

JOURNAL
OF THE
COUNCIL
CITY OF CHARLESTON
WEST VIRGINIA

JUNE 19, 2006

THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE SECOND MEETING IN THE MONTH OF JUNE ON THE 19th 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 TALKINGTON.

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

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

**HALL
HARRISON
LOEB
MORTON

REISHMAN
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

1. None

CLAIMS

1. A claim of Mary Alice Surface, 1907 Delray Drive, Charleston, WV; alleges damage to property.
Refer to City Solicitor.
2. A claim of Edward Perry, 108 Avonlea Place, Johnson City, TN; alleges damage to vehicle.
Refer to City Solicitor.
3. A claim of James Taylor, 25 Taylor Acres, Charleston, WV; alleges damage to vehicle.
Refer to City Solicitor.

COMMUNICATIONS

Honorable Danny Jones and
City Council members
Charleston, West Virginia 25301

Dear Mayor Jones and Councilmember's:

On June 7, 2006, the Municipal Planning Commission held public hearings and its regular monthly meeting. The following cases should be referred to the Planning Committee of Council:

Bill No. 7202 –Petition of the City of Charleston to amend the Zoning Ordinance for the City of Charleston, West Virginia, adopted November 21, 2005 by revising the scope of the East End Historic District Overlay with respect to the powers and duties of the East End Historic Review Board relating to the creation, organization, powers, duties and finances of the Charleston Historic Landmarks Commission.

Bill No. 7209 – Petition of Edwin Bailey to rezone a parcel known as West Charleston 11, Parcel 184, 1213 ½ Washington Street, West from R-8 High Density Residential to C-8 Village Commercial District.

Bill No. 7210 – A Petition of Antoine Shawkey to rezone a parcel known as East Charleston Map 29, Parcel 190 from C-8 Village Commercial District with restrictions to C-8 Village Commercial District without restrictions.

Sincerely,
Municipal Planning Commission
Phyllis White, Administrative Assistant
The Mayor referred the Cases to the Planning Committee of Council.

MISCELLANEOUS RESOLUTIONS

Resolution No. 049-06

Introduced in Council

Passed by Council

June 19, 2006

Introduced by

Referred to:

Tom Lane

Resolution No. 049-06, " Appointing a Select Committee of Council to perform certain functions for the Council in the City of Charleston Referendum on Charleston User Fee Ordinance to be held on July 24, 2006."

WHEREAS, the code of West Virginia, 1931 as amended, requires the Council of a municipality to perform certain functions in the conduct of an election; and

WHEREAS, the size of Council makes it impractical to perform these functions as a body, and the West Virginia Secretary of State has directed that such functions be done by committee; NOW THEREFORE,

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

That Robert Reishman, Chairman, Teresa Reed and Archie Chestnut, members of the Council of the City of Charleston, West Virginia, are hereby appointed as the Select Committee to perform all required functions in connection with the City of Charleston Referendum on Charleston User Fee Ordinance to be held on the twenty-fourth day of July, two thousand six, including but not limited to a canvass of votes cast.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 049-06, adopted.

Resolution No.059-06

Introduced in Council

Passed by Council

June 19, 2006

Linda Nielsen, Jerry Ware, Cheryl Hall, Ditty Markham, John Miller

WHEREAS: Throughout her 36 years at Weberwood Elementary School, Charlotte Richardson has been a leader, role model, visionary, and a primary force in shaping the lives of hundreds of young Charleston citizens; and

WHEREAS: During her 28 years as principal of Weberwood Elementary School, Charlotte Richardson led a team of devoted teachers and involved parents to win local,

state, and national recognition for Weberwood Elementary School including being named a National School of Excellence in 1988 and a West Virginia School of Excellence in 1999; and

WHEREAS: Under her leadership, Weberwood Elementary School is one of only two schools in West Virginia and the only school in Kanawha County to be recognized as a West Virginia Exemplary School for each of the four years that this award has been given: 2001-02, 2002-03, 2003-04, and 2004-05; and

WHEREAS: Governor Wise and the West Virginia Education Alliance awarded Weberwood Elementary School the 2003-04 Gold Star Partnership in recognition of the exemplary program in which, among other things, STAR USA credit union members volunteer to work with students one-on-one to develop writing skills; and

WHEREAS: Charlotte Richardson believed in the merits of each individual student and achieved recognitions for scholastic achievement in spite of a diversified student body that included over 16 percent minorities and over 30 percent of the student body on free or reduced lunches; and

WHEREAS: Charlotte Richardson was a visionary that sought out and implemented innovative teaching methods including the instigation of a fifth grade classroom that not only teaches students how to use technology but focuses on ways in which technology can be used as an effective teaching tool in the classroom; and

WHEREAS: Charlotte Richardson recognized the value of parent involvement in the success of the school and sought out opportunities to include parents in committees and volunteer capacities leading to a 98.5 percent satisfaction rate on surveys of school employees, students, and parents; and

WHEREAS: Charlotte Richardson believed strongly that the school belonged to the community and encouraged use of the facility as a neighborhood center providing a place for scout troop meetings, neighborhood meetings, exercise classes, and Third Base after-school care; and

WHEREAS: The "Expect The Best" Award bestowed in 2005 by the Charleston Area Alliance captures the essence of Charlotte Richardson: her belief that a team effort by teachers, parents, and community members, demonstrating trust and mutual respect, will ensure student success.

Now, therefore, be it resolved by The Council of The City of Charleston, West Virginia: that the Council commends and congratulates Charlotte Richardson for her exemplary leadership and hard work that has provided a firm educational foundation for hundreds of young Charleston citizens and brought recognition to Weberwood Elementary School as one of the top schools in our state.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 059-06, adopted.

Resolution No. 061-06

Introduced in Council

June 19, 2006

John Miller

WHEREAS: Poor eating habits have been contributing to the weight problems and related health conditions among too many people in our state and nation, many of whom stand in need of quality education about healthier eating and living; and

WHEREAS: Charleston Nutrition Week was created to bring nutrition and wellness awareness to the citizens of Charleston through a variety of programs; and

WHEREAS: The intent of this effort is to educate the general public about making healthy lifestyle choices including meal planning, shopping, and healthy food selections and all education will be based upon the USDA Food Guide Pyramid; and

WHEREAS: Involved parties will include the municipality of Charleston, West Virginia University Extension Service-Family Nutrition Program, and others who work directly and indirectly with nutrition and wellness; and

WHEREAS: Charleston Nutrition Week will focus on positive lifestyle choices while addressing such critical health issues as: diabetes, child and adult obesity, tobacco use, poor menu planning, heart health, and stroke prevention. In addition, the importance of exercise and oral health will be emphasized; and

WHEREAS: The week of education programs are the result of a cooperative effort including several local agencies and organizations that specialize in health, wellness, and nutrition, including: WVU Extension Service-Family Nutrition Program, the American Heart Foundation, the American Cancer Society, Charleston Area Medical Center, St. Francis Hospital, Capital Market, Charleston Town Center, Kanawha-Charleston Public Library, local health care providers, area grocery stores, restaurants, local radio and television stations and The City of Charleston Wellness Program.

Therefore be it resolved by The Council and Mayor
of The City of Charleston, West Virginia:

That August 7-11, 2006 to be designated as CHARLESTON NUTRITION WEEK in West Virginia's Capital City with our encouragement that every citizen learn more about habits for better eating and healthier living. We also commend the work of Mr. Robert Burton and the many organizations and sponsors, which work with the City of Charleston to help all citizens make healthier lifestyle choices.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 061-06, adopted.

REPORTS OF STANDING COMMITTEES

PLANNING

Councilmember Linda Nielsen, Vice Chairperson of the Council Committee on Planning, submitted the following reports.

1. Your Committee on Planning has had under consideration Bill NO. 7197, and reports the same to Council with the recommendation that the committee report be adopted.

Bill No. 7197 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

Lot, Corner. A lot located at the junction of two or more intersecting streets. ~~having an interior angle of less than 135 degrees, with a boundary line bordering on two of the streets.~~

Lot Front. ~~The side of a lot that abuts a public street is the front of the lot. For corner lots, the shortest side fronting upon a street shall be considered the front of the lot. Where buildings exist on the lot, the frontage may be established by the orientation of the building, or of the principal entrance, if building orientation does not clearly indicate lot frontage. Where no other method determines conclusively the front of a lot, the Planning Director shall select one frontage on the bases of traffic flow on adjacent streets, so that the lot is considered to front on the street with the greatest traffic flow.~~

Lot Line, Rear. (1) The lot line that is opposite and most distant from the front lot line; (2) The rear lot line of an irregular or triangular lot shall be a line entirely within the lot at least 10 feet long and parallel to and most distant from the front lot line; (3) Corner lots shall have no rear lot line.

Setback, Front. The minimum ~~allowable~~ 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.

Setback, Front, On Corner Lots. ~~The front setback of a corner lot shall be measured from the side of the lot designated as the "front." On a corner lot, only one street line shall be considered a front line, which shall be the shorter street frontage.~~

Sign, Window. Any sign that is applied to the ~~inside glassed areas of a building.~~ visible to the public right of way through the glassed areas of a building including numbering, lettering or writing, pictorial representation, emblem, flag, or any other figure of similar character. The window area covered by signage shall not exceed 25 percent of the total window square footage, but may be increased to 50 percent of the total window square footage if there are no wall signs on the premises.

Article 3 Establishment of Zoning Districts and Map

Sec. 3-050 Permitted Land Uses

PERMITTED USE	R-2	R-4	R-6	R-8	R-10	R-O	C-4	C-8	C-10	<u>C-12</u>	CB D	PM C	I-2	I-4	PU D	SUP P.
Auction								C	P	<u>P</u>	C		P			19
Automotive Body and Paint Shop									A	<u>A</u>		P	P			14
Automotive Wrecker Service									P	<u>P</u>			P			34
Bakery (wholesale)									P	<u>P</u>			P			
Bus Terminal									P	<u>P</u>	P		P	P		
Carnival, Circus, Fairground, Amusement - Permanent									P	<u>P</u>						
Carnival, Circus, Fairground, Amusement - Transient									P	<u>P</u>	P		P			
Dwelling - Manufactured Home	<u>P</u>	<u>P</u>	P	P	P	P	P	P	P	P	P	P			P	
Exterminating or Fumigating Service Establishment									P	<u>P</u>			P	P		
Farm Equipment or Supplies Sales Establishment									P	<u>P</u>			P			14
Gambling establishment								C	C	<u>P</u>	P					24
Garage or Carport (Detached)	A	A	A	A	A	A	A	A	A	<u>A</u>						1
Glass - Cutting, Coating or Tinting Establishment									P	<u>P</u>			P			
Gymnasium or Athletic Club								P	P	<u>P</u>	P	A				
Helistop/Heliport -									C	<u>C</u>	C	C	C	C		26
Home Based Business-Level II	C	C	C	C	C	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>			<u>C</u>	4
Indoor Self-Storage Facility								C	C	<u>C</u>			C	C		27
Industrial Supplies Sales Establishment									P	<u>P</u>			P	P		
Janitorial Service Establishment									P	<u>P</u>			P	P		
Kennel-Commercial									P	<u>P</u>						8,29
Marine Craft								P	P	<u>P</u>			P	P		

Sales/Repair Establishment																		
Pawn Shop									<i>P</i>	<u><i>P</i></u>	<i>P</i>							
Shooting Range (Indoor - Outdoor)									<i>C</i>	<u><i>C</i></u>								44
Sign Fabricating or Painting Establishment								<i>P</i>	<i>P</i>	<u><i>P</i></u>				<i>P</i>	<i>P</i>			
Sign Fabrication/Painting (2,500 SF-no op.stor.)									<i>P</i>	<u><i>P</i></u>								
Storage Facility - Indoor Self-Storage								<i>C</i>	<i>C</i>	<u><i>C</i></u>				<i>C</i>	<i>C</i>			27
Taxi Service									<i>P</i>	<u><i>C</i></u>				<i>P</i>				
Television or Radio Studio									<i>P</i>	<u><i>P</i></u>	<i>P</i>							
Wrecker Service									<i>C</i>	<u><i>C</i></u>				<i>C</i>				35

Article 3-080 Accessory Structures and Uses in Residential Districts

C. Open Storage in Residential Districts

3. The display or storage of items not customarily associated with residential uses is prohibited when not within an area screened from view by walls and a roof.

Article 13 C-12 Shopping Center District

Article 13, Sec. 13-020 Lot Provisions

- A. The minimum lot size shall be ~~4 acre.~~ 4000 SF.
- B. ~~The minimum lot frontage shall be 60 feet.~~ No minimum lot frontage.
- C. ~~The minimum lot depth shall be 100 feet.~~
- D. C. Maximum lot coverage shall be 100 percent.

Article 13-050 Performance Standards

C. Materials:

- 2. Pitched Rroofs shall be clad in slate, sheet metal, corrugated metal, and/or diamond tab asphalt shingles.

Article 14 CDB Central Business District

Article 14-063 Parking

~~See Article 24.~~ There shall be no on-site parking requirement in the CBD.

Article 20, Sec. 20-020 General Exceptions to Height Bulk, Area, and Density Regulations

D. Projections into Required Setbacks

6. Uncovered stairs, landings, porches less than five (5) feet in height may project or extend three (3) feet into the side setback.

F. Side and Rear Setback Exceptions

3. Corner lots shall have no rear lot lines and therefore shall be subject only to front and side setback requirements.

Sec. 21-040-04 Surfacing

Areas used for off-street parking, circulation or vehicle display shall be surfaced with asphalt, concrete, masonry, or other solid paving materials with sufficient strength to support the vehicle loads imposed. All off-street parking and other vehicle circulation areas shall be continuously maintained and designed to preclude free flow of storm water onto adjacent lots, properties, or public streets or ways. In addition, existing non-conforming graveled parking lots or parking spaces must be continuously maintained so that dirt, mud, and gravel shall not be tracked onto adjacent lots, properties, or public streets or ways.

Sec. 22-030 Permit Exceptions

I. Temporary political signs less than 32 square feet in commercial districts and for non-residential uses in R-O.

Sec. 22-040-01 Determining Sign Area

D. The sign area calculation for ~~a corner lot~~ properties with multiple street fronts shall be calculated separately for each street frontage and shall not be combined for the purpose of creating ~~one a larger sign~~ rather than ~~two~~ multiple smaller signs.

Sec. 22-040-05 Determining Store Frontage

Store frontage is the horizontal length of the front of a commercial structure designated as the ~~primary principal façade of the building on the ground floor, of that side of the building.~~ Store frontage may also be defined as the horizontal length of an individual business storefront in a multi-tenant commercial structure.

Sec. 22-060 General Sign Regulations

I. The allowed square footage of window signs in zoning districts R-O and above shall not exceed 25% of the total square foot area of each window, or up to 50% of the total square foot area of each window if there are no wall sign on the premises. Window sign calculations shall include, but not be limited to, informational signage such as hours of operation and open/closed signs.

Table 22-080.01 On-Premise Signs Permitted in Commercial and Industrial Districts

<p style="text-align: center;">On-Premise Signs Permitted in Commercial Districts (C-4, C-8, C-10, C-12, CBD, PMC, I-2 and I-4)</p>
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Type	Maximum Number	Maximum Area	Max. Height	Minimum Setback
Signs Permitted in the C-8, C-10, I-2, I-4 and PMC Districts				
Multi-tenant Commercial Establishments				
Building Signplates	1 per public entrance	2 sq ft	NA	NA
Wall, Awning Canopy or Marquee Signs	No Maximum <u>1 per store frontage</u>	1.5 sq ft per linear ft of store frontage	NA	NA
Freestanding Signs	1 per lot	50 sq ft + .25 sq ft per linear ft of store frontage	20 ft	5 ft from property line
Temporary Signs	1 per business	32 sq ft	4 ft	5 ft from property line
Instructional Signs	Exempt from regulations when in compliance with Sec. 22-080-04.			

Sec. 22-070-03

- B. Temporary signs include political signs, special event signs, residential garage/yard/carport sales, rummage sales and other similar types of events.

Sec. 22-080-03 Supplemental Regulations for Temporary Signs Permitted in Commercial and Industrial Districts.

- I. Temporary signs include, but are not limited to, special event signs, political signs, grand opening signs, and other similar types of events.

Sec. 25-040 Nonconforming Structure Used for a Permitted Use

Article 25 Nonconforming Provisions

- B. Reconstruction.

In the event a nonconforming structure is destroyed by any means to an extent of ~~more than~~ up to sixty (60) percent of its replacement costs, exclusive of the foundation, the structure may be reconstructed on the same foundation, provided the reconstruction is begun within twelve (12) months of the date it was destroyed.

Article 27 Amendments to the Text and Zoning Map

Sec. 27-030 Application Procedures

- A. Amendment to the Zoning Map

1. ... In order to defray, in part, the expenses connected with the application a filing fee in the amount of \$125.00 shall be submitted with the application.

- B. Amendment to the Zoning Ordinance Text**

1. ... In order to defray, in part, the expenses connected with the application a filing

fee in the amount of \$125.00 shall be submitted with the application.

Article 28 Conditional Uses

Sec. 28-020 Application for Conditional Use Approval

4. A filing fee in the amount of \$125.00. The purpose of the fee shall be to defray, in part, the expenses connected with the application.

Article 29 Variances

Sec. 29-020 Application for a Variance

A person desiring a variance from the terms of the Zoning Ordinance shall submit a written application for a variance request with the Planning Director. An application for a variance request shall be made on forms available at the Planning Department and shall describe the specific use or standard from which the variance is sought. In addition, the application request shall include a copy of a site plan, drawn to an appropriate scale, which shows:

- A. The subject property.
- B. The location of all existing and proposed buildings, structures and improvements to be made to the subject property.
- C. Accurate dimensions of the parcel, buildings, parking areas and ingress/egress driveways.
- ~~D. Names and addresses of all property owners within 100 feet of the subject property, on record at the Office of the Kanawha County Tax Assessor~~
- ~~E. Location, right-of-way and pavement width of all streets adjacent to the subject property; and,~~
- ~~F. Any other relevant information required by the Planning Director.~~
- D. Location, right-of-way and pavement width of all streets adjacent to the subject property.
- E. Any other relevant information required by the Planning Director.

The application shall also be accompanied by:

- A. Names and Addresses of all property owners within 100 feet of the subject property; and,
- B. The appropriate filing fee. In order to defray, in part, the expenses connected with the application a filing fee in the amount of \$125.00 shall be submitted with the application.
- C. Any other relevant information required by the Planning Director.

Article 30 Administrative Appeals

Sec. 30-020 Application for Administrative Appeal

- B. ... In order to defray, in part, the expenses connected with the application a filing fee in the amount of \$125.00 shall be submitted with the application.

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

ABSENT: Davis, Markham, Weintraub,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7197, passed.

STREETS AND TRAFFIC

Councilman David Higgins, Chairman of the Council Committee on Streets and Traffic, submitted the following reports.

1. Your Committee on Streets and Traffic has had under consideration Bill No. 7205, and reports the same to Council with the recommendation that the committee report be adopted.

Bill No. 7205 - A Bill to establish a 15 minute Stopping and Standing Zone on the easterly side of Brooks Street from a point 73 feet north of Quarrier Street to a point 231 feet north of Quarrier Street and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Law, Section 263, Division 2, Article 4, Chapter 114, to conform therewith.

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

Section 1. A 15 minute Stopping and Standing Zone on the easterly side of Brooks from a point 73 feet north of Quarrier Street to a point 231 feet north of Quarrier Street is hereby established.

Section 2. The Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Law, Section 263, Division 2, Article 4, Chapter 114, shall be and hereby are amended, to conform to this Ordinance.

Section 3. All prior Ordinances, inconsistent with this Ordinance are hereby repealed to the extent of said inconsistency.

The question being on the passage of the Bill a roll call was taken and there were; yeas-

25, absent – 3, as follows:

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

ABSENT: Davis, Markham, Weintraub,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7205, passed.

2. Your Committee on Streets and Traffic has had under consideration Bill No. 7206, and reports the same to Council with the recommendation that the committee report be adopted.

A Bill to establish On Duty Magistrate Parking Only on the easterly side of Goshorn Street from a point 92 feet north of Virginia Street, East to a point 114 feet north of Virginia Street, East and amending the Traffic Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Law, Section 263, Division 2, Article 4, Chapter 114, to conform therewith.

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

Section 1. On Duty Magistrate Parking Only on the easterly side of Goshorn Street from a point 92 feet north of Virginia Street, East to a point 114 feet north of Virginia Street, East is hereby established.

Section 2. The Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Law, Section 263, Division 2, Article 4, Chapter 114, shall be and hereby are amended, to conform to this Ordinance.

Section 3. All prior Ordinances, inconsistent with this Ordinance are hereby repealed to the extent of said inconsistency.

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

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

ABSENT: Davis, Markham, Weintraub,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7206, passed.

3. Your Committee on Streets and Traffic has had under consideration Bill No. 7207, and reports the same to Council with the recommendation that the committee report be adopted.

A Bill to establish a School Bus Parking Only Tow-Away zone on the northerly side of Noyes Avenue from a point 50 feet west of 37th Street to a point 110 feet west of 37th Street from 7:00 A.M. to 3:00 P.M. Monday through Friday and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Law, Chapter one hundred fourteen, Article five, to conform therewith.

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

Section 1.A School Bus Parking Only Tow-Away zone on the northerly side of Noyes Avenue from a point 50 feet west of 37th Street to a point 110 feet west of 37th Street from 7:00 A.M. to 3:00 P.M. Monday through Friday is hereby established.

Section 2.The Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Law, Chapter one hundred fourteen, Article five, to conform therewith.

Section 3. The City Council finds that there is a pressing public emergency to enact this Ordinance on grounds of public safety.

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

ABSENT: Davis, Markham, Weintraub,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7207, passed.

4. Your Committee on Streets and Traffic has had under consideration Bill No. 7208, and reports the same to Council with the recommendation that the committee report be adopted.

A Bill to establish two perpendicular handicapped parking spaces on the northerly side of Noyes Avenue from a point 24 feet west of 37th Street to a point 50 feet west of 37th Street for the exclusive use of the physically disabled and to provide for the removal of vehicles illegally parked in these spaces, to incorporate the provisions of West Virginia Code, Chapter 17C, Article 13, Section 16, and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Law, Chapter one hundred fourteen, Article five, to conform therewith.

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

Section 1.A vehicular parking zone for the exclusive use of the physically disabled on the northerly side of Noyes Avenue from a point 24 feet west of 37th Street to a point 50

feet west of 37th Street is hereby established.

Section 2. In order for a physically disabled person to utilize the parking spaces provided in the preceding section the vehicle which they are driving or in which they are being transported must display the distinguishing insignia provided for in West Virginia Code, Chapter 17C, Article 13, Section 6.

Section 3. It shall be unlawful for any vehicle not displaying the insignia provided for in Section 2 to park in those spaces for the disabled provided for in Section 23

1. Any vehicle in violation of this section may be ticketed and impounded as provided for in Chapter 31, Vehicles and Traffic Law, Code of the City of Charleston, West Virginia.

Section 4. The Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Law, Chapter one hundred fourteen, Article five, shall be and hereby are, amended to conform to this Ordinance.

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

ABSENT: Davis, Markham, Weintraub,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7208, 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. 048-06, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 048-06: “Resolution No. 048-06, authorizing the Mayor to enter into a Grant Contract Agreement with the Division of Criminal Justice Services to receive and administer grant funds in the amount of \$30,052, awarded through the Victims of Crime Act (VOCA). The grant provides for the salary of a full-time Victim Services Coordinator in the Charleston Police Department to provide direct services to victims of domestic and family violence 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 enter into a Grant Contract

Agreement with the Division of Criminal Justice Services to receive and administer grant funds in the amount of Thirty Thousand Fifty-two Dollars (\$30,052), awarded through the Victims of Crime Act (VOCA). The grant provides for the salary of a full-time Victim Services Coordinator in the Charleston Police Department to provide direct services to victims of domestic and family violence in the City of Charleston.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 048-06, adopted.

2. Your Committee on Finance has had under consideration Resolution No. 049-06, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 049-06: "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.

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

ABSENT: Davis, Markham, Weintraub,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 049-06, adopted.

3. Your Committee on Finance has had under consideration Resolution No. 050-06, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 050-06: "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.

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

ABSENT: Davis, Markham, Weintraub,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 050-06, adopted.

4. Your Committee on Finance has had under consideration Resolution No. 051-06, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 051-06: "Authorizing the Mayor to enter into a renewal of the Letter of Credit from Chase (formerly J P Morgan Chase Bank, N.A.), for the City's Unsecured Workers' Compensation Liability. This renewal maintains the amount of security of \$2,848,911, and will be effective for the period October 1, 2006 through September 30, 2007, for a fee of \$12,670.46."

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

That the Mayor is hereby authorized and directed to enter into a renewal of the Letter of Credit from Chase (formerly J P Morgan Chase Bank, N.A.), for the City's Unsecured Workers' Compensation Liability. This renewal maintains the amount of security of \$2,848,911, and will be effective for the period October 1, 2006 through September 30, 2007, for a fee of Twelve Thousand Six Hundred Seventy Dollars and Forty-six Cents (\$12,670.46).

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 051-06, adopted.

5. Your Committee on Finance has had under consideration Resolution No. 052-06, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 052-06: "Authorizing the Mayor to sign a renewal agreement with Safety National Insurance/Commercial Insurance Services, in the amount of \$144,979.02, for the City's Excess Workers' Compensation insurance coverage for the period July 1, 2006 to June 30, 2007."

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

That the Mayor is hereby authorized and directed to sign a renewal agreement with Safety National Insurance/Commercial Insurance Services, in the amount of One Hundred Forty-four Thousand Nine Hundred Seventy-nine Dollars and Two Cents (\$144,979.02), for the City's Excess Workers' Compensation insurance coverage for the period July 1, 2006 to June 30, 2007.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 052-06, adopted.

6. Your Committee on Finance has had under consideration Resolution No. 053-06, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 053-06: “Authorizing the Mayor to sign a contract with the West Virginia Development Office for FY 2006 LEDA Grants on behalf of two agencies.”

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

That the Mayor is hereby authorized and directed to sign a contract with the West Virginia Development Office for FY 2006 LEDA Grants on behalf of the following agencies:

Tyler Mountain YMCA	\$19,000
Capital City Striders	1,000

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-24, absent – 3, abstain -1, as follows:

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

ABSENT: Davis, Markham, Weintraub,

ABSTAIN: Harris

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 053-06, adopted.

7. Your Committee on Finance has had under consideration Resolution No. 054-06, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 054-06: “Authorizing the Mayor to sign Change Order No. 1 with Tri-State Roofing & Sheet Metal Company, in the amount of \$7,763, to add Type III asphalt and pea gravel to the roofing project at the Roosevelt Center. The change order increases the contract price for this project from \$86,093 to \$93,856.”

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 Tri-State Roofing & Sheet Metal Company, in the amount of Seven Thousand Seven Hundred Sixty-three Dollars (\$7,763), to all Type III asphalt and pea gravel to the roofing project at the Roosevelt Center. The change order increases the contract price for this project from \$86,093 to \$93,856.

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, Clowser, Deitzler, Ealy, Hall, Higgins, Hanna, Harris, Harrison, Jones, Lane, Lanham, Loeb, Miller, Monroe, Morton, Nielsen, Sadd, Reed, Reishman,

Robertson, Talkington, Ware, White, Mayor Jones.
ABSENT: Davis, Markham, Weintraub,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 054-06, adopted.

8. Your Committee on Finance has had under consideration Resolution No. 055-06, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 055-06: "Authorizing the Mayor to sign an agreement with Security America, Inc., to provide security services at the Sunrise Carriage Trail at an hourly rate of \$11.65 for the period July 1, 2006 to September 30, 2006."

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

That the Mayor is hereby authorized and directed to sign an agreement with Security America, Inc., to provide security services at the Sunrise Carriage Trail at an hourly rate of Eleven Dollars and Sixty-five Cents (\$11.65) for the period July 1, 2006 to September 30, 2006.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 055-06, adopted.

9. Your Committee on Finance has had under consideration Resolution No. 056-06, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 056-06 : "Authorizing the Mayor to enter into a Mutual Release and Settlement Agreement (a copy of which is attached hereto) with Gary W. Bryant and Kimberly S. Bryant (the "Bryants"), resolving the property line dispute between the Bryants and the Spring Hill Cemetery, and allowing the City to proceed with the installation of boundary dividers along the property line and to take all other steps necessary to fully and finally resolve this matter."

WHEREAS, there is a the dispute concerning the boundary line and any encroachment thereof separating the property owned by the City of Charleston and Spring Hill Cemetery (the "Cemetery Property") and the adjacent lot owned by the Bryants located at 829 Scenic Drive, lot 106, of the Shadowlawn Addition ("Lot 106"), a portion of which is currently being used as a private driveway leading from a cemetery asphalt drive to Lot 106;

WHEREAS, the Parties agree that certain improvements to Lot 106 are encroaching upon the Cemetery Property;

WHEREAS, the Bryants and the City acknowledge and agree that the Plat of Survey dated March 22, 2003, and completed by Garcelon Surveying, LLC, attached to the Release and Settlement Agreement as Exhibit 1, accurately describes, depicts, and

shows the proper boundary line division between the subject Lot 106 and Cemetery Property (the "Property Line");

WHEREAS, the Bryants understand that the City desires to and will erect and establish a fence located on the Property Line separating Lot 106 from the Cemetery Property and the Bryant's agree and understand that a fence, wall, or other boundary divider(s) may be erected at the City's discretion on the Property Line by the City at the City's expense, and further hereby state and agree that they have no objection thereto;

WHEREAS, in exchange for the mutual release of all claims, the Bryant's agree to cease any and all encroachments on the Cemetery Property and forever waive and release any alleged claim to that Cemetery Property or any portion thereof; and the City, at its own costs and at no expense to the Bryants, will remove the portion of the driveway and/or concrete pad encroaching from Lot 106 upon the Cemetery Property and any and all other encroachments located on the Cemetery Property, if any; the City may in its discretion erect a fence, wall, or other boundary divider(s) on the Property Line; and the City will make reasonable efforts to repair, at the City's costs, any physical damage to Lot 106 that may occur as a direct result of the City's removal of the encroachment(s) from Lot 106 upon the Cemetery Property and/or the erection of a fence on the Property Line;

WHEREAS, the Bryants and the City understand and agree that the Mutual Release and Settlement Agreement will be filed with the appropriate government agencies including the Kanawha County Clerk, to evidence the agreement and agreed upon property line on the public record.

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

That the Mayor is authorized to enter into a Mutual Release and Settlement Agreement with Gary W. Bryant and Kimberly S. Bryant, consistent with the terms set forth herein, resolving the property line dispute between the Bryants and the Spring Hill Cemetery, allowing the City to proceed with the installation of boundary dividers along the property line, and allowing the City to take all other steps necessary to fully and finally resolve this matter.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 056-06, adopted.

10. Your Committee on Finance has had under consideration Resolution No. 057-06, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 057-06: "Authorizing the Finance Director to provide funds in the amount of \$21,061.91, to the Regional Intergovernmental Council (RIC), representing the City's share of contributions received annually by RIC from local governmental agencies in Boone, Clay, Kanawha and Putnam (BCKP) counties."

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

That the Finance Director is hereby authorized and directed to provide funds in the amount of Twenty-one Thousand Sixty-one Dollars and Ninety-one Cents (\$21,061.91), to the Regional Intergovernmental Council (RIC), representing the City's share of contributions received annually by RIC from local governmental agencies in Boone, Clay, Kanawha and Putnam (BCKP) counties.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 057-06, adopted.

11. Your Committee on Finance has had under consideration Resolution No. 058-06, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 058-06 : "A resolution authorizing payment of \$35.00, to City personnel who will be hired as election precinct custodians, with the duties required to open and close certain City-owned facilities to be used as voting places necessary for conducting the City of Charleston User Fee Election on the 24th day of July, 2006."

This Resolution will amend Resolution No. 044-06, previously adopted on June 5, 2006, which excluded payment for City-owned facilities and their personnel.

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

That the Council of the City of Charleston does hereby authorize payment of \$35.00, to City personnel who will be hired as election precinct custodians, with the duties required to open and close certain City-owned facilities to be used as voting places necessary for conducting the City of Charleston User Fee Election on the 24th day of July, 2006.

This Resolution will amend Resolution No. 044-06, previously adopted on June 5, 2006, which excluded payment for City-owned facilities and their personnel.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 058-06, adopted.

12. Your Committee on Finance has had under consideration Resolution No. 060-06, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 060-06: "Authorizing the Mayor to settle and release all claims rising out of the matters asserted in that certain case styled "City of Charleston v. Citigroup, Inc., et.al.," and being Civil Action No. 02-C-2921, pending in the Circuit Court of Kanawha County, and to execute all agreements and documents necessary to effectuate said settlement with all named parties in exchange for an aggregate payment of \$500,000; and further authorizing the Mayor to pay all fees and costs associated with

the litigation and settlement out of said proceeds.”

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

That the Mayor is hereby authorized and directed to settle and release all claims rising out of the matters asserted in that certain case styled “City of Charleston v. Citigroup, Inc., et.al.,” and being Civil Action No. 02-C-2921, pending in the Circuit Court of Kanawha County, and to execute all agreements and documents necessary to effectuate said settlement with all named parties in exchange for an aggregate payment of Five Hundred Thousand Dollars (\$500,000); and further authorizing the Mayor to pay all fees and costs associated with the litigation and settlement out of said proceeds.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 060-06, adopted. Abstain – Loeb, Lane

13. Your committee on Finance has had under consideration a bid submitted by Gateway Paint & Chemical, in the amount of \$12,760, for purchase of 1,650 gallons of yellow traffic marking paint and 550 gallons of white traffic marking paint to be used in the paint striper by the Street Department. To be charged to Account No. 001-750-00-000-3-341, Street—Materials & Supplies (2006-2007)

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; May, 2006.
Received and Filed.
2. Report of the City of Charleston Payroll Variance Analysis; March 2006;
Received and Filed.
3. Report of the City of Charleston Payroll Variance Analysis; April 2006;
Received and Filed.
4. Report of the City of Charleston Financial Statements for the Eleven-month period ended May 31, 2006.
Received and Filed.
5. City Treasurer’s Report to City Council Month Ending May 2006;
Received and Filed.

NEW BILLS

Introduced by Councilman David Higgins, on July 3, 2006:
Bill No. 7216 - A Bill closing, abandoning and discontinuing as a public right of way a street known as Standard Street, and a portion of the street known as Creel Avenue, situate north of, and parallel with, Ferry Branch Street and south of, and parallel with,

MacCorkle Avenue, in the City of Charleston, West Virginia, and reserving a sewer easement for the City of Charleston.
Refer to Municipal Planning Commission

Introduced by Councilmember Linda Nielsen, on July 3, 2006:
Bill No. 7217 - A Bill to establish a No Parking Anytime Tow-Away zone on the northerly side of Ashby Avenue from Fort Hill Drive to the westerly end of Ashby Avenue between the hours of 12:00 midnight and 6:00 a.m. and amending the Traffic Control Map and Traffic Control File, established by the code of the city 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, Deitzler, Ealy, Hall, Higgins, Hanna, Harris, Harrison, Jones, Lane, Lanham, Loeb, Miller, Monroe, Morton, Nielsen, Sadd, Reed, Reishman, Robertson, Talkington, Ware, White, Mayor Jones.
ABSENT: Davis, Markham, Weintraub,

At 8:00 p.m., on motion of Councilmember Loeb, Council adjourned until Monday, July 3, 2006, at 7:00 p.m.

Danny Jones, Honorable Mayor

James M. Reishman, City Clerk