will be considered by the Board of Zoning Appeals.
- b. Any approval granted by the Board of Zoning Appeals shall be contingent upon the safe and orderly operation of a bar that does not cause a nuisance or hazard to the area.
- c. The Board may consider evidence of public nuisance as determined by the Charleston Police Department or City Manager at a duly advertised public hearing to review the Conditional Use Permit, which may be revoked if the Board finds the above conditions are not being met.

17. **Class I, Class II and Class III telecommunications facilities** shall comply with the following ~~conditions~~ design and engineering criteria:

- a. No facility shall be located closer than 200 feet from the nearest residential zoning district. This distancing requirement may be waived by the Planning Director if a professional engineer licensed by the State of West Virginia certifies that the facility would not fall onto a residential property.
- b. If applicable, a copy of the applicant's Federal Communications Commission (FCC) license, or, if the applicant is not an FCC license holder, a copy of at least one letter of commitment from an FCC license holder to locate at least one antenna on the applicant's tower shall be submitted with the permit application.
- c. Unless co-locating, certification, supported by evidence, that co-locations of the proposed telecommunications facility with an existing approved tower or facility cannot be accommodated. Reasons for not co-locating on a site would include, but not be limited to, the following:
 - (i) No existing towers or facilities are located within a 2,000-foot radius;

- (ii) Existing towers or facilities are not of sufficient height to meet the applicant's engineering requirements;
 - (iii) Existing towers or facilities do not have sufficient structural strength to support applicant's proposed antenna and related equipment;
 - (iv) Applicant's planned equipment would cause radio frequency interference with other existing or planned equipment of the tower or facility would cause interference with the applicant's planned equipment which cannot be reasonably prevented;
 - (v) Unwillingness of the owner of the existing tower or facility to entertain a co-location proposal;
 - (vi) Existing towers or facilities do not provide an acceptable location for requisite coverage for the applicant's communications network.
 - (vii) Class I satellite dish antenna in excess of 24 inches in diameter shall meet the setback requirement for accessory structures in the district.
- d. A pictorial representation, such as a silhouette drawing, photograph, etc, of the proposed telecommunications facility.
 - e. The facility shall be unattended on a daily basis and shall be visited only for periodic and necessary maintenance and repair, during construction and emergencies.
 - f. Lighting and signage are prohibited, unless required by the Federal Aviation Administration (FAA) or the FCC. No artificial lighting shall be permitted on any communication tower, antenna, equipment or structure.
 - g. Any owner of property used as the location for a facility shall maintain such site and all structures in good condition and free from trash, outdoor storage, weeds and other debris.
 - h. All providers owning a telecommunications tower shall present a report to the Planning Director when the use of the tower located will be discontinued and the date its use will cease. The Planning Director may also declare the tower "discontinued" if the tower has not been properly maintained, has become obsolete, has been unused or has ceased its daily activities or operations. The tower's owner will receive written notice from the Planning Director of such discontinuance and have 180 days to have the tower dismantled, reactivated or the maintenance improved to the Planning Director's satisfaction. If this does not occur, the City may remove the tower and assess all costs to the owner of the tower.
 - i. If sheltering facilities are necessary, they shall be constructed as cabinets and not sheds.
 - j. The maximum height for a wireless telecommunication tower shall be 200 feet including the antennae.
 - k. **Class II Wireless Telecommunications Facilities using a shed for the**

sheltering of equipment and Class III Wireless Telecommunications Facilities require a conditional use permit. The application requirements for conditional use permit are as follows:

1. The applicant shall meet with the Planning Director no less than thirty (30) days prior to filing for a conditional use permit. At this meeting, the Director shall explain the regulations and the process for applying for a conditional use permit. The applicant and the Director shall also start discussions as to the search radius, attempts at co-location, alternate structures to consider for co-location, preliminary height of the proposed tower, identification of important view sheds, and mitigation plans.
2. A site development plan or survey, signed and sealed by a professional engineer licensed in West Virginia, which shows the proposed location of the tower and associated equipment and all easements and existing structures within 200 feet of the proposed tower;
3. A landscaping plan showing the proposed placement of the facility on the site, the location of existing and proposed trees, and all significant site features;
4. A vertical profile sketch of the tower, drawn to scale, indicating the height of the tower and the placement of all antennae;
5. A map of the City of Charleston limits including a one-half mile area outside the city showing the location of all existing cellular antenna towers and the general position of any proposed construction sites for new cellular antenna towers; and
6. A map showing the search radius that was used in identifying suitable tower locations;
7. Photographic simulations of the proposed facility from different perspectives, as determined by the Planning Director during the pre-application conference; and
8. Evidence showing the need for the request through before and after propagation maps of how the proposed facility fits in the applicant's telecommunications network; and
9. Any other evidence demonstrating the applicant's need to construct the new tower.

I. To mitigate the visual impact of **Class II Wireless Telecommunications**

Facilities using a shed for the sheltering of equipment and Class III Wireless Telecommunications Facilities on the surrounding area, the Board of Zoning Appeals may require these or other methods:

1. Stealth tower designs, such as flag poles, trees, light poles or other similar structures;
2. Engineering the tower to provide for future co-locations;
3. Restricting the height of the tower to the lowest possible height that will meet the applicant's needs;
4. Designing shelter facilities as cabinets rather than sheds;

Further, consideration shall be given to the Charleston Historic Landmarks Commission's comments under the Section 106 review process.

- m. Class I satellite dish antenna in excess of 36 inches in diameter shall meet the setback requirement for accessory structures in the zoning district.

23. ~~Wireless telecommunications facilities~~ shall comply with the following:

- a. ~~Maximum height for a wireless telecommunication tower shall be 200 feet including the antennae.~~
- b. ~~Class I satellite dish antennae in excess of 24 inches in diameter must meet accessory structure setback requirements. Reserved.~~

Sec. 3-070 Temporary Uses (C)

5. Parking of recreational vehicles in front of building line for visitation. Maximum duration: 7 consecutive days, with a maximum total of 14 days per year. A permit shall not be required for this temporary use.

7. Moving and storage containers parked in front of the building line. Maximum duration: 30 days. A permit shall not be required for this temporary use.

Sec. 3-080 Accessory Structures and Uses in Residential Districts

A. Customary and incidental accessory buildings and uses are allowed in all residential districts, as specifically regulated in that district, provided that:

1. ~~No more than two accessory structures, including a private detached garage, shall be permitted per principal structure.~~
7. The total square footage of all accessory buildings shall not exceed 672 square feet or 50% of the first or ground floor area of the principal building whichever is greater. Large lots measuring twice the size of the minimum lot requirement or greater are not subject to this restriction, so long as the accessory structure remains subordinate in floor area to the dwelling.
11. ~~Any accessory structure used as a poolhouse shall be located no farther than ten feet from the swimming pool to which it shall be accessory.~~

B. Fences

- c. Fences may be constructed of stone, brick, wood, vinyl, chain link or wire, wrought iron, aluminum, and ornamental concrete block, provided all other requirements herein are met. They shall not be constructed with ~~barbed wire,~~ razor wire or electrified wire.

Sec. 20-041-08 Signs in the East End Historic District Overlay

- D. The permitted sign shall be set back at least 10 feet from the ~~curb~~ property line.

Sec. 21-020 General Exceptions to Height, Bulk, Area, and Density Regulations

C. Front Setback Exception

All ~~new~~ construction ~~will~~ shall conform to the clearly prevailing setback pattern of developed lots within the block fronting on the same street, even when the prevailing front yard setbacks differ from those required in the zoning district. When ~~an unimproved lot~~ a property is situated between two lots with existing front yard setbacks that differ from those required in the zoning district, then the front yard setback may be adjusted to a depth equal to the average of the front yard setbacks of the two adjacent lots.

~~A setback greater than or equal to the minimum required front yard setback shall be provided along all portions of a corner lot, except where the applicant proves to the satisfaction of the Planning Director that the provision of a smaller setback will conform with the clearly prevailing yard pattern on numerous existing developed lots fronting on the same street.~~

Where there is no clearly prevailing front setback pattern, new construction shall be subject to the front setback required in the zoning district.

G. Through Lot Exception

Where an applicant proves to the satisfaction of the Planning Director that a through lot is developed in such a way that it is consistent with the clearly prevailing yard pattern of a neighborhood, the perceived rear yard shall be treated as a rear yard under the provisions of this ordinance.

Sec. 21-050 Exterior Architectural Standards for All Single Family Residential Structures

- A. Roofs shall either be flat or have a roof pitch ~~greater than~~ of 3:12 or greater for the principal structure, exclusive of porches, additions or similar elements that are subordinate in area to the main form of the principal structure.

Sec. 22-040-04 Surfacing

Areas used for off-street parking, circulation or vehicle display shall be surfaced with asphalt, concrete, masonry, or other solid paving materials with sufficient strength to support the vehicle loads imposed. All off-street parking and other vehicle circulation areas shall be continuously maintained and designed to preclude free flow of storm water onto adjacent lots, properties, or public streets or ways. In addition, existing non-conforming graveled parking lots or parking spaces must be continuously maintained so

that dirt, mud, and gravel shall not be tacked onto adjacent lots, properties, or public streets or ways. All land areas that are not covered with buildings or paved for off-street parking and circulation of vehicles shall be appropriately landscaped with grass or other vegetative ground cover, decorative mulch planting beds, trees or shrubs.

Sec. 32-010 Site Plan Review Required

No land within the jurisdiction of the Municipal Planning Commission shall be developed or altered for the purpose of constructing buildings, installing amenities or establishing uses without first having received site plan approval from the Planning Department or the Planning Commission. Site improvements such as fences, retaining walls, and driveways are subject to site plan review and require the issuance of a zoning permit.

Re-number subsections accordingly.

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, absent -3, as follows:

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

ABSENT: Burton, Higgins, Ware,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7394, Committee Substitute, passed.

STREETS AND TRAFFIC COMMITTEE

Councilman Jones, of the Council Committee on Streets and Traffic, submitted the following reports.

1. Your Committee on Streets and Traffic has had under consideration Bill No 7395, and reports the same to Council with the recommendation that the committee report be adopted.

Bill No. 7395- A BILL to amend Chapter 114, Article VII, Section 114-622 of the Municipal Code of the City of Charleston for the purpose of amending per hour parking fees in the downtown area.

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

That Chapter 114, Article VII, Section 114-622 of the Municipal Code of the City of Charleston is amended to read as follows:

Sec. 114-622. Per-hour parking fees established.

In the areas bounded by Broad Street on the east, Kanawha Boulevard on the south, Elk River on the west, and Piedmont Road on the north, the rental fee for use of any single on-street metered parking meters shall allow a maximum of two hours at the rate of \$0.50 per hour as required by the instructions printed upon each meter. Provided,

where it is determined by the Streets and Traffic Committee that there is a need for further regulation and control of vehicles parking within this area, the City may designate individual on-street metered parking spaces within this area to allow for less than the maximum of two hours at a rate of not more than \$0.25 per fifteen minute increments. Any such parking space shall have the time restrictions and rates printed upon each meter. If the city consents to temporarily bagging or removing a meter to accommodate construction or other activity, the rental fee shall be \$5.00 per day or any portion of a day for each such meter.

The Bill was referred to the Parking and Finance Committee for final passage.

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 634-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 634-09: "Authorizing the Finance Director to amend the 2009-2010 Parking System 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 Parking System Budget as indicated on the attached list of accounts; and be it

FURTHER RESOLVED, that this budgetary amendment is being made prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists.

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, Ealy, Hall, Hanna, Harris, Harrison, Jones, Kirk, Knauff, Lane, Miller, Payne, Reed, Reishman, Russell, Salisbury, Sheets, Smith, Talkington, Weintraub, White, Mayor Jones.

ABSENT: Burton, Higgins, Ware

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 634-09, adopted.

2. Your Committee on Finance has had under consideration Resolution No 635-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 635-09: "Authorizing the Mayor to receive and administer funds in the amount of \$517,849 from the West Virginia Governor's Highway Safety Office. The funds will provide for purchase of equipment and salary and overtime for

DUI, seat belt, child seat, red light, and aggressive driving enforcement for the Highway Safety Program in Kanawha, Boone, Clay and Logan counties.”

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

That the Mayor is hereby authorized and directed to receive and administer funds in the amount of \$517,849 from the West Virginia Governor’s Highway Safety Office. The funds will provide for purchase of equipment and salary and overtime for DUI, seat belt, child seat, red light, and aggressive driving enforcement for the Highway Safety Program in Kanawha, Boone, Clay and Logan counties.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 635-09, adopted.

3. Your Committee on Finance has had under consideration Resolution No 636-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 636-09: “Authorizing the finance Director authorized and directed to allocate funds in the amount \$85,840.00 from Account #009-008-00-014-0-999 for rehabilitation of (6) owner occupied residences in the city of Charleston.”

Be it Resolved by the Council of the City of Charleston, West Virginia: That the Finance Director is authorized and directed to allocate funds in the amount of \$85,840.00 from account #009-008-00-014-0-999 for rehabilitation of (6) owner occupied residences in the city of Charleston.

West Side Flat

Historic Restorations	\$ 9,350.00	Awarded Bid
Dean Geoffrey’s Construction	\$11,695.00	

North Charleston

Dean Geoffrey’s Construction	\$19,695.00	Awarded Bid
Historic Restorations	\$20,850.00	

South Side

Dean Geoffrey’s Construction	\$16,945.00	Awarded Bid
Burford Contracting	\$17,500.00	
Historic Restorations	\$19,200.00	

West Side Flat

Burford Contracting	\$17,400.00	Awarded Bid
Historic Restorations	\$20,050.00	
Dean Geoffrey’s Construction	\$21,870.00	

West Side Hill

Burford Contracting	\$17,200.00	Awarded Bid
Dean Geoffrey's Construction	\$17,985.00	
Historic Restorations	\$19,500.00	

East End Hill

Burford Contracting	\$ 5,250.00	Awarded Bid
Dean Geoffrey's Construction	\$ 6,280.00	
Historic Restorations	\$ 7,750.00	

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, Ealy, Hall, Hanna, Harris, Harrison, Jones, Kirk, Knauff, Lane, Miller, Payne, Reed, Reishman, Russell, Salisbury, Sheets, Smith, Talkington, Weintraub, White, Mayor Jones.

ABSENT: Burton, Higgins, Ware

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 636-09, adopted.

4. Your Committee on Finance has had under consideration Resolution No 637-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 637-09: "Authorizing the Mayor to sign and submit FY 2009 Community Participation Program grant information sheets and all related documents for two 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 information sheets and all related documents for the following agencies located within the City of Charleston:

Capital City Striders	09LEDA0244	\$ 2,000
Charleston Municipal Auditorium (Replacement of lighting system)	09LEDA0262	\$20,000

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, Ealy, Hall, Hanna, Harris, Harrison, Jones, Kirk, Knauff, Lane, Miller, Payne, Reed, Reishman, Russell, Salisbury, Sheets, Smith, Talkington, Weintraub, White, Mayor Jones.

ABSENT: Burton, Higgins, Ware

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 637-09, adopted.

5. Your Committee on Finance has had under consideration Resolution No 638-09,

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

Resolution No. 638 -09: “Authorizing the Mayor to sign and submit to the U. S. Department of Housing and Urban Development the CDBG-R contract and all required agreements relating to the CDBG-R Program.”

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 to the U. S. Department of Housing and Urban Development the CDBG-R contract and all required agreements relating to the CDBG-R Program.

The City of Charleston recommends the following activities for the CDBG-R amendment:

Curb and Sidewalk	\$225,921.00
Concrete Street Repair	\$167,000.00
Asphalt Street Repair	\$ 70,000.00
Sub Total	\$462,921.00
Administration	\$ 34,130.00
Total	\$497,051.00

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, Ealy, Hall, Hanna, Harris, Harrison, Jones, Kirk, Knauff, Lane, Miller, Payne, Reed, Reishman, Russell, Salisbury, Sheets, Smith, Talkington, Weintraub, White, Mayor Jones.

ABSENT: Burton, Higgins, Ware

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 638-09, adopted.

6. Your Committee on Finance has had under consideration Resolution No 639-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 639-09: “Authorizing the Mayor to enter into an Agreement with Baseline Sports Construction, in the amount of \$43,036, to provide the labor, equipment, and materials necessary for reconditioning the tennis courts at the Kanawha City Community Center.”

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 Baseline Sports Construction, in the amount of \$43,036, to provide the labor, equipment, and materials necessary for reconditioning the tennis courts at the Kanawha City Community Center.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 639-09, adopted.

7. Your Committee on Finance has had under consideration Resolution No 640-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 640-09: "Authorizing the Mayor to enter into an agreement with Oval Construction Management, in the amount of \$914,260, for the Retractable Canopy Foundations and the Court Street Overlook projects at Riverfront Park."

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 Oval Construction Management, in the amount of \$914,260, for the Retractable Canopy Foundations and the Court Street Overlook projects at Riverfront Park.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 640-09, adopted.

8. Your Committee on Finance has had under consideration Resolution No 641-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 641-09: "Authorizing the Mayor to enter into an Agreement with Ntelos for purchase and installation of a Multiprotocol Label Switching (MPLS) Network and Internet Connections in the amount of \$66,840 for a one year period from the date of contract execution, with the City having the option to renew the Agreement for three consecutive years under the same terms and conditions contained in the original bid document, subject to approval each year and appropriation of funds by City Council."

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 Ntelos for purchase and installation of a Multiprotocol Label Switching (MPLS) Network and Internet Connections in the amount of \$66,840 for a one year period from the date of contract execution, with the City having the option to renew the Agreement for three consecutive years under the same terms and conditions contained in the original bid document, subject to approval each year and appropriation of funds by City Council.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 641-09, adopted.

9. Your Committee on Finance has had under consideration Resolution No 642-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 642-09: “Authorizing the Mayor to sign Memorandum of Understanding with the U.S. Marshals Service for reimbursement of funds in the amount of \$1,093.67 for software to aid in strategic planning for the Police Department.”

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

That the Mayor is hereby authorized and directed to sign Memorandum of Understanding with the U.S. Marshals Service for reimbursement of funds in the amount of \$1,093.67 for software to aid in strategic planning for the Police Department.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 642-09, adopted.

10. Your Committee on Finance has had under consideration Resolution No 643-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 643-09: “Authorizing Mayor and the Chief of Police to execute and enter into an agreement, a copy of which is attached hereto, with the United States Department of Justice, Drug Enforcement Administration (“DEA”) for participation in the West Virginia DEA High Intensity Drug Trafficking Areas (“HIDTA”) Task Force.”

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

That the Mayor and the Chief of Police are hereby authorized to execute and enter into an agreement with the United States Department of Justice, Drug Enforcement Administration (“DEA”) for participation in the West Virginia DEA High Intensity Drug Trafficking Areas (“HIDTA”) Task Force.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 643-09, adopted.

11. Your Committee on Finance has had under consideration Resolution No 644-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 644-09: “Authorizing the Mayor and/or City Manager to submit an application to the U.S. Fish and Wildlife Service for funds from the Boating Infrastructure Grant Program.”

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

That the Mayor and/or City Manager is hereby authorized and directed to submit an application to the U.S. Fish and Wildlife Service for funds from the Boating Infrastructure Grant Program.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 644-09, adopted.

12. A bid submitted by Fairplain Tractor Sales, Inc., in the amount of \$38,355.70, for a Kubota L39 TLB Loader/Landscaper Utility Tractor to be used by the Spring Hill Cemetery Park. To be charged to Account No. 001-980-00-952-4-459, Spring Hill Cemetery Park, Capital Outlay, Equipment, and reports the same to Council with the recommendation that the committee report be adopted.

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

13. A bid submitted by Information Products, Inc., in the amount of \$26,700, for purchase of sixty (60) Mobile Thermal Printers and related accessories to be used by the Charleston Police Department. The bidder's submission shall stay valid for a period of one (1) year from date of approval by City Council. To be charged to Account No. 095-175-00-009-3-341, Police—Highway Safety Grant, and reports the same to Council with the recommendation that the committee report be adopted.

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

14. A proposal submitted by Physio Control, in the amount of \$27,867.77, for purchase of a LIFEPAK 15 Defibrillator to be used by the Charleston Fire Department. To be charged to Account No. 001-976-00-706-4-459, Fire—Capital Outlay, Equipment , and reports the same to Council with the recommendation that the committee report be adopted.

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

REPORTS OF OFFICERS

1. Report of the City of Charleston, Municipal Court Financial Statements; August 2009. Received and Filed.

NEW BILLS

Introduced by Council Member James Ealy on September 8, 2009:
Bill No. 7397 - A Bill to prohibit vehicular traffic from traveling in the Southbound direction of Hunt Avenue between Kanawha Boulevard

and 1st Avenue, 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

Introduced by Council Member Bob White on September 8, 2009:
Bill No.7398 - A Bill to establish a No Parking Anytime Tow Away zone in the turnaround at the upper end of Evergreen 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:

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

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

ABSENT: Burton, Higgins, Ware

At 7:45 p.m., by a motion from Councilmember Harrison, Council adjourned until Monday, September 21, 2009, at 7:00 p.m.

Danny Jones, Honorable Mayor

James M. Reishman, City Clerk

