

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

DECEMBER 18, 2006

THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE SECOND MEETING IN THE MONTH OF DECEMBER ON THE 18th DAY, IN THE YEAR 2006, AND WAS CALLED TO ORDER BY THE HONORABLE MAYOR, DANNY JONES. THE INVOCATION WAS DELIVERED BY HARRISON, AND THE PLEDGE OF ALLEGIANCE WAS LED BY WARE.

**CHESTNUT
DEITZLER
HANNA
HIGGINS
LANHAM
MILLER
NIELSEN
ROBERTSON
WARE
MAYOR JONES**

**EALY
HARRIS
JONES
LANE
MONROE
REED
SADD
WEINTRAUB**

**DAVIS
HALL
HARRISON
LOEB
MORTON

TALKINGTON
WHITE**

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

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

PUBLIC SPEAKERS

NONE

CLAIMS

1. A claim of Alice Osborne, 10A Vine Street, Charleston, WV; alleges damage to property.
Refer to City Solicitor.
2. A claim of Maribeth Hickman - Coleman, Charleston, WV; alleges personal injury.
Refer to City Solicitor.
3. A claim of Kimberly Carte, 433 17th Street, Dunbar, WV; alleges damage to vehicle.
Refer to City Solicitor.
4. A claim of Mary Meeks, 2304 Winchester Road., South Charleston, WV; alleges damage to vehicle.
Refer to City Solicitor.

COMMUNICATIONS

The Clerk read the Appointments:

TO: JAMES REISHMAN
CITY CLERK

FROM: DANNY JONES
MAYOR

RE: CHARLESTON CONVENTION AND VISITORS BUREAU BOARD

DATE: DECEMBER 18, 2006

I recommend that Ashley Smoak, Embassy Suites, 300 Court Street, Charleston, WV 25301, be appointed to the Charleston Convention and Visitors Bureau Board, with a said term to expire February 7, 2006. He is replacing Robert Horner.

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

Council approved the Appointment

TO: JAMES REISHMAN
CITY CLERK

FROM: DANNY JONES
MAYOR

RE: KANAWHA-CHARLESTON BOARD OF HEALTH

DATE: DECEMBER 18, 2006

I recommend that James Strawn, 119 Sheridan Circle, Charleston, WV 25314, be appointed to the Kanawha-Charleston Board of Health, with a said term to expire June 30, 2009. He is replacing John E. Plesich.

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

Council approved the Appointment

REPORTS OF STANDING COMMITTEES

PLANNING

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

1. Your Committee on Planning has had under consideration naming of an alley on the north side of the Covenant House property at 600 Shrewsbury Street as Hussey Ferraro Way, attached hereto and made a part thereof.

Your Committee finds the following:

1. City Council passed an Ordinance approving the 911 addressing system within the City limits.
2. The requested name is to honor to long time Co-directors of the Covenant House.

And reports the same to Council with the recommendation that the alley name be approved.

The question being on the approval of the Alley name a vote was taken. There being one dissent from Councilman Sadd, the Mayor declared Hussey Ferraro Way, as an alley name approved.

2. Your Committee on Planning has had under consideration Bill No. 7236, and

reports the same to Council with the recommendation that the Bill do pass.

Your Committee finds the following:

Since the November 21, 2005 adoption of the new Zoning Ordinance and the first text amendment in April, 2006 the Planning Department Staff has continued to review the ordinance and make note of situations or details that have arisen as a result of the practical application of some sections. The Staff expected that there would be several areas where clarification and adjustments might be necessary and believe it is beneficial to address these issues as soon as possible.

Bill No. 7236 amending the Zoning Ordinance for the City of Charleston, West Virginia, adopted November 21, 2005 in order to make corrective additions and deletions as follows:

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CHARLESTON, WEST VIRGINIA

The Zoning Ordinance for the City of Charleston, West Virginia, effective November 21, 2005, is hereby amended as follows:

Article 2, Sec. 2-020 Definition of Terms

Dwelling, Live-Work Quarters. ~~A combined living and work unit that includes a bathroom and kitchen. The residential portion of the unit, including the sleeping area, kitchen, bathroom and closet areas, occupies no more than 33 percent of the total floor area, and the living space is not separated from the work space.~~ Buildings or spaces within buildings that are used jointly for commercial and residential purposes where the residential use of the space is secondary or accessory to the primary use as a place of work and the resident works in the same location.

Setback, Front. ~~The minimum required distance from the street right-of-way line to the closest point of the foundation of a building or projection thereof. On a corner lot, every street line shall be considered a front lot line. The distance between the street right-of-way line and the closest point of the foundation of a building or projection thereof.~~

Section 3-050 Permitted Land Uses

<i>PERMITTED USE</i>	<i>R-2</i>	<i>R-4</i>	<i>R-6</i>	<i>R-8</i>	<i>R-10</i>	<i>R-O</i>	<i>C-4</i>	<i>C-8</i>	<i>C-10</i>	<i>C-12</i>	<i>CBD</i>	<i>PMC</i>	<i>I-2</i>	<i>I-4</i>	<i>PUD</i>	<i>SUPP.</i>
<i>Automotive Body and Paint Shop</i>									<u>AP</u>	<u>AP</u>		P	<u>P</u>	<u>P</u>		<i>14</i>
<i>Halfway House</i>					<i>C</i>	<i>C</i>			<u>€</u>		<u>P</u>					<i>6,10</i>
<i>Television or Radio Studio</i>									<i>P</i>	<i>P</i>	<i>P</i>		<u>P</u>			

Section 3-080 Accessory Structures and Uses in Residential Districts

Sec. 3-080 (A)

15. Outdoor play equipment, ~~whether anchored or not~~, when anchored to the ground, is prohibited in ~~the front yard~~ front of the building line.

Sec. 3-080(C)

2. Recreational vehicles and trailers designed to be towed by another vehicle must be stored on a paved surface and parked behind the ~~front setback~~ building line.

Section 3-090 Accessory Structures and Uses in Commercial Districts

A. Customary and incidental accessory buildings and uses are allowed in all commercial districts, as specifically regulated in that district, provided:

1. The storage, collecting, dismantling, salvaging or repairing of more than one (1) piece of machinery, inoperative, expired inspection sticker, or unlicensed, motor vehicle, or appliance is prohibited, unless customary and incidental to the primary business such as an auto repair unless totally screened from view.

Section 20-020 (D)

7. Awnings and canopies extending over a public right-of-way shall not be lower than 9 feet above the ground. Supporting posts or columns shall not be permitted on public property.

Table 21-060-01.01 Parking Space Requirements (per gross floor area)

Land Use	Minimum On-site Parking Spaces Required
RESIDENTIAL	
<u>Dwelling, Live-Work Quarters</u>	<u>0. No additional Parking required above the applicable commercial parking requirement listed below.</u>

Table 22-070-04.01 On-Premise Signs Permitted in Residential Districts

Signs for Non-residential Uses in an R-O				
Building Signplates	1 per public entrance	2 sq ft	NA	NA
Wall Signs	1 per street <u>store</u> frontage	12 sq ft + .5 sq ft per linear ft of <u>building store</u> frontage <u>over 50 ft</u>	8 ft	NA
Freestanding Signs	1 <u>per building</u>	24 sq ft	8 ft	5 ft from property line
Temporary Signs	2 per building	32 sq ft	4 ft	3 ft from property line
Instructional Signs	Exempt from regulations when in compliance with Sec. 22-070.04.			

Sec. 35-010 Enforcement

B. Declare that any buildings erected, raised or converted, or maintained, or land or premises used in violation of any provision of the zoning ordinance shall be a common nuisance and the owner of the building, land or premises shall be liable

for maintaining a common nuisance.

All prior ordinances, or parts of ordinances, inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

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

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

ABSENT: Clowser, Markham, Reishman,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Bill 7236, passed.

FINANCE

Councilman Charlie Loeb, Vice Chairman of the Council Committee on Finance, submitted the following reports.

1. Your Committee on Finance has had under consideration Resolution No. 146-06, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 146-06: “Authorizing the Finance Director to amend the 2006-2007 Civic Center 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 2006-2007 Civic Center 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-25, absent – 3, as follows:

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

ABSENT: Clowser, Markham, Reishman,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No.146-06, adopted.

2. Your Committee on Finance has had under consideration Resolution No. 147-06, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 147-06: “Authorizing the Finance Director to amend the 2006-2007 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 2006-2007 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-25, absent – 3, as follows:

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

ABSENT: Clowser, Markham, Reishman,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No.147-06, adopted.

3. Your Committee on Finance has had under consideration Resolution No. 148-06, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 148-06: “Authorizing the Mayor to enter into an agreement with the Financial Commission for Appalachia High Intensity Drug Traffic Area (“Financial Commission”) to provide resources from the Charleston Police Department (“CPD”) in assisting the Financial Commission in identifying and deterring illegal drug activity in and around the City of Charleston. The Financial Commission will reimburse the CPD up to \$56,000 in overtime worked by officers assigned to the Metro Drug Enforcement Network Team (“MDENT”). In addition, the Financial Commission will provide up to \$7,000 in “buy money” to MDENT to be used for the purchase of evidence and/or confidential informant information.”

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 the Financial Commission for Appalachia High Intensity Drug Traffic Area (“Financial Commission”) to provide resources from the Charleston Police Department (“CPD”) in assisting the Financial Commission in identifying and deterring illegal drug activity in an around the City of Charleston. The Financial Commission will reimburse the CPD up to

\$56,000 in overtime worked by officers assigned to the Metro Drug Enforcement Network Team (“MDENT”). In addition, the Financial Commission will provide up to \$7,000 in “buy money” to MDENT to be used for the purchase of evidence and/or confidential informant information.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 148-06 adopted.

4. Your Committee on Finance has had under consideration Resolution No. 149-06, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 149-06: “Authorizing the Mayor to sign Change Order No. 1 with McClanahan Construction, in the amount of \$7,554, providing for relocation of telephone vault #3 due to encounter with existing unmarked utility line in connection with the Florida Street Streetscape project. The change order increases the contract price from \$683,677 to \$691,231.”

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

That the Mayor is hereby authorized and directed to sign Change Order No. 1 with McClanahan Construction, in the amount of \$7,554, providing for relocation of telephone vault #3 due to encounter with existing unmarked utility line in connection with the Florida Street Streetscape project. The change order increases the contract price from \$683,677 to \$691,231.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-25, absent – 3, as follows:

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

ABSENT: Clowser, Markham, Reishman,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No.149-06, adopted.

5. Your committee on Finance has had under consideration a proposal submitted by Communication Service, Inc., in the total amount of \$44,385.60, for 12 mobile radios (\$7,380), and 12 light bars and emergency lighting equipment (\$37,005.60) to be installed on the twelve (12) 2007 Ford Crown Victoria Police Interceptor Cruisers, previously approved by City Council on September 5, 2006. This purchase is being made from Communication Service as part of an on-going bid, approved by Council on February 6, 2006, providing for this equipment to be purchased on an as-needed basis and at the same unit prices for a one year period. To be charged to Account No. 001-976-00-700-4-459, Police—Capital Outlay, Equip), 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.

6. Your committee on Finance has had under consideration a bid submitted by General Truck Sales, in the total amount of \$97,546, for two State Body Dump Trucks with Lift Gate (\$48,775 each) to be used by the Refuse Collection Department. To be charged to Account No. 001-978-00-800-4-459, Refuse—Capital Outlay, Equip. (Part of Lease/Purchase Escrow Account Schedule No. 1000129621 for FY 2007)), 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.

7. Your committee on Finance has had under consideration a bid submitted by West Virginia Tractor Company, in the amount of \$21,990, for purchase of a Trailer Mounted Leaf Loader to be used by the Street Department. To be charged to Account No. 001-977-00-750-4-459, Street—Capital Outlay, Equip), 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.

8. Your committee on Finance has had under consideration a bid submitted by West Virginia Tractor Company, in the amount of \$210,210, for purchase of a GMC Model TC8500 Water Sewer Cleaning Truck to be used by the Street Department. To be charged to Account No. 001-977-00-750-4-459, Street—Capital Outlay, Equip. (Part of Lease/Purchase Escrow Account Schedule No. 1000129621 for FY 2007)), 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.

REPORTS OF OFFICERS

1. Report of the City of Charleston, Municipal Court Financial Statements; November 2006.

Received and Filed.

2. Report of the City of Charleston Financial Statements for the Five Month Period Ended November 30, 2006.

Received and Filed.

3. Report of the City of Charleston Payroll Variance Analysis; October 2006;

Received and Filed.

4. City Treasurer's Report to City Council Month Ending November, 2006;

Received and Filed.

5. Report of the City of Charleston Payroll Variance Analysis; November 2006;
Received and Filed.

NEW BILLS

Introduced by Councilmember Bobby Reishman on December 18, 2006:

Bill No. 7243 - - A Bill and order determining the necessity for continuance of additional levies for the fiscal years beginning July 1, 2007, July 1, 2008, July 1, 2009, and July 1, 2010, for current general governmental expenses, and providing for submission to the voters within the City of Charleston of the question of a continuance of the additional levy at the primary election to be held on March 6, 2007.

Refer to Finance Committee

Introduced by Councilmember Mary Jean Davis on December 18, 2006:

Bill No.7244 – A Bill amending the Zoning Ordinance for the City of Charleston, West Virginia, adopted November 21, 2005 in order to make corrective additions and deletions.

Refer to Municipal Planning Commission

ROLL CALL

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

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

ABSENT: Clowser, Markham, Reishman

At 7:25 p.m., on motion of Councilmember Loeb, Council adjourned until Tuesday, January 2, 2007, at 7:00 p.m.

Danny Jones, Honorable Mayor

James M. Reishman, City Clerk