



**JOURNAL of the PROCEEDINGS
of the
CITY COUNCIL**

CITY OF CHARLESTON, WEST VIRGINIA

Regular Meeting – Monday, December 21, 2015

at 7:00 P.M.

Council Chamber – City Hall – Charleston, West Virginia

OFFICIAL RECORD

**Danny Jones
Mayor**

**JB Akers
City Clerk**

CALL TO ORDER

The Council met in the Chambers of the City Building at 7:00 P.M., for the second meeting in the month of December on the 21st day, in the year 2015, and was called to order by the Honorable Mayor, Danny Jones. The invocation was delivered by Councilman Richardson and the Pledge of Allegiance was led by Councilman Persinger. The Honorable Clerk, JB Akers, called the roll of members and it was found that there were present at the time:

**BURKA
CHESTNUT
EALY
HARRISON
LANE
OVERSTREET
RICHARDSON
SMITH
TALKINGTON**

**BURTON
CLOWSER
FAEGRE
HOOVER
MILLER
PERSINGER
SALISBURY**

**CEPERLEY
DAVIS
HAAS
IRELAND
MINARDI
REISHMAN
SLATER
STEELE
MAYOR JONES**

With twenty-five members being present, the Mayor declared a quorum present.

Pending the reading of the Journal of the previous meeting, the reading thereof was dispensed with and the same duly approved.

PUBLIC SPEAKERS

1. Cheryl Jackson from “No Butts About It” campaign gave a report to council and handed out some information about the movement.

CLAIMS

1. A claim of James M. Adkins, 902 Amherst Drive, Charleston, WV; alleges damage to vehicle.
Referred to City Solicitor.
2. A claim of Lucy Jividen, 1943 Parkwood Rd., Charleston, WV; alleges damage to vehicle.
Referred to City Solicitor.

CERTIFICATE OF APPRECIATION

**City of Charleston
Executive Office of the Mayor**

Certificate of Appreciation

Presented on the 21st day of December, 2015

to

George Robson

- ✦ In honor of your 43 years of service to the City of Charleston, during which you performed just about every job related to traffic engineering possible, including lights, banners, on-street parking and so much more; and
- ✦ In appreciation for your dedicated decades of service and work to make Charleston a better city for residents, commuters, visitors, pedestrians and businesses; and
- ✦ In recognition of your retirement from public service, through presentation of this certificate and the luminous tribute on the Kanawha Boulevard Bridge for several days this week in your honor.

IN WITNESS WHEREOF, I have set my hand and caused the Seal of the Executive Department to be affixed this 21st day of December 2015.

Danny Jones, Mayor

PROCLAMATION

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

- WHEREAS:** Winter weather poses extreme hardship for unsheltered and inadequately housed low-income men, women and children in Charleston; and
- WHEREAS:** The spirit of giving during the holiday season provides an opportunity for people to seek affirmation and renewal in connection with efforts to reduce and end homelessness in our community; and
- WHEREAS:** Coinciding with the longest night of the year, December 21 is designated as National Homeless Persons' Memorial Day by the National Coalition for the Homeless and the National Health Care for the Homeless Council, as cities across the nation recognize the challenges of homelessness, especially during winter months; and
- WHEREAS:** In this season of generosity and sharing, citizens of Charleston are encouraged to promote compassion and concern for all persons, especially those who are truly in need, and support the many agencies, churches and other organizations that are working every day to help homeless people in our community; and
- WHEREAS:** In dealing with one crucial segment of our greater community's homeless population, I, on behalf of the City of Charleston, have accepted the "Mayors' Challenge" from the White House to work toward ending homelessness for veterans in 2015, and our community partners have made significant strides toward that goal; and
- WHEREAS:** Still, too many people of all ages who have no homes die as they try to live on the streets, and by remembering those who have, we recognize the urgency of ending homelessness in our city's and county's collective consciousness and work toward preventing such deaths in the future.

NOW THEREFORE, I, Danny Jones, Mayor of Charleston, do hereby proclaim December 21, 2015 as

NATIONAL HOMELESS PERSONS' MEMORIAL DAY

in recognition of homeless people who have died in and around Charleston. Working with entities involved in addressing the needs of the homeless among us, we hereby ask all citizens to take a moment of silence in remembrance and encourage our citizens to support local efforts to eliminate homelessness in our community.

IN WITNESS WHEREOF, I have set my hand and caused the Seal of the Executive Department to be affixed this 21st day of December 2015.

DANNY JONES, MAYOR

REPORTS OF COMMITTEES

COMMITTEE ON FINANCE

Councilman Reishman, Chair of the Council Committee on Finance, submitted the following reports:

1. Your committee on Finance has had under consideration Resolution No. 684-15, and reports the same to Council with the recommendation that the resolution do pass.

Resolution No. 684-15 : “Authorizing the Mayor and Chief of Police to execute and enter into a Subaward Recipient Agreement with Appalachia High Intensity Drug Trafficking Area (“HIDTA”) for funds from the United States Office of National Drug Control Policy (“ONDCP”) in the total amount of \$149,000.00 to be awarded to the Metro Drug Enforcement Network Team (“MDENT”). The 2016 calendar year funds are designated for purchase of evidence and information (\$20,000); overtime for seven (7) full-time officers at \$17,000 each (\$119,000); and overtime for four (4) part-time interdiction officers at \$2,500 each (\$10,000).”

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

That the Mayor and Chief of Police are hereby authorized and directed to execute and enter into a Subaward Recipient Agreement with Appalachia High Intensity Drug Trafficking Area (“HIDTA”) for funds from the United States Office of National Drug Control Policy (“ONDCP”) in the total amount of \$149,000.00 to be awarded to the Metro Drug Enforcement Network Team (“MDENT”). The 2016 calendar year funds are designated for purchase of evidence and information (\$20,000); overtime for seven (7) full-time officers at \$17,000 each (\$119,000); and overtime for four (4) part-time interdiction officers at \$2,500 each (\$10,000).

Councilman Reishman moved to approve the Resolution. Councilman Lane seconded the motion. With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution 684-15 adopted.

2. Your committee on Finance has had under consideration Resolution No. 685-15, and reports the same to Council with the recommendation that the resolution do pass.

Resolution No. 685-15 : “Approving settlement of a claim filed by Denzil R. Hager pursuant to the West Virginia Medical Professional Liability Act, W. Va. State Code § 55-7B-1 *et seq.*, in the amount of \$650,000.00 (to be paid by the City’s liability insurer, minus the City’s \$300,000.00 self-insured retention) in exchange for a full release of City, its employees and

agents; and authorizing the Mayor or City Manager to execute any documents necessary to finalize the settlement of Mr. Hager’s claim, subject to final review and approval by the City Attorney.”

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

Approves settlement of a claim filed by Denzil R. Hager pursuant to the West Virginia Medical Professional Liability Act, W. Va. State Code § 55-7B-1 *et seq.*, in the amount of \$650,000.00 (to be paid by the City’s liability insurer, minus the City’s \$300,000.00 self-insured retention) in exchange for a full release of City, its employees and agents; and authorizes the Mayor or City Manager to execute any documents necessary to finalize the settlement of Mr. Hager’s claim, subject to final review and approval by the City Attorney.

Councilman Reishman moved to approve the Resolution. Councilman Lane seconded the motion. With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution 685-15 adopted.

3. Your committee on Finance has had under consideration Resolution No. 686-15, and reports the same to Council with the recommendation that the resolution do pass.

Resolution No. 686 -15: “Authorizing the Finance Director to amend the 2015-2016 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 2015-2016 General Fund budget as indicated on the attached list of accounts.

Councilman Reishman moved to approve the resolution. Councilman Lane seconded the motion. With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution 686-15 adopted.

General Fund FY 2015-2016 Budget Amendment No. 6 - December 21, 2015

Account No.	Department	Account Description	Amount
001 977 00 754 4 459	Equipment Maintenance	Capital Outlay - Equipment	6,750
001 754 00 000 2 216	" "	Maintenance & Repair - Equip	(6,750)
To reallocate funds to facilitate the purchase of a Bosch Scan Diagnostic tool which will reduce expenses for outsourced work.			
001 980 00 952 4 458	Spring Hill Cemetery	Capital Outlay - Major Imp.	52,130
001 366 04 0000	Revenue	State Grants	(22,500)
001 369 00 0000	Revenue	Transfers from Other Funds	(29,630)
To recognize grant revenue from the State Historic Preservation Office and a transfer from the Spring Hill Cemetery Endowment Fund for repairs to the mausoleum.			
001 975 01 567 4 459	Public Grounds - Carriage Trail	Capital Outlay - Equipment	24,700
001 567 01 000 1 103	" " " "	Wages & Salaries	(12,670)
001 567 01 000 1 104	" " " "	FICA	(969)
001 567 01 000 1 106	" " " "	PERS Retirement	(1,710)
001 368 04 0000	Revenue	Contributions - Ayre Fund	(9,350)
To reallocate budgetary funds to facilitate the purchase of a replacement pickup truck for use on the Carriage Trail.			

4. Your committee on Finance has had under consideration Resolution No. 687-15, and reports the same to Council with the recommendation that the resolution do pass.

Resolution No. 687-15 : “Authorizing the Mayor and City Manager to enter into an Agreement with the West Virginia Department of Transportation, Division of Highways, for maintenance and upkeep of streetscape improvements along Smith Street between Morris Street and Ruffner Avenue.”

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

That the Mayor and City Manager are hereby authorized and directed to enter into an Agreement with the West Virginia Department of Transportation, Division of Highways, for maintenance and upkeep of streetscape improvements along Smith Street between Morris Street and Ruffner Avenue.

Councilman Reishman moved to approve the resolution. Councilman Lane seconded the motion. With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution 687-15 adopted.

5. Your committee on Finance has had under consideration the following committee report, and reports the same to Council with the recommendation that the report do pass.

A Proposal submitted by Advanced Public Safety for purchase of 100 Zebra ZQ520 printers and related materials in the total amount of \$82,925.00 to serve the West Virginia Electronic Citation changeover. The printers will be distributed to law enforcement agencies within the four county Metro Valley Highway Safety Program (“MVHSP”) area of Kanawha, Boone, Clay and Logan counties.

To be charged to Account No. 095-175-16-000-3-341, Highway Safety Grant—Police, Materials & Supplies

Councilman Reishman moved to approve the committee report. Councilman Lane seconded the motion. With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the committee report, adopted.

6. Your committee on Finance has had under consideration Bill No. 7678, and reports the same to Council with the recommendation that the bill do pass.

Bill No. 7678 : A Bill authorizing the purchase of property located at 515 Mary Street, as more fully described in a deed attached as Exhibit A hereto (the “Property”), from Chris Yeager (the “Owner”) in consideration for a sum of \$12,000.00.

WHEREAS, there is a failing sandstone retaining wall adjacent to the Property that supports a portion of Mary Street, a city-owned street, that needs to be replaced with a new soldier pile and lagging retaining wall; and

WHEREAS, the vacant structure located on the Property is too close to the retaining wall to avoid damage to the structure during the construction of the new retaining wall; and

WHEREAS, in order to perform construction of the new retaining wall in a safe and appropriate manner, the City must remove the vacant structure, or a portion thereof, on the Property; and

WHEREAS, if the new retaining wall and other related repairs are not made to the portion of Mary Street in a timely manner, the costs of repair will increase and the failing of Mary Street, or a portion thereof, may be detrimental to the health, safety and welfare of the public; and

WHEREAS, the City retained REALCORP, LLC, to appraise the Property and the market value of the Property value is \$12,000.00; and

WHEREAS, although the City could have exercised eminent domain to acquire the Property, the Owner and City have negotiated sale of the property to the City for the appraised value of \$12,000.00; now therefore

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

That in order to facilitate the replacement of a failing retaining wall on Mary Street, a city-owned street, the City is authorized to acquire the property located at 515 Mary Street, as more fully described in the deed attached as Exhibit A hereto, from Owner, in consideration for the sum of \$12,000.00 and the Mayor or City Manager are hereby authorized to execute any and all documents necessary to facilitate the purchase and possession of the Property subject to final review and approval by legal counsel for the City.

EXHIBIT A

THIS QUITCLAIM DEED, Made this the 3RD day of FEB., 2010, by and between MONTROSE ENTERPRISES, a West Virginia sole proprietorship, party of the first part, and CHRIS YEAGER, party of the second part.

WITNESSETH: That for and in consideration of the sum of Ten Dollars (\$10.00), cash in hand paid, and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the party of the first part does hereby GRANT, CONVEY, RELEASE, REMISE and FOREVER QUITCLAIM all right, title and interest unto the party of the second part, in and to that certain lot or parcel of land, together with the improvements thereon and the appurtenances thereunto belonging, known as 50X50 Lt W S May St (Tax Map 18, Parcel 44.1), situate and located in Charleston West District, Kanawha County, West Virginia.

AND BEING the same real estate conveyed to Montrose Enterprises, by deed from Alma Y. King, Clerk of the County Commission of Kanawha County, West Virginia, dated April 12, 2004, and of record in the Office of the Clerk of the County Commission of Kanawha County, West Virginia in Deed Book 2599, at Page 697.

This conveyance is made subject to any and all existing covenants, agreements, restrictions, reservations, easements, rights of way, out-conveyances and leases, which may be a matter of record in said Clerk's office and running with the land.

DECLARATION OF CONSIDERATION OR VALUE: The undersigned grantor does hereby declare that the consideration paid for the property transferred by this document is EIGHTY-FIVE-HUNDRED-THIRTY DOLLARS (\$8530.⁰⁰).

WITNESS the following signature and seal:

Montrose Enterprises

By: Otmer G. Elmore, Sr.
Otmer G. Elmore, Sr.
Its: President

STATE OF West Virginia,
COUNTY OF Kanawha, to-wit:

I, Robert Jones, a Notary Public in and for said County and State, do hereby certify that Otmer G. Elmore, Sr., president of Montrose Enterprises, whose name is signed to the foregoing writing, has this day acknowledged the same before me in my said County and State.

Given under my hand this the 3 day of Feb, 2010.

My commission expires: 9-20-2014



[Signature]
NOTARY PUBLIC

This property will be owner occupied.
 This property will not be owner occupied.

This deed was prepared without the benefit of a title examination.

This document was prepared by O. Gay Elmore, Jr., 121 Summers Street, Charleston, West Virginia, 25301.

This instrument was presented to the Clerk of the County Commission of Kanawha County, West Virginia, on and the same is admitted to record.
APR 30 2010
Tester: Vera J. McCormick, Clerk
Kanawha County Commission

DEED 2767 833
Recorded In Above Book and Page
04/30/2010 01:07:00 PM
Vera J. McCormick
County Clerk
Kanawha County, WV
Deed Tax 31.60
Recording Fee 36.00
TOTAL 67.60

Councilman Reishman moved to approve the Bill. Councilman Lane seconded the motion. A roll call was taken.

YEAS: Burka, Burton, Ceperley, Chestnut, Clowser, Davis, Ealy, Faegre, Haas, Harrison, Hoover, Ireland, Lane, Miller, Minardi, Overstreet, Persinger, Reishman, Richardson, Salisbury, Slater, Smith, Snodgrass, Steele, Talkington, Mayor Jones

ABSENT: Snodgrass, Ware

NAYS: NONE

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

REPORTS OF OFFICERS

1. City Treasurer's Report to City Council Month Ending November, 2015.
Received and Filed.

ADJOURNMENT

The Clerk, JB Akers, called the closing roll call:

YEAS: Burka, Burton, Ceperley, Chestnut, Clowser, Davis, Ealy, Faegre, Haas, Harrison, Hoover, Ireland, Lane, Miller, Minardi, Overstreet, Persinger, Reishman, Richardson, Salisbury, Slater, Smith, Snodgrass, Steele, Talkington, Mayor Jones

ABSENT: Snodgrass, Ware

At 7:30 p.m., by a motion from Councilmember Harrison, Council adjourned until Monday, January 4, 2016, at 7:00 p.m., in the Council Chamber in City Hall.

Danny Jones, Honorable Mayor

JB Akers, City Clerk