

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

OCTOBER 5, 2009

THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE FIRST MEETING IN THE MONTH OF OCTOBER ON THE 5th DAY, IN THE YEAR 2009, AND WAS CALLED TO ORDER BY THE HONORABLE MAYOR, DANNY JONES. THE INVOCATION WAS DELIVERED BY DEITZLER AND THE PLEDGE OF ALLEGIANCE WAS LED BY HARRISON.

**BURTON
DEITZLER
HALL
HARRISON

MILLER

SHEETS
WARE
MAYOR JONES**

**DENEALT
HANNA
HIGGINS
KNAUFF
PAYNE
RUSSELL
SMITH
WEINTRAUB**

**DAVIS
EALY
HARRIS
JONES
LANE
REED
SALISBURY
TALKINGTON
WHITE**

WITH 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.

PUBLIC SPEAKERS

Catherine Eckley – Junior League of Charleston, WV

CLAIMS

- 1. A claim of Steven and Julie Williams, 282 Eureka Rd, Charleston, WV; alleges damage to property.
Refer to City Solicitor
- 2. A claim of Gary Mullins, 109 19th St., Dunbar, WV; alleges damage to vehicle.
Refer to City Solicitor

MISCELLANEOUS RESOLUTIONS

Resolution No.
656-09

Introduced in
Council:
October 5, 2009

Adopted by Council:
October 5, 2009

Introduced by:
Jack Harrison
Teresa Reed
Joe Deneault
Mary Jean Davis

**CITY OF CHARLESTON STRONG NEIGHBORHOODS
RESOLUTION IN SUPPORT OF NATIONAL COMMUNITY PLANNING MONTH**

- WHEREAS: Change is constant and affects all cities, towns, suburbs, counties, boroughs, townships, rural areas, and other places; and
- WHEREAS: Community planning and land use plans can help manage this change in a way that provides better choices for how people work and live; and
- WHEREAS: The City of Charleston is committed to smart growth initiatives that advance walkability, recreation, and the sustainability of our city; and
- WHEREAS: Smart growth is an urban planning and transportation movement that concentrates growth in the center of a city to avoid urban sprawl and advocates compact, transit-oriented, walkable, bicycle-friendly land use; and
- WHEREAS: Community planning provides an opportunity for all residents to be meaningfully involved in making choices that determine the future of their community; and

WHEREAS: Realizing the full benefits of planning require public officials and citizens who understand, support, and demand excellence in planning and plan implementation; and

WHEREAS: The month of October is designated as National Community Planning Month throughout the United States of America and its territories; and

WHEREAS: The American Planning Association and its professional institute, the American Institute of Certified Planners, endorse National Community Planning Month as an opportunity to highlight the contributions sound planning and plan implementation make to the quality of our settlements and environment; and

WHEREAS: The celebration of National Community Planning Month gives us the opportunity to publicly recognize the participation and dedication of the individual volunteers and corporate citizens who have contributed their time and expertise to the improvement of the City of Charleston; and

WHEREAS: We recognize the many valuable contributions made by professional community and regional planners of the City of Charleston and extend our heartfelt thanks for the continued commitment to public service by these professionals;

NOW, THEREFORE BE IT RESOLVED, that the City Council of Charleston does hereby declare and proclaim that the Month of October, 2009 be declared as

COMMUNITY PLANNING MONTH

in the City of Charleston, West Virginia, in conjunction with the celebration of National Community Planning Month.

DANNY JONES,
MAYOR

TOM LANE, PRESIDENT OF
COUNCIL

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 656-09, adopted.

PLANNING

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

1. Your Committee on Planning has had under consideration resolution No. 633-09,

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

Resolution No. 633-09, Granting NewPort One, LLC, an Easement for use of air rights over a fifteen foot alley and parcel located behind 225 Capitol Street to construct and connect a skyway for pedestrian foot traffic between the apartment building known as 225 Capitol Street on the West Side of Capitol Street, and the City of Charleston Parking Garage No. 6 on the East side of Summers Street, in the City of Charleston, West Virginia.

WHEREAS, NewPort One, LLC is the contract/purchaser of the property situate at 225 Capitol Street, Charleston, Kanawha County, West Virginia; and

WHEREAS, a connecting skyway access between the apartment building situate at 225 Capitol Street, Charleston, West Virginia on the West Side of Capitol Street and the City of Charleston Parking garage designated as Parking Garage #6 on the East side of Summers Street is in the best interests of the residents and visitors to the City in order to connect the 225 Capitol Street apartment building with the City's parking garage which will promote the safety and welfare of pedestrian and motorists whether they be residents, employees, visitors, or the general public in the vicinity of Summers and Capitol Street; and

WHEREAS, it is considered by Council that granting the easement for the use of air rights over the alley and parcel and the right to use City property to attach a skyway to the Parking Garage #6 is reasonable and necessary and that the interests of the City and its citizens will be promoted by the granting of the said easement rights.

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

(1) That NewPort One, LLC and its successors and assigns, are hereby granted an easement for the use of air rights over the 15' alley and parcel between 225 Capitol Street and the City of Charleston Parking Garage #6 for the purpose of constructing, operating, maintaining, repairing and replacing a skyway for pedestrian foot traffic between the building owned known as 225 Capitol Street on the West side of Capitol Street and the City of Charleston Parking Garage #6 on the East side of Summers Street, Charleston, West Virginia, generally in conformance with the design drawings which are attached hereto, incorporated herein, and made a part hereof. The easement for the use of air rights are further defined to be a minimum of 14 feet clearance above said alley, a minimum of eight feet wide, being approximately 99.8 feet in length;

(2) That NewPort One, LLC is further granted an easement to use so much of the City's property to enable NewPort One, LLC to attach a skyway for pedestrian foot traffic to the City's Parking Garage #6, subject to the obligations and restrictions as the City Engineer may impose on the design and construction of the said skyway;

(3) The City shall have the right to inspect by qualified personnel in accordance with the American Association of State Highway and Transportation Officials (AASHTO) requirements, the reasonable cost of which shall be paid by NewPort One, LLC and NewPort One, LLC shall provide the City with copies of any and all inspection reports to

assure the City that the skywalk is structurally sound and safe for pedestrian foot traffic and for motorists and pedestrians on the alley and the sidewalk under and near the skywalk;

(4) That the connecting skyway access construction and maintenance by NewPort One, LLC shall be enclosed and conform to all applicable State and City laws;

(5) That NewPort One, LLC, its successors or assigns, shall indemnify and save the City harmless from any damages to any person or property by reason of construction, operation, maintenance, repair or replacement of said skywalk over alley.

(6) NewPort One, LLC shall maintain general liability insurance in the amount of \$1,000,000.00 and shall name the City of Charleston as additional insured for purposes of this easement and the indemnity provisions specified in the easement agreement. All applicable policies shall provide primary coverage, shall reflect that NewPort One, LLC is responsible for any and all deductibles and shall otherwise be in such form and with such endorsements and riders as the City shall specify.

(7) This easement shall be upon the expressed condition and limitations that except in the case of replacement repairs, in the event such skyway ceases to be an appurtenance to the NewPort One, LLC building, or if the easement shall cease, terminate, and be of no further effect, and NewPort One LLC shall, upon receiving written notice from the City, immediately and at their expense, remove the skyway and any and all facilities from the City's property.

(8) That the Mayor of the City of Charleston be and hereby is authorized and directed to execute a Deed granting an easement for the use of air rights and the right to use so much of the City's property as is reasonably necessary to attach the skyway to the City's Parking Garage #6, subject to and conditioned upon NewPort One, LLC complying with paragraphs 1, 2, 3, 4, and 5 of this Resolution, and the payment of a total of Two Thousand one hundred and no/100 dollars.

Received and filed, the Resolution was referred to Finance for final consideration.

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. 7397, and reports the same to Council with the recommendation that the bill do pass.

Bill No. 7397 - A Bill to prohibit vehicular traffic from traveling in the southbound direction of Hunt Avenue between Kanawha Boulevard and 1st Avenue, and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, Two thousand and three, as amended, Traffic Law, Section 263, Division 2, Article 4, Chapter 114, to conform therewith.

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

Section 1. Prohibiting vehicular traffic from traveling in the southbound direction of

Hunt Avenue between Kanawha Boulevard and 1st Avenue hereby established.

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, Section 263, Division 2, Article 4, Chapter 114, 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 adoption of the Bill a roll call was taken and there were; yeas-25, absent -3, as follows:

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

ABSENT: Clowser, Kirk, Reishman

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7397, adopted.

2. Your Committee on Streets and Traffic has had under consideration Bill No. 7398, and reports the same to Council with the recommendation that the bill do pass.

Bill No.7398 - A Bill to establish a No Parking Anytime Tow Away zone in the turnaround at the upper end of Evergreen 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.

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

Section 1. A No Parking Anytime Tow Away zone in the turnaround at the upper end of Evergreen Street is hereby established.

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, Section 263, Division 2, Article 4, Chapter 114, 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 adoption of the Bill a roll call was taken and there were; yeas-25, absent -3, as follows:

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

ABSENT: Clowser, Kirk, Reishman

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7398, adopted

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 633-09 committee substitute, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 633-09, Granting NewPort One, LLC, an Easement for use of air rights over a fifteen foot alley and parcel located behind 225 Capitol Street to construct and connect a skyway for pedestrian foot traffic between the apartment building known as 225 Capitol Street on the West Side of Capitol Street, and the City of Charleston Parking Garage No. 6 on the East side of Summers Street, in the City of Charleston, West Virginia.

WHEREAS, NewPort One, LLC is the contract/purchaser of the property situate at 225 Capitol Street, Charleston, Kanawha County, West Virginia; and

WHEREAS, a connecting skyway access between the apartment building situate at 225 Capitol Street, Charleston, West Virginia on the West Side of Capitol Street and the City of Charleston Parking garage designated as Parking Garage #6 on the East side of Summers Street is in the best interests of the residents and visitors to the City in order to connect the 225 Capitol Street apartment building with the City's parking garage which will promote the safety and welfare of pedestrian and motorists whether they be residents, employees, visitors, or the general public in the vicinity of Summers and Capitol Street; and

WHEREAS, it is considered by Council that granting the easement for the use of air rights over the alley and parcel and the right to use City property to attach a skyway to the Parking Garage #6 is reasonable and necessary and that the interests of the City and its citizens will be promoted by the granting of the said easement rights.

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

(1) That NewPort One, LLC and its successors and assigns, are hereby granted an easement for the use of air rights over the 15' alley and parcel between 225 Capitol Street and the City of Charleston Parking Garage #6 for the purpose of constructing, operating, maintaining, repairing and replacing a skyway for pedestrian foot traffic between the building owned known as 225 Capitol Street on the West side of Capitol Street and the City of Charleston Parking Garage #6 on the East side of Summers Street, Charleston, West Virginia, generally in conformance with the design drawings which are attached hereto, incorporated herein, and made a part hereof. The easement for the use of air rights are further defined to be a minimum of 14 feet clearance above said alley, a minimum of eight feet wide, being approximately 99.8 feet in length;

(2) That NewPort One, LLC is further granted an easement to use so much of the City's

property to enable NewPort One, LLC to attach a skyway for pedestrian foot traffic to the City's Parking Garage #6, subject to the obligations and restrictions as the City Engineer may impose on the design and construction of the said skyway;

(3) The City shall have the right to inspect by qualified personnel in accordance with the American Association of State Highway and Transportation Officials (AASHTO) requirements, the reasonable cost of which shall be paid by NewPort One, LLC and NewPort One, LLC shall provide the City with copies of any and all inspection reports to assure the City that the skywalk is structurally sound and safe for pedestrian foot traffic and for motorists and pedestrians on the alley and the sidewalk under and near the skywalk;

(4) That the connecting skyway access construction and maintenance by NewPort One, LLC shall be enclosed and conform to all applicable State and City laws;

(5) That NewPort One, LLC, its successors or assigns, shall indemnify and save the City harmless from any damages to any person or property by reason of construction, operation, maintenance, repair or replacement of said skywalk over alley.

(6) NewPort One, LLC shall maintain general liability insurance in the amount of \$1,000,000.00 and shall name the City of Charleston as additional insured for purposes of this easement and the indemnity provisions specified in the easement agreement. All applicable policies shall provide primary coverage, shall reflect that NewPort One, LLC is responsible for any and all deductibles and shall otherwise be in such form and with such endorsements and riders as the City shall specify.

(7) This easement shall be upon the expressed condition and limitations that except in the case of replacement repairs, in the event such skyway ceases to be an appurtenance to the NewPort One, LLC building, or if the easement shall cease, terminate, and be of no further effect, and NewPort One LLC shall, upon receiving written notice from the City, immediately and at their expense, remove the skyway and any and all facilities from the City's property.

(8) That the Mayor of the City of Charleston be and hereby is authorized and directed to execute a Deed granting an easement for the use of air rights and the right to use so much of the City's property as is reasonably necessary to attach the skyway to the City's Parking Garage #6, subject to and conditioned upon NewPort One, LLC complying with paragraphs 1, 2, 3, 4, and 5 of this Resolution, and the payment of a total of Two Thousand one hundred and no/100 dollars.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 633-09, adopted.

2. Your Committee on Finance has had under consideration Resolution No 652-09 committee substitute, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 652-09: "Authorizing the Mayor to enter into an agreement with FiberNet for the City's CENTREX, PRI, and Long Distance Services. The agreement is for a one year period with the option to renew the agreement for up to

three (3) consecutive one year renewals at the same rates quoted in the vendor's proposal, subject to Council approval of funds."

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

That the Mayor is hereby authorized and directed to enter into an agreement with FiberNet for the City's CENTREX, PRI, and Long Distance Services. The agreement is for a one year period with the option to renew the agreement for up to three (3) consecutive one year renewals at the same rates quoted in the vendor's proposal, subject to Council approval of funds. The prices for the telecommunication services are as follows:

CENTREX Lines	\$ 13.00 / line / month
PRI	\$400.00 / line / month
Long Distance	\$ 0.03 / minute

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 652-09, adopted.

3. Your Committee on Finance has had under consideration Resolution No 653-09 committee substitute, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 653-09: "Authorizing the Mayor to sign and submit FY 2009 Community Participation Program contracts, and all related documents, between the West Virginia Development Office and the City of Charleston on behalf of two agencies."

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 contracts, and all related documents, between the West Virginia Development Office and the City of Charleston on behalf of the following agencies:

Charleston Area Alliance	09LEDA0245	\$45,000
Children's Theater of Charleston	09LEDA0251	\$ 4,000

The question being on the adoption of the Bill a roll call was taken and there were; yeas-25, absent -3, as follows:

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

ABSENT: Clowser, Kirk, Reishman

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution Number 653-09, adopted.

4. Your Committee on Finance has had under consideration Resolution No 654-09

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

Resolution No. 654-09: “Authorizing the Finance Director to allocate funds in the amount of \$85,467 for rehabilitation of five (5) owner occupied residences in the City of Charleston.”

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

That the Finance Director is hereby authorized and directed to allocate funds in the amount of \$85,467 for rehabilitation of five (5) owner occupied residences in the City of Charleston.

The bids received for the five rehabilitation projects are as follows:

West Side Flat	
Historic Restorations	\$19,600
Empire Electric	\$28,200
West Side Flat	
Empire Electric	\$ 9,100
Dean Geoffrey’s Construction	\$10,465
Burford Contracting	\$10,528
Historic Restorations	\$12,590
West Side Hill	
Dean Geoffrey’s Construction (No other bids received)	\$19,995
West Side Hill	
Dean Geoffrey’s Construction	\$19,290
Historic Restorations	\$19,700
Empire Electric	\$19,970
East End Hill	
Burford Contracting	\$17,482
Empire Electric	\$18,100
Dean Geoffrey’s Construction	\$19,595
Historic Restorations	

The question being on the adoption of the Bill a roll call was taken and there were; yeas-25, absent -3, as follows:

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

ABSENT: Clowser, Kirk, Reishman

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

Mayor declared Resolution Number 654-09, adopted.

5. Your Committee on Finance has had under consideration Resolution No 655-09 committee substitute, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 655-09 : “Authorizing the Mayor to enter into an Agreement with the West Virginia Department of Transportation, Division of Highways for the resurfacing of a section of Oakwood Road, said authorization being granted by Resolution pursuant to the Municipal Code of the City of Charleston Chapter 3, Article II, Section 3-12.

WHEREAS, City is desirous to enter into a joint agreement with Department to expedite the paving of the state route known as Oakwood Road, from Cantley Drive to Hickory Road; and

WHEREAS, City is willing to perform and pay for paving costs, estimated at \$36,000, and perform inspection of said paving project, with reimbursement for one half the total cost by Department; and

WHEREAS, Department considers it to be in the interest of the public to participate in this request, which furthers public safety in the City of Charleston and the State of West Virginia;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CHARLESTON, WEST VIRGINIA that the Mayor is hereby authorized to enter into an Agreement with the West Virginia Department of Transportation, Division of Highways for the resurfacing of a section of Oakwood Road.”

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 655-09, adopted.

6. Your committee on Finance has had under consideration a bid submitted by Central Lake Armor Express, in the amount of \$24,600, for purchase of twenty (20) Body Armor / Vests to be used by the Charleston Police Department. To be charged to Account No. 043-299-00-000-4-459, Police—Asset Forfeiture 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 Capitol Business Interiors, in the amount of \$20,335.94, for purchase of office furniture for the MDENT division of the Charleston Police Department. To be charged to Account No. 094-000-00-999-3-341, Police—2009 BJAG ARRA Stimulus 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

Report of the City of Charleston, Municipal Court Final Statements; September 2009

ROLL CALL

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

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

ABSENT: Clowser, Kirk, Reishman

At 7:30 p.m., by a motion from Councilmember Harrison, Council adjourned until Monday, October 19, 2009, at 7:00 p.m.

Danny Jones, Honorable Mayor

James M. Reishman, City Clerk

