

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

**November 19, 2007**

**THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE SECOND MEETING IN THE MONTH OF NOVEMBER ON THE 19TH DAY, IN THE YEAR 2007, AND WAS CALLED TO ORDER BY THE HONORABLE MAYOR, DANNY JONES. THE INVOCATION WAS DELIVERED BY DEITZLER AND THE PLEDGE OF ALLEGIANCE WAS LED BY HIGGINS.**

**BURTON  
DEITZLER**

**HIGGINS  
KNAUFF  
MILLER  
REISHMAN  
SHEETS  
WARE  
MAYOR JONES**

**CLOWSER  
EALY  
HARRIS  
JONES  
LANE  
PAYNE  
RUSSELL  
SMITH  
WEINTRAUB**

**DAVIS  
HALL  
HARRISON  
KIRK  
LANHAM  
REED  
SALISBURY  
TALKINGTO**

**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. Lisa Hudson Burgess – Midwestern Ball Field

## **CLAIMS**

1. A claim of Elizabeth Farber, 5307 Virginia Avenue SE, Charleston, WV; alleges damage to vehicle.  
Refer to City Solicitor.
2. A claim of William M Jackson Jr., 1808 Huber Road, Charleston, WV; alleges damage to property.  
Refer to City Solicitor.
3. A claim of Dale A. Wright, 5501 Washington Ave. SE, Charleston, WV; alleges damage to property.  
Refer to City Solicitor.

## **PUBLIC HEARING**

1. Bill No. 7294 – A Bill to amend and reenact Sections 2-734, 2-737, 2-738, and 2-741 of City Code of the City of Charleston, as amended, all relating to the City's Service Fee.

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

That the Council for the City of Charleston hereby amends and reenacts certain sections of the City Code of the City of Charleston, as amended, all relating to the City's Service Fee, to read as follows:

#### **Sec. 2-734. Findings.**

- (a) The city council of the city finds that the city provides to all individuals within its borders certain services, whether they are residents employed within the city, or individuals living outside the city and employed within the corporate boundaries of the city.
- (b) The city council of the city finds that such services include police protection and traffic and street maintenance, ~~and other valuable services associated with the police department and public works department.~~
- (c) The city council of the city finds that such services are within the authority and are the responsibility of the Municipal Government of the City of Charleston as provided under the general laws of the State of West Virginia.
- (d) The city council of the city finds that since such services are essential to the creation and maintenance of those jobs which provide livelihood to all individuals employed within the city, as well as to the property interests of residents and

visitors to the city, it is therefore, reasonable to derive a portion of the cost of providing and maintaining such services from said individuals.

(e) The city council of the city finds that W. Va. Code § 8-13-13 provides that every municipality has the plenary power and authority to provide by ordinance for the installation, continuance, maintenance or improvement of such services, to make reasonable regulations with respect thereto, and to impose by ordinance upon the users of such services reasonable rates, fees and charges to be collected in the manner prescribed in the ordinance.

(f) The city council of the city finds that all of those individuals, who use, enjoy and benefit from these services, should bear an equitable share of the costs thereof.

(g) The city council of the city finds that the imposition of the city service fee established herein is a reasonable system of distributing the costs to all of the users that the city can reach through reasonable and prudent means and legislation.

(h) The city council of the city finds that the legislature of the State of West Virginia has conferred upon municipalities the plenary power to enact reasonable administrative provisions to ensure the efficient, orderly and equitable implementation and collection of the service fees from all users.

(i) The city council of the city finds that it is in the best interests of the citizens of the city and the users of city services to enact this article to impose a city service fee.

(j) The city council of the city finds that there are tens of thousands of individuals who benefit from municipal services who are not owners of property or residents of the city, but who are employed within the city.

(k) The city council of the city finds that employers located within the city possess important employment information necessary to properly enforce certain aspects and provisions of this article and that, therefore, reasonable regulations

concerning obtaining certain information from such employers shall be a necessary and important part of the administration of the city service fee.

(l) The city council of the city finds that raising the fee from one dollar (\$1.00) to two dollars (\$2.00) is reasonable, not excessive, and warranted based upon a reasonable allocation of the fee payers' usage of the municipal services contemplated herein.

**Sec. 2-737. Imposition of fee; rate.**

There is hereby imposed a city service fee upon each employee and self-employed individual at the rate of ~~\$1.00~~ two dollars (\$2.00) per calendar week of employment within the city. No individual shall pay the fee more than once for the same week of employment regardless of multiple employment. The fee imposed by the article is in addition to all other fees imposed by the city. The previous city service fee of one dollar (\$1.00) per calendar week of employment within the city imposed upon each employee and self-employed individual shall continue to be imposed up to and including January 5, 2008.

**Sec. 2-738. Effective date.**

The imposition of the city service fee shall take effect beginning January 1, 2004 city service fee of two dollars (\$2.00) per calendar week of employment within the city shall take effect beginning January 6, 2008. The previous city service fee of one dollar (\$1.00) per calendar week of employment within the city imposed upon each employee and self-employed individual will continue to be imposed up to and including January 5, 2008.

**Sec. 2-741. Delinquent accounts; penalties.**

(a) The fee imposed by this article, if not paid when due, shall bear interest at the rate of eight percent per annum from the due date of the remittance until paid.

(b) Payment of fees not received upon the due date shall be considered delinquent. The city collector shall assess each delinquent account a penalty of five percent of the balance thereof. If the delinquency exceeds a month, an additional penalty of two percent shall be added to the total outstanding delinquent fee at the end of each additional month or part thereof. Without limiting the generality of the foregoing, the delinquency penalty may be assessed against any employer

responsible for withholding and remitting the fee of any employee subject to the fee imposed in this article. The city collector may waive or abate the penalty hereunder for reasonable cause.

## **COMMUNICATIONS**

*November 8, 2007*

*Honorable Danny Jones and  
City Council Members  
Charleston, West Virginia 25301*

*Dear Mayor Jones and Councilmember's:*

*On November 7, 2007, the Municipal Planning Commission held public hearings and its regular monthly meeting. The following case should be referred to the Planning Committee of Council.*

*Bill #7295 – Petition of the Planning Department of the City of Charleston requesting approval to establish R-O Residential Office zoning on the parcels within Gettysburg Subdivision, currently known as Parcel 30.1, Washington Tax District Map 30 and adjacent roads and rights-of-way within the subdivision currently being annexed into the City of Charleston.*

*Bill #7296 – Petition of George C. Martin requesting the property located at 173 Baker's Ford Road, Charleston, WV, known as North Charleston Tax Map 60, Parcel 1.4 be rezoned from R-6 Medium Density Residential District to C-10 Central Commercial District.*

*Bill #7297 – Petition of John Roberts on behalf of Mountain Mission, Inc., requesting to rezone two parcels, West Charleston Tax Map 20, Parcels 253 and 254, in the 1600 Block of 7<sup>th</sup> Avenue, City of Charleston, from R-8 High Density residential to C-8 Village Commercial District.*

*Bill # 7298 – Petition of the Planning Department of the City of Charleston to revise Article 22 relating to Signs in the Zoning Ordinance of the City of Charleston, adopted November 21, 2005, effective January 1, 2006.*

*Bill # 7299 – Petition of Kanawha Hospice Care and Boulevard Realty Company requesting to rezone a portion of the property located at 1601 Kanawha Boulevard, West,*

*Charleston, WV, also known as a portion of West Charleston Tax Map 23, Parcel 130 from C-4 Community Commercial District to C-10 General Commercial District.*

*Street Renaming – Kent Hall Street – Application of Robert Tyler on behalf of petitioners requesting to rename the existing Kent Street to Kent Hall Street, Charleston, WV.*

*Street Naming – Fossil Creek Lane – Application of Ariana Kincaid on behalf of residents requesting the private street located off of Smith road near Lucado Road in the City of Charleston be renamed Fossil Creek Lane.*

*Sincerely,  
Municipal Planning Commission  
Phyllis White, Administrative Assistant*

### **MISCELLEANOUS RESOLUTION**

Resolution No. 304-07

Introduced in Council:  
November 19, 2007:

Passed by Council:  
November 19, 2007

Introduced by:  
Adam Henry Knauff

Special Resolution

Resolution No. 304-07 officially naming the Midwestern Senior League baseball field the “James L. Hudson Senior League Field.”

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

**WHEREAS** for nearly fifty years James L. Hudson improved the Midwestern Senior League baseball field as coach, mentor, treasurer, concessions manager, scoreboard operator, and volunteer; and

**WHEREAS** James L. Hudson donated countless hours of labor to better the Midwestern Senior League baseball field to ensure that every game that could be played was played; and

**WHEREAS** James L. Hudson donated equipment and money to ensure that all who wanted to play baseball could do so, regardless of income; and

**WHEREAS** James L. Hudson spent his entire adult life in the advocacy and service of

youth baseball; and

**WHEREAS** James L. Hudson was so proud of the Midwestern Senior League baseball field that he chose to be married upon its home plate; and

**WHEREAS** James L. Hudson improved the lives of thousands of people through his work at Midwestern Senior League baseball field.

Therefore be it resolved by the City of Charleston that the Midwestern Senior League baseball field hereby be named the “James L. Hudson Senior League Field.”

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 304-07, adopted

### **PLANNING**

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

1. Your Committee on Planning has had under consideration of Bill No. 7282 and reports the same to Council with the recommendation that the bill do pass.

Bill No. 7282 providing for an annexation without an election for a portion of the Gettysburg Subdivision that is comprised of 4.93 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.

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

YEAS: Burton, Clowser, Davis, Deitzler, Ealy, Hall, Harris, Harrison, Higgins, Jones, Kirk, Knauff, Lane, Lanham, Miller, Payne, Reed, Reishman, Russell, Salisbury, Sheets, Smith, Talkington, Ware, Weintraub, Mayor Jones.

ABSENT:Hanna, White

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7282 passed

2. Your Committee on Planning has had under consideration Street Naming and Dedication Gettysburg Road in Gettysburg Subdivision and reports the same to Council with the recommendation that the Street Naming and Dedication be accepted.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Gettysburg Road, as a Street Naming and Dedication, approved.

## **STREETS AND TRAFFIC**

Councilman Dave 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 of Bill No. 7291 and reports the same to Council with the recommendation that the bill do pass.

Bill 7291 to establish a 25 Mile Per Hour speed limit on Jamestown Road 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

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

YEAS: Burton, Clowser, Davis, Deitzler, Ealy, Hall, Harris, Harrison, Higgins, Jones, Kirk, Knauff, Lane, Lanham, Miller, Payne, Reed, Reishman, Russell, Salisbury, Sheets, Smith, Talkington, Ware, Weintraub, Mayor Jones.

ABSENT:Hanna, White

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7291 passed

2. Your Committee on Streets and Traffic has had under consideration of Bill No. 7292 and reports the same to Council with the recommendation that the bill do pass.

Bill 7292 to establish a 25 Mile Per Hour speed limit on Roanoke Trace 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.

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

YEAS: Burton, Clowser, Davis, Deitzler, Ealy, Hall, Harris, Harrison, Higgins, Jones, Kirk, Knauff, Lane, Lanham, Miller, Payne, Reed, Reishman, Russell, Salisbury, Sheets, Smith, Talkington, Ware, Weintraub, Mayor Jones.

ABSENT:Hanna, White

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7292 passed

3. Your Committee on Streets and Traffic has had under consideration of Bill No. 7293 and reports the same to Council with the recommendation that the bill do pass.

Bill 7293 to establish a 25 Mile Per Hour speed limit on Salem Road 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.

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

YEAS: Burton, Clowser, Davis, Deitzler, Ealy, Hall, Harris, Harrison, Higgins, Jones, Kirk, Knauff, Lane, Lanham, Miller, Payne, Reed, Reishman, Russell, Salisbury, Sheets, Smith, Talkington, Ware, Weintraub, Mayor Jones.

ABSENT:Hanna, White

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7293 passed

4. Your Committee on Streets and Traffic has had under consideration of Bill No. 7300 and reports the same to Council with the recommendation that the bill do pass.

Bill 7300 to establish a No Parking Anytime Tow-Away zone on Hunters Ridge Road from a point 255 feet north of Powderhorn Road to a point 45 feet south of Powderhorn Road 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.

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

YEAS: Burton, Clowser, Davis, Deitzler, Ealy, Hall, Harris, Harrison, Higgins, Jones, Kirk, Knauff, Lane, Lanham, Miller, Payne, Reed, Reishman, Russell, Salisbury, Sheets, Smith, Talkington, Ware, Weintraub, Mayor Jones.

ABSENT:Hanna, White

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7300 passed.

5. Your Committee on Streets and Traffic has had under consideration of Bill No. 7301 and reports the same to Council with the recommendation that the bill do pass.

Bill 7301 is to establish a No Parking Anytime Tow-Away zone on Hunters Ridge Road from a point 150 feet north of Buckhorn Road to a point 150 feet

south of Buckhorn Road 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.

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

YEAS: Burton, Clowser, Davis, Deitzler, Ealy, Hall, Harris, Harrison, Higgins, Jones, Kirk, Knauff, Lane, Lanham, Miller, Payne, Reed, Reishman, Russell, Salisbury, Sheets, Smith, Talkington, Ware, Weintraub, Mayor Jones.

ABSENT:Hanna, White

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7301 passed.

6. Your Committee on Streets and Traffic has had under consideration of Bill No. 7302 and reports the same to Council with the recommendation that the bill do pass.

Bill 7302 to establish a Stop sign on Hunters Ridge Road at the intersection of Hunters Road and Smith Road 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.

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

YEAS: Burton, Clowser, Davis, Deitzler, Ealy, Hall, Harris, Harrison, Higgins, Jones, Kirk, Knauff, Lane, Lanham, Miller, Payne, Reed, Reishman, Russell, Salisbury, Sheets, Smith, Talkington, Ware, Weintraub, Mayor Jones.

ABSENT:Hanna, White

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7302 passed.

7. Your Committee on Streets and Traffic has had under consideration of Bill No. 7303 and reports the same to Council with the recommendation that the bill do pass.

Bill 7303 to establish a Stop intersection on Woodbridge Drive at the intersection of Woodbridge Drive and Winding Woods Road requiring vehicles southbound on Winding Woods Road to stop and requiring vehicles northbound on Woodbridge Drive to stop except when turning right and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Law,

Section 263, Division 2, Article 4, Chapter 114, to conform therewith.

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

YEAS: Burton, Clowser, Davis, Deitzler, Ealy, Hall, Harris, Harrison, Higgins, Jones,  
Kirk, Knauff, Lane, Lanham, Miller, Payne, Reed, Reishman, Russell, Salisbury, Sheets,  
Smith, Talkington, Ware, Weintraub, Mayor Jones.

ABSENT:Hanna, White

With a majority of members elected recorded thereon as voting in the affirmative the  
Mayor declared Bill No. 7303 passed

8. Your Committee on Streets and Traffic has had under consideration of Bill No. 7304  
and reports the same to Council with the recommendation that the bill do pass.

Bill 7304 to establish Hunters Ridge Road as through 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.

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

YEAS: Burton, Clowser, Davis, Deitzler, Ealy, Hall, Harris, Harrison, Higgins, Jones,  
Kirk, Knauff, Lane, Lanham, Miller, Payne, Reed, Reishman, Russell, Salisbury, Sheets,  
Smith, Talkington, Ware, Weintraub, Mayor Jones.

ABSENT:Hanna, White

With a majority of members elected recorded thereon as voting in the affirmative the  
Mayor declared Bill No. 7304 passed

9. Your Committee on Streets and Traffic has had under consideration of Bill No. 7305  
and reports the same to Council with the recommendation that the bill do pass.

Bill 7305 to establish a 20 Mile Per Hour speed limit on Hunters Ridge  
Road 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

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

YEAS: Burton, Clowser, Davis, Deitzler, Ealy, Hall, Harris, Harrison, Higgins, Jones,  
Kirk, Knauff, Lane, Lanham, Miller, Payne, Reed, Reishman, Russell, Salisbury, Sheets,

Smith, Talkington, Ware, Weintraub, Mayor Jones.  
ABSENT:Hanna, White

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7305 passed

10. Your Committee on Streets and Traffic has had under consideration of Bill No. 7306 and reports the same to Council with the recommendation that the bill do pass.

Bill 7306 to establish a One Hour Limited Time Parking Zone on the westerly side of 38<sup>th</sup> Street from a point 30 feet north of MacCorkle Avenue to a point 138 feet north of MacCorkle Avenue 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.

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

YEAS: Burton, Clowser, Davis, Deitzler, Ealy, Hall, Harris, Harrison, Higgins, Jones, Kirk, Knauff, Lane, Lanham, Miller, Payne, Reed, Reishman, Russell, Salisbury, Sheets, Smith, Talkington, Ware, Weintraub, Mayor Jones.

ABSENT:Hanna, White

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7306 passed

## ***URBAN RENEWAL***

Councilman Marc Weintraub, of the Council Committee on Urban Renewal, submitted the following reports.

Your Committee on Urban Renewal has had under consideration of Resolution No. 292-07 and reports the same to Council with the recommendation that the Resolution pass.

Resolution No. 292-07 “Declaring a need and authoring Charleston Urban Renewal Authority to develop and implement a workable plan of action for elimination, prevention, or spread of deteriorated or deteriorating conditions, and for conservation and rehabilitation within a certain area of the Community, pursuant to the provisions of chapter 16, Article 18 of the code of West Virginia.”

WHEREAS, Chapter 16 Article 18, section 29, of the Code of West Virginia authorizes the governing body of the community, or such public officer or public body as it may designate, to prepare a workable program, which may include an official plan of action, for the

establishment and preservation of a well-planned community with well-organized residential neighborhoods of decent homes and suitable living environmental for adequate family life, for utilizing appropriate private and public resources to eliminate and prevent the development or spread of deterioration, to encourage needed urban rehabilitation, to provide for the redevelopment of deteriorated areas, and for the undertaking of feasible activities to achieve the objectives of such a program;

WHEREAS, Chapter 16 Article 18, Section 25, of the Code of West Virginia specifically provides that urban renewal projects may include undertakings and activities for the elimination of deteriorated or deteriorating areas, or to otherwise prevent an area from becoming deteriorated;

WHEREAS, Chapter 16, Article 18, Section 27, of the Code of West Virginia eliminates the requirement of Chapter 16, Article 18, Section 4, of the Code of West Virginia, that an area must first be declared “blighted” before authorizing an urban renewal authority to exercise powers, function and duties permitted under said Article, and additionally amends and redefines the terms “slum” and “blighted” as used throughout the Article to also mean and include deteriorated or deteriorating areas for the purpose of urban renewal plans and projects.

WHEREAS, the area addressed by this resolution abuts the Boundaries of the Washington Street, West Urban Renewal Plan Area which was first declared slum or blighted on March 2, 1992;

WHEREAS, City Council is cognizant of certain factors that warrant a plan of action and exercise of the powers, functions, and duties of the Urban Renewal Authority for the elimination, of or prevention, and of the spread of deteriorated or deteriorating conditions and to otherwise implement conservation and rehabilitation with respect to the area so designated herein,

Resolved by Council of the City of Charleston, West Virginia

1. That the City of Charleston hereby finds and declares that the requisite conditions exist to make it necessary, in the interest of the public health, safety, morals or welfare of the residents of that certain area of the Community shown in Exhibit IA attached hereto, to designate and authorize the Charleston Urban Renewal Authority to develop a workable plan and project for implementing action as contemplated and authorized by Chapter 16, Article 18, of the Code of West Virginia for said Area as may be necessary for the elimination, of or prevention, or of the spread of deteriorated or deteriorating conditions within the Community of said Area and for the conservation and rehabilitation of the Community within said Area.
2. In the course of developing a workable plan the Charleston Urban Renewal Authority shall endeavor to involve as many residents and business owners of the Community shown in Exhibit 1A by using the following methods to encourage participation:

- a. Use Public Service Announcements on radio and TV to announce Planning events;
  - b. Announce planning events during services at faith based organizations located in the Community shown on Exhibit 1A;
  - c. Attempt to engage operators of businesses where folks typically Congregate (i.e. convenience stores, barber shops, bars) to assist in Publicizing planning event;
  - d. Contact and participate in meetings held by West Side Main Street;
3. The planning events shall be held in the Community shown on Exhibit 1A.
  4. City Council shall not approve any urban renewal plan that proposes giving the Charleston Urban Renewal Authority the power of eminent domain over any residence that is occupied by the same individuals who are the owners as shown in the real estate records maintained by the Office of the Clerk of Kanawha County, West Virginia at the time the plan is adopted or amended.

## **FINANCE**

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

1. Your Committee on Finance has had under consideration Bill No. 7294, and reports the same to Council with the recommendation that the bill do pass.

Bill No. 7294 – A Bill to amend and reenact Sections 2-734, 2-737, 2-738, and 2-741 of City Code of the City of Charleston, as amended, all relating to the City’s Service Fee.

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

That the Council for the City of Charleston hereby amends and reenacts certain sections of the City Code of the City of Charleston, as amended, all relating to the City’s Service Fee, to read as follows:

#### **Sec. 2-734. Findings.**

(a) The city council of the city finds that the city provides to all individuals within its borders certain services, whether they are residents employed within the city, or individuals living outside the city and employed within the corporate boundaries of the city.

(b) The city council of the city finds that such services include police protection and traffic and street maintenance, ~~and other valuable services associated with the police department and public works department.~~

(c) The city council of the city finds that such services are within the authority and are the responsibility of the Municipal Government of the City of Charleston as provided under the general laws of the State of West Virginia.

(d) The city council of the city finds that since such services are essential to the creation and maintenance of those jobs which provide livelihood to all individuals employed within the city, as well as to the property interests of residents and visitors to the city, it is therefore, reasonable to derive a portion of the cost of providing and maintaining such services from said individuals.

(e) The city council of the city finds that W. Va. Code § 8-13-13 provides that every municipality has the plenary power and authority to provide by ordinance for the installation, continuance, maintenance or improvement of such services, to make reasonable regulations with respect thereto, and to impose by ordinance upon the users of such services reasonable rates, fees and charges to be collected in the manner prescribed in the ordinance.

(f) The city council of the city finds that all of those individuals, who use, enjoy and benefit from these services, should bear an equitable share of the costs thereof.

(g) The city council of the city finds that the imposition of the city service fee established herein is a reasonable system of distributing the costs to all of the users that the city can reach through reasonable and prudent means and legislation.

(h) The city council of the city finds that the legislature of the State of West Virginia has conferred upon municipalities the plenary power to enact reasonable administrative provisions to ensure the efficient, orderly and equitable implementation and collection of the service fees from all users.

(i) The city council of the city finds that it is in the best interests of the citizens of the city and the users of city services to enact this article to impose a city service fee.

(j) The city council of the city finds that there are tens of thousands of individuals who benefit from municipal services who are not owners of property or residents of the city, but who are employed within the city.

(k) The city council of the city finds that employers located within the city possess important employment information necessary to properly enforce certain aspects and provisions of this article and that, therefore, reasonable regulations

concerning obtaining certain information from such employers shall be a necessary and important part of the administration of the city service fee.

(l) The city council of the city finds that raising the fee from one dollar (\$1.00) to two dollars (\$2.00) is reasonable, not excessive, and warranted based upon a reasonable allocation of the fee payers' usage of the municipal services contemplated herein.

**Sec. 2-737. Imposition of fee; rate.**

There is hereby imposed a city service fee upon each employee and self-employed individual at the rate of ~~\$1.00~~ two dollars (\$2.00) per calendar week of employment within the city. No individual shall pay the fee more than once for the same week of employment regardless of multiple employment. The fee imposed by the article is in addition to all other fees imposed by the city. The previous city service fee of one dollar (\$1.00) per calendar week of employment within the city imposed upon each employee and self-employed individual shall continue to be imposed up to and including January 5, 2008.

**Sec. 2-738. Effective date.**

The imposition of the city service fee shall take effect beginning January 1, 2004 city service fee of two dollars (\$2.00) per calendar week of employment within the city shall take effect beginning January 6, 2008. The previous city service fee of one dollar (\$1.00) per calendar week of employment within the city imposed upon each employee and self-employed individual will continue to be imposed up to and including January 5, 2008.

**Sec. 2-741. Delinquent accounts; penalties.**

(a) The fee imposed by this article, if not paid when due, shall bear interest at the rate of eight percent per annum from the due date of the remittance until paid.

(b) Payment of fees not received upon the due date shall be considered delinquent. The city collector shall assess each delinquent account a penalty of five percent of the balance thereof. If the delinquency exceeds a month, an additional penalty of two percent shall be added to the total outstanding delinquent fee at the end of each additional month or part thereof. Without limiting the generality of the foregoing, the delinquency penalty may be assessed against any employer responsible for withholding and remitting the fee of any employee subject to the fee imposed in this article. The city collector may waive or abate the penalty hereunder for reasonable cause.

The question being on the passage of the Bill, a roll call was taken and there were; were; yeas-24, nays- 2 absent - 2 as follows:

YEAS: Burton, Clowser, Davis, Deitzler, Ealy, Hall, Harris, Harrison, Higgins, Jones, Kirk, Knauff, Lane, Lanham, Payne, Reed, Reishman, Russell, Salisbury, Sheets, Talkington, Ware, Weintraub, Mayor Jones.

NAYS: Miller, Smith

ABSENT:Hanna, White

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7294 passed

2. Your Committee on Finance has had under consideration Bill No. 7307, and reports the same to Council with the recommendation that the bill do pass

**Bill No. 7307**: Authorizing the Mayor to convey by quitclaim deed and thereby relinquish any right, title or interest of the City of Charleston (the "City") in and to that certain parcel of real estate situated in the City of Charleston, Kanawha County, West Virginia, located at the westerly end of Mountain Road and comprising approximately 4,912.00 square feet, more or less, and being Lot 127-A, Block "P," Vandalia Addition, Charleston South Annex District, to Kim Pittman, an adjoining landowner to the subject property.

WHEREAS, in February, 1995, the City purchased two adjoining lots, Lot 127 and Lot 128, Block "P", Vandalia Addition, Charleston South Annex District, for the stated purpose of using the combined properties to build housing for low-income families; and

WHEREAS, based on information and belief, on June 5, 1995, the City Council of Charleston approved Resolution 236-95 (attached hereto), conveying Lot 128 to Community Homes and Economic Development ("CHED"), a non-profit company, in order for CHED to construct a single family home for a low-income family; and

WHEREAS, on August 18, 1995, a deed was executed and recorded evidencing the conveyance of Lot 128 from the City to CHED; and,

WHEREAS, based on information and belief, on July 17, 1995, the City Council of Charleston approved Resolution 260-95 (attached hereto), conveying Lot 127 to CHED in order for CHED to construct a single family home for a low-income family; and

WHEREAS, no deed or other written instrument regarding conveyance or ownership of Lot 127 was recorded with the Clerk of the City of Charleston, or the Clerk of Kanawha County, and there are no available or still existing records concerning the approved conveyance of Lot 127 subsequent to the passage of Resolution 260-95; and,

WHEREAS, the original plans for the single family homes on Lots 127 and 128 provide for vehicular ingress and egress for both homes by a shared driveway, the attachment point to Mountain Road being primarily located on Lot 127; and

WHEREAS, a single family home was built on Lot 128, and sold to Gary and Shelly Morris on January 25, 1996, and, consistent with the original plans, included a driveway substantially situated on Lot 127 and purportedly designed to allow vehicular ingress and egress for the Morris family and ultimately for the future residents of Lot 127; and,

WHEREAS, CHED was dissolved prior to the construction of the single family home on Lot 127, the plans

in place for development of low-income housing on Lot 127 were not executed, and no further development of Lot 127 was proposed or otherwise undertaken; and

WHEREAS, in early 1999, and after inquiry by the owners of Lot 128, it was determined that CHED's failure to develop Lot 127 or to otherwise complete the original plans for Lots 127 and 128 had resulted in the owners of Lot 128 not having right, title or interest to the land on which their driveway is situated; and,

WHEREAS, in April, 1999, the Mayor's Office of Economic and Community Development applied on behalf of the City to the Municipal Planning Commission for, and was granted, a subdivision of Lot 127 into parts A

and B (said approval attached hereto) in an apparent attempt to allow the owners of Lot 128 to purchase Lot 127-A, the subdivided portion of land on which their driveway is situated; and

WHEREAS, no deed or other written instrument regarding conveyance or ownership of Lot 127-A was recorded with the Clerk of the City of Charleston, or the Clerk of Kanawha County, and there are no available or still existing records concerning the possible conveyance of Lot 127-A to the Morris family or any subsequent owners after the approval of the subdivision; and

WHEREAS, in June, 2007, an appraisal of Lot 127-A was performed by an independent and licensed appraiser, and the fair market value of Lot 127-A is six hundred dollars (\$600.00); and

WHEREAS, the appraisal also indicates that the parcel is "probably not buildable and its highest and best use is to be part of an adjacent property"; and

WHEREAS, the current owner of Lot 128, Kim Pittman, has expressed a desire to purchase Lot 127-A in order to gain right, title and interest to the land on which her driveway is situated; and

WHEREAS, based on the history and circumstances surrounding Lot 127, both before and after its subdivision, it is unclear whether the City has any potential liability or maintenance responsibility with regard to the driveway situated on Lot 127-A; and

WHEREAS, the City is authorized and empowered by West Virginia Code § 8-12-18 to sell any of its real or personal property or any interest therein or any part thereof for a fair and adequate consideration and, in this case, any requirements of notice or public auction for said property do not apply because the fair market value of the property is less than one thousand dollars; and

WHEREAS, in an attempt to finally correct problems related to the development and conveyance of Lot 127, which have resulted in substantial hardship to the owners of Lot 128 and have created unwanted potential liability and responsibility for the City, any interest the City may have in Lot 127-A should be quitclaimed to the current owner of adjoining Lot 128 in exchange for payment of the fair market value of that property;

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

That, consistent with the findings herein and West Virginia Code § 8-12-18, the Mayor is hereby authorized and directed to execute a quitclaim deed to Kim Pittman, the current owner of adjoining Lot 128, conveying all of the right, title and interest of the City in and to the parcel of real estate situated in the City of Charleston, Kanawha County, West Virginia, comprising 4,912.00 square feet, more or less, being Lot 127-A, Block "P," Vandalia Addition, Charleston South Annex District, as more fully described and set forth in the attachment hereto, in exchange for the appraised sum of six hundred dollars (\$600.00).

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

YEAS: Burton, Clowser, Davis, Deitzler, Ealy, Hall, Harris, Harrison, Higgins, Jones, Kirk, Knauff, Lane, Lanham, Miller, Payne, Reed, Reishman, Russell, Salisbury, Sheets, Smith, Talkington, Ware, Weintraub, Mayor Jones.

ABSENT:Hanna, White

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7307 passed

3. Your Committee on Finance has had under consideration Resolution No. 301-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 301-07: “Authorizing the Mayor or City Manager to enter into an Agreement with Chase Equipment Leasing, Inc., in the amount of approximately \$364,500 for a three-year lease/purchase period at a rate of 3.46%, and approximately \$1,963,500 for a five-year lease/purchase period at a rate of 3.31%, 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 or City Manager is hereby authorized and directed to enter into an Agreement with Chase Equipment, Inc., in the amount of approximately \$364,500 for a three-year lease/purchase period at a rate of 3.46%, and approximately \$1,963,500 for

a five-year lease/purchase period at a rate of 3.31%, 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. 301-07, adopted

4. Your Committee on Finance has had under consideration Resolution No. 302-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 302-07: “Authorizing the Mayor to enter into an Agreement with CY Young Industries, Inc., in the total amount of \$158,106.24, for Renovation of Lower Level Seating in the Coliseum of the Charleston Civic Center (\$135,905.88, seating only), plus the option to add cup holders to the seats at a cost of \$22,200.36. The entire project amount has been approved by the Civic Center Board.”

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 CY

Young Industries, Inc., in the total amount of \$158,106.24, for Renovation of Lower Level Seating in the Coliseum of the Charleston Civic Center (\$135,905.88, seating only), plus the option to add cup holders to the seats at a cost of \$22,200.36. The entire project amount has been approved by the Civic Center Board.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 302-07, adopted

### **REPORTS OF OFFICERS**

1. Report of the City of Charleston, Municipal Court Financial Statements; October 2007.

Received and Filed.

2. City Treasurer's Report to City Council Month Ending October 2007;

Received and Filed.

3. Report of the City of Charleston Financial Statements for the Four - Month Period Ended October 31, 2007.

Received and Filed.

### **NEW BILLS**

1. Introduced by Councilmember Adam Henry Knauff, on November 19, 2007

Bill 7309- to establish a No Parking Anytime Tow-Away zone on the Northerly side of Woodland Drive from Bellevue Drive to a point 150 feet east of Bellevue Drive and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Law, Section 263, Division 2, Article 4, Chapter 114, to conform therewith.

Refer to Streets and Traffic

2. Introduced by Councilmember John Miller, on November 19, 2007

Bill 7310 -An Ordinance to amend Chapter 114, Section 114-236 relating to streets in which there shall be no turn on red after a sign is erected at such intersection giving notice thereof; and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Law, Section 263, Division 2, Article 4, Chapter 114, to conform therewith.

Refer to Streets and Traffic

## ROLL CALL

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

YEAS: Burton, Clowser, Davis, Deitzler, Ealy, Hall, Harris, Harrison, Higgins, Jones, Kirk, Knauff, Lane, Lanham, Miller, Payne, Reed, Reishman, Russell, Salisbury, Sheets, Smith, Talkington, Ware, Weintraub, Mayor Jones.

ABSENT:Hanna, White

At 8:15 p.m., on motion of Councilmember Harrison, Council adjourned until Monday, December 3, 2007, at 7:00 p.m.

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Danny Jones, Honorable Mayor

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James M. Reishman, City Clerk