

**JOURNAL
OF THE
COUNCIL
CITY OF CHARLESTON
WEST VIRGINIA
OCTOBER 1, 2012**

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 1ST DAY, IN THE YEAR 2012, AND WAS CALLED TO ORDER BY THE HONORABLE MAYOR, DANNY JONES. THE INVOCATION WAS DELIVERED BY RICHARDSON AND THE PLEDGE OF ALLEGIANCE WAS LED BY DAVIS.

**BURKA
DAVIS
EALY**

MINARDI

**SALISBURY
SNODGRASS
WARE
MAYOR JONES**

BURTON

**HAAS
LANE
NICHOLS
RICHARDSON
SHEETS
STAJDUHAR**

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

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

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

PUBLIC SPEAKERS

none

CLAIMS

- 1. A claim of Roger Winters, 310 Savannah Oaks, Ripley WV; alleges damage to vehicle. Refer to City Solicitor
- 2. A claim of Barbara Reynolds, 918 Chester Rd., Charleston, WV; alleges personal injury. Refer to City Solicitor.
- 3. A claim of Michele Bowles, 512 Brandy Run Rd., Elkview, WV; alleges damage to vehicle. Refer to City Solicitor.

PUBLIC HEARING

The Mayor read the following Public Hearing:

After duly being published as required, I now declare the floor open for a Public Hearing on Bill No. 7525 - A bill to amend Chapter 22, Article II, Division 1 of the Code of the City of Charleston, and to amend Chapter 22, Article II, Division 2, Section 22-64 of the Code of the City of Charleston, updating procedures and pricing for operations of the Spring Hill Cemetery Park.

IS THERE ANYONE FROM THE PUBLIC WHO WOULD LIKE TO SPEAK.

I NOW DECLARE THE PUBLIC HEARING ON BILL NO. 7525 CLOSED.

COMMUNICATIONS

The Clerk read the Appointment:

TO: JAMES REISHMAN, CITY CLERK
 FROM: DANNY JONES, MAYOR
 RE: CHARLESTON BUILDING COMMISSION
 DATE: OCTOBER 1, 2012

I recommend that Megan Roskovensky, 2304 Oakridge Road, Charleston, WV 25311, be appointed to the Charleston Building Commission, with an initial term to expire July 20, 2017. She is replacing Walter Dial.

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

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

ORDINANCE AND RULES

Councilman Jack Harrison, Chairperson of the Council Committee on Ordinance and Rules, submitted the following reports.

- 1. Your committee on Ordinance and Rules has had under consideration Bill# 7533, as

amended and recommends that the Bill do pass as amended.

Bill No. 7533: “A BILL to amend Chapter 62, Article II of the Code of the City of Charleston updating policies and procedures for the operation of the City of Charleston Human Rights Commission.

WHEREAS, the procedures and language contained in Chapter 62, Article II, of the Code of the City of Charleston have become antiquated, and do not accurately reflect the modern operation of the City of Charleston Human Rights Commission; and

WHEREAS, after review and discussion, on June 29, 2012, the Commission voted to recommend the following changes to Charleston City Council;

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

That Chapter 62, Article II of the Code of the City of Charleston is hereby amended as follows:

ARTICLE II. - HUMAN RIGHTS COMMISSION

Sec. 62-41. - Powers and objectives.

Sec. 62-42. - Composition; appointment; terms of members; expenses.

Sec. 62-43. - Personnel; chair; vice-chair; secretary; liaison; meetings; quorum.

Sec. 62-44. - Assistance to commission; legal and investigative services.

Sec. 62-45. - Powers; functions; services.

Secs. 62-46—62-80. - Reserved.

Sec. 62-41. - Powers and objectives.

The commission shall encourage and endeavor to bring about mutual understanding and respect among all racial, religious and ethnic groups within the city and shall strive to eliminate all discrimination in employment and places of public accommodations by virtue of race, religion, color, national origin, ancestry, sex, age, blindness, handicap, or sexual orientation and shall strive to eliminate all discrimination in the sale, purchase, lease, rental or financing of housing and other real property by virtue of race, religion, color, national origin, ancestry, sex, age, blindness, handicap, sexual orientation or familial status.

Sec. 62-42. - Composition; appointment; terms of members; expenses.

(a) The commission shall be composed of nine members, all residents of the city and broadly representative of the groups protected by the chapter to be appointed by the mayor with the advice and consent of council, provided that in the event that any vacancy on the commission is not filled by the mayor within 90 days of the occurrence thereof, the council shall, within 60 days, take such action as is necessary to fill such vacancy.

(b) No member shall hold office in any political party.

(c) Each subsequent appointment shall be for a term of three years, and each member shall be eligible for reappointment at the expiration of his or her term.

(d) No member of the commission shall receive any salary or compensation for his or her

services as such; but each member shall be reimbursed for any reasonable and necessary expenses incurred in the performance of commission services upon request and prior approval by the office of the city manager.

Sec. 62-43. - Personnel; chair; vice-chair; secretary; liaison; meetings; quorum.

(a) Annually, in January of each calendar year, the commission shall hold a meeting at which it elect one of its members as chair of the commission, and one as vice-chair and one as secretary. In the event there exists a vacancy in the position of the chair, vice-chair or secretary as mentioned in this subsection (a), the commission shall meet and elect one of its members to fill the vacant position for the duration of the term then existing. Each officer shall serve a term of one year or until their successors are elected and qualified.

(b) The commission shall comply with all applicable rules, regulations and ordinances imposed by the city.

(c) Meetings may be called by the chair or by the mayor upon written notice thereof mailed to each member not less than seven calendar days prior to the called meeting. Notwithstanding, a meeting may be called with fewer than seven days notice to members if necessary and appropriate and so long as the notice complies with the Open Governmental Proceedings Act. Any five members of the commission or a majority of the actively serving commissioners shall constitute a quorum for the transaction of business.

(d) The chair shall prepare a written agenda in advance of each scheduled commission meeting which the secretary shall provide to the office of the city clerk in a timely manner so that lawful notice can be provided in accordance with the Open Governmental Proceedings Act. The secretary shall also keep and maintain the minutes of all meetings.

(e) The commission will designate one of its members to serve as the liaison to the city, its mayor, city attorney, city manager, and other city officials and employees, and who will be responsible for interacting with such city officials and employees with regard to day to day affairs involving the commission but not requiring a vote of the commission. In the event that no such member is designated as the liaison or at any time in which there is no liaison, then the chair shall be deemed the liaison.

Sec. 62-44. - Assistance to commission; legal and investigative services.

(a) The office of the city attorney shall be authorized to assist the commission in the investigation and prosecution of claims, to recommend the appointment of retained legal counsel and/or investigators to prosecute claims or provide advice and guidance to the commission, and to recommend the appointment of independent hearing examiners or counsel, all of which as may be necessary and proper. The commission, through the mayor or the mayor's designee, may also request other officers, departments and agencies of the city government to assist in the hearing of complaints before the commission and any other activity under this article which is reasonable and necessary.

(b) The office of the city clerk shall be authorized to receive complaints alleging discrimination in employment or places of public accommodations, because of race, religion, color, national origin, ancestry, handicap, sex, blindness, sexual orientation or age, and complaints alleging discrimination in the sale, purchase, lease, rental and financing of housing accommodations or real property because of race, religion, color, national origin, ancestry, handicap, sex, blindness, sexual orientation, age or familial status and to promptly forward the complaints to the chair of

the commission for handling as authorized by this article. The office of the city clerk shall also promptly forward a copy of all complaints to the office of the city attorney.

Sec. 62-45. - Powers; functions; services.

The commission is authorized and empowered to:

- (1) Cooperate and work with federal, state, and local government officers, units, activities and agencies in the promotion and attainment of more harmonious understanding and greater equality of rights between and among all racial, religious and ethnic groups in this city.
- (2) Enlist the cooperation of racial, religious and ethnic units, community and civic organizations, industrial and labor organizations and other identifiable groups of the city in programs and campaigns devoted to the advancement of tolerance, understanding and the equal protection under the laws for all groups and peoples.
- (3) Refer to the West Virginia Human Rights commission for its handling and adjudication all complaints alleging discrimination in employment or places of public accommodations, because of race, religion, color, national origin, ancestry, handicap, sex, blindness, or age, and complaints alleging discrimination in the sale, purchase, lease, rental and financing of housing accommodations or real property because of race, religion, color, sex, age, handicap, national origin, blindness, familial status, or ancestry
- (4) Investigate and adjudicate all complaints filed within the city alleging discrimination in employment or places of public accommodations, because of sexual orientation, and complaints alleging discrimination in the sale, purchase, lease, rental and financing of housing accommodations or real property because of sexual orientation.
- (5) Request, as authorized by this article, that the office of the city attorney assist the commission in the investigation and prosecution of claims, recommend the appointment of retained legal counsel and/or investigators to prosecute claims or provide advice and guidance to the commission, and recommend the appointment of independent hearing examiners or counsel, all of which as may be necessary and proper.
- (6) Hold and conduct public or private hearings on complaints, matters and questions properly before the commission, so long as consistent with state law and as authorized by this article, relating to discrimination in employment or places of public accommodations, because of sexual orientation, and complaints alleging discrimination in the sale, purchase, lease, rental and financing of housing accommodations or real property because of sexual orientation. The commission may in furtherance of the objectives, functions and services contemplated by the provisions of this article:
 - a. Issue cease and desist orders against any person found, after a public or private hearing, to have violated the provisions of this article or the rules and regulations of the commission;
 - b. Apply to the Circuit Court of Kanawha County to issue subpoenas and subpoenas duces tecum upon the concurrence of at least five members of the commission; administer oaths and take the testimony of any person under oath; and make reimbursement for travel and other reasonable and necessary expenses in connection with such attendance;

- c. Furnish copies of hearing records to parties involved therein upon their payment of the reasonable costs thereof to the commission;
- d. Enter into conciliation agreements on behalf of the city;
- e. Apply to a court of competent jurisdiction for enforcement of any conciliation agreement or consent order by seeking specific performance of such agreement or consent order, on behalf of the city;
- f. Apply to any court of competent jurisdiction, or any federal, state or local agency, for injunctive or other relief, on behalf of the city, in any matters falling within the scope of the commission's functions, upon the concurrence of five members of the commission.

(7) Recommend to the mayor and council policies, procedures, practices and legislation in matters and questions affecting human relations.

(8) To prepare a written report on its work, functions and services for each year ending on June 30 and to deliver copies thereof to the mayor on or before December 1 next thereafter.

(9) Request, as authorized by this article, that the office of the city clerk receive complaints alleging discrimination in employment or places of public accommodations, because of race, religion, color, national origin, ancestry, handicap, sex, blindness, sexual orientation or age, and complaints alleging discrimination in the sale, purchase, lease, rental and financing of housing accommodations or real property, because of race, religion, color, national origin, ancestry, handicap, sex, blindness, sexual orientation, age or familial status, and to promptly forward the complaints to the chair of the commission for handling as authorized by this article. Request that a copy of all complaints shall also be promptly forwarded to the office of the city attorney.

(10) To promulgate administrative rules and regulations implementing the powers and authority hereby vested in the commission including, but not limited to, such rules governing elections, tenure, the filing, investigation and adjudication of complaints, alternative dispute resolution methods, hearings, appeals, final order and certifications.

(11) To do all other acts and deeds necessary and proper to carry out and accomplish effectively the objectives, functions and services contemplated by the provisions of this article.

(12) To create such advisory agencies and conciliation councils within the city as in its judgment will aid in effectuating the purposes of this article; to study the problem of discrimination in all or specific fields or instances of discrimination because of race, religion, color, national origin, ancestry, sex, age, blindness, handicap, sexual orientation or familial status; to foster, through community effort or otherwise, goodwill, cooperation and conciliation among the groups and elements of the population of the city and to make the recommendations to the commission for the development of policies and procedures, and for programs of formal and informal education, which the commission may recommend to the appropriate city agency. Such advisory agency and conciliation councils shall be composed of representative residents serving without pay. The commission may itself make the studies and perform the acts authorized by this subsection. It may, by voluntary conferences with parties in interest, endeavor by conciliation and persuasion to eliminate

discrimination in all stated fields and to foster goodwill and cooperation among all elements of the population of the city.

(13) To seek and enlist the cooperation of private, charitable, religious, labor and civic and benevolent organizations for the purposes of this section.

(14) Issue such publications and such results of investigation and research as in its judgment will tend to promote goodwill and minimize or eliminate discrimination; however, the identity of the parties involved shall not be disclosed.

Secs. 62-46—62-80. - Reserved.

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

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

ABSENT: Clowser, Deneault, Kirk, Reishman, Weintraub

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7533, as amended, passed

STREETS AND TRAFFIC

Council person Kasey Russell, Vice 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# 7539 and reports the same to council with the recommendation that the Bill do pass.

Bill No. 7539 - A Bill to create a No Parking Anytime Tow Away zone on the Westerly side of Elmore Avenue from Preston Street to a point 66 feet North of Preston 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 on the Westerly side of Elmore Avenue from Preston Street to a point 66 feet North of Preston 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 passage of the Bill. A roll call was taken and there were; yeas –23, absent -5, as follows:

YEAS: Burka, Burton, Davis, Dodrill, Ealy, Haas, Harrison, Lane, Miller, Minardi, Nichols,

Persinger, Richardson, Russell, Salisbury, Sheets, Smith, Snodgrass, Stajduhar, Talkington, Ware, White, Mayor Jones.

ABSENT: Clowser, Deneault, Kirk, Reishman, Weintraub

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7539, passed

2. Your committee on Streets and Traffic has had under consideration Bill# 7541 and reports the same to council with the recommendation that the Bill do pass.

Bill No. 7541 - A Bill to amend and reenact Ordinance No. 4892 passed by Council November 16, 1992 relating to a No Parking Tow Away zone on the Northerly side of Virginia Street from 6 AM to 6 PM between Laidley Street and Hale 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 Tow Away zone on the Southerly side of Virginia Street from 6AM to 6PM between Laidley Street and Summers Street and a No Parking Tow Away zone on the Northerly side of Virginia Street from 6AM to 6PM between Summers Street and Hale 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.

Councilman Sheets made the motion to table Bill 7541 until the next Council meeting. Lane second the motion. Council voted to table the Bill, the motion to table the bill passed.

FINANCE

Council person Jack Harrison, Vice Chairperson of the Council Committee on Finance, submitted the following reports.

1. Your Committee on Finance has had under consideration Resolution No 206-12, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 206-12 : "Authorizing the City Manager to enter into Supplemental Agreement No. 2 between the City of Charleston ("Sponsor") and the West Virginia Department of Transportation, Division of Highways ("Department"), in support of reprioritizing the scope of work for the Charleston Kanawha Trestle Rail Trail (TCSP) State Project: U320-KAN/AW-9.00 for multi-use bicycle/pedestrian facilities along Kanawha Boulevard between Magic Island and Patrick Street as a part of the Kanawha Trestle Rail Trail Project. The Project will be funded with federal funds of \$1,778,400 and Sponsor funds of \$444,600, for a total project cost of \$2,223,000."

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

That the City Manager is hereby authorized and directed to enter into Supplemental Agreement No. 2 between the City of Charleston (“Sponsor”) and the West Virginia Department of Transportation, Division of Highways (“Department”), in support of reprioritizing the scope of work for the Charleston Kanawha Trestle Rail Trail (TCSP) State Project: U320-KAN/AW-9.00 for multi-use bicycle/pedestrian facilities along Kanawha Boulevard between Magic Island and Patrick Street as a part of the Kanawha Trestle Rail Trail Project. The Project will be funded with federal funds of \$1,778,400 and Sponsor funds of \$444,600, for a total project cost of \$2,223,000.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Resolution No. 206-12, adopted.

2. Your Committee on Finance has had under consideration Resolution No 207-12, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 207-12: “Authorizing the Finance Director to allocate funds in the amount of \$61,500.00 for acquisition of one (1) HOME project located 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 \$61,500.00 for acquisition of one (1) HOME project located in the City of Charleston on the West Side.

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

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

ABSENT: Clowser, Deneault, Kirk, Reishman, Weintraub

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 207-12, adopted.

3. Your Committee on Finance has had under consideration Resolution No 208-12, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 208-12: “Authorizing the Finance Director to allocate funds in the amount of \$94,150.00 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 \$94,150.00 for rehabilitation of five (5) owner-occupied residences in the City of Charleston. The rehab projects are as follows:

South Side –

Empire Electric	\$17,100.00
Historic Restorations	\$20,600.00
Dean Geoffrey's Construction	\$22,700.00
West Side –	
Empire Electric	\$18,600.00
Dean Geoffrey's Construction	\$20,520.00
Historic Restorations	No Bid
Dean Geoffrey's Construction	\$23,300.00
Historic Restorations	\$23,700.00
Empire Electric	No Bid
Dean Geoffrey's Construction	\$19,050.00
Historic Restorations	\$22,800.00
Empire Electric	No Bid
North Charleston –	
Dean Geoffrey's Construction	\$16,100.00
Historic Restorations	\$18,700.00
Empire Electric	\$21,800.00

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

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

ABSENT: Clowser, Deneault, Kirk, Reishman, Weintraub

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 208-12, adopted.

4. Your Committee on Finance has had under consideration Resolution No 209-12, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 209-12 : “Authorizing the Mayor or City Manager to enter into an Agreement with the City of Chesapeake to donate a vehicle used by the MDENT Unit of the Charleston Police Department to the City of Chesapeake Police Department.”

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

That the Mayor or City Manager is hereby authorized and directed to enter into an Agreement with the City of Chesapeake to donate a vehicle used by the MDENT Unit of the Charleston Police Department to the City of Chesapeake Police Department.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Resolution No. 209-12, adopted.

5. Your Committee on Finance has had under consideration Resolution No 210-12, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 210-12: A Resolution authorizing the assignment of the November 18, 2011, agreement for the provision of gasoline and diesel fuel between the City of Charleston (“City”) and ISOBunkers LLC (“ISOBunkers”) to PAPCO, Inc. (“PAPCO”);

WHEREAS, on November 18, 2011 the City and ISOBunkers entered into an agreement for the provision of gasoline and diesel fuel to the City of Charleston (the “Fuel Contract”); and

WHEREAS, based upon information recently provided by ISOBunkers and PAPCO, after executing the agreement, an asset acquisition effective October 1, 2012, occurred between PAPCO and ISOBunkers wherein the ground fuels contracting business of ISOBunkers would be supplied by PAPCO; and

WHEREAS, under the assignment, PAPCO has agreed to supply fuel to City under the same terms (including, but not limited to, price), conditions, duties, responsibilities and liabilities as set forth in the Fuel Contract; and

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

That the consent to the assignment of the the November 18, 2011, agreement between the City of Charleston and ISOBunkers LLC to PAPCO, Inc. is hereby authorized, and the City Manager or his designee is further authorized to execute the attached Assignment Agreement and Consent to Assignment, and any additional documents that may be necessary to consent to the assignment, and the continuation of the supply of fuel to the City.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Resolution No. 210-12, adopted.

6. Your Committee on Finance has had under consideration Resolution No 211-12, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 211-12: “Authorizing the Mayor or City Manager to enter into a renewal agreement with Compass Energy Services for purchase and delivery of natural gas to City sites at the rate of NYMEX + \$.38 for a two-year period starting November 1, 2012 and ending October 31, 2014.”

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

That the Mayor or City Manager is hereby authorized and directed to enter into a renewal agreement with Compass Energy Services for purchase and delivery of natural gas to City sites at the rate of NYMEX + \$.38 for a two-year period starting November 1, 2012 and ending October 31, 2014.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Resolution No. 211-12, adopted.

7. Your Committee on Finance has had under consideration Resolution No 212-12, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 212-12: “Authorizing the Mayor or City Manager to enter into an agreement with Diamond Consulting Corporation (dba REACH Employee Assistance Program)

to provide clinical and educational assistance to Charleston Police Department and Charleston Fire Department employees on an as needed basis in dealing with a broad range of issues which may interfere with an employee's job performance, including crisis issues, health and mental health issues, chemical dependency problems, and other related services. The agreement is for a three year period, subject to annual approval and funding by City Council, at an annual cost of \$21.92 per employee per year for the first two years, and \$22.58 per employee per year for the third year."

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

That the Mayor or City Manager is hereby authorized and directed to enter into an agreement with Diamond Consulting Corporation (dba REACH Employee Assistance Program) to provide clinical and educational assistance to Charleston Police Department and Charleston Fire Department employees on an as needed basis in dealing with a broad range of issues which may interfere with an employee's job performance, including crisis issues, health and mental health issues, chemical dependency problems, and other related services. The agreement is for a three year period, subject to annual approval and funding by City Council, at an annual cost of \$21.92 per employee per year for the first two years, and \$22.58 per employee per year for the third year.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Resolution No. 212-12, adopted.

8. Your Committee on Finance has had under consideration Resolution No 213-12, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 213-12 : "Authorizing the Finance Director to amend the 2012-2013 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 2012-2013 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 -23, absent -5, as follows:

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

ABSENT: Clowser, Deneault, Kirk, Reishman, Weintraub

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 213-12, adopted.

9. Your Committee on Finance has had under consideration Resolution No 214-12, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 214-12 : "Authorizing the Finance Director to amend the 2012-2013 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 2012-2013 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 –23, absent -5, as follows:

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

ABSENT: Clowser, Deneault, Kirk, Reishman, Weintraub

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 214-12, adopted.

10. Your Committee on Finance has had under consideration Resolution No 215-12, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 215-12: “Authorizing the Finance Director to amend the 2012-2013 Civic Center Budget as indicated on the attached list of accounts.”

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

That the Finance Director is hereby authorized and directed to amend the 2012-2013 Civic Center 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 –23, absent -5, as follows:

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

ABSENT: Clowser, Deneault, Kirk, Reishman, Weintraub

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 215-12, adopted.

11. Your Committee on Finance has had under consideration Resolution No 216-12, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 216-12: “Authorizing the Finance Director to amend the 2012-2013 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 2012-2013 Parking System 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 –23, absent -5, as follows:

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

ABSENT: Clowser, Deneault, Kirk, Reishman, Weintraub

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 216-12, adopted.

12. Your Committee on Finance has had under consideration a bid submitted by Dell Marketing, LP, in the total amount of \$32,572.01, for purchase of Systems Management Appliances, consisting of one Dell KACE K1100 (\$21,283.98) and one Dell KACE K2100 (\$11,288.03), for the Information Systems Department. To be charged to Account No. 001-975-00-439-4-459, I.S. Dept., Capital Outlay, Equip.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the committee report adopted.

13. Your Committee on Finance has had under consideration a bid submitted by Stephens Auto Center, in the amount of \$32,641, for a 2013 model vehicle to be used by the Metro Drug Enforcement Network Team (MDENT). The vehicle will be titled to the City of South Charleston. To be charged to Account No. 900-173-00-000-4-459, Police—MDENT, Capital Outlay, Equipment

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the committee report adopted.

14. Your Committee on Finance has had under consideration Bill No. 7540 - and reports the same to Council with the recommendation that the bill do pass.

Bill No. 7540: "A BILL to amend Chapter 22, Article II, of the Code of the City of Charleston, updating procedures and pricing for operations of the Spring Hill Cemetery Park.

WHEREAS, it is the decision of The Spring Hill Cemetery Commission (the "Commission") that pricing for the Rights of Interment and other services provided by the Cemetery is below market value, and needs to be adjusted to be comparable to other cemeteries in the region; and

WHEREAS, after review and discussion, on April 19, 2012, the Commission voted to recommend the following pricing changes to Charleston City Council; and

WHEREAS, the procedures and language contained in Chapter 22, Article II of the Code of the City of Charleston have become antiquated, do not accurately reflect the modern operation of the Cemetery and need to be updated in order to clarify the operation of the cemetery and the roles and responsibilities of the Commission and cemetery staff;

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

That Chapter 22, Article II of the Code of the City of Charleston is hereby amended to read as follows:

DIVISION 1. - GENERALLY

- Sec. 22-31. - Definitions.
- Sec. 22-32. - Cemetery ownership.

- Sec. 22-33. - Plats of sections.
- Sec. 22-34. - Cemetery register.
- Sec. 22-35. - Price of Rights of Interment.
- Sec. 22-36. - Procedure for purchase of Right of Interment; execution of documents; maintenance of record.
- Sec. 22-37. - Disposition of proceeds from sale of Rights of Interment and other transactions.
- Sec. 22-38. - Use of roads.
- Sec. 22-39. - Burial at prohibited places.
- Sec. 22-40. - Destruction or injury of shrubbery or monuments.
- Sec. 22-41. - Interments and disinterments.
- Sec. 22-42. - Legal descent of burial rights at cemetery.
- Sec. 22-43. - Schedule of rates for the Spring Hill Cemetery Park.
- Secs. 22-44—22-60. - Reserved.

Sec. 22-31. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Cemetery means Spring Hill Cemetery Park.

Certificate of Right of Interment means the document that conveys the Right of Interment.

Columbarium means a structure, either freestanding or part of another building or structure, containing niches for the inurnment of cremated remains.

Commission means the Spring Hill Cemetery Park Commission.

Crypt means a space in a mausoleum or lawn crypt which is designed to receive a casket.

Entombment means the placing of human remains in a mausoleum crypt.

Interment means the disposition of human remains by burial in the earth, entombment in a mausoleum or inurnment in a columbarium.

Interment space means the space designated by number and locations in a mausoleum or in a columbarium for entombment or inurnment of human remains.

Inurnment means the placing of cremated remains in a columbarium niche.

Lawn crypts means burial vaults, either single or double size, placed underground prior to actual burial.

Lot means a particular area designated by map numbers and location within the cemetery consisting of a fixed number of grave spaces.

Marker means any memorial lying flat on the ground; generally set flush with the level of the turf, but not to be greater than eight inches above the ground.

Mausoleum means a building housing multiple crypts.

Memorial means any monument, marker, tablet, nameplate or structure placed upon or in any

place of interment or elsewhere in the cemetery for the purposes of identification or in memory of a deceased person.

Monument means any memorial set upright or perpendicular to the grade that is greater than eight inches above the ground.

Niche means a compartment, as in a columbarium, for holding urns of cremated remains.

Right of Interment means the right to specify who may be interred or entombed in a cemetery space, and the right to place a memorial or marker where permitted.

Second Right of Interment means the right to specify that the cremated remains of a particular person may be placed in a cemetery space that already contains another person's remains, and the right to place a memorial or marker where permitted.

Sec. 22-32. - Cemetery ownership.

Notwithstanding the provisions of this article, the ownership of and fundamental responsibility for Spring Hill Cemetery Park will remain with the city and this article shall not be construed as compromising that obligation.

Sec. 22-33. - Plats of sections.

(a) The superintendent shall maintain a plat of the various sections in the cemetery which shall exhibit the purchased, occupied, unoccupied and available lots. Such plat shall be open to examination during regular business hours of the cemetery with reasonable notice as required by rules of the commission.

(b) The commission shall have the right, without changing the locations of burial lots previously sold, to replat all or any part of the cemetery; to install, alter, relocate or close any roadway or walkway; to lay and maintain pipelines, sanitary or storm sewers, gutters and sprinkling systems; and to enlarge, reduce or change boundaries of the sections or lots of the cemetery.

Sec. 22-34. - Cemetery register.

The city clerk shall keep a record to be known as the cemetery register wherein shall be recorded a memorandum showing each section and each lot or interment space, giving the number and section or area, the name of the purchaser, the date the Certificate of Right of Interment was issued, for and by whom made, the amount and date of payment for and to whom paid, the names of parties interred with the date of interment and the date of death. Each register shall be indexed in the names of the owners of the Certificate of Right of Interment, as well as in the names of the parties interred.

Sec. 22-35. - Price of Rights of Interment.

The commission may establish and from time to time amend a schedule of prices, which in each case must be approved by the city council, for the sale of Rights of Interment in the cemetery, for opening and closing of graves and other services or merchandise provided by the cemetery. Each schedule adopted shall be maintained on file in the office of the city clerk so long as it remains in effect. Until the commission adopts a schedule of prices pursuant to this section, the price of lots in the cemetery shall be as in effect immediately prior to the effective date of this Code.

Sec. 22-36. - Procedure for purchase of Right of Interment; execution of documents; maintenance of records.

(a) Any person desiring to purchase a Right of Interment shall make application to the superintendent, who shall keep in his possession a map of the cemetery, each lot on each map to show the size and the schedule of rates as specified in Section 22-43 herein. Upon ascertaining the number, and price of a lot desired by a purchaser, the superintendent shall certify the information to the city collector. Pre-need services and a Right of Interment may be purchased on an installment basis upon such terms approved by the commission from time to time. However, Right of Interment and services may not be used until the purchase price is paid in full. Upon payment in full of the purchase price of the Right of Interment and services, the cemetery superintendent shall issue his receipt, in quadruplicate, one copy to be retained by him, one copy to be forwarded to the city collector, one copy to be forwarded to the city clerk and one copy to be given to the purchaser. The city clerk shall thereupon cause to be prepared a of Right of Interment, to be executed by the mayor in the name of the city and under the seal of the city which shall be certified by the city clerk. All records pertaining to interment rights in the cemetery shall be kept and maintained by the city clerk, with a copy maintained by the cemetery.

(b) The purchase of the Right of Interment in the cemetery does not imply ownership in the strict real estate sense of the word. Title to the real property comprising the cemetery shall be and remain vested in the city and the rights of a purchaser of a Right of Interment or subsequent owner of a Right of Interment shall be limited to the right to use the designated property for the placement of human remains only. The city reserves to itself, to the commission and to those lawfully entitled thereto the perpetual right of ingress or egress over lots in the cemetery for purposes of passing to and from other lots. These rights are subject to the terms of applicable purchase agreements, contracts, and the rules and regulations of the cemetery commission.

Sec. 22-37. - Disposition of proceeds from sale of Rights of Interment and other transactions.

The net proceeds, after payment of commission or other obligations if any, arising from the sale of Rights of Interment shall be paid into the Spring Hill Cemetery Park Combined Endowment Fund. All other moneys derived from sales, services, or other transactions relating to the cemetery shall be deposited with the city treasurer and placed by the city treasurer to the credit of the City's General Fund. Expenditures from the Spring Hill Cemetery Park Combined Endowment fund shall be requisitioned and accounted for pursuant to procedures established by the commission

Sec. 22-38. - Use of roads.

The use of any roads of the cemetery or the construction of new roads within the cemetery for purpose other than those legitimately connected with the proper use of the cemetery shall be prohibited. None of the roads of the cemetery shall be used as a public thoroughfare, and such use shall not be allowed by the commission; except that all existing contract rights of the Catholic and Jewish congregations of the city, Mountain View Cemetery and Etta Wehrle are saved to them.

Sec. 22-39. - Burial at prohibited places.

No person shall bury or cause to be buried any body in any of the avenues, roads, alleys or unsurveyed spaces within the cemetery or bury or cause to be buried any body in any lot in the

cemetery of which he does not have a Right of Interment or for which he shall not have the consent of the owner of the Right of Interment.

Sec. 22-40. - Destruction or injury of shrubbery or monuments.

It shall be unlawful for any person to break down, deface, cut, remove or otherwise injure any evergreen or other trees, flowers, shrubs, tombstones, monuments or other property in the cemetery.

Sec. 22-41. - Interments and disinterments.

(a) A burial/transit permit is required for interment of all bodies or cremated remains regardless of the type of interment desired.

(b) The right is reserved by the commission to require at least 24 hours' notice prior to any interment and at least one week's notice prior to any disinterment or removal.

(c) In the case where multiple Rights of Interment are owned and when an interment is to be made, it shall be the duty of the owner, his successor in burial rights, or his or their legal representatives, to select the grave or crypt. The commission will not be responsible for errors in location.

(d) The commission reserves the right to refuse interment in any lot and to refuse to open any burial space for any purpose except on written application signed by the owner of the Right of Interment, or by the successor in burial rights. In case of a disagreement among joint owners of a Right of Interment, the commission shall have full power to decide the matter in dispute, and to accept or refuse to accept orders from any one of the owners.

(e) The commission shall be in no way liable for any delay in the interment of a body or cremated remains, if the delay results from a protest of interment due to a failure to comply with the rules. The commission will recognize no protest unless it is in writing, properly notarized and filed with the office.

(f) The preparation of graves, crypts, or niches and openings for disinterments will be carried out only by workers employed by the cemetery, for which approved charges will be made and paid in advance.

Sec. 22-42. - Legal descent of burial rights at cemetery.

(a) The original purchaser of a Right of Interment at the cemetery may stipulate the person to receive the use of any remaining spaces. Such designation must be made in writing, signed and acknowledged before a notary public by the original purchaser either at the time of purchase or at a later date. The written designation shall be filed at the cemetery office.

(b) If the original purchaser of a Right of Interment shall not have made such designation prior to his death, interments on such lot or interment space shall be made in the following order:

(1) Space shall be reserved for the spouse whether marrying again or not, and such spouse shall have first right of interment to the exclusion of all other persons.

(2) The direct lineal descendants of the original purchaser in nearest degree of consanguinity shall have the next right to interment in the order of their death.

(3) If there remains unoccupied space after providing for interments specified in subsections (b)(1) and (2) of this section or if there is no lineal descendants of the original purchaser, the collateral kindred in the nearest consanguinity to the original purchaser in order of their death shall be entitled to interment.

(4) Notwithstanding anything provided in this section to the contrary, the commission, or the cemetery superintendent, may in their sole discretion permit the burial on a lot or interment space of any person, whether or not belonging to any of the classes specified in subsections (b)(1), (2) and (3), who, by reason of blood kindred or family relationship to or by reason of close association with the deceased original purchaser or specified successor, or any person buried or presumptively to be buried on the lot or interment space, is deemed by the commission or the cemetery superintendent to be justly and equitably entitled to be buried on the lot or interment space, unless there shall be on file with the commission written objection to the burial of such person, duly signed and acknowledged by one or more persons of the class of nearest kindred then presumptively entitled to burial, in which latter case no burial outside the specific class of descendants of collateral kindred shall be made without the consent of such objector or objectors.

(c) In case interment rights in the same lot or interment space shall have been granted to more than one person, such rights shall be held by them as tenants in common; and in case of disagreement between them, or between persons who shall be entitled after the death of either or both of such tenants in common, the commission shall be entitled to make partition of such lot or interment space in severalty, as in uncontrolled discretion it may deem most equitable and just, without such discretion being subject to the control of any court or without being answerable for its exercise.

(d) In determining the ownership of Rights of Interment, the commission shall not at any time be bound to recognize any person as grantee or owner of any rights except a grantee named in the original conveyance and successors as specified in this section. Nor shall the commission in any way be bound to recognize any agreement or understanding affecting such burial rights not filed with and approved by the commission, and recorded by the city clerk.

Sec. 22-43. - Schedule of rates for the Spring Hill Cemetery Park.

That the price for grave spaces and the fees for service at the Spring Hill Cemetery Park shall be as follows:

City Property (Riggs 10-Scruggs; JHL 1-2 Burdette 1-2; Jeffries, all sections 1-10-and Woods 18) (As determined available) \$900.00

Hall and Edmonds and all others (As determined available) \$900.00

Lynn-Wehrle (As determined available) \$900.00

Lynn 2 \$900.00

Capito (As determined available) \$900.00

Capito Woods(flat marker area) \$700.00 monument section \$900.00

Wilson \$900.00

Middleton (As determined available) \$900.00

Mausoleum Property No spaces available

Woods 1, 2 and 3 (As determined available) \$900.00

Swann Addition (all sections of Spring Hill excluding section 49) (As determined available)
\$900.00

Section 49 (As determined available) \$900.00

Riggs-Jeffries Riggs (As determined available) \$900.00

Riggs Babyland \$100.00*

*No charge—infants up to two years of age

Wilson, Block 6-A, 7-A and 8 (As determined available) \$900.00

Wehrle Addition, section 16 (As determined available) \$900.00

Willow Lawn Addition \$800.00

Wehrle 16A (monument area) \$900.00

Cremation burial site \$350.00

Columbarium AGM 64-9-2005-1, each niche \$1,000.00 (niche hold two standard cremations)

Garden of Memories

Niche Plate Engraving \$75.00

A Second Right of Interment may be purchased for an additional fifty percent (50%) of the price of the lot purchased.

The following table of service pricing shall apply (includes tent and chairs):

Standard adultOpening/closing

Weekdays M—F \$1,000.00

Weekends, Saturday/Sunday (weekends to include Monday before noon) \$1,200.00

Baby gravesOpening/closing

Weekdays M—F \$200.00*

*No charge—infants up to two years of age

Weekends and holidays. (Weekends to include Monday before noon and holidays)
\$400.00

Mausoleum CryptOpening/closing

Weekdays M—F \$400.00

Weekends and holidays. (Weekends to include Monday before noon and holidays)
\$600.00

Optional tent service for outside mausoleums 150.00

The use of an insuraliner is required for all entombments. (Funeral homes required to supply liners).

Installation of memorials (except government supplied)

Flat markers \$1.00 per sq. in.

Upright markers \$1.00 per sq. in.

Government supplied V.A. Memorials No charge

Only granite or bronze on granite markers of a minimum thickness of 4" are allowed. (The exception shall be for Government VA Markers or matching of existing markers).

The installation of mausoleums, columbariums, and memorials requiring special needs and equipment for handling will be charged according to the individual application.

CremationOpening/closing (Ground Burial)

Weekdays M—F \$400.00

Weekends Sat./Sun. (Weekends to include Monday before noon) \$500.00

Opening/closing Columbarium

Weekdays M—F \$400.00

Weekends and holidays \$500.00

Committal service set-up \$150.00

Steel burial vault installation fee (concrete vault suppliers are required to set concrete vaults \$100.00

The following table of merchandise pricing shall apply:

Memorials and related merchandise not to exceed 300% of wholesale cost.

Outside burial container charges are not to exceed 300% of wholesale cost.

The purchase price and charges for other required services and materials for mausoleums and cremation depositories are based on individual application.

Custom design purchases will be priced per application.

Flower location/Setting service fee, per flower arrangement delivered by outside vendors for placement on a grave. Payable at time of delivery \$3.00

State sales tax will apply to services and merchandise as provided by law.

Secs. 22-44—22-60. - Reserved.

DIVISION 2. - COMMISSION

Sec. 22-61. - Creation; power and duties.

Sec. 22-62. - Membership; terms; compensation.

Sec. 22-63. - Officers; rules for transaction of business; meetings; records.

Sec. 22-64. - Operations and management.

Sec. 22-61. - Creation; power and duties.

(a) In the exercise of the general powers of the city, pursuant to W. Va. Code § 8-12-5 and W. Va. Code ch. 8, art. 16 (W. Va. Code § 8-16-1 et seq.), there is created a cemetery park commission to be known as The Spring Hill Cemetery Park Commission.

(b) The commission shall have power, authority and duty as set forth herein in relation to the grounds purchased by the city and more particularly described in all deeds of conveyance to the city and of record in the office of the clerk of the county commission and any other grounds which have been appropriated by the city for the purpose of a cemetery, and any other adjacent land which may be purchased or acquired by the city for cemetery purposes. Except where reference to separate cemetery grounds is necessary for specific provisions, the foregoing cemetery grounds and all structures and improvements are collectively referred to for purposes of this division as the cemetery or as Spring Hill Cemetery Park.

(c) The commission shall have the plenary power and authority to acquire by gift, grant, purchase, condemnation or otherwise and thereafter hold all necessary lands, rights, easements, rights-of-way, franchises and other property for the Spring Hill Cemetery Park; however, the commission's right of condemnation shall not extend beyond the current perimeter boundaries of the Spring Hill Cemetery.

(d) The commission shall have the power, authority, and duty to establish reasonable and lawful rules and regulations for the cemetery related to:

(1) interments;

(2) conduct within the cemetery, including, but not limited to, access, visitation, funerals, assemblages, tours, traffic, parking, and protocols for respecting the deceased;

(3) mausoleums, columbariums, and other structures of entombment;

(4) burial lots;

(5) monuments, markers, cenotaphs, memorializations, and decorations;

(6) gardens, lawns and plantings;

(7) creation, administration, investment, review and accounting of and for Endowments and Trust Funds and the expenditure thereof.

A copy of the cemetery rules and regulations promulgated by the commission shall be filed in the office of the city clerk and may, upon request, be provided to anyone purchasing a Right of Interment,

(e) The commission shall have the power, authority, and duty to plan for the orderly development of the cemetery; to identify, plat, denote, delineate and name distinct sections, lots, roadways and other geographical features; to establish procedures for submission and review of plans and specifications for any construction or installation within the cemetery; to reserve or designate areas within the cemetery as places for assemblage, passive spaces, natural habitat, or for other beneficial uses related to the character and purpose of the cemetery; and to recommend to the Mayor, City Manager, Superintendent and/or City Council such development, programs or projects as would, in the opinion of the commission, improve the beauty, utility and general welfare of the cemetery.

(f) The commission shall have the power, authority, and duty to receive complaints or petitions related to interests in Rights of Interment, descent or division, errors of documentation or description, application or enforcement of any rule or regulation promulgated by the commission, and petitions for variances or exceptions to any rule or regulation promulgated by the commission, and to make inquiry and investigations thereof. The commission shall be the arbiter of any such complaints or petitions. The commission may establish reasonable rules and procedures to secure fair and timely determinations of every such complaint or petition, and, if requested or when otherwise necessary and practical to do so, shall timely issue written decisions, copies of which shall be provided to all interested parties, the City Manager and filed with the city clerk. Any decision of the commission may be appealed by filing a written notice of appeal to the City Manager within 30 days of transmission of the commission's decision to the complaining party or parties.

Sec. 22-62. - Membership; terms; compensation.

(a) All powers and duties in the management and control of the commission shall be vested in a board consisting of directors appointed by the mayor and confirmed by the city council. Such board shall consist of nine appointed members, two of whom shall be members of city council. The councilmembers of the board shall serve for a term coextensive with their terms as members of the council; and the other members of the board shall each be appointed for a term of six years and until their respective successors are appointed and qualified, except for the initial appointments, which shall be made as follows:

(1) The first director appointed shall serve a term of nine years commencing on _____/_____/_____, 1998.

(2) The second director appointed shall serve a term of eight years commencing on _____/_____/_____, 1998.

(3) The third director appointed shall serve a term of seven years commencing on _____/_____/_____, 1998.

(4) The fourth director appointed shall serve a term of six years commencing on _____/_____/_____, 1998.

(5) The fifth director appointed shall serve a term of five years commencing on _____/_____/_____, 1998.

(6) The sixth director appointed shall serve a term of four years commencing on _____/_____/_____, 1998.

(7) The seventh director appointed shall serve a term of two years commencing on _____/_____/_____, 1998.

_____/_____/_____, 1998.

(b) As the term of each initial board appointee, other than the councilmembers, expires, the successor to fill the vacancy created by such expired term shall be appointed for a term of six years.

(c) If the position of any director becomes vacant for any reason prior to the expiration of his term of office, a successor shall be appointed by the mayor and confirmed by the city council to complete the unexpired portion of such term.

(d) The directors shall be appointed without regard to political affiliation, and preference shall be given to lineal descendants or immediate family relatives of someone interred at the cemetery. No director shall receive any compensation for his service as such, but each director shall be reimbursed by the commission for any reasonable and necessary expenses actually incurred in the discharge of his duties as a member of the board. No director may be an employee of the city; and no director may benefit financially in any way, directly or indirectly, from the operation of the commission or its board of directors.

Sec. 22-63. - Officers; rules for transaction of business; meetings; records.

The commission board shall elect from its membership a chairman, secretary and such other officers as it determines to be necessary for the performance of its duties. The board may adopt such rules as may be necessary for the transaction of its business, hold regular meetings, and shall keep a record of its official proceedings, a copy of which shall be filed in the city clerk's office.

Sec. 22-64. Operations and management.

The cemetery shall be operated as a city department under the direction of a Superintendent, subject to such funding and staffing levels as the City Council may designate and allocate within its General Fund Budget, who shall be appointed by the City Manager with the advice and consent of the commission, and who shall report to the City Manager. The cemetery shall be operated according to the administrative rules, regulations, and policies generally applicable to city departments. In addition to any other duties or responsibilities set forth herein or attendant to the position as the administrative department head, the Superintendent shall be charged with executing and enforcing the reasonable rules and regulations promulgated by the commission as provided herein, shall attend and participate in the meetings of the commission as a non-voting member, and shall provide such information and reports as the commission may request and require for the fulfillment of its duties.

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

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

ABSENT: Clowser, Deneault, Kirk, Reishman, Weintraub

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7540, as amended, passed

ROLL CALL

The Clerk called the roll:

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

ABSENT: Clowser, Deneault, Kirk, Reishman, Weintraub

At 7:35 p.m., by a motion from Councilmember Harrison, Council adjourned until Monday, October 15, 2012, at 7:00 p.m.

Danny Jones, Honorable Mayor

James M. Reishman, City Clerk