

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

**February 17, 2009**

**THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE SECOND MEETING IN THE MONTH OF FEBRUARY ON THE 17<sup>th</sup> DAY, IN THE YEAR 2009, AND WAS CALLED TO ORDER BY THE HONORABLE MAYOR, DANNY JONES. THE INVOCATION WAS DELIVERED BY HARRISON AND THE PLEDGE OF ALLEGIANCE WAS LED BY WHITE.**

<b>DEITZLER</b>	<b>CLOUSER</b>	<b>DAVIS</b>
<b>HANNA</b>	<b>EALY</b>	<b>HALL</b>
<b>HIGGINS</b>	<b>HARRIS</b>	<b>HARRISON</b>
<b>KNAUFF</b>	<b>JONES</b>	<b>KIRK</b>
<b>MILLER</b>	<b>LANE</b>	<b>LANHAM</b>
<b>REISHMAN</b>	<b>PAYNE</b>	<b>REED</b>
<b>SHEETS</b>	<b>RUSSELL</b>	<b>SALISBURY</b>
<b>WARE</b>	<b>SMITH</b>	<b>TALKINGTON</b>
<b>MAYOR JONES</b>	<b>WEINTRAUB</b>	<b>WHITE</b>

**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**

1. Richard Hartman – Census Bureau

**CLAIMS**

1. A claim of Robert Giacomo, 1418 New Castle Road, Charleston, WV; alleges damage to property.  
Refer to City Solicitor

**COMMUNICATIONS**

*The Clerk read the Appointment:*

TO: JAMES REISHMAN  
CITY CLERK

FROM: DANNY JONES  
MAYOR

RE: CIVIL SERVICE COMMISSION

DATE: FEBURARY 17, 2009

I recommend that John Teare, 600 Quarrier Street, Charleston, WV 25302, be appointed to the Civil Service Commission, with an initial term to expire September 9, 2010. He is replacing James S. Arnold.

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

Council approved the appointment.

**PLANNING**

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

1. Your Committee on Planning has had under consideration Bill No 7374, and reports the same to Council with the recommendation that the bill do pass.

Bill No. 7374 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 establishing C-10 General Commercial District zoning for the parcel of land commonly known as 1409 Greenbrier Street in Elk Tax District.

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

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 establishing C-10 General Commercial District zoning for the parcel commonly known as 1409 Greenbrier Street in Elk District.

1. The zoning Map, attached to and made a part of said ordinance, is hereby amended in accordance with Article 27 of this ordinance.
2. All prior ordinances, or parts of 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- 26, absent - 1, as follows:

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

ABSENT: Burton

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7374, passed.

### ***STREETS AND TRAFFIC***

Councilman David Higgins, 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 7371, and reports the same to Council with the recommendation that the bill do pass.

A Bill to establish a Two Hour Parking Zone on the northerly side of Bigley Avenue from A Point 43 feet west of Cora Street to a point 165 feet west of Cora 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 Two Hour Parking Zone on the northerly side of Bigley Avenue from a Point 43 feet west of Cora Street to a point 165 feet west of Cora 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-26, absent - 1, as follows:

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

ABSENT: Burton

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7371, passed.

### ***FINANCE***

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

1. Your Committee on Finance has had under consideration Resolution No 513-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 513-09: "Authorizing the Finance Director to allocate funds in the amount of \$40,395 for rehabilitation of three (3) owner-occupied residences located 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 \$40,395 for rehabilitation of three (3) owner-occupied residences located on the West Side.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-26, absent - 1, as follows:

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

ABSENT: Burton

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 513-09, adopted.

2. Your Committee on Finance has had under consideration Resolution No 514-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 514-09: "Authorizing the Mayor to sign and submit FY 2009 Community Participation Program grant information sheets and all related documents for three agencies located within the City of Charleston."

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

That the Mayor is hereby authorized and directed to sign and submit FY 2009 Community Participation Program grant information sheets and all related documents for the following agencies located within the City of Charleston:

East End Family Resource Center	09LEDA0253	\$4,000
Friends of the Kanawha Trestle Trail	09LEDA0254	\$3,500
Charleston Community Music	09LEDA0156	\$5,000

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-26, absent - 1, as follows:

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

ABSENT: Burton

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 514-09, adopted.

3. Your Committee on Finance has had under consideration Resolution No 515-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 515-09: "Authorizing the Mayor to sign Requests for Project Amendment Scope/Activity Change (Form 2) for Daymark, Inc., Grant Nos. 06LEDA0116 and 08LEDA0153, to provide funds for purchase of a van. The grant funds, awarded by the Poffenberger Foundation, were originally designated for a new plumbing system and flooring projects at Daymark's Patchwork facility. The plumbing project has been completed and, although the flooring project remains a concern, Daymark has identified the need for a van to transport their youth as a major priority and is requesting the funds for the flooring project be used to purchase the van."

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

That the Mayor is hereby authorized and directed to sign Requests for Project Amendment Scope/Activity Change (Form 2) for Daymark, Inc., Grant Nos. 06LEDA0116 and 08LEDA0153, to provide funds for purchase of a van. The grant funds, awarded by the Poffenberger Foundation, were originally designated for a new plumbing system and flooring projects at Daymark's Patchwork facility. The plumbing project has been completed and, although the flooring project remains a concern, Daymark has identified the need for a van to transport their youth as a major priority and is requesting the funds for the flooring project be used to purchase the van.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-26, absent - 1, as follows:

YEAS: Clowser, Davis, Ealy, Hanna, Harris, Harrison, Higgins, Jones, Kirk, Knauff,

Lane, Lanham, Miller, Payne, Reed, Reishman, Russell, Salisbury, Sheets, Smith, Talkington, Ware, Weintraub, White, Mayor Jones.

ABSENT: Burton

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 515-09, adopted.

4. Your Committee on Finance has had under consideration Resolution No 516-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 516-09: "Authorizing the Mayor to enter into an agreement with Mountaineer Building and Remodeling, in the amount of \$28,691.46, for renovation of three (3) restrooms at RCCR-Samaritan Inn, located at 1117 Quarrier Street."

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 Mountaineer Building and Remodeling, in the amount of \$28,691.46, for renovation of three (3) restrooms at RCCR-Samaritan Inn, located at 1117 Quarrier Street. The cost for each restroom is listed below:

Restroom No. 1	\$ 4,523.14
Restroom No. 2	\$13,478.21
Restroom No. 3	<u>\$10,690.11</u>
TOTAL	\$28,691.46

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-26, absent - 1, as follows:

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

ABSENT: Burton

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 516-09, adopted.

5. Your Committee on Finance has had under consideration Resolution No 517-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 517-09: "Authorizing the Mayor to enter into an agreement with Michael Baker, Jr., Inc., in the amount of \$29,797.29, for engineering services related to the Whipple Bridge Rehabilitation project."

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 Michael Baker, Jr., Inc., in the amount of \$29,797.29, for engineering services related to the Whipple Bridge Rehabilitation project.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-26, absent - 1, as follows:

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

ABSENT: Burton

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 517-09, adopted.

6. Your Committee on Finance has had under consideration Resolution No 518-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 518-09: "Authorizing the Finance Director to amend the 2008-2009 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 2008-2009 General Fund budget as indicated on the attached list of accounts, and be it

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

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-26, absent - 1, as follows:

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

ABSENT: Burton

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 518-09, adopted.

7. Your Committee on Finance has had under consideration Resolution No 519-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 519-09: "Authorizing the Mayor to enter into a Memorandum of Understanding with the West Virginia Fire Marshal's Office, a copy of which is attached as Exhibit A hereto, for the purpose of specifying the City of Charleston Fire Department's responsibilities to and participation in the West Virginia Regional

Response Team, said authorization being granted by resolution pursuant to the Municipal Code of the City of Charleston Chapter 3, Article II, Section 3-12.”

WHEREAS, the City of Charleston is an active participant in the West Virginia Regional Response Team, providing regional emergency response to all types of hazards including Hazardous Materials/WMD, Urban Search/Technical Rescue and Mass Casualty/EMS; and

WHEREAS, the West Virginia Regional Response Program has been placed under operational control of the West Virginia Fire Marshal’s Office; and

WHEREAS, the West Virginia Fire Marshal’s Office requires that the Charleston Fire Department enter into a Memorandum of Understanding to specify the duties and responsibilities of the Charleston Fire Department with regard to equipment and personnel in order to participate in the West Virginia Regional Response Team;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CHARLESTON, WEST VIRGINIA that the Mayor is hereby authorized to enter into a Memorandum of Understanding with the West Virginia Fire Marshal’s Office, a copy of which is attached as Exhibit A hereto, for the purpose of specifying the City of Charleston Fire Department’s responsibilities to and participation in the West Virginia Regional Response Team.”

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 519-09, adopted.

### **REPORTS OF OFFICERS**

1. Report of the City of Charleston, Municipal Court Financial Statements; January 2009.

Received and Filed.

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

Received and Filed.

3. Report of the City of Charleston Financial Statements for the Seven- Month Period Ended January 31, 2009.

Received and Filed.

## NEW BILLS

Introduced by Council Member Robert Sheets on February 17, 2009:

**Bill No. 7376** - A Bill to establish one metered vehicular parking space for exclusive use of the Physically Disabled, twenty-four hours a day, on the westerly Side of Capitol Street from a point 56 feet south of Quarrier Street to a point 79 feet south of Quarrier Street, to provide for the removal of vehicles illegally parked in these spaces, to incorporate the provisions of West Virginia Code, Chapter 17C, Article 13, Section 6, 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, Chapter one hundred fourteen, Article five, to conform therewith. Refer to Streets and Traffic Committee.

Introduced by Council Member Bobby Reishman on February 17, 2009:

**Bill No. 7377:** A Bill to amend and revise Section 118-203(d) of the Code of the City of Charleston West Virginia, increasing the total pollutant mass limitations applicable to industrial users of the sanitary system. Refer to Environment and Recycling Committee.

Introduced by Council Members David Higgins, Mose Lanham, Bob White, Lewis Payne, Cubert Smith on February 17, 2009:

**Bill No. 7378:** A BILL to amend Chapter 114, Article VII, Division 1, Sections 114-578(b) and (c) of the Municipal Code of the City of Charleston for the purpose providing temporary and additional visitor permits in residential permit parking areas for residents who require temporary in-home medical care, attention and assistance, and clarifying the term "service" as used in Section 114-578(c). Refer to Streets and Traffic Committee.

Introduced by Council Members Jack Harrison and Bobby Reishman on February 17, 2009:

**Bill No. 7379:** A BILL to amend Chapter 2, Article VI, Section 2-463, Chapter 3, Article I, Section 3-2, and to enact Chapter 3, Section 3-16 of the Municipal Code of the City of Charleston for the purpose of allowing for the modification of the process for Design-Build procurement. Refer to Ordinance and Rules Committee.

**ROLL CALL**

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

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

ABSENT: Burton

At 7:45 p.m., by a motion from Councilmember Harrison, Council adjourned until Monday, March 2, 2009, at 7:00 p.m.

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Danny Jones, Honorable Mayor

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James M. Reishman, City Clerk