

**JOURNAL
OF THE
COUNCIL
CITY OF CHARLESTON**

WEST VIRGINIA

APRIL 16, 2007

THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE SECOND MEETING IN THE MONTH OF APRIL ON THE 16th DAY, IN THE YEAR 2007, 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 WARE.

DEITZLER	CLOUSER	DAVIS
HANNA	EALY	HARRISON
HIGGINS	HARRIS	LANE
LANHAM	JONES	MORTON
MILLER	LOEB	MARKHAM
NIELSEN	MONROE	REISHMAN
ROBERTSON	REED	TALKINGTON
WARE	SADD	WHITE
MAYOR JONES	WEINTRAUB	

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. Mary Alice Hodgson
2. George Pridemore

CLAIMS

1. A claim of Lori Streets Muldoon, 1415 Wilkie Dr., Charleston, WV; alleges damage to property. Refer to City Solicitor.
2. A claim of Rebecca Cornwell, 1300 Roseberry Circle, Apt. 601, Charleston, WV; alleges damage to property. Refer to City Solicitor.
3. A claim of Nancy Moffatt, 622 Whittington Road, Charleston, WV; alleges damage to vehicle. Refer to City Solicitor.
4. A claim of Erica Stucky, 702 Christian Drive, Charleston, WV; alleges damage to property. Refer to City Solicitor.

PROCLAMATION

Capitol Woman's Day Club

COMMUNICATIONS

The Clerk read the Communication:

Honorable Danny Jones and
City Council Members
Charleston, West Virginia 25301

Dear Mayor Jones and Councilmember's:

On April 4, 2007, the Municipal Planning Commission held public hearings and its regular monthly meeting. The following cases should be referred to the Planning Committee of Council.

Bill # 7254 – Petition of Richard S. Young, OOAL, Ltd., Out on a Limb, LLC, Helen F. Lewis, Darrell Rolston, John E. Dorsey and Moammad Roohallahi requesting to rezone from R-O Residential Office District to C-8 Village Commercial District parcels 32,34,35,39,40,41,42,85 and 86. Tax map 26 commonly known as 405 and 407 Pennsylvania Avenue, 109,111,113,114, and 116 Roane Street 112 Wyoming Street.

Bill # 7256 – Petition of Anthony D. Frederick requesting to rezone from R-4 Single Family Dwelling to C-10 General Commercial District a portion of existing parcel 27, North Charleston Tax Map 55.

Sincerely,
Municipal Planning Commission
Phyllis White, Administrative Assistant

The Mayor referred the Cases to the Planning Committee of Council.

The Clerk read the following Appointment:

TO: JAMES REISHMAN
CITY CLERK

FROM: DANNY JONES
MAYOR

RE: BOARD OF ZONING APPEALS

DATE: APRIL 16, 2007

I am recommending that Stephen Mallory, 400 Mountain View, Charleston 25314 be reappointed to the Board of Zoning Appeals, with a said term to expire January 1, 2010.

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

Council approved the Appointment.

TO: JAMES REISHMAN
CITY CLERK

FROM: DANNY JONES
MAYOR

RE: BOARD OF ZONING APPEALS

DATE: APRIL 16, 2007

I recommend that Troy Giatras, #8 Capitol Street, Charleston, WV 25301, be reappointed to the Board of Zoning Appeals, with a said term to expire January 1, 2009.

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

Council approved the Appointment.

TO: JAMES REISHMAN
CITY CLERK

FROM: DANNY JONES
MAYOR

RE: CIVIL SERVICE COMMISSION

DATE: APRIL 16, 2007

I recommend that Mary Jo Brick, 3706 Virginia Avenue, SE, Charleston, WV 25304, be reappointed to the Civil Service Commission, with a said term to expire September 9, 2009.

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

Council approved the Appointment.

TO: JAMES REISHMAN
CITY CLERK

FROM: DANNY JONES
MAYOR

RE: CIVIL SERVICE COMMISSION

DATE: APRIL 16, 2007

I recommend that Niall Paul, Spilman, Thomas & Battle, 300 Kanawha Boulevard, East, Charleston, WV 25301, be reappointed to the Civil Service Commission, with a said term to expire September 9, 2009.

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

Council approved the Appointment.

TO: JAMES REISHMAN
CITY CLERK

FROM: DANNY JONES
MAYOR

RE: FIREMAN'S CIVIL SERVICE COMMISSION

DATE: APRIL 16, 2007

I recommend that Matt Jackson, 1529 Washington Street, East, Charleston, WV 25301, be reappointed to the Fireman's Civil Service Commission, with a said term to expire February 17, 2011.

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

Council approved the Appointment.

TO: JAMES REISHMAN
CITY CLERK

FROM: DANNY JONES
MAYOR

RE: CHARLESTON SANITARY BOARD

DATE: APRIL 16, 2007

I recommend that Sam Bowling, 1344 Morningside Drive, Charleston, WV 25314, be reappointed to the Charleston Sanitary Board, with a said term to expire March 17, 2010.

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

Council approved the Appointment.

FINANCE

Councilman Bobby Reishman, Chairman of the Council Committee on Finance, submitted the following reports.

1. Your Committee on Finance has had under consideration Resolution No. 205-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 205-07: "Authorizing the Mayor 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, 2007 to June 30, 2008. The premium is due annually with reimbursement to the City by Landfill Services of Charleston, Inc."

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

That the Mayor 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, 2007 to June 30, 2008. The premium is due annually with reimbursement to the City by Landfill Services of Charleston, Inc.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 205-07, adopted.

2. Your Committee on Finance has had under consideration Resolution No. 206-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 206-07: “Authorizing the Mayor to enter into an Agreement with Ohio Valley Spray Foam, Inc., in the amount of \$89,400, for a Polyurethane Foam-Applied Roofing System at the Martin Luther King Community Center, located at 314 Donnally Street.”

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

That the Mayor is hereby authorized and directed to enter into an Agreement with Ohio Valley Spray Foam, Inc., in the amount of Eighty-nine Thousand Four Hundred Dollars (\$89,400), for a Polyurethane Foam-Applied Roofing System at the Martin Luther King Community Center, located at 314 Donnally Street.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-25, absent-3 as follows:

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

ABSENT: Chestnut, Hall, Sadd,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 206-07, adopted.

3. Your Committee on Finance has had under consideration Resolution No. 207-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 207-07: “Authorizing the Finance Director to allocate funds in the amount of \$71,700 for acquisition of three (3) HOME projects.”

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 Seventy-one Thousand Seven Hundred Dollars (\$71,700) for acquisition of

three (3) HOME projects as follows:

1. \$21,200 (North Charleston)
2. \$30,500 (Kanawha City)
3. \$20,000 (Kanawha City)

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-25, absent-3 as follows:

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

ABSENT: Chestnut, Hall, Sadd,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 207-07, adopted.

4. Your Committee on Finance has had under consideration Resolution No. 208-07, and reports the same to Council with the recommendation that the committee report be adopted.

RESOLUTION NO. 208-07 _____ “Authorizing the Mayor to execute and enter into an updated and consolidated Cooperation Agreement with the Charleston Kanawha Housing Authority, consistent with the terms and conditions set forth in attachment A hereto, for the purpose of receiving approval from the United States Department of Housing and Urban Development (“HUD”) of the merger and reorganization of the former Housing Authority of the City of Charleston and the Kanawha County Housing and Redevelopment Authority.”

WHEREAS, Charleston Kanawha Housing Authority was created by virtue of a merger and reorganization of the former Housing Authority of the City of Charleston and the former Kanawha County Housing and Redevelopment Authority pursuant to a Reorganization Agreement and related documents dated December 15, 2005, executed by the respective Commissioners of the aforesaid former Authorities and effective as of August 2, 2006; and

WHEREAS, by Intergovernmental Agreement dated January 27, 2006, by and between the County Commission of Kanawha County, West Virginia and the City of Charleston, West Virginia, the aforesaid Reorganization Agreement was approved by said governmental entities and it was further agreed that the exclusive jurisdictional authority for Charleston Kanawha Housing Authority would be the City of Charleston, West Virginia; and

WHEREAS, as a result of the merger and reorganization of the aforesaid public housing authorities, Charleston Kanawha Housing Authority currently owns and administers a total of 1,430 units of low-rent public housing, 1,337 of which were formerly administered by the Housing Authority of the City of Charleston situate within the corporate limits of the City of Charleston and, 93 of which were formerly administered by the Kanawha County Housing and Redevelopment Authority situate in

Rand, West Virginia and Dunbar, West Virginia, outside the corporate limits of said City; and

WHEREAS, prior to the aforesaid merger, the former Housing Authority of the City of Charleston had entered into certain Cooperation Agreements with the City of Charleston with respect to the development and administration of its existing low-rent public housing projects with the financial assistance of the United States through HUD, said Cooperation Agreements dated August 8, 1938, May 23, 1950, and June 27, 1963, as thereafter amended October 25, 1966, August 18, 1969, and June 5, 1970, respectively; and

WHEREAS, among the requirements mandated by HUD for the approval of the merger of the aforesaid former public housing authorities is the execution of a Cooperation Agreement between the Charleston Kanawha Housing Authority and the City of Charleston to be submitted subsequent to the finalization of the merger and reorganization; and

WHEREAS, Charleston Kanawha Housing Authority desires to comply with the aforesaid HUD requirement for the execution of a Cooperation Agreement with the City of Charleston and to continue to secure annual contributions from HUD for its Public Housing Projects now owned and operated and currently applied for and to continue to develop and administer such Projects; and

WHEREAS, consistent with an Ordinance adopted by City Council on January 17, 2006 (Bill No. 7189), wherein City Council approved of the reorganized Charleston Kanawha Housing Authority, adopted it as the City's official housing authority, and authorized the Mayor to enter into necessary agreements in furtherance of the reorganization, the City also wishes to comply with the aforesaid HUD requirements, including entering into a Cooperation Agreement, to facilitate HUD approval of the reorganization; now, therefore

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

That the Mayor is hereby authorized and directed to execute and enter into an updated and consolidated Cooperation Agreement with the Charleston Kanawha Housing Authority, consistent with the terms and conditions set forth in attachment A hereto, for the purpose of receiving approval from HUD of the reorganized Charleston Kanawha Housing Authority.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-25, absent-3 as follows:

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

ABSENT: Chestnut, Hall, Sadd,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 208-07, adopted.

5. Your Committee on Finance has had under consideration Resolution No. 209-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 209-07: “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-25, absent-3 as follows:

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

ABSENT: Chestnut, Hall, Sadd,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 209-07, adopted.

6.. Your Committee on Finance has had under consideration Resolution No. 210-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 210-07: “Authorizing the Mayor to enter into an Agreement with Capitol Business Interiors, in the amount of \$28,849.78, for purchase of various pieces of office furniture to be installed in the City Collector’s Department, located in Municipal Parking Building No. 1, to accommodate auditors moving from City Hall to the Collector’s office.”

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

That the Mayor is hereby authorized and directed to enter into an Agreement with Capitol Business Interiors, in the amount of Twenty-eight Thousand Eight Hundred Forty-nine Dollars and Seventy-eight Cents (\$28,849.78), for purchase of various pieces of office furniture to be installed in the City Collector’s Department, located in Municipal Parking Building No. 1, to accommodate auditors moving from City Hall to the Collector’s office.

The question being on the adoption of the Resolution a vote was taken. There being no

dissent the Mayor declared Resolution No. 210-07, adopted.

7. Your Committee on Finance has had under consideration Resolution No. 211-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 211-07: “Authorizing the Mayor to enter into an Agreement with Dell, in the amount of \$101,435.17, for purchase of 61 computers and two servers to be installed in various City departments.”

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

That the Mayor is hereby authorized and directed to enter into an Agreement with Dell, in the amount of One Hundred One Thousand Four Hundred Thirty-five Dollars and Seventeen Cents (\$101,435.17), for purchase of 61 computers and two servers to be installed in various City departments.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 211-07, adopted.

8. Your Committee on Finance has had under consideration Resolution No. 212-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 212-07: “Approving settlement of pending litigation, captioned *Dianna Mae Savilla, Administratrix of the Estate of Linda Kannaird v. Speedway Super America and City of Charleston*, Civil Action No. 00-C-974, Circuit Court of Kanawha County W.Va., in the amount of One Hundred Ninety Thousand Dollars (\$190,000.00) (at the recommendation of and to be paid by the City’s liability insurer), and authorizing the Mayor to execute any documents necessary to consummate the settlement and dismissal of the pending civil action.”

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 *Dianna Mae Savilla, Administratrix of the Estate of Linda Kannaird v. Speedway Super America and City of Charleston*, Civil Action No. 00-C-974, Circuit Court of Kanawha County W.Va., in the amount of One Hundred Ninety Thousand Dollars (\$190,000.00) (at the recommendation of and to be paid by the City’s liability insurer), and authorizes the Mayor to execute any documents necessary to consummate the settlement and dismissal of the pending civil action.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 212-07, adopted. ABSTAIN: Higgins

REPORTS OF OFFICERS

1. Report of the City of Charleston, Municipal Court Financial Statements; March 2007.
Received and Filed.
2. Report of the City of Charleston Payroll Variance Analysis; February 2007;
Received and Filed.
3. Report of the City of Charleston Payroll Variance Analysis; March 2007;
Received and Filed.
4. Report of the City of Charleston Financial Statements for the Nine - Month Period Ended
March 31, 2007.
Received and Filed.
5. City Treasurer's Report to City Council Month Ending March 2007;
Received and Filed.

NEW BILLS

Introduced by Councilmember Bobby Reishman, on April 16, 2007
Ordinance No. 7258 A Bill to amend Chapter 82 of the City Code by adding and
reserving Sections 82-128 through 82-160 and by adding Article V, Sections 82-161,
82-162, and 82-163, all relating to regulation of boater use of designated City electrical
hook-ups at Haddad Riverfront Park events within the City of Charleston.
Refer to Finance Committee and Rules and Ordinance Committee

ROLL CALL

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

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

ABSENT: Chestnut, Hall, Sadd

At 7:50 p.m., on motion of Councilmember Loeb, Council adjourned until Monday,
May 7, 2007, at 7:00 p.m.

Danny Jones, Honorable Mayor

James M. Reishman, City Clerk