

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

April 20, 2009

THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE SECOND MEETING IN THE MONTH OF APRIL ON THE 20th DAY, IN THE YEAR 2009, 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.

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

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

**DAVIS
HALL
HARRISON
KIRK

REED
SALISBURY
TALKINGTON
WHITE**

TWENTY-FIVE 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.

Pursuant to the provisions of Section 14, of the Charter of the City of Charleston, I declare the floor open for nominations to fill the vacancy for the unexpired Ward 3.

The Floor is open for Discussion on the Nomination.

Tom Lane made the motion to nominate Joe Deneault, Jack Harrison second the motion.

The question being on the approval of the Nomination,

The Clerk will call the roll.

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

ABSENT: Burton, Clowser

The Mayor declared Joe Deneault the New Councilperson for Ward 3.

Mr. Deneault came forward to take his Oath of Office.

PUBLIC SPEAKERS

1. Beth Kerns

CLAIMS

1. A claim of Lucie Mellert, 1604 Virginia Street, East, Charleston, WV; alleges personal injury.

Refer to City Solicitor

2. A claim of Sondra Judd, 65 Jones Drive, Charleston, WV; alleges damage to vehicle.

Refer to City Solicitor

3. A claim of Alverta Jean Wiggins, 2360 Savory Dr., Charleston, WV; alleges damage to vehicle.

Refer to City Solicitor

4. A claim of WV Bureau of Senior Services, 1900 Kanawha Blvd., East, Charleston, WV; alleges damage to vehicle.

Refer to City Solicitor

5. A claim of Jeffery Schoolcraft, 2007 Roxalana Rd., Dunbar, WV; alleges damage to vehicle.

Refer to City Solicitor

PROCLAMATION

EXECUTIVE DEPARTMENT

**CITY OF CHARLESTON
PROCLAMATION
By the Mayor**

WHEREAS: April 11, 2009 marks the 41st anniversary of the passage of the U.S. Fair Housing Law, Title VIII of the Civil Rights Act of 1968, which enunciates a national policy of Fair Housing without regard to race, color, religion, national origin, sex, familial status, and handicap, and encourages fair housing opportunities for all citizens; and

WHEREAS: The Charleston Human Rights Municipal Ordinance, Article 62, Section 2.A establishes equal opportunity in the areas of public accommodations as a human right or civil right of all persons without regard to race, religion, color, national origin, ancestry, sex, age, blindness, handicap, or sexual orientation and equal opportunity in the sale, lease, rental and financing of housing accommodations is hereby declared to be a human right or civil right of all persons without regard to race, religion, color, national origin, ancestry, sex, age, blindness, handicap, familial status, or sexual orientation; and

WHEREAS: Citizens of Charleston recognize the continuing need to be vigilant against any discrimination against persons who may be prohibited from the rental or purchase of homes due the discriminatory attitudes or actions of others; and

WHEREAS: The City of Charleston as well as The Charleston Human Rights Commission, are committed to highlight the Fair Housing Law, Title VIII of the Civil Rights Act of 1968, by continuing to address discrimination in our community, to support programs that will educate the public about the right to equal housing opportunities, and to plan partnership efforts with other organizations to help assure every American of their right to fair housing; and

WHEREAS: All citizens of Charleston would benefit by becoming more familiar with fair housing laws, so that together, we can confront and eliminate discrimination in housing whenever it takes place and make the City of Charleston a more attractive place for **all people** to live;

NOW THEREFORE, I Danny Jones, Mayor of the City of Charleston, do hereby proclaim the month of April, 2009 to be

FAIR HOUSING MONTH

and urge all the citizens to combine and continue our efforts so that individuals who desire to live in the City of Charleston are able to live in a place they are proud to call "home," and realize their dreams of home ownership in a place free of all housing discrimination.

IN WITNESS WHEREOF, I have set my hand and caused the Seal of the Executive Department to be affixed this 17th day of April, 2009.

The Clerk read the Appointment:

TO: JAMES REISHMAN
CITY CLERK

FROM: DANNY JONES
MAYOR

RE: CHARLESTON URBAN RENEWAL AUTHORITY

DATE: APRIL 20, 2009

I recommend that Lew Tyree, 114 Sheridan Circle, Charleston, WV 25314, be appointed to the Charleston Urban Renewal Authority, with said term to expire March 3, 2014. He is replacing Dallas Staples.

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 April 8, 2009, the Municipal Planning Commission held public hearings and its regular monthly meeting. The following case should be referred to the Planning Committee of Council.

Bill #7385

Petition of Giles Frederick White requesting to close, abandon and discontinue as a public right-of-way the 25,939 square foot section of unimproved alley right-of-way located between Charleston West Tax District Parcel 166 and 167 at the end of the improved section of Sunrise Drive in Charleston, West Virginia

*Sincerely,
Municipal Planning Commission*

Phyllis White, Administrative Assistant

The Mayor referred the cases to the Planning Committee.

STREETS AND TRAFFIC

Councilman David Higgins, of the Council Committee on Streets and Traffic, submitted the following reports.

1. Your Committee on Streets and Traffic has had under consideration Bill No 7383, and reports the same to Council with the recommendation that the bill do pass.

Bill No. 7383 - A bill to repeal Ordinance No. 7146 passed by Council on 5 July, 2005, relating to a VEHICULAR PARKING ZONE FOR THE EXCLUSIVE USE OF THE PHYSICALLY DISABLED on the northerly side of Bigley Avenue from a point 27 feet east of Alethea Street to a point 49 feet east of Alethea Street and on the easterly side of Alethea Street from a point 30 feet north of Bigley Avenue to a point 52 feet north of

Bigley Avenue and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Law, Chapter one fourteen, Article five, to conform therewith.

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

Section 1. Ordinance No. 7146 passed by Council on 5 July, 2005, relating to a VEHICULAR PARKING ZONE FOR THE EXCLUSIVE USE OF THE PHYSICALLY DISABLED on the northerly side of Bigley Avenue from a point 27 feet east of Alethea Street to a point 49 feet east of Alethea Street and on the easterly side of Alethea Street from a point 30 feet north of Bigley Avenue to a point 52 feet north of Bigley Avenue is hereby repealed.

Section 2. 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, Chapter one fourteen, Article five, shall be and hereby are, amended to conform to this Ordinance.

Section 3. All prior Ordinances, inconsistent with this Ordinance are hereby repealed to the extent of said inconsistency.

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

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

ABSENT: Burton, Clowser,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7383, passed.

2. Your Committee on Streets and Traffic has had under consideration Bill No 7384, and reports the same to Council with the recommendation that the bill do pass.

Bill No. 7384 - A bill to establish a vehicular parking zone for the exclusive use of the physically disabled on Sunday only on the west side of Shrewsbury Street from a point 118 feet north of Christopher Street to a point 162 feet north of Christopher Street, to provide for the removal of vehicles illegally parked in these spaces, to incorporate the provisions of West Virginia Code, Chapter 17C, Article 13, Section 6, 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, Chapter one hundred fourteen, Article five, to conform therewith.

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

Section 1. A vehicular parking zone for the exclusive use of the physically disabled on Sunday only on the west side of Shrewsbury Street from

a point 118 feet north of Christopher Street to a point 162 feet north of Christopher Street, is hereby established.

Section 2. In order for a physically disabled person to utilize the parking spaces provided in the preceding section the vehicle which they are driving or in which they are being transported must display the distinguishing insignia provided for in West Virginia Code, Chapter 17C, Article 13, Section 6.

Section 3. It shall be unlawful for any vehicle not displaying the insignia provided for in Section 2 to park in those spaces for the disabled provided for in Section 1. Any vehicle in violation of this section may be ticketed and impounded as provided for in Chapter 31, Vehicles and Traffic Law, Code of the City of Charleston, West Virginia.

Section 4. 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, Chapter one hundred fourteen, Article five, shall be and hereby are, amended to conform to this Ordinance.

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

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

ABSENT: Burton, Clowser,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7384, passed.

3. Your Committee on Streets and Traffic has had under consideration Bill No 7387, as amended, and reports the same to Council with the recommendation that the bill do pass.

Bill No.7387, as amended: A BILL to amend Chapter 114, Article IV, Division 1, Section 114-240 of the Code of the City of Charleston, West Virginia, to clarify requirements and specifications for installation of traffic control devices.

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

That Chapter 114, Article IV, Division 1, Section 114-240 of the Code of the City of Charleston, West Virginia is hereby amended as follows:

Sec. 114-240. Installation and maintenance of traffic control devices; specifications; state approval required to place devices upon state highway.

(a) The director of public safety or other officer designated by the mayor with the approval of the city council shall place and maintain all traffic control devices, including

signs, markings and signals, when and as required by the provisions of this chapter or other ordinances of the city, to make such provisions effective. All traffic control devices placed within the city shall conform to the requirements and specifications of the Manual on Uniform Traffic Control Devices adopted by the state department of highways.

(b) No traffic control device shall be placed upon any street which is part of the state highway system except by permission of the state road commissioner.

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

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

ABSENT: Burton, Clowser,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7387, as amended, passed.

4. Your Committee on Streets and Traffic has had under consideration Bill No 7388, and reports the same to Council with the recommendation that the bill do pass.

Bill No. 7388: A BILL to amend Chapter 114, Article IV, Division 1, Section 114-236 of the Code of the City of Charleston, West Virginia, to establish No Turn on Red northbound and eastbound at the intersection of Washington and Elizabeth Streets.

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

That Chapter 114, Article IV, Division 1, Section 114-236 of the Code of the City of Charleston, West Virginia is hereby amended as follows:

Sec. 114-236. Locations where right turn on red prohibited.

Pursuant to the provisions of W. Va. Code § 17C-3-5, there shall be no turn on red at the following intersections after a sign is erected at such intersection giving notice of such prohibition:

TABLE INSET:

| Street | Cross Street | Direction of Travel |
|------------------------|-----------------------------|---------------------|
| 39th Street, East | MacCorkle Avenue | South |
| 50th Street, Southeast | MacCorkle Avenue, Southeast | North and south |
| 53rd Street, Southeast | MacCorkle Avenue, Southeast | North and south |
| 57th Street, East | MacCorkle Avenue | South |

| | | |
|-----------------------------|------------------------|-----------------|
| 58th Street, East | MacCorkle Avenue | East |
| Broad | Boulevard | South |
| Broad | Quarrier | South |
| Broad | Virginia | South |
| Brooks | Washington | North and south |
| Capitol | Lee | North |
| Capitol | Quarrier | North |
| Capitol | Virginia | North |
| Capitol | Washington | North and south |
| Chandler Drive | Sissonville Drive | East and west |
| Delaware | Virginia | North and south |
| Dickinson | Lee | North and south |
| Dickinson | Quarrier | North and south |
| Elizabeth | Washington | East |
| Lee | Capitol | East |
| Lee | Dickinson | East |
| Lee | Summers | East |
| MacCorkle Avenue, Southeast | 50th Street, Southeast | East and west |
| McFarland | Boulevard | South |
| Morris | Quarrier | South |
| Park | Washington | North |
| Quarrier | Broad | West |
| Quarrier | Capitol | West |
| Quarrier | Dickinson | West |
| Quarrier | Morris | West |
| Sissonville Drive | Chandler Drive | North and south |
| Stockton | Washington | North and south |
| Summers | Lee | North |
| Summers | Virginia | North |
| Virginia | Broad | East |

| | | |
|-------------------|------------------|--------------|
| Virginia | Capitol | East |
| Virginia | Summers | East |
| Virginia | Washington | West |
| <u>Washington</u> | <u>Elizabeth</u> | <u>North</u> |
| Washington | Brooks | West |
| Washington | Capitol | West |

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

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

ABSENT: Burton, Clowser,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7388, passed.

ORDINANCE AND RULES

Councilman Jack Harrison, 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 7386, and reports the same to Council with the recommendation that the bill do pass.

Bill No. 7386: A BILL to amend Chapter 10, Article I, Sections 10-3(a)(1)(l) and 10-5(e) of the Municipal Code of the City of Charleston for the purpose of clarifying the penalties for persons convicted of cruelty to animals, and to amend Chapter 10, Article 1, Section 10-8 regulating the sale of baby fowl.

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

That Chapter 10, Article I, Sections 10-3(a)(1)(l), 10-5(e) and 10-8 of the Municipal Code of the City of Charleston are hereby amended to read as follows:

Sec. 10-3. Cruelty to animals.

(a) *Cruel acts and conditions enumerated.*

(1) It shall be unlawful for any person:

a. To willfully and maliciously kill, maim, disfigure or torture any animal, or beat any animal with a stick, board, chain, club, or other object, mutilate, burn or scale any animal with any substance, or drive over any animal, or otherwise cruelly set an animal

upon another animal; provided that reasonable force may be employed to drive off vicious or trespassing animals; or

b. To make accessible to any animal by any means, with the intent to cause harm or death, any substance which has in any manner been treated or prepared with harmful or poisonous substances: provided that it is not the intent of this subsection to prohibit the use of poisonous substances for the control of vermin of significance to the public health; or

c. To cause, instigate, stage, or train any animal to fight or permit any fight between any animal and another animal or human; or

d. To fail, refuse, or neglect to provide any animal in his or her charge or custody as owner or otherwise with proper food, drink, shade, care, or shelter: provided that for the purposes of this subsection any animal kept outside shall be provided with structurally sound weatherproof enclosure, large enough to accommodate the animal; or

e. To drive or work any animal cruelly; or

f. To abandon any animal within the city limits (for the purposes of this section, abandon means for the owner or keeper to leave an animal unattended without demonstrated or apparent intent to recover or resume custody, to leave an animal for more than 12 hours without providing adequate food and shelter for the duration of the absence, or to turn out or release an animal for the purpose of causing it to be impounded); or

g. To leave an animal confined in a vehicle unattended for more than five minutes in extreme weather conditions, defined as less than thirty degrees Fahrenheit or more than 80 degrees Fahrenheit; or

h. To transport an animal in the trunk of a vehicle; or

i. To transport an animal in the open bed of a truck unless said animal is restrained in a cage or on a leash that will prevent the animal from jumping or falling from the vehicle; or

j. To crop animal ears or dock animal tails except when performed by a licensed veterinarian; or

k. To give away any live animal, fish, reptile, or bird as a prize for entering, or as an inducement to enter a place of amusement; or

l. Who strikes a domesticated animal while operating a motor vehicle, to fail to stop at once and render such assistance as may be possible and immediately report such injury or death to the animal's owner, if any: provided that in the event the owner cannot

be ascertained and located, such operator shall at once report the accident to the appropriate law enforcement agency or to the humane association.

(b) *Exceptions.* Nothing in subsection (a) of this section shall be deemed or interpreted to prohibit:

(1) Any action by a licensed veterinarian done in accordance with accepted standards of veterinary medicine; or

(2) Any action taken by a police officer pursuant to the interests of public health and safety.

(3) Any act done in self-defense or done to defend another person or animal.

(c) *[Violations.]* Violations of this section shall be subject to the enforcement, adjudication and penalty provisions of section 10-5.

Sec. 10-5. Procedures, penalties and fines for sections 10-2, 10-3 and 10-4.

(a) Any police officer or humane officer may take into custody any animal, upon either private or public property, which clearly shows evidence of cruelty to animals as set forth in sections 10-2, 10-3 or 10-4. Such officer may:

(1) Inspect, care for, or treat such animal or place such animal in the care of the humane association or licensed veterinarian for treatment, boarding or other care; or

(2) Designate such animal for humane destruction if an officer of the humane association or licensed veterinarian determines that the animal appears to be diseased or disabled beyond recovery for any useful purpose.

(b) The owner or keeper of an animal that is destroyed pursuant to subsection (a) herein shall not be entitled to recover damages for the destruction of such animal unless the owner or keeper proves by clear and convincing evidence that such destruction was unreasonable and unwarranted.

(c) In addition to the fines and/or imprisonment imposed by this section, any defendant convicted of a violation of sections 10-2, 10-3 or 10-4 shall pay to the municipal court, consistent with section 10-163, a penalty of all reasonable expenses incurred for the care, treatment, and boarding of any animal taken into custody pursuant to subsection (a) herein. Upon payment of such penalty, the municipal court shall remit such payment to the humane association or other animal care provider.

(d) If a person is adjudicated guilty of a violation of sections 10-3 or 10-4, the municipal court judge may in his discretion order that such person shall be deemed to have forfeited all interest in the animal at issue in the violation and may vest all interest to the humane association for adoption or other disposition. If the person is adjudicated not

guilty of a violation of sections 10-3 or 10-4, or the charge(s) otherwise be dismissed, and the animal at issue has been taken into custody pursuant to this section, then the defendant shall have ten days from the date of the entry of the finding of not guilty or of dismissal to appear and claim said animal. The defendant shall be responsible for all reasonable expenses incurred for the care, treatment and boarding from the date of the entry of the disposition of the case until redemption of the animal; provided that if the animal is not claimed within ten days from the date of entry of the finding of not guilty or of dismissal, then the owner shall be deemed to have forfeited all interest in the dog, the dog shall be deemed abandoned, and all interest in the animal shall vest to the humane association for adoption or other disposition.

(e) Subject to the exceptions contained in subsections (1) and (2) herein, a person convicted of a violation of sections 10-2, 10-3 or 10-4 shall be punished by a fine of not less than \$500.00 for each separate violation arising under sections 10-2, 10-3 or 10-4. For violations of sections 10-3(a)(1), and in addition to the fines set forth herein, the municipal court judge may, in his discretion, order that the defendant be sentenced to a jail term of not more than 30 days for each separate violation arising under subsections 10-3(a)(1)

(1) Except for violation of subsections 10-3(a)(1)a.--c., in the case of a first offense of sections 10-3 or 10-4, if the defendant enters a plea of guilty or no contest and voluntarily forfeits his right to own any animal within the city limits for one year, the municipal court judge may, in his discretion, reduce or suspend the fine: provided that if the defendant violates the terms of the plea regarding forfeiture, then the full amount of the fine shall be reinstated upon proper findings and conclusions of the court.

(2) Except for violation of subsections 10-3(a)(1)a.--c., the municipal court judge shall have the authority, on one occasion only per defendant, to withhold for a reasonable time not to exceed 180 days the entry of a judgment of conviction for violations under sections 10-3 or 10-4 so that the defendant may attend an animal training program established or certified by the humane association. If the defendant attends said course, the municipal court judge, if satisfied with the defendant's participation in and proof of payment for the course, shall, without entering a judgment of conviction, dismiss the proceeding against the defendant. It shall be a condition of this alternative disposition that the defendant pay the regular court costs required for misdemeanor offenses by this code where a person is convicted of such a misdemeanor offense. Any such court costs collected by the municipal court shall be allocated and transmitted by the municipal court as required by law.

Sec. 10-8. Sale of baby fowl.

It shall be unlawful for any person to sell or offer for sale as pets or novelties any artificially colored, sprayed, painted or dyed baby chicks, ducklings, goslings, turkeys or other fowl.

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

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

ABSENT: Burton, Clowser,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7386, passed.

2. Your Committee on Ordinance and Rules has had under consideration Bill No 7390 and reports the same to Council with the recommendation that the bill do pass.

Ordinance No. 7390: A Bill to enact Chapter 3, Section 3-27, of the Municipal Code of the City of Charleston for the purpose of providing a manner in which the City may file a lien on real property, absent obtaining a court judgment, for costs incurred by the City in abating exterior sanitation and common nuisance violations and for repairing, relaying, or constructing sidewalks.

WHEREAS, W.Va. Code § 8-12-5(10) authorizes the City of Charleston to adopt ordinances to prohibit the accumulation and require the disposal of garbage, refuse, debris, wastes, ashes, trash and other similar accumulations whether on private or public property; and

WHEREAS, W.Va. Code § 8-12-5(23) authorizes the City of Charleston to adopt ordinances to provide for the elimination of hazards to public health and safety and to abate or cause to be abated anything which in the opinion of a majority of the governing body is a public nuisance; and

WHEREAS, Chapter 50, Article IV, Sections 121-124 of the Municipal Code of the City of Charleston requires the owner and/or person in charge of property located within the City to abate accumulations of garbage, rubbish, or other refuse that is unsightly, a fire hazard, or detrimental to public health. If after receiving notice, the owner and/or person in charge of the property fails to abate the violation, the City is authorized to abate the violation and to secure re-payment of costs incurred by the City for abatement; and

WHEREAS, the City of Charleston has adopted the International Property Maintenance Code and the Zoning Ordinance, pursuant to Chapter 14, Article II, Section 33 and Chapter 91, Section 1 of the Municipal Code of the City of Charleston, respectively, which gives the City authority to regulate the maintenance of premises and to abate exterior sanitation issues; and

WHEREAS, Chapter 102, Article II, Section 52 of the Municipal Code of the City of Charleston delegates the duty to maintain sidewalks to abutting property owners and authorizes the City, after giving notice to the property owner, to repair, relay, or construct sidewalks, and to assess the abutting property owner with the cost of such rehabilitation, and to secure re-payment of costs incurred by the City for the rehabilitation; and

WHEREAS, the West Virginia Home Rule Pilot Program has been established to enable municipalities to better carry out their duties and responsibilities in a cost-effective, efficient and timely manner, and permitting the City to secure re-payment for costs incurred for abatement and rehabilitation furthers those goals.

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

That under the authority granted to the City of Charleston under W. Va. Code §8-1-5a, Chapter 3, Section 3-27 of the Municipal Code of the City of Charleston, West Virginia, is hereby created to read as follows:

Sec. 3-27 Authority of City to file liens on real property for costs incurred in abating exterior sanitation and common nuisance violations and for costs incurred in repairing, relaying, or constructing sidewalks

- 1.) The City may file a lien on real property for costs incurred in abating exterior sanitation and common nuisance violations, which include, but are not limited to, those violations set forth in Section 3-26(a)(3), and when the following occurs:
 - (a) A property owner, after receiving lawful notice pursuant to Section 3-26(c) or pursuant to any other applicable provision of the Municipal Code, fails to abate the violation; and
 - (b) The enforcement official lawfully enters said property and performs the work necessary to abate the violation; and
 - (c) A notice of the costs of abatement is sent to the property owner and those costs are not remitted within a time satisfactory to the City.
- 2.) The City may file a lien on real property for costs incurred in repairing, relaying, or constructing sidewalks in accordance with Chapter 102, Section 52 of the Municipal Code of the City of Charleston.

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

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

ABSENT: Burton, Clowser,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7390, 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 546-09,

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

Resolution No. 546-09: "Authorizing the Finance Director to amend the 2008-2009 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 2008-2009 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-26, absent -2, as follows:

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

ABSENT: Burton, Clowser,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 546-09, passed.

2. Your Committee on Finance has had under consideration Resolution No 547-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 547-09: "Authorizing the Finance Director to amend the 2008-2009 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 2008-2009 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: Davis, Deitzler, Deneault, Ealy, Hall, Hanna, Harris, Harrison, Higgins, Jones, Kirk, Knauff, Lane, Miller, Payne, Reed, Reishman, Russell, Salisbury, Sheets, Smith, Talkington, Ware, Weintraub, White, Mayor Jones.

ABSENT: Burton, Clowser,

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

Mayor declared Resolution No. 547-09, passed.

3. Your Committee on Finance has had under consideration Resolution No 548-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 548-09: "Authorizing the Finance Director to amend the 2009-2010 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 2009-2010 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: Davis, Deitzler, Deneault, Ealy, Hall, Hanna, Harris, Harrison, Higgins, Jones, Kirk, Knauff, Lane, Miller, Payne, Reed, Reishman, Russell, Salisbury, Sheets, Smith, Talkington, Ware, Weintraub, White, Mayor Jones.

ABSENT: Burton, Clowser,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 548-09, passed.

4. Your Committee on Finance has had under consideration Resolution No 549-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 549-09: "Authorizing the Mayor to enter into a contract with Suttle and Stalnaker, in the amount of \$5,100 for an Agreed Upon Procedures Engagement for the Solid Waste Facility, operated by Landfill Services of Charleston, Inc., for the calendar year ended December 31, 2008, with an obligation to renew the contract for two additional years at the same price, subject to appropriation of funds by City Council."

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

That the Mayor is hereby authorized and directed to enter into a contract with Suttle and Stalnaker, in the amount of \$5,100, for an Agreed Upon Procedures Engagement for the Solid Waste Facility, operated by Landfill Services of Charleston, Inc., for the calendar year ended December 31, 2008, with an obligation to renew the contract for two additional years at the same price, subject to appropriation of funds by City Council. The price quoted by Suttle and Stalnaker for a one year contract was \$5,400.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 549-09, adopted.

5. Your Committee on Finance has had under consideration Resolution No 550-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 550-09: "Authorizing the Mayor to sign and submit FY 2009 Community Participation Program grant information sheets and all related documents for the West Virginia Music Hall of Fame, Project No. 09LEDA0266, in the amount of \$1,000."

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 FY 2009 Community Participation Program grant information sheets and all related documents for the West Virginia Music Hall of Fame, Project No. 09LEDA0266, in the amount of \$1,000.

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

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

ABSENT: Burton, Clowser,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 550-09, passed.

6. Your committee on Finance has had under consideration Bids submitted by three (3) vendors, in the total amount of \$130,887.94, for purchase of 75 computers, one server, software licenses, and four Fibre channel switches. Purchase of the computers is in keeping with the City's ongoing program to update computer equipment for City departments. The companies submitting low bids on the various components are listed below:

Aprisa Technology, LLC.

| | |
|--------------------------------------|-------------|
| 45 Computers w/Office Small Business | \$48,960.00 |
| 30 Computers w/Office Pro | \$34,440.00 |
| 1 Server | \$10,818.00 |

CDW-G

| | |
|---|-------------|
| 1 Gvt. Open License SQL SVR STD EDTN 2008 | \$ 602.00 |
| 45 Gvt. Open License SQL CAL 2008 | \$ 4,950.00 |

SDF Professional Computers, Inc.

| | |
|---|-------------|
| 2 Brocade 5000 16 Port Fibre Channel Switches | \$25,557.68 |
| 2 Brocade 320 8 Port Fibre Channel Switches | \$ 5,560.26 |

To be charged to the following accounts:

\$127,443.94 - 001-975-00-439-4-459, IS Dept., Capital Outlay, Equip.
\$ 3,444.00 - 097-000-08-000-4-459, 2007 COPS Meth Grant (3 computers)

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.

7. Your committee on Finance has had under consideration a proposal submitted by Stephens Auto Center for purchase of a vehicle to be used by the Metro Drug Enforcement Unit (MDENT), in the amount of \$19,513, less trade-in of one vehicle in the amount of \$2,800, reducing the cost of the new vehicle to \$16,713.

To be charged to Account No. 095-164-09-000-4-459, Police—2008 Purdue Pharma Grant, 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 Financial Statements for the Nine- Month Period Ended March 31, 2009.

Received and Filed.

ROLL CALL

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

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

ABSENT: Burton, Clowser

At 8:05p.m., by a motion from Councilmember Harrison, Council adjourned until Monday, May 4, 2009, at 7:00 p.m.

Danny Jones, Honorable Mayor

James M. Reishman, City Clerk