

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

**June 4, 2007**

**THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE FIRST MEETING IN THE MONTH OF JUNE ON THE 4<sup>th</sup> 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 WARE.**

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

**CLOWSER  
HARRIS  
JONES  
LOEB  
MONROE  
REED  
WEINTRAUB**

**DAVIS  
HALL  
HARRISON  
LANE  
MORTON  
MARKHAM  
REISHMAN  
TALKINGTON  
WHITE**

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

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

**PUBLIC SPEAKERS**

NONE

**CLAIMS**

1. A claim of Lori Patton, 1158 Robinson Run, Walton, WV; alleges personal injury. Refer to City Solicitor.

2. A claim of Bonita E. McClung, 1532 Tennis Club Rd., Charleston, WV; alleges damage to property. Refer to City Solicitor.

3. A claim of Donald Houchins, 721 N. Hills Dr., Charleston, WV; alleges personal injury. Refer to City Solicitor.

**MISCELLANEOUS RESOLUTIONS**

Resolution No. 234-07:

Introduced in Council:

Adopted by Council:

June 4, 2007

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Introduced by:

Referred to:

Charlie Loeb

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Resolution No. 234-07: "Authorizing the non-recognition of Saturday, August 11, 2007, the date of a special election authorized and scheduled by the Kanawha County Commission, a political subdivision other than the City of Charleston, as a City Holiday."

WHEREAS, the Charleston City Council previously passed Bill No. 7144, Committee Substitute, amending §86-161, §54-105, and §66-64 of the code of the City of Charleston, 2003, as amended, which provides that if a special or other election of a political subdivision other than the City of Charleston falls on a Saturday or Sunday, the City of Charleston may choose not to recognize the day of the election as a holiday if a majority of the City of Charleston Council votes not to recognize the day of the election as a holiday; and

WHEREAS, on May 7, 2007, the Charleston City Council, by majority vote on Resolution 223-07, chose not to recognize as a City holiday Saturday, June 9, 2007, the date on which the Kanawha County Commission, a political subdivision other than the City of Charleston, authorized and scheduled a special election to be held; and

WHEREAS, due to a County problem related to providing published notice of the date of the special election scheduled to be held on June 9, 2007, the date of the special election has been rescheduled by the Kanawha County Commission to be held on

August 11, 2007; now, therefore

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

That the City of Charleston City Council, by majority vote, chooses not to recognize as a City holiday Saturday, August 11, 2007, the date of a special election authorized and scheduled by the Kanawha County Commission, a political subdivision other than the City of Charleston.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 234-07, adopted.

Resolution No. 235-07

Introduced in Council

Adopted by Council

June 4, 2007

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Introduced by

Bobby Reishman

Resolution No. 235-07 – A Resolution to certify the of results as reflected by the attached Report and Certificate of Results as the official and correct returns and true results of the General Election held for the City of Charleston on the 15<sup>th</sup> day of May, two thousand and seven.

WHEREAS, a Select Committee for the Council of the City of Charleston was appointed by the adoption of Resolution No. 188-07 at the City Council meeting on the 19<sup>th</sup> day of March , 2007, to act as a Canvassing Board to canvass the votes cast for the General Election of the City of Charleston on the 15<sup>th</sup> day of May, two thousand and seven, and make a report to Council of the correct returns ascertained from an inspection of the ballots used in said election and a true count of the challenged ballots; and after completing their canvass;

WHEREAS, the said Select Committee completed its canvass of the General Election on May 21, 2007, at the Voters Registration office, and has submitted the Report and Certificate of Results, attached hereto, as the official and correct returns and true results of the Special Election.

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

"That the Council of the City of Charleston hereby adopts the Certificate of Results as reflected by the attached Report and Certificate of Results as the official and correct returns and true results of the General Election held for the City of Charleston on the 15<sup>th</sup> day of May, two thousand and seven."

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 235-07, adopted.

Resolution No. 236-07:

Introduced in Council:

Adopted by Council:

June 4, 2007

Introduced by:

\_\_\_\_\_  
Referred to:

Bobby Reishman\_\_\_\_\_

WHEREAS, the State Auditor for the State of West Virginia has posted the names of State employees together with their paid compensation on the internet; and

WHEREAS, the Kanawha County Commission has followed suit and has posted the names of Kanawha County employees together with their budgeted salaries and paid gross compensation on the internet; and

WHEREAS, there are those who have suggested that the City of Charleston should follow suit and post the names of their employees together with the salaries and wages that they earn on the internet; and

WHEREAS, the employees of the State and its political subdivision are public servants such that the public has an interest and right to know of the affairs of their government; and

WHEREAS, the employees of the City are its greatest asset, providing services and executing policy as determined by its constituents through elected representatives; and

WHEREAS, the City of Charleston compensates employees on the basis of position pay grades and sets pay ranges for those grades while budgeting at the top of the scale of these ranges so that management has the ability to motivate and reward good work within those parameters; and

WHEREAS, the internet is a powerful tool for disseminating information that can be used for legitimate as well as malicious intents to people who have a direct interest in the information provided, such as city taxpayers, as well as those whose interest is more prurient and less direct; and

WHEREAS, the City seeks to attract and retain qualified personnel and, to that end, endeavors to create a balanced work environment that respects the dignity of individual employees and the need to reward and encourage good work with the public's legitimate right to know of expenditures made on its behalf; and

WHEREAS, while the internet posting of actual compensation information helps to disseminate public information widely, it is by no means the only available means

through which this information is available to the citizens who desire to know the salaries of city employees; and

WHEREAS, information regarding particular employee compensation may be obtained by request through means other than wide dissemination on the Internet;

THEREFORE BE IT RESOLVED, that the City Council make known its will and desire that the Mayor and his administration not post the compensation of individual employees on the internet beyond identifying particular pay grades and the budgeted salary ranges of the various pay grades, but instead make such public salary information available upon request, as it has always been, through more traditional channels.

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

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

NAYS: Chestnut, Deitzler

ABSENT: Ealy, Sadd

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 236-07, adopted.

### ***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. 229-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 229-07: “Authorizing the Mayor to enter into an Agreement with McClanahan Construction Company, LLC, in the amount of \$178,851, for the Concrete Curb and Sidewalk Project.”

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 McClanahan Construction Company, LLC, in the amount of One Hundred Seventy-eight Thousand Eight Hundred Fifty-one Dollars (\$178,851) for the Concrete Curb and Sidewalk Project.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 229-07, adopted.

2. Your Committee on Finance has had under consideration Resolution No. 230-07,

and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 230-07: “Authorizing the Finance Director to amend the 2003, 2005 and 2006 Community Development Block Grant budgets as indicated on the attached list of accounts. This is contingent upon no adverse citizen comments being received during the 30-day comment period.”

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 2003, 2005 and 2006 Community Development Block Grant budgets as indicated on the attached list of accounts. This is contingent upon no adverse citizen comments being received during the 30-day comment period.

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

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

ABSENT: Ealy, Sadd

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 230-07, adopted.

3. Your Committee on Finance has had under consideration Resolution No. 231-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 231-07: “Authorizing the Finance Director to amend the 2006-2007 General Fund budget as indicated on the attached list of accounts.”

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

That the Finance Director is hereby authorized and directed to amend the 2006-2007 General Fund budget as indicated on the attached list of accounts; 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-26, absent – 2, as follows:

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

ABSENT: Ealy, Sadd

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 231-07, adopted.

4. Your Committee on Finance has had under consideration Resolution No. 232-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 232-07: “Authorizing approval of 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 2007-2008 Civic Center Budget, as indicated on the attached list of accounts, is hereby approved.

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

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

ABSENT: Ealy, Sadd

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 232-07, adopted.

5. Your Committee on Finance has had under consideration Resolution No. 233-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 233-07: “Authorizing the Mayor to enter into a Lease Agreement with Mythology, LLC, for 1600 square feet of space at 601 Morris Street for a base rental of \$1,560 per month from January 1, 2008 to June 30, 2012, and thereafter a base rental in the amount of \$1,638 per month from July 1, 2012 to June 30, 2017. In addition to the base rental, tenant shall pay a build-out rental of \$493.00 per month from January 1, 2008 to June 30, 2017 for a build-out allowance of \$40,000, which may be adjusted to reflect actual build-out cost, and shall pay monthly Utilities Escalation Adjustments beginning on July 1, 2009. The Agreement is for the period July 1, 2007 to June 30, 2017, with an option to extend the lease for two five-year extensions; the first five-year extension shall be at a monthly base rental of \$1,716 and the second five-year extension shall be at a base rental of \$1,872. Tenant shall also have the right of first refusal to lease additional space on the second floor of the 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 a Lease Agreement with Mythology, LLC, for 1600 square feet of space at 601 Morris Street for a base rental of

\$1,560 per month from January 1, 2008 to June 30, 2012, and thereafter a base rental in the amount of \$1,638 per month from July 1, 2012 to June 30, 2017. In addition to the base rental, tenant shall pay a build-out rental of \$493.00 per month from January 1, 2008 to June 30, 2017 for a build-out allowance of \$40,000, which may be adjusted to reflect actual build-out cost, and shall pay monthly Utilities Escalation Adjustments beginning on July 1, 2009. The Agreement is for the period July 1, 2007 to June 30, 2017, with an option to extend the lease for two five-year extensions; the first five-year extension shall be at a monthly base rental of \$1,716 and the second five-year extension shall be at a base rental of \$1,872. Tenant shall also have the right of first refusal to lease additional space on the second floor of the building.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 233-07, adopted.

6. Your Committee on Finance has had under consideration Bill No. 7263, and reports the same to Council with the recommendation that the bill do pass.

Bill No. 7263, as amended – A BILL to repeal §2-161(b) and §2-161(c) of the code of the City of Charleston, and to amend and reenact §2-161(b) of the code of the City of Charleston.

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

That §2-161(b) and §2-161(c) of the code of the City of Charleston, be repealed and that §2-161(b) of the code of the City of Charleston be amended and reenacted to read as follows:

(a) Officers and employees of the city shall receive as compensation for their services such salaries, wages and other emoluments as may be provided in the annual budget or other action, order, resolution or ordinance of the city council. Fees paid to the city officers and employees for documents or services rendered in the performance of official duty shall be paid over by them to the city and shall not be deemed to constitute compensation to them personally.

(b) Commencing with the third Monday in June 2007, the mayor of the city shall receive as compensation for his services the sum of \$100,000.00 per annum; the judge of the municipal court of the city shall receive the sum of \$35,000.00 per annum; the treasurer of the city shall receive the sum of \$18,000.00 per annum; and each member of the city council shall receive the sum of \$115.00 per meeting, with a maximum yearly compensation of \$3,450.00, with payments conditioned upon the councilmember's being present; and commencing with the third Monday in June 2011, each member of the city council shall receive the sum of \$200.00 per meeting, with a maximum yearly compensation of \$5,600, with payments conditioned upon the councilmember's being present.

This amendment shall become effective on June 18, 2007.

As of the effective date stated herein, all prior inconsistent ordinances, rules and resolutions are hereby repealed.

Loeb made an amendment to add the language:

“and commencing with the third Monday in June 2011, each member of the city council shall receive the sum of \$200.00 per meeting, with a maximum yearly compensation of \$5,600, with payments conditioned upon the councilmember’s being present.”

The question being on the passage of the amendment a roll call was taken and there were; yeas-24, nays -1, absent – 2, abstain – 1, as follows:

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

ABSENT: Ealy, Sadd

NAY: Markham

ABSTAIN: Mayor Jones

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

Weintraub made an amendment to strike the language:

“and commencing with the third Monday in June 2011, each member of the city council shall receive the sum of \$200.00 per meeting, with a maximum yearly compensation of \$5,600, with payments conditioned upon the councilmember’s being present.”

The question being on the passage of the amendment a roll call was taken and there were; yeas-8 nays -17, absent – 2, abstain-1,as follows:

YEAS: Davis, Hanna, Harrison, Jones, Nielsen, Ware, Weintraub, White,

NAY: Chestnut, Clowser, Deitzler, Hall, Harris, Higgins, Lane, Lanham, Loeb, Markham, Miller, Monroe, Morton, Reed, Reishman, Robertson, Talkington,

ABSENT: Ealy, Sadd

ABSTAIN: Mayor Jones

With a majority of members elected recorded thereon as voting in the negative the amendment failed.

The question being on the passage of the Bill as amended a roll call was taken and there were; yeas-23, absent – 2, Nay-2, abstain -1, as follows:

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

ABSENT: Ealy, Sadd

NAY: Chestnut, Nielsen

ABSTAIN: Mayor Jones

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 7263, as amended, passed.

## REPORTS OF OFFICERS

1. Report of the City of Charleston, Municipal Court Financial Statements; May 2007.  
Received and Filed.

### NEW BILLS

Introduced by Councilmember Mary Jean Davis, on June 4, 2007

Bill No. 7257 - amending the Zoning Ordinance for the City of Charleston, West Virginia, adopted November 21, 2005 in order to make corrective additions and deletions to the following sections: 2-020; 3-050, 3-060, 3-080, 3-090, 19-041-03,  
Refer to Municipal Planning Commission

Introduced by Councilmember Mary Jean Davis, on June 4, 2007

Bill No. 7262 - 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 rezoning the whole of that certain parcel of land situate at 117 Spring Street, Charleston, West Virginia from an I-2 Light Industrial District to C-10 General Commercial District  
Refer to Municipal Planning Commission

Introduced by Councilmember Marc Weintraub, on June 4, 2007

Bill No. 7265 – a bill approving certain modification of the Downtown/Old Charleston Urban Renewal Plan for the City of Charleston, West Virginia, with respect to Authorizing the Charleston Police Department to approve special permits for the selling of alcoholic beverages at special event held outdoors.  
Refer to Urban Renewal

Introduced by Councilmember's Bob White, Mary Jean Davis, Teresa Reed, Betty Morton, Jim Harris and Harry Deitzler, on June 4, 2007

Ordinance  
No. \_7266 - A Bill to repeal § 10-1, § 10-2, § 10-3, § 10-4, § 10-5, § 10-6, § 10-7, § 10-8, § 10-9, § 10-10, § 10-11, § 10-12, § 10-13, § 10-14, § 10-15, § 10-51, § 10-111, § 10-112, § 10-113, § 10-114, § 10-115, § 10-116, § 10-117, § 10-118, § 10-119, § 10-120, § 10-121, § 10-122, § 10-123, § 10-124, § 10-141, § 10-142, § 10-161, § 10-162, and § 10-163 of the City of Charleston Code, as amended; and to reenact § 10-1, § 10-2, § 10-3, § 10-4, § 10-5, § 10-6, § 10-7, § 10-8, § 10-9, § 10-10, § 10-11, § 10-12, § 10-13, § 10-14, § 10-15, § 10-51, § 10-111, § 10-112, § 10-113, § 10-114, § 10-115, § 10-116, § 10-117, § 10-118, § 10-119, § 10-120, § 10-121, § 10-141, § 10-142, § 10-161, § 10-162, and § 10-163 and to amend said code by adding thereto § 10-16, § 10-17, § 10-18, § 10-19, and § 10-20, all relating to regulation of animals, including, among other things, the licensure, care, and humane treatment of such animals within the City of Charleston.

Refer to Public Safety Committee

## ROLL CALL

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

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

ABSENT: Ealy, Sadd

At 8:30 p.m., on motion of Councilmember Loeb, Council adjourned until Monday, June 18, 2007, at 7:00 p.m.

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Danny Jones, Honorable Mayor

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James M. Reishman, City Clerk