

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

**DECEMBER 17, 2007**

**THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE SECOND MEETING IN THE MONTH OF DECEMBER ON THE 17TH DAY, IN THE YEAR 2007, 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 WHITE.**

**BURTON  
DEITZLER  
HANNA  
HIGGINS  
KNAUFF  
MILLER  
REISHMAN  
SHEETS  
WARE  
MAYOR JONES**

**CLOUSER  
EALY  
HARRIS  
JONES  
LANE  
PAYNE  
RUSSELL  
SMITH**

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

**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. Russ Young- "Capitol, Capital"
2. David Ramsey- Home Rule

3. Joan Phillips MD – Home Rule
4. David Mcwatters – Home Rule
5. Dan Laughtner – Home Rule
6. Pat White – Home Rule

### **CLAIMS**

1. A claim of Robert S. Greathouse., 1511 Quarrier St, Charleston, WV; alleges damage to property.  
Refer to City Solicitor

### **PUBLIC HEARING**

1. Bill No.7313: A BILL authorizing the submission of a proposed City of Charleston Municipal Home Rule Plan, attached as an Exhibit hereto, to the Municipal Home Rule Board consistent with W. Va. Code § 8-1-5a, in order to be considered for participation in the West Virginia Home Rule Pilot Program.

**PREAMBLE.** The following proposed Municipal Home Rule Plan lists additional powers for the City of Charleston (the “City”) which will, if approved, enhance and improve the ability of the City to meet its present and future obligations. Provided the City is granted these additional powers, it will have the opportunity to improve its management, provision of services and the quality of life of its citizenry, and will further promote growth and prestige of our state.

**THE PLAN.** Pursuant to W. Va. Code § 5a, Article 1, Chapter 8, the City hereby proposes the following Municipal Home Rule plan:

1. **Delinquent Fees.** (Administrative) Presently, the City’s only remedy for collecting delinquent fees under West Virginia Code § 8-13-13 and § 8-13-15 is instituting a civil action in a court of competent jurisdiction. Currently, West Virginia Code § 8-13-13 precludes municipalities from attaching a lien on property as security for unpaid fees. This results in expensive proceedings in either Magistrate or Circuit Court, often to collect amounts which do not justify the filing fees involved. It is proposed that the City be given the power and authority to hold and conduct hearings at the City level in a manner similar to the authority which a municipality presently has to collect delinquent business and occupation taxes. The affected person or business would be entitled to appeal the decision by the municipality to Circuit Court. Once the decision by the City becomes final, the City would be

authorized to file and record a lien against the judgment debtor with the county clerk.

In addition, W.Va. Code § 11-10-5d and case law interpreting this section currently prohibit the disclosure of any information received by the City Collector in connection with B&O taxes and arguably city service fees. Consistent with Kanawha County's long-standing practice of publishing delinquent real and personal property tax information, the City would like to be able to publish, in the medium of its choice, very limited information, specifically name, tax year(s) and amount(s) owed, for persons or businesses with delinquent B&O taxes or city service fees. The County's publication assists in the collection of its delinquent taxes, and the City would like to employ the same tool to assist in its collection efforts.

The City currently has in excess of \$2 million in delinquent fees. The City estimates that, if it is permitted to implement the collection procedures outlined above, its collections of such fees would increase by approximately thirty to thirty-five percent, thereby generating approximately \$600,000 to \$700,000 in additional revenue. See, Fiscal Impact Worksheet attached hereto as Exhibit A.

2. Deer Problem. (Administrative) Presently, municipalities are authorized to use urban bow hunting programs in an attempt to control the presence of deer within city limits. However, that program is limited both in time of the season and number of deer that can be harvested without reducing a hunter's statewide "bag limit." See, CSR § 58-45-3.3. It is proposed that the City be given the power and authority to conduct an urban bow hunting program without regard to time limitations and with no limit unless imposed by the City on the number of deer that can be harvested without reducing a hunter's "bag limit."

3. "Eyesores" and Dilapidated Structures. (Administrative) Current state law, W.Va. Code § 8-12-16, only allows municipalities to "adopt ordinances regulating the repair, alteration, or the vacating and closing or removal or demolition . . . of any dwellings or other buildings unfit for human habitation due to dilapidation, defects increasing the hazard of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities or any other conditions . . . which would cause such dwellings or other buildings to be unsafe, unsanitary, dangerous or detrimental to the public safety or welfare." This does not allow municipalities to address problems with property maintenance that detract from the neighborhood or constitute eyesores but do not yet constitute a threat to public safety. Additionally, West Virginia Code § 8-12-16 limits the lien amounts municipalities may assess for repairing or demolishing a structure to the assessed value of the property.

Further, the City, through City Code §102-52, delegates the duty to maintain sidewalks to abutting property

owners and establishes a process by which the City may, after proper notice to the property owner, repair sidewalks that are out of good order and assess the abutting property owner with the cost of the repairs and, if necessary, place a lien on the property to secure re-payment of the repair costs. However, there is no clear authority under West Virginia law for the City's ability to attach a lien to the property absent obtaining court judgment, and it is possible that W. Va. Code § 8-13-13 may prohibit the City from attaching a lien for sidewalk repairs.

Thus, it is proposed that the City be given the power and authority, after due notice to the owner or owners of property which is not being properly maintained, to enter the property and to repair, alter or demolish the property, and/or to mow unkempt grass to ensure that the property does not detract from the neighborhood and deteriorate further. The cost of that rehabilitation would constitute a lien against the property without the necessity of obtaining a court order. Additionally, the City proposes that it be permitted, if necessary, to attach a lien without first obtaining a court order in those situations in which the City has repaired a sidewalk after following the notice and steps outlined in City Code § 102-52.

4. Procurement of Architect-Engineering Services. (Administrative) Present state law regarding the City's procurement of design contractors requires the selection process be conducted in two parts: (1) a committee must select the top three most highly qualified firms and (2) negotiate price for the contract. W.Va. Code § 5G-1-3. If negotiations with the most qualified firm do not result in a satisfactory contract, then the committee moves to the second most qualified firm and negotiations begin again with the new firm. In order to streamline the process and allow the City to select the "best value" for all projects, the City, under Home Rule, proposes to instead follow a selection process similar to federal Housing and Urban Development regulations under 24 CFR 85.36(d)(3). This selection process would permit the City to issue a Request for Proposal and then select the proposal that provides the best value by taking into consideration the price, qualifications and all other factors material to the project.

5. B&O taxing authority. (Taxing) Presently, the City is limited by W.Va. Code § 8-13-5 and related laws in tax classifications, exemptions and maximum rates related to the City's imposition of B&O taxes. The current maximum rates were set by the state in 1959 and no longer reflect current economic conditions. Similarly, the current mandatory classifications and exemptions under state law were adopted and modified by the state between approximately 1921 and 1987, are antiquated, and restrict the City's ability to generate necessary financial resources

in a manner that is consistent with current economic conditions. The City proposes that it be permitted the flexibility to determine rates, classifications and exemptions with regard to its B&O tax structure so long as those determinations are consistent with local needs and reasonable economic policies; except that no B&O Tax will be imposed on any insurance company, or any non-profit company or other charitable, religious or fraternal organization which is currently exempt under WV Code 11-13-3 or 11-24-5(b) or under 110 CSR series 16 Sec 3.

6. Building and Zoning Administration Enforcement Provisions. (Administrative) Presently, there is no clear authority under state law that would permit building and zoning administrators or City law enforcement officers to issue “on the spot” citations for external sanitation violations or common nuisances. Additionally, W.Va. Code § 8-12-16 mandates certain procedural and notice requirements including a requirement that, “[a]ll orders issued by the enforcement agency shall be served in accordance with the law of this state concerning the service of process in civil actions” and a requirement that such orders “be posted in a conspicuous place on the premises affected by the complaint or order . . . .” Further, W.Va. Code § 8-12-16(d) currently mandates that “no ordinance shall be adopted without providing therein for the right to apply to the circuit court for a temporary injunction restraining the enforcement agency pending final disposition of the cause.” Currently, building and zoning administrators issue citations only after application to and approval by the Municipal Court. The process of successfully prosecuting a building or zoning violation may take a month or more, and fosters recidivism from violators who will correct violations to get a case dismissed, then re-offend, knowing the prosecution clock will start anew. It is proposed that building and zoning administrators and/or City law enforcement officers be given power to issue citations for reoccurring exterior sanitation/common nuisance violations (including, but not limited to, trash/rubbish, overgrown weeds/grass, junked or otherwise unlawfully situated motor vehicles, maintenance of vacant structures, broken windows or glass, failure to maintain sidewalks and driveways) at the site of the violation and at the time the violation is recognized, similar to the manner in which traffic citations are issued.

7. Relief from Division of Natural Resources (“DNR”) “per project” permitting. (Administrative) Under current law and Department of Natural Resources regulations, Charleston is required to obtain a permit to clean and dredge perennial and intermittent streams within City limits for every individual project undertaken by the

City. This requirement is duplicative of federal Clean Water Act requirements. Section 404 of the Act requires a separate permit to dredge or fill material in surface waters; such permit programs are administered by the United States Army Corps of Engineers and the United States Army Corps of Engineers exercises primary jurisdiction over the control of such waterways. 33 U.S.C. §§ 1251 et seq. As such, obtaining State approval for the same dredging or filling activity can delay the project, leaving City residents who live along City waterways without timely relief. This proposal allows the City to obtain approval for dredge and fill activities in surface waters within City limits only from the United States Army Corps of Engineers in order to provide timely relief from unsightly or dangerous conditions within the City.

8. Relief from “per load” Department of Environmental Protection (“DEP”) Testing Costs and Permitting. (Administrative) Under current state law and DEP regulations, the City pays for DEP testing of, and is required to obtain solid waste permits for loads of material (including dirt) bound for landfills on a “per load” basis. As time-frames for granting permits and the number of permits needed throughout the year may vary, this causes problems from both a project planning and budgeting perspective. Commercial enterprises are allowed an annual permit with a tonnage limit, provided that the loads consistently contain the same material and are disposed of in the same facility. It is proposed that the City also be allowed annual permits for recurring loads of waste generated by similar activity. For example, loads of dirt from residential lot clean-up or grading would be covered under an annual permit, and disposing of such loads would not incur the delay of having to wait for individual permits. With respect to testing requirements, Home Rule cannot exempt operators of solid waste disposal facilities of their obligations under W. Va. Code § 22-15-1 et seq. and associated federal and state laws to insure that unsuitable waste types are not being put in their facilities. The City proposes that it be allowed to contract with a private DEP certified laboratory for a flat yearly fee to complete and certify the testing of each load to the standards of the DEP. Copies of the test results would be kept on file, and provided to the solid waste facility operator and the DEP upon request. Any load in which testing indicated a variance from the waste allowed under the annual permit would then be submitted for an individual permit. This would allow the facility to maintain its environmental standards, while allowing the City to more accurately budget for testing costs, and schedule projects without the variable of waiting for individual permits for every load.

9. Disposition of City Property. (Administrative) Under § 8-12-18 of the W.Va. Code, the City must convey or lease for fair market value, buildings or land to non-profit organizations providing services that

benefit the citizens of the City. Such sale may create a financial burden for the non-profit, and by leasing such property to these organizations, the City retains liability inherent therein. It is proposed that the City be allowed to lease or convey (without auction) for less than fair market value buildings and land to non-profit organizations who are providing services to the public, that, in their absence, the City itself might have to finance or administer; provided that a test similar to that imposed by W.Va. Code § 1-5-3 is met and that ownership of the land or building would revert to the City in the event the non-profit ceased to provide such services to the public consistent with § 8-32-1.

Additionally, W.Va. Code § 8-12-18(b) mandates that municipalities hold public auctions for the sale of all real and personal property worth in excess of one thousand dollars (\$1,000.00) and announce such auction in a Class II legal advertisement. When the primary purpose is to facilitate economic development within the City and/or the availability of necessary or convenient resources for the benefit of its citizenry, the City proposes that it be permitted to convey real and/or personal property with a value in excess of one thousand dollars (\$1,000.00) for fair market value without having to follow the auction procedures outlined in W.Va. Code § 8-12-18(b). This would avoid costly and time consuming auction procedures and the possibility that the City would be precluded from conveying property for the desired use in a situation where the primary goal is to facilitate economic growth and/or to make available necessary and convenient resources for the benefit of Charleston and its residents.

10. Relief from Municipal Juror Number Requirements. (Administrative) Under W.Va. Code § 8-10-2 the Municipal Court is required to seat twelve jurors for every jury trial in Municipal Court. All other rules governing jury trials in Municipal Court are the same as those established under the Rules of Criminal Procedure for the administration of Magistrate Court. It is proposed that the City be permitted to reduce the number of jurors to the same number as would be seated for jury trials under rules governing Magistrate Courts; *i.e.*, six jurors.

The City estimates that this would result in increased efficiency, consistency of court rules and practices amongst courts in the State of West Virginia and a financial cost savings of approximately \$2,700.00 per year. See, Fiscal Impact Worksheet attached hereto as Exhibit B.

11. Relief from Design-Build Procurement Act requirements. (Administrative) The City finds that the requirements of the Design-Build Procurement Act, W.Va. Code § 5-22A et seq., are unduly burdensome to the development and completion of City projects. The City finds that the process for design-build projects: Design-Build Board approval of the project, invitation for qualifications, identification of the three most qualified design-

builders, the invitation for proposals, review of the technical submission and the cost submission, and final acceptance; may delay projects, and that the process may not produce the desired result of the best combination of design-builder and cost. In order to streamline the process and allow the City to select the “best value” proposal, it is proposed that these projects be awarded through an RFP process, consistent with federal guidelines published in 24 CFR 85.36(d)(3)(iv) which reads, “Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered.”

12. Allow contracts with other jurisdictions via Resolution. (Administrative) Under W.Va. Code § 8-11-3(10), the City cannot enter into a contractual or other agreement with another jurisdiction until Council approves the transaction by ordinance. Currently, due to state law requirements regarding the passage of an ordinance, *See* W. Va. Code § 8-11-4, it takes approximately one month for Council to approve a contract or other agreement with another jurisdiction. In order to promote and facilitate cooperation between jurisdictions and to expedite the process of entering into a contract or other agreement with another governmental entity, the City proposes that it be allowed to approve these contracts or other agreements by resolution in the same manner as it does with similar agreements with non-governmental entities.

13. Municipal Healthcare Provider Tax. (Taxing) Currently, state law provides for state imposition of a health care provider tax consistent with W.Va. Code Section 11-27-1 et seq. The City requests that it be permitted to adopt and collect a similar health care provider tax on providers of inpatient hospital services, or on providers of out-patient hospital services, or on providers of both services, at a rate of tax not to exceed that permitted under federal law and to transfer all or a portion thereof to the state to be used as the non-federal share of enhanced Medicaid reimbursement rates to City of Charleston Hospitals, thereby ensuring economy, efficiency and quality of care within the City.

Contingent upon the Bureau of Medical Services obtaining a State Plan Amendment (SPA), the City of Charleston requests, through Home Rule, that it be permitted to establish a hospital provider tax for the purpose of increasing the amount of Medicaid matching funds available to Charleston Hospitals. The tax would be made contingent upon Centers of Medicare and Medicaid Services (CMS) approval of the enhanced reimbursement. Once collected, the City would transfer all the proceeds of the tax to the Bureau for Medical Services (BMS) within the Department of Health and Human Resources, the state’s Medicaid agency. BMS would then use the tax funds as the non-federal share of enhanced reimbursement to Charleston hospitals.

**EXHIBIT A – FISCAL IMPACT WORKSHEET FOR PROPOSAL ITEM NO. 1**

Estimate of increased revenues:

Current outstanding delinquent fees = in excess of \$2 million

Estimated increased collection rate = 30-35%

**Total increased revenues = \$600,000 to \$700,000**

**EXHIBIT B - FISCAL IMPACT  
WORKSHEET FOR PROPOSAL ITEM NO. 10**

Cost of juror in Municipal Court per day = \$15.00

Cost of 12 person jury in Municipal Court day = \$180.00

Estimated Number of Jury Trials in Municipal Court Per Year = 30 (total number granted as of November 13, 2007 = 29)

Total cost of 12 person juries per year =  $180 \times 30 = \$5,400.00$

Total cost of 6 person juries per year =  $90 \times 30 = \$2,700.00$

**Total Cost Savings Per Year = \$2,700.00**

**COMMUNICATIONS**

*December 6, 2007*

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

*Dear Mayor Jones and Councilmember's:*

*On December 5, 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.*

*Resolution No. 303-07*

*Application of Doublet Enterprises, LLC. requesting an easement for use of air rights over Dickinson Street to construct and connect a skyway for pedestrian foot traffic between*

*the building owned by Doublet Enterprises on the west side of Dickinson Street and the City's Parking Garage No. 1 located on the east side of Dickinson Street in the City of Charleston.*

*Bill # 7311*

*Petition of Carl D. Andrews on behalf of Ed Street Company, contract purchaser of adjacent properties, to close, abandon and discontinue as public rights-of-way a 0.27 acre parcel situate south of Washington Street, West Lee Street, West and north of the Norfolk and Southern Railroad right-of-way, commonly known as Walton Street, Wesley Street, Atkins Court, McLanes Alley, and an unnamed seven (7) foot wide ally.*

*Sincerely,  
Municipal Planning Commission*

*Phyllis White, Administrative Assistant*

The Mayor referred to *the Planning Committee of Council.*

2. Mayor Jones presented Certificates of Appreciation to Firefighters Lt. Mark Strickland, Marshall Henthorne, Jeffrey Showalter and Charleston Police Officer Corporal Nick Null for their outstanding show of courage and bravery, diving into the Kanawha River after a tractor trailer went over the bridge into the river, on December 10, 2007.

## **ORDINANCE AND RULES**

Councilman Jack Harrison, Chairman of the Council Committee on Ordinance and Rules, submitted the following reports.

1. Your Committee on Ordinance and Rules has had under consideration Bill No. 7308 and reports the same to Council with the recommendation that the bill do pass.

Bill No. 7308: A BILL to amend § 2-551(a) of Article VII of Chapter 2 of the code of the City of Charleston, to create an additional civic Center - Auditorium Board seat.

The question being on the passage of the Bill, a roll call was taken and there were; were; yeas-27 absent - 1 as follows:

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

ABSENT: Weintraub

2. Your Committee on Ordinance and Rules has had under consideration Bill No. 7309

and reports the same to Council with the recommendation that the bill do pass

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.

The question being on the passage of the Bill, a roll call was taken and there were; were; yeas-27 absent - 1 as follows:

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

ABSENT: Weintraub

### ***Municipal Home Rule***

Councilman David Higgins, Chairman of the Council Committee on Municipal Home Rule, submitted the following reports.

1. Your Committee on Municipal Home Rule has had under consideration Bill No. 7313 and reports the same to Council with the recommendation that the bill do pass

BILL 7313 authorizing the submission of a proposed City of Charleston Municipal Home Rule Plan, attached as an Exhibit hereto, to the Municipal Home Rule Board consistent with W. Va. Code § 8-1-5a, in order to be considered for participation in the West Virginia Home Rule Pilot Program.

The question being on the passage of the Bill, a roll call was taken and there were; were; yeas-27 absent - 1 as follows:

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

ABSENT: Weintraub

### ***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. 7264 and reports the same to Council with the recommendation that the bill do pass.

Bill No. 7264 repealing the floodplain and stormwater management provisions from Article 24 of the Zoning Ordinance of the City of Charleston, West Virginia, adopted

November 21, 2005, as amended, and adding the floodplain management provisions to Chapter 91, Article II of the Code of the City of Charleston, West Virginia, adopted 7, 2003 as amended.

The question being on the passage of the Bill, a roll call was taken and there were; were; yeas-27 absent - 1 as follows:

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

ABSENT: Weintraub

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7264 passed

2. Your Committee on Planning has had under consideration of Bill No. 7295 and reports the same to Council with the recommendation that the bill do pass.

Bill No. 7295 – A bill to amend the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 1st day of January 2006, as amended and the map made a part thereof, by establishing R-O Residential - Office Zoning District for parcels within the Gettysburg Subdivision known as parcels 30.1, Washington Tax District Map 30 and adjacent roads and rights of way within the subdivision.

The question being on the passage of the Bill, a roll call was taken and there were; were; yeas-27 absent - 1 as follows:

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

ABSENT: Weintraub

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7295 passed

3. Your Committee on Planning has had under consideration of Bill No. 7296 and reports the same to Council with the recommendation that the bill do fail.

Bill No. 7296 – A Bill to amend the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 1st day of January, 2006, as amended and the map made a part thereof, by rezoning from R-6 Medium Density Residential District to C-10 General Commercial District that parcel of land known as a portion of North Charleston Tax Map 60, Parcel 4.1 . Said tax map is of record in the City of Charleston Planning Office

The question being on the passage of the Bill, a roll call was taken and there were; were; nays-27 absent - 1 as follows:

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

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

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7296 failed.

4. Your Committee on Planning has had under consideration of Bill No. 7297 and reports the same to Council with the recommendation that the bill do pass.

Bill No. 7297 – A Bill to amend the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 1st day of January, 2006, as amended and the map made a part thereof, by rezoning from R-8 High Density Residential District to C-8 Village Commercial District that parcel of land known as West Charleston Tax Map 20, Parcels 253 and 254. Map is of record in the City Planning Department.

The question being on the passage of the Bill, a roll call was taken and there were; were; yeas-27 absent - 1 as follows:

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

ABSENT: Weintraub

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7297 passed

5. Your Committee on Planning has had under consideration of Bill No. 7298 and reports the same to Council with the recommendation that the bill do pass.

BILL to amend § 2-020, § 22-010, § 22-040, § 22-050, § 22-060, and § 22-070-03, and Tables 22-070-04.01 and 22-080.01, and to enact § 22-101, § 22 -102, and § 22-103 of The Zoning Ordinance for the City of Charleston.

The question being on the passage of the Bill, a roll call was taken and there were; were; yeas-27 absent - 1 as follows:

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

ABSENT: Weintraub

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7298 passed

5. Your Committee on Planning has had under consideration of Bill No. 7299 and reports the same to Council with the recommendation that the bill do pass.

Bill No. 7299 amending the Zoning Ordinance of the City of Charleston, West Virginia,

enacted the 1st day of January, 2006, as amended and the map made a part thereof, by rezoning from C-4 Neighborhood Commercial District to C-10 General Commercial District a portion of that certain parcel of land situate at 1601 Kanawha Boulevard, West, Charleston, West Virginia, and more specifically located at Parcel 130 on Map 23 of the Charleston West Tax Assessment Map.

The question being on the passage of the Bill, a roll call was taken and there were; were; yeas-27 absent - 1 as follows:

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

ABSENT: Weintraub

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7299 passed

6. Your Committee on Planning has had under consideration Street Naming of Fossil Creek Lane, and reports the same to Council with the recommendation that the Street Naming be accepted.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Fossil Creek Lane, as a Street Naming, approved.

7. Your Committee on Planning has had under consideration Street Renaming from Kent Street to Kent Hall Street, and reports the same to Council with the recommendation that the Street Naming be accepted.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Kent Hall Street , as a Street Renaming, 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. 7310 and reports the same to Council with the recommendation that the bill do pass.

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.

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

were; yeas-27 absent - 1 as follows:

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

ABSENT: Weintraub

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7310 passed

## **FINANCE**

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

1. Your Committee on Finance has had under consideration Resolution No. 311-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 311-07: "Authorizing the Finance Director to amend the 2007-2008 Parking System Budget as indicated on the attached list of accounts."

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

That the Finance Director is hereby authorized and directed to amend the 2007-2008 Parking System Budget as indicated on the attached list of accounts; and be it

FURTHER RESOLVED, that this budgetary amendment is being made prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-27, absent - 1, as follows:

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

ABSENT: Weintraub

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 311-07, adopted.

2. Your Committee on Finance has had under consideration Resolution No. 312-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 312-07: "Authorizing the Finance Director to amend the

2007-2008 General Fund Budget as indicated on the attached list of accounts”

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

That the Finance Director is hereby authorized and directed to amend the 2007-2008 General Fund Budget as indicated on the attached list of accounts; and be it

FURTHER RESOLVED, that this budgetary amendment is being made prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-27, absent - 1, as follows:

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

ABSENT: Weintraub

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 312-07, adopted.

3. Your Committee on Finance has had under consideration Resolution No. 313-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 313-07 : “Authorizing the Finance Director to amend the 2007-2008 Civic Center Budget as indicated on the attached list of accounts.”

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

That the Finance Director is hereby authorized and directed to amend the 2007-2008 Civic Center Budget as indicated on the attached list of accounts; and be it

FURTHER RESOLVED, that this budgetary amendment is being made prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-27, absent - 1, as follows:

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

ABSENT: Weintraub

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 313-07, adopted

4. Your Committee on Finance has had under consideration Resolution No. 314-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 314-07: "Authorizing the Mayor to enter into an Agreement with Simplex Grinnell, in the amount of \$184,400, for a 24-hour video surveillance Security System for the Charleston Civic Center. The System will provide 37 cameras, monitoring equipment and software with trace and track capability, and will be operational inside and outside the facility."

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 Simplex Grinnell, in the amount of \$184,400, for a 24-hour video surveillance Security System for the Charleston Civic Center. The System will provide 37 cameras, monitoring equipment and software with trace and track capability, and will be operational inside and outside the facility.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 314-07, adopted

5. Your Committee on Finance has had under consideration Resolution No. 315-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 315-07: "Approving settlement of pending litigation, captioned *Regina Wilson v. City of Charleston*, Civil Action No. 06-C-1291, Circuit Court of Kanawha County W.Va., Judge Tod Kaufman, in the amount of \$25,000.00, and further authorizing the Mayor to execute any documents necessary to consummate the full settlement and dismissal of the pending civil action in exchange for a full release by Plaintiffs of all claims stemming from a July 5, 2004 accident."

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

That the City Council for the City of Charleston hereby approves settlement of pending litigation, captioned *Regina Wilson v. City of Charleston*, Civil Action No. 06-C-1291, Circuit Court of Kanawha County W.Va., Judge Tod Kaufman, in the amount of \$25,000.00, and further authorizes the Mayor to execute any documents necessary to consummate the full settlement and dismissal of the pending civil action in exchange for a full release by Plaintiffs of all claims stemming from a July 5, 2004 accident."

With a majority of members elected recorded thereon as voting in the affirmative the

Mayor declared Resolution No. 315-07, adopted

6. Your Committee on Finance has had under consideration Resolution No. 316-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 316-07: "Authorizing the Finance Director to establish a new fund to be known as Fund 085—Homeland Security Assistance to Firefighters Grant, to administer and account for federal grant funds in the amount of \$313,107 and City matching funds in the amount of \$78,276, for a total of \$391,383."

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

That the Finance Director is hereby authorized and directed to establish a new fund to be known as Fund 085—Homeland Security Assistance to Firefighters Grant, to administer and account for federal grant funds in the amount of \$313,107 and City matching funds in the amount of \$78,276, for a total of \$391,383.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 316-07, adopted

7. Your Committee on Finance has had under consideration: proposal submitted by General Truck Sales Corporation, in the total amount of \$113,277, for purchase of the following five (5) vehicles for the Street and Public Grounds departments:

1 Van	\$25,470	Street Department
1 Welding Truck	\$23,307	Street Department
3 Pickup Trucks @ \$21,500 each	\$64,500	Public Grounds

To be charged to the following accounts:

\$48,777 Account No. 001-977-00-750-4-459, Street—Capital Outlay, Lease Purchase

\$64,500 Account No. 001-975-00-567-4-459, Public Grounds—Capital Outlay, Lease Purchase and reports the same to Council with the recommendation that the committee report be adopted.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the committee report, adopted.

8. Your Committee on Finance has had under consideration: bid submitted by Hughes Supply Company, in the total amount of \$287,317.00, for purchase of 100 Portable Radios (\$186,900.00) and 46 Mobile Radios (\$99,981.00), plus four 6-Bank Radio Chargers \$436.00) to be used by the Charleston Fire Department.

To be charged to the following accounts:

\$229,853.60 085-976-00-000-4-459, Homeland Security Assistance to

## Firefighters Grant—Capital Outlay, Equipment

\$ 57,463.40      001-976-00-706-4-459, Fire —Capital Outlay, Equipment and reports the same to Council with the recommendation that the committee report be adopted

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the committee report, adopted.

9. Your Committee on Finance has had under consideration: proposal submitted by Stephens Auto Center, in the total amount of \$339,105.00, for purchase of 12 2008 Ford Crown Victoria Police Cruisers (\$275,436.00) and three 2008 Dodge Durango SUVs (\$63,669) to be used by the Charleston Police Department.

To be charged to Account No. 001-976-00-700-4-459, Police—Capital Outlay, Lease Purchase and reports the same to Council with the recommendation that the committee report be adopted.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the committee report, adopted.

## ***REPORTS OF OFFICERS***

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

Received and Filed.

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

Received and Filed.

3. Report of the City of Charleston Financial Statements for the Five - Month Period Ended November 30, 2007.

Received and Filed.

## **NEW BILLS**

1. Introduced by Councilmember Mike Clowser, on December 17 ,2007 Bill 7314 to establish a Stop intersection on Graff Lane at the intersection of Graff Lane and Quarry Ridge South 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 Robert Sheets, on December 17 ,2007  
A Bill to establish a Metered Vehicular Parking Zone for the exclusive use  
twenty four hours a day, of the physically disabled on the southerly side of  
Kanawha Boulevard from a point 44 feet east of Hale Street to a point 66  
feet east of Hale 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  
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, Hanna, Harris, Harrison, Higgins,  
Jones, Kirk, Knauff, Lane, Lanham, Miller, Payne, Reed, Reishman, Russell, Salisbury,  
Sheets, Smith, Talkington, Ware, White, Mayor Jones.

ABSENT: Weintraub

At 8:20 p.m., on motion of Councilmember Harrison, Council adjourned until Monday,  
January 7, 2007, at 7:00 p.m.

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Danny Jones, Honorable Mayor

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James M. Reishman, City Clerk