

**JOURNAL  
OF THE  
COUNCIL  
CITY OF CHARLESTON  
WEST VIRGINIA  
DECEMBER 3, 2012**

**THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE FIRST MEETING IN THE MONTH OF DECEMBER ON THE 3<sup>rd</sup> DAY, IN THE YEAR 2012, 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 TOM GILLOOLY.**

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

**DENEALT  
HAAS  
LANE  
NICHOLS  
RICHARDSON  
SHEETS  
STAJDUHAR  
WEINTRAUB**

**CLOUSER  
DODRILL  
HARRISON  
MILLER  
PERSINGER  
  
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**

1. Bill Malls – Danner Meadow

**CLAIMS**

1. A claim of James McKenzie, 1307 Pennsylvania Ave., Apt. C Charleston, WV; alleges damage to vehicle.

Refer to City Solicitor.

2. A claim of Belle LLC Cowner – Tammy Robinson, 221 Quarry Ridge East, Charleston, WV; alleges damage to property.

Refer to City Solicitor.

**PLANNING**

Council person Mary Jean Davis, Chairperson of the Council Committee on Planning, submitted the following reports.

1. Your Committee on Planning has had under consideration Bill No. 7547, and reports the same to Council with the recommendation that the bill do pass.

Bill No. 7547 amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 1<sup>st</sup> day of January 2006, as amended, and the map made a part thereof, by rezoning from an C-4 district to a C-8 district, that certain parcel of land situate at 400 Washington Street East, Charleston, West Virginia.

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

1. The Zoning Ordinance of the City of Charleston, West Virginia, enacted the 21<sup>st</sup> day of November, 2005, as amended, is hereby amended by rezoning from an C-4 district to a C-8 district the whole of the following described parcel of land: Charleston East Tax Map No. 5, Parcel No. 0005 0001 0000 commonly known as 400 Washington Street East, Charleston, Kanawha County. Said tax map is of record in the Planning Office.

2. The Zoning Map, attached hereto and made a part of said Zoning Ordinance, is hereby amended in accordance with Article 28 of this ordinance.

3. All prior ordinances, or parts of ordinances, inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

*The question being on the passage of the Bill. A roll call was taken and there were; yeas –25, absent -2, abstain – 1, as follows:*

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

*ABSENT: Burton, Russell*

*ABSTAIN: Weintraub*

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7547, passed.*

2. Your Committee on Planning has had under consideration Bill No. 7548, and reports the same to Council with the recommendation that the bill do pass.

Bill No. 7548 amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 1<sup>st</sup> day of January 2006, as amended, and the map made a part thereof, by rezoning from an R-6 district to a C-10 district, that certain parcel of land situate at 1505 Rutledge Road, Charleston, West Virginia.

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

1. The Zoning Ordinance of the City of Charleston, West Virginia, enacted the 1<sup>st</sup> day of January 2006, as amended, is hereby amended by rezoning from an R-6 district to a C-10 district the whole of the following described parcel of land:

Parcel 8 as shown on North Charleston Tax Map No. 59. Subject parcel commonly known as lots 1, 2, 3, and 4, Airport Addition, Charleston, West Virginia. Said tax map is of record in the Planning Office.

2. The Zoning Map, attached to and made a part of said Zoning Ordinance, is hereby amended in accordance with Article 27 of this ordinance.

3. All prior ordinances, or parts of ordinances, inconsistent with this ordinance are hereby repealed to the extent of such 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, Clowser, Davis, Deneault, Dodrill, Ealy, Haas, Harrison, Kirk, Lane, Miller, Minardi, Nichols, Persinger, Reishman, Richardson, Salisbury, Sheets, Smith, Snodgrass, Stajduhar, Talkington, Ware, Weintraub, White, Mayor Jones.*

*ABSENT: Burton, Russell*

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7548, passed.*

3. Your Committee on Planning has had under consideration Bill No. 7551, and reports the same to Council with the recommendation that the bill do pass, after being referred to Finance for final consideration.

A Bill closing, abandoning and discontinuing as a public right of way a street known as 10 Foot Alley, situated between Virginia Street and Monongalia Street, in the City of Charleston, West Virginia, and reserving a storm sewer easement for the City of Charleston.

BE IT ORDAINED BY THE CITY COUNCIL OF CHARLESTON, WEST VIRGINIA:

1. The public right of way commonly known as 10 Foot Alley, located in the 6th Ward of the City of Charleston, Kanawha County, West Virginia, more aptly described as follows:

To find the Point of Beginning commence at the southeast corner of the intersection of Virginia Street, West and Maryland Avenue, which marks the northwestern most corner

of Block 19, J. Brisben Walker Addition; thence with the southerly right of way line of Virginia Street, West, S 31°54'09" E a distance of 170.00 feet to a Point marking the common corner of Lots 10 & 11; thence with the division line of said lots, S 58°05'51" W a distance of 135.00 feet to a Point on the northerly right of way of a 10 foot wide alley, which said Point marks the True Point of Beginning; thence with a line crossing said alley, S 58°05'51" W a distance of 10.00 feet to a Point on the southerly right of way of said 10 foot wide alley and marking the common corner of Lots 19 & 20 of said Addition; thence with the line of said alley, N 31°54'09" W a distance of 40.00 feet to a Point marking the northwesterly most corner of Lot 19 and the intersection with the easterly line of a 10 foot wide alley extending from Monongalia Street along said Lot 19; thence with the line of said alley, S 58°05'51" W a distance of 135.00 feet to a Point on the northern right of way of Monongalia Street marking the southwestern most corner with Lot 19; thence with said line of the street, N 31°54'09" W a distance of 10.00 feet to a Point at the intersection with the westerly line of said 10 foot wide alley and marking the southeastern most corner of Lot 18 of said Addition; thence with the line of said alley, N 58°05'51" E a distance of 145.00 feet to a Point at the intersection with the southerly line of the abandoned 10 foot wide alley (Deed Book 1557, Page 503); thence with the line of said abandoned alley, S 31°54'09" E a distance of 10.00 feet to a Point marking the southwestern most corner of Lot 11 of said Addition; thence with the line of a 10 foot wide alley along said Lot 11, S 31°54'09" E a distance of 40.00 feet to the Point of Beginning and having an area of 1,850 square feet, more or less.

2. The City of Charleston hereby reserves a sanitary and storm sewer easement for the full width and length of the above-described right of way for the purpose of construction, maintenance, repair and removal of sanitary and storm sewer lines. No person shall construct improvements or take any other actions which would interfere with this easement, or alter the present surface profile or contour of the subject right of way by more than one (1) foot without written permission of the City Engineer and the Charleston Sanitary Board.

3. The Mayor of the City of Charleston be, and is hereby authorized and directed to execute, acknowledge and deliver a proper deed conveying to Girl Scouts of Black Diamond Council and its successors in office, all right, title and interest in and to said property as described in Section 1 above, except as provided in Section 2 above, for the consideration of \$2480.

4. All prior ordinances, or parts of ordinances, inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

*Received and Filed. (The Bill will be voted on under the Finance section of the meeting )*

### **FINANCE**

Councilperson Bobby Reishman, Chairperson of the Council Committee on Finance, submitted the following reports.

1. Your Committee on Finance has had under consideration Resolution No 233-12, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 233-12 : "Authorizing the Mayor or City Manager to sign an Amendment to the Agreement with J. Arthur Dail, Inc. for Healthcare Consulting Services for an additional two year period from January 1, 2013 to January 1, 2015, at an increase in cost from \$2.25 to \$2.50 per benefit eligible employee per month. All other terms and conditions of the

current Agreement remain unchanged.”

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 sign an Amendment to the Agreement with J. Arthur Dail, Inc., for Healthcare Consulting Services for an additional two year period from January 1, 2013 to January 1, 2015, at an increase in cost from \$2.25 to \$2.50 per benefit eligible employee per month. All other terms and condition of the current Agreement remain unchanged.

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 233-12 adopted.*

2. Your Committee on Finance has had under consideration Resolution No 234-12, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 234-12: “Authorizing the Mayor or City Manager to sign an agreement with HealthSmart Holdings, Inc., for changes in the rates for health and vision insurance coverage, as indicated on the attached Exhibit A, and changing the annual limit needs from \$1,250,000 to \$2,000,000, effective January 1, 2013.”

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 sign an agreement with HealthSmart Holdings, Inc., for changes in the rates for health and vision insurance coverage, as indicated on the attached Exhibit A, and changing the annual limit needs from \$1,250,000 to \$2,000,000, effective January 1, 2013.

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 234-12 adopted.*

3. Your Committee on Finance has had under consideration Resolution No 235-12, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 235-12: “Authorizing the Mayor or City Manager to sign Change Order No. 1 with West Virginia Paving, Inc., in the amount of \$143,618.33 for additional work related to the 2012 Street Paving Project, as shown on the attached Exhibit A. This change order increases the contract price for this project from \$615,200.00 to \$758,818.33.”

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 sign Change Order No. 1 with West Virginia Paving, Inc., in the amount of \$143,618.33 for additional work related to the 2012 Street Paving Project, as shown on the attached Exhibit A. This change order increases the contract price for this project from \$615,200.00 to \$758,818.33.

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 235-12 adopted.*

4. Your Committee on Finance has had under consideration Bill No. 7551, and reports the same to Council with the recommendation that the bill do pass.

A Bill closing, abandoning and discontinuing as a public right of way a street known as 10 Foot Alley, situated between Virginia Street and Monongalia Street, in the City of Charleston, West Virginia, and reserving a storm sewer easement for the City of Charleston.

BE IT ORDAINED BY THE CITY COUNCIL OF CHARLESTON, WEST VIRGINIA:

1. The public right of way commonly known as 10 Foot Alley, located in the 6th Ward of the City of Charleston, Kanawha County, West Virginia, more aptly described as follows:

To find the Point of Beginning commence at the southeast corner of the intersection of Virginia Street, West and Maryland Avenue, which marks the northwestern most corner of Block 19, J. Brisben Walker Addition; thence with the southerly right of way line of Virginia Street, West, S 31°54'09" E a distance of 170.00 feet to a Point marking the common corner of Lots 10 & 11; thence with the division line of said lots, S 58°05'51" W a distance of 135.00 feet to a Point on the northerly right of way of a 10 foot wide alley, which said Point marks the True Point of Beginning; thence with a line crossing said alley, S 58°05'51" W a distance of 10.00 feet to a Point on the southerly right of way of said 10 foot wide alley and marking the common corner of Lots 19 & 20 of said Addition; thence with the line of said alley, N 31°54'09" W a distance of 40.00 feet to a Point marking the northwesterly most corner of Lot 19 and the intersection with the easterly line of a 10 foot wide alley extending from Monongalia Street along said Lot 19; thence with the line of said alley, S 58°05'51" W a distance of 135.00 feet to a Point on the northern right of way of Monongalia Street marking the southwestern most corner with Lot 19; thence with said line of the street, N 31°54'09" W a distance of 10.00 feet to a Point at the intersection with the westerly line of said 10 foot wide alley and marking the southeastern most corner of Lot 18 of said Addition; thence with the line of said alley, N 58°05'51" E a distance of 145.00 feet to a Point at the intersection with the southerly line of the abandoned 10 foot wide alley (Deed Book 1557, Page 503); thence with the line of said abandoned alley, S 31°54'09" E a distance of 10.00 feet to a Point marking the southwestern most corner of Lot 11 of said Addition; thence with the line of a 10 foot wide alley along said Lot 11, S 31°54'09" E a distance of 40.00 feet to the Point of Beginning and having an area of 1,850 square feet, more or less.

2. The City of Charleston hereby reserves a sanitary and storm sewer easement for the full width and length of the above-described right of way for the purpose of construction, maintenance, repair and removal of sanitary and storm sewer lines. No person shall construct improvements or take any other actions which would interfere with this easement, or alter the present surface profile or contour of the subject right of way by more than one (1) foot without written permission of the City Engineer and the Charleston Sanitary Board.

3. The Mayor of the City of Charleston be, and is hereby authorized and directed to execute, acknowledge and deliver a proper deed conveying to Girl Scouts of Black Diamond Council and its successors in office, all right, title and interest in and to said property as described in Section 1 above, except as provided in Section 2 above, for the consideration of \$2480.

4. All prior ordinances, or parts of ordinances, inconsistent with this ordinance are hereby repealed to the extent of such 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, Clowser, Davis, Deneault, Dodrill, Ealy, Haas, Harrison, Kirk, Lane, Miller, Minardi, Nichols, Persinger, Reishman, Richardson, Salisbury, Sheets, Smith, Snodgrass, Stajduhar, Talkington, Ware, Weintraub, White, Mayor Jones.*

*ABSENT: Burton, Russell*

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7551, passed.*

5. Your Committee on Finance has had under consideration Bill No. 7552, and reports the same to Council with the recommendation that the bill do pass.

Bill No. 7552 – A Bill authorizing the acceptance of a gift from the Estate of Lawson Hamilton of approximately eight acres of undeveloped land adjacent to Danner Meadow situated near the Gordon Drive/Fort Hill area of Charleston as a part of the recreational trail program in that neighborhood.

WHEREAS, The Estate of Lawson Hamilton is the current owner of approximately eight (8) acres of undeveloped property, located between Gordon and Dabney Drives in the Fort Hill neighborhood of Charleston, Kanawha County, West Virginia (the "Property") and is specified on the map attached as Exhibit A hereto; and

WHEREAS, the Charleston Land Trust, an agency of the City of Charleston created by ordinance, is charged with managing and maintaining "public trust lands" for preservation of green space and woodlands, and promoting and developing recreational areas for public use by identifying and facilitating the conveyance of such properties to the City; and

WHEREAS, the Charleston Land Trust has identified the Property as desirable for addition to the green space and recreational trail program in the City of Charleston; and

WHEREAS, the family of Lawson Hamilton wishes to contribute this property to the City of Charleston to be maintained and preserved for recreational purposes.

THEREFORE, Be It Ordained By The Council Of The City Of Charleston, West Virginia:

That the Mayor of the City of Charleston is hereby authorized to accept a deed for the approximately eight acres of undeveloped land adjacent to Danner Meadow situated near the Gordon Drive/Fort Hill area of Charleston, as specified in the map attached as Exhibit A hereto, to become a part of the recreational trail program in the City of Charleston.

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

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

*ABSENT: Burton, Russell*

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7552, passed.*

## NEW BILLS

Introduced by Council member Marc Weintraub on December 3, 2012:

Bill No. 7550- A bill amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 1<sup>st</sup> day of January 2006, as amended, and the map made a part thereof, by rezoning from an R-6 district to a R-4 district, that certain parcel of land situate on 94.79 m/l acres of land located between McDavid Lane and Bakers Fork Road and adjacent to Cannady Drive, Charleston, West Virginia.

Refer to Planning Committee and Municipal Planning Commission.

Introduced by Council member Robert Sheets and Joe Deneault on December 3, 2012:

Bill No. 7553 - A Bill to create a 15 Minute Parking Zone from 6 pm to 6 am on the easterly side of Clendenin Street from a point 287 feet north of Quarrier Street to a point 375 feet north of Quarrier 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.

Refer to Streets and Traffic Committee.

Introduced by Council member Robert Sheets and Joe Deneault on December 3, 2012:

Bill No. 7554 - A Bill to create a 15 Minute Parking Zone on the easterly side of Clendenin Street from a point 427' north of Quarrier Street to a point 493 feet north of Quarrier 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.

Refer to Streets and Traffic Committee.

## ROLL CALL

*The Clerk called the roll:*

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

At 7:30 p.m., by a motion from Councilmember Harrison, Council adjourned until Monday, December 17, 2012, at 7:00 p.m.

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Danny Jones, Honorable Mayor

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James M. Reishman, City Clerk