

**JOURNAL  
OF THE  
COUNCIL  
CITY OF CHARLESTON  
WEST VIRGINIA  
November 7, 2011**

**THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE FIRST MEETING IN THE MONTH OF NOVEMBER ON THE 7<sup>th</sup> DAY, IN THE YEAR 2011, AND WAS CALLED TO ORDER BY THE HONORABLE MAYOR, DANNY JONES. THE INVOCATION WAS DELIVERED BY RICHARDSON AND THE PLEDGE OF ALLEGIANCE WAS LED BY MILLER.**

**BURKA  
DAVIS  
EALY  
KIRK  
MINARDI  
REISHMAN  
SALISBURY  
SNODGRASS  
WARE  
MAYOR JONES**

**BURTON  
DENEALT  
HAAS  
LANE  
NICHOLS  
RICHARDSON  
SHEETS  
STAJDUHAR  
WEINTRAUB**

**DODRILL  
HARRISON  
MILLER  
PERSINGER  
RUSSELL  
SMITH  
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**

Jane Claymore – Charleston  
Daniel Anderson – Charleston  
Paul Harrison – Charleston  
Matt Ballard – Charleston  
Michael Rhodes - Charleston

**CLAIMS**

1. A claim of Calvin Daniels, 5400 Big Tyler Rd., Cross Lanes, WV; alleges damage to vehicle.  
Refer to City Solicitor
2. A claim of Jackie Booth, 5402 Staunton Ave., SE. Charleston, WV; alleges damage to property.  
Refer to City Solicitor
3. A claim of Janet McClure, 4813 Klondike Rd, Charleston, WV; alleges damage to vehicle.  
Refer to City Solicitor
4. A claim of John Myers, 1263 Dog Fork, Kenna, WV; alleges damage to vehicle.  
Refer to City Solicitor
5. A claim of Nancy Baer, 3031 Woodward Dr., Charleston WV; alleges personal injury.  
Refer to City Solicitor

**APPOINTMENTS**

TO: JAMES REISHMAN  
CITY CLERK

FROM: DANNY JONES, MAYOR

RE: MUNICIPAL BEAUTIFICATION COMMISSION

DATE: NOVEMBER 7, 2011

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I recommend that Pauline Lester, 915 Breezemont Drive, Charleston, WV 25302 be reappointed to the Municipal Beautification Commission, with a said term to expire September 19, 2014.

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

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

TO: JAMES REISHMAN  
CITY CLERK

FROM: DANNY JONES, MAYOR

RE: MUNICIPAL BEAUTIFICATION COMMISSION

DATE: NOVEMBER 7, 2011

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I recommend that Amy McLaughlin, 7 Arlington Court, Charleston, WV 25301 be reappointed to the Municipal Beautification Commission, with a said term to expire September 19, 2014.

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

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

TO: JAMES REISHMAN  
CITY CLERK

FROM: DANNY JONES, MAYOR

RE: MUNICIPAL BEAUTIFICATION COMMISSION

DATE: NOVEMBER 7, 2011

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I recommend that Otis Laury, 1800 Roundhill Road, Charleston, WV 25314 be reappointed to the Municipal Beautification Commission, with a said term to expire September 19, 2014.

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

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

### ***MISCELLANEOUS RESOLUTIONS***

Resolution No. 046-11

Introduced in Council : November 7, 2011

Introduced by: Tom Lane, Jack Harrison, Mary Jean Davis, Joe Deneault, Andy Richardson

WHEREAS, vast reserves of natural gas have been proven in West Virginia and some of the surrounding states which will in the future provide for a dependable supply of natural gas at stable prices; and

WHEREAS, the natural gas from the Marcellus Shale and Utica formations is rich in byproducts, including ethane, which can be converted in what is known as an ethane cracker plant to ethylene, a key feedstock for the chemical industry; and

WHEREAS, for a hundred years the chemical industry in the Kanawha Valley has been one of the leading chemical manufacturing and development centers in the world with a dependable and secure workforce and critical infrastructure; and

WHEREAS, the location of a cracker plant in the Kanawha Valley using the natural resources from West Virginia would rejuvenate the chemical industry in this area; and

WHEREAS, the Bayer Corporation plant in Institute, West Virginia, with ready access to water, rail, pipeline and other infrastructure is a logical location for a plant; and

WHEREAS, the Kanawha Valley is home to the West Virginia Regional Technology Park, a world class research and development center, which can support the chemical industry and development of new and innovative processes; and

WHEREAS, construction of a new cracker plant will require a capital investment ranging from 1.5 to 4 billion dollars, will employ 2,000 construction workers and 500 to 1,000 permanent jobs, and for each direct job there will be five more jobs in support positions; and

WHEREAS, it is projected that the chemical industry in the Kanawha Valley will go from the 23rd largest center for chemical production to the 13th largest and there will be 7 billion dollars in additional chemical output; and

WHEREAS, the new and reliable sources of natural gas containing ethane and other products and the possibility of growth and new industry in the chemical industry represents a generational opportunity for the Kanawha Valley and a stable environment for the chemical industry which has seen its home in this area for many years.

NOW, THEREFORE, BE IT RESOLVED that the City of Charleston recognizes the positive impact of an ethane cracker plant located in the Kanawha Valley and urges that those considering the location of a plant in the Valley seize the opportunities here with a reliable workforce, existing infrastructure, and a long and storied history of chemical production.

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the resolution 046-11, adopted.*

Resolution No. 047-11

Introduced in Council: November 7, 2011

Sponsored by Mary Jean Davis and Joe Deneault

Resolution to endorse new traffic signal programs to improve pedestrian safety along Kanawha Boulevard and connection to the riverfront

Referred to: Committee on Streets and Traffic

## **ENVIRONMENT AND RECYCLING**

Councilperson Ed Talkington, Chairperson of the Council Committee on Environment and

Recycling, submitted the following reports.

1. Your Committee on Environment and Recycling has had under consideration Resolution No 029-11, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 029-11 -- "Concerning a 10% increase in the monthly tonnage at the City of Charleston Landfill operated by Landfill Services of Charleston, Inc.."

WHEREAS, the City entered into an Operating Agreement with Landfill Services of Charleston, Inc., formerly known as West Virginia Waste Services, Inc., on February 15, 1994, to construct and operate the City of Charleston Landfill; and

WHEREAS, the solid waste permit issued to the permittee City of Charleston on December 1, 1994, was modified to reflect a "CLASS A" Landfill with the tonnage authorization of "15,000 tons/month" on April 29, 1997 that was modified to "16,500 tons/month" by a 10% increase on April 19, 1999 by Resolution No. 180-99, modified to 18,150 tons/month on February 2, 2004 by Resolution No. 432-03, and modified to 19,965 tons/month on August 7, 2006, by Resolution No. 080-06, and modified to 21,962 tons/month on January 5, 2009, by Resolution No. 500-09; and

WHEREAS, pursuant to West Virginia Code §22-15-1 *et seq.* and West Virginia Solid Waste Management Rule 33-01, a permittee may request a permit modification in alternate years from the West Virginia Division of Environmental Protection ("WVDEP") to increase the volume of solid waste accepted at the landfill facility by an amount of 10% or less, unless such an increase requires a change in the classification of the facility; and

WHEREAS, more than two years time has elapsed since the previous modification to the Solid Waste Permit; and

WHEREAS, the City has received an Engineer's Opinion and Recommendation, incorporated herein and attached hereto as Exhibit A, which indicates that a 10% monthly tonnage increase is necessary to provide for continued efficient disposal of waste at the landfill facility;

WHEREAS, upon information and belief, a 10% increase in monthly tonnage will not change the classification of the landfill facility; therefore

THEREFORE, Be It Resolved By The Council Of The City Of Charleston, West Virginia:

That the Council of the City of Charleston directs the administration to take the appropriate action(s), consistent with all state and local laws and rules, to initiate the submittal of an application to the WVDEP, Office of Waste Management, requesting a permit modification allowing permittee to increase the allowable monthly tonnage of the landfill facility by 10%.

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the resolution 029-11, adopted.*

## **PLANNING**

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

1. Your Committee on Planning has had under consideration Bill No. 7492, and reports the same to Council with the recommendation that the bill do pass.

Bill No.7492 amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 1<sup>st</sup> day of January 2006, as amended, and the map made part thereof, by rezoning from a R-4 district to a R-8 district, that certain parcel of land situate at 300 Baker Lane, Charleston, West Virginia.

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

1. The Zoning Ordinance of the City of Charleston, West Virginia, enacted the 1<sup>st</sup> day of January 2006, as amended, is hereby amended by rezoning from an R-4 district to a R-8 district the whole of the following described parcels of land:

A western portion (approximately 56,021 SF) of Parcel 8 as shown upon North Charleston Tax Map No. 38; An eastern portion (approximately 7934 SF) of Parcel 112 as shown upon West Charleston Tax Map No. 6; A western portion (approximately 17,060 SF) of an unassigned Parcel Number upon West Charleston Tax Map No. 6 (owned by West Virginia American Water Company). 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 Article 27 of this said 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 passage of the Bill. A roll call was taken and there were; yeas – 27, absent - 1, as follows:*

*YEAS: Burka, Burton, Davis, Deneault, Dodrill, Ealy, Haas, Harrison, Kirk, Lane, Miller, Minardi, Nichols, Persinger, Reishman, Richardson, Russell, Salisbury, Sheets, Smith, Snodgrass, Stajduhar, Talkington, Ware, Weintraub, White, Mayor Jones.*

*ABSENT: Clowser*

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7492, passed.*

## **STREETS AND TRAFFIC**

Councillperson Joe Deneault, Chairperson 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. 7496, and reports the same to Council with the recommendation that the bill do pass.

A Bill to establish a One Hour Parking Zone Monday Through Saturday 8 AM to 6 PM on the Easterly side of Delaware Avenue from a point 25' South of Virginia Street to a point 95' South of Virginia 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.

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

Section 1. A One Hour Parking Zone Monday Through Saturday 8 AM to 6 PM on the Easterly side of Delaware Avenue from a point 25' South of Virginia Street to a point 95' South of Virginia Street is hereby established.

Section 2. 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, shall be and hereby are amended, to conform to this Ordinance.

Section 3. All prior 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 – 27, absent - 1, as follows:*

*YEAS: Burka, Burton, Davis, Deneault, Dodrill, Ealy, Haas, Harrison, Kirk, Lane, Miller, Minardi, Nichols, Persinger, Reishman, Richardson, Russell, Salisbury, Sheets, Smith, Snodgrass, Stajduhar, Talkington, Ware, Weintraub, White, Mayor Jones.*

*ABSENT: Clowser*

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7496, passed.*

2. . Your Committee on Streets and Traffic has had under consideration Bill No. 7497, and reports the same to Council with the recommendation that the bill do pass.

A Bill to establish a One Hour Parking Zone Monday Through Saturday 8 AM to 6 PM on the Southerly side of Virginia Street, West from a point 40' East of Delaware Avenue to a point 84' East of Delaware 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.

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

Section 1. A One Hour Parking Zone Monday Through Saturday 8 AM to 6 PM on the Southerly side of Virginia Street, West from a point 40' East of Delaware Avenue to a point 84' East of Delaware Avenue is hereby established.

Section 2. 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, shall be and hereby are amended, to conform to this Ordinance.

Section 3. All prior 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 – 27, absent - 1, as follows:*

*YEAS: Burka, Burton, Davis, Deneault, Dodrill, Ealy, Haas, Harrison, Kirk, Lane, Miller, Minardi, Nichols, Persinger, Reishman, Richardson, Russell, Salisbury, Sheets, Smith, Snodgrass, Stajduhar, Talkington, Ware, Weintraub, White, Mayor Jones.*

*ABSENT: Clowser*

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7497, passed.*

3. Your Committee on Streets and Traffic has had under consideration Bill No. 7498, and reports the same to Council with the recommendation that the bill do pass.

A Bill to establish a One Hour Parking Zone Monday Through Saturday 8 AM to 6 PM on the Westerly side of Delaware Avenue, from a point 48' South of Central Avenue to a point 114' South of Central 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.

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

Section 1. A One Hour Parking Zone Monday Through Saturday 8 AM to 6 PM on the Westerly side of Delaware Avenue, West from a point 48' South of Central Avenue to a point 114' South of Central Avenue is hereby established.

Section 2. 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, shall be and hereby are amended, to conform to this Ordinance.

Section 3. All prior 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 – 27, absent - 1, as follows:*

*YEAS: Burka, Burton, Davis, Deneault, Dodrill, Ealy, Haas, Harrison, Kirk, Lane, Miller, Minardi, Nichols, Persinger, Reishman, Richardson, Russell, Salisbury, Sheets, Smith, Snodgrass, Stajduhar, Talkington, Ware, Weintraub, White, Mayor Jones.*

*ABSENT: Clowser*

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7498, passed.*

4. Your Committee on Streets and Traffic has had under consideration Bill No. 7499, and reports the same to Council with the recommendation that the bill do pass.

Bill No. 7499: "A BILL to establish a No Parking Any Time Tow Away Zone on the southerly side of Sweetbrier Road from Hampton Road to a point 180 feet east of Hampton Road, and to amend the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, as amended, Chapter 114 - Traffic Ordinance, Article IV, Division 2, to conform herewith.

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

That a No Parking Any Time Tow Away Zone is hereby established on the southerly side of Sweetbrier Road from Hampton Road to a point 180 feet east of Hampton Road, and that the Traffic Control Map and Traffic Control File established by the Code of the City of Charleston, West Virginia, as amended, Chapter 114 - Traffic Ordinance, Article IV, Division 2, is amended to conform herewith. All prior Ordinances inconsistent with this Ordinance are hereby repealed to the extent of said inconsistency and reenacted to conform herewith.

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

*YEAS: Burka, Burton, Davis, Deneault, Dodrill, Ealy, Haas, Harrison, Kirk, Lane, Miller, Minardi, Nichols, Persinger, Reishman, Richardson, Russell, Salisbury, Sheets, Smith, Snodgrass, Stajduhar, Talkington, Ware, Weintraub, White, Mayor Jones.*

*ABSENT: Clowser*

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7499, passed.*

## **FINANCE**

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

1. Your Committee on Finance has had under consideration Resolution No 030-11, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 030-11: “Authorizing the Mayor or City Manager to enter into an agreement with Mears Motor Leasing in the amount of approximately \$364,500.00, for a three year lease purchase period at a rate of 1.61%, and approximately \$1,794,000.00, for a five year lease purchase period at a rate of 1.61%, to provide for the purchase of police cars and various equipment for City departments, contingent upon the bidder establishing and funding an escrow account for the aforementioned amounts and contingent upon the City being allowed to procure all vehicles and equipment according to its purchasing procedures, and subject to review and final approval by legal counsel for the City.”

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

That the Mayor or City Manager is hereby authorized and directed to enter into an agreement with Mears Motor Leasing in the amount of approximately \$364,500.00, for a three year lease purchase period at a rate of 1.61%, and approximately \$1,794,000.00, for a five year lease purchase period at a rate of 1.61%, to provide for the purchase of police cars and various equipment for City departments, contingent upon the bidder establishing and funding an escrow account for the aforementioned amounts and contingent upon the City being allowed to procure all vehicles and equipment according to its purchasing procedures, and subject to review and final approval by legal counsel for the City.

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the resolution 030-11, adopted.*

2. Your Committee on Finance has had under consideration Resolution No 031-11, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 031-11 – A Resolution authorizing the assignment of the December 3, 2003, and August 16, 2011, agreements between the City of Charleston (“City”) and Gearhart & Associates (“G & A”) to Champion Industries, Inc. (“Champion”), and further authoring the Mayor or City Manager to execute the attached Consent to Assignment, and any additional documents that may be necessary to indicate the City’s conditional consent to the assignment.

WHEREAS, in December of 2003, the City and G & A entered into an agreement for the development and support of software for a Revenue Tracking System (RTS); and

WHEREAS, in August of 2010, the City and G & A entered into a Software Development and Support License Agreement for the development and support of the software for the administration of the rental property registration; and

WHEREAS, G & A has developed both software programs, and an Audit Control Manager program to work in combination with the RTS, and has been providing support for all the programs developed on an ongoing basis; and

WHEREAS, G & A has entered into an agreement to transfer its interest in these software products, including the support thereof, to Champion; and

WHEREAS, the Software Development and Support License Agreement specifically prohibits the assignment or transfer of the rights or interests covered by the agreement to any entity other than G & A without written consent; and

WHEREAS, the Director of Information Systems has determined that it is in its best interest of the City to permit the assignment of the agreements with G & A to Champion to allow Champion to provide support for any and all software products implemented and formerly supported by G & A consistent with the terms and conditions of the agreements previously entered into by City and G & A;

THEREFORE, Be It Resolved By The Council Of The City Of Charleston, West Virginia:

The assignment of the December 3, 2003, and August 16, 2011, agreements between the City of Charleston and Gearhart & Associates to Champion Industries, Inc. is hereby authorized as conditioned herein, and the Mayor or City Manager is further authorized to execute the attached Agreement of Assignment, and any additional documents that may be necessary to indicate the City’s consent to the assignment, and the continuation of support of Gearhart & Associates software products by Champion Industries, Inc. consistent with the terms and conditions of the agreements previously entered into by City and G & A.

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the resolution 031-11, adopted.*

3. Your Committee on Finance has had under consideration Resolution No 032-11, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 032-11 : “Authorizing the Finance Director to allocate funds in the amount of \$50,000.00 for acquisition of one (1) HOME project located in the North Charleston area.”

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 \$50,000.00 for acquisition of one (1) HOME project located in the North Charleston area.

*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, Burton, Davis, Deneault, Dodrill, Ealy, Haas, Harrison, Kirk, Lane, Miller, Minardi, Nichols, Persinger, Reishman, Richardson, Russell, Salisbury, Sheets, Smith, Snodgrass, Stajduhar, Talkington, Ware, Weintraub, White, Mayor Jones.*

*ABSENT: Clowser*

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 032-11 adopted.*

4. Your Committee on Finance has had under consideration Resolution No 033-11, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 033-11 : “Authorizing the Finance Director to allocate funds in the amount of \$17,700.00 for rehabilitation of one (1) owner-occupied residence on the West Side.”

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 \$17,700.00 for rehabilitation of one (1) owner-occupied residence on the West Side.

*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, Burton, Davis, Deneault, Dodrill, Ealy, Haas, Harrison, Kirk, Lane, Miller, Minardi, Nichols, Persinger, Reishman, Richardson, Russell, Salisbury, Sheets, Smith, Snodgrass, Stajduhar, Talkington, Ware, Weintraub, White, Mayor Jones.*

*ABSENT: Clowser*

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 033-11 adopted.*

5. Your Committee on Finance has had under consideration Resolution No 034-11, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 034-11 : “Authorizing the Finance Director to amend the 2008, 2010 and 2011 Community Development Block Grant budgets.

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 2008, 2010 and 2011 Community Development Block Grant budgets as indicated on the accounts listed below:

<u>Account Number</u>	<u>Description</u>	<u>Increase/(Decrease)</u>
009-008-00-001-0-999	CD Administration	(\$85,504.50)
009-011-00-199-0-999	Unprogrammed Funds	\$85,504.50
009-010-00-199-0-999	Unprogrammed Funds	(\$28,724.33)
009-011-00-199-0-999	Unprogrammed Funds	(\$41,275.67)
009-011-00-002-0-999	COB Major Renovations	\$70,000.00

MOECD proposes allocating CDBG funds for major renovations at the following City owned buildings:

Smith Street Station  
YWCA Sojourners Shelter  
Roark-Sullivan Lifeway Center  
YWCA Child Enrichment Center

*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, Burton, Davis, Deneault, Dodrill, Ealy, Haas, Harrison, Kirk, Lane, Miller, Minardi, Nichols, Persinger, Reishman, Richardson, Russell, Salisbury, Sheets, Smith, Snodgrass, Stajduhar, Talkington, Ware, Weintraub, White, Mayor Jones.*

*ABSENT: Clowser*

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 034-11 adopted.*

6. Your Committee on Finance has had under consideration Resolution No 035-11, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 035-11: “Authorizing the Finance Director to issue a refund in the amount of \$19,812.55 to Bayliss & Ramey, Inc. for overpayment of Business & Occupation (“B&O”) Tax for the period April 1, 2011 through September 30, 2011. The taxpayer overstated income on its 2<sup>nd</sup> quarter 2011 B&O tax return as a result of including income from a construction project that was located in the City of Parkersburg.”

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

That the Finance Director is hereby authorized and directed to issue a refund in the amount of \$19,812.55 to Bayliss & Ramey, Inc. for overpayment of Business & Occupation (“B&O”) Tax for the period April 1, 2011 through September 30, 2011. The taxpayer overstated income on its 2<sup>nd</sup> quarter 2011 B&O tax return as a result of including income from a construction project that was located in the City of Parkersburg.

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the resolution 035-11, adopted.*

7. Your Committee on Finance has had under consideration Resolution No 036-11, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 036-11 \_\_\_\_\_: “Authorizing the Mayor to sign Change Order No. 2 in the amount of \$130,800.00 with Thaxton Construction Co. for the *Three Retaining Walls Project*, providing for materials and all other services necessary for the emergency repair of a slip on Brawley Road which occurred during execution of the current contract. The slip is approximately 160 feet in length and is immediately threatening access to Brawley Road, one private residence on Carroll Road, and several public utilities. The change order increases the contract price from \$189,990.00 to \$320,790.00.”

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 in the amount of \$130,800.00 with Thaxton Construction Co. for the *Three Retaining Walls Project*, providing for materials and all other services necessary for the emergency repair of a slip on Brawley Road which occurred during execution of the current contract. The slip is approximately 160 feet in length and is immediately threatening access to Brawley Road, one private residence on Carroll Road, and several public utilities. The change order increases the contract price from \$189,990.00 to \$320,790.00.”

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the resolution 036-11, adopted.*

8. Your Committee on Finance has had under consideration Resolution No 037-11, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 037-11 \_\_\_\_\_: “Authorizing the Finance Director to amend the FY 2011-2012 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 FY 2011-2012 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 – 27, absent - 1, as follows:*

*YEAS: Burka, Burton, Davis, Deneault, Dodrill, Ealy, Haas, Harrison, Kirk, Lane, Miller, Minardi, Nichols, Persinger, Reishman, Richardson, Russell, Salisbury, Sheets, Smith, Snodgrass, Stajduhar, Talkington, Ware, Weintraub, White, Mayor Jones.*

*ABSENT: Clowser*

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 037-11 adopted.*

9. Your Committee on Finance has had under consideration Resolution No 038-11, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 038-11 \_\_\_\_\_: “Authorizing the Finance Director to amend the FY 2011-2012 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 FY 2022-2012 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 – 27, absent - 1, as follows:*

*YEAS: Burka, Burton, Davis, Deneault, Dodrill, Ealy, Haas, Harrison, Kirk, Lane, Miller, Minardi, Nichols, Persinger, Reishman, Richardson, Russell, Salisbury, Sheets, Smith, Snodgrass, Stajduhar, Talkington, Ware, Weintraub, White, Mayor Jones.*

*ABSENT: Clowser*

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 038-11 adopted.*

10. Your Committee on Finance has had under consideration Resolution No 039-11, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 039-11 \_\_\_\_\_: “Authorizing the Mayor or his designee to submit an Intent-to-Apply letter to the Safe Routes to School Grant Program for the Holz Elementary School Project.”

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 submit an Intent-to-Apply letter to the Safe Routes to School Grant Program for the Holz Elementary School Project.

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the resolution 039-11, adopted.*

11. Your Committee on Finance has had under consideration Resolution No 040-11, and reports the same to Council with the recommendation that the resolution be adopted.

#### THE SANITARY BOARD OF THE CITY OF CHARLESTON, WEST VIRGINIA

Resolution requesting the City Council of the City of Charleston, West Virginia to authorize the City of Charleston to file civil actions in the Circuit Court of Kanawha County for the condemnation of property for sanitary sewer easements necessary for the Sanitary Board of the City of Charleston, West Virginia to construct, install and complete its Kanawha Two Mile Sewer Rehabilitation and Replacement Project.

WHEREAS, the Sanitary Board of the City of Charleston, West Virginia (the “Sanitary Board”) is pursuing a sewer rehabilitation and replacement project in the Kanawha Two Mile area of the City of Charleston (the “Project”) which is necessary to correct older, failing sewer collection lines and is necessary for the health and welfare of the citizens of the City of Charleston;

WHEREAS, the Project includes the rehabilitation and/or replacement of approximately 106,000 feet of sewer lines, and numerous permanent easements and temporary construction easements are necessary to undertake and complete the Project;

WHEREAS, the Sanitary Board and its rights-of-way agents have diligently sought easement agreements for such necessary easements from the affected property owners and have

received and recorded many signed easement agreements;

WHEREAS, due to numerous factors including, but not limited to, out-of-state property owners, properties held in heirships with numerous heirs, some whose location is unknown, and uncooperative or uncommunicative property owners, the Sanitary Board has been unable to obtain by negotiation and agreement all of the necessary sewer easements;

WHEREAS, the Sanitary Board has no choice but to request the City of Charleston to authorize the filing of civil actions for the acquisition, pursuant to the City of Charleston's power of eminent domain, certain property interests in order to obtain the necessary sewer easements for the Project; now, therefore,

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

Section 1. To accomplish construction of the sewer rehabilitation and replacement project in the Kanawha Two Mile area of the City of Charleston necessary for the health and welfare of the citizens of the City of Charleston, the Sanitary Board of the City of Charleston, West Virginia ("Sanitary Board") must obtain easements across and through certain properties as set forth on Exhibit A to this Resolution.

Section 2. The Sanitary Board requests the City Council of the City of Charleston to authorize the City of Charleston, on behalf of and by and through the Sanitary Board and its counsel to file civil actions for the acquisition for the Sanitary Board, pursuant to the power of eminent domain, of the property interests set forth on Exhibit A and to take such other and further action as may be reasonably necessary to acquire the property rights for easements necessary to construct, install, operate, maintain, repair, replace, rehabilitate, line and remove sewer lines and appurtenances thereto.

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the resolution 040-11, adopted.*

12. Your Committee on Finance has had under consideration Resolution No 041-11, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 041-11 \_\_\_\_\_: "Authorizing the City Manager to enter into a Lease Agreement with Charles Ryan Associates, LLC, to demise a premises at 601 Morris Street of approximately 6439 square feet of floor space for a period of fifteen (15) years commencing January 1, 2012, at a base rental rate of \$1,798,410 payable in 180 monthly installments of \$9,991.17, subject to annual utility escalations and providing for early termination after the first five years with proper notice and payment of the remaining unpaid amortized build-out and furnishings allowance of \$184,805.51, or after the first ten years with notice and payment of \$106,126.37."

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 a Lease Agreement with Charles Ryan Associates, LLC, to demise a premises at 601 Morris Street of approximately 6439 square feet of floor space for a period of fifteen (15) years commencing January 1, 2012, at a base rental rate of \$1,798,410 payable in 180 monthly installments of \$9,991.17, subject to

annual utility escalations and providing for early termination after the first five years with proper notice and payment of the remaining unpaid amortized build-out and furnishings allowance of \$184,805.51, or after the first ten years with notice and payment of \$106,126.37

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the resolution 041-11, adopted.*

13. Your Committee on Finance has had under consideration Resolution No 042-11, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 042-11: “Authorizing the City Manager to renew the Lease Agreement with the U.S. Army for a demised premises at 601 Morris Street of approximately 1,223 net usable square feet of floor space for an annual rent of \$14,700, payable at the rate of \$1,225.00 in arrears with automatic annual renewals for up to five (5) years.”

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

That the City Manager is hereby authorized and directed to renew the Lease Agreement with the U.S. Army for a demised premises at 601 Morris Street of approximately 1,223 net usable square feet of floor space for an annual rent of \$14,700, payable at the rate of \$1,225.00 in arrears with automatic annual renewals for up to five (5) years.”

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the resolution 042-11, adopted.*

14. Your Committee on Finance has had under consideration Resolution No 043-11, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 043-11 – A resolution authorizing the Mayor and/or City Manager to enter into an agreement with AETNA Life Insurance Company to provide a Medicare Advantage PPO as the sole healthcare plan for Medicare eligible retirees from the City of Charleston, and their Medicare eligible dependents, to be provided in a manner consistent with the sample contract attached as Exhibit A hereto, and at the rate of \$97.09 per month per beneficiary, subject to final review and approval of the general terms and conditions by legal counsel for the City. These rates and any changes thereto in future years shall be passed through as participating costs to participating retirees without subsidy by the City except as to the following:

The rates charged to retirees aged 65 and over hired before July 1, 1984 who currently elect coverage which includes a spouse who is also 65 or older, will be subsidized at the rate of \$80 per month for those qualifying for tobacco-free discounts and \$70 per month for those paying the standard rate; provided that this subsidy shall be reduced by 25% each year over the next four (4) years until the subsidy is extinguished. Thereafter, the City shall provide no subsidies, but pass all premium charges through to participating retirees and dependents.

The new rates for the benefit year beginning January 1, 2012, are those as reflected on Exhibit B hereto.

THEREFORE, Be It Resolved By The Council Of The City Of Charleston, West Virginia:

That upon final review and approval by legal counsel for the City of the general terms and conditions contained in the sample contract, attached as Exhibit A hereto, the Mayor and/or City

Manager is hereby authorized to enter into an agreement with AETNA Life Insurance Company to provide a Medicare Advantage PPO as the sole healthcare plan for Medicare eligible retirees from the City of Charleston, and their Medicare eligible dependents, at the rate of \$97.09 per month per beneficiary, subject to final review and approval of the general terms and conditions by legal counsel for the City. These rates and any changes thereto in future years shall be passed through as participating costs to participating retirees without subsidy by the City except as to the following:

The rates charged to retirees aged 65 and over hired before July 1, 1984 who currently elect coverage which includes a spouse who is also 65 or older, will be subsidized at the rate of \$80 per month for those qualifying for tobacco-free discounts and \$70 per month for those paying the standard rate; provided that this subsidy shall be reduced by 25% each year over the next four (4) years until the subsidy is extinguished. Thereafter, the City shall provide no subsidies, but pass all premium charges through to participating retirees and dependents.

The new rates for the benefit year beginning January 1, 2012, are those as reflected on Exhibit B hereto.

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the resolution 043-11, adopted. Burton - abstain*

15. Your Committee on Finance has had under consideration Resolution No 044-11, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 044-11 \_\_\_\_\_: "Authorizing the Mayor or City Manager to enter into an agreement for purchase of E10 Gasoline through a bid to be received by Kanawha Valley Regional Transportation Authority ("KVRTA") on November 16, 2011. As these bid prices will only be open and available for 24 hours, the Mayor and/or City Manager is/are authorized to exercise discretion in accepting or rejecting such bid proposals as they may deem in the best interest of the City and to report the same at the next scheduled council meeting."

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

That the Mayor or City Manager is hereby authorized and directed to enter into an agreement for purchase of E10 Gasoline through a bid to be received by Kanawha Valley Regional Transportation Authority ("KVRTA") on November 16, 2011. As these bid prices will only be open and available for 24 hours, the Mayor and/or City Manager is/are authorized to exercise discretion in accepting or rejecting such bid proposals as they may deem in the best interest of the City and to report the same at the next scheduled council meeting.

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the resolution 044-11, adopted.*

16. Your Committee on Finance has had under consideration Resolution No 045-11, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 045-11 \_\_\_\_\_: "Authorizing the Mayor or City Manager to enter into an agreement for purchase of ULS Diesel Fuel through a bid to be received by Kanawha Valley Regional Transportation Authority ("KVRTA") on November 16, 2011. As these bid prices will only be open and available for 24 hours, the Mayor and/or city Manager is/are authorized to

exercise discretion in accepting or rejecting such bid proposals as they may deem in the best interest of the City and to report the same at the next scheduled council meeting.”

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

That the Mayor or City Manager is hereby authorized and directed to enter into an agreement for purchase of ULS Diesel Fuel through a bid to be received by Kanawha Valley Regional Transportation Authority (“KVRTA”) on November 16, 2011. As these bid prices will only be open and available for 24 hours, the Mayor and/or city Manager is/are authorized to exercise discretion in accepting or rejecting such bid proposals as they may deem in the best interest of the City and to report the same at the next scheduled council meeting.

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the resolution 045-11, adopted.*

17. Your committee on Finance has had under consideration a proposal submitted by Kustom Signals co., in the amount of \$14,690.00, for purchase of 10 Raptor RP-1 Radar units to be used by the Charleston Police Department (3) and other agencies in the Highway Safety region (7). To be charged to Account No. 095-175-12-000-3-341, Police—Grant F12HS-08, 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; October 2011.  
Received and Filed.

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

3. Report of the City of Charleston Financial Statements for the  
Fiscal Year Ended June 30, 2011.  
Received and Filed.

4. Report of the City of Charleston Financial Statements for the  
One-Month period ended July 31, 2011.  
Received and Filed.

5. Report of the City of Charleston Financial Statements for the  
Two-Month period ended August 31, 2011.  
Received and Filed.

6. Report of the City of Charleston Financial Statements for the  
Three-Month period ended September 30, 2011.  
Received and Filed.

## NEW BILLS

Introduced by Council member Brent Burton on November 7, 2011:

Bill No. 7500 – A Bill amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 1<sup>st</sup> day of January 2006, as amended, and the map made a part thereof, by rezoning from an R-4 district to an R-6 district, that certain parcel of land situate at 210 Oakwood Road, Charleston, West Virginia.

Refer to Municipal Planning Commission and Planning Committee.

Introduced by Council member Jack Harrison on November 7, 2011:

Bill No. 7501- - A Bill approving the renewal of a cable television franchise now held by Cebridge Acquisition, LLC doing business as Suddenlink Communications (“Cebridge”).

Refer to Select Committee on Cable Television and Finance Committee.

Introduced by Council member Bobby Reishman on November 7, 2011:

Bill No. 7502- - An ordinance amending and reenacting section 118-141 of division 4 of article III of chapter 118 of the code of the City of Charleston, West Virginia, with respect to adoption of rules and regulations and increasing existing rates and charges for sanitary sewer service.

Refer to Finance Committee.

Introduced by Council member Bobby Reishman and Tom Lane on November 7, 2011:

Bill No. 7503- - BILL to amend Chapter 54, Article II, Division 3, of the Municipal Code of the City of Charleston, as amended.

Refer to Ordinance and Rules Committee.

## ROLL CALL

*YEAS: Burka, Burton, Davis, Deneault, Dodrill, Ealy, Haas, Harrison, Kirk, Lane, Miller, Minardi, Nichols, Persinger, Reishman, Richardson, Russell, Salisbury, Sheets, Smith, Snodgrass, Stajduhar, Talkington, Ware, Weintraub, White, Mayor Jones.*

*ABSENT: Clowser*

At 8:00 p.m., by a motion from Councilmember Harrison, Council adjourned until Monday, November 21, 2011, at 7:00 p.m.

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Danny Jones, Honorable Mayor

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James M. Reishman, City Clerk