

***JOURNAL***  
**OF THE**  
***COUNCIL***  
**CITY OF CHARLESTON**

**WEST VIRGINIA**

**December 6, 2004**

**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 6<sup>th</sup> DAY, IN THE YEAR 2004, AND WAS CALLED TO ORDER BY THE HONORABLE MAYOR, DANNY JONES. THE INVOCATION WAS DELIVERED HARRY DEITZLER, AND THE PLEDGE OF ALLEGIANCE WAS LED BY ED TALKINGTON.**

**THE CLERK CALLED THE ROLL AND THE FOLLOWING MEMBERS ANSWERED TO THEIR NAMES:**

<b>CHESTNUT</b>	<b>CLOWSER</b>	<b>DEITZLER</b>
<b>DAVIS</b>	<b>EALY</b>	<b>HALL</b>
<b>HANNA</b>	<b>HARRIS</b>	<b>HARRISON</b>
<b>HIGGINS</b>	<b>JONES</b>	<b>LANE</b>
<b>LANHAM</b>	<b>LOEB</b>	<b>MORTON</b>
<b>MILLER</b>	<b>MONROE</b>	<b>MARKHAM</b>
<b>NIELSEN</b>	<b>REED</b>	<b>REISHMAN</b>
<b>ROBERTSON</b>	<b>SADD</b>	<b>TALKINGTON</b>
<b>WARE</b>	<b>WEINTRAUB</b>	<b>WHITE</b>
<b>MAYOR JONES</b>		

**TWENTY- EIGHT 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.**

**DECEMBER 6, 2004, FIRST MEETING**

**PUBLIC SPEAKERS**

1. Sharon Brenan, Charleston WV.

**CLAIMS**

1. A claim of Willia Johnson, 1430 3<sup>rd</sup> Ave., Charleston, WV; alleges damage to property; Refer to City Solicitor.
2. A claim of Linda Blossfield, 306 Roane Street, Apt. A, Charleston, WV; alleges personal injury; Refer to City Solicitor.

**COMMUNICATIONS**

NONE.

**MISCELLANEOUS RESOLUTIONS**

NONE.

**REPORTS OF STANDING COMMITTEES**

***ORDINANCE AND RULES***

Councilman Will Hanna, Vice Chairman of the Council Committee on Ordinance and Rules, submitted the following reports.

1. Your Committee on Ordinance and Rules has had under consideration Bill No. 7040, Committee Substitute, as amended, and reports the same to Council with the recommendation that the Bill do pass.

Bill No. 7040 – Committee Substitute, as amended - A Bill to repeal §62-4, §62-5, §62-6, §62-85, and §62-86 of the code of the City of Charleston, 2003, as amended; to amend and reenact §62-1, §62-2, §62-3 of said code; to amend and reenact §62-41, §62-42, §62-43, §62-44, §62-45, §62-81, §62-82, §62-83, §62-84, §62-181 of said code, and to amend said code by adding thereto one new section, designated §62-182, all relating to “The Charleston Human Rights Ordinance” for the City of Charleston; declaration of policy; definitions; powers and objectives; composition, appointment and terms of members, expenses; organization; personnel; chair; meetings; quorum; assistance to commission; legal services; powers; functions; services; unlawful discriminatory practices; discriminatory practices; investigations; hearings; procedures and orders; enforcement of cease and desist orders; adoption by reference of W. Va. Code, §5-

11A-1, §5-11A-2, §5-11A-3, §5-11A-4, §5-11A-5, §5-11A-6, §5-11A-7, §5-11A-8, §5-11A-9, §5-11A-10, §5-11A-11, §5-11A-12, §5-11A-13, §5-11A-14, §5-11A-15, §5-11A-16, §5-11A-16, §5-11A-17, §5-11A-18, §5-11A-19, §5-11A-20, “The West Virginia Fair Housing Act”, as presently constituted, subject to the particular additions, deletions and amendments set forth in article four of this chapter; and penalty for violating chapter 62.

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

That §62-4, §62-5, §62-6, §62-85, and §62-86 of the code of the City of Charleston, 2003, as amended, be repealed; that §62-1, §62-2, §62-3 of said code be amended and reenacted; that §62-41, §62-42, §62-43, §62-44, §62-45, §62-81, §62-82, §62-83, §62-84, §62-181 of said code be amended and reenacted; and that said code be amended by adding thereto a new section, designated §62-182, all to read as follows:

**ARTICLE I. IN GENERAL**

**Sec. 62-1. Title.**

This chapter shall be known and may be cited and referred to as "The Charleston Human Rights Ordinance."

**Sec. 62-2. Declaration of Policy.**

Equal opportunity in the areas of employment, public accommodations is hereby declared to be a human right or civil right of all persons without regard to race, religion, color, national origin, ancestry, sex, age, blindness, or handicap. Equal opportunity in the sale, lease, rental and financing of housing accommodations is hereby declared to be a human right or civil right of all persons without regard to race, religion, color, national origin, ancestry, sex, age, blindness, handicap, or familial status.

The denial of these rights of properly qualified persons is contrary to the principles of freedom and equality of opportunity and is destructive to a free and democratic society.

**Sec. 62-3. Definitions.**

When used in this chapter:

- (a) “Age” means forty or above.
- (b) “Chair” means the chair of the Charleston Human Relations Commission.
- (c) “Commission” means the Charleston Human Relations Commission.
- (d) “Discriminate” or “discrimination” means to exclude from, or fail or refuse to extend to, a person equal opportunities because of race, religion, color,

national origin, ancestry, sex, age, blindness, handicap or familial status and includes “to separate” or “segregate”.

- (e) “Employee” shall not include any individual employed by his parents, spouse or child, or in the domestic service of any person.
- (f) “Employer” means any person employing twelve or more persons within the City and includes an agent of such person, and its agencies. Provided, that such terms shall not be taken, understood or construed to include a private club, which, in fact, is not open to the public.
- (g) “Employment agency” includes any person regularly undertaking with or without compensation to procure, recruit, refer or place employees. A newspaper engaged in the activity of advertising in the normal course of its business shall not be deemed to be an employment agency.
- (h) “Familial status” means one or more individuals (who have not attained the age of eighteen years) being domiciled with:
  - (1) A parent or another person having legal custody of such individual or individuals; or
  - (2) The designee of such parent or other person having such custody, with the written permission of such parent or other person.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen years. Nothing in this definition restricts advertisements of dwellings which are intended and operated for occupancy by older persons and which constitute housing for older persons.

- (i) “Handicap” means a person who:
  - (1) Has a mental or physical impairment which substantially limits one or more of such person’s major life activities; “major life activities” includes functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working;
  - (2) Has a record of such impairment; or
  - (3) Is regarded as having such an impairment.

For this purposes of this article “handicap” does not include persons whose current use of or addiction to alcohol or drugs prevents such individual from performing the duties of the job in question or whose

employment, by reasons of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others.

- (j) For the purpose of this article, a person shall be considered to be blind only if his central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if his visual acuity is greater than 20/200 but is occasioned by a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than twenty degrees.
- (k) “Housing accommodations” means any building or portion thereof which is used or intended for use as the residence or sleeping place of one or more persons. Nothing contained in this definition or this article shall apply to the rental of a room or rooms in a rooming house occupied by the owner as a place of residence and containing no more than four rented rooms, or rooms to be rented.
- (l) “Labor organization” includes any organization which exists for the purpose, in whole or in part, for collective bargaining or for dealing with employers concerning grievances, terms or conditions of employment, or for other mutual aid or protection in relation to employment.
- (m) “Person” means one or more individuals, partnerships, associations, organizations, corporations, labor organizations, cooperatives, legal representatives, trustees, trustees in bankruptcy, receivers and other organized groups of persons.
- (n) “Owner” shall include the owner, lessee, sublessee, assignee, manager, agents or other person having the right to sell, rent or lease any housing accommodation or real property within the city or any agent of any of these.
- (o) “Place of public accommodations” means any establishment or person, as defined herein, including the City and any of its affiliated boards and commissions, or any political or civil subdivision thereof, which offers its services, goods, facilities or accommodations to the general public, but does not include any accommodations which are in their nature private.
- (p) “Purchaser” includes any occupant, prospective occupant, lessee, prospective lessee, renter, prospective renter, buyer or prospective buyer.
- (q) “Real estate broker” includes any person, firm or corporation who, for a fee, commission or other valuable consideration, or by reason of a promise or reasonable expectation thereof, lists for sale, sells, exchanges, buys or rents, or offers or attempts to negotiate a sale, exchange, purchase or rental of real estate or an interest therein, or collects or offers or attempts to collect rent for the use of real estate or solicits for a prospective purchaser, or assists or desists in the procuring of prospects or the negotiation or closing of any transaction which does or is contemplated to result in the sale, exchange, leasing, renting or auctioning of

any real estate, or negotiates, offers or attempts or agrees to negotiate a loan secured or to be secured by mortgage or other encumbrance upon transfer of any real estate for others, or any person who, for pecuniary gain or expectation of pecuniary gain, conducts a public or private competitive sale of lands or any interest in lands. In the sale of lots, the term “real estate broker” also includes any person, partnership, association or corporation employed by or on behalf of the owner or owners of lots or other parcels of real estate at a stated salary, or upon a commission, or upon a salary and commission, or otherwise, to sell such real estate, or any parts thereof, in lots or other parcels, and who shall sell or exchange, or offer or attempt or agree to negotiate the sale or exchange of any such lot or parcel of real estate. A newspaper engaged in the activity of advertising in the normal course of its business shall not be deemed to be a real estate broker.

- (r) “Real estate salesman” includes any person who, for compensation, valuable consideration or commission, or other thing of value, or by reason of a promise or reasonable expectation thereof, is employed by and operates under the supervision of real estate broker to sell, buy or offer to buy or negotiate the purchase, sale or exchange of real state, offers or attempts to negotiate a loan secured or to be secured by a mortgage or other encumbrance upon or transfer of real estate for others, or to collect rents for the use of real estate, or to solicit for prospective purchasers or lessees of real estate, or who is employed by a licensed real estate broker to sell or offer to sell lots or other parcels of real estate, at a stated salary, or upon a commission, or upon a salary and commission, or otherwise, to sell real estate, or any parts thereof, in lots or other parcels.
- (s) “Real property” includes real estate, lands, leaseholds, commercial or industrial buildings and any vacant land offered for sale or rent on which the construction of a housing accommodation, commercial or industrial building is intended, and any land operated as a trailer camp or rented or leased for the use, parking or storage of mobile homes or house trailers.
- (t) “Rooming house” means a house or building where there is one or more bedrooms which the proprietor can spare for the purpose of giving lodgings to such persons as he chooses to receive.
- (u) “Unlawful discriminatory practices” includes only those practices specified in section 62-81.

**Secs. 62-4--62-40. Reserved.**

## **ARTICLE II. HUMAN RIGHTS COMMISSION\***

**State law references:** Local human rights commissions, W. Va. Code § 5-11-12.

**Sec. 62-41. Powers and objectives.**

The Commission shall encourage and endeavor to bring about mutual understanding and respect among all racial, religious and ethnic groups within the City; and shall strive to eliminate all discrimination in employment and places of public accommodations by virtue of race, religion, color, national origin, ancestry, sex, age, blindness handicap, and shall strive to eliminate all discrimination in the sale, purchase, lease, rental or financing of housing and other real property by virtue of race, religion, color, national origin, ancestry, sex, age, blindness, handicap or familial status.

**Sec. 62-42. Composition; appointment; and terms of members; expenses.**

(a) The Commission shall be composed of nine members, all residents of the City and broadly representative of the groups protected by the chapter to be appointed by the Mayor with the advice and consent of Council, provided that in the event that any vacancy on the Commission is not filled by the Mayor within ninety days of the occurrence thereof, the Council shall, within sixty days, take such action as is necessary to fill such vacancy.

(b) No member shall hold office in any political party.

(c) All subsequent appointments shall be for terms of three years each, except members shall be eligible for reappointment.

(d) No member of the Commission shall receive any salary or compensation for his services as such; but each member shall be reimbursed for any reasonable and necessary expenses incurred in the performance of Commission services, not to exceed allowances as outlined in City policies or the amount allocated for Commission expenses in the City budget.

**Sec. 62-43. Organization; personnel; chair; meetings; quorum .**

(a) As soon as practical after establishment of the Commission, the Mayor shall call a meeting of the Commission to be convened at the City Building. The Commission shall at such meeting organize by electing one of its members as chair of the Commission and one as vice-chair thereof for a term of one year or until their successors are elected and qualified. Annually thereafter, as soon as practicable after the anniversary date of the establishment of the Commission shall elect a chair and a vice-chair from its membership and other officers as may be necessary and proper to its organization.

(b) The Commission may appoint such staff and personnel as may be necessary to fulfill the purposes of the Commission, and provide for payment of such staff and personnel

within the allowances allocated in the City budget. The Commission shall comply with all personnel rules, regulations and ordinances imposed by the City.

(c) Special meetings may be called by the chair upon written notice thereof mailed to each member not less than seven calendar days prior to the called meeting. Any five members of the Commission or a majority of the actively serving Commissioners shall constitute a quorum for the transaction of business. Minutes of the Commission's meetings shall be kept.

**Sec. 62-44. Assistance to commission; legal services.**

The commission, through the Mayor, may call upon other officers, departments and agencies of the City government to assist in its hearing, programs and projects.

**Sec. 62-45. Powers; functions; services.**

The commission is authorized and empowered to:

- (a) To cooperate and work with federal, state, and local government officers, units, activities and agencies in the promotion and attainment of more harmonious understanding and greater equality of rights between and among all racial, religious and ethnic groups in this city.
- (b) To enlist the cooperation of racial, religious and ethnic units, community and civic organizations, industrial and labor organizations and other identifiable groups of the City in programs and campaigns devoted to the advancement of tolerance, understanding and the equal protection of the laws for all groups and peoples.
- (c) To receive, investigate and pass upon complaints alleging discrimination in employment or places of public accommodations, because of race, religion, color, national origin, ancestry, handicap, sex, blindness or age, and complaints alleging discrimination in the sale, purchase, lease, rental and financing of housing accommodations or real property because of race, religion, color, sex, age, handicap, national origin, blindness, familial status or ancestry, and to initiate its own consideration of any situations, circumstances or problems, including therein any racial, religious or ethnic group tensions, prejudice, disorder or discrimination reported or existing within the City relating to employment, places of public accommodations, housing accommodations and real property.
- (d) To hold and conduct public or private hearings on complaints, matters and questions before the Commission and, in connection therewith, relating to discrimination in employment or places of public accommodations, housing accommodations or real property during the investigation of any formal complaint before the Commission relating to employment, places of public accommodations, housing accommodations or real property to:

- (1) Issue cease and desist orders against any person found, after a public or private hearing, to have violated the provisions of this article or the rules and regulations of the Commission.
  - (2) Apply to the Circuit Court of Kanawha County to issue subpoenas and subpoenas duces tecum upon the concurrence of at least five members of the Commission; administer oaths and take the testimony of any person under oath; and make reimbursement for travel and other reasonable and necessary expenses in connection with such attendance;
  - (3) Furnish copies of hearing records to parties involved therein upon their payment of the reasonable costs thereof to the Commission;
  - (4) To enter into conciliation agreements on behalf of the City;
  - (5) To apply to a court of competent jurisdiction for enforcement of any conciliation agreement or consent order by seeking specific performance of such agreement or consent order, on behalf of the City;
  - (6) To apply to any court of competent jurisdiction, or any federal, state or local agency, for injunctive or other relief, on behalf of the City, in any matters falling within the scope of the Commission's functions, upon the concurrence of four members of the Commission.
- (e) To recommend to the Mayor and Council policies, procedures, practices and legislation in matters and questions affecting human relations.
  - (f) To prepare a written report on its work, functions and services for each year ending on June 30 and to deliver copies thereof to the Mayor on or before December 1 next thereafter.
  - (g) To do all other acts and deeds necessary and proper to carry out and accomplish effectively the objectives, functions and services contemplated by the provisions of this article, including the promulgation of rules and regulations implementing the powers and authority hereby vested in the Commission.
  - (h) To create such advisory agencies and conciliation councils within the City as in its judgment will aid in effectuating the purposes of this article; to study the problem of discrimination in all or specific fields or instances of discrimination because of race, religion, color, national origin, ancestry, sex, age, blindness, handicap or familial status; to foster, through community effort or otherwise, goodwill, cooperation and conciliation among the groups and elements of the population of the City and to make the recommendations to the Commission for

the development of policies and procedures, and for programs of formal and informal education, which the Commission may recommend to the appropriate City agency. Such advisory agency and conciliation councils shall be composed of representative residents serving without pay. The Commission may itself make the studies and perform the acts authorized by this subsection. It may, by voluntary conferences with parties in interest, endeavor by conciliation and persuasion to eliminate discrimination in all stated fields and to foster goodwill and cooperation among all elements of the population of the City.

- (i) To accept contributions from any person to assist in the effectuation of the purposes of this section and to seek and enlist the cooperation of private, charitable, religious, labor and civic and benevolent organizations for the purposes of this section.
- (j) To issue such publications and such results of investigation and research as in its judgment will tend to promote goodwill and minimize or eliminate discrimination; however, the identity of the parties involved shall not be disclosed.

**Secs. 62-46--62-80. Reserved.**

### **ARTICLE III. DISCRIMINATORY PRACTICES**

#### **Sec. 62-81. Unlawful discriminatory practices.**

It shall be an unlawful discriminatory practice, unless based upon a bona fide occupational qualification.

- (a) For any employer to discriminate against an individual with respect to compensation, hire, tenure, terms, conditions or privileges of employment on the basis of race, religion, color national origin, ancestry, sex, age, blindness or handicap. Provided, that it shall not be an unlawful discriminatory practice for an employer to observe the provisions of any bona fide pension, retirement, group or employee insurance or welfare benefit plan or system not adopted as a subterfuge to evade the provisions of this subsection (a).
- (b) For any employer, employment agency or labor organization, prior to the employment or admission to membership, to:
  - (1) Elicit any information or make or keep a record of or use any form of application or application blank containing questions or entries concerning the race, religion, color, national origin, ancestry, handicap, sex, blindness or age of any applicant for employment or membership; , except for such forms which shall be kept separate from the application blanks for the administration of any bona-fide affirmative action plan, that

is in accordance with state and federal laws and regulations, or for the purpose of complying with any state or federal statute, or rule or regulation issued by any agency of the state or federal government, or for the purpose of making reports required by agencies of the state or federal government;

- (2) Print or publish or cause to be printed or published any notice or advertisement relating to employment or membership indicating any preference, limitation, specification or discrimination based upon race, religion, color, national origin, ancestry, handicap, sex, blindness or age; or
  - (3) Deny or limit, through a quota system, employment or membership because of race, religion, color, national origin, ancestry, handicap, sex, blindness or age.
- (c) For any labor organization because of race, religion, color, national origin, ancestry, handicap, sex, blindness or age of any individual to deny full and equal membership rights to any individual or otherwise to discriminate against such individuals with respect to hire, tenure, terms, conditions or privileges of employment, or any other matter, directly or indirectly related to employment.
- (d) For an employer, labor organization, employment agency or any joint labor-management committee controlling apprentice training programs to:
- (1) Select individuals for an apprentice training program on any basis other than their qualifications as determined by objective criteria which permit review;
  - (2) Discriminate against any individual with respect to his right to be admitted to or participate in a guidance program, an apprenticeship training program, on-the-job training program, or other occupational training or retraining program;
  - (3) Discriminate against any individual in his pursuit of such programs or to discriminate against such a person in the terms, conditions or privileges of such programs.
  - (4) Print or circulate or cause to be printed or circulated any statement, advertisement or publication; or to use any form of application for such programs; or to make any inquiry in connection with such program which expresses, directly or indirectly, discrimination or any intent to discriminate, unless based upon a bona fide occupational qualification.
- (e) For any employment agency to fail or refuse to classify properly, refer for employment, or otherwise to discriminate against any individual because

of his race, religion, color, national origin, ancestry, handicap, sex, blindness or age.

- (f) For any person being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodations to:
  - (1) Refuse, withhold from or deny to any individual because of his race, religion, color, national origin, ancestry, handicap, sex, blindness or age, either directly or indirectly, any of the accommodations, advantages, facilities, privileges or services of such place of public accommodations
  - (2) Publish, circulate, issue, display, post or mail, either directly or indirectly, any written or printed communication, notice or advertisement to the effect that any of the accommodations, advantages, facilities, privileges or services of such place shall be refused, withheld from or denied to any individual on account of race, religion, color, national origin, ancestry, handicap, sex, blindness or age, or that the patronage or custom thereat of any individual belonging to or purporting to be of any particular race, religion, color, national origin, ancestry, sex, or age or who is blind or handicapped is unwelcome, objectionable, not acceptable, undesired or not solicited.
  
- (g) For any person, employer, employment agency, labor organization, owner, real estate broker, real estate salesman or financial institution to:
  - (1) Engage in any form of threats or reprisal, or to engage in, or hire, or conspire with others to commit acts or activities of any nature, the purpose of which is to harass, degrade, embarrass or cause physical harm or economic loss, or to aid, abet, incite, compel or coerce any person to engage in any of the unlawful discriminatory practices defined in this section.
  - (2) Willfully obstruct or prevent any person from complying with the provisions of this article, or to resist, prevent, impede or interfere with the Commission or any of its members or representatives in the performance of duty under this article.
  - (3) Engage in any form of reprisal or otherwise discriminate against any person who has opposed any practices or acts forbidden under this article or because he has filed a complaint, testified or assisted in any proceeding under this article.

**State law references:** Unlawful discriminatory practices, W. Va. Code § 5-11-9; housing

discrimination, W. Va. Code § 5-11A-1 et seq.

**Sec. 62-82. Complaint, hearing procedures; issuance of cease and desist order.**

Any individual claiming to be aggrieved by an alleged unlawful discriminatory practice shall make, sign, and file with the Commission a verified complaint, which shall state the name and address of the person, employer, labor organization, employment agency, owner real estate broker, real estate salesman, or financial institution alleged to have committed the unlawful discriminatory practice complained of, and which shall set forth the particulars thereof and contain such other information as may be required by the Commissioner's rules and regulations. The Commission upon its own initiative shall, in like manner, make, sign and file such complaint. Any employer, whose employees, or some of them, hinder or threaten to hinder compliance with the provisions of this article, shall file with the Commission a verified complaint, asking for assistance by conciliation or other remedial action, no hearings, orders or other actions shall be held, made or taken by the Commission against such employer. Any complaint filed pursuant to this article must be filed within 365 days after the alleged act of discrimination.

After the filing of any complaint, or whenever there is reason to believe that an unlawful discriminatory practice has been committed, the Commission shall make a prompt investigation in connection therewith. In connection with such investigation the Director or his/her designated representative or the Commission's legal staff shall have authority to request the Commission, or the chair acting in the name of the Commission, to apply to the Circuit Court of Kanawha County, West Virginia to issue subpoenas and subpoenas duces tecum upon the concurrence of at least five members of the Commission.

If it is determined after such investigation that no probable cause exists for substantiating the allegations of the complaint, the Commission shall, within ten days from such determination, cause to be issued and served upon the complainant written notice of such determination; and the complainant or his attorney may, within ten days after such service, file with the Commission a written request for a meeting with the Commission to show probable cause for substantiating the allegations of the complaint. If it is determined after such investigation or meeting that probable cause exists for substantiating the allegations of the complaint, the Commission shall immediately endeavor to eliminate the unlawful discriminatory practices complained of by conference, conciliation and persuasion. The members of the Commission and its staff shall not disclose what has transpired in the course of such endeavors. Provided, that the Commission may publish or release the terms of settlement or conciliation when the complaint has been conciliated or settled.

In case of failure so to eliminate such practice or in advance thereof, if in the judgment of the Commission circumstances so warrant, the Commission shall cause to be issued and served a written notice, together with a copy of such complaint as the same may have been amended, in the manner provided by law for the service of summons in civil actions, requiring the person, employer, labor organization, employment agency, owner, real estate broker, real estate salesman or financial institution named in such complaint, hereinafter referred to as respondent, to answer

the charges of such complaint at a public or private hearing before the Commission in the county where the respondent resides or transacts business at a time and place so specified in such notice; provided, however, that such written notice shall be served at least thirty days prior to the time set for the hearing. The Commission or its chair shall delegate the power and authority to conduct the hearing to a hearing examiner(s) who may be an individual Commissioner; a panel of Commissioners; a hearing examiner, who shall be an attorney duly licensed to practice law in West Virginia; a panel of hearing examiners; or a panel composed of any combination of Commissioners and hearing examiners.

The case in support of the complaint shall be presented before the Commission by one of its attorneys or agents, but no one presenting the case in support of the complaint shall counsel or advise the Commission, Commissioner or hearing examiner who hears the case. The respondent may file a written, verified answer to the complaint and appear at such hearing in person or otherwise, with or without counsel, and submit testimony and evidence. Except as provided in this article, all of the pertinent provision of West Virginia Code Article 29A-5 shall govern the hearing and the administrative procedures in connection with and following such hearing.

If, after such hearing and consideration of all of the testimony, evidence and record in the case, the Commission finds that a respondent has engaged in or is engaging in any unlawful discriminatory practice as defined in this article, the Commission shall issue and cause to be served on such respondent an order to cease and desist from such unlawful discriminatory practice and to take such affirmative action, including but not limited to, hiring, reinstatement or upgrading of employees, with or without back pay, admission or restoration to membership in any respondent labor organization, or the admission to full and equal enjoyment of the services, goods, facilities, or accommodations offered by any respondent place of public accommodation, and the sale, purchase, lease, rental or financial assistance to any complainant otherwise qualified for the housing accommodation or real property denied in violation of this article, as in the judgment of the Commission, will effectuate the purposes of this article, and including a requirement for report of the manner of compliance, payment of expenses and lost wages of any witness called by the complainant or Commission, payment to the complainant of reasonable attorney fees, expert witness fees, and legal costs, and payment to the Commission of its costs in conducting the hearing; and any other legal or equitable relief as the Commission deems appropriate. Such order shall be accompanied by findings of fact and conclusions of law as specified in West Virginia Code 29A-5-3.

### **Sec. 62-83. Enforcement of cease and desist order.**

In the event any person fails to obey a lawful cease and desist order of the Commission, the Commission may seek an order of a court of competent jurisdiction for its enforcement in a proceeding as provided in this section. Such proceeding shall be initiated by the filing of a petition in such court, together with a written transcript of the entire record of the hearing before the Commission. Notice of the filing of such petition, together with a copy thereof, shall be served upon the respondent in the manner provided by law for the service of summons in civil actions. No hearing shall be held on such petition within twenty days of the date of service thereof on the respondent. The court may grant such temporary relief or restraining order as it

deems just and proper and shall make and enter upon the pleadings, testimony and proceedings set forth in such transcript an order enforcing, modifying and enforcing as so modified, or setting aside in whole or in part the order of the Commission. All such proceedings shall be heard and determined by the court.

**Sec. 62-84. Judicial Review.**

Judicial review of a final decision of the Commission shall be by a certiorari as set forth in West Virginia Code 53-3-1 through 53-3-6, or in such other manner as may be allowed under the laws of the State.

**Sections 62-85—62-180. Reserved.**

**ARTICLE IV. FAIR HOUSING ACT.**

**Sec. 62-181.**

**Adoption by reference of W. Va. Code, §§ 5-11A, “The West Virginia Fair Housing Act.”**

The City of Charleston adopts by reference W. Va. Code, §§ 5-11A, sections 1-20, “The West Virginia Fair Housing Act”, as presently and as the same may be amended from time to time hereafter, and incorporates it completely as if set out in full, subject to the particular additions, deletions and amendments set forth in this article.

**Section 62-181. Amendments to W. Va. Code, § 5-11A, “The West Virginia Fair Housing Act.”**

W. Va. Code, §§ 5-11A is amended throughout by striking out the words “West Virginia Fair Housing Act” and inserting in lieu thereof the words “City of Charleston Fair Housing Act”.

W. Va. Code, §§ 5-11A is amended throughout by striking out the words “Attorney General” and inserting in lieu thereof the words “Commission’s Attorney”.

W. Va. Code, §§ 5-11A is amended throughout by striking out the words “Administrative Law Judge” and inserting in lieu thereof the words “Hearing Examiner”.

W. Va. Code, § 5-11A-2 is amended by striking out the entire section and inserting in lieu thereof the following:

Equal opportunity in the areas of employment and public accommodations is hereby declared to be a human right or civil right of all persons without regard to race, religion, color, national origin, ancestry, sex, age, blindness or handicap. Equal opportunity in the sale, lease, rental and financing of housing accommodations is hereby declared to be a

human right or civil right of all persons without regard to race, religion, color, national origin, ancestry, sex, age, blindness, handicap or familial status.

The denial of these rights of properly qualified persons is contrary to the principles of freedom and equality of opportunity and is destructive to a free and democratic society.

W. Va. Code, § 5-11A-9 is amended on the second paragraph, line seven (7), following the words “held in the”, by striking out the word “county” and inserting in lieu thereof the words “City of Charleston”.

W. Va. Code, § 5-11A-12 is amended by striking out the first paragraph and inserting in lieu thereof the following:

The commission may request the Kanawha County Circuit Court to issue subpoenas and order discovery in aid of investigations and hearings under this chapter. Such subpoenas and discovery may be ordered to the same extent and subject to the same limitations as would apply if the subpoenas or discovery were ordered or served in aid of a civil action in the Kanawha County Circuit Court.

W. Va. Code, § 5-11A-17 is amended following the words “published in the” by striking out the words “state register” and inserting in lieu thereof the words “city clerk’s office.”

W. Va. Code, § 5-11A-20 is amended on the last sentence by striking out the following:

The commission shall comply with article three, chapter twenty-nine-a of this code when promulgating rules.

### **Section 62-182. Penalty.**

Any person who willfully resists, prevents, impedes or interferes with the Commission, its members, agents or agencies in the performance of duties pursuant to this chapter or willfully violates a final order of the Commission, shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), or imprisoned not exceeding thirty days, or both; but seeking judicial review of an order shall not be deemed to be such willful conduct.

NOTE: This bill is to \_\_\_\_\_ the City of Charleston’s Human Rights Ordinance and to adopt by reference the provisions of § 5-11A, *et seq.*, “The West Virginia Fair Housing Act”, as presently constituted, subject to the particular additions, deletions and amendments set forth in article four of this chapter; and penalty.

The question being on the passage of the Bill a roll call was taken and there yeas-28, nays-0, absent-0, as follows:

YEAS: Chestnut, Clowser, Davis, Deitzler, Ealy, Hall, Hanna, Harris, Harrison, Higgins, Jones, Lane, Lanham, Loeb, Markham, Miller, Monroe, Morton, Nielsen, Reed, Reishman, Robertson, Sadd Talkington, Ware, Weintraub, White, Mayor Jones.

NAYS:  
ABSENT:

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7040, Committee Substitute, as amended, passed.

***PUBLIC SAFETY***

Councilman Bob White, Chairman of the Council Committee on Public Safety, submitted the following reports.

1. Your Committee on Public Safety has had under consideration Bill No. 7103, and reports the same to Council with the recommendation that the Bill do pass.

Bill No. 7103 - - Amending and reenacting Section 78-165 of the Code of the city of Charleston, 2003, as amended, relating to the carrying of unauthorized weapons on municipal property.

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

That Section 78-165 of the Code of the City of Charleston, 2003, as amended, be amended and reenacted, all to read as follows:

Chapter 78  
**OFFENSES AND MISCELLANEOUS PROVISIONS**

**ARTICLE III. OFFENSES INVOLVING PUBLIC SAFETY**

Division 2. Weapons

**Sec. 78-765. Carrying weapons upon Municipal public property.**

It shall be unlawful for any person to carry on or about his person any revolver or pistol, dirk, bowie knife, slingshot, razor, billy, metallic or other false knuckles, or other dangerous or deadly weapon of like kind or character in or upon City Hall, Municipal Auditorium, The Civic Center, and all Parks and Recreation buildings and facilities, including Recreation Centers, Playgrounds, Swimming Pools, Dressing Areas, Tennis Courts, Parks and Recreation areas and all other buildings, structures, facilities, and grounds thereof, owned or occupied by the City of Charleston; however, the provisions of this section shall not apply to City, County, State and Federal Law enforcement officers and to exhibitors and performers at city-sanctioned events who obtain advance written authorization from the Chief of Police.

(Ord. No. 4941, 4-19-1993)

The question being on the passage of the Bill a roll call was taken and there yeas-28, nays-0, absent-0, as follows:

YEAS: Chestnut, Clowser, Davis, Deitzler, Ealy, Hall, Hanna, Harris, Harrison, Higgins, Jones, Lane, Lanham, Loeb, Markham, Miller, Monroe, Morton, Nielsen, Reed, Reishman, Robertson, Sadd Talkington, Ware, Weintraub, White, Mayor Jones.

NAYS:

ABSENT:

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7103, passed.

2. Your Committee on Public Safety has had under consideration Bill No. 7108, and reports the same to Council with the recommendation that the Bill do pass.

Bill No. 7108 - - A bill amending and reenacting Ordinance #7069 passed on June 7, 2004 to provide and authorize the cooperation by the City of Charleston with the Kanawha County Commission for the implementation of 911 Addressing and Mapping within the City of Charleston, West Virginia, and to adopt all of the provisions in the attached document entitled “City of Charleston, West Virginia, 911 Addressing and Mapping Ordinance”, and to appoint the City of Charleston Office of Emergency Services and Homeland Security as the Address Coordinator and Mapping Coordinator, and the City of Charleston Building Department as the Alternate Coordinator in connection with the West Virginia statewide Addressing and Mapping project.

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

That the City of Charleston hereby authorizes and directs the City of Charleston to cooperate with the Kanawha County Commission for the implementation of 9-1-1 Addressing and Mapping within the City of Charleston, West Virginia, and to adopt all of the provisions in the attached document entitled “City of Charleston, West Virginia, 911 Addressing and Mapping Ordinance”, and to appoint the City of Charleston Office of Emergency Services and Homeland Security as the Address Coordinator and Mapping Coordinator, and the City of Charleston Building Department as the Alternate Coordinator in connection with the West Virginia statewide Addressing and Mapping project.

The question being on the passage of the Bill a roll call was taken and there yeas-28, nays-0, absent-0, as follows:

YEAS: Chestnut, Clowser, Davis, Deitzler, Ealy, Hall, Hanna, Harris, Harrison, Higgins, Jones, Lane, Lanham, Loeb, Markham, Miller, Monroe, Morton, Nielsen, Reed, Reishman, Robertson, Sadd Talkington, Ware, Weintraub, White, Mayor Jones.

NAYS:

ABSENT:

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7108, passed.

***FINANCE***

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

1. Your Committee on Finance has had under consideration Resolution No. 698-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 698-04 – “Authorizing Electronic Specialty Company to furnish and install software upgrades to integrate the existing card access system at four Municipal Parking buildings to the CASI SP Card Access System on City Network; and further authorizing the Mayor to sign a Preventive Maintenance Service Agreements covering system, for total package amount of \$40, 230.”

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

That Electronic Specialty is hereby authorized and directed to furnish and install software upgrades to integrate the existing card access system at four Municipal Parking buildings to the CASI SP Card Access System on City Network; and further authorizing the Mayor to sign a Preventive Maintenance Service Agreements covering system, for total package amount of Forty Thousand Two Hundred Thirty Dollars \$40, 230.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 698-04, adopted.

2. Your Committee on Finance has had under consideration Resolution No. 699-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 699-04 – “Authorizing “Citizen Appreciation Parking” for three (3) Saturdays during the month of December 2004 (4<sup>th</sup>, 11<sup>th</sup>, 18<sup>th</sup>). “Citizen Appreciation Parking” shall include the waving of hourly fees at all City – operated facilities (excluding Municipal Parking Building No. 2) and all metered on-street parking spaces. If ratifies by full Council, revenue losses, at \$1000 per Saturday, will be paid from General Revenue funds, as amended by Resolution No. 401-99, adopted December 6, 1999.”

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

That “Citizen Appreciation Parking” for three (3) Saturdays during the month of December 2004 (4<sup>th</sup>, 11<sup>th</sup>, 18<sup>th</sup>), is hereby approved. “Citizen Appreciation Parking” shall include the waving of hourly fees at all City – operated facilities (excluding Municipal Parking Building No. 2) and all metered on-street parking spaces. If ratifies by full Council, revenue losses, at \$1000 per

Saturday, will be paid from General Revenue funds, as amended by Resolution No. 401-99, adopted December 6, 1999.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 699-04, adopted.

3. Your Committee on Finance has had under consideration Resolution No. 701-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 701-04– “ Authorizing the Finance Director to make revisions to the 2004-2005 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 make revisions to the 2004-2005 General Fund budget as indicated on the attached list of accounts

FURTHER RESOLVED, that this budgetary revision 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-28, nays-0, absent-0, as follows:

YEAS: Chestnut, Clowser, Davis, Deitzler, Ealy, Hall, Hanna, Harris, Harrison, Higgins, Jones, Lane, Lanham, Loeb, Markham, Miller, Monroe, Morton, Nielsen, Reed, Reishman, Robertson, Sadd, Talkington, Ware, Weintraub, White, Mayor Jones.

NAYS:

ABSENT:

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 701-04, adopted.

4. Your Committee on Finance has had under consideration Resolution No. 702-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 702-04– “ Authorizing the Mayor to sign and submit FY 2005 Budget Digest grant applications an all related documents for the agencies designated on the attached list, all located in 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 2005 Budget Digest grant applications an all related documents for the agencies designated on the attached list, all located in the City of Charleston.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-28, nays-0, absent-0, as follows:

YEAS: Chestnut, Clowser, Davis, Deitzler, Ealy, Hall, Hanna, Harris, Harrison, Higgins, Jones, Lane, Lanham, Loeb, Markham, Miller, Monroe, Morton, Nielsen, Reed, Reishman, Robertson, Sadd, Talkington, Ware, Weintraub, White, Mayor Jones.

NAYS:

ABSENT:

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 702-04, adopted.

5. Your Committee on Finance has had under consideration Resolution No. 703-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 703-04– “Authorizing the Mayor to submit an “Intent to Apply” grant form to the West Virginia Department of Transportation, Division of Highways, Recreational Trails program, to provide funds for the proposed Cato Trail”

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

That the Mayor is hereby authorized and directed to submit an “Intent to Apply” grant form to the West Virginia Department of Transportation, Division of Highways, Recreational Trails program, to provide funds for the proposed Cato Trail.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 703-04, adopted.

6. Your Committee on Finance has had under consideration Resolution No. 704-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 704-04– “Authorizing the Mayor to submit an “Intent to Apply” grant form to the West Virginia Department of Transportation, Division of Highways, Recreational Trails program, to provide funds for improvements and extension for he Kanawha City Bike path.”

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

That the Mayor is hereby authorized and directed to submit an “Intent to Apply” grant form to the West Virginia Department of Transportation, Division of Highways, Recreational Trails program, to provide funds for improvements and extension for he Kanawha City Bike path.”

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 704-04, adopted.

7. Your Committee on Finance has had under consideration Resolution No. 705-04, and

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

Resolution No. 705-04– “ Authorizing the Finance Director to allocate funds in the amount of \$35,600 for a HOME Project in North Charleston.”

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

That the Finance Director is hereby authorized and directed to allocate funds in the amount of Thirty-five Thousand Six Hundred Dollars (\$35,600) for a HOME Project in North Charleston.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-28, nays-0, absent-0, as follows:

YEAS: Chestnut, Clowser, Davis, Deitzler, Ealy, Hall, Hanna, Harris, Harrison, Higgins, Jones, Lane, Lanham, Loeb, Markham, Miller, Monroe, Morton, Nielsen, Reed, Reishman, Robertson, Sadd, Talkington, Ware, Weintraub, White, Mayor Jones.

NAYS:

ABSENT:

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 705-04, adopted.

8. Your Committee on Finance has had under consideration Resolution No. 706-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 706-04– “ Authorizing the Finance Director to issue a refund to Merrill Lynch Pierce Fenner Smith, Inc., in the amount of \$5,604.10. One of two branches located in Charleston was relocated to Charlotte, NC; however, the company continued to pay B&O taxes to the City of Charleston for the revenues produced by the relocated branch for the 3<sup>rd</sup> Quarter 2003 through the 2<sup>nd</sup> Quarter 2004.”

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 to Merrill Lynch Pierce Fenner Smith, Inc., in the amount of Five Thousand Six Hundred Four Dollars and Ten Cents (\$5,604.10). One of two branches located in Charleston was relocated to Charlotte, NC; however, the company continued to pay B&O taxes to the City of Charleston for the revenues produced by the relocated branch for the 3<sup>rd</sup> Quarter 2003 through the 2<sup>nd</sup> Quarter 2004.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 706-04, adopted.

9. Your Committee on Finance has had under consideration Resolution No. 707-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 707- 04– “ Authorizing the Mayor to enter into an Agreement with BBL Carlton, LLC, in an amount up to \$1,326,000, for the Baseball Stadium Bid Package CI-4/ Site Features.”

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 BBL Carlton, LLC, in an amount up to One Million Three Hundred Twenty-six Thousand Dollars (\$1,326,000), for the Baseball Stadium Bid Package CI-4/ Site Features.

The question being on the adoption of the Resolution a vote was taken. There being one from Markham, the Mayor declared Resolution No. 707-04, adopted.

10. Your Committee on Finance has had under consideration Resolution No. 708-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 708-04– “ Authorizing the Mayor to sign Change Order No. 9 with BBL Carlton, LLC, in an amount of \$10,521.90, for additional seating in the suite level sections for the Baseball Stadium Bid Package CI-2A/ Seating Bowl.”

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. 9 with BBL Carlton, LLC, in an amount of Ten Thousand Five Hundred Twenty-one Dollars and Ninety Cents (\$10,521.90), for additional seating in the suite level sections for the Baseball Stadium Bid Package CI-2A/ Seating Bowl.

The question being on the adoption of the Resolution a vote was taken. There being one from Markham, the Mayor declared Resolution No. 708-04, adopted.

11. Your Committee on Finance has had under consideration Resolution No. 711-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 711-04– “ Authorizing the Mayor to sign Change Order No. 3 with Dougherty Company, Inc., in the amount of \$18,200, for costs associated with the addition of a Sand/Oil Separator; drains; piping; and relocation of GI-2 Grease Interceptor for the Baseball Stadium Bid Package CI-2D / HVAC-Plumbing.”

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. 3 with Dougherty Company, Inc., in the amount of Eighteen Thousand Two Hundred Dollars (\$18,200), for costs associated with the addition of a Sand/Oil Separator; drains; piping; and relocation of GI-2 Grease Interceptor for the Baseball Stadium Bid Package CI-2D / HVAC-Plumbing.

The question being on the adoption of the Resolution a vote was taken. There being one from

Markham, the Mayor declared Resolution No. 711-04, adopted.

12. Your Committee on Finance has had under consideration a proposal submitted by General Truck Sales Corporation, in the amount of \$146,528.50 for purchase of Six (6) Pick-up trucks and One Flat Bed truck to be used by various City departments. To be charged to the following accounts: \$17,728.50 – 001-979-00-900-4-459, P&R –Capital Outlay, Equipment; \$66,029.50 – 001-977-00-750-4-461, Street –Capital Outlay, Lease/Purchase; \$20,760.00 – 001-978-00-800-4-461, Refuse –Capital Outlay, Lease/Purchase; \$17,728.50 – 001-980-00-952-4-461, Cemetery –Capital Outlay, Lease/Purchase; \$24,282.00 – 001-975-00-5674-461, Public Grounds –Capital Outlay, Lease/Purchase, and reports the same to council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted.

13. Your Committee on Finance has had under consideration a bid submitted by Bert Wolfe Ford, in the amount of \$72,341.25 for purchase of five (5) Mid-Size Vehicles (\$14,468.25 each), to be used by the Charleston Police Department. To be charged to Account No. 001-976-00-700-4-461, Police Capital Outlay, Lease/Purchase, and reports the same to council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted.

14. Your Committee on Finance has had under consideration a proposal submitted by Stephens Auto Center, in the amount of \$80,490, for five (5) Jeep Liberty vehicles (\$16,098 each) to be used by various City Departments. To be charged to the following Accounts: \$16,098 – 001-975-00-437-4-459, Planning – Capital Outlay, Equipment; \$32,196 – 001-975-00-436-4-459, Building – Capital Outlay, Equipment; \$16,098 – 001-975-00-436-4-461, Building – capital Outlay, Lease/Purchase; \$16,098 – 001-979-00-900-4-461, P&R – Capital Outlay, Lease/Purchase, and reports the same to council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted.

15. Your Committee on Finance has had under consideration a proposal submitted by Stephens Auto Center, in the amount of \$261,780, for purchase of twelve (12) 2005 Ford Crown Victoria Police Interceptors (cruisers) for use in the Patrol Division of the Charleston Police Department. To be charged to Account No. 001-976-00-700-4-461, Police- Capital Outlay, Lease/Purchase, and reports the same to council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no

dissent the Mayor declared the committee report adopted.

16. Your Committee on Finance has had under consideration a bid submitted by Electronic Communications, in the amount of \$35,014.16, for purchase of twelve (12) sets of emergency equipment to be installed on the 2005 Ford Crown Victoria Police Interceptors (cruisers) for use in the Patrol Division of the Charleston Police Department. To be charged to Account No. 001-976-00-700-4-459, Police – Capital Outlay, Equipment, and reports the same to council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted.

17. Your Committee on Finance has had under consideration a bid submitted by Elkins Fordland, in the amount of \$25,246 for purchase of one (1) Hybrid / Gasoline / Electric 4X4 SUV. To be charged to Account No. 001-975-00-412-4-461, City Manager – Capital Outlay, Lease/Purchase, and reports the same to council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted.

18. Your Committee on Finance has had under consideration a approval to amend the purchase of two International Dump Trucks, equipped with snow plow, from Mountain International Truck, approved by the Finance Committee and Council on November 15, 2004, by changing the total purchase price from \$73,130 to \$146,260. The amount of \$73,130 is the cost for each vehicle, not \$36,565 as previously reported. To be charged to Account No. 001-977-00-750-4-461, Street – Capital Outlay, Lease/Purchase, and reports the same to council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted.

19. Your Committee on Finance has had under consideration a approval to amend the bid submitted on November 15, 2004, for purchase of a Cargo Van from Bert Wolfe Ford, in the amount of \$16,432, by changing the vendor for purchase of the vehicle to General Truck Sales Corporation, in the amount of \$16,600. The change of vendor is being made to better serve the City's immediate needs for a vehicle of this type to be used by the Project Construction Crew. The vehicle proposed by General Truck is in stock with a one-day delivery, as compared to a six to eight week delivery schedules for the vehicle proposed by Bert Wolfe Ford. To be charged to Account No. 001-975-00-412-4-459, City Manager- Capital Outlay, Equipment, and reports the same to council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted.

20. Your Committee on Finance has had under consideration Resolution No. 7096, as amended, and reports the same to Council with the recommendation that the Bill do pass.

Bill No. 7096, as amended, - A Bill abandoning, vacating, discontinuing and closing permanently a certain 15 foot wide public alley or way known as Buick Court, generally parallel to Court Street and extending from the northeasterly right-of-way line of Quarrier Street about 183.5 feet where it dead ends with the portion of Charleston Town Center Company, Limited Partnership, property formerly occupied by Best Products and authorizing conveyance to Charleston Urban Renewal Authority, all the right, title and interest of the City of Charleston in and to the land area occupied by such alley or way known as Buick Court so vacated.

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

1. That the Council of the City of Charleston, West Virginia, finds and determines that:

- (a) Charleston Urban Renewal Authority, a public body corporate and politic created and existing under the laws of the State of West Virginia and the laws and ordinances of the City of Charleston, own title in fee simple to all the real estate abutting the entire length on both sides of that certain public alley or way known as Buick Court that is about 15 feet wide and generally parallel to Court Street and extends northeasterly about 183.5 feet to a portion of the property of Charleston Town Center Company, Limited Partnership, formerly leased by it to Best Products.

- (b) No person owning any real estate will be deprived of ingress thereto or egress therefrom if such alley or way is vacated and closed by the City of Charleston.

2. That, because of and in conformity with the foregoing findings and determinations, said public street or way known as Buick Court described in paragraph 1(a) of this ordinance should be declared, and it hereby is, abandoned vacated, discontinued and closed permanently as a public alley and way effective upon the recordation in the office of the Clerk of the County Commission of Kanawha County, West Virginia, of the deed described in paragraph 3 of this ordinance, upon which date such alley or way known as Buick Court shall no longer be impressed with any public use.

3. That the Mayor of the City of Charleston, West Virginia, be, and he hereby is, authorized and directed to execute, acknowledge and deliver without charge to Charleston Urban Renewal Authority, a deed conveying all the right, title and interest of the City of Charleston in and to the land area now occupied by said alley or way and known as

Buick Court so vacated.

4. That all prior ordinances, or parts of ordinances inconsistent with this ordinance are expressly repealed.

5. Subject to the terms and conditions of the letter Agreement by and between the Charleston Sanitary Board and Forest City Commercial Management, Inc. dated September 27, 2004.

6. That if any of the provisions of this ordinance shall be held to be invalid or unenforceable, such invalidity or unenforceability shall not affect other provisions of this ordinance, and to this end its provisions are declared to be severable.

The question being on the passage of the Bill a roll call was taken and there yeas-25, nays-0, absent-0, abstain-3, as follows:

YEAS: Chestnut, Clowser, Davis, Deitzler, Ealy, Hall, Hanna, Harris, Harrison, Higgins, Jones, Lanham, Miller, Monroe, Morton, Nielsen, Reed, Reishman, Robertson, Sadd Talkington, Ware, Weintraub, White, Mayor Jones.

NAYS:

ABSENT:

ABSTAIN: Lane, Loeb, Markham.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7096, as amended, passed.

21. Your Committee on Finance has had under consideration Resolution No. 7109, and reports the same to Council with the recommendation that the Bill do pass.

Bill No. 7109 - - A Bill authorizing the Mayor to quitclaim and relinquish all ownership rights and interests of the City to the historic structure known as the Craik-Patton house located on a City owned portion of The Daniel Boone Park. As more fully described below, the City shall retain all rights and interests in the tract of land upon which the Craik-Patton house is located.

WHEREAS, the Craik-Patton house is a historically significant structure maintained by Craik-Patton, Inc.;

WHEREAS, in order for Craik-Patton, Inc., to qualify for certain benefits and public recognition of the Craik-Patton house, Craik-Patton, Inc., must own the historic structure known as the Craik-Patton house;

WHEREAS, the historic structure known as the Craik-Patton house is currently located on a City owned portion of the tract of land lying along U.S. Route 60 east of Charleston, West Virginia, known as The Daniel Boone Roadside Park (hereinafter, the "Leased Property");

WHEREAS, Craik-Patton Inc.'s use of the Leased Property is subject to a lease

agreement between the City and Craik-Patton, Inc. (hereinafter, the "Lease Agreement");

WHEREAS, the Lease Agreement between the City and Craik-Patton, Inc., requires, among other things, that the Leased Property be used for public purposes, that Craik-Patton, Inc., indemnify the City for any claim related to the Craik-Patton house or underlying Leased Property, and that Craik-Patton, Inc., maintain liability insurance in the face amount of at least \$300,000.00, fully indemnifying the City against injury, accidents or any cause of action, of every nature and kind whatsoever, which may arise from the use and occupancy of the Craik-Patton house or the Leased Property.

WHEREAS, pursuant to W.Va. Code Section 8-32-1, the City is authorized to donate property to Craik-Patton, Inc., without consideration;

WHEREAS, the City desires to quitclaim and relinquish all ownership rights and interests in the structure known as the Craik-Patton house to Craik-Patton, Inc.;

WHEREAS, the City shall retain all rights, title and interests in the Leased Property, and the City's quitclaim as to the historic structure known as the Craik-Patton house shall in no way affect the City's ownership of the Leased Property or the Lease Agreement between the City and Craik-Patton, Inc.

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

That the Mayor of the City of Charleston is hereby authorized and directed to quitclaim and relinquish all ownership rights and interests of the City to the historic structure known as the Craik-Patton house as more fully described above.

This Ordinance is to become effective immediately upon passage.

The question being on the passage of the Bill a roll call was taken and there yeas-28, nays-0, absent-0, as follows:

YEAS: Chestnut, Clowser, Davis, Deitzler, Ealy, Hall, Hanna, Harris, Harrison, Higgins, Jones, Lane, Lanham, Loeb, Markham, Miller, Monroe, Morton, Nielsen, Reed, Reishman, Robertson, Sadd Talkington, Ware, Weintraub, White, Mayor Jones.

NAYS:

ABSENT:

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7109, as amended, passed.

## **REPORTS OF OFFICERS**

1. Report of the City of Charleston Payroll Variance Analysis;  
November 2004;  
Received and Filed.

2. Annual Report of Poilice Pension and Relief Fund.

Received and Filed.

3. Annual Report of Fire Pension and Relief Fund.

Received and Filed.

### **NEW BILLS INTRODUCED**

Introduced by Councilman Paul Monroe on December 6, 2004:

Bill No. 7110- A Bill amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 7<sup>th</sup> day of March 1983, as amended, and the map made a part thereof, by rezoning from an R-4 district to a C-6 district, those certain parcels of land situated at 1718 Fifth Avenue, Charleston, West Virginia.

Refer to Municipal Planning Commission.

Introduced by Mary Jean Davis, John Miller and Bobby Reishman on December 6, 2004:

Bill No. 7111- A Bill amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 7<sup>th</sup> day of March, 1983, as amended, and the map made a part thereof, by rezoning from R-4 and C-6 districts to a MMC district, that certain parcel or tract of land identified as Lot A of the Memorial Medical Complex Addition, in Kanawha City, in the City of Charleston, Kanawha County, State of West Virginia, owned by Charleston Area Medical Center, Inc., a West Virginia nonprofit, nonstock corporation.

Refer to Municipal Planning Commission.

Introduced by Councilman Bobby Reishman on December 6, 2004:

Bill No. 7112- A Bill amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 16<sup>th</sup> day of November 2004, as amended, and the map made a part thereof, by rezoning from an R-4 district to a R-0 district, those certain parcels of land situated at 2503 Kanawha Avenue, Charleston, West Virginia.

Refer to Municipal Planning Commission.

Introduced by Mary Jean Davis, John Miller and Bobby Reishman on December 6, 2004:

Bill No. 7113 - A Bill closing, abandoning and discontinuing as public streets and alleys, that portion of 33<sup>rd</sup> Street extending from MacCorkle Avenue north to Staunton Avenue, that portion of Noyes Avenue extending from 33<sup>rd</sup> Street to a point 126.07 feet eastward, that portion of the alley located in Block 18 as shown on the Revised Map of Kanawha City between MacCorkle Avenue and Noyes Avenue extending from 33<sup>rd</sup> Street to a point 119.76 feet eastward, and that portion of the alley located in Block 19 as shown on the Revised Map of Kanawha City between Noyes Avenue and Staunton Avenue extending from 33<sup>rd</sup> Street to a point 126.95 feet eastward, together with all easements for storm and sanitary sewer therein.

Refer to Municipal Planning Commission.

Introduced by Councilman Bob White on December 6, 2004:

Bill No. 7115 - A Bill to establish a Stop intersection at the intersection of Twilight Drive and Green Street requiring vehicles northbound on Green Street to stop and requiring vehicles southbound on Twilight Drive to stop except when turning right 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 Councilman Bob White on December 6, 2004:  
Bill No. 7116 - A Bill to establish a Stop intersection at the intersection of Twilight Drive and Heath Street requiring vehicles westbound on Twilight Drive to stop and requiring vehicles eastbound on Heath Street to stop except when turning right 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 Councilwoman Teresa Reed on December 6, 2004:  
Bill No. 7117 - A Bill to amend and re-enact Ordinance No. 4206, passed by Council on August 17, 1987 relating to establishing a 20 miles per hour speed limit on Somerset Drive between Summit Drive and Edgewood Court and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, two thousand three, as amended, Traffic Law, Section 263, Division 2, Article 4, Chapter 114, to conform therewith.  
Refer to Streets and Traffic Committee.

Introduced by Councilman Paul Monroe on December 6, 2004:  
Bill No. 7118 - A Bill to amend and re-enact Ordinance No. 6938, passed by Council on November 4, 2002 relating to establishing a No Parking Anytime Tow Away Zone on the southerly side of Costello Street from Dayton Drive to a point 260 feet west of Grove Avenue and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, two thousand three, as amended, Traffic Law, Section 263, Division 2, Article 4, Chapter 114, to conform therewith.  
Refer to Streets and Traffic Committee.

Introduced by Councilman Paul Monroe on December 6, 2004:  
Bill No. 7119 - A Bill to establish a No Parking Anytime Tow-Away zone on Market Drive from Camden Drive to a point 125 feet north of Camden 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.

## ROLL CALL

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

YEAS: Chestnut, Clowser, Davis, Deitzler, Ealy, Hall, Hanna, Harris, Harrison, Higgins, Jones, Lane, Lanham, Loeb, Markham, Miller, Monroe, Morton, Nielsen, Reed, Reishman, Robertson, Sadd, Talkington, Ware, Weintraub, White, Mayor Jones.

ABSENT:

At 8:05 p.m., on motion of Councilman Loeb, Council adjourned until Monday, December 20, 2004, at 7:00 p.m.

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Danny Jones, Honorable Mayor

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James M. Reishman, City Clerk