

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

April 1, 2013

THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE FIRST MEETING IN THE MONTH OF APRIL ON THE 1st DAY, IN THE YEAR 2013, 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 DREW KEMP.

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

**BURTON
DENEALT
HAAS

NICHOLS
RICHARDSON
SHEETS
STAJDUHAR**

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

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

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

PUBLIC SPEAKERS

None

CLAIMS

1. A claim of John Pritt, 130 Lock Lane, Alum Creek, WV; alleges damage to property. Refer to City Solicitor.

PUBLIC HEARING

The Mayor read the following:

After duly being published as required, I now declare the floor open for a Public Hearing on Bill No. 7570 - A BILL authorizing the City of Charleston to submit to the Municipal Home Rule Board a proposed amendment to the City of Charleston Municipal Home Rule Plan consistent with W. Va. Code § 8-1-5a, Requesting approval to enact a municipal sales and service tax, and municipal use tax under the City’s home rule powers.

With only one speaker Vic Grigoraci, the Mayor declared the Public Hearing on Bill No. 7570 closed.

PROCLAMATION

**EXECUTIVE DEPARTMENT
CITY OF CHARLESTON
PROCLAMATION
By the Mayor**

WHEREAS: Today’s young people of Charleston are tomorrow’s leaders. Many young people need professional youth services to help them reach their full potential; and

WHEREAS: The Salvation Army Boys & Girls Club of Charleston serves over 360 youth each year through both after school and summer programs. Of that number over 20% are teens. The Club also provides employment and volunteer opportunities to over 75 adults each year; and

WHEREAS: Boys & Girls Clubs are places where great futures start: They are at the forefront of efforts in encouraging academic success, promoting healthy lifestyles, and developing good character and citizenship; and

WHEREAS: Boys & Girls Club organizations in our City and State help ensure that our young people have positive alternatives to the temptations of the streets by offering them a safe, supportive place to go and providing them with quality programs; and

WHEREAS: The Salvation Army Boys & Girls Club of Charleston will celebrate National Boys & Girls Club Week, 2013 along with some 4,000 Clubs and more than 4.1 million young people nationwide; and

NOW THEREFORE, I, Danny Jones, Mayor of the City of Charleston, do hereby proclaim the week of April 7-13th 2013, as

BOYS & GIRLS CLUB WEEK

in Charleston, West Virginia, and urge all citizens to join with me in recognizing and commending the Boys & Girls Club organizations in our state for providing comprehensive, effective services to the young people in our communities.

IN WITNESS WHEREOF, I have set my hand and caused the Seal of the Executive Department to be affixed this 29th day of March 2013.

PLANNING

Councilperson 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. 7559, and reports the same to Council with the recommendation that the bill do pass, as amended.

Bill No. 7559 amending the Zoning Ordinance for the City of Charleston, West Virginia, adopted November 21, 2005 to allow for the adaptive reuse of nonresidential structures in residential zoning districts as a conditional use permit with restrictions as follows:

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

The Zoning Ordinance for the City of Charleston, West Virginia, effective November 21, 2005, is hereby amended as follows:

Sec. 2-020 Definitions of Terms

Adaptive reuse of Nonresidential Structures. The process of reusing an existing building for a purpose other than that for which it was built or designed.

Sec. 3-050 Permitted Land Uses

LAND USE	R-2	R-4	R-6	R-8	R-10	R-O	C-4	C-8	C-10	C-12	CB D	UC D	PM C	I-2	I-4	PU D	SU PP.
<u>Adaptive Reuse of a</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>													<u>49</u>

Sec. 3-060 Supplemental Regulations Pertaining to Land Use Table

49. An Adaptive reuse of a nonresidential structure in a residential district shall be regulated as follows:

1. The Board of Zoning Appeals must determine the use is compatible with area.
2. The Board of Zoning Appeals may limit the hours of operation and/or impose other conditions to fit the particular site under review.

3. The use shall be maintained in an existing structure. Additions must comply with the setback requirements of the district in which the building is located.
4. No outside storage of equipment or materials is permitted.
5. The use shall not create a nuisance due to noise, vibrations, smoke, electrical interference, dust, heat, glare, or obnoxious odor.
6. The structure proposed for the adaptive reuse must have historic, architectural, or economic value to the City justifying renovation and preservation, as determined by the Board of Zoning Appeals.
7. The Board of Zoning Appeals must determine that the long-term benefits of the proposed adaptive reuse outweigh any negative impact on the surrounding neighborhood and on the City, as compared with the alternative of having the structure demolished or remaining vacant and underutilized.
8. The use shall not create unacceptable congestion or traffic hazards on the neighboring streets.
9. Eligible reuses include: Art Gallery, Assisted Living Facility, Bed and Breakfast, Medical Clinic or Dental, Multi Family Dwelling, Laboratory, Museum, Nursing Home, Professional Service Establishment, Professional Office. For any other uses not listed, the Board of Zoning Appeals shall determine whether the proposed use is similar as those listed and similar in terms of impact on the neighborhood. A change in use from one eligible use to another requires a new conditional use permit.
10. Renovations shall not be so extensive as to strip the building of its historic integrity. Character defining features of historic buildings shall remain intact.

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

ABSENT: Lane, Weintraub

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7559, as amended, passed.

2. You committee on Planning has had under consideration a request to name a unnamed drive located at 1920 Washington Street East to Prezioso Place attached hereto and made a part thereof. Your committee finds the request complies with the E911 Addressing Regulations and reports the same to Council with the

recommendation that the drive be named Prezioso Place.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Prezioso Place as a street name approved.

PARKS AND RECREATION

Councilperson Susie Salisbury, Chairperson of the Council Committee on Parks and Recreation, submitted the following reports.

1. Your Committee on Parks and Recreation has had under consideration Bill No. 7562, and reports the same to Council with the recommendation that the bill do pass.

Bill No. 7562 – A Bill authorizing the acceptance of a parcel of land in the east end of Charleston, more particularly described in the deed attached as Exhibit A hereto, for the purpose of establishing and maintaining the East End Playground, a public park and playground.

Bill 7562 voted on under Finance.

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 280-13, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 280-13 : “Authorizing the Finance Director to amend FY 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 FY 2013-2013 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 –26, absent -2, as follows:

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

ABSENT: Lane, Weintraub

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 280-13, adopted.

2. Your Committee on Finance has had under consideration Resolution No 281-13, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 281-13 : “Authorizing the Mayor or City Manager to enter into an Agreement with J P Morgan Chase Bank, N.A. to decrease and extend the maturity date of Standby Letter of Credit CTCS-644907, approved by City Council on April 2, 2012, subject to review and final approval by legal counsel for the City. This letter of credit provides security, in lieu of a surety bond, for liability of potential workers’ compensation claims as a self-insured employer. The existing standby letter of credit, in the amount of \$4,396,609, is decreased \$3,646,609 to a total of \$750,000. The current terms, May 1, 2012 to April 30, 2013, are extended through May 1, 2014. The cost of these changes total \$3,475 and funds are available in various departmental expense accounts.”

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 J P Morgan Chase Bank, N.A. to decrease and extend the maturity date of Standby Letter of Credit CTCS-644907, approved by City Council on April 2, 2012, subject to review and final approval by legal counsel for the City. This letter of credit provides security, in lieu of a surety bond, for liability of potential workers’ compensation claims as a self-insured employer. The existing standby letter of credit, in the amount of \$4,396,609, is decreased \$3,646,609 to a total of \$750,000. The current terms, May 1, 2012 to April 30, 2013, are extended through May 1, 2014. The cost of these changes total \$3,475 and funds are available in various departmental expense accounts.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 281-13 adopted.

3. Your Committee on Finance has had under consideration Resolution No 282-13, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 282-13 : “Authorizing the Mayor or City Manager to renew the irrevocable Letter of Credit from City National Bank in the amount of \$328,000 for bonding of the permitted acreage at the City Landfill; and further authorizing payment of the premium in the amount of \$3,280 for the period July 1, 2013 to June 30, 2014. The premium is due annually with reimbursement to the City by Landfill Services of Charleston.”

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 renew the irrevocable Letter of Credit from City National Bank in the amount of \$328,000 for bonding of the permitted acreage at the City Landfill; and further authorizing payment of the premium in the amount of \$3,280 for the period July 1, 2013 to June 30, 2014. The

premium is due annually with reimbursement to the City by Landfill Services of Charleston.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 282-13 adopted.

4. Your Committee on Finance has had under consideration Resolution No 283-13, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 283-13 : “Authorizing the Mayor or City Manager to enter into an Agreement with Allmen General Contractors, in the amount of \$187,000.00, for the 2013 Concrete Curb and Sidewalk project.”

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 Allmen General Contractors, in the amount of \$187,000.00, for the 2013 Concrete Curb and Sidewalk project.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 283-13 adopted.

5. Your Committee on Finance has had under consideration Resolution No 284-13, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 284-13 : “Authorizing the Mayor or City Manager to sign Change Order No. 5 with Michael Baker Jr., Inc., in the amount of \$77,270, for preparation of construction plans and related documents for rehabilitation and painting contracts for the Farnsworth Drive Bridge over I-64, and for construction inspection services for both contracts.”

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. 5 with Michael Baker Jr., Inc., in the amount of \$77,270, for preparation of construction plans and related documents for rehabilitation and painting contracts for the Farnsworth Drive Bridge over I-64, and for construction inspection services for both contracts.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 284-13 adopted.

6. Your Committee on Finance has had under consideration Resolution No 285-13, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 285-13 : “Authorizing the Mayor or City Manager to sign Change Order No. 1 with EnviroProbe Integrated Solutions, in an amount not to exceed \$47,851.85, for remediation services associated with the petroleum contaminated water and soil detected under the two tanks that were removed through its contract for Permanent Closure of Underground Storage Tanks at the Landfill.”

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 EnviroProbe Integrated Solutions, in an amount not to exceed \$47,851.85, for remediation services associated with the petroleum contaminated water and soil detected under the two tanks that were removed through its contract for Permanent Closure of Underground Storage Tanks at the Landfill.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 285-13 adopted.

7. Your Committee on Finance has had under consideration Resolution No 286-13, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 286-13: “Authorizing the Mayor to sign and submit all related documents for the change of scope for Community Participation Grant Program 11LEDA0035, Spring Street Food Pantry. The grant was initially awarded to be used to upgrade kitchen facilities to serve meals. The upgrade was to include all stainless steel cabinetry, tables, sinks and utensils. Spring Street Food Pantry would like to change the scope of their project because the need for paved parking seems to have become a higher priority providing more safety for Food Pantry clients. They also have two donors offering to match funds specifically for paved parking.”

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

That the Mayor is hereby authorized and directed to sign and submit all related documents for Community Participation Grant Program 11LEDA0035, Spring Street Food Pantry. The grant was initially awarded to be used to upgrade kitchen facilities to serve meals. The upgrade was to include all stainless steel cabinetry, tables, sinks and utensils. Spring Street Food Pantry would like to change the scope of their project because the need for paved parking seems to have become a higher priority providing more safety for Food Pantry clients. They also have two donors offering to match funds specifically for paved parking.

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

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

ABSENT: Lane, Weintraub

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 286-13, adopted.

8. Your Committee on Finance has had under consideration Resolution No 287-13, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 287-13 : “Authorizing the Mayor or his designee to sign and submit a pre-application to the U.S. Department of Justice requesting grant funds from the Edward Byrne Memorial Competitive Grant Program in the amount of \$400,000 to assist with funds needed for purchase of new software for the Charleston Police Department’s Records Management System and to align with changes being made by all Kanawha County law enforcement agencies.”

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 sign and submit a pre-application to the U.S. Department of Justice requesting grant funds from the Edward Byrne Memorial Competitive Grant Program in the amount of \$400,000 to assist with funds needed for purchase of new software for the Charleston Police Department’s Records Management System and to align with changes being made by all Kanawha County law enforcement agencies.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 287-13 adopted.

9. Your Committee on Finance has had under consideration Resolution No 288-13, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 288-13 : “Approving settlement of pending litigation, captioned Anne V. Phipps v. City of Charleston, West Virginia, Civil Action No. 12-C-510, Circuit Court of Kanawha County W.Va., Judge Carrie Webster, in the amount of \$25,000.00 and authorizing the Mayor or his designee to execute any documents necessary to consummate the full settlement and dismissal of the pending civil action in exchange for a full release by Plaintiff of all claims stemming from a March 20, 2010, accident.”

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

That the City Council for the City of Charleston hereby approves settlement of pending litigation, captioned Anne V. Phipps v. City of Charleston, West Virginia, Civil Action No. 12-C-510, Circuit Court of Kanawha County W.Va., Judge Carrie Webster, in the amount of \$25,000.00, and hereby authorizes the Mayor or his designee to execute any documents necessary to consummate the full settlement and dismissal of the pending civil action in exchange for a full release by Plaintiff of all claims stemming from a March 20, 2010, accident.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 288-13 adopted.

10. A bid submitted by State Equipment, Inc., in the amount of \$87,188.00, for purchase of a Case 580 Super N Backhoe to be used by the Street Department. To be charged to Account No. 001-977-00-750-4-459, Street—Capital Outlay, Equipment (Sun Trust Equipment Finance and Leasing Corporation, Lease Purchase Escrow Account No. 08673, Equipment Schedule 1) , 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.

11. Your Committee on Finance has had under consideration Bill No 7562, and reports the same to Council with the recommendation that the bill do pass.

Bill No. 7562 – A Bill authorizing the acceptance of a parcel of land in the east end of Charleston, more particularly described in the deed attached as Exhibit A hereto, for the purpose of establishing and maintaining the East End Playground, a public park and playground;

WHEREAS, the Charleston Urban Renewal Authority (“CURA”) owns a parcel of land in the east end of Charleston; and

WHEREAS, the City of Charleston wants to establish a public playground for the benefit of the citizens of the City; and

WHEREAS, pursuant to West Virginia code § 16-18-7, CURA may convey real estate to the City for public purposes without appraisal, or bidding; and

WHEREAS, CURA wishes to convey its property to the City for the purpose of establishing and maintaining a public playground; and

WHEREAS, CURA and the City have determined that a public playground in the east end of Charleston will be beneficial to the residents of the City.

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 a parcel of land in the east end of Charleston, more particularly described in the deed attached as Exhibit A hereto, for the purpose of establishing and maintaining the East End Playground, a public park and playground.

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

YEAS: Burka, Burton, Clowser, Davis, Deneault, Dodrill, Ealy, Haas, Harrison,Kirk,

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

ABSENT: Lane, Weintraub

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7562, passed.

NEW BILLS

Introduced by Council member Rick Burka on April 1, 2013:

Bill No. 7563- A Bill amending the Zoning Ordinance of the City of Charleston, West Virginia enacted the 1st day of January 2006 as amended, and the map made a part thereof, by rezoning from R-4 district to a C-8 district, that certain parcel of land situate at 309 50th Street, Charleston, West Virginia.

Refer to Municipal Planning Commission and Planning Committee.

Introduced by Council member Courtney Persinger on April 1, 2013:

Bill No. 7564- Bill No. 7564 amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 1st day of January 2013, as amended, and the map made a part thereof, by rezoning from an I-2 district to a C-10 district, that certain parcel of land situate at 320 MacCorkle Ave. SE, Charleston, West Virginia.

Refer to Municipal Planning Commission and Planning Committee.

Introduced by Council member Bobby Reishman on April 1, 2013:

Bill No. 7567 - A Bill and Order relating to the laying of levies on real, personal and public utility property within the City of Charleston, West Virginia, including excess levies previously provided for in the Official Municipal Budget Document for the fiscal year beginning the first day of July, two thousand thirteen.

Refer to Finance Committee.

Introduced by Council member Robert Sheets on April 1, 2013:

Bill No. 7568: A Bill to repeal ordinance number 6359 passed by Council on July 21, 1997 relating to a One Hour Parking Tow Away Zone on the Southerly side of Smith Street from a point 247 feet west of Ruffner Avenue to a point 335 feet west of Ruffner Avenue, and that the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, as amended, Chapter 114 - Traffic Ordinance, Article IV, Division 2, to conform herewith.

Refer to Streets and Traffic Committee.

Introduced by Council member Robert Sheets on April 1, 2013:

Bill No. 7569__ A Bill to create a No Parking Tow Away Zone on the Southerly side of Virginia Street, East between Capitol Street and Hale Street from 6AM to 6PM and amending the Traffic Control Map and Traffic Control File established by the Code of the City of Charleston, West Virginia, two thousand 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 members Jack Harrison, Bobby Reishman, Tom Lane, Joe Deneault, Mary Jean Davis, Andy Richardson, Marc Weintraub, Mike Clowser, Kasey Russell, Shannon Snodgrass, Susie Salisbury, Ed Talkington, Rick Burka, James Ealy, Mike Stajduhar, Bill Kirk, Jerry Ware, and Brent Burton on April 1, 2013:

Bill No. 7570 - A BILL authorizing the City of Charleston to submit to the Municipal Home Rule Board a proposed amendment to the City of Charleston Municipal Home Rule Plan consistent with W. Va. Code § 8-1-5a, requesting approval to enact a municipal sales and service tax, and municipal use tax under the City's home rule powers.

Refer to Home Rule Committee.

Introduced by Council member Jack Harrison on April 1, 2013:

Bill No. 7571- A BILL to amend Chapter 18 of the Municipal Code of the City of Charleston, as amended, for the purpose of creating a more uniform business license within the City of Charleston.

Refer to Ordinance and Rules Committee and Finance Committee.

ROLL CALL

The Clerk called the roll:

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

ABSENT: Lane, Weintraub

At 7:35 p.m., by a motion from Councilmember Harrison, Council adjourned until Monday, April 15, 2013, at 7:00 p.m.

Danny Jones, Honorable Mayor

James M. Reishman, City Clerk