

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

February 7, 2011

THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE FIRST MEETING IN THE MONTH OF FEBRUARY ON THE 7th DAY, IN THE YEAR 2011, 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 HIGGINS.

**BURKA
HALL
HARRISON
KIRK
MILLER
REISHMAN
SHEETS
WARE
MAYOR JONES**

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

**DAVIS
EALY
HARRIS
JONES
LANE
REED
SALISBURY
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

Pat Bond – Charleston Area Alliance

CLAIMS

1. A claim of Ralph Bowyer, 726 York Ave., Charleston, WV; alleges damage to vehicle.
Refer to City Solicitor
2. A claim of John Marks, 234 Eureka Rd., Charleston, WV; alleges personal injury.
Refer to City Solicitor
3. A claim of Chad Watson, 1018 Village Drive, South Charleston, WV; alleges personal injury.
Refer to City Solicitor

COMMUNICATIONS

The Clerk read the Certificate:

City of Charleston
Executive Office of the Mayor
Recognition of Meritorious Service
Presented on the 7th day of February 2011 to
Senior Patrolman Sean Wiggins
Charleston Police Department

- ☛ In recognition of how you have connected with and befriended an older homeless man on Charleston's West Side through your practice of interacting with citizens while on patrol in the city's neighborhoods; and
- ☛ In honor of how your passion for helping people led you to intervene on his behalf so that he could have urgently needed hip replacements surgery, so that he could become eligible and qualified for long-overdue Social Security benefits, and so that he could move from living on the streets to living in a home; and
- ☛ In appreciation for how your intervention and advocacy for this one individual – which has made a tremendous difference in his life – is but one example of how you are willing to go above and beyond the call of duty on behalf of the citizens you serve in our City.

IN WITNESS WHEREOF, I have set my hand and

caused the Seal of the Executive Department
On behalf of those who have taken the
to be affixed this 7th day of February 2011,
sworn oath to protect and serve,

The Clerk read the appointment.

TO: JAMES REISHMAN
CITY CLERK

FROM: DANNY JONES
MAYOR

RE: CITY ELECTION TASK FORCE

DATE: FEBRUARY 7, 2011

Because of recent attention to the logistics, timing and costs of the municipal elections in the City of Charleston this year, I am appointing a task force of several members of City Council to explore options for improving the city's election process for the future. Any changes to the nature and schedule of the city's elections would require an amendment to the City's Charter, which would involve formal action by the full City Council and approval by the voters in Charleston.

I am appointing the following members to this task force: Kasey Russell to serve as chair, Joe Deneault to serve as vice chair , mary Jean Davis, Jack Harrision, Adam Henry Knauff, John Miller, Dave Higgins and Cubert Smith.

DJ/rbb

TO: JAMES REISHMAN
CITY CLERK

FROM: DANNY JONES
MAYOR

RE: CHARLESTON LAND TRUST

DATE: FEBRUARY 7, 2011

I recommend that Kasey Russell, P O Box 3543, Charleston, WV 25335, be appointed to the Charleston Land Trust, with an initial term to expire October 4, 2012. She is replacing John Bullock.

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.

TO: JAMES REISHMAN
CITY CLERK

FROM: DANNY JONES
MAYOR

RE: CHARLESTON LAND TRUST

DATE: FEBRUARY 7, 2011

I recommend that Jeff Brown, 1200 Alexander Street, Charleston, WV 25302, be appointed to the Charleston Land Trust, with an initial term to expire October 4, 2013. He is replacing Kasey Russell.

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.

TO: JAMES REISHMAN
CITY CLERK

FROM: DANNY JONES
MAYOR

RE: CHARLESTON LAND TRUST

DATE: FEBRUARY 7, 2011

I recommend that Michael Haid, 223 Capitol Street, Charleston, WV 25301, be appointed to the Charleston Land Trust, with an initial term to expire October 4, 2012. He is replacing Adam Knauff.

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.

TO: JAMES REISHMAN
CITY CLERK

FROM: DANNY JONES
MAYOR

RE: CHARLESTON LAND TRUST

DATE: FEBRUARY 7, 2011

I recommend that Tom Lane, P O Box 1386, Charleston, WV 25325, be reappointed to the Charleston Land Trust, with a said term to expire October 4, 2012.

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.

FINANCE

Councilman Bobby Reishman, Chairman of the Council Committee on Finance, submitted the following reports.

1. Your Committee on Finance has had under consideration Resolution No 897-11, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 897-11: "Authorizing the Mayor to enter into an agreement with Carl Walker, Inc., in an amount up to \$85,400, for services related to the ongoing rehabilitation of Municipal Parking Buildings (MPB) undertaken and started by the City in 2008 with primary focus on MPB No. 4. The proposed services under this agreement provide for priority repairs to MPBs No. 1, 2, 3, 5 and 6 and includes three phases."

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 Carl Walker, Inc., in an amount up to \$85,400, for services related to the ongoing rehabilitation of Municipal Parking Buildings (MPB) undertaken and started by the City in 2008 with primary focus on MPB No. 4. The proposed services under this agreement provide for priority repairs to MPBs No. 1, 2, 3, 5 and 6 and includes the following three

phases:

1. Construction Document Phase
2. Bidding Phase
3. Construction Administration Phase

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 897-11, adopted.

2. Your Committee on Finance has had under consideration Resolution No 898-11, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 898-11: "Authorizing the Mayor to enter into an agreement with Michael Baker Jr., Inc., in an amount up to \$149,025, for engineering services for Phases I, II, and IV of the Long Term Storm Water Comprehensive Plan project."

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

That the Mayor is hereby authorized and directed to enter into an agreement with Michael Baker Jr., Inc., in an amount up to \$149,025, for engineering services for Phases I, II, and IV of the Long Term Storm Water Comprehensive Plan project.

This agreement provides for the following three phases of a six-phase project:

Phase I	Plan Preparation
Phase II	Research and Data Compilation
Phase IV	Storm Sewer Outfalls, Inlets, and Manholes

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 898-11, adopted.

3. Your Committee on Finance has had under consideration Resolution No 899-11, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 899-11: "Authorizing the Mayor to enter into an agreement with Suburban Maintenance & Construction, Inc., in the amount of \$182,522.00, to provide all materials, labor and equipment necessary for Construction of a Retaining Wall on West Avenue."

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 Suburban Maintenance & Construction, Inc., in the amount of \$182,522.00, to provide all materials, labor and equipment necessary for Construction of a Retaining Wall on

West Avenue.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 899-11, adopted.

4. Your Committee on Finance has had under consideration Resolution No 900-11, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 900-11: “Authorizing the Mayor to enter into an agreement with the West Virginia Department of Transportation, Division of Highways, for Renovation of Eight (8) Traffic Signal Systems at Intersections on the City’s West Side. The City is responsible for operation and maintenance of the new systems.”

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 Department of Transportation, Division of Highways, for Renovation of Eight (8) Traffic Signal Systems at Intersections on the City’s West Side. The City is responsible for operation and maintenance of the new systems.

The following intersections are included in the project:

1. Patrick Street (US 60) at Kanawha Boulevard Connector
2. Patrick Street (US 60) at Fourth Street
3. Patrick Street (US 60) at Seventh Avenue (WV 25)
4. Seventh Avenue (WV 25) at Iowa Street
5. Seventh Avenue (WV 25) at 21st Street
6. Seventh Avenue (WV 25) at 26th Street
7. Seventh Avenue (WV 25) at 29th Street
8. Sissonville Drive (CR 21) at Chandler Drive

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 900-11, adopted.

5. Your Committee on Finance has had under consideration Resolution No 901-11, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 901-11 – “Authorizing the Mayor or the City Manager to enter into a Memorandum of Understanding with Living A.I.D.S. Memorial Garden, Inc., a copy of which is attached hereto, defining certain responsibilities and obligations related to the Living A.I.D.S. Memorial Garden.

WHEREAS, a public park called the Living A.I.D.S. Memorial Garden (the “Park”) has been established in the East End of Charleston, West Virginia, dedicated to the memory of those who have died of A.I.D.S., and to provide a place of reflection for

those living with A.I.D.S. and the survivors of A.I.D.S.; and

WHEREAS, the Garden has become an important community beautification project for the East End of Charleston; and

WHEREAS, Living A.I.D.S. Memorial Garden, Inc. (the "Garden") and the City have worked closely together to establish and maintain the Park; and

WHEREAS, City acquired the land for the Park by lease agreement with the state, has since leased additional land from the state to expand the Park, has provided labor, materials and development assistance for improvements to the park, including a fence and an irrigation system, and works with the Garden to ensure the continued viability of the Park; and,

WHEREAS, the Garden oversees the day to day maintenance and affairs of the Park, provides labor and other services benefitting the Park, including design, plantings, landscaping, and other maintenance and beautification duties, and promotes the existence and purpose of the Park; and

WHEREAS, it has recently been brought to the attention of the City and Garden that a certain section of the Park containing a fence, irrigation works, plantings and ornamentation encroaches upon a neighboring property owned by McDonald's USA, LLC ("McDonald's"); and

WHEREAS, City and Garden agree that entering into an Encroachments Agreement with McDonald's will benefit the public by permitting the continued use of the encroachment area as a part of the Park and will preclude the unnecessary loss of the time, materials, money and effort previously expended by City and Garden in their beautification of the Park and the encroachment area; and

WHEREAS, the Encroachments Agreement imposes obligations on the City with respect to the encroachment area of the Park, for which the Garden oversees day to day maintenance and affairs; and

WHEREAS, the Garden has agreed to comply with and be bound by the requirements, terms and conditions contained in the Encroachments Agreement, and to cooperate with the City related to the City's obligations to comply with the Encroachments Agreement;

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

That the Mayor or the City Manager are hereby authorized to enter into a Memorandum of Understanding with Living A.I.D.S. Memorial Garden, Inc., defining certain responsibilities and obligations related to the Living A.I.D.S. Memorial Garden.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 901-11, adopted.

6. Your Committee on Finance has had under consideration Resolution No 902-11, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 902-11 – “Authorizing the Mayor or the City Manager to enter into an Encroachments Agreement with McDonald’s USA, LLC, to facilitate the continued use of the Living A.I.D.S. Memorial Garden area which encroaches on McDonald’s property.

WHEREAS, a public park called the Living A.I.D.S. Memorial Garden (the “Garden”) has been established in the East End of Charleston, West Virginia, dedicated to the memory of those who have died of A.I.D.S., and to provide a place of reflection for those living with A.I.D.S. and the survivors of A.I.D.S.; and

WHEREAS, the Garden has become an important community beautification project for the East End of Charleston; and

WHEREAS, it has recently been brought to the attention of the City that a certain section of the Garden containing a fence, irrigation works, plantings and ornamentation encroaches upon a neighboring property owned by McDonald’s USA, LLC (“McDonald’s”); and

WHEREAS, in order to maintain the continued viability of the Garden and to avoid the unnecessary costs of moving the fence and irrigation works and the loss of the time, materials and effort expended on beautification of the Garden in the encroachment area, McDonald’s has agreed to permit the continued use of the encroachment area as a part of the Garden in exchange for the execution of an Encroachment Agreement; and

WHEREAS, entering into an Encroachment Agreement with McDonald’s will benefit the public by permitting the continued use of the encroachment area as a part of the Garden;

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

That the Mayor or the City Manager are hereby authorized to enter into an Encroachments Agreement with McDonald’s USA, LLC, to facilitate the continued use of the Living A.I.D.S. Memorial Garden area which encroaches on McDonald’s property.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 902-11, adopted.

7. Your Committee on Finance has had under consideration Resolution No 903-11, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 903-11: “Authorizing the Mayor or his designee to submit a Grant Application to Sustainable Kanawha Valley Initiative, in the amount of \$10,000, for the Strong Neighborhood Task Force. The grant will provide funds for the Strong Neighborhood Task Force to engage 10 artists to participate in a project to apply public arts murals to 10 of the interstate support piers at Washington Street and Pennsylvania Avenue, with the requirement that each one represent a piece of Charleston’s history.”

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

That the Mayor or his designee is hereby authorized and directed to submit a Grant Application to Sustainable Kanawha Valley Initiative, in the amount of \$10,000, for the Strong Neighborhood Task Force. The grant will provide funds for the Strong Neighborhood Task Force to engage 10 artists to participate in a project to apply public arts murals to 10 of the interstate support piers at Washington Street and Pennsylvania Avenue, with the requirement that each one represent a piece of Charleston’s history

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 903-11, adopted.

8. Your Committee on Finance has had under consideration Resolution No 904-11, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 904-11: “Authorizing the Mayor or his designee to submit a Grant Application to Sustainable Kanawha Valley Initiative, in the amount of \$10,000, for Charleston Land Trust. The grant will provide the Charleston Land Trust funding to acquire eight (8) acres of land, commonly known as the Hamilton Property, to expand The Danner Meadow Park.”

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

That the Mayor or his designee is hereby authorized and directed to submit a Grant Application to Sustainable Kanawha Valley Initiative, in the amount of \$10,000, for Charleston Land Trust. The grant will provide the Charleston Land Trust funding to acquire eight (8) acres of land, commonly known as the Hamilton Property, to expand The Danner Meadow Park.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 904-11, adopted.

9. Your Committee on Finance has had under consideration a proposal submitted by Mazzella Quarries, Inc., in the amount of \$29,880, for purchase of 37 tons of drywall

building stone (\$8,880 @ \$240/ton) and 50 tons of footer stone (\$21,000 @ \$420/ton) for construction of a wall along Carriage Trail. The wall will be constructed in-house by the Public Grounds Department. To be charged to Account No. 001-975-01-567-4-458, Public Grounds—Capital Outlay, Major Improvements (Carriage Trail) , 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.

10. Your Committee on Finance has had under consideration a bid submitted by Dell Marketing, LP, in the total amount of \$18,987.83, for purchase of two servers (Dell PE R710 at \$10,311.27 and Dell PE R610 at \$7,666.59), and one Dell 1U KMM console at \$959.99, plus shipping charges of \$49.98, to be used by the Charleston Police Department. To be charged to Account No. 001-976-00-700-4-459, Police—Capital Outlay, Equipment, 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, Municipal Court Financial Statements; January 2011.

Received and Filed.

ROLL CALL

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

ABSENT: Payne, Weintraub

At 7:30 p.m., by a motion from Councilmember Harrison, Council adjourned until Tuesday, February 22, 2011, at 7:00 p.m.

Danny Jones, Honorable Mayor

James M. Reishman, City Clerk