

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

February 22, 2011

THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE SECOND MEETING IN THE MONTH OF FEBRUARY ON THE 22nd DAY, IN THE YEAR 2011, 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 WARE.

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

**CLOUSER
DENEALT
HANNA
HIGGINS
KNAUFF
PAYNE
RUSSELL
WEINTRAUB**

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

WITH TWENTY-SEVEN MEMBERS BEING PRESENT, THE MAYOR DECLARED A QUORUM.

PENDING THE READING OF THE JOURNAL OF THE PREVIOUS MEETING, THE READING THEREOF WAS DISPENSED WITH AND THE SAME DULY APPROVED.

PUBLIC SPEAKERS

None

CLAIMS

1. A claim of Samuel Thomas, 423 Spruce St., 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 LAND TRUST

DATE: FEBRUARY 22, 2011

I recommend that Mary Jean Davis, 1527 Dogwood Road, Charleston, WV 25314, be appointed to the Charleston Land Trust, with an initial term to expire October 4, 2011. She is replacing Barbara McCabe.

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

DJ/dmp

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the appointment confirmed.

ENVIRONMENT AND RECYCLING

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

Resolution No. 911-11, authorizing the Mayor to execute and enter into an Agreement with Charleston Clean Energy, LLC and Landfill Services of Charleston, Inc., in the form and upon terms as more fully set forth in the Agreement attached hereto, for the purpose of defining and designating the responsibilities of each entity with respect to Federally mandated Greenhouse Gas reporting for the Charleston Landfill and reports the same to Council with the recommendation that the committee report be adopted, but first be referred to the Council Committee on Finance.

The Mayor referred the Resolution to the Council Committee on Finance.

PLANNING

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

1. Your Committee on Planning has had under consideration Bill No. 7454, and reports the same to Council with the recommendation that the bill do pass.

Bill No.7454- 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 the whole of that certain parcel of land situate at 1318 Bigley Avenue, Charleston, (West Charleston 29, Parcel 40) West Virginia from an I-2 Light Industrial District to C-08 Village Commercial District.

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 an I-2 Light Industrial District to a C-08 Village Commercial District the whole of the following described parcel of land:
Parcel 40 as shown on Charleston Tax Map West Charleston No. 29.
Subject parcel commonly known as 1318 Bigley Avenue , West Virginia.
Said tax map is of record in the Planning Office.
2. The Zoning Map, attached to and made a part of said Zoning Ordinance, is hereby amended in accordance with Section 1 of this ordinance.
3. All prior ordinances or parts of ordinances, inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

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

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

ABSENT: Smith

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7454, passed.

FINANCE

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

1. Your Committee on Finance has had under consideration Resolution No 905-11, and reports the same to Council with the recommendation that the committee report be adopted

Resolution No. 905-11 : “Authorizing the Finance Director to allocate funds in the amount \$35,370.00 from Account No. 009-009-00-014-0-999 for rehabilitation of (2) 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 hereby authorized and directed to allocate funds in the amount of \$35,370.00 from Account No. 009-009-00-014-0-999 for rehabilitation of (2) owner occupied residences in the City of Charleston.

The following bids were received for the two projects:

Kanawha City

Dean Geoffrey’s Construction	\$ 20,370.00	Awarded Contract
Historic Restorations	\$ 20,520.00	
Empire Electric	\$ 22,440.00	

South Side

Dean Geoffrey’s Construction	\$ 15,000.00	Awarded Contract
Historic Restorations	\$ 17,880.00	
Empire Electric	\$ 24,000.00	

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

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

ABSENT: Smith

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 905-11, adopted.

2. Your Committee on Finance has had under consideration Resolution No 906-11, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 906-11 : “Authorizing the Mayor or his designee to sign a Memorandum of Understanding between the Federal Bureau of Investigation (FBI) and the Charleston Police Department (CPD) as a Participating Agency in the Cyber Crime Task Force (CCTF). The CCTF enhances the capabilities of law enforcement agencies to investigate computer and high technology related crimes in a task force setting involving the sharing of resources and expertise, and in accordance with the terms and conditions set forth in the agreement. The term of the MOU shall be for the duration of the CCTF’s operations, contingent upon approval of necessary funding by that agency. A Participating Agency may terminate the MOU by giving a 30 day written notice of its intent to terminate. Salaries and compensation of officers are to be paid by the CPD, with the exception of overtime, which shall be reimbursed by CCTF up to \$17,202.25 on an annual basis. The MOU becomes effective once the document

has been fully executed.”

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

That the Mayor or his designee is hereby authorized and directed to sign a Memorandum of Understanding between the Federal Bureau of Investigation (FBI) and the Charleston Police Department (CPD) as a Participating Agency in the Cyber Crime Task Force (CCTF). The CCTF enhances the capabilities of law enforcement agencies to investigate computer and high technology related crimes in a task force setting involving the sharing of resources and expertise, and in accordance with the terms and conditions set forth in the agreement. The term of the MOU shall be for the duration of the CCTF’s operations, contingent upon approval of necessary funding by that agency. A Participating Agency may terminate the MOU by giving a 30-day written notice of its intent to terminate. Salaries and compensation of officers are to be paid by the CPD, with the exception of overtime, which shall be reimbursed by CCTF up to \$17,202.25 on an annual basis. The MOU becomes effective once the document has been fully executed.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 906-11, adopted.

3. Your Committee on Finance has had under consideration Resolution No 907-11, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 907-11: “Authorizing the Mayor or his designee to enter into a lease for property on behalf of the City of Charleston (“City”) in its capacity as the agency that prepares, submits, and oversees the administration of funding applications of the Metropolitan Drug Enforcement Network Team (MDENT), a multijurisdictional task force comprised of the City and nine other federal, state, county and city law enforcement agencies operating under a Memorandum of Understanding dated July 1, 2010, said property to be used as office space for MDENT operations. The term of the lease is for five (5) years at a monthly rent of \$1,600.00, to be paid from MDENT Operating Account funds, with an option for renewal for an additional five (5) years at a monthly rent of \$2,000.00 and an option to buy the property.”

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

That upon final review and approval of the Lease Agreement by legal counsel for the City, the Mayor or his designee is hereby authorized to enter into a lease for property on behalf of the City of Charleston in its capacity as the agency that prepares, submits, and oversees the administration of funding applications of the Metropolitan Drug Enforcement Network Team (MDENT), a multijurisdictional task force operating under a Memorandum of Understanding dated July 1, 2010, said property to be used as office space for MDENT operations.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 907-11, adopted.

4. Your Committee on Finance has had under consideration Resolution No 908-11, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 908-11 : “Authorizing the Mayor to submit a Letter of Interest to the National Endowment for the Arts *Our Town Program* for a grant to complete a full inventory of established public art, develop condition and maintenance plans for the pieces, and to develop policies and guidelines for establishing, selecting and funding public art in Charleston.”

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

That the Mayor is hereby authorized and directed to submit a letter of Interest to the National Endowment for the Arts *Our Town Program* for a grant to complete a full inventory of established public art, develop condition and maintenance plans for the pieces, and to develop policies and guidelines for establishing, selecting and funding public art in Charleston.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 908-11, adopted.

5. Your Committee on Finance has had under consideration Resolution No 909-11, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 909-11 : “Authorizing the City Manager to enter into an agreement with Tyler Technologies, in the amount of \$18,353.00, for a Business Licensing software module to run and interface with the existing Tyler InForum Gold Software Modules to manage the City’s business license transactions. The cost includes setup, training and support services for a one year period starting March 1, 2011 through March 1, 2012.”

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

That the City Manager is hereby authorized and directed to enter into an agreement with Tyler Technologies, in the amount of \$18,353.00, for a Business Licensing software module to run and interface with the existing Tyler InForum Gold Software Modules to manage the City’s business license transactions. The cost includes setup, training and support services for a one year period starting March 1, 2011 through March 1, 2012.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 909-11, adopted.

6. Your Committee on Finance has had under consideration Resolution No 910-11, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 910-11 "Authorizing the Mayor to execute and enter into a Cooperation Agreement with Charleston Replacement Housing L.P. #3 ("CRHLP#3"), a West Virginia limited partnership and controlled affiliate of the Charleston Kanawha Housing Authority (the "Authority"), in the form and upon terms as more fully set forth in the Agreement attached hereto or as may be revised as required by the Secretary of the United States Department of Housing and Urban Development ("HUD"), for the purpose of the redevelopment and replacement of public housing stock stated herein. To the extent that the Authority is considered "another jurisdiction" under W. Va. Code § 8-11-3, said authorization is granted by Resolution pursuant to the Municipal Code of the City of Charleston Chapter 3, Article II, Section 3-12."

WHEREAS, the Authority was created by virtue of a merger and reorganization of the former Housing Authority of the City of Charleston and the former Kanawha County Housing and Redevelopment Authority pursuant to a Reorganization Agreement and related documents dated December 15, 2005, executed by the respective Commissioners of the aforesaid former authorities and effective as of August 2, 2006; and

WHEREAS, the Authority is a corporate body public organized and existing in accordance with the provisions of West Virginia Code Chapter 16, Article 15, Section 1, et seq., is exempt from the payment of any taxes or fees to the state or any subdivision thereof, and its property is further exempt from all local and municipal taxes, fees and assessments by virtue of the provisions of West Virginia Code Chapter 16, Article 15, Section 14(a); and

WHEREAS, CRHLP#3 is a controlled affiliate of the Authority, as defined in West Virginia Code Chapter 16, Article 15, Section 1(12), by virtue of the Authority holding both a majority of the ownership interests in CRHLP#3 and the Commissioners and employees of the Authority constituting a majority of the governing body thereof; and

WHEREAS, CRHLP#3, utilizing low income housing tax credits pursuant to 26 U.S.C. Section 42, as well as other financing sources, and with the approval of HUD, will own and construct a total of 96 units of Public Housing and/or project based Section 8 Housing in conjunction with the planned replacement and redevelopment by the Authority of a portion of its public housing development at Washington Manor and Littlepage Terrace, both situate in the City of Charleston (the "Property"); and

WHEREAS, the West Virginia State Tax Commissioner has by ruling dated December 7, 2006, determined that CRHLP#3 is a controlled affiliate of the Authority and, as such, is eligible for the benefits conferred by West Virginia Code Chapter 16, Article 15, Section 14, thereby exempting the Property owned by CRHLP#3 to be developed and revitalized for use as Public Housing, from West Virginia local and municipal taxes, fees

and assessments, as such Property must be treated as property of the Authority; and

WHEREAS, although property of the Authority is exempt from West Virginia local and municipal taxes, fees and assessments pursuant to the aforesaid provisions of the West Virginia Code, the Authority and the City of Charleston have heretofore entered into and, for a number of years prior to the date of these presents, have adhered to a Cooperation Agreement whereby the Authority has made certain payments in lieu of taxes to the City and, inasmuch as the CRHLP#3 Property is treated as property of the Authority according to the aforesaid Tax Commissioner's ruling, it is the mutual desire of the parties hereto to enter into an agreement providing for like payments in lieu of taxes with respect to the Property by CRHLP#3 to the City of Charleston as more full set forth in the Agreement attached hereto;

THEREFORE, Be it Resolved by the Council of the City of Charleston:

That the Mayor is hereby authorized and directed to execute and enter into a Cooperation Agreement with Charleston Replacement Housing L.P. #3 ("CRHLP#3"), a West Virginia limited partnership and controlled affiliate of the Charleston Kanawha Housing Authority (the "Authority"), in the form and upon terms as more fully set forth in the Agreement attached hereto or as may be revised as required by the Secretary of the United States Department of Housing and Urban Development ("HUD"), for the purpose of the redevelopment and replacement of public housing stock stated herein. To the extent that the Authority is considered "another jurisdiction" under W. Va. Code § 8-11-3, said authorization is granted by Resolution pursuant to the Municipal Code of the City of Charleston Chapter 3, Article II, Section 3-12.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 910-11, adopted.

7. Your Committee on Finance has had under consideration Resolution No 911-11, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 911-11 : "Authorizing and directing the Mayor to execute and enter into a Agreement with Charleston Clean Energy, LLC ("CCE") and Landfill Services of Charleston, Inc. ("LSC"), in the form and upon terms as more fully set forth in the Agreement attached hereto, for the purpose of defining and designating the responsibilities of each entity with respect to Federally mandated Greenhouse Gas ("GHG") reporting for the Charleston Landfill."

WHEREAS, The United States Environmental Protection Agency ("USEPA") GHG Mandatory Reporting Rule (Title 40 Code of Federal Regulations Part 98 Subparts A, C and HH) requires that owners and operators of certain municipal solid waste landfills and/or Landfill Gas to Energy Facilities inventory and report their GHG emissions on an annual basis, with reports to be submitted to the USEPA in electronic format on 31 March of each calendar year (the "GHG Reports"), and that these GHG Reports be

certified and signed by one Designated Representative on behalf of all owners and operators of the facility to which they pertain; and

WHEREAS, City owns and LSC operates such an affected facility, known as Charleston Landfill located at 741 South Park Road, Charleston, WV 25304; and

WHEREAS, CCE owns and operates a landfill gas to energy project located on the Charleston Landfill; and

WHEREAS, the Parties desire to designate LSC as the Party to file the GHG Reports on behalf of all the parties using data provided by CCE, and in the form and upon terms as more fully set forth in the Agreement attached hereto;

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

The Mayor is hereby Authorized and directed to execute and enter into a Agreement with Charleston Clean Energy, LLC and Landfill Services of Charleston, Inc., in the form and upon terms as more fully set forth in the Agreement attached hereto, for the purpose of defining and designating the responsibilities of each entity with respect to Federally mandated Greenhouse Gas (“GHG”) reporting for the Charleston Landfill.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 911-11, adopted. Recuse: Marc Weintraub

8. Your Committee on Finance has had under consideration a proposal submitted by Greenbrier Motor Co., Inc., in the amount of \$23,236.00, for purchase of one (1) vehicle to be used by the MDENT unit. The vehicle will be titled to the South Charleston Police Department. To be charged to Account No. 900-173-00-000-3-341, MDENT— Materials & 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.

REPORTS OF OFFICERS

1. Report of the City of Charleston Financial Statements for the Seven-Month period ended January 31, 2011.
Received and Filed.

2. Report of the City of Charleston Payroll Variance Analysis;
January 2011
Received and Filed.

3. City Treasurer’s Report to City Council Month Ending January 2011.
Received and Filed.

ROLL CALL

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

At 7:25 p.m., by a motion from Councilmember Harrison, Council adjourned until Monday, March 7, 2011, at 7:00 p.m.

Danny Jones, Honorable Mayor

James M. Reishman, City Clerk