

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

May 21, 2007

THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE SECOND MEETING IN THE MONTH OF MAY ON THE 21ST DAY, IN THE YEAR 2007, 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.

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

TWENTY- FOUR 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. Larry Groce - FestivALL

CLAIMS

- 1. A claim of Wendy Radcliff and Scott Finn, 803 Somerset Dr., Charleston, WV; alleges damage to property.
Refer to City Solicitor.
- 2. A claim of Jared Allen Thomas, 1519 Piedmont Rd., Charleston, WV; alleges damage to vehicle.
Refer to City Solicitor.
- 3. A claim of Harold Cavender, 858 Alta Rd., Charleston, WV; alleges damage to property.
Refer to City Solicitor.

COMMUNICATIONS

The Clerk read the Proclamation:

EXECUTIVE DEPARTMENT

CITY OF CHARLESTON

PROCLAMATION

By the Mayor

- WHEREAS:** Two years ago, during the early morning hours of April 23, 2005, Daisy Patterson was victimized by a violent criminal who forced his way into her home, sexually assaulted her repeatedly and violently held her against her will for 17 hours; and
- WHEREAS:** After such a long day of being terrorized in her own home, Ms. Patterson had the presence of mind to devise a plan to gain her freedom without jeopardizing her life and then seized the first opportunity to get help from friends, doctors and police; and
- WHEREAS:** After enduring such a horrific ordeal, Ms. Patterson displayed tremendous courage and helped the Charleston Police Department to identify her assailant, Joseph Shaw, track him down and build the case that led to his arrest; and
- WHEREAS:** Rather than being intimidated by such a violent man, Ms. Patterson became a living example of courage under pressure with her willingness to stand up to him through the criminal justice system so that he would be arrested, charged and convicted; and
- WHEREAS:** As a result of her courage to face this violent criminal, Shaw was convicted of two felonies, is now serving a 20 to 50 year sentence in the penitentiary and, upon completion of his time in West Virginia, will return to New York state for sentencing for a probation violation in that state where

he also built a criminal record; and

WHEREAS: Because Daisy Patterson refused to be covered by the violent actions of a criminal, this dangerous man will not invade anyone else's home or terrorize any other citizens for a long, long time.

NOW THEREFORE, I, Danny Jones, Mayor of the City of Charleston, do hereby proclaim this day, the 21st day of May 2007, as

DAISY PATTERSON DAY

in Charleston, West Virginia in honor of this courageous woman of Charleston who made sure that a violent criminal would not be able to commit more crimes against other citizens in our City.

IN WITNESS WHEREOF, I have set my hand and caused the Seal of the Executive Department to be affixed this 21st day of May 2007.

The Clerk read the Appointment:

TO: JAMES REISHMAN
CITY CLERK

FROM: DANNY JONES
MAYOR

RE: SPRING HILL CEMETERY PARK COMMISSION

DATE: MAY 21, 2007

I recommend that Jerry L. Ware, 702 Gordon Drive, Charleston, WV 25303, be appointed to the Spring Hill Cemetery Park Commission, with a said term to expire when his term on Council has ended. He is replacing Betty Morton.

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

Council approved the Appointment.

The Clerk read the Communication:

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

Dear Mayor Jones and Councilmember's:

On May 19, 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.

Alley Naming – Sadies Way – Application of Tom Lane requesting the private alley running west to east between Leon Sullivan Way and Brooks Street, in the block between Virginia Street, East and Quarrier Street, be names Sadies Way.

Sincerely,
Municipal Planning Commission
Phyllis White, Administrative Assistant

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

MISCELLANEOUS RESOLUTIONS

Resolution No. 228-07

Introduced in Council

Passed by Council

May 21, 2007

May 21, 2007

Introduced by

John Miller

WHEREAS: The 2007 Horace Mann Middle School girls track team continued its dominance of the Kanawha County Schools' track and field competition by winning its sixth county championship in seven years; and

WHEREAS: The team was led this year by several eighth graders who won or placed in the county championship meet, including: Johna Miller who won both the long jump and 400-meter run; Danielle Oglesby who won the 100-meter dash and was part of the first place team in the 4 x 100 relay race; the other members of that relay team, Denisha Brooks, Jada Smith and Nyara Thompson; Leighton Paranzino who placed second in the pole vault; and Kelsey Phillips who finished second in the high jump; and

WHEREAS: Head Coach Allen Annie and Assistant coach Tony Paranzino worked tirelessly with the team all season and laid a strong foundation for yet another county championship for HMMS – the fourth athletic championship for the school this year and its 24th championship since 2000; and

WHEREAS: For Coach Allen Annie, who also led the girls volleyball team to a county championship earlier this school year, the track and field title is his 13th championship as a coach at Horace Mann Middle School.

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

That we congratulate the Horace Mann Middle School girls track team for its excellence among Kanawha County Schools and Coach Allen Annie, who makes winning a vibrant tradition for this outstanding school in our city.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 228-07, adopted.

PLANNING

Councilwoman Mary Jean Davis, Chairman of the Council Committee on Planning, submitted the following reports.

1. Your Committee on Planning has had under consideration of Bill No. 7254, and reports the same to Council with the recommendation that the bill do pass.

Bill No. 7254 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-O Residential Office District to C-8 Village Commercial District those certain parcels of land situate at 405 and 407 Pennsylvania Avenue, 109 and 111 Roane Street, 113, 114 and 116 Roane Street, and 112 Wyoming Street, Charleston, West Virginia.

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

1. The Zoning Ordinance of the City of Charleston, West Virginia, enacted the 1st day of January, 2006, as amended, is hereby amended by rezoning from R-O Residential Office District to C-8 Village Commercial District the following described parcels of land:

Parcels 32, 34, 35, 39, 40, 41, 42, 85, and 86 as shown on West Charleston Tax Map 26. Said parcels of land commonly known as 405 and 407 Pennsylvania Avenue, 109 and 111 Roane Street, 113, 114, and 116 Roane Street and 112 Wyoming Street, Charleston, West Virginia. Said tax map is of record in the City of Charleston Planning Office.

2. The zoning Map, attached to and made a part of said 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 said inconsistency.

The question being on the passage of the Bill, a roll call was taken and there were; yeas-24, absent – 4, as follows:

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

ABSENT: Chestnut, Clowser, Harrison, Sadd

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7254 passed.

2. Your Committee on Planning has had under consideration of Bill No. 7256, and reports the same to Council with the recommendation that the bill do pass.

Bill No. 7256 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 Single Family Residential District to C-10 General Commercial District that parcel of land known as a portion of North Charleston Tax Map 55, Parcel 27 as shown on the attached map.

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

4. The Zoning Ordinance of the City of Charleston, West Virginia, enacted the 1st day of January, 2006, as amended, is hereby amended by rezoning from R-4 Single Family Residential District to C-10 General Commercial District a portion of the parcel of land known as North Charleston Tax Map 55, Parcel 27 as shown on the attached map. Said tax map is of record in the City of Charleston Planning Office.
5. The zoning Map, attached to and made a part of said ordinance, is hereby amended in accordance with Article 27 of this ordinance.
6. All prior ordinances, or parts of ordinances, inconsistent with this ordinance are hereby repealed to the extent of said inconsistency.

The question being on the passage of the Bill, a roll call was taken and there were; yeas-24, absent – 4, as follows:

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

ABSENT: Chestnut, Clowser, Harrison, Sadd

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7256 passed.

STREETS AND TRAFFIC

Councilman Dave Higgins, Chairman of the Council Committee on Streets and Traffic submitted the following reports.

1. Bill No. 7259 - A Bill authorizing execution of an agreement with the West Virginia Department Of Transportation, Division Of Highways, with regard to establishment and maintenance of a traffic signal system within the municipal limits of the City of Charleston, Kanawha County, West Virginia.

Be it Ordained by the City Of Charleston, Kanawha County, West Virginia, as follows:

1. That the Mayor of the City of Charleston, West Virginia, a Municipal Corporation, be and is hereby authorized to execute, to have acknowledged, and to have delivered on behalf of said City, an agreement, a copy of which is attached hereto and made a part hereof, with the West Virginia Department of Transportation, Division of Highways, with regard to the establishment and maintenance of two traffic signal and highway lighting systems within the Corporate Limits of said City; and

3. That the City Clerk and Recorder do properly attest the signature of said officials and affix the seal of the City to said agreement.

The question being on the passage of the Bill, a roll call was taken and there were; yeas-24, absent – 4, as follows:

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

ABSENT: Chestnut, Clowser, Harrison, Sadd

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7259 passed.

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. 224-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 224-07: “Authorizing the Mayor to receive and administer 2007 Justice Assistance Grant (JAG) funds from the U.S. Department of Justice in the amount of \$187,507. The funds will be used for drug enforcement overtime for the Charleston Police Department and the Kanawha County Sheriff’s Department.”

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

That the Mayor is hereby authorized and directed to receive and administer 2007 Justice Assistance Grant (JAG) funds from the U.S. Department of Justice in the amount of One Hundred Eighty-seven Thousand Five Hundred Seven Dollars (\$187,507). The funds will be used for drug enforcement overtime for the Charleston Police Department and the Kanawha County Sheriff's Department.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 224-07, adopted.

2. Your Committee on Finance has had under consideration Resolution No. 225-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 225-07: "Authorizing the Mayor to enter into a Contract with the Kanawha-Charleston Board of Health to provide local health services and the use of public health facilities; and further authorizing the City to pay the Health Department for rendering said services an annual sum of \$200,000, payable in eleven monthly installments of \$16,666.67 and one monthly installment of \$16,666.63. The contract is for a one year period starting July 1, 2007, and ending June 30, 2008."

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

That the Mayor is hereby authorized and directed to enter into a Contract with the Kanawha-Charleston Board of Health to provide local health services and the use of public health facilities; and further authorizing the City to pay the Health Department for rendering said services and annual sum of Two Hundred Thousand Dollars (\$200,000), payable in eleven monthly installments of \$16,666.67 and one monthly installment of \$16,666.63. The contract is for a one year period starting July 1, 2007, and ending June 30, 2008.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 225-07, adopted.

3. Your Committee on Finance has had under consideration Resolution No. 226-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 226-07: "Authorizing the Mayor to execute a Waiver pursuant to which the City will waive its rights to any sales proceeds under Section 6(b) of the Grant Agreement dated March 5, 1992, by and among the City of Charleston (City), Business and Industrial Development Corporation (BIDCO), Enterprise Properties, Inc. (EPI), Group Hospitalization and Medical Services, Inc. (GHMSI), and Capital Area Service Company, Inc. (CASCI), said Waiver to be solely in connection with the Parkways

Enterprise Limited Partnership's sale of its Property to EPI, it being understood that Section 6(b) of the Grant Agreement shall continue to apply to EPI in all respects in the event that EPI sells the Property."

WHEREAS, pursuant to that certain Grant Agreement (the "Grant Agreement") dated March 5, 1992, by and among the City of Charleston (the "City"), Business and Industrial Development Corporation of Kanawha County ("BIDCO"), Enterprise Properties, Inc. ("EPI"), Group Hospitalization and Medical Services, Inc. ("GHMSI") and Capital Area Services Company, Inc. ("CASCI"), the City made a grant of \$750,000 to EPI and allowed EPI to contribute such funds to Parkways Enterprise Limited Partnership (the "Partnership") in connection with the Partnership's acquisition and renovation of that certain building and related property located at 200 Kanawha Boulevard, East, Charleston, West Virginia (the "Property"), and the Partnership's lease of such Property to GHMSI; and

WHEREAS, EPI is the general partner of the Partnership; and

WHEREAS, pursuant to Section 6(b) of the Grant Agreement, upon the Partnership's sale of the Property, EPI and BIDCO (now known as the Capital Area Development Corporation of West Virginia) agreed to pay to the City, after the payment of certain specified obligations and indebtedness of the Partnership, the balance of such sales proceeds up to \$750,000; and

WHEREAS, EPI has informed the City that it intends to purchase the Property from the Partnership, and has requested that the City waive its rights to any sales proceeds under Section 6(b) of the Grant Agreement solely in connection with EPI's purchase of the property; and

WHEREAS, EPI's purchase of the Property will allow EPI to continue the lease of the Property to GHMSI and its subsidiary, CASCI, and thereby retain the jobs created by CASCI's operations on the Property; and

WHEREAS, the City Council believes that it is in the best interest of the City to waive its rights under Section 6(b) of the Grant Agreement solely in connection with the sale of the Property to EPI; now, therefore

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

That the Mayor of the City of Charleston is hereby authorized and directed to execute the form of Waiver attached hereto as Exhibit A, pursuant to which the City will waive its rights to any sales proceeds under Section 6(b) of the Grant Agreement solely in connection with the Partnership's sale of the Property to EPI, it being understood that Section 6(b) shall continue to apply to EPI in all respects in the event that EPI sells the Property.

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

dissent the Mayor declared Resolution No. 226-07, adopted. ABSTAIN: LOEB

4. Your Committee on Finance has had under consideration Resolution No. 227-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 227-07: "Authorizing the Mayor to sign an Agreement with KOMAX Business Systems designating KOMAX as the "Presenting Sponsor" of the 2007 "Live on the Levee" Concert Series for the sum of \$15,000, with the option to renew the Agreement for the 2008 concert series."

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 KOMAX Business Systems designating KOMAX as the "Presenting Sponsor" of the 2007 "Live on the Levee" Concert Series for the sum of Fifteen Thousand Dollars (\$15,000), with the option to renew the Agreement for the 2008 concert series as follows:

- First right to renew the sponsorship of the 2008 concert series at the prevailing rights fee and package developed in 2008.
- The right to match the proposal of another sponsorship applicant.
- The right to lock-in the 2008 concert series at this time for \$20,000.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 227-07, adopted.

5. Your committee on Finance has had under consideration a Purchase of various classes and sizes of aggregate on an as needed basis from Martin Marietta Aggregates (see attached tabulation sheet, to be used by the Street Department for projects undertaken throughout fiscal year 2007-2008. To be charged to Account No. 001-750-00-000-3-341, Street—Materials & Supplies, 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.

6. Your committee on Finance has had under consideration a purchase of Bituminous Concrete (asphalt) on an as needed basis from West Virginia Paving, Inc., at prices quoted on the attached tabulation sheet. To be charged to Account No. 001-750-00-000-3-341, Street—Materials & Supplies, 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.

7. Your committee on Finance has had under consideration a bid submitted by Pfaff and Smith Builders Supply Company for purchase of Portland Cement Concrete to be used by the Street Department on an as needed basis at prices listed on the attached tabulation sheet. To be charged to Account No. 001-750-00-000-3-341, Street—Materials & Supplies, 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.

8. Your committee on Finance has had under consideration a bid submitted by The CI Thornburg Company for purchase of pool chemicals at prices listed on the attached tabulation sheet. The supplies will be purchased on an as needed basis by the Parks & Recreation Department for City swimming pools. To be charged to Account No. 001-900-00-000-3-341, P&R—Materials & Supplies, 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.

REPORTS OF OFFICERS

1. Report of the City of Charleston Financial Statements for the Ten - Month Period Ended April 30, 2007.
Received and Filed.

2. City Treasurer's Report to City Council Month Ending April 2007;
Received and Filed.

NEW BILLS

Introduced by Councilmember James Lanham, on May 21, 2007
Bill No. 7260 – a Bill to amend and re-enact Ordinance No. 1243 passed by Council on March 15, 19972 relating to establishing a 20 mile per hour speed limit on Amity Drive 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

Introduced by Councilmember Archie Chestnut, on May 21, 2007
Bill No. 7261 – a Bill to A Bill to prohibit vehicular traffic from traveling in the south bound direction on Chamberlain Court 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
Chapter one hundred fourteen, Article five, to conform therewith
Refer to Streets and Traffic

Introduced by Council members Robert Reishman and Marc Weintraub, on May 21,
2007

Bill No. 7263 – A Bill to repeal §2-161(b) and §2-161(c) of the code of the City of
Charleston, and to amend and reenact §2-161(b) of the code of the City of Charleston
relating to compensation of officers and employees for the City.
Refer to Finance Committee

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ROLL CALL

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

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

ABSENT: Chestnut, Clowser, Harrison, Sadd

At 7:45 p.m., on motion of Councilmember Loeb, Council adjourned until Monday,
June 4, 2007, at 7:00 p.m.

Danny Jones, Honorable Mayor

James M. Reishman, City Clerk