

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

OCTOBER 2, 2006

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 2nd DAY, IN THE YEAR 2006, AND WAS CALLED TO ORDER BY THE HONORABLE MAYOR, DANNY JONES. THE INVOCATION WAS DELIVERED BY DEITZLER, AND THE PLEDGE OF ALLEGIANCE WAS LED BY WARE.

**CHESTNUT
DEITZLER
HANNA**

**LANHAM
MILLER**

**ROBERTSON
WARE
MAYOR JONES**

**EALY
HARRIS
JONES
LANE
MONROE
REED
SADD**

DAVIS

HARRISON

TALKINGTON

EIGHTEEN 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. Joan Green
- 2. Michael Tolliver

CLAIMS

- 1. A claim of Theodosia Smith, 1548 Hampton Rd., Charleston, WV; alleges damage to property.
Refer to City Solicitor.

PUBLIC HEARING

The Mayor read the Public Hearing . . .

After Duly Being Published As Required, I Now Declare The Floor Open For A Public Hearing On Bill No. 7229, A Bill Approving The Renewal Of A Cable Television Franchise Now Held By Cebridge Acquisition, Llc (“Cebridge”).

The Chair Sees No One From The Public.

The Chair Hears No One From The Public.

The Chair Declares Public Hearing On Bill No. 7229, Closed.

PROCLAMATION

Stop the Hate Awareness Day

MISCELLANEOUS RESOLUTIONS

Resolution No.: 113-06

Introduced in Council: October 2, 2006

Introduced by: Tom Lane

RESOLUTION RECOGNIZING TOM KIRK AND HIS BAND BUCKSTONE

WHEREAS, Live on the Levee began in the summer of 2004 for the purpose of making Charleston a more vibrant community and the place to be on Friday nights; and

WHEREAS, the Live on the Levee series includes a 2-for-1 raffle to support charitable organizations that provide services to homeless men, homeless women and families, children in need, and those who are transitioning from homelessness to a productive life, including: the Roark-Sullivan Lifeway Center, YWCA’s Sojourner’s Shelter, YWCA’s Resolve Family Abuse Center, Daymark’s programs for children, Religious Coalition for Community Renewal’s transitional housing efforts, and the

counseling and assistance programs provided by Covenant House; and

WHEREAS, the Live on the Levee series has been a success largely through the cooperation and participation of the bands who perform on a weekly basis; and

WHEREAS, Tom Kirk and his band Buckstone performed at Live on the Levee during the 2006 season and in addition to the great performance on August 4, 2006, Tom Kirk on behalf of the band has made a generous contribution in the amount of \$500.00 to add to the raffle proceeds which support the charitable organizations sponsored by the City; and

WHEREAS, this unique and generous contribution to the charitable organizations serves as an example of the generosity and kindness exhibited by the citizens of Charleston to those who are the neediest among us; and

WHEREAS, the band and Tom Kirk offered the contribution in memory of Jack McClung who died this summer and who was a former City Auditor and who, along with his children and relatives, was a regular attendee at Live on the Levee;

NOW, THEREFORE, the Council of the City of Charleston hereby accepts the generous contribution and recognizes the kindness of Tom Kirk and his band Buckstone for their generosity and community service to the City of Charleston and hereby offers its thanks for the contribution which will benefit the charitable organizations serving those in need in the City of Charleston.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 113-06, adopted.

Resolution No. 114-06

Introduced in Council
October 2, 2006

Introduced by:
Jim Harris, Jr., Pat Jones

WHEREAS: Philip Pfister is a lifelong resident of the Kanawha Valley, graduate of West Virginia State College and has served the City of Charleston as a professional firefighter since 1999; and

WHEREAS: For most of the past decade, Mr. Pfister has dedicated his spare time in Charleston to training for international strength competitions and competing with other athletes from around the world; and

WHEREAS: Mr. Pfister's hard work and determination have made him "The World's Strongest Man," following his inspiring and exciting come-from-behind

victory in the latest international Strongman competition in China two weeks ago; and

WHEREAS: A humble champion, Phil Pfister's first public act upon returning home to Charleston from his world championship was to thank the hundreds of people in our community who have supported his pursuit and encouraged him toward this achievement, including his wife Michelle, his son Wyatt, his extended family, and the many friends and business colleagues who have sponsored his efforts; and

WHEREAS: In addition to carrying cars and other objects of tremendous weight in competitions, he has carried a positive, motivational message to school children in our city and region about perseverance, endurance and the pursuit of greatness through his 100 School Tour program, which has reached thousands of children; and

WHEREAS: In becoming the first American in 24 years to become the "World's Strongest Man," Phil Pfister proudly, powerfully and profoundly represented our nation, the State of West Virginia, the City of Charleston, as well as professional firefighters and paramedics – including 343 of whom were killed in the September 11th attacks on the United States; and

Therefore be it resolved by The Council and Mayor of The City of Charleston, West Virginia:

That we congratulate Charleston firefighter Philip Pfister on his tremendous achievement as the "World's Strongest Man," join his family and many friends in celebrating this global accomplishment and express our appreciation for his continuing service in our city and his powerful message to our children.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 114-06, adopted.

REPORTS OF STANDING COMMITTEES

CABLE COMMITTEE

Councilman Harry Deitzler, Chairperson of the Council Committee on Cable Television, submitted the following reports.

1. Your Committee on Cable Television has had under consideration Bill No.7229, and reports the same to Council with the recommendation that the bill be adopted as a Committee Substitute.

Bill No. 7229, Committee Substitute -- A Bill (a) approving the renewal of a cable television franchise now held by Cebridge Acquisition, LLC ("Cebridge").

WHEREAS, Cebridge is the present holder of a non exclusive cable television franchise that was originally granted by the City of Charleston, WV (“City”), as set forth in Bill No. 4370, Committee substitute dated November 7, 1988, and renewed by Bill No. 6610 as Amended and adopted by Council on October 4, 1999 (the “Franchise”) and transferred to Cebridge by Bill No. 7214 as Amended and adopted by Council on July 3, 2006 (the “Transfer”); and

WHEREAS, the Franchise is presently scheduled to expire on October 3, 2006; and

WHEREAS, Cebridge has submitted its application for renewal of the Franchise in the form required by West Virginia Code §24D-1-11 (“Application”); and

WHEREAS, the City has reviewed the Application and held public hearings on the proposed renewal of the Franchise (“Renewal”); and

WHEREAS, the City has followed all required procedures to consider and act upon the Renewal, and has considered the comments of all interested parties at a hearing held on September 27, 2006 as well as a hearing on this ordinance on October 2, 2006 (collectively, the “Public Hearings”); and

WHEREAS, the Public Hearings did not produce substantial public opposition to the Renewal; and

WHEREAS, the City believes it is in the interest of the community to approve the Renewal of the Franchise, and to approve the terms of a new Franchise Agreement (“Agreement”) between the City and Cebridge.

NOW THEREFORE BE IT ORDAINED;

That with respect to and in accordance with the provisions of West Virginia Code §24D-1-11, and Bill No. 4370, Committee Substitute dated November 7, 1998 and Bill No. 6610 as Amended and adopted by Council on October 4, 1999, (the “Ordinances”), City hereby approves the renewal of the Franchise heretofore transferred to Cebridge in accordance with Bill No. 7214 as Amended and adopted by Council on July 3, 2006 for a period of five (5) years, with said Franchise now set to expire on October 3, 2011, upon the terms of the Agreement attached hereto and incorporated herein by reference.

The question being on the passage of the Bill a roll call was taken and there were; yeas - 18, nays –0, absent –10, as follows:

YEAS: Chestnut, Davis, Deitzler, Ealy, Hanna, Harris, Harrison, Jones, Lane, Lanham, Miller, Monroe, Reed, Robertson, Talkington, Sadd, Ware, Mayor Jones.

ABSENT: Clowser, Hall, Higgins, Loeb, Markham, Morton, Nielsen, Reishman, Weintraub, White.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7229, Committee Substitute, passed.

FINANCE

Councilman Harry Deitzler, of the Council Committee on Finance, submitted the following reports.

1. Your Committee on Finance has had under consideration Resolution No. 109-06, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 109-06: "Authorizing the Finance Director to amend the 2006-2007 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 2006-2007 General Fund budget as indicated on the attached list of accounts; and be it

FURTHER RESOLVED, that this budgetary amendment is being made prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas - 18, nays -0, absent -10, as follows:

YEAS: Chestnut, Davis, Deitzler, Ealy, Hanna, Harris, Harrison, Jones, Lane, Lanham, Miller, Monroe, Reed, Robertson, Talkington, Sadd, Ware, Mayor Jones.

ABSENT: Clowser, Hall, Higgins, Loeb, Markham, Morton, Nielsen, Reishman, Weintraub, White.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No.109-06, adopted.

2. Your Committee on Finance has had under consideration Resolution No. 110-06, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 110-06: "Authorizing the Finance Director to amend the 2006-2007 Coal Severance 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 2006-2007 Coal Severance budget as indicated on the attached list of accounts; and be it

FURTHER RESOLVED, that this budgetary amendment is being made prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas - 18, nays –0, absent –10, as follows:

YEAS: Chestnut, Davis, Deitzler, Ealy, Hanna, Harris, Harrison, Jones, Lane, Lanham, Miller, Monroe, Reed, Robertson, Talkington, Sadd, Ware, Mayor Jones.

ABSENT: Clowser, Hall, Higgins, Loeb, Markham, Morton, Nielsen, Reishman, Weintraub, White.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No.110-06, adopted.

3. Your Committee on Finance has had under consideration Resolution No. 111-06, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 111-06: “Authorizing the Mayor to sign an Agreement with American Electric Power in the estimated amount of \$31,620.00, or costs not to exceed \$40,000.00, to remove poles and lines along Florida Street from Kanawha Boulevard to the alley north of Second Avenue, and install underground and overhead conductors, transformers, pedestals, service laterals and poles for relocation of power lines, as part of the CDBG Florida Street Streetscape project.”

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

That the Mayor is hereby authorized and directed to sign an Agreement with American Electric Power in the estimated amount of \$31,620.00, or costs not to exceed \$40,000.00, to remove poles and lines along Florida Street from Kanawha Boulevard to the alley north of Second Avenue, and install underground and overhead conductors, transformers, pedestals, service laterals and poles for relocation of power lines, as part of the CDBG Florida Street Streetscape project.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas - 18, nays –0, absent –10, as follows:

YEAS: Chestnut, Davis, Deitzler, Ealy, Hanna, Harris, Harrison, Jones, Lane, Lanham, Miller, Monroe, Reed, Robertson, Talkington, Sadd, Ware, Mayor Jones.

ABSENT: Clowser, Hall, Higgins, Loeb, Markham, Morton, Nielsen, Reishman, Weintraub, White.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No.111-06, adopted

4. Your Committee on Finance has had under consideration Resolution No. 112-06, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 112-06: “Authorizing the Mayor to sign a contract between the City

of Charleston and West Virginia Development Office for FY 2005 Community Partnership Grant on behalf of the College Summit of West Virginia in the amount of \$5,000.”

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

That the Mayor is hereby authorized and directed to sign a contract between the City of Charleston and West Virginia Development Office for FY 2005 Community Partnership Grant on behalf of the College Summit of West Virginia in the amount of \$5,000.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas - 18, nays –0, absent –10, as follows:

YEAS: Chestnut, Davis, Deitzler, Ealy, Hanna, Harris, Harrison, Jones, Lane, Lanham, Miller, Monroe, Reed, Robertson, Talkington, Sadd, Ware, Mayor Jones.

ABSENT: Clowser, Hall, Higgins, Loeb, Markham, Morton, Nielsen, Reishman, Weintraub, White.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No.112-06, adopted

5. Your committee on Finance has had under consideration bids submitted by State Equipment, in the total amount of \$46,475, for purchase of a Kubota L39 Loader / Landscaper Utility Tractor (\$35,875), and a Kubota B570 HSD Utility Tractor (\$10,600) to be utilized by Spring Hill Cemetery Park. To be charged to Account No. 001-980-00-952-4-459, Spring Hill Cemetery Park—Capital Outlay, Equipment (Part of Lease/Purchase Escrow Account Schedule No. 1000129621 for FY 2007), and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted.

NEW BILLS

Introduced by Councilman Robert Reishman, on October 2, 2006:

Bill No. 7233 - A Bill to establish a 20 Mile per Hour speed limit on Barberry Lane 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 Councilman Marc Weintraub, on October 2, 2006:

Bill No. 7234 - A Bill changing the ward boundaries in the City of Charleston, in order to facilitate City elections and to be able to use the County’s election registration records, and to comply with House Bill No. 3093.

Refer to Redistricting Committee

Introduced by Councilman Marc Weintraub, on October 2, 2006:
Bill No. 7235 - A Bill to set the date of the upcoming City of Charleston Primary Election, Candidate Filing Period, and the last day for a Candidate to Withdraw from the Ballot.
Refer to Redistricting Committee

ROLL CALL

The Clerk called the roll and the following members were in attendance:

YEAS: Chestnut, Davis, Deitzler, Ealy, Hanna, Harris, Harrison, Jones, Lane, Lanham, Miller, Monroe, Reed, Robertson, Talkington, Sadd, Ware, Mayor Jones.
ABSENT: Clowser, Hall, Higgins, Loeb, Markham, Morton, Nielsen, Reishman, Weintraub, White.

At 7:45 p.m., on motion of Councilmember Deitzler, Council adjourned until Monday, October 16, 2006, at 7:00 p.m.

Danny Jones, Honorable Mayor

James M. Reishman, City Clerk