JOURNAL

OF THE

COUNCIL

CITY OF CHARLESTON

WEST VIRGINIA

December 6, 2010

THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE FIRST MEETING IN THE MONTH OF DECEMBER ON THE 6th DAY, IN THE YEAR 2010, 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 MILLER.

BURKA	CLOWSER	DAVIS
DEITZLER	DENEAULT	EALY
HALL	HANNA	HARRIS
HARRISON	HIGGINS	JONES
KIRK	KNAUFF	LANE
MILLER	PAYNE	
REISHMAN	RUSSELL	SALISBURY
SHEETS	SMITH	TALKINGTON
WARE		WHITE
MAYOR JONES		

WITH TWENTY-SIX 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
Connie Wolf – Songs for the Planet Presentation
Robert Horne – 4G Network

CLAIMS
1. A claim of Teresa Malone,1226 Lyndale Dr., Charleston, WV; alleges damage to property.
Refer to City Solicitor

PUBLIC HEARING
The Mayor read the following Public Hearing:
After duly being published as required, I now declare the floor open for a Public Hearing on Ordinance No. 7446—Authorizing Issuance of Not More than $9,500,000 in Multifamily Housing Revenue Bonds (Charleston Replacement #5 Project), 2010 Series A, to Provide Funds to Acquire, Construct and Equip Commercial Projects, and Further Authorizing the Execution of Agreements Associated with Sale of Bonds

The Chair sees no one from the public.
The Chair hears no one from the public.

The Chair declares Public Hearing on Ordinance No. 7446 Closed.

COMMUNICATIONS

The Clerk read the appointment.

TO: JAMES REISHMAN
CITY CLERK

FROM: DANNY JONES
MAYOR

RE: CHARLESTON-KANAWHA HOUSING AUTHORITY

DATE: DECEMBER 6, 2010

I recommend that Marie Prezioso, 219 Mariel Drive, Charleston, WV 25311, be reappointed to the Charleston-Kanawha Housing Authority, with a said term to expire December 10, 2015.

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. 879-10

Introduced in Council	Adopted by Council
December 6, 2010	December 6, 2010
Introduced by	Referred to:
John H. Miller, Jr.	_____

Resolution No. 879-10 : "Reaffirming the City of Charleston's Vehicle Fleet Policy in which cell phone use by City employees while driving City-owned vehicles is prohibited (with certain exceptions for police, fire and emergency personnel), and clarifying that this prohibition extends to the specific activity of texting while driving City-owned vehicles.

WHEREAS, the City of Charleston recognizes that cell phone usage while driving can result in distracted driving, thereby increasing the risk of automobile accidents; and

WHEREAS, in 2002, in an effort to reduce the potential for accidents due to districted driving, the City adopted as part of its Vehicle Fleet Policy a provision prohibiting employees (with certain exceptions for police, fire and emergency personnel) from using cell phones while driving City vehicles; and

WHEREAS, recent nationwide attention has been focused on distracted driving accidents caused by "texting" while driving;

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

That the City of Charleston reaffirms its commitment to driver safety and its existing policies related to minimizing incidents of distracted driving by City employees while driving City-owned vehicles, and further emphasizes that, under the City's Vehicle Fleet Policy, cell phone use - including texting - is prohibited while driving City-owned vehicles (with certain exceptions for police, fire and emergency personnel).

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 879-10, adopted.

FINANCE

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

1. Your Committee on Finance has had under consideration Resolution No 875-10, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 875-10 : "Authorizing the Mayor to enter into an Agreement with Continental Flooring Company, in the amount of $14,434.10, for flooring renovations at the Giltinan Center, a City-owned building located at 505 Leon Sullivan Way. The building is used as a homeless shelter for adult men and is operated by the Roark Sullivan Lifeway Center, a non-profit agency."

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 Continental Flooring Company, in the amount of $14,434.10, for flooring renovations at the Giltinan Center, a City-owned building located at 505 Leon Sullivan Way. The building is used as a homeless shelter for adult men and is operated by the Roark Sullivan Lifeway Center, a non-profit agency.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas – 26, absent-2, as follows:
YEAS: Burka, Clowser, Davis, Deitzler, Deneault, Ealy, Hall, Hanna, Harrison, Harris, Higgins, Jones,Kirk, Knauff, Lane, Miller, Payne, Reishman, Russell, Salisbury Sheets, Smith, Talkington, White, Ware, Mayor Jones.
ABSENT: Reed, Weintraub
With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution 875-10, adopted.

2. Your Committee on Finance has had under consideration Resolution No 876-10, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 876-10 : "Authorizing and directing payment of $35,412.85, in two or more payments consistent with federal regulations, to Ms. Janet Thompson, pursuant to a May 27, 2010, order by the U.S. Department of Housing and Urban Development ("HUD"), wherein HUD determined that, based on events occurring in 2005 related to the renovation of Spring Hill Apartments, Ms. Thompson qualifies as a displaced person as defined by 24 CFR Section 92.353(c)(2)(i)(c)(1) and is entitled to replacement housing/rental payment assistance under Section 104(d) of the Housing and Community Development Act of 1974, as amended".

WHEREAS, in 2005, in order to avoid foreclosure and the total displacement of the occupants of Spring Hill Apartments ("Apartments"), the City of Charleston entered into a Memorandum of Understanding with HUD to support the redevelopment of the Apartments, said MOU facilitating, among other things, the sale to and subsequent renovation of the Apartments by a new owner; and

WHEREAS, at the request of HUD, a small portion of the financing for the renovation came from HOME Investment Partnership ("HOME") and Community Development Block Grant ("CDBG") funds provided to the City by HUD; and

WHEREAS, at the direction of HUD, the City entered into a sub-recipient funding agreement with Vista View Apartments, LP, for the disbursement of those federal funds to enable Vista View Apartments, LP to perform the renovation of the Apartments; and

WHEREAS, as a result of the use of HOME and CDBG funds to partially finance the renovations, and because the Apartments are assisted with Section 8 project-based subsidies, HUD requirements and regulations, including Section 104(d) of the 1974 Housing and Community Development Act, as amended, apply to the renovations; and

WHEREAS, in 2005, Ms. Thompson, a former tenant of the Apartments, alleged that she was a displaced person and appealed to HUD under various federal laws and regulations, including Section 104(d), and, five years later, HUD determined Ms. Thompson to be a "displaced person" as defined by 24 CFR Section 92.353(c)(2)(i)(c)(1), qualifying her for replacement housing/rental payment assistance under Section 104(d); and

WHEREAS, as a result of the City's provision of federal HOME and CDBG funding related to the renovations, because the Apartments are assisted with Section 8 project-based subsidies, and due to the MOU between HUD and the City, HUD has instructed the City to provide Ms. Thompson with advisory services and replacement housing/rental payment assistance consistent with applicable federal law and regulations; and

WHEREAS, the City's sub-recipient agreement with Vista View Apartments, LP, provides indemnity to the City from Vista View Apartments, LP, related to, among other things, the City's obligation to provide Ms. Thompson with replacement housing/rental payment assistance; and

WHEREAS, Vista View Apartments, LP, consistent with its indemnity obligations to the City, has tendered to the City payment of $35,412.85, as full reimbursement to City for all funds to be paid to Ms. Thompson at the direction of HUD; now, therefore

<u>Be it Resolved by the Council of the City of Charleston, West Virginia</u>:

That the City is authorized and directed to pay Ms. Janet Thompson $35,412.85, in two or more payments consistent with federal regulations, for replacement housing/rental payment assistance, pursuant to the May 27, 2010, determination of HUD and the federal laws and regulations related thereto, said amount to be fully reimbursed to City by Vista View Apartments, LP, and the City, through its City Manager and/or Director of MOECD, is further authorized to take all other actions necessary to comply with the May 27, 2010, HUD determination.

The question being on the adoption of the Resolution a roll call was taken and there

were; yeas – 26, absent-2, as follows:
YEAS: Burka, Clowser, Davis, Deitzler, Deneault, Ealy, Hall, Hanna, Harrison, Harris, Higgins, Jones,Kirk, Knauff, Lane, Miller, Payne, Reishman, Russell, Salisbury Sheets, Smith, Talkington, White, Ware, Mayor Jones.
ABSENT: Reed, Weintraub
With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution 876-10, adopted.

3. Your Committee on Finance has had under consideration Resolution No 877-10, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 877-10 : "Authorizing the Mayor to sign Change Order No. 1 with Gearhart & Associates, in the amount of $3,500, to provide the following modifications to the City's Rental Units Registration System (RUR):

1) Develop online rental registration application to be compatible with the Chrome internet browser; and
2) Include Audit Control Manager System (ACM) to provide for ease in monitoring audit and research projects.

This change order increases the contract price from $13,600 to $17,100."

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

That the Mayor is hereby authorized and directed to sign Change Order No. 1 with Gearhart & Associates, in the amount of $3,500, to provide the following modifications to the City's Rental Units Registration system (RUR):

1) Develop online rental registration application to be compatible with the Chrome internet browser; and
2) Include Audit Control Manager System (ACM) to provide for ease in monitoring audit and research projects.

This change order increases the contract price from $13,600 to $17,100.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 877-10, adopted

4. Your Committee on Finance has had under consideration Resolution No 878-10, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 878-10 – "Authorizing the Chief of Police to execute a Partnership Agreement with Kanawha County for participation in a Victim Services Center providing victims of domestic violence, sexual assault or stalking, greater support and

accessibility to services and resources in a central location."

WHEREAS, within five years, the Victim Services Center plans to offer comprehensive medical, legal, and counseling services to victims and their families, and will also provide links to Juvenile, Family, and Criminal courts and advocates, including child protective services, probation and parole officers; and

WHEREAS, the City of Charleston Police Department has a Family Services Section for the investigation of incidents of domestic violence and support for the victims of domestic violence; and

WHEREAS, the administration of the Charleston Police Department recognizes that consolidation of victim services in a central location should be beneficial to victims of domestic violence and is willing to locate its civilian Domestic Violence Coordinator in the Victim Services Center; and

WHEREAS, to the extent that Kanawha County is considered "another jurisdiction" under W. Va. Code § 8-11-3, said authorization is permitted by Resolution pursuant to the Municipal Code of the City of Charleston Chapter 3, Article II, Section 3-12; now therefore

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

That the City of Charleston Police Department Chief of Police is hereby authorized to execute a Partnership Agreement with Kanawha County for participation in the Victim Services Center.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 878-10, adopted

5. Your Committee on Finance has had under consideration a proposal submitted by Physio Control, Inc., in the total amount of $49,682.91, for purchase of one (1) LIFEPAK 15 Monitor/Defibrillator and related accessories ($30,997.52); and two (2) LUCAS 2 Chest Compression Systems and related accessories ($18,685.39), 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.

6. Your Committee on Finance has had under consideration a bid submitted by West Virginia Tractor Company, in the amount of $250,000, for purchase of two (2) Leach Alpha III 20, International 7400 Packer Trucks ($125,000 each) to be used by the Refuse Collection and Recycling Department. Funds for the packer units are available in BB&T Lease/Purchase Contract Number 003-0306453-002 and charged to Account

No. 001-978-00-800-4-459, Refuse Collection and Recycling—Capital Outlay, Lease/Purchase 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.

7. Your Committee on Finance has had under consideration a bid submitted by West Virginia Tractor Company, in the amount of $112,000, for purchase of one (1) G-S 4000 International 4300 Recycling Truck to be used by the Refuse Collection and Recycling Department. Funds for the recycling truck are available in BB&T Lease/Purchase Contract Number 003-0306453-002 and charged to Account No. 001-978-00-800-4-459, Refuse Collection and Recycling—Capital Outlay, Lease/Purchase Equipment. , and reports the same to Council with the recommendation that the committee report be adopted

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

8. Your Committee on Finance has had under consideration a bid submitted by Anderson Equipment Company, in an amount not to exceed $306,156, for purchase of a Gradall XL3100 Hydraulic Telescoping Boom Excavator to be used by the Street Department. Funds for the excavator unit are available in BB&T Lease/Purchase Contract Number 003-0306453-002 and charged to Account No. 001-977-00-750-4-459, Street—Capital Outlay, Lease/Purchase 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.

9. Your Committee on Finance has had under consideration a proposal submitted by Communication Service, Inc., in the amount of $12,039.00, for purchase of eight (8) Kustom Raptor Radar units to be used by the Charleston Police Department. To be charged to Account No. 095-175-11-000-3-341, Police—Grant No. F11HS-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.

10. Your Committee on Finance has had under consideration a proposal submitted by Stephens Auto Center, in the amount of $274,788, for purchase of twelve (12) Model 2011 Ford Crown Victoria Police Cruisers ($22,899 each) to be used by the Charleston Police Department. The new cruisers will replace the following vehicles:

1	2000 Ford Taurus	1	2003 Crown Vic
1	2000 Crown Vic	1	2003 Durango

1	2001 Crown Vic	4	2004 Crown Vic
1	2002 Crown Vic	2	2005 Crown Vic

Funds for the vehicles are available in BB&T Lease/Purchase Contract #003-0306453-001 and charged to Account No. 001-976-00-700-4-459, Police—Capital Outlay, Lease/Purchase 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.

11. Your Committee on Finance has had under consideration a proposal submitted by M.J. Matheny Motor Truck Company, in the amount of $16,658, for purchase of a 2011 GMC Savana TG23405-RWD Cargo Van with 135" wheelbase to be used by the Charleston Police Department to transport prisoners. The new van replaces a 2000 GMC Van. Funds for the vehicle are available in BB&T Lease/Purchase Contract #003-0306453-001 and charged to Account No. 001-976-00-700-4-459, Police—Capital Outlay, Lease/Purchase 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.

12. Your Committee on Finance has had under consideration Bill No.7444, and reports the same to Council with the recommendation that the Bill do pass.

Bill No. 7444 - - A Bill and order determining the necessity for continuance of additional levies for the fiscal years beginning July 1, 2011, July 1, 2012, July 1, 2013, and July 1, 2014, for current general governmental expenses, and providing for submission to the voters within the City of Charleston of the question of a continuance of the additional levy at the primary election to be held on March 8, 2011.

Providing for the continuance of the levy rate, providing for publication of notice of the election to authorize the additional levy; providing for application of the primary election laws to such primary election, authorizing the City Clerk to furnish election officials with proper election supplies and make publication of this ordinance, delivery of this ordinance to the Ballot Commissioners and the printing of the ballots; providing the form of the official ballot; providing for the use of electronic voting devices; providing for the voting precincts and determining those entitled to vote; authorizing the City Clerk to prepare for Council's approval a list of persons to serve as Commissioner and Clerk; and providing for three members of Council of the City of Charleston to be appointed as a Select Committee to perform all necessary functions including, but not limited to, a canvass of the votes cast in the election.

WHEREAS, after full information and consideration thereof, the Council of the City of Charleston, West Virginia, is of the opinion and finds that the maximum levies for

current expenses for the general fund purposes of said City authorized to be laid by the provisions of Section 14, Chapter 11, Article 8 of the Code of West Virginia, 1931, as amended, will not provide sufficient funds for the four fiscal years which begin, respectively, on the first day of July 2011, 2012, 2013, 2014, and to cover expenditures properly payable from said funds, including expenditures for the purpose hereinafter set out, and having ascertained that the amounts hereinafter shown, in excess of the amount raised by regular levies, will be needed by the said City of Charleston during each of said four fiscal years for the purpose as follows, and that such levies constitute a continuance of the additional levies heretofore provided for the years beginning respectively on the first day of July 2011, 2012, 2013, and 2014, and that an election should be held pursuant to the provisions of Section 16 and 17 of Article 8, Chapter 11 of the Code of West Virginia, 1931, as amended; therefore,

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

(1) The purpose for which additional funds are needed by said City for each of the four fiscal years beginning July 1, 2011, July 1, 2012, July 1, 2013, and July 1, 2014, are current, general governmental expenses.

(2) The amounts considered necessary for each of said purposes for each fiscal year beginning on the date indicated are as follows:

July 1, 2011

For current, general governmental expenses	$4,274,139
TOTAL EXPENDITURES	$4,274.139
Allowance for delinquent taxes and shrinkage (7.75%)	$ 342,060
TOTAL AMOUNT OF ADDITIONAL LEVY	$4,616,199

July 1, 2012

For current, general governmental expenses	$4,274,139
TOTAL EXPENDITURES	$4,274,139
Allowance for delinquent taxes and shrinkage (7.75%)	$ 342,060
TOTAL AMOUNT OF ADDITIONAL LEVY	$4,616,199

July 1, 2013

For current, general governmental expenses	$4,274,139
TOTAL EXPENDITURES	$4,274,139
Allowance for delinquent taxes and shrinkage (7.75%)	$ 342,060
TOTAL AMOUNT OF ADDITIONAL LEVY	$4,616,199

July 1, 2014

For current, general governmental expenses	$4,274,139
TOTAL EXPENDITURES	$4,274,139
Allowance for delinquent taxes and shrinkage (7.75%)	$ 342,060
TOTAL AMOUNT OF ADDITIONAL LEVY	$4,616,199

(3) The total amount necessary to carry out the above purposes for each year, after making reasonable allowance for uncollected taxes and shrinkage as above set forth is $4,274,139.

(4) The separate and aggregate assessed valuation in each class of taxable property within the said City of Charleston is as follows:

Class I	$ - 0 -
Class II	$1,178,564,682
Class III	$ - 0-
Class IV	$1,705,051,212
Aggregate	$2,883,615,894

(5a) The proposed additional rate of levy in cents per $100 assessed valuation on each class of property within the said City of Charleston for the fiscal years beginning July 1, 2011, July 1, 2012, July 1, 2013, and July 1, 2014, is as follows:

Class I	$5.03 cents/$100
Class II	$10.06 cents/$100
Class IV	$20.12 cents/$100

(5b) Provided that in the event the separate and aggregate assessed evaluations of each class of taxable property within the City of Charleston increases during the term of the special levy, the levy rate may be adjusted so that the projected gross tax revenue will not exceed 95% of the previous year's projected gross tax revenue. An increase in the aggregate assessed valuation of each class of taxable property due to new construction or improvements to existing real property, including beginning recovery of natural resources and newly acquired personal property shall not be included in calculating the new tax levy for the purposes of this section.

(6) The years which the additional levies shall apply if authorized by the votes, are the fiscal years beginning July 1, 2011, July 1, 2012, July 1, 2013, and July 1, 2014.

(7) The Council of the City of Charleston declares that it will not issue bonds under the provisions of Section 16, Article 8, Chapter 11, of the West Virginia Code of 1931, as amended, on approval of the voters of the proposed additional levy.

(8) The Council of the City of Charleston finds that additional levies were heretofore authorized by the voters of the City of Charleston and have been in effect for the fiscal years beginning July 1, 2007, July 1, 2008, and July 1, 2009, and July 1, 2010, and that the additional levies proposed by this ordinance constitute as continuation of

such additional levies for the fiscal years beginning July 1, 2011, July 1, 2012, July 1, 2013, and July 1, 2014.

(9) The question of such additional levies shall be submitted to the voters within the City of Charleston, West Virginia, at the primary election to be held in said City on the 8th day of March 2011.

(10) Notice of the election to authorize the additional levy shall be given by publication of this ordinance and order at least once each week for two successive weeks, both publications to occur within fourteen (14) consecutive days, next preceding the date of the election, in the Charleston Gazette and the Charleston Daily Mail, two newspapers of the general circulation but of different politics published in the City of Charleston, West Virginia.

(11) All provisions of the laws concerning primary elections shall apply so far as they are applicable to the holding of said election and the ascertainment of the results thereof except that the number of election officials necessary to properly conduct such election is hereby determined to be three commissioners and two clerks. The City Clerk is hereby authorized and directed to acquire and furnish officials with proper election supplies including but not limited to, ballots, poll books and tally sheets, make publication of this ordinance and order and of the ballot, and to do any and all things necessary and proper attendant to said primary election , including but not limited to, the performance of primary election duties imposed by law upon Clerks of the Circuit Courts in relation to primary elections, and shall furnish and deliver a certified copy of this ordinance and order to the Ballot Commissioners of the County of Kanawha, who shall take the same and provide for the printing of ballots, in accordance with the provisions of law, as made and provided, and with the provisions of this ordinance and order.

(12) That portion of the ballot to be used in said election to authorize the additional levy shall be in the form substantially as follows:

"An Election to authorize the continuation of additional levies for the years beginning July 1, 2011, July 1, 2012, July 1, 2013, and July 1, 2014, for the purpose of providing additional funds annually during such years for current, general governmental expenses according to the order and ordinance of the Council of the City of Charleston passed and adopted at its meeting on the 6th day of December, 2010."

"The additional levies shall be on Class I property 5.03 cents; and on Class II property 10.06 cents; and on Class IV property 20.12 cents; all per $100 assessed valuation."

"Provided that in the event the separate and aggregate assessed valuations of each class of taxable property within the City of Charleston increases during the term of the special levy, the levy rate may be adjusted so that the projected gross tax will not exceed 95% of the previous years projected gross tax revenue. An increase in the aggregate assessed valuation of each class of taxable property due to new construction or improvements to existing real property, including beginning recovery of natural resources, and newly acquired personal property shall not be included in calculating the

new tax levy for purposes of this section."

_____ FOR THE LEVIES

_____ AGAINST THE LEVIES

INSTRUCTION TO THE VOTER: Those favoring and wish to vote for the proposed continuance of additional levies shall punch the hole before "FOR THE LEVIES", those opposing and wish to vote against the proposed continuance of additional levies shall punch the hole before "AGAINST THE LEVIES."

(13) Electronic voting devices shall be used in said special election. The City Clerk is hereby authorized and directed to arrange for the rental of a sufficient number of electronic devices for each voting precinct from the County Commission of Kanawha County, West Virginia, and make sure other arrangements as are necessary incident to the use thereof.

(14) The voting precincts within the City of Charleston as now existing and as established by the County Commission of Kanawha County, West Virginia, shall be and the same are hereby designated as the voting precincts for such election and the registration of voters and the use of registration law of the State, and the City of Charleston hereby adopts the registration list of Kanawha County as to precincts and as to persons within the limits of the City of Charleston entitled to vote, as amended and corrected according to law as the official registration list of said City of Charleston to be used as such election on the said 8th day of March 2011, and all persons who would be qualified to vote in the primary election shall be qualified to vote for or against said additional levies in said election.

(15) The City Clerk is authorized and directed to prepare for the Council's approval of a list of persons to serve as commissioners and clerks for the various precincts in the City of Charleston to hold and conduct the said election on March 8, 2011.

(16) The Select Committee of Council of the City of Charleston shall convene as a Board of Canvassers of said election at the Kanawha County Voters Registrar's Office in said City at 10 a.m. on the 11th day of March 2011, to canvass the returns of the election. The Council of the City of Charleston shall convene at its regular meeting to be held in Council Chambers of the City Hall in said City at 7:00 p.m. on the 21st day of March 2011, to certify the returns of said election, as required by law.

The question being on the passage of the Bill a roll call was taken and there were; yeas – 26, absent-2, as follows:
YEAS: Burka, Clowser, Davis, Deitzler, Deneault, Ealy, Hall, Hanna, Harrison, Harris, Higgins, Jones,Kirk, Knauff, Lane, Miller, Payne, Reishman, Russell, Salisbury Sheets, Smith, Talkington, White, Ware, Mayor Jones.
ABSENT: Reed, Weintraub
With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7444,passed.

13. Your Committee on Finance has had under consideration Bill No.7446, and reports the same to Council with the recommendation that the Bill do pass.

ORDINANCE NO. ___7446_____

AN ORDINANCE AUTHORIZING THE ISSUANCE BY THE CITY OF CHARLESTON, WEST VIRGINIA, OF NOT MORE THAN $9,500,000 IN AGGREGATE PRINCIPAL AMOUNT OF ITS MULTIFAMILY HOUSING REVENUE BOND (CHARLESTON REPLACEMENT #5 PROJECT), 2010 SERIES A, TO PROVIDE FUNDS TO ACQUIRE, CONSTRUCT AND EQUIP COMMERCIAL PROJECTS IN KANAWHA COUNTY, WEST VIRGINIA, CONSISTING OF THE DEMOLITION OF EXISTING MULTIFAMILY RENTAL HOUSING PROJECTS AND THE CONSTRUCTION OF NEW MULTIFAMILY RENTAL HOUSING PROJECTS AND TO PAY SUCH OTHER COSTS IN CONNECTION THEREWITH; APPROVING THE LOAN OF SAID BOND PROCEEDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A TRUST INDENTURE, A FINANCING AGREEMENT, A REGULATORY AGREEMENT, A BOND PURCHASE AGREEMENT AND AN ASSIGNMENT, AND TAKING OTHER NECESSARY ACTIONS IN CONNECTION WITH THE ISSUANCE AND SALE OF SUCH BONDS.

WHEREAS, the City of Charleston, West Virginia (the “Issuer”), a municipal corporation, is a duly organized governmental body created by the Constitution of the State of West Virginia (the “State”), is validly existing and in good standing under the Constitution and laws of the State, is a political subdivision thereof, and is authorized by the Industrial Development and Commercial Development Bond Act, Chapter 13, Article 2C, of the Code of West Virginia of 1931, as amended (the “Act”), in furtherance of the public purposes as Section 2 of the Act, to issue its revenue bonds to pay the cost of commercial projects; and

WHEREAS, Charleston Replacement Housing L.P. #5, a West Virginia limited partnership (the “Company”) has requested the Issuer to issue its $9,500,000 City of Charleston, Multifamily Housing Revenue Bond (Charleston Replacement #5 Project), 2010 Series A (the “Bonds”), the proceeds of which will be used to finance the demolition of existing multifamily rental housing projects and the construction of new multifamily rental housing projects by the Company in the City of Charleston, West Virginia, specifically consisting of (i) the demolition of buildings currently known as the “Washington Manor Apartments,” located at 700 Clendenin Street, Charleston, West Virginia, (ii) the construction of new buildings consisting of forty four one-bedroom units and thirty two-bedroom units on the former Washington Manor Apartments site (the “Project”)and (iii) costs associated with the issuance of the Bonds; and

WHEREAS, there have been presented to City Council the following documents to

be executed in connection with the issuance and sale of the Bonds:

1. The proposed form of a Financing Agreement, dated as of December 1, 2010 (the "Agreement"), between the Company and the Issuer, pursuant to which the Company shall, among other things, agree to pay as loan payments, and such other amounts (as defined in the Financing Agreement), sufficient to pay the principal of, premium, if any, and interest on the Bonds;

2. The proposed form of Trust Indenture, dated as of December 1, 2010 (the "Indenture"), between the Issuer and United Bank, Inc., Charleston, West Virginia (the "Trustee"), pursuant to which the Bonds will be issued;

3. The proposed form of the Bonds as set forth in the Indenture;

4. The proposed form of the Bond Purchase Agreement (the "Bond Purchase Agreement") relating to the Bonds;

5. The proposed form of a Regulatory Agreement and Declaration of Restrictive Covenants (the "Regulatory Agreement");

6. An Assignment of Deed of Trust and Loan Documents (the "Assignment") relating to the Bonds;

WHEREAS, based on review by and advice of outside bond counsel, it appears that each of the instruments referred to above, which is now before the Issuer, is in appropriate form and is an appropriate instrument for the purpose intended.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Charleston, West Virginia as follows:

Section 1. That the proposed issuance of the Bonds, as described in the Indenture, is hereby approved and authorized, pursuant to and in accordance with Article 2C, Chapter 13 of the Code of West Virginia, 1931, as amended (the "Act"), the Agreement and the Indenture, following the execution and delivery of the Bond Purchase Agreement authorized and directed by this Ordinance.

Section 2. That the Bonds be and the same hereby are in all respects authorized, approved and confirmed, and the Mayor be and he hereby is authorized, empowered and directed to execute, whether by manual or facsimile signature, and the City Clerk is hereby authorized, empowered and directed to seal with the official seal of the Issuer or a facsimile thereof and deliver for and on behalf of the Issuer, the Bonds to the Trustee for authentication, and the Trustee is hereby authorized and directed to authenticate the Bonds, and the provisions of the Indenture with respect to the Bonds (including without limitation the maturity dates, rates of interest and redemption provisions) be and the same hereby is authorized, approved and confirmed and are incorporated herein by reference.

Section 3. That the Issuer enter into the Financing Agreement and the form and

content of the Financing Agreement be and the same hereby is in all respects authorized, approved and confirmed and the Mayor be and he hereby is authorized, empowered and directed to execute and deliver the Financing Agreement, prior to or simultaneously with the issuance of the Bonds for and on behalf of the Issuer, including necessary counterparts, in substantially the form and content now before this meeting but with such changes, modifications, additions or deletions therein as shall to him and to legal counsel for the Issuer be deemed necessary, desirable or appropriate, his execution thereof to constitute conclusive evidence of his approval of any and all changes, modifications, additions or deletions therein from the form and content of the Financing Agreement now before this meeting, and that, from and after the execution and delivery of the Financing Agreement, the Mayor is hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Financing Agreement as executed.

Section 4. That the form and content of the Indenture and the assignment of the Issuer's interest in the Financing Agreement be and the same hereby is in all respects authorized, approved and confirmed, and the Mayor, be and he hereby is authorized, empowered and directed to execute and deliver the Indenture for and on behalf of the Issuer to the Trustee for the security of the Bonds and the interest thereon, including necessary counterparts, in substantially the form and content now before this meeting but with such changes, modifications, additions and deletions therein as shall to him and to legal counsel for the Issuer be deemed necessary, desirable or appropriate, his execution thereof to constitute conclusive evidence of his approval of any and all changes, modifications, additions or deletions from the form and content of the Indenture now before this meeting, and that, from and after the execution and delivery of the Indenture, the Mayor hereby is authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Indenture as executed.

Section 5. That the form, terms and content of the Regulatory Agreement be and the same hereby is in all respects authorized, approved and confirmed, and the Mayor be and he hereby is authorized, empowered and directed to execute the Regulatory Agreement in substantially the form and content now before this meeting but with such changes, modifications, additions and deletions therein as shall to him and to legal counsel for the Issuer be deemed necessary, desirable or appropriate, his execution thereof to constitute conclusive evidence of his approval of any and all changes, modifications, additions or deletions from the form and content of the Regulatory Agreement now before this meeting.

Section 6. That the Issuer enter into the Bond Purchase Agreement, and the form and content of the Bond Purchase Agreement be and the same hereby are in all respects authorized, approved and confirmed and the Mayor be and he hereby is authorized, empowered and directed to execute and deliver the Bond Purchase Agreement, prior to or simultaneously with the issuance of the relevant Bonds for and on behalf of the Issuer, including necessary counterparts, in substantially the form and content now before this meeting but with such changes, modifications, additions or deletions therein as shall to him and to legal counsel for the Issuer be deemed necessary, desirable or appropriate, his

execution thereof to constitute conclusive evidence of his approval of any and all changes, modifications, additions or deletions therein from the form and content of the Bond Purchase Agreement now before this meeting, and that, from and after the execution and delivery of the Bond Purchase Agreement, the Mayor is hereby authorized, empowered, and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Bond Purchase Agreement, as executed.

Section 7. That the Mayor be and he hereby is authorized to execute and deliver for and on behalf of the Issuer any and all additional certificates, documents, opinions or other papers and perform all other acts (including without limitation, the filing of any financing statements or any other documents to create and maintain a security interest in the Project) as he may deem necessary or appropriate in order to implement and carry out the intent and purposes of this Ordinance.

Section 8. The Bonds shall contain a recital that they are issued pursuant to the Act, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

Section 9. The provisions hereof are not intended to, and shall not be construed or interpreted to, either (a) obligate or authorize the expenditure of any funds or moneys of the Issuer or derived by the Issuer from any source whatsoever other than the proceeds from issuance and sale of the Bonds as provided for herein, or (b) create any personal liability on the part of the officers or members of the Issuer. The Bonds shall never constitute an indebtedness of the Issuer within the meaning of any constitutional provision or statutory limitation and shall never constitute or give rise to a pecuniary liability of the Issuer. Neither the Bonds nor the interest thereon shall be a charge against the general credit or taxing powers of the Issuer and such fact shall be plainly stated on the face of each Bond.

Section 10. The statutory mortgage lien set forth in Section 8 (§13-2C-8) of the Act is hereby waived by the Issuer.

Section 11. That the provisions of this Ordinance are hereby declared to be separable, and, if any section, phrase or provision shall for any reason be declared to be invalid, such declaration shall not affect the validity of the remainder of the sections, phrases or provisions.

Section 12. That all acts and deeds of any officer or agent of the Issuer in furtherance of the purposes and intent of this Ordinance hereby are ratified, confirmed and made the acts and deeds of the Issuer.

Section 13. That all resolutions, ordinances and orders, or parts thereof, in conflict with the provisions of this Ordinance, are, to the extent of such conflict, hereby repealed.

Section 14. That the members of the City Council of the Issuer hereby find and determine that all formal actions relative to the enactment of this Ordinance were taken in

open meetings of the Issuer and that all deliberations of the members of the Issuer which resulted in formal action were taken in meetings open to the public, in full compliance with applicable legal requirements, including, but not limited to Section 147(f) of the Internal Revenue Code of 1986, as amended, and that the Project and the financing thereof will greatly benefit the residents of the City of Charleston, West Virginia and otherwise serve the purposes of the Act.

Section 15. That this Ordinance shall become effective immediately upon its enactment.

First Reading - November 15, 2010

Approved on Second Reading – December 6, 2010

Enacted Following Public Hearing – December 6, 2010

Enacted by the City of Charleston, West Virginia, a municipal corporation, at a meeting held in Charleston, West Virginia, on the 15th day of November, 2010.

CITY OF CHARLESTON, WEST VIRGINIA
By Danny Jones, Mayor

ATTEST:_____
James M. Reishman, City Clerk

CERTIFICATION The undersigned, being the duly appointed and qualified acting City Clerk of the City of Charleston, West Virginia, does hereby certify that the foregoing Ordinance was duly enacted by the Issuer following two readings held on November 15, 2010 and December 6, 2010 and a public hearing held on December 6, 2010, a quorum being present and acting throughout all meetings, and is a true, correct and complete copy as witness my hand and the Seal of the City of Charleston West Virginia this 6th day of December 2010.

The question being on the passage of the Bill a roll call was taken and there were; yeas – 26, absent-2, as follows:
YEAS: Burka, Clowser, Davis, Deitzler, Deneault, Ealy, Hall, Hanna, Harrison, Harris, Higgins, Jones,Kirk, Knauff, Lane, Miller, Payne, Reishman, Russell, Salisbury Sheets, Smith, Talkington, White, Ware, Mayor Jones.
ABSENT: Reed, Weintraub
With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7446,passed.

REPORTS OF OFFICERS

1. Report of the City of Charleston, Municipal Court Financial Statements; November 2010.
Received and Filed.

NEW BILLS

Introduced by Council member Harry Deitzler on December 6, 2010:
Bill No. 7441 closing, abandoning and vacating a portion of the unimproved right of way beginning at 49th Street and extending approximately 300.00 feet east between Blocks 138 and 139 in the Kanawha City District of the City of Charleston, Kanawha County, West Virginia.
Refer to Municipal Planning Commission and Finance Committee.

Introduced by Council member Mary Jean Davis on December 6, 2010:
Bill No. 7445 - A Bill amending the floodplain and stormwater management regulations pertaining to the 25 foot flood protection setback requirement in Chapter 91, Article II, Division 6 of the Code of the City of Charleston, West Virginia, adopted April 7, 2003 as amended.
Refer to Municipal Planning Commission.

Introduced by Council member Mary Jean Davis on December 6, 2010:
Bill No.7447- 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 1200 Bigley Avenue, Charleston, (West Charleston 28, Parcels 157.1, 158, and 160) West Virginia from an I-2 Light Industrial District to C-10 General Commercial District
Refer to Municipal Planning Commission.

Introduced by Council member Jim Harris on December 6, 2010:
Bill 7448- A Bill to establish a STOP intersection at the southerly intersection of Francis Drive and Ariel Heights, requiring vehicles south bound on Francis Drive to stop, 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 Jim Harris on December 6, 2010:
Bill 7449- A Bill to establish a STOP intersection at the northerly intersection of Ariel Heights and Francis Drive, requiring vehicles westbound on Ariel Heights to stop, 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 Jim Harris on December 6, 2010:
Bill 7450- A Bill to establish a STOP sign on Andover Place at Ariel Heights 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 Bill Kirk on December 6, 2010:
Bill 7451- A Bill to establish a STOP sign on West Summit Drive at Summit Drive, 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 Jim Harris on December 6, 2010:
Bill No. 7452 - A Bill to establish a No Parking Anytime Tow Away zone on Ariel Heights, 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 Adam Knauff on December 6, 2010:
Bill No. 7453 – A Bill to establish a No Parking Anytime on Pavement Tow Away zone on Burlew Drive, from Jean Street to a point 120 feet West of Jean 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, and Chapter 114, to conform therewith.
Refer to Streets and Traffic Committee.

ROLL CALL

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

At 7:50 p.m., by a motion from Councilmember Harrison, Council adjourned until Monday, December 20, 2010, at 7:00 p.m.

_____
Danny Jones, Honorable Mayor

_____
James M. Reishman, City Clerk