

**JOURNAL
OF THE
COUNCIL**

CITY OF CHARLESTON

WEST VIRGINIA

AUGUST 21, 2006

THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE SECOND MEETING IN THE MONTH OF AUGUST ON THE 21ST 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

**HANNA
HIGGINS
LANHAM
MILLER
NIELSEN**

**WARE
MAYOR JONES**

CLOWSER

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

DAVIS

**HALL
HARRISON
LOEB
MORTON
MARKHAM
REISHMAN
TALKINGTON
WHITE**

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

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

PUBLIC SPEAKERS

1. James Straughter

CLAIMS

1. A claim of Denise Korodi, 2140 A Derricks Creek Road, Charleston, WV; alleges damage to vehicle.

Refer to City Solicitor.

2. A claim of Brenda Nicholas, 24 Altamont Ave., St. Albans, WV; alleges damage to vehicle.

Refer to City Solicitor.

3. A claim of Dennis E. Miller, 64 Evergreen Circle, Poca, WV; alleges damage to vehicle.

Refer to City Solicitor.

4. A claim of Della Wolfe, 3124 5th Avenue, Charleston, WV; alleges damage to property.

Refer to City Solicitor.

5. A claim of Robert Allen, 904 Spring Rd., Charleston, WV; alleges damage to vehicle.

Refer to City Solicitor.

6. A claim of Molly Summers, 227 Easter Rd., Nitro, WV; alleges personal injury.

Refer to City Solicitor.

COMMUNICATIONS

The Clerk read the following Appointments:

TO: JAMES REISHMAN
CITY CLERK

FROM: DANNY JONES
MAYOR

RE: CHARLESTON HISTORIC LANDMARKS COMMISSION

DATE: AUGUST 21, 2006

I recommend that Jody Connell, 242 Baker Lane Apartment #1312, Charleston, WV 25302, be appointed to the Charleston Historic Landmarks Commission for the seat on the board to be filled by a member of the Charleston City Council or Municipal Planning Commission and with a said term to expire September 1, 2008. She is a member of the Municipal Planning Commission and has been serving on the East End Historic Review Board.

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

Council approved the appointment.

TO: JAMES REISHMAN
CITY CLERK

FROM: DANNY JONES
MAYOR

RE: CHARLESTON HISTORIC LANDMARKS COMMISSION

DATE: AUGUST 21, 2006

I recommend that Billy Joe Peyton, 1570 Virginia Street, East, Charleston, WV 25311, be appointed to the Charleston Historic Landmarks Commission for the seat on the board to be filled by a structural historian and with a said term to expire September 1, 2009.

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

Council approved the appointment.

TO: JAMES REISHMAN
CITY CLERK

FROM: DANNY JONES
MAYOR

RE: CHARLESTON HISTORIC LANDMARKS COMMISSION

DATE: AUGUST 21, 2006

I recommend that Bill Melton, 1555 Lee Street, East, Charleston, WV 25311, be appointed to the Charleston Historic Landmarks Commission for the seat on the board to be filled by a real estate broker and with a said term to expire September 1, 2008. He has been serving on the East End Historic Review Board.

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

Council approved the appointment.

TO: JAMES REISHMAN
CITY CLERK

FROM: DANNY JONES
MAYOR

RE: CHARLESTON HISTORIC LANDMARKS COMMISSION

DATE: AUGUST 21, 2006

I recommend that Terrell Ellis, 1045 ½ Bridge Road, West, Charleston, WV 25314, be appointed to the Charleston Historic Landmarks Commission for the seat on the board to be filled by a layperson with an interest in historic preservation and restoration and for a term to expire September 1, 2007.

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

Council approved the appointment.

TO: JAMES REISHMAN
CITY CLERK

FROM: DANNY JONES
MAYOR

RE: CHARLESTON HISTORIC LANDMARKS COMMISSION

DATE: AUGUST 21, 2006

I recommend that Paul W. Tennant, 318 Lee Street, West, Charleston, WV 25304, be appointed to the Charleston Historic Landmarks Commission for the seat on the board to be filled by an architect with expertise and experience in historic preservation and restoration and for a term to expire September 1, 2007.

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

Council approved the appointment.

TO: JAMES REISHMAN
CITY CLERK

FROM: DANNY JONES
MAYOR

RE: CHARLESTON CONVENTION AND VISITORS BUREAU BOARD

DATE: AUGUST 21, 2006

I recommend that Judy Wellington, Clay Center for the Arts and Sciences, 1 Clay Square, Charleston, WV 25301, be appointed to the Charleston Convention and Visitors Bureau Board. She is replacing Steve Summer and will fill his unexpired term on the board with a said term to expire February 7, 2008.

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

Council approved the appointment.

TO: JAMES REISHMAN
CITY CLERK

FROM: DANNY JONES
MAYOR

RE: CHARLESTON WAYFINDING COMMISSION

DATE: AUGUST 21, 2006

I recommend that Beverly Wright, 305 Mount View Drive, Charleston, WV 25314, be reappointed to the Charleston Wayfinding Commission, with a term to expire September 1, 2009. She represents the Charleston Municipal Beautification Commission.

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

Council approved the appointment.

TO: JAMES REISHMAN
CITY CLERK

FROM: DANNY JONES
MAYOR

RE: CHARLESTON WAYFINDING COMMISSION

DATE: AUGUST 21, 2006

I recommend that Carolyn Charnock, 1410 Sweetbrier Road, Charleston, WV 25314, be reappointed to the Charleston Wayfinding Commission, with a term to expire September 1, 2008. She represents the Kanawha County Commission.

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

Council approved the appointment.

TO: JAMES REISHMAN
CITY CLERK

FROM: DANNY JONES
MAYOR

RE: CHARLESTON WAYFINDING COMMISSION

DATE: AUGUST 21, 2006

I recommend that Cheryle M. Hall, 2008 Parkwood Road, Charleston, WV 25314, be appointed to the Charleston Wayfinding Commission, with a term to expire September 1, 2007. She represents Charleston City Council.

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

Council approved the appointment.

TO: JAMES REISHMAN
CITY CLERK

FROM: DANNY JONES
MAYOR

RE: CHARLESTON WAYFINDING COMMISSION

DATE: AUGUST 21, 2006

I recommend that Elizabeth Pellegrin, PO Box 1547, Charleston, WV 25326, be reappointed to the Charleston Wayfinding Commission, with a term to expire September 1, 2009.

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

Council approved the appointment.

TO: JAMES REISHMAN
CITY CLERK

FROM: DANNY JONES
MAYOR

RE: CHARLESTON WAYFINDING COMMISSION

DATE: AUGUST 21, 2006

I recommend that Georgette George, Ramada Plaza, 400 2nd Avenue, South Charleston, WV 25303, be reappointed to the Charleston Wayfinding Commission, with a term to expire September 1, 2008. She represents the City of South Charleston.

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

Council approved the appointment.

TO: JAMES REISHMAN
CITY CLERK

FROM: DANNY JONES
MAYOR

RE: CHARLESTON WAYFINDING COMMISSION

DATE: AUGUST 21, 2006

I recommend that Julie Caldwell, 200 Civic Center Drive, Charleston, WV 25301, be appointed to the Charleston Wayfinding Commission, with a term to expire September 1, 2009. She represents the Charleston Convention and Visitors Bureau.

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

Council approved the appointment.

TO: JAMES REISHMAN
CITY CLERK

FROM: DANNY JONES
MAYOR

RE: CHARLESTON WAYFINDING COMMISSION

DATE: AUGUST 21, 2006

I recommend that Lisa McCracken, 1602 Smith Road, Charleston, WV 25314, be reappointed to the Charleston Wayfinding Commission, with a term to expire September 1, 2009.

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

Council approved the appointment.

TO: JAMES REISHMAN
CITY CLERK

FROM: DANNY JONES
MAYOR

RE: CHARLESTON WAYFINDING COMMISSION

DATE: AUGUST 21, 2006

I recommend that Susie Salisbury, 1116 Smith Street, Charleston, WV 25301, be reappointed to the Charleston Wayfinding Commission, with a term to expire September 1, 2009. She represents the Charleston Area Alliance.

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

Council approved the appointment.

TO: JAMES REISHMAN
CITY CLERK

FROM: DANNY JONES
MAYOR

RE: CHARLESTON WAYFINDING COMMISSION

DATE: AUGUST 21, 2006

I recommend that Shannon Mealer, PO Box 4433, Charleston, WV 25364, be appointed to the Charleston Wayfinding Commission, with a term to expire September 1, 2007.

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

Council approved the appointment.

TO: JAMES REISHMAN
CITY CLERK

FROM: DANNY JONES
MAYOR

RE: CHARLESTON WAYFINDING COMMISSION

DATE: AUGUST 21, 2006

I recommend that Jessica Lane, 4007 Staunton Avenue, Charleston, WV 25304, be appointed to the Charleston Wayfinding Commission, with a term to expire September 1, 2007.

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

Council approved the appointment.

REPORTS OF STANDING COMMITTEES

STREETS AND TRAFFIC

Councilman David Higgins, Chairperson 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.7217, and reports the same to Council with the recommendation that the committee report be adopted.

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.

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

Section 1. 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. 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.

The question being on the passage of the Bill a roll call was taken and there were; yeas-26, absent -2, as follows:

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

ABSENT: Deitzler, Robertson

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7217, passed.

2. Your Committee on Streets and Traffic has had under consideration Bill No.7218, and reports the same to Council with the recommendation that the committee report be adopted.

Bill No. 7218, A Bill to prohibit vehicular traffic from traveling in an easterly direction on the first alley north of MacCorkle Avenue between 45th Street, S. E. and 46th Street, S. E. 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. Vehicles are hereby prohibited from traveling in an easterly direction on the first alley north of MacCorkle Avenue between 45th St., S. E. and 46th St., S. E.

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, shall be and hereby are amended, to conform to this Ordinance.

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

The question being on the passage of the Bill a roll call was taken and there were; yeas-26, absent -2, as follows:

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

ABSENT: Deitzler, Robertson

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7218, passed.

3. Your Committee on Streets and Traffic has had under consideration Bill No.7219, and reports the same to Council with the recommendation that the committee report be adopted.

Bill No. 7219, A Bill to establish a 15 minute parking zone on the easterly side of Clendenin Street from a point 84 feet south of Donnally Street to a point 108 feet south of Donnally Street, for the purpose of loading and unloading, 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 15 minute vehicular parking zone on the easterly side of Clendenin Street from a point 84 feet south of Donnally Street to a point 108 feet south of Donnally Street, for the purpose of loading and unloading, for the exclusive use of the physically disabled 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 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-26, absent -2, as follows:

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

ABSENT: Deitzler, Robertson

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7219, 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. 093-06, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 093-06: "Authorizing the Mayor to enter into an Agreement with Chase Equipment Leasing, Inc., in the amount of approximately \$1,695,500, for a three-year lease rate of 3.9930%, and a five-year lease rate of 3.8500%, to provide for the purchase of police cars and various equipment for City departments."

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 Chase Equipment Leasing, Inc., in the amount of approximately \$1,695,500, for a three-year lease rate of 3.9930%, and a five-year lease rate of 3.8500%, to provide for the purchase of police cars and various equipment for City departments.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 093-06, adopted.

2. Your Committee on Finance has had under consideration Resolution No. 094-06, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 094-06 : “Authorizing the Mayor to enter into an Agreement with Central Poly Corp. for purchase of black plastic refuse bags, in the amount of \$263,211, with the Town of Marmet being responsible for \$11,271 of said sum for 170,000 bags; and clear yard waste bags in the amount of \$91,637, for a total of \$354,848. The bags, not otherwise purchased by Marmet, will be distributed to the citizens of Charleston for the one year period from October 2006 to September 2007.”

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 Central Poly Corp, for purchase of black plastic refuse bags, in the amount of \$263,211, with the Town of Marmet being responsible for \$11,271 of said sum for 170,000 bags; and clear yard waste bags in the amount of \$91,637, for a total of \$354,848. The bags, not otherwise purchased by Marmet, will be distributed to the citizens of Charleston for the one year period from October 2006 to September 2007.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-25, nays – 1, absent -2, as follows:

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

ABSENT: Deitzler, Robertson

NAYS: Weintraub

3. Your Committee on Finance has had under consideration Resolution No. 095-06, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 095-06: “Authorizing the Mayor to sign Change Order No. 3 with Garcie R. Marker & Sons, Inc., in the amount of \$13,266, in connection with the Concrete Sidewalk Accessibility Ramps Project, adding sidewalk and curb replacement along the north side of the 800 Block of Donnally Street between Capitol and Dickinson streets, adjacent to the CURA parking lot. The costs associated with the change order will be reimbursed by CURA. This change order increases the contract price from \$391,099 to \$404,365.”

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

Garcie R. Marker & Sons, Inc., in the amount of \$13,266, in connection with the Concrete Sidewalk Accessibility Ramps Project, adding sidewalk and curb replacement along the north side of the 800 Block of Donnally Street between Capitol and Dickinson streets, adjacent to the CURA parking lot. The costs associated with the change order will be reimbursed by CURA. This change order increases the contract price from \$391,099 to \$404,365.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 095-06, adopted.

4. Your Committee on Finance has had under consideration Bill No.7216, and reports the same to Council with the recommendation that the committee report be adopted.

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.

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

1. The public right of way commonly known as Standard Street and a part of Creel Avenue, located in the 15th Ward of the City of Charleston, Kanawha County, West Virginia., more aptly described as follows:

Beginning at a point where the westerly right of way line (R/W line) of Standard Street intersects the northerly line of Ferry Street, then with said R/W line of Standard Street, N 41° 30' 00" E. 302.17' to a point in the southerly R/W line of MacCorkle Avenue (W.V. State Route #61), then with said R/W line, S 44° 50' 46"E, 35.07" to a point in the easterly R/W line of Standard Street, thence S 41° 30' 00" W. 102.40' to a point in the northerly R/W line of Creel Avenue, thence with said R/W line, S 47° 43' 00" E. 203.81' to a point in the northerly R/W line of Creel Avenue, and in the northwesterly R/W line of Pickens Street, then with said R/W line crossing Creel Avenue S 42° 17' 00" W. 35.00' to a R.R. Spike at the back of the concrete sidewalk in the southerly R/W line of Creel Avenue and with same N 47 43' 00 W. 203.33' to a point in the easterly R/W line of Standard Street and with said R/W line S 41° 30' 00" W. 159.80' to a point in the northerly R/W line of Ferry Street, then with said R/W line, crossing Standard Street N 52° 57' 48" W. 35.11' to the point of beginning, containing a total area to be conveyed of 17,614 square feet. The area of that portion of Creel Avenue of the total to be conveyed is 7,125 square feet.

2. The City of Charleston hereby reserves a sewer easement for the full width and length of the above-described right of way for the purpose of construction, maintenance, repair and removal of storm and sanitary sewer lines. No person shall construct improvements or take any other actions which would interfere with this easement, or alter the present surface profile or contour of the subject right of way by more than one (1) foot without the written permission of the City Engineer and Charleston Sanitary Board.

3. The Mayor of the City of Charleston be, and is hereby authorized and directed to execute, acknowledge and deliver a proper deed conveying to Marathon Petroleum LLC, and its successors in office, all right, title and interest in and to said real property as described in Section 1 above, except as provided in Section 2 above, for the consideration of Twenty-five Thousand Three Hundred Sixty Four and 00/100 (\$25,364.00).

4. 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 – 2, abstain -1, as follows:

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

ABSENT: Deitzler, Robertson

ABSTAIN: Sadd

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7216, passed.

REPORTS OF OFFICERS

1. City Treasurer's Report to City Council Month Ending July 2006; Received and Filed.

NEW BILLS

Introduced by Councilman Bobby Reishman, on August 21, 2006:

Bill No. 7225: A Bill to amend and re-enact Sections 18-611, 18-1031, 18-1033, and 110-63 of the City Code of the City of Charleston, 2003, as amended, and to amend said code by adding thereto a new section, designated as Section 18-613, all relating to licenses and B&O taxes for itinerant vendors and street vendors in the City of Charleston.

Refer to Ordinance and Rules and Finance Committee

ROLL CALL

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

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

ABSENT: Deitzler, Robertson

At 7:45 p.m., on motion of Councilmember Higgins, Council adjourned until Tuesday, September 5, 2006, at 7:00 p.m.

Danny Jones, Honorable Mayor

James M. Reishman, City Clerk