

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

**SEPTEMBER 18, 2006**

**THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE SECOND MEETING IN THE MONTH OF SEPTEMBER ON THE 18<sup>th</sup> 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 MORTON.**

**CHESTNUT  
DEITZLER**

**HIGGINS  
LANHAM  
MILLER**

**NIELSEN  
ROBERTSON  
WARE  
MAYOR JONES**

**CLOWSER  
EALY  
HARRIS  
JONES  
LANE**

**REED  
SADD  
WEINTRAUB**

**DAVIS**

**HARRISON  
LOEB  
MORTON**

**REISHMAN  
TALKINGTON  
WHITE**

**TWENTY- FOUR 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. Lisa Groves

## CLAIMS

1. A claim of Curtis Nichols, 305 ½ Maryland Ave., Charleston, WV; alleges damage to property.  
Refer to City Solicitor.
2. A claim of Susan Moore, P.O. Box 66, Amma, WV; alleges damage to vehicle.  
Refer to City Solicitor.

## REPORTS OF STANDING COMMITTEES

### PLANNING

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

1. Your Committee on Planning has had under consideration Bill No.7220, and reports the same to Council with the recommendation that the bill be rejected.

Bill No. 7220 amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the enacted the 1<sup>st</sup> day of January, 2006, as amended and the map made a part thereof, by rezoning from R-6 Medium Density Residential to C-8 Village Commercial District that certain parcel of land known as West Charleston 28, Parcels 117-118- and 119 in the City of Charleston, Kanawha County, West Virginia.

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

- 1.The Zoning Ordinance of the City of Charleston, West Virginia, enacted the 1<sup>st</sup> day of January, 2006, as amended, is hereby amended by rezoning from R-6 Medium Density Residential to C-8 Village Commercial District that certain parcel of land known as West Charleston 28, Parcels 117-118- and 119 in the City of Charleston, Kanawha County, West Virginia.

Beginning at a point in the northerly line of the alley between Bigley Avenue and Crescent Road, at a distance of 156.5 feet from the easterly line of Bridge Street; thence, running in a northerly direction for a distance of 77.7 feet, more or less, to the southerly line of Crescent Road, at a point 147.5 feet from the easterly line of Bridge Street; thence, with said Crescent Road, N. 84 deg. 25' E43.5 feet; thence, with a line between original Lots 16 and 17 of the Upper Glen Elk Addition in a southerly direction of 82.8 feet, more or less, to the beginning; and being part of Lot Number Seventeen (17) and Eighteen (18) of Block "P" of the Upper Glen Elk Addition to the City of Charleston as shown upon a map of said Addition of record in the office of the Clerk of the County Commission of Kanawha County, West Virginia, in Map Book 2, at Page 3.

1. The zoning map, attached to and made a part of said ordinance, is hereby amended in accordance with Section 27 of this ordinance.
2. All prior ordinances or parts of ordinances, inconsistent with this ordinance are hereby repealed to the extent of said inconsistency.

The question being on the passage of the Bill a roll call was taken and there were; yeas - 0, nays – 24, absent – 4, as follows:

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

ABSENT: Hall, Hanna, Markham, Monroe

With a majority of members elected recorded thereon as voting against the Bill the Mayor declared Bill No. 7220, rejected.

2. Your Committee on Planning has had under consideration Bill No.7222, and reports the same to Council with the recommendation that the bill do pass.

Bill No. 7222 - amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 1<sup>st</sup> day of January 2006, as amended and the map made a part thereof, by establishing R-4 Single Family Residential District zoning on those parcels of land located within the Woodlands Subdivision consisting of approximately 4.4 acres m/l and known as parcels 18-19-20-21-22 and adjacent roads and rights of way within the subdivision.

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

The Zoning Ordinance of the City of Charleston, West Virginia, enacted the 1<sup>st</sup> day of January, 2006, as amended, is hereby amended by establishing R-4 Single Family Residential District zoning on those parcels of land located within the Woodlands Subdivision consisting of approximately 9.11 acres more or less and known as parcels 18-19-20-21-22 and adjacent roads and rights of way within the subdivision.

1. The zoning Map, attached to and made a part of said ordinance, is hereby amended in accordance with Article 27 of this ordinance.
2. All prior ordinances, or parts of ordinances, inconsistent with this ordinance are hereby repealed to the extent of said inconsistency.

The question being on the passage of the Bill a roll call was taken and there were; yeas - 24, nays –0, absent – 4, as follows:

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

ABSENT: Hall, Hanna, Markham, Monroe

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7222, passed.

3. Your Committee on Planning has had under consideration Bill No.7223, and reports the same to Council with the recommendation that the bill do pass.

A Bill providing for an annexation without an election of the remaining portion of the Woodlands Subdivision situate on the waters of Rays Branch tributary of Davis Fork that is located outside the corporate limits of Charleston that is comprised of 4.4 acres m/l of land pursuant to the provisions of Chapter 8, Article 6, Section 4 of the West Virginia Code, 2006, as amended, and

directing the City Clerk to forward a certificate to the County Court of Kanawha County to the affect that a petition to annex has been filed, in the manner required by law, to increase the Charleston corporate limits.

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

1. That pursuant to Chapter 8, Article 2, Section 4 of the West Virginia Code, 2006 as amended, that a governing body of a municipality may, by ordinance, provide for the annexation of additional territory without ordering a vote if:
  - a) A majority of the qualified voters of the additional territory file with the governing body a petition to be annexed; and
  - b) A majority of all freeholders of the additional territory, whether they reside or have a place of business therein or not, file with the governing body a petition to be annexed.
2. The entire territory to be annexed is owned by Pison Development LLC and contains 4.4 acres m/l of land, located in the Woodlands Subdivision situate on the waters of Rays Branch tributary of Davis Fork.
3. The City of Charleston has received a petition from Pison Development LLC that is duly signed by the manager, president or executive officer of said corporation. A copy of said petition is attached hereto, incorporated herein, and made a part thereof.
4. The City of Charleston has verified the total number of eligible petitioners and determined that said petitioner represents 100% of both qualified voters and freeholders and that said petition exceeds the minimum requirements for approving an annexation without an election pursuant section 1 above.
5. That upon passage of this ordinance the City Clerk is hereby directed to forward a certificate to the County Court of Kanawha County to the affect that a petition to annex has been filed, in the manner required by law, to increase the Charleston corporate limits.

The question being on the passage of the Bill a roll call was taken and there were; yeas - 24, nays -0, absent - 4, as follows:

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

ABSENT: Hall, Hanna, Markham, Monroe

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7223, passed.

3. Your Committee on Planning has had under consideration Woodlands Subdivision, Street Naming attached hereto and made a part thereof.
  1. The streets to be named ate newly constructed and lie within The Woodlands

Subdivision.

2. The street names have been approved by the 911 addressing system. And reports the same to Council with the recommendation that the street naming be accepted.

The question being on the approval of the Street Names a vote was taken. There being no dissent the Mayor declared the Street Names approved.

4. Your Committee on Planning has had under consideration Heritage Ridge Subdivision Street Naming and Dedication attached hereto and made a part thereof.

1. The City Engineer, Traffic Engineering, Fire Department, Sanitary Board, Public Works Department and Planning Department have reviewed the request and recommended approval of the street names and dedication of the portion of Saddlecrest Estates from Smith Road to the intersection with Heritage Ridge Circle and the dedication of Heritage Ridge Circle.

And reports the same to Council with the recommendation that the dedication of the streets and the street naming be accepted.

The question being on the approval of the Street Names a vote was taken. There being no dissent the Mayor declared the Street Names approved.

5. Your Committee on Planning has had under consideration the application of the 911 System for approval of various street names associated with the 911 Street Naming and Numbering System for streets recently required by the Statewide Street Naming and Numbering Law, attached hereto and made a part thereof.

1. The following street names are requested for approval: Centre Way Turn Loop, Moonglo Lane, Saddlecrest Estates Monwoods Acres, CSX Way, YMCA Drive, and Renaissance Circle.

2. The streets requesting naming are all private streets located within the City of Charleston not previously named.

3. The suggested names were applied for by residents and have been found to be in compliance with the state addressing guidelines.

4. The street names comply with the requirements of the Code of West Virginia and the City of Charleston Code.

5. The 911 addressing system has approved the names as presented.

And reports the same to Council with the recommendation that the street names be accepted.

The question being on the approval of the Street Names a vote was taken. There being no dissent the Mayor declared the Street Names approved.

6. Your Committee on Planning has under consideration Reconsideration of Special Permit #661, South ridge Center Unifies Shopping Facility attached hereto and made a part thereof.

1. The City Traffic Engineer and the West Side Department of Highways have both reviewed

and approved the current request to allow an exit onto Terry Road. And reports the same to Council with the recommendation that the restrictions placed on Special Permit #661 denying the exit road from Mountaineer Boulevard onto Terry Road be lifted and add the restriction that no entrance access road can be constructed within the right-of-way without additional review by the Municipal Planning Commission and approval of the West Virginia Department of Highways after traffic studies are conducted.

The question being on the approval of the Special Permit a vote was taken. There being no dissent the Mayor declared Special Permit #661, approved.

## ***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. 102-06, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 102-06 : “Authorizing the Mayor to enter into an Agreement with Ohio Valley Spray Foam, in the amount of \$79,860, to provide for the application of a Polyurethane Foam-Applied Roofing System at the North Charleston Community Center and adjacent building.”

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 Ohio Valley Spray Foam, in the amount of Seventy-nine Thousand Eight Hundred Sixty Dollars (\$79,860), to provide for the application of a Polyurethane Foam-Applied Roofing System at the North Charleston Community Center and adjacent building.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas - 24, nays –0, absent – 4, as follows:

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

ABSENT: Hall, Hanna, Markham, Monroe

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No.102-06, adopted.

2. Your Committee on Finance has had under consideration Resolution No. 104-06, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 104-06 : “Authorizing the Finance Director to issue a B&O tax refund to Cytyc in the amount of \$10,703.66. The refund is being made due to an overpayment by Cytyc in the first quarter of the 2006 tax period.”

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

That the Finance Director is hereby authorized and directed to issue a B&O tax refund to Cytyc in the amount of Ten Thousand Seven Hundred Three Dollars and Sixty-six Cents (\$10,703.66). The refund is being made due to an overpayment by Cytyc in the first quarter of the 2006 tax period.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 104-06, adopted.

3. Your Committee on Finance has had under consideration Resolution No. 105-06, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 105-06 : “Authorizing the Mayor to enter into a contract with J&J Emergency Vehicle Sales, in the amount of \$115,275, for purchase of a 2007 model ambulance to be assigned to Fire Station No. 7, located at 128 Cora Street.”

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

That the Mayor is hereby authorized and directed to enter into a contract with J&J Emergency Vehicle Sales, in the amount of One Hundred Fifteen Thousand Two Hundred Seventy-five Dollars (\$115,275), for purchase of a 2007 model ambulance to be assigned to Fire Station No. 7, located at 128 Cora Street. made due to an overpayment by Cytyc in the first quarter of the 2006 tax period.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas - 24, nays –0, absent – 4, as follows:

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

ABSENT: Hall, Hanna, Markham, Monroe

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No.105-06, adopted.

4. Your Committee on Finance has had under consideration Resolution No. 106-06, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 106-06: “Authorizing the Mayor to receive and administer grant funds in the amount of \$213,320 from the Governor’s Highway Safety Office for the 2006-2007 Safe Community Program. The funds will provide for the coordinator’s salary, travel/training, overtime for DUI patrols, aggressive driving, Click It or Ticket, and occupant protection enforcement.”

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

That the Mayor is hereby authorized and directed to receive and administer grant funds in the amount of Two Hundred Thirteen Thousand Three Hundred Twenty Dollars (\$213,320) from the Governor’s Highway Safety Office for the 206-2007 Safe Community Program. The funds will provide for the coordinator’s salary, travel/training, overtime for DUI patrols, aggressive driving, Click It or Ticket, and occupant protection enforcement.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 106-06, adopted.

5. Your Committee on Finance has had under consideration Resolution No. 107-06, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 107-06 : “Authorizing the Mayor to enter into an Agreement with Manufacturing Management Services, Inc., in the amount of \$7,275, to develop and train City personnel in Storm Water Management procedures in compliance with the City’s MPDES Storm Water Permit.”

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 Manufacturing Management Services, Inc., in the amount of Seven Thousand Two Hundred Seventy-five Dollars (\$7,275), to develop and train City personnel in Storm Water Management procedures in compliance with the City’s MPDES Storm Water Permit.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 107-06, adopted.

6. Your Committee on Finance has had under consideration Resolution No. 108-06, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 108-06: “Authorizing the Mayor to enter into an Agreement with the United States of America for leasing of 1,223 net rentable square feet at 601 Morris Street and three parking spaces at the Morris Street Lot. The lease is for a one year period, with annual automatic renewals subject to lessee’s right not to renew upon notice, at the rate of \$1,157 per month. Lessee shall reimburse the City for build-out costs up to \$35,887 upon completion of build-out, with an additional allotment of \$5,000 for signage. This is a full service lease with annual adjustments for utility and janitorial services.”

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 United States of America for leasing of 1,223 net rentable square feet at 601 Morris Street and three parking spaces at the Morris Street Lot. The lease is for a one year period, with annual automatic renewals subject to lessee’s right not to renew upon notice, at the rate of \$1,157 per month. Lessee shall reimburse the City for build-out costs up to \$35,887 upon completion of build-out, with an additional allotment of \$5,000 for signage. This is a full service lease with annual adjustments for utility and janitorial services.

The question being on the adoption of the Resolution a vote was taken. There being one dissent from Weintraub, the Mayor declared Resolution No. 108-06, adopted.

7. Your committee on Finance has had under consideration a proposal submitted by General Truck Sales, in the total amount of \$92,950, for purchase of five (5) 4x4 pickup trucks for the following departments:

1	Parks & Recreation	\$18,590
2	Public Grounds @ \$18,590 each	\$37,180
2	Street Department @ \$18,590 each	\$37,180

To be charged to the following accounts:

001-976-00-900-4-459, P&R—Capital Outlay, Equipment (\$18,590)  
(Part of Lease/Purchase Escrow Account Schedule No. 1000129621 for FY 2007)

001-975-00-567-4-459, Public Grounds—Capital Outlay, Equipment (\$37,180)  
(Part of Lease/Purchase Escrow Account Schedule No. 1000129621 for FY 2007)

001-977-00-750-4-459, Street—Capital Outlay, Equipment (\$37,180)  
(Part of Lease/Purchase Escrow Account Schedule No. 1000129621 for FY 207), 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 Bill No. 7221, as amended, and reports the same to Council with the recommendation that the committee report be adopted.

A Bill closing, abandoning and discontinuing as a public street located at the easterly right-of-way of MacCorkle Avenue, S.E. -W.V./ U.S. Route No. 61 and the westerly right-of-way line to West Virginia Turnpike

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

1. That the Easterly right-of-way of MacCorkle Avenue, S.E. -W.V./ U.S. Route No. 61 and the Westerly right-of-way line to West Virginia Turnpike is hereby closed, abandoned and discontinued.

2. The City of Charleston hereby reserves a sewer easement of the full length and width 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, plant trees or other vegetation, or take any other action which would interfere with this easement, nor 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 Sanitary Board of the City of Charleston and the City Engineer of the City of Charleston.

3. The Mayor of the City of Charleston be, and is hereby authorized and direct to execute, acknowledge and deliver a proper deed conveying to Jack L. Pauley all right, title and interest in and to said Westerly right-of-way of MacCorkle Avenue, S.E. -WV- U.S. Route No. 60 and the Westerly right-of-way line to West Virginia Turnpike except as provided in section two of this ordinance, upon payment of (\$ 1,500) to be paid to the City of Charleston by the Petitioner.

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

The question being on the passage of the Bill a roll call was taken and there were; yeas - 24,

nays –0, absent – 4, as follows:

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

ABSENT: Hall, Hanna, Markham, Monroe

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7221, as amended, passed.

### **Reports of Officers**

1. Report of the City of Charleston, Municipal Court Financial Statements; June, 2006 Amended.  
Received and Filed.
2. Report of the City of Charleston, Municipal Court Financial Statements; August, 2006.  
Received and Filed.
3. City Treasurer's Report to City Council Month Ending August, 2006;  
Received and Filed.

### **ROLL CALL**

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

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

ABSENT: Hall, Hanna, Markham, Monroe

At 7:45 p.m., on motion of Councilmember Loeb, Council adjourned until Monday, October 2, 2006, at 7:00 p.m.

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Danny Jones, Honorable Mayor

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James M. Reishman, City Clerk