

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

**June 15, 2009**

**THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE SECOND MEETING IN THE MONTH OF JUNE ON THE 15<sup>th</sup> DAY, IN THE YEAR 2009, 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 WHITE.**

**BURTON  
DEITZLER  
HALL  
HARRISON  
KIRK  
MILLER  
REISHMAN  
SHEETS**

**CLOWSER  
DENEALT  
HANNA  
HIGGINS  
KNAUFF  
PAYNE  
RUSSELL  
SMITH  
WEINTRAUB**

**DAVIS  
EALY  
HARRIS  
JONES  
LANE  
REED  
SALISBURY  
TALKINGTON  
WHITE**

**MAYOR JONES**

**TWENTY- SEVEN 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 Patricia Strickland, P.O. Box 574., Elkview, WV; alleges personal injury.  
Refer to City Solicitor
2. A claim of Nancy Jean Jenkins, 212 Alethea St., Charleston, WV; alleges damage to property.  
Refer to City Solicitor
3. A claim of Chad Bramlett, 823 Spring Rd., Charleston, WV; alleges damage to vehicle.  
Refer to City Solicitor
4. A claim of Steven and Julie Williams, 282 Eureka Rd., Charleston, WV; alleges damage to property.  
Refer to City Solicitor
5. A claim of Jennifer Kent, 209 29 St., West, Charleston, WV; alleges damage to vehicle.  
Refer to City Solicitor
6. A claim of Angela Daniel, 8 Dogwood lane, Beckley, WV; alleges damage to vehicle.  
Refer to City Solicitor
7. A claim of Katrina Miller, 915 Ridgemont Rd., Charleston, WV; alleges damage to vehicle.  
Refer to City Solicitor

*The Clerk read the Communication:*

On June 3, 2009, the Municipal Planning Commission held public hearings and its regular monthly meeting. The following case was heard.

#### **Bill #7389**

A Bill requesting to amend the Land Use Table of the Zoning Ordinance of the City of Charleston to allow Bed and Breakfasts as a Conditional Use in the R-2 and R-4 (Single Family Dwelling) Zone Districts of the City of Charleston.

This case should be referred to the council's Committee on Planning.

Sincerely Municipal Planning Commission  
Phyllis White Administrative Assistant

The mayor referred the case to the Planning Committee.

## **URBAN RENEWAL**

Councilperson Marc Weintraub, of the Council Committee on Urban Renewal, submitted the following reports.

1. Your Committee on Urban Renewal has had under consideration Bill #7391, attached hereto and made a part thereof.

Bill No. 7391 - A Bill approving the following modification of the East End Community Renewal Plan for the City of Charleston, West Virginia: Rezoning certain parcels to C-8, Village Commercial District.

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

1. City Council finds that:

a. The Charleston Urban Renewal Authority has recommended certain modifications of the East End Community Renewal Plan for the City of Charleston, West Virginia;

b. A general plan known as the Comprehensive Plan for the City of Charleston has been adopted by City Council and is recognized and used as a general guide for the development of the city;

c. The Municipal Planning Commission of the City of Charleston has submitted to the Charleston Urban Renewal Authority its findings concerning the conformity of these proposed modifications with the Comprehensive Plan for the City;

d. City Council has duly considered the findings of the Municipal Planning Commission; and

e. Section "F" of said East End Community Renewal Plan previously approved by City Council, provides that the Plan may be changed from time to time in compliance with the requirements of law.

2. The proposed modifications of the East End Community Renewal Plan which are set forth in the following sections of this ordinance are hereby found to not be strictly compatible with the Comprehensive Plan; however, the history of the use of the parcels as well as the history of surrounding uses in close proximity warrant a finding that the original zoning was incorrect.

3. Exhibit 2-A, Phase II Zoning is hereby modified to reflect the following rezoning:

Parcels 282, 283 and 284, Tax Map No 23, are rezoned C-8, Village Commercial District from R-10, Mixed Use District.

And reports the same to council with the recommendation that the Bill do pass.

The question being on the passage of the Bill a roll call was taken and there were; yeas-27, absent -1, as follows:

YEAS: Burton, Clowser, Davis, Deitzler, Deneault, Ealy, Hall, Hanna, Harris, Harrison, Higgins, Jones, Kirk, Knauff, Lane, Miller, Payne, Reed, Reishman, Russell, Salisbury, Sheets, Smith, Talkington, Weintraub, White, Mayor Jones.

ABSENT: Ware

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7391 passed.

### ***FINANCE***

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

1. Your Committee on Finance has had under consideration Resolution No 583-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 583-09: "Authorizing the Mayor to receive and administer funds from the U.S. Bureau of Justice Assistance in the amount of \$256,023. The funds will be distributed to the Charleston Police Department (\$195,930) and the Kanawha County Sheriff's Department (\$60,093) and used for training, overtime, and equipment costs."

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 funds from the U.S. Bureau of Justice Assistance in the amount of \$256,023. The funds will be distributed to the Charleston Police Department (\$195,930) and the Kanawha County Sheriff's Department (\$60,093) and used for training, overtime, and equipment costs.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 583-09, adopted.

2. Your Committee on Finance has had under consideration Resolution No 584-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 584-09: "Authorizing the Mayor to enter into a Memorandum of Understanding with eight other participating agencies comprising the Metro Drug Enforcement Network Team (MDENT) that assist the Charleston area offices of the Drug Enforcement Administration, the Federal Bureau of Investigations and the Bureau of Alcohol, Tobacco, and Firearms to achieve maximum cooperation in combined law enforcement efforts to address drug and violent crime related offenses in Charleston and surrounding communities."

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 Memorandum of Understanding with eight other participating agencies comprising the Metro Drug Enforcement Network Team (MDENT) that assist the Charleston area offices of the Drug Enforcement Administration, the Federal Bureau of Investigations and the Bureau of Alcohol, Tobacco, and Firearms to achieve maximum cooperation in combined law enforcement efforts to address drug and violent crime related offenses in Charleston and surrounding communities.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 584-09, adopted.

3. Your Committee on Finance has had under consideration Resolution No 585-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 585-09 :“Authorizing the Mayor to enter into an Agreement with Klicos Painting Company, Inc., in the amount of \$1,050,734.00, for cleaning and painting the Kanawha Boulevard Bridge over Elk River (\$988,984.00) and Span ‘E’ of the South Side Bridge over Kanawha Boulevard (\$61,750.00).”

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 Klicos Painting Company, Inc., in the amount of \$1,050,734.00, for cleaning and painting the Kanawha Boulevard Bridge over Elk River (\$988,984.00) and Span ‘E’ of the South Side Bridge over Kanawha Boulevard (\$61,750.00).

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 585-09, adopted.

4. Your Committee on Finance has had under consideration Resolution No 586-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 586-09 :“Authorizing the Mayor to sign a renewal of the contract with United Concordia for the City’s dental insurance for the period July 1, 2009 to June 30, 2010, at the budget rates listed on Attachment A. The rate for Administrative Services Only remains the same at \$3.85 per employee per month.”

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

That the Mayor is hereby authorized and directed to sign a renewal of the contract with United Concordia for the City’s dental insurance for the period July 1, 2009 to June 30, 2010, at the budget rates listed on Attachment A. The rate for Administrative Services

Only remains the same at \$3.85 per employee per month.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 586-09, adopted.

5. Your Committee on Finance has had under consideration Resolution No 587-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 587-09: "Authorizing the Mayor to enter into an Agreement with AT&T for activation of service for 188 cellular phones for City employees at a rate of \$5,009.41, per month, plus taxes and fees. The Agreement is for a one-year period from date of signed contract."

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 AT&T for activation of service for 188 cellular phones for City employees at a rate of \$5,009.41 per month, plus taxes and fees. The Agreement is for a one-year period from date of signed contract.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 587-09, adopted.

6. Your Committee on Finance has had under consideration Resolution No 588-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 588-09: "Authorizing the Mayor to enter into an Agreement with the West Virginia Department of Transportation, Division of Highways, for funding for Project U320-KAN/AW-7.00, the Charleston Kanawha Trestle Trail (TE Project), said authorization being granted by Resolution pursuant to the Municipal Code of the City of Charleston Chapter 3, Article II, Section 3-12."

WHEREAS, it has been determined that a project to acquire a railroad bridge, trestle and additional right of way for the purpose of converting them into a rail trail would provide a recreation area that would benefit the citizens of Charleston; and

WHEREAS, the City of Charleston and the West Virginia Division of Highways have determined that a project to acquire a railroad bridge, trestle and additional right of way for the purpose of converting them into a rail trail is an eligible project for funding under the Transportation Enhancement Program; and

WHEREAS, the City of Charleston has applied for, and been granted funding under the Transportation Enhancement Program in the amount of \$100,000.00 toward the total eligible cost of \$125,000.00, the remaining \$25,000 to be provided by the City of Charleston; and

WHEREAS, in order to receive the funding, the City must enter into an Agreement with the West Virginia Department of Transportation, Division of Highways, a copy of which is attached hereto; now, therefore

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

That the Mayor is hereby authorized to enter into an Agreement with the West Virginia Department of Transportation, Division of Highways for funding for Project U320-KAN/AW-7.00, the Charleston Kanawha Trestle Trail (TE Project).

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-27, absent -1, as follows:

YEAS: Burton, Clowser, Davis, Deitzler, Deneault, Ealy, Hall, Hanna, Harris, Harrison, Higgins, Jones, Kirk, Knauff, Lane, Miller, Payne, Reed, Reishman, Russell, Salisbury, Sheets, Smith, Talkington, Weintraub, White, Mayor Jones.

ABSENT: Ware

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 588-09, passed.

7. Your Committee on Finance has had under consideration Resolution No 589-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 589-09 :“Authorizing the Mayor to enter into an Agreement with the West Virginia Department of Transportation, Division of Highways, for funding for Project U320-KAN/AW-8.00, the Charleston Kanawha Trestle Trail Project, said authorization being granted by Resolution pursuant to the Municipal Code of the City of Charleston Chapter 3, Article II, Section 3-12.”

WHEREAS, it has been determined that a project to acquire a railroad bridge, trestle and additional right of way for the purpose of converting them into a rail trial would provide a recreation area that would benefit the citizens of Charleston; and

WHEREAS, the City of Charleston and the West Virginia Division of Highways have determined that a project to acquire a railroad bridge, trestle and additional right of way for the purpose of converting them into a rail trial is an eligible project for funding as appropriated in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU); and

WHEREAS, the City of Charleston has applied for, and been granted funding appropriated in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) in the amount of \$787,143.00; and

WHEREAS, in order to receive the funding, the City must enter into an Agreement with the West Virginia Department of Transportation, Division of Highways, a copy of which is attached hereto; now, therefore

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

That the Mayor is hereby authorized to enter into an Agreement with the West Virginia Department of Transportation, Division of Highways for funding for Project U320-KAN/AW-8.00, the Charleston Kanawha Trestle Trail – Congressional Appropriation Section 117.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-27, absent -1, as follows:

YEAS: Burton, Clowser, Davis, Deitzler, Deneault, Ealy, Hall, Hanna, Harris, Harrison, Higgins, Jones, Kirk, Knauff, Lane, Miller, Payne, Reed, Reishman, Russell, Salisbury, Sheets, Smith, Talkington, Weintraub, White, Mayor Jones.

ABSENT: Ware

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 589-09, passed

8. Your Committee on Finance has had under consideration Resolution No 590-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 590-09: “Authorizing the Finance Director to provide funds in the amount of \$25,000 to the Kanawha County Solid Waste Authority to offset general operating expenses during the third quarter of 2009 and maintain services at the Slack Street Recycling Center.”

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

That the Finance Director is hereby authorized and directed to provide funds in the amount of \$25,000 to the Kanawha County Solid Waste Authority to offset general operating expenses during the third quarter of 2009 and maintain services at the Slack Street Recycling Center.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 590-09, adopted. Abstain - Smith

9. Your Committee on Finance has had under consideration Resolution No 591-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 591-09: “Authorizing and directing the Mayor of the City of Charleston as the duly elected representative of the next highest governmental unit from which the authority of the Charleston Building Commission is derived, to execute and forward to the Charleston Building Commission a TEFRA (Tax Equity and Fiscal Responsibility Act) Certificate, attached hereto as Exhibit A, approving the issuance of Charleston Building Commission University Facilities Revenue Bonds (The University of Charleston, Inc.) Series 2009.”

WHEREAS, pursuant to the authority granted by Chapter 8, Article 33, of the Code of West Virginia, 1931, as amended (together with specified provisions of Chapter 8, Article 16 of the Code of West Virginia, 1931, as amended, the "Act"), the Charleston Building Commission (the "Commission") has authorized the issuance and sale to Branch Banking and Trust Company of not to exceed \$22,000,000 in principal amount of Charleston Building Commission University Facilities Revenue Bonds (The University of Charleston, Inc.), Series 2009 (the "Bonds"), for the purpose financing the costs of (i) designing, acquiring, constructing and equipping an approximately 150-bed student housing facility upon the University of Charleston campus; (ii) designing, acquiring and constructing an approximately 525-space motor vehicle parking facility upon the University of Charleston campus; and (iii) paying the costs of issuance of the Bonds and related costs (collectively, the "Project");

WHEREAS, as required by the Act and Subsection 147(f) of the Internal Revenue Code of 1986, as amended, the Commission published notice of a public hearing with respect to the Bonds and the Project as a Class II legal advertisement in the Charleston Gazette on May 21 and May 28, 2009, and an affidavit of such publication is attached as Exhibit B hereto;

WHEREAS, the Commission has advised this Council that no person submitted written comments or appeared at the public hearing on June 5, 2009;

WHEREAS, pursuant to Subsection 147(f) of the Internal Revenue Code of 1986, as amended, in order for the interest on the Bonds to be excludable from gross income for federal income tax purposes, the Bonds must be approved by this Council or by the Mayor of the City; and

WHEREAS, there has been presented to the Mayor an Approval in the form attached as Exhibit A hereto;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CHARLESTON AS FOLLOWS:

The Mayor of the City of Charleston as the duly elected representative of the next highest governmental unit from which the authority of the Charleston Building Commission is derived, is hereby authorized and directed to execute and forward to the Charleston Building Commission a TEFRA Certificate, attached hereto as Exhibit A, approving the issuance of Charleston Building Commission University Facilities Revenue Bonds (The University of Charleston, Inc.) Series 2009.

This Resolution shall take effect immediately upon adoption.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 591-09, adopted.

10. Your Committee on Finance has had under consideration Resolution No 592-09,

and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 592-09: “Authorizing the Mayor and/or City Manager to apply for Recovery Act-Energy Efficiency and Conservation Block Grant – Formula Grant.”

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

That the Mayor and/or City Manager is hereby authorized and directed to apply for Recovery Act-Energy Efficiency and Conservation Block Grant – Formula Grant.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 592-09, adopted.

11. Your Committee on Finance has had under consideration Resolution No 593-09, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 593-09: “Authorizing the Mayor and/or City Manager to apply for American Recovery and Reinvestment Act (ARRA) (Stimulus) funding.”

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

That the Mayor and/or City Manager is hereby authorized and directed to apply for American Recovery and Reinvestment Act (ARRA) (Stimulus) funding.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 593-09, adopted.

12. Your Committee on Finance has had under consideration Bill No 7385 revised Committee Substitute, and reports the same to Council with the recommendation that the Bill do pass.

A Bill closing, abandoning and discontinuing as a public right of way the undeveloped portion of Sunrise Drive located in Sunrise Subdivision, recorded in Map Book 6, Page 112 and being also known as a part of West Charleston Tax Map 17, parcels 166 and 167 of the City of Charleston, Kanawha County, West Virginia.

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

1. The public right of way more particularly described as follows: the public right of way being the undeveloped portion of Sunrise Drive located in Sunrise Subdivision, recorded in Map Book 6, Page 112 and being also known as a part of West Charleston Tax Map 17, parcels 166 and 167 of the City of Charleston, Kanawha County, West Virginia.

DESCRIPTION OF PORTION OF SUNRISE DRIVE (UNIMPROVED)  
LOCATED IN SUNRISE SUBDIVISION  
RECORDED IN MAP BOOK 6, AT PAGE 112  
FOR ABANDONMENT BY  
CITY OF CHARLESTON  
LOCATED IN CHARLESTON WEST TAX DISTRICT,  
CITY OF CHARLESTON, KANAWHA COUNTY, WV

BEGINNING at a point at the northwest terminus of Sunrise Drive (being a 25' unimproved right-of-way at this point), also being the northeast corner of Lot No. 32 of Sunrise Subdivision as shown on map recorded in the office of the Clerk of the Kanawha County Commission in Map Book 6, at page 112, and running thence from said beginning with the northerly right-of-way line of Sunrise Drive,

1. N. 80°22'02" E., 35.43 feet to an old iron pin (found); thence continuing with the northerly right-of-way line of Sunrise Drive,
2. N. 80°22'00" E., 125.00 feet to the intersection of the northerly line of Sunrise Drive with the northwest terminus of McGuffin Drive; thence running with the common right-of-way line of Sunrise Drive and McGuffin Drive,
3. S. 15°19'22" E., 22.53 feet to a point in the southerly right-of-way line of Sunrise Drive; thence running with the southerly right-of-way line of Sunrise Drive (being a 30 foot right-of-way at this point,
4. S. 21°16'44" W., 266.70 feet to a point at the common corner to Lots Nos. 19 and 20 of Sunrise Subdivision; thence
5. S. 66°26'01" W., 32.02 feet to a point at common corner to Lots Nos. 18 and 19; thence,
6. N. 68°30'04" W., 144.31 feet to a point at the common corner to Lots Nos. 13 and 15; thence
7. N. 34°47'18" W., 126.00 feet to a point; thence
8. S. 80°10'14" W., 13.01 feet to a point; thence running across Sunrise Drive,
9. N. 15°47'25" W., 30.60 feet to a point in the southerly line of Lot No. 33 of Sunrise Addition; thence running with northerly line of Sunrise Drive being part of the southerly line of Lot No. 33,
10. N. 80°10'14" E., 35.11 feet to a point at the common corner to Lots Nos. 31 and 33; thence running with north line of Sunrise Drive,
11. S. 34°47'18" E., 136.52 feet to a point at common corner to Lots Nos. 29 and 30; thence
12. S. 68°30'00" E., 122.77 feet to a point in south line of Lot No. 27; thence
13. N. 66°26'00" E., 7.10 feet to a point; thence
14. N. 21°17'00" E., 221.10 feet to a point in east line of Lot No. 24; thence
15. N. 39°10'00" W., 12.00 feet to a point where Sunrise Drive is 25' wide; thence running with the southerly line of Sunrise Drive (25' in width),
16. S. 80°22'00" W., 114.00 feet to a point at common corner to Lots Nos. 25 and 32; thence running with the westerly terminus of Sunrise Drive to be abandoned,
17. N. 09°38'00" W., 25.00 feet to the point of beginning, containing 0.478 acre, or 20,819.00 square feet, more or less.

2. The City of Charleston hereby reserves sanitary sewer easements as described:

DESCRIPTION OF SEWER EASMENT NO. 1, TEN (10) FEET IN WIDTH THROUGH LOT NO. 33 OF SUNRISE ADDITION, TO BE GRANTED BY GILES FREDERCIK WHITE TO THE CHARLESTON SANITARY BOARD:

BEGINNING at a point in the southerly line of Lot No. 33 of Sunrise Addition and being the centerline of existing 8 inch sewer main of Charleston Sanitary Department, said point being located N. 80°10'14" E., 12.95 feet from the southwest corner of Lot No. 33, and running thence from said beginning point with the centerline of existing 8 inch sewer main as marked by Charleston Sanitary Board Department, N. 13°20'45" W., 40.04 feet to a point in the northerly line of Lot No. 33 at the northerly terminus of said easement hereby described

DESCRIPTION OF CENTERLINE OF SEWER EASMENT NO. 2, TEN (10) FEET IN WIDTH THROUGH PORTION OF SUNRISE DRIVE (TO BE ABANDONED), PORTIONS OF LOTS NOS. 31, 32, 33 OF SUNRISE ADDITION AND PARCEL OF LAND DESCRIBED IN DEED BOOK 2695, AT PAGE 333 TO BE GRANTED BY GILES FREDERCIK WHITE TO THE CHARLESTON SANITARY BOARD:

BEGINNING at a point in the westerly line of Lot No. 15 of Sunrise Addition and being in the easterly line of Sunrise Drive (Portion to Remain Open), said point being located S. 43°16'49" E., 58.23 from the southwest corner of Lot No. 33 of Sunrise Addition, and running thence from said beginning point with the centerline of ten foot easement and existing 8 inch main sewer line as marked by Charleston Sanitary Board,

1. N. 46°20'05" E., 31.10 feet to a point in the existing Sunrise Drive (to be abandoned); thence running
2. N. 51°47'46" E., 111.11 feet to a point in Lot No. 32; thence continuing through Lot No. 32 and running through parcel owned by Giles Frederick White described in Deed Book 2695, page 333,
3. N. 27°59'19" E., 85.44 feet to a point in the northerly line of parcel described in Deed Book 2695, at page 333, said point being located N. 80°22'00" E., 53.71 feet from the northeast corner of said parcel and also being the northerly terminus of Sewer Easement No. 2 hereby described.

The purpose of these easements is to allow the City of Charleston to construct, maintain, repair, and remove storm and/or sanitary sewer lines. No person shall construct improvements, plant trees or other vegetation, or take any action which would interfere with this easement, nor alter the present surface profile or contour of the subject right of way by more than one (1) foot without the written permission of the Charleston Sanitary Board and the Charleston City Engineer.

The Mayor of the City of Charleston is hereby authorized and directed to execute, acknowledge and deliver a proper deed conveying to Frederick G. White, the petitioner, all right and title and interest in and to said Sunrise Drive, upon payment of the

appraised value of One Thousand forty dollars and no cents to be paid to the City of Charleston by the Petitioner.

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-27, absent -1, as follows:

YEAS: Burton, Clowser, Davis, Deitzler, Deneault, Ealy, Hall, Hanna, Harris, Harrison, Higgins, Jones, Kirk, Knauff, Lane, Miller, Payne, Reed, Reishman, Russell, Salisbury, Sheets, Smith, Talkington, Weintraub, White, Mayor Jones.

ABSENT: Ware

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7385, revised Committee Substitute, passed.

13. Your Committee on Finance has had under consideration Bill No 7392 Committee Substitute, and reports the same to Council with the recommendation that the Bill do pass.

Bill No.7392 closing and abandoning a portion of Hayes Avenue adjacent to Parcels 2 and 3 of Tax Map 17 and Parcel 1 of Tax Map 16 in the South Annex Tax District in the Fort Hill area of the City of Charleston, Kanawha County, West Virginia, and conveying by quitclaim deed the closed street to Petitioner, the Estate of Elizabeth R. Hamrick.

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

1. The portion of Hayes Avenue directly adjoining Parcels 2 and 3 of Tax Map 17 and Parcel 1 of Tax Map 16 in the South Annex Tax District of the City of Charleston, Kanawha County, West Virginia, is hereby abandoned and closed, being the following described parcel of land:

BEGINNING at an old iron pin (bent) in the southwesterly right-of-way line of Hayes Avenue (40 foot Public Right of Way) as shown on map entitled "Map of Subdivision No. 2 of Fort Hill," dated December 15, 1931, recorded in the office of the Clerk of the County Commission of Kanawha County, West Virginia, in Map Book 9, at page 17, said point being at the common corner to the parcel of land presently owned by the Estate of Elizabeth R. Hamrick, being described in Deed Book 2143, at page 123, and the parcel of land presently owned by Steve Zacharias, being described in Deed Book 2110, at page 593, said point further being located approximately 166.43 feet southwest of the intersection of the southwest line of Hayes Avenue with the northwest line of Fort Hill Drive, and running thence from said beginning point with part of original southwest right-of-way line of Hayes Avenue, N. 48°11'00" W., 150.00 feet to a No. 5 rebar with cap (set) at the southwest terminus of Hayes Avenue to be abandoned; thence running with the proposed westerly terminus of Hayes Avenue (abandonment), N. 23°27'00" E., 42.14 feet to a point in a ravine at the northwest terminus of

Hayes Avenue abandonment; thence running with part of original northeast right-of-way line of Hayes Avenue, S. 48°11'00" E., 163.28 feet to a point; thence running across said Hayes Avenue, S. 41°49'00" W., 40.00 feet to the point of beginning, containing 6,258.45 square feet, more or less.

2. The City of Charleston hereby reserves a 10' storm sewer easement lying five (5) feet on each side thereof and thru the Elizabeth R. Hamrick Estate and portion of abandoned Hayes Avenue right of way in South Annex Tax District, City of Charleston, Kanawha County, WV to be granted to the City of Charleston:

BEGINNING at a point in the northerly right-of-way line of McKinley Avenue located S. 48°11'00" E., 61.15 feet from an old iron pin in concrete (found) at the southwesterly corner of the parcel of land described in deed from William d. Swearingen et al to R. Edward Hamrick and Elizabeth R. Hamrick dated October 27, 1976 recorded in the office of the Clerk of the Kanawha County Commission in Deed Book 1814, at page 651, and running thence with the centerline of proposed ten (10) storm drain easement,

1. N. 23°45'17" E., 161.40 feet to a point; thence
2. N. 19°22'07" E., 21.04 feet to a point; thence
3. N. 13°57'06" E., 46.61 feet to a point at the northerly terminus of said easement and being in the common division line to the property presently owned by Rosalie M. Summers described in Deed Book 2562, at page 184.

3. The City of Charleston will convey by quitclaim deed all of its right, title and interest in and the above-described parcel, formerly a portion of Hayes Avenue, to the Estate of Elizabeth R. Hamrick upon payment of the appraised value of One Thousand dollars and no cents to be paid to the City of Charleston by the Petitioner.

4. 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-27, absent -1, as follows:

YEAS: Burton, Clowser, Davis, Deitzler, Deneault, Ealy, Hall, Hanna, Harris, Harrison, Higgins, Jones, Kirk, Knauff, Lane, Miller, Payne, Reed, Reishman, Russell, Salisbury, Sheets, Smith, Talkington, Weintraub, White, Mayor Jones.

ABSENT: Ware

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7392, Committee Substitute, passed.

## **REPORTS OF OFFICERS**

1. Report of the City of Charleston Payroll Variance Analysis; May 2009.  
Received and Filed.

2. Report of the City of Charleston, Municipal Court Financial Statements; June 2009.  
Received and Filed.

3. City Treasurer's Report to City Council Month Ending May 2009.  
Received and Filed.

### **NEW BILLS**

Introduced by Council Member Bob White on June 15, 2009:

Bill No. 7393 - A Bill to create a 15 Minute Parking Tow Away Zone on the westerly side of Buchanan Street from a point 98 feet south of Crescent Road to a point 120 feet south of Crescent Road 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

### **ROLL CALL**

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

The question being on the passage of the Bill a roll call was taken and there were; yeas- 27, absent -1, as follows:

YEAS: Burton, Clowser, Davis, Deitzler, Deneault, Ealy, Hall, Hanna, Harris, Harrison, Higgins, Jones, Kirk, Knauff, Lane, Miller, Payne, Reed, Reishman, Russell, Salisbury, Sheets, Smith, Talkington, Weintraub, White, Mayor Jones.

ABSENT: Ware

At 7:35 p.m., by a motion from Councilmember Harrison, Council adjourned until Monday, July 6, 2009, at 7:00 p.m.

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Danny Jones, Honorable Mayor

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James M. Reishman, City Clerk

