

**JOURNAL
OF THE
COUNCIL
CITY OF CHARLESTON**

WEST VIRGINIA

August 15, 2011

THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE SECOND MEETING IN THE MONTH OF AUGUST ON THE 15th DAY, IN THE YEAR 2011, AND WAS CALLED TO ORDER BY THE HONORABLE MAYOR, DANNY JONES. THE INVOCATION WAS DELIVERED BY EALY AND THE PLEDGE OF ALLEGIANCE WAS LED BY BURKA.

**BURKA
DAVIS
EALY
KIRK
MINARDI
REISHMAN
SALISBURY
SNODGRASS
WARE
MAYOR JONES**

**BURTON
DENEALT

LANE
NICHOLS
RICHARDSON
SHEETS
STAJDUHAR
WEINTRAUB**

**DODRILL
HARRISON
MILLER
PERSINGER
RUSSELL
SMITH
TALKINGTON
WHITE**

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

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

PUBLIC SPEAKERS

Anthony Kinzer - Crosswalks

CLAIMS

1. A claim of Sally Miller, 408 Abbey Drive, Charleston, WV; alleges damage to vehicle.
Refer to City Solicitor
2. A claim of Freddy Osaba, PO Box 1869, Palmetto, FL; alleges damage to property.
Refer to City Solicitor
3. A claim of Milciades Jimenez, 14500 SW 88 Ave., Apt 119. , Palmetto Bay, FL; alleges damage to property.
Refer to City Solicitor
4. A claim of Myron Boggess II, 130 Silkott Fork, Gandeeville, WV; alleges damage to vehicle.
Refer to City Solicitor
5. A claim of Charlene Straughter, 1205 Homer St., Charleston, WV; alleges damage to property.
Refer to City Solicitor
6. A claim of Kristy Jarrell, 6411 Price Branch Rd., Danville, WV; alleges damage to vehicle.
Refer to City Solicitor
7. A claim of Shauna Pearson, 119 Emerald Rd., Charleston, WV; alleges damage to vehicle.
Refer to City Solicitor
8. A claim of Anna Price, 1668 Strollings Road, Danville WV; alleges damage to vehicle.
Refer to City Solicitor
9. A claim of Kenneth Sampson, 1421 6th Avenue, Charleston, WV; alleges damage to vehicle.
Refer to City Solicitor
10. A claim of Wanda Hightower, 405 Wertz Ave., Charleston, WV; alleges damage to vehicle.
Refer to City Solicitor
11. A claim of Stephen Summers, 509 Sheridan Circle., Charleston, WV; alleges damage to property.
Refer to City Solicitor

COMMUNICATIONS

The Clerk read the Appointment;

TO: Councilman Jack Harrison
Councilman John Miller
Councilwoman Susie Salisbury
Councilman Ed Talkington
Councilman Bob White

FROM: Danny Jones, Mayor
RE: Select Committee on Cable Television
DATE: August 15, 2011

I am appointing each of you to the select committee on Cable Television. The purpose of this committee is to review and discuss the request to renew the franchise agreement between Cebridge Acquisition, LLC, dba Suddenlink Communications and the City of Charleston.

I would ask that Councilmember Harrison act as the Chairperson in this matter. I would ask that the committee hold the necessary public hearings and speak with the knowledgeable people in this field to provide guidance and assistance with this task.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the appointment confirmed.

TO: JAMES REISHMAN
CITY CLERK
FROM: DANNY JONES
MAYOR
RE: CHARLESTON LAND TRUST
DATE: AUGUST 15, 2011

I recommend that Chris Dodrill, 500 Lee St., E Suite 800, Charleston, WV 25301, be appointed to the Charleston Land Trust, with an initial term to expire October 4, 2013.

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

DJ/dmp

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the appointment confirmed.

The clerk read the communication:

To: Danny Jones, Mayor and
City Council Members
From: Dan Vriendt, Planning Director
Date: August 5, 2011

Subject: Referral to Planning Committee

On August 3, 2011 the Municipal Planning Commission held a public hearing on the following case:

Bill No.7482, a request by Terry Midkiff requesting to amend the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 1st day of January 2006, as amended, and the map made a part thereof, by rezoning the whole of that certain parcel of land situate at 2114 Pennsylvania Avenue, Charleston, West Virginia from an R-4 Single Family Residential District to a C-10 General Commercial District.

This case should be referred to Council's Committee on Planning.

The Mayor refered the case to the Planning Committee.

The Clerk read the communication:

Your Committee on Streets and Traffic has had under consideration Bill 7480, relating to the speed limit on 21st Street, West south of 7th Avenue and recommends that the Bill be withdrawn as unnnesessary.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill 7480 withdrawn.

STREETS AND TRAFFIC

Councillperson Joe Deneault, Chairperson 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. 7479, and reports the same to council with the recommendation that the Bill do pass as amended.

Bill No. 7479- A Bill to establish to 25 MPH on 21st Street W., 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 25 Mile Per Hour speed limit on 21st Street W., 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 passage of the Bill. A roll call was taken and there were; yeas – 26, absent - 2, as follows:

YEAS: Burka, Burton, Davis, Deneault, Dodrill, Ealy, Harrison, Kirk, Lane, Miller,

Minardi, Nichols, Persinger, Reishman, Richardson, Russell, Salisbury, Sheets, Smith, Snodgrass, Stajduhar, Talkington, Ware, Weintraub, White, Mayor Jones.

ABSENT: Clowser, Haas,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7479, as amended adopted.

2. Your Committee on Streets and Traffic has had under consideration Bill No. 7484, and reports the same to council with the recommendation that the Bill do pass.

Bill No. 7484 : “A BILL to decrease the speed limit on Lee Street between Elizabeth Street and Bradford Street in the east end of Charleston from 30 m.p.h. to 25 m.p.h., and to amend the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, as amended, Chapter 114 - Traffic Ordinance, Article IV, Division 2, to conform herewith.

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

That the speed limit on Lee Street between Elizabeth Street and Bradford Street in the east end of Charleston is hereby decreased from 30 m.p.h. to 25 m.p.h., and that the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, as amended, Chapter 114 - Traffic Ordinance, Article IV, Division 2, is amended to conform herewith. All prior Ordinances inconsistent with this Ordinance are hereby repealed to the extent of said inconsistency and reenacted to conform herewith.

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

YEAS: Burka, Burton, Davis, Deneault, Dodrill, Ealy, Harrison, Kirk, Lane, Miller, Minardi, Nichols, Persinger, Reishman, Richardson, Russell, Salisbury, Sheets, Smith, Snodgrass, Stajduhar, Talkington, Ware, Weintraub, White, Mayor Jones.

ABSENT: Clowser, Haas,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7484, adopted.

3. Your Committee on Streets and Traffic has had under consideration Bill No. 7487, and reports the same to council with the recommendation that the Bill do pass.

Bill No. 7487: “A BILL to establish a No Parking Anytime Tow Away Zone on both sides of Francis Drive, Ariel Heights, and Andover Place within the Briarwood Estates subdivision, a map of said streets attached as Exhibit A hereto, and to amend the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, as amended, Chapter 114 - Traffic Ordinance, Article IV, Division 2, to conform herewith.

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

That a No Parking Anytime Tow Away Zone is hereby established on both sides of Francis Drive, Ariel Heights, and Andover Place within the Briarwood Estates subdivision, a map of said streets attached as Exhibit A hereto,, and that the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, as amended, Chapter 114 - Traffic Ordinance, Article IV, Division 2, shall be amended to conform herewith. All prior Ordinances inconsistent with this Ordinance are hereby repealed to the extent of said

inconsistency and reenacted to conform herewith.

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

YEAS: Burka, Burton, Davis, Deneault, Dodrill, Ealy, Harrison, Kirk, Lane, Miller, Minardi, Nichols, Persinger, Reishman, Richardson, Russell, Salisbury, Sheets, Smith, Snodgrass, Stajduhar, Talkington, Ware, Weintraub, White, Mayor Jones.

ABSENT: Clowser, Haas,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7487, adopted.

4. Your Committee on Streets and Traffic has had under consideration Bill No. 7488, and reports the same to council with the recommendation that the Bill do pass.

Bill No. 7488: “A BILL to decrease the speed limit on Francis Drive, Ariel Heights, and Andover Place within the Briarwood Estates subdivision, a map of said streets attached as Exhibit A hereto, from 30 m.p.h. to 20 m.p.h., and to amend the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, as amended, Chapter 114 - Traffic Ordinance, Article IV, Division 2, to conform herewith.

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

That the speed limit on Francis Drive, Ariel Heights, and Andover Place within the Briarwood Estates subdivision, a map of said streets attached as Exhibit A hereto, is hereby decreased from 30 m.p.h. to 20 m.p.h., and that the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, as amended, Chapter 114 - Traffic Ordinance, Article IV, Division 2, shall be amended to conform herewith. All prior Ordinances inconsistent with this Ordinance are hereby repealed to the extent of said inconsistency and reenacted to conform herewith.

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

YEAS: Burka, Burton, Davis, Deneault, Dodrill, Ealy, Harrison, Kirk, Lane, Miller, Minardi, Nichols, Persinger, Reishman, Richardson, Russell, Salisbury, Sheets, Smith, Snodgrass, Stajduhar, Talkington, Ware, Weintraub, White, Mayor Jones.

ABSENT: Clowser, Haas,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7488, adopted.

4. Your Committee on Streets and Traffic has had under consideration Bill No. 7489, and reports the same to council with the recommendation that the Bill do pass.

Bill No. 7489: “A BILL to create a No Parking 6am to 9pm Except Sundays zone on the easterly side of Court Street from a point 3 feet south of Brawley Walkway to a point 113 feet south of Brawley Walkway and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, as amended, Chapter 114 - Traffic Ordinance, Article IV, Division 2, to conform herewith.

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

Section 1. A No Parking 6am to 9pm Except Sundays zone on the easterly side of Court

Street from a point 3 feet south of Brawley Walkway to a point 113 feet south of Brawley Walkway 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 passage of the Bill. A roll call was taken and there were; yeas – 26, absent - 2, as follows:

YEAS: Burka, Burton, Davis, Deneault, Dodrill, Ealy, Harrison, Kirk, Lane, Miller, Minardi, Nichols, Persinger, Reishman, Richardson, Russell, Salisbury, Sheets, Smith, Snodgrass, Stajduhar, Talkington, Ware, Weintraub, White, Mayor Jones.

ABSENT: Clowser, Haas,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7489, adopted.

FINANCE

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

1. Your Committee on Finance has had under consideration Resolution No 993-11, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 993-11: “Authorizing the Mayor to enter into an agreement with Wiseman Construction Company, in the amount of \$439,914, for rehabilitation of the Loudon Heights Bridge and South Side Bridge – Pier ‘C’.”

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 Wiseman Construction Company, in the amount of \$439,914, for rehabilitation of the Loudon Heights Bridge and South Side Bridge – Pier ‘C’.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the resolution 993-11, adopted.

2. Your Committee on Finance has had under consideration Resolution No 994-11, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 994-11: “Authorizing the Mayor to enter into an agreement with the West Virginia Division of Justice and Community Services to receive funds in the amount of \$19,600 from the U.S. Department of Justice, Enforcing Underage Drinking Program Grant. These funds will be utilized in the Operation Prevent Program to provide the City of Charleston with aggressive, underage drinking enforcement and preventative education from July 1, 2011 to June 30, 2012.”

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 the West Virginia Division of Justice and Community Services to receive funds in the amount of \$19,600 from the U.S. Department of Justice, Enforcing Underage Drinking Program Grant. These funds will be utilized in the Operation Prevent Program to provide the City of Charleston with aggressive, underage drinking enforcement and preventative education from July 1, 2011 to June 30, 2012.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the resolution 994-11, adopted.

3. Your Committee on Finance has had under consideration Resolution No 995-11, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 995-11: "Authorizing the Mayor to receive and administer Justice Assistance Grant funds in the amount of \$50,000 from the Division of Justice and Community Services for Prevention Resource Officers (PRO) at Stonewall Jackson Middle School and Capital High School."

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 Justice Assistance Grant funds in the amount of \$50,000 from the Division of Justice and Community Services for Prevention Resource Officers (PRO) at Stonewall Jackson Middle School and Capital High School.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the resolution 995-11, adopted.

4. Your Committee on Finance has had under consideration Resolution No 996-11, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 996-11: "Authorizing the Mayor and the Chief of Police to execute and enter into an agreement, a copy of which is attached hereto, with the United States Department of Justice, Drug Enforcement Administration ("DEA") for participation in the West Virginia DEA High Intensity Drug Trafficking Areas ("HIDTA") Task Force."

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

That the Mayor and the Chief of Police are hereby authorized to execute and enter into an agreement with the United States Department of Justice, Drug Enforcement Administration ("DEA") for participation in the West Virginia DEA High Intensity Drug Trafficking Areas ("HIDTA") Task Force.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the resolution 996-11, adopted.

5. Your Committee on Finance has had under consideration Resolution No 997-11, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 997-11: "Authorizing the Finance Director to amend the 2011-2012 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 2011-2012 General Fund budget as indicated on the attached list of accounts.

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

YEAS: Burka, Burton, Davis, Deneault, Dodrill, Ealy, Harrison, Kirk, Lane, Miller, Minardi, Nichols, Persinger, Reishman, Richardson, Russell, Salisbury, Sheets, Smith, Snodgrass, Stajduhar, Talkington, Ware, Weintraub, White, Mayor Jones.

ABSENT: Haas, Clowser

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 997-11 adopted.

6. Your Committee on Finance has had under consideration Bill No. 7481, and reports the same to Council with the recommendation that the Bill do pass.

Bill No. 7481: "A Bill authorizing and directing the Mayor to enter in to 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 City of Nitro, the Town of Pratt, the City of St. Albans, the City of Dunbar, and the City of South Charleston to renew the Charleston/Kanawha County Housing Consortium for fiscal years 2012, 2013, and 2014."

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 in to 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 City of Nitro, the Town of Pratt, the City of St. Albans, the City of Dunbar, and the City of South Charleston to renew the Charleston/Kanawha County Housing Consortium for fiscal years 2012, 2013, and 2014.

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

YEAS: Burka, Burton, Davis, Deneault, Dodrill, Ealy, Harrison, Kirk, Lane, Miller, Minardi, Nichols, Persinger, Reishman, Richardson, Russell, Salisbury, Sheets, Smith, Snodgrass, Stajduhar, Talkington, Ware, Weintraub, White, Mayor Jones.

ABSENT: Clowser, Haas,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7481, adopted.

REPORTS OF OFFICERS

1. City Treasurer's Report to City Council Month Ending July 2011.

Received and Filed.

2. Report of the City of Charleston, Municipal Court Financial Statements; July 2011.
Received and Filed.

NEW BILLS

Introduced by Council member Robert Reishman, on August 15, 2011:

Bill No. 7490 A Bill authorizing the design, acquisition and construction of certain extensions, additions, betterments and improvements to the existing sewerage system of The City of Charleston; authorizing the issuance of not more than \$30,000,000 in aggregate principal amount of Sewerage System Revenue Bonds, in one or more series as designated in a supplemental resolution, 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 such design, acquisition and construction, to fund reserve accounts 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.
Refer to Finance Committee.

Miscellaneous Resolution

Mayor Jones stepped down from the podium to allow Council President to preside over the meeting for the next order of business.

Resolution No. 998-11 - A Resolution adopting the "Final Order of Election Contest" which accurately reflects the findings and conclusions made by Charleston City Council on July 21, 2011, in the matter of Janet L. Thompson's contest of the May 17, 2011, City of Charleston Municipal Election (the "Contest"), and authorizing the execution of said "Final Order of Election Contest" by Tom Lane, the Chairperson duly elected to preside over the hearing of the Contest by the City Council.

WHEREAS, Janet L. Thompson filed a Notice of Election Contest contesting the validity and legality of the May 17, 2011, Municipal General Election;

WHEREAS, the City Council convened on July 18, 2011, and conducted a duly-noticed preliminary hearing for the purpose of addressing preliminary issues, motions and receiving oral arguments on same;

WHEREAS, the City Council convened on July 21, 2011, and conducted a duly-noticed hearing/trial for the purpose of receiving evidence, testimony and arguments of the parties related to the Contest;

WHEREAS, the City Council upon due and careful consideration of all evidence, testimony, motions and pleadings submitted by the parties publicly voted on July 21, 2011, to deny the relief sought by Janet L. Thompson in the Contest;

WHEREAS, West Virginia Code § 3-7-1, *et seq.*, requires the City Council to publicly announce in writing its findings and conclusions related to the Contest;

WHEREAS, Tom Lane was duly-elected by City Council as Chairperson for the purpose of presiding over the Contest proceeding;

WHEREAS, the "Final Order of Election Contest" attached hereto accurately reflects the findings and conclusions related to the Contest;

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

That the "Final Order of Election Contest" which accurately reflects the findings and conclusions made by Charleston City Council on July 21, 2011, in the matter of the Contest is hereby adopted, and Tom Lane, the Chairperson duly elected to preside over the hearing of the Contest by the City Council, is hereby authorized to execute said "Final Order of Election Contest."

The question being on the adoption of the Resolution. A roll call was taken and there were; yeas – 22, absent - 3, abstain -3: as follows:

YEAS: Burka, Burton, Davis, Deneault, Dodrill, Ealy, Harrison, Kirk, Lane, Minardi, Nichols, Persinger, Richardson, Russell, Salisbury, Sheets, Smith, Snodgrass, Stajduhar, Talkington, Weintraub, White,

ABSENT: Haas, Clowser, Mayor Jones.

ABSTAIN: Miller, Reishman, Ware

With a majority of members elected recorded thereon as voting in the affirmative the Council President declared Resolution No. 998-11 adopted.

ROLL CALL

YEAS: Burka, Burton, Davis, Deneault, Dodrill, Ealy, Harrison, Kirk, Lane, Miller, Minardi, Nichols, Persinger, Reishman, Richardson, Russell, Salisbury, Sheets, Smith, Snodgrass, Stajduhar, Talkington, Ware, Weintraub, White.

ABSENT: Clowser, Haas, Mayor Jones.

At 8:05 p.m., by a motion from Councilmember Harrison, Council adjourned until Tuesday, September 6, 2011, at 7:00 p.m.

Danny Jones, Honorable Mayor

James M. Reishman, City Clerk