

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

**June 16, 2008**

**THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE SECOND MEETING IN THE MONTH OF JUNE ON THE 16<sup>th</sup> DAY, IN THE YEAR 2008, AND WAS CALLED TO ORDER BY THE HONORABLE MAYOR, DANNY JONES. THE INVOCATION WAS DELIVERED BY HARRISON AND THE PLEDGE OF ALLEGIANCE WAS LED BY TALKINGTON.**

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

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

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

**TWENTY- EIGHT 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 Tyrone Thomas, 612 Hunt Avenue, Charleston, WV; alleges personal injury.

Refer to City Solicitor

2. A claim of Naomi Lamaster, 5507 Kanawha Ave. SE, Charleston, WV; alleges damage to property.

Refer to City Solicitor

3. A claim of Kayce Skeens, 1061 A. Aspen Road, Charleston, WV; alleges damage to vehicle.

Refer to City Solicitor

4. A claim of Sheri Lynn Simpson, 110 Westview Drive, Charleston, WV; alleges damage to property.

Refer to City Solicitor

**COMMUNICATIONS**

TO: JAMES REISHMAN  
CITY CLERK

FROM: DANNY JONES  
MAYOR

RE: REGIONAL INTERGOVERNMENTAL COUNCIL

DATE: JUNE 16, 2008

I recommend that Dennis Strawn, 1109 Park Avenue, Charleston, WV 25302, be reappointed to the Regional Intergovernmental Council with a said term to expire June 30, 2009.

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

Council approved the appointment.

TO: JAMES REISHMAN  
CITY CLERK

FROM: DANNY JONES

MAYOR

RE: MUNICIPAL PLANNING COMMISSION

DATE: JUNE 16, 2008

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I recommend that Gerald Workman, 515 Havana Drive, Charleston, WV 25311, be reappointed to the Municipal Planning Commission, with a said term to expire July 1, 2011.

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

Council approved the appointment.

TO: JAMES REISHMAN  
CITY CLERK

FROM: DANNY JONES  
MAYOR

RE: MUNICIPAL PLANNING COMMISSION

DATE: JUNE 16, 2008

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I recommend that Jody Connell, 242 Baker Lane, Charleston, WV 25302, be reappointed to the Municipal Planning Commission, with a said term to expire July 1, 2011.

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

Council approved the appointment.

TO: JAMES REISHMAN  
CITY CLERK

FROM: DANNY JONES  
MAYOR

RE: MUNICIPAL PLANNING COMMISSION

DATE: JUNE 16, 2008

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I recommend that Chad Robinson, 2210 Washington Street East, Charleston, WV 25311, be reappointed to the Municipal Planning Commission, with a said term to expire July 1, 2011.

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

Council approved the appointment.

TO: JAMES REISHMAN  
CITY CLERK

FROM: DANNY JONES  
MAYOR

RE: CHARLESTON WAYFINDING COMMISSION

DATE: JUNE 16, 2008

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

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

Council approved the appointment.

*The Clerk read the Communication:*

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

Dear Mayor Jones and Councilmember's:

On June 4, 2008, the Municipal Planning Commission held public hearings and its regular monthly meeting. The following cases should be referred to the Planning Committee of Council.

Bill # 7239 – Petition of Michael R. Graney on behalf of M&P, LLC to rezone the R-8 High Density Residential property located at 209 and 211 Greenbrier Street, Charleston, WV, EC Map 25, Parcels 21 and 22, to C-8 Village Commercial District.

Sincerely,

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

***URBAN RENEWAL***

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

Bill 7330- A Bill approving certain modifications of the Washington Street West Urban Renewal Plan for the City of Charleston, West Virginia with respect to: strengthening neighborhoods through positive action rather than demolition; developing infill housing on vacant lots and rehabilitating existing housing where appropriate; developing recreational amenities for residents of varying age and physical ability; and encompassing recommendations of residents, property owners and business representatives who participated in the public planning process.

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

1. City Council finds that:

a. The Charleston Urban Renewal Authority has recommended certain modifications of the Washington Street Urban Renewal Plan for the City of Charleston, West Virginia; That Chapter 2, Division 9, § 2-686, § 2-687, and § 2-689 of the Code of the City of Charleston West Virginia are amended as follows:

b. A general plan known as the Comprehensive Plan for the City of Charleston has been adopted by City Council and is recognized and used as a general guide for the development of the city;

c. The Municipal Planning Commission of the City of Charleston has submitted to the Charleston Urban Renewal Authority its findings that these proposed modifications conform with said Comprehensive Plan;

d. City Council has duly considered said findings; and

e. Section F of said Washington Street Urban Renewal Plan provides that the plan may be changed from time to time in compliance with requirements of the law.

2. The modifications of the Washington Street West Urban renewal Plan which are set forth in the following sections of this ordinance are hereby found to be feasible in compliance with the Comprehensive Plan for the City of Charleston.

3. The Washington Street Urban Renewal Plan is hereby renamed the West Side Community Renewal Plan and is presented herein as Attachment 1.

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

23, absent - 5, as follows:

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

ABSENT: Deitzler, Higgins, Lane, Lanham, Ware

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7330, passed.

### **PLANNING**

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

1. Your Committee on Planning has had under consideration street naming request Dalton Way,

Your committee finds that:

1. The Street is located off Chelsea Road in Suncrest Subdivision
2. The required petition was duly filed on behalf of over 60% of the property owners.
3. The proposed names complies with the E911 Addressing Regulations

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Street Name approved.

2. Your Committee on Planning has had under consideration Bill No. 7326, and reports the same to Council with the recommendation that the Bill do pass.

A Bill closing, abandoning and discontinuing as a public right of way a portion of the street known as Summit Drive, in the City of Charleston, West Virginia, and reserving a sewer easement for the City of Charleston.

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

1. That certain unimproved portion of the public right of way commonly known as Summit Drive, located on the West Side in the Charleston, more aptly described as follows:

Beginning at a point at the northeasterly corner of Lot 14 of Part of Edgewood Hills, A Subdivision of the Second Revision of Fairview; thence running with the southerly right of way line of the unimproved Summit Drive S 70°20'00" W 129.00' to a point; thence along a curve with a chord of N 78°45'21" E 35.34' to a point; thence along a curve with a chord of S 70°13'16" W 30.81' to a point in the right of way line for improved Summit Drive, also being the common corner of Lots 14 and 15 of aforesaid Subdivision; thence N 48° 26'41" E 12.00', m/l, to a point generally being the northwesterly corner of the subject right of way for which closing is being sought; thence continuing along said right of way line N 76°15'43" E 14.70' to a point; thence N 63°17'05" E 11.84' to a point;

thence N 45° 14'56" E 26.87' to a point; N 35°40'40" E 23.89' to a point; thence N 30°46'03" E 18.53' to a point in the common line of the Hovey lot and the subject right of way; thence running with said common line along a curve with a chord of S 61°12'02" E 22.46' to a point; thence N 70°20'00" E 29.18' to a point; thence leaving said common line S 81°12'24" E 62.53' to the point of beginning, containing 3,751 sq ft, and designated as Parcel "A" on the map prepared by Randolph Engineering, dated 1/14/08.

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

3. The Mayor of the City of Charleston be, and is hereby authorized and directed to execute, acknowledge and deliver a proper deed conveying to Byron C. and Kathy Calhoun all right, title and interest in and to said real property as described in Section 1 above, except as provided in Section 2 above, for the consideration of \_\_\_\_\_ (\$ \_\_\_\_\_).

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

4.

Received and Filed.

### **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. 390-08, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 390-08 - A resolution declaring and stating the reasonable expectation of The City of Charleston to reimburse its parking revenue fund for capital expenditures in connection with the construction of improvements to parking garage buildings 1, 3 and 4 made prior to the issuance of the Bonds by the City.

WHEREAS, The City of Charleston, West Virginia (the "City"), is authorized by Chapter 8, Article 12 and Chapter 8, Article 16 of the Code of West Virginia, 1931, as amended (the "Act") to issue bonds for construction of municipal public works, such as parking garage buildings, as provided in the Act;

WHEREAS, the City intends to make improvements to parking buildings 1, 3 and 4 (the "Project") of its parking system (the "System");

WHEREAS, the City intends to issue tax exempt bonds (the "Bonds") in an amount not to exceed \$10 million in order to pay the costs of design, acquisition and construction of the Project and the cost of issuance of the Bonds;

WHEREAS, prior to obtaining financing through the issuance of the Bonds of the City, the City anticipates expending funds from the City's parking revenue fund (the "Revenue Fund") to pay preliminary costs, including engineering and construction, of the Project, all of which capital expenditures will initially be paid from the Revenue Fund;

WHEREAS, the City reasonably expects to reimburse the Revenue Fund for such capital expenditures, which are estimated not to exceed \$4,000,000 from the proceeds of the sale of the Bonds;

NOW, THEREFORE BE IT DECLARED BY THE COUNCIL OF THE CITY OF CHARLESTON, AS FOLLOWS:

Section 1. The City reasonably expects to reimburse the Revenue Fund for capital expenditures made in connection with the Project prior to the execution and delivery of the Bonds, from the proceeds of the Bonds, which are reasonably expected to be executed and delivered within one year from the later of (i) the expenditure for payment of said costs or (ii) placing of the Project in service.

Section 2. This Declaration is intended to constitute a "declaration of official intent" pursuant to Section 1.150-2 of the Treasury Regulations promulgated under the Internal Revenue Code of 1986, as amended (the "Reimbursement Regulations").

Section 3. The source of payment for such capital expenditures will be the Revenue Fund and upon issuance of the Bonds, proceeds thereof not to exceed the amount of such capital expenditures will be applied to reimbursement of the Revenue Fund.

Section 4. The maximum amount of such reimbursement is \$4,000,000 and the maximum principal amount of Bonds to be issued for the construction of the Improvement Projects is \$10,000,000.

Section 5. This Resolution shall take effect immediately upon adoption hereof.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-23, absent - 5, as follows:

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

ABSENT: Deitzler, Higgins, Lane, Lanham, Ware

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

Mayor declared Resolution No. 390-08, adopted

2. Your Committee on Finance has had under consideration Resolution No. 391-08, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 391-08: "Authorizing approval of the 2008-2009 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 2008-2009 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-23, absent - 5, as follows:

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

ABSENT: Deitzler, Higgins, Lane, Lanham, Ware

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 391-08, adopted

3. Your Committee on Finance has had under consideration Resolution No. 392-08, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 392-08: "Authorizing monthly debt service payments on bonds to be made via electronic transfer to the West Virginia Municipal Bond Commission."

WHEREAS, the City of Charleston West Virginia (the "Issuer") is a municipal corporation and political subdivision of West Virginia; and

WHEREAS, the Issuer has issued bonds, as more specifically set forth on Exhibit A, attached hereto and incorporated herein by reference (the "Bonds"); and

WHEREAS, the Issuer makes monthly debt service payments on the Bonds by check to the West Virginia Municipal Bond Commission (the "MBC") which in turn pays the owners of the Bonds; and

WHEREAS, the MBC may accept such monthly payments by electronic funds transfer thereby eliminating delay in payments and lost checks; and

WHEREAS, the Issuer finds and determines that it is in the best interest of the Issuer, its citizens and the owners of the Bonds that the monthly payments be made by

electronic transfer; now, therefore

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

1. The monthly debt service payments on the Bonds, as set forth in Exhibit A, shall be made to the MBC by electronic transfer from the accounts set forth in Exhibit A in such form and at such direction as are provided by the MBC and in accordance with payment schedules agreed upon between Issuer and MBC; and
2. The signatures of the Mayor, City Treasurer, and City Auditor are required and persons elected or appointed to these positions are hereby authorized to sign and execute all such documents as are necessary to facilitate the electronic transfer of the Bond debt service payments; and
3. This resolution shall be effective immediately upon adoption.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-23, absent - 5, as follows:

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

ABSENT: Deitzler, Higgins, Lane, Lanham, Ware

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 392-08, adopted

4. Your Committee on Finance has had under consideration Resolution No. 393-08, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 393-08: "Authorizing the Mayor to enter into a Lease Agreement with Kanawha County Schools for leasing of the facility adjoining the Martin Luther King Community Center, located at 314 Donnally Street, at the rate of \$1.00 per year for the period July 1, 2008 through June 30, 2009, from 6:30 a.m. to 6:00 p.m., Monday through Friday, for operation of the Head Start Program."

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 Kanawha County Schools for leasing of the facility adjoining the Martin Luther King Community Center, located at 314 Donnally Street, at the rate of \$1.00 per year for the period July 1, 2008 through June 30, 2009, from 6:30 a.m. to 6:00 p.m., Monday through Friday, for operation of the Head Start Program.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 393-08, adopted.

5. Your Committee on Finance has had under consideration Resolution No. 394-08, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 394-08 - A resolution supplementing Ordinance No. 7132, passed by the Council of The City of Charleston, West Virginia, March 7, 2005, which supplemented Ordinance No. 4423 passed by the Council on March 6, 1989, as supplemented by Ordinance No. 4506 passed by the Council on November 6, 1989, by Ordinance No. 4954 passed by the Council on May 3, 1993, by Ordinance No. 6276 passed by the Council on September 3, 1996, by Ordinance No. 6349 passed by the Council on June 2, 1997, by Ordinance No. 6532 passed by the Council on November 16, 1998, by Ordinance No. 6544 passed by the Council on February 1, 1999, by Ordinance No. 6670 passed by the Council on February 5, 2001, by Ordinance No. 6777 passed by the Council on March 19, 2001, by Ordinance No. 6948 passed by the Council on November 4, 2002; and by Ordinance No. 6977 passed by the Council on May 19, 2003; authorizing the issuance of \$9,000,000 in aggregate principal amount of Sewerage System Revenue Bonds, Series 2008 A, of The City of Charleston, the proceeds of which, shall be used, along with other funds and moneys of, or available to, The City of Charleston which may be lawfully expended for such purposes, to permanently finance the cost of design, acquisition and construction of certain extensions, additions, betterments and improvements to the existing sewerage system of The City of Charleston, to fund a reserve account for such bonds and to pay other costs in connection therewith; providing for the rights and remedies of and security for the registered owners of such bonds; and adopting other provisions related thereto.

WHEREAS, the Council (the "Council") of The City of Charleston, West Virginia (the "City"), on March 7, 2005, adopted Ordinance No. 7132, which became effective following a public hearing on March 21, 2005 (the "Ordinance"), authorizing the issuance of The City of Charleston Sewerage System Revenue Bonds, in an aggregate principal amount not to exceed \$50,000,000, in one or more series, to permanently finance the cost of design, acquisition and construction of certain extensions, additions, betterments and improvements to the sewerage system of the City (the "Project"), and the issuance of The City of Charleston Sewerage System Bond Anticipation Notes, in an aggregate principal amount not to exceed \$10,000,000, to temporarily finance the cost of such design, acquisition and construction, and all as more fully set out therein;

WHEREAS, capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Ordinance when used herein:

WHEREAS, pursuant to the Ordinance, the City issued its Sewerage System Revenue Bonds, Series 2005 A in the aggregate principal amount of \$36,617,310 (the "Series 2005 A Bonds" and together with the First Lien Bonds, hereinafter referred to as the "First Lien Bonds"), the Sewerage System Revenue Bonds, Series 2005 B-1 in the aggregate principal amount of \$1,822,690 (the "Series 2005 B-1 Bonds" and together with the Second Lien Bonds, hereinafter referred to as the "Second Lien Bonds"), the Sewerage System Revenue Bonds, Series 2005 B-2 in

the aggregate principal amount of \$334,771 (the "Series 2005 B-2 Bonds") on May 5, 2005;

WHEREAS, the City issued its Sewerage System Bond Anticipation Notes, Series 2005 A in the aggregate principal amount of \$9,000,000 on May 5, 2005 (the "Series 2005 A Note");

WHEREAS, the total aggregate amount of Series 2005 A Bonds, Series 2005 B-1 Bonds and Series 2005 B-2 Bonds equaled to \$38,774,771, the City is authorized to issue an additional amount of \$11,225,229 in bonds pursuant to the Ordinance;

WHEREAS, pursuant to the Ordinance, the Council desires to issue its Sewerage System Revenue Bonds, Series 2008 A (the "Bonds") in an aggregate principal amount of \$9,000,000, to permanently finance the remaining costs of the Project by refunding the Series 2005 A Note, to fund a reserve account, and to pay the costs of issuance of the Bonds;

WHEREAS, the Ordinance provides for the issuance of the Bonds, all in accordance with Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (the "Act"), and further provides that the exact principal amount, series designation, date, maturity date, redemption provision, interest rate, interest and principal payment dates, sale price and other terms of and matters relating to, the Bonds should be established by a supplemental resolution;

WHEREAS, the Bonds are proposed to be purchased by the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Department of Environmental Protection (the "DEP") pursuant to the West Virginia Clean Water SRF Program pursuant to the terms and conditions set forth under a Bond Purchase Agreement by and among the City, the Authority and the DEP (collectively, the "Loan Agreement"); and

WHEREAS, the Council deems it essential and desirable that this resolution (the "Supplemental Resolution") be adopted, that the Loan Agreement be entered into by the City, that parameters be established for the exact principal amount, series designation, date, maturity date, redemption provision, interest rate, interest and principal payment dates, sale price and other terms of the Bonds in the manner stated herein, and that other matters relating to the Bonds be herein provided for.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CHARLESTON, WEST VIRGINIA, AS FOLLOWS:

Section 1. Pursuant to the Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the:

The City of Charleston Sewerage System Revenue Bonds, Series 2008 A (West Virginia SRF Program) (the "Bonds"), originally represented by a single bond,

numbered AR-1, in the aggregate principal amount of \$9,000,000. The Bonds shall be dated the date of delivery, shall finally mature on or before March 1, 2030, and shall bear interest at a rate of 2% per annum. The principal of the Bonds shall be payable quarterly on March 1, June 1, September 1, and December 1 of each year, commencing June 1, 2010, in the amounts as set forth in the Schedule Y attached to the Loan Agreement and incorporated in and made a part of the Bonds. The Issuer hereby approves and shall pay the SRF Administrative Fee equal to 1% of the principal amount of the Bonds set forth in the Schedule Y attached to the Loan Agreement. The SRF Administrative Fee shall be considered Operating Expenses of the City (Sanitary Board). The Bonds shall be subject to redemption upon the written consent of the Authority and the DEP, and upon payment of the redemption premium, if any, and otherwise in compliance with the Loan Agreement, so long as the Authority shall be the Registered Owner of the Bonds.

Section 2. All other provisions relating to the Bonds shall be as provided in the Ordinance. The text of the Bonds shall be in substantially the forms provided in the Ordinance. The execution of the Bonds by the Mayor shall be conclusive evidence of any approval required by this Section.

Section 3. The Loan Agreement for the Bonds by and among the Authority, the City, and the DEP, substantially in the form to be attached hereto as Exhibit A, and the execution and delivery (in multiple counterparts) by the Mayor thereof shall be and the same are hereby authorized, approved, ratified and directed. The Mayor is authorized to execute and deliver the Loan Agreement with such changes, insertions and omissions as may be approved by the Mayor. The execution of the Loan Agreement by the Mayor shall be conclusive evidence of any approval required by this Section, and authorization of any action required by the Loan Agreement relating to the issuance and sale of the Bonds. The City hereby affirms all covenants and representations made in the Loan Agreement and in the application to the DEP and the Authority. The price of the Bonds shall be 100% of par value, there being no interest accrued thereon.

Section 4. The City hereby appoints and designates the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Commission"), as the Paying Agent for the Bonds.

Section 5. The City hereby appoints and designates United Bank, Inc., as the Registrar for the Bonds and the Depository Bank for the Bonds Construction Trust Fund (the "Depository Bank" or "Registrar"). The City hereby reaffirms JPMorgan Chase Bank, N.A., Charleston, West Virginia, as the Depository Bank for the Revenue Fund. The City approves and accepts the Registrar's Agreement to be dated the date of delivery of the Bonds, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Mayor, and the performance of the obligations contained therein on behalf of the Issuer, are hereby authorized, directed and approved.

Section 6. The Bonds shall be issued on a parity with the First Lien Bonds with respect to liens, pledge and source of and security for payment and in all respects. The Bonds shall be secured by a first lien on the Net Revenues derived from the System on a parity with the First Lien Bonds but senior and superior to the Second Lien Bonds.

Section 7. Pursuant to Section 4.03 of the Ordinance, there are hereby created at the Commission the Series 2008 A Bonds Sinking Fund and the Series 2008 A Bonds Reserve Account. Following the monthly payment of Operating Expenses (including the SRF Administrative Fee), the City shall make monthly payments to the Commission for the Prior Bonds as required under the Prior Ordinances and the Bonds as follows:

(1) Simultaneously with the interest payments made pursuant to the Ordinance and the Prior Ordinances with respect to the First Lien Bonds, the City shall also deposit with the Commission in the Series 2008 A Bonds Sinking Fund on the first day of each month, commencing 7 months prior to the first interest payment date of the Bonds, an amount equal to  $1/6^{\text{th}}$  of the amount of interest which will become due on the Bonds on the next ensuing semiannual interest payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2008 A Bonds Sinking Fund and the next semiannual interest payment date is less than 7 months, then such monthly payments shall be increased proportionately to provide, 1 month prior to the next semiannual interest payment date, the required amount of interest coming due on such date.

(2) Simultaneously with the principal payments made pursuant to the Ordinance and the Prior Ordinances with respect to the First Lien Bonds, the City shall also deposit with the Commission in the Series 2008 A Bonds Sinking Fund on the first day of each month, commencing 13 months prior to the first principal payment date of the Bonds, an amount equal to  $1/12^{\text{th}}$  of the amount of principal which will mature and become due on the Bonds on the next ensuing annual principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2008 A Bonds Sinking Fund and the next annual principal payment date is less than 13 months, then such monthly payments shall be increased proportionately to provide, 1 month prior to the next annual principal payment date, the required amount of principal coming due on such date.

(3) Simultaneously with the reserve account payments made pursuant to the Ordinance and the Prior Ordinances with respect to the First Lien Bonds, the City shall also deposit with the Commission in the Series 2008 A Bonds Reserve Account, if not fully funded upon issuance of the Bonds, on the first day of each month, commencing 13 months prior to the first principal payment date of the Bonds, an amount equal to  $1/120^{\text{th}}$  of the Series 2008 A Bonds Reserve Requirement, until the amount in the Series 2008 A Bonds Reserve Account equals the Series 2008 A Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2008 A Bonds Reserve Account when there shall have been deposited therein, and as

long as there shall remain on deposit therein, an amount equal to the Series 2008 A Bonds Reserve Requirement.

(4) The City shall next make the interest payments pursuant to the Ordinance and the Prior Ordinances with respect to the Second Lien Bonds.

(5) The City shall next make the principal payments pursuant to the Ordinance and the Prior Ordinances with respect to the Second Lien Bonds.

(6) The City shall next make the reserve account payments made pursuant to the Ordinance and the Prior Ordinances with respect to the Second Lien Bonds.

(7) The City shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Depository Bank for deposit in the Renewal and Replacement Fund, an amount equal to 2 1/2% of the Gross Revenues each month (as previously set forth in the Prior Ordinances and not in addition thereto), exclusive of any payments for account of any Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the City or of the Depository Bank and shall be invested and reinvested in accordance with the Ordinance. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, repairs, or improvements or extensions to the System; provided that, any deficiencies in any Reserve Account, except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required hereof, shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

Section 8. Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2008 A Bonds Sinking Fund as capitalized interest.

Section 9. Bonds proceeds in the amount of \$547,093 shall be deposited in the Series 2008 A Bonds Reserve Account.

Section 10. Bonds proceeds in the amount of \$4,787,430 shall be deposited with the United Bank, Inc. as holder of the Series 2005 A Note to pay in full the entire outstanding principal of and all accrued interest and administrative fees on the Series 2005 A Note.

Section 11. The Council hereby finds and determines (A) that none of the items for which payment is proposed to be made has formed the basis for any disbursement theretofore made; (B) that each item for which the payment is proposed to be made is or was necessary in connection with the Project and constitutes a Cost of the Project; (C) that each of such costs has been otherwise properly incurred; and (D) that payment for each of the items proposed is now due and owing. The Council hereby approves, authorizes and directs the payment of the invoices authorized by the Sanitary Board.

Section 12. The Mayor and City Clerk are hereby authorized and directed to execute and deliver such other documents, agreements and certificates required or desirable in connection with the Bonds. The City hereby approves and accepts all contracts or agreements relating to the financing, design, acquisition and construction of the Project and hereby authorizes the Sanitary Board to enter into all contracts or agreements relating to the design, acquisition and construction of the Project. The Manager of the Sanitary Board is hereby authorized to execute all pay requests under the Bonds.

Section 13. The design, acquisition and construction of the Project and the financing thereof with proceeds of the Bonds are in the public interest, serve a public purpose of the City and will promote the health, welfare and safety of the residents of the City.

Section 14. The City hereby determines to invest all moneys in the funds and accounts established by the Ordinance held by the Depository Bank until expended, in Money Market accounts secured by a pledge of Government Obligations, and therefore, the City hereby directs the Depository Bank to invest all moneys in such Money Market accounts until further directed in writing by the Issuer. Moneys in the Series 2008 A Bonds Sinking Fund and the Series 2008 A Bonds Reserve Account shall be invested by the Commission in the West Virginia Consolidated Fund.

Section 15. The City hereby approves the cost of issuance and authorizes the payment of the same.

Section 16. This Supplemental Resolution shall take effect immediately upon adoption hereof.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-23, absent - 5, as follows:

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

ABSENT: Deitzler, Higgins, Lane, Lanham, Ware

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 394-08, adopted

6. Your Committee on Finance has had under consideration Resolution No. 395-08, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 395-08: "Authorizing the Mayor to sign an application applying for a grant through the office of the U.S. Community Oriented Policing Strategies (COPS), for Methamphetamine Initiative Grant funds in the amount of \$116,913. The funds will provide for training, equipment and overtime for the Charleston Police Department."

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

That the Mayor is hereby authorized and directed to sign an application applying for a grant through the office of the U.S. Community Oriented Policing Strategies (COPS), for Methamphetamine Initiative Grant funds in the amount of \$116,913. The funds will provide for training, equipment and overtime for the Charleston Police Department.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 395-08, adopted.

7. Your Committee on Finance has had under consideration Resolution No. 396-08, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 396-08: “Authorizing the Mayor to receive and administer funds in the amount of \$57,067 from the U.S. Bureau of Justice Assistance Grant Program. The funds will be shared jointly with the Kanawha County Sheriff’s Department (\$19,000) and the Charleston Police Department (\$38,067) and used to offset expenses for travel/training, equipment and overtime.”

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

That the Mayor is hereby authorized and directed to receive and administer funds in the amount of \$57,067 from the U.S. Bureau of Justice Assistance Grant Program. The funds will be shared jointly with the Kanawha County Sheriff’s Department (\$19,000) and the Charleston Police Department (\$38,067) and used to offset expenses for travel/training, equipment and overtime.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 396-08, adopted.

8. Your Committee on Finance has had under consideration Resolution No. 397-08, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 397-08: “Authorizing the Mayor to sign and submit applications to the West Virginia Development Office for FY 2008 Community Participation Program on behalf of the following agencies:”

Women’s Club of Charleston WV	08LEDA0154	\$20,000
Charleston Land Trust	08LEDA0151	\$20,000
Tiskelwah Community Center	08LEDA0191	\$10,000
Tiskelwah Community Center	08LEDA0162	\$30,000
Tiskelwah Community Center	08LEDA0180	\$15,500
Pro Kids, Inc.	08CPGP0084	\$ 5,000

Kanawha City Community Assoc.	08LEDA0195	\$10,000
East End Family Resource Center	08LEDA0182	\$ 5,000

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

That the Mayor is hereby authorized and directed to sign and submit applications to the West Virginia Development Office for FY 2008 Community Participation Program on behalf of the above referenced agencies.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-23, absent - 5, as follows:

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

ABSENT: Deitzler, Higgins, Lane, Lanham, Ware

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 397-08, adopted

9. Your Committee on Finance has had under consideration Resolution No. 398-08, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 398-08: "Authorizing the Finance Director to make a B&O tax refund to Wells Fargo Financial of West Virginia, Inc., in the amount of \$45,634.29, for overpayment of taxes during the period October 1, 2005 through December 31, 2007. Wells Fargo submitted a letter requesting a refund on taxes inadvertently paid on interest received from investments or loans primary secured by first mortgages or deeds of trust on residential property. The Auditing Division performed an audit and concluded Wells Fargo was due the refund."

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

That the Finance Director is hereby authorized and directed to make a B&O tax refund to Wells Fargo Financial of West Virginia, Inc., in the amount of \$45,634.29, for overpayment of taxes during the period October 1, 2005 through December 31, 2007. Wells Fargo submitted a letter requesting a refund on taxes inadvertently paid on interest received from investments or loans primary secured by first mortgages or deeds of trust on residential property. The Auditing Division performed an audit and concluded Wells Fargo was due the refund.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 398-08, adopted.

10. Your Committee on Finance has had under consideration Resolution No. 399-08, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 399-08: A resolution recommending that the mayor and city assist in the development of Groundwork Trust Charleston and make application with the National Park Service (Rivers, Trails & Conservation Assistance Program) and United States Environmental Protection Agency (Brownfields Program) and, if the grant is awarded, to commit a minimum of \$25,000 per year for three years for funding for Groundwork Trust Charleston, to the extent funds are available in future budget years.

WHEREAS, the City of Charleston has developed an aggressive agenda to create and improve parks, greenways, open space and nature reserves, and to increase opportunities for recreation, conservation and other environmental improvements, particularly with respect to lands impacted by brownfield sites; and

WHEREAS, the City of Charleston has completed an inventory of brownfield sites and other lands suitable for cleanup and reuse as parks, recreational facilities, nature areas and other suitable benefits; and

WHEREAS, since 1979 in the United Kingdom and 1997 in the United States, there has been established an international network of over 65 Groundwork Trusts, providing support and expertise to community-based revitalization efforts.

WHEREAS, Groundwork Trusts are locally organized and controlled environmental nonprofit corporations that provide cost effective project development services focused on improving their communities, environment, economy and quality of life. Services include community planning, project management, design and construction, fundraising, and support for maintenance.

WHEREAS, the establishment of a Groundwork Trust, sponsored by the National Park Service and the United States Environmental Protection Agency, would serve to facilitate and achieve the broad goals established by Charleston City Council; and

WHEREAS, the goals of the Groundwork Trust program mesh completely with those already established by the City of Charleston;

NOW, THEREFORE, BE IT RESOLVED: That the Charleston City Council supports and endorses the creation of a Groundwork Trust for Charleston, does hereby authorize the mayor to submit a grant proposal to the National Park Service and United States Environmental Protection Agency for funding of a program to establish a Groundwork Trust, and does hereby commit to providing funds for a Groundwork Trust of at least \$25,000 per year for three years, provided that the grant is approved and to the extent funds are available in future budget years.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 399-08, adopted.

11. Your Committee on Finance has had under consideration Resolution No. 400-08, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 400-08 : "Authorizing the Mayor, for and on behalf of the City and the

Charleston Fire Department (the “CFD”), to enter into a contract, attached hereto as Exhibit A, to retain a Medical Director to supervise the medical performance of emergency medical service personnel employed by the CFD.”

WHEREAS, the CFD renders emergency medical services in accordance with the Emergency Medical Services Act of 1996 (the “Act”) set forth in W.Va. Code §16-4C-1, *et seq.*; and

WHEREAS, the CFD requires the services of a licensed physician to act as Medical Director to supervise the medical performance of emergency medical service personnel and ensure compliance with the Act; and

WHEREAS, the CFD desires to enter into a contract, Exhibit A hereto, to retain a Medical Director to satisfy the requirements of the Act and to ensure proper implementation and oversight of the emergency medical services provided by the CFD;

NOW, THEREFORE, BE IT RESOLVED that City Council for the City of Charleston authorizes the Mayor, for and on behalf of the City and the CFD, to enter into a contract, attached hereto as Exhibit A, to retain a Medical Director for the CFD related to the CFD’s provision of Emergency Medical Services.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 400-08, adopted.

12. Your Committee on Finance has had under consideration a A bid submitted by Mobile TEK Consulting, LLC, for purchase of 15 Mobile Computers, in the amount of \$68,883, for 12 Police Cruisers and three Dodge Durango SUVs assigned to the Charleston Police Department. To be charged to Account No. 001-976-00-700-4-459, Police—Capital Outlay, Equip. , 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.

13. Your Committee on Finance has had under consideration a A proposal submitted by Harley-Davidson of W.V., Inc., in the amount of \$14,844, for purchase of four (4) 2009 Harley-Davidson Police Motorcycles. The price of one motorcycle was \$16,709, less trade-in of \$12,998, for a total cost of \$3,711 each. To be charged to Account No. 001-976-0-700-4-459, Police—Capital Outlay, Equip. (FY 2008-2009) , 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.

14. Your Committee on Finance has had under consideration Bill No. 7326, and reports the same to Council with the recommendation that the committee report be adopted.

A Bill closing, abandoning and discontinuing as a public right of way a portion of the street known as Summit Drive, in the City of Charleston, West Virginia, and reserving a sewer easement for the City of Charleston.

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

1. That certain unimproved portion of the public right of way commonly known as Summit Drive, located on the West Side in the Charleston, more aptly described as follows:

Beginning at a point at the northeasterly corner of Lot 14 of Part of Edgewood Hills, A Subdivision of the Second Revision of Fairview; thence running with the southerly right of way line of the unimproved Summit Drive S 70°20'00" W 129.00' to a point; thence along a curve with a chord of N 78°45'21" E 35.34' to a point; thence along a curve with a chord of S 70°13'16" W 30.81' to a point in the right of way line for improved Summit Drive, also being the common corner of Lots 14 and 15 of aforesaid Subdivision; thence N 48° 26'41" E 12.00', m/l, to a point generally being the northwesterly corner of the subject right of way for which closing is being sought; thence continuing along said right of way line N 76°15'43" E 14.70' to a point; thence N 63°17'05" E 11.84' to a point; thence N 45° 14'56" E 26.87' to a point; N 35°40'40" E 23.89' to a point; thence N 30°46'03" E 18.53' to a point in the common line of the Hovey lot and the subject right of way; thence running with said common line along a curve with a chord of S 61°12'02" E 22.46' to a point; thence N 70°20'00" E 29.18' to a point; thence leaving said common line S 81°12'24" E 62.53' to the point of beginning, containing 3,751 sq ft, and designated as Parcel "A" on the map prepared by Randolph Engineering, dated 1/14/08.

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

3. The Mayor of the City of Charleston be, and is hereby authorized and directed to execute, acknowledge and deliver a proper deed conveying to Byron C. and Kathy Calhoun all right, title and interest in and to said real property as described in Section 1 above, except as provided in Section 2 above, for the consideration of \_\_\_\_ Nine Hundred Dollars (\$900.00)

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

The question being on the passage of the Bill a roll call was taken and there were; yeas- 23, absent - 5, as follows:

YEAS: Burton, Clowser, Davis, Ealy, Hall, Hanna, Harris, Harrison, Jones, Kirk, Knauff, Miller, Payne, Reed, Reishman, Russell, Salisbury, Sheets, Smith, Talkington,

Weintraub, White, Mayor Jones.

ABSENT: Deitzler, Higgins, Lane, Lanham, Ware

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7326, passed.

15. Your Committee on Finance has had under consideration Bill No. 7331, and reports the same to Council with the recommendation that the committee report be adopted.

Bill No. 7331 : A Bill authorizing and directing the Mayor to enter into a Housing Consortium Cooperation Agreement between The City of Charleston, The Kanawha County Commission, The Town of Belle, The Town of Cedar Grove, The Town of Clendenin, The Town of Marmet, The Town of Pratt, The City of Nitro, The City of St. Albans, The City of Dunbar, and The City of South Charleston to renew the Charleston/Kanawha County Housing Consortium Cooperation Agreement for fiscal years 2009, 2010, and 2011.

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

That the Mayor is hereby authorized and directed to enter into a Housing Consortium Cooperation Agreement between The City of Charleston, The Kanawha County Commission, The Town of Belle, The Town of Cedar Grove, The Town of Clendenin, The Town of Marmet, The Town of Pratt, The City of Nitro, The City of St. Albans, The City of Dunbar, and The City of South Charleston to renew the Charleston/Kanawha County Housing Consortium Cooperation Agreement for fiscal years 2009, 2010, and 2011.

The question being on the passage of the Bill a roll call was taken and there were; yeas- 23, absent - 5, as follows:

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

ABSENT: Deitzler, Higgins, Lane, Lanham, Ware

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7331, passed.

### **REPORTS OF OFFICERS**

1. Report of the City of Charleston, Municipal Court Financial Statements; May 2008. Received and Filed.

2. Report of the City of Charleston Payroll Variance Analysis; May 2008; Received and Filed.

3. City Treasurer's Report to City Council Month Ending May 2008. Received and Filed.

## NEW BILLS

Introduced by Council Member John Miller on June 16, 2008:

Bill No. 7332 - A Bill to establish a No Parking Anytime Tow-Away zone on the northerly side of Virginia Avenue from a point 224 feet east of 34<sup>th</sup> street to a point 526 feet east of 34<sup>th</sup> 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.

Introduced by Council member Tom Lane on June 16, 2008:

Bill No. 7333 - A Bill amending Chapter 2, Division 9, § 2-686, § 2-687, and § 2-689 of the Code of the City of Charleston West Virginia, as amended, for the purpose of enlarging membership of the Charleston Land Trust, and updating and modernizing certain operating procedures of the Charleston Land Trust.

Refer to Ordinance and Rules.

## ROLL CALL

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

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

ABSENT: Deitzler, Higgins, Lane, Lanham, Ware

At 7:40 p.m., by a motion from Councilmember Harrison, Council adjourned until Monday, July 7, 2008, at 7:00 p.m.

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Danny Jones, Honorable Mayor

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James M. Reishman, City Clerk