**JOURNAL**

**OF THE**

**COUNCIL**

**CITY OF CHARLESTON**

**WEST VIRGINIA**

**DECEMBER 17, 2012**

 **THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE SECOND MEETING IN THE MONTH OF DECEMBER ON THE 17th DAY, IN THE YEAR 2012, 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.**

 **BURKA CLOWSER DAVIS DENEAULT DODRILL**

**EALY HAAS HARRISON**

**KIRK LANE MILLER**

**MINARDI NICHOLS PERSINGER**

**REISHMAN RICHARDSON**

**SALISBURY SHEETS SMITH**

**SNODGRASS STAJDUHAR TALKINGTON**

**WARE WEINTRAUB WHITE**

**MAYOR JONES**

**WITH 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. Lisa Lilly

***CLAIMS***

1. A claim of Keith Davis, 211 Shawnee Estates, Winfield, WV; alleges damage to vehicle.

Refer to City Solicitor.

2. A claim of Jennifer Totten, 1914 Chandler Dr., Charleston, WV; alleges damage to vehicle.

Refer to City Solicitor.

3. A claim of Lisa Prater, 227 Helen Lane, Barboursville, WV; alleges damage to vehicle.

Refer to City Solicitor.

4. A claim of Mary McCoy, 410 Rock Holly Rd., Charleston, WV; alleges damage to vehicle.

Refer to City Solicitor.

5. A claim of Ted Abdalla, 1533 East Washington St., Charleston, WV; alleges damage to property.

Refer to City Solicitor.

***The Clerk read the Certificate of Appreciation:***

City of Charleston

Executive Office of the Mayor

Certificate of Appreciation

Presented on the 17th day of December, 2012, to

Alpha Chi Omega

Gamma Omicron Chapter – Marshall University

Jana Herman, Kelli Hudnall, Sam Stover, Mackenzie Britton, Heather Taylor, Sidney Thompson, Jamie Williams

* In recognition of your volunteer service for helping with the Charleston Christmas Parade that took place on December 8th 2012; and
* In honor of the time and energy you dedicated to ensure that this special event would be successful for the citizens of Charleston; and
* In appreciation for your organization’s dedication to make communities a better place to live.

***The Clerk read the Appointment:***

TO: JAMES REISHMAN, CITY CLERK

FROM: DANNY JONES, MAYOR

RE: ARCHITECTURAL REVIEW COMMITTEE

DATE: DECEMBER 17, 2012

I recommend that Mark Monteleone, P.O. Box 1386, Charleston, WV 25325, be reappointed to the Architectural Review Committee, with a said term to expire January 21, 2016.

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

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the appointment confirmed.*

***MISCELLANEOUS RESOLUTION***

Resolution No. 241-12 :

Introduced in Council: Adopted by Council:

December 17, 2012 December 17, 2012

Introduced by: Referred to:

Chris Dodrill

Courtney Persinger

Resolution No. 241-12 – A Resolution authorizing the acceptance of a conservation easement from F.T. Graff Jr., J. Thomas Lane, Graff-Lane Properties, LLC, and Charlotte R. Lane on undeveloped land on the south side of the Kanawha River as more fully described in the draft deeds attached as Exhibits A and B hereto (the “Property”), for the purpose of preserving the green space as a scenic backdrop to the State Capitol Building and the City of Charleston.

WHEREAS, F.T. Graff Jr., J. Thomas Lane, their company, Graff-Lane Properties and Charlotte R. Lane are owners of mountain properties on the south side of the Kanawha River, as more fully described in the deeds attached as Exhibit A and B hereto; and

WHEREAS, State of West Virginia Code, Chapter 20, Article 12, recognizes the importance and public benefit of conservation easements to protect the natural and scenic resources of the State of West Virginia, and has allowed that such easements may be accepted by municipalities; and

WHEREAS, F.T. Graff Jr., J. Thomas Lane, Graff-Lane Properties, LLC, and Charlotte R. Lane wish to create a perpetual easement for the conservation of the Property and name the city of Charleston as the holder of the easement; and

WHEREAS, the Charleston Land Trust, an agency of the City of Charleston created by ordinance, is charged with managing and maintaining "public trust lands" for preservation of green space and woodlands, and promoting the preservation of scenic green space areas; and

WHEREAS, the Charleston Land Trust has identified the protection of the Property as desirable to serve as a scenic backdrop to the State Capitol building and the City of Charleston and has recommended by Resolution that the City of Charleston accept the easement;

THEREFORE, Be It Resolved By The Council Of The City Of Charleston, West Virginia that:

Subject to review, revision and approval of the deeds by legal counsel for the City, the acceptance of a conservation easement from F.T. Graff Jr., J. Thomas Lane, Graff-Lane Properties, LLC, and Charlotte R. Lane on undeveloped land on the south side of the Kanawha River as more fully described in the draft deeds attached as Exhibits A and B hereto, for the purpose of preserving the green space as a scenic backdrop to the State Capitol Building and the City of Charleston is hereby authorized.

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 241-12, adopted. Abstain - Lane*

***STREETS AND TRAFFIC***

Council person Joe Deneault, Chairperson of the Council Committee on Streets and Traffic, submitted the following reports.

1. Your Committee on Streets and Traffic has had under consideration Bill No. 7550, and reports the same to Council with the recommendation that the bill do pass.

Bill No. 7550- A Bill to establish a 20 MPH Speed Limit on Lilly Drive 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.

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

Section 1. A 20 Mile Per Hour Speed Limit on Lilly Drive is hereby established.

Section 2. 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, shall be and hereby are amended, to conform to this

Ordinance.

Section 3. All prior 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 –26, absent -2, as follows:*

*YEAS: Burka, Clowser, Davis, Deneault, Dodrill, Ealy, Haas, Harrison, Kirk, Lane, Miller, Minardi, Nichols, Persinger, Reishman, Richardson, Salisbury, Sheets, Smith, Snodgrass,Stajduhar, Talkington, Ware, Weintraub, White, Mayor Jones.*

*ABSENT: Burton, Russell*

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7550, passed.*

***FINANCE***

Councilperson Bobby Reishman, Chairperson of the Council Committee on Finance, submitted the following reports.

1. Your Committee on Finance has had under consideration Resolution No 236-12, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 236-12 : “Authorizing the Mayor or City Manager to sign an agreement with the Financial Commission for Appalachia High Intensity Drug Trafficking Area (“HIDTA”) for funds awarded to the Metro Drug Enforcement Network Team (“MDENT”) from the United States Office of National Drug Control Policy (“ONDCP”) in the total amount of $134,800. The funds are designated for purchase of evidence and information ($25,000); six (6) Charleston Police Department (“CPD”) officers for MDENT ($90,000); and one officer assigned to Drug Enforcement Administration (“DEA”) from MDENT ($15,000) plus allowance for vehicle ($4,800).”

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

That the Mayor or City Manager is hereby authorized and directed to sign an agreement with the Financial Commission for Appalachia High Intensity Drug Trafficking Area (“HIDTA”) for funds awarded to the Metro Drug Enforcement Network Team (“MDENT”) from the United States Office of National Drug Control Policy (“ONDCP”) in the total amount of $134,800. The funds are designated for purchase of evidence and information ($25,000); six (6) Charleston Police Department (“CPD”) officers for MDENT ($90,000); and one officer assigned to Drug Enforcement Administration (“DEA”) from MDENT ($15,000) plus allowance for vehicle ($4,800)

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 236-12 adopted.*

2. Your Committee on Finance has had under consideration Resolution No 237-12, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 237-12 : “Authorizing the Mayor or City Manager to enter into an agreement with McClanahan Construction Company, LLC, in the amount of $516,185, for the East End Community Park Project, Phase I.”

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

That the Mayor or City Manager is hereby authorized and directed to enter into an agreement with McClanahan Construction Company, LLC, in the amount of $516,185 for the East End Community Park Project, Phase I.

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 237-12 adopted. (No Vote - Kirk, Sheets, Smith)*

3. Your Committee on Finance has had under consideration Resolution No 238-12, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 238-12 : “Authorizing the Mayor or City Manager to submit a Local Energy Efficiency Program grant application to the West Virginia Division of Energy for funds in the amount of $9,546.”

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

That the Mayor or City Manager is hereby authorized and directed to submit a Local Energy Efficiency Program grant application to the West Virginia Division of Energy for funds in the amount of $9,546.

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 238-12 adopted.*

4. Your Committee on Finance has had under consideration Resolution No 239-12, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 239-12 : “Authorizing the Finance Director to amend the 2010, 2011, and 2012 Community Development Block Grant (CDBG) budgets as indicated on the accounts listed below.”

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 2010, 2011, and 2012 Community Development Block Grant (CDBG) budgets as indicated on the accounts listed below:

Amendments to the 2010, 2011 and 2012 CDBG Budgets

Account Number Description Increase/(Decrease)

009-010-00-015-0-999 CORP Administration ($108,618.06)

009-011-00-015-0-999 CORP Administration ($121,500.00)

009-012-00-199-0-999 Unprogrammed Funds $230,118.06

009-012-00-002-0-999 City-owned Buildings Renovations $164,500.00

009-012-00-032-0-999 Curb and Sidewalk Project $250,000.00

009-011-00-199-0-999 Unprogrammed Funds ($216,333.50)

009-012-00-199-0-999 Unprogrammed Funds ($198,166.50)

*The question being on the adoption of the Resolution. A roll call was taken and there were; yeas –25, absent -2,Naye – 1, as follows:*

*YEAS: Burka, Clowser, Davis, Deneault, Dodrill, Ealy, Haas, Harrison, Kirk, Lane, Miller, Minardi, Nichols, Persinger, Reishman, Richardson, Salisbury, Sheets, Snodgrass,Stajduhar, Talkington, Ware, Weintraub, White, Mayor Jones.*

*ABSENT: Burton, Russell*

*NAYE: Smith*

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 239-12, adopted.*

5. Your Committee on Finance has had under consideration Resolution No 240-12, and reports the same to Council with the recommendation that the resolution be adopted.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHARLESTON, WEST VIRGINIA AUTHORIZING THE FILING OF CIVIL ACTIONS FOR THE CONDEMNATION OF PROPERTY FOR SANITARY SEWER EASEMENTS NECESSARY FOR THE SANITARY BOARD OF THE CITY OF CHARLESTON, WEST VIRGINIA TO CONSTRUCT, INSTALL AND COMPLETE ITS LICK BRANCH-SOUTH RUFFNER SEWER REHABILITATION AND REPLACEMENT PROJECT

WHEREAS, the Sanitary Board of the City of Charleston, West Virginia (the “Sanitary Board”) has presented a Resolution requesting the City Council of the City of Charleston, West Virginia to authorize the City of Charleston to file civil actions in the Circuit Court of Kanawha County for the condemnation of property for sanitary sewer easements necessary for the Sanitary Board to construct, install and complete its Lick Branch-South Ruffner Sewer Rehabilitation and Replacement Project (the “Project”);

WHEREAS, the Sanitary Board is pursuing a sewer rehabilitation and replacement project in the Lick Branch-South Ruffner area of the City of Charleston which is necessary to correct older, failing sewer collection lines and is necessary for the health and welfare of the citizens of the City of Charleston;

WHEREAS, the Project includes the rehabilitation and/or replacement of approximately 41,000 feet (approximately 8 miles) of sewer lines, and numerous permanent easements and temporary construction easements are necessary to undertake and complete the Project;

WHEREAS, the Sanitary Board and its rights-of-way agents have diligently sought easement agreements for such necessary easements from the affected property owners and have received and recorded many signed easement agreements;

WHEREAS, due to numerous factors including, but not limited to, out-of-state property owners, properties held in heirships with numerous heirs, some whose location is unknown, and uncooperative or uncommunicative property owners, the Sanitary Board has been unable to obtain by negotiation and agreement all of the necessary sewer easements;

WHEREAS, the Sanitary Board has no choice but to request the City of Charleston to authorize the filing of civil actions for the acquisition, pursuant to the City of Charleston’s power of eminent domain, certain property interests in order to obtain the necessary sewer easements for the Project; now, therefore,

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

Section 1. To accomplish construction of the sewer rehabilitation and replacement project in the Lick Branch-South Ruffner area of the City of Charleston necessary for the health and welfare of the citizens of the City of Charleston, the Sanitary Board must obtain easements across and through certain properties as set forth on Exhibit A to this Resolution.

Section 2. The Sanitary Board requests the Council of the City of Charleston to authorize the City of Charleston, on behalf of and by and through the Sanitary Board and its counsel to file civil actions for the acquisition for the Sanitary Board, pursuant to the power of eminent domain, of the property interests set forth on Exhibit A and to take such other and further action as may be reasonably necessary to acquire the property rights for easements necessary to construct, install, operate, maintain, repair, replace, rehabilitate, line and remove sewer lines and appurtenances thereto.

Section 3. The Council of the City of Charleston hereby authorizes the City of Charleston, on behalf of and by and through the Sanitary Board and its counsel to file civil actions for the acquisition for the Sanitary Board, pursuant to the power of eminent domain, of the property interests set forth on Exhibit A as needed and to take such other and further action as may be reasonably necessary to acquire the property rights for easements necessary to construct, install, operate, maintain, repair, replace, rehabilitate, line and remove sewer lines and appurtenances thereto.

*The question being on the adoption of the Resolution. A roll call was taken and there were; yeas –22, absent -2,Naye – 3,abstain – 1, as follows:*

*YEAS: Burka, Clowser, Davis, Deneault, Dodrill, Ealy, Haas, Harrison, Miller, Minardi, Nichols, Persinger, Reishman, Richardson, Salisbury, Snodgrass,Stajduhar, Talkington, Ware, Weintraub, White, Mayor Jones.*

*ABSENT: Burton, Russell*

*NAYE: Kirk, Sheets, Smith*

*ABSTAIN: Lane,*

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 240-12, adopted.*

6. Your Committee on Finance has had under consideration a bid submitted by West Virginia Tractor Company, in the total amount of $126,637.00, for purchase of a Leach Alpha-III-20 Freightliner M2 Refuse Packer Truck at $122,737.00, and the option bid of $3,900.00 for a winch, to be used by the Refuse & Recycling Department. To be charged to Account No. 001-978-00-800-4-459, Refuse & Recycling—Capital Outlay Equipment (Sun Trust Equipment Finance & Leasing Corporation, Lease Purchase Escrow Account No. 08673, Equipment Schedule 1) *, a*nd reports the same to Council with the recommendation that the Committee Report be adopted.

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the committee report adopted*

7. Your Committee on Finance has had under consideration a bid submitted by West Virginia Tractor Company, in the amount of $169,000.00, for purchase of an Elgin Pelican NP Street Sweeper with Belt Conveyer, to be used by the Street Department. To be charged to Account No. 001-977-00-750-4-459, St. Dept.—Capital Outlay, Equip. (Sun Trust Equipment Finance & Leasing Corporation, Lease Purchase Escrow Account No. 08673, Equipment Schedule 1)

8. A proposal submitted by Stephens Auto Center, in the total amount of $229,459, for purchase of nine (9) Model 2013 Ford F-250 pickup trucks assigned to the City departments on the attached list. To be charged to the following accounts:

$71,515 – 001-977-00-754-4-459, Equipment Maintenance—Capital Outlay, Equipment

$48,166 – 001-978-00-800-4-459, Refuse & Recycling—Capital Outlay, Equipment

$43,998 – 001-977-00-750-4-459, Street—Capital Outlay, Equipment

$21,621 – 001-979-00-900-4-459, Parks & Recreation—Capital Outlay, Equipment

$44,159 – 001-980-00-952-4-459, Spring Hill Cemetery—Capital Outlay, Equipment

(SunTrust Equipment Finance & Leasing Corporation, Lease Purchase Escrow Account No. 08673, Equipment Schedule 1) *, a*nd reports the same to Council with the recommendation that the Committee Report be adopted.

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the committee report adopted*

9. Your Committee on Finance has had under consideration a proposal submitted by Stephens Auto Center, in the total amount of $338,448.00, for purchase of twelve (12) Model 2013 Ford Police Interceptor Cruisers for the Charleston Police Department. The vehicles are equipped with a Ready-for-the-Road Package and Ballistic Door Panels on the driver’s side and the costs are included in the overall price.

To be charged to the following accounts:

$ 37,920 - Account No. 001-976-00-700-4-459, Police—Capital Outlay, Equipment

$300,528 - Account No. 001-976-00-700-4-459, Police—Capital Outlay, Lease Purchase (Sun Trust Equipment Finance & Leasing Corporation, Lease Purchase Escrow Account No. 08673, Equipment Schedule 2) *, a*nd reports the same to Council with the recommendation that the Committee Report be adopted.

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the committee report adopted*

10. Your Committee on Finance has had under consideration a bid submitted by DLT Solutions, in the amount of $40,217.18, for purchase of Auto-CAD software and licenses to serve the Information Systems and Engineering departments. To be charged to Account No. 001-975-00-439-4-459, I.S. Dept.—Capital Outlay, Equip. *, a*nd reports the same to Council with the recommendation that the Committee Report be adopted.

*With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the committee report adopted*

**REPORTS OF OFFICERS**

1. Report of the City of Charleston, Municipal Court Financial Statements; November 2012.

Received and Filed.

2. City Treasurer’s Report to City Council Month Ending November 2012.

Received and Filed.

**NEW BILLS**

Introduced by Council member Ed Talkington on December 17, 2012:

Bill No. 7555 - A Bill to repeal Ordinance #6701 passed by Council on August 21, 2000 relating to a prohibition of vehicles traveling in an easterly direction on Grant Street between Glenwood Avenue and Park Avenue 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 Council member Tom Lane on December 17, 2012:

Bill No. 7556 – A Bill authorizing the acceptance of a gift from Marian H. Ghiz of a parcel of undeveloped land as more fully described in the deed attached as Exhibit A hereto, to be added to and made a part of the Sunrise Carriage Trail property.

Refer to Finance Committee.

**ROLL CALL**

*The Clerk called the roll:*

*YEAS: Burka, Clowser, Davis, Deneault, Dodrill, Ealy, Haas, Harrison, Kirk, Lane, Miller, Minardi, Nichols, Persinger, Reishman, Richardson, Salisbury, Sheets, Smith, Snodgrass,Stajduhar, Talkington, Ware, Weintraub, White, Mayor Jones.*

*ABSENT: Burton, Russell*

At 7:45 p.m., by a motion from Councilmember Harrison, Council adjourned until Monday, January 7, 2013, at 7:00 p.m.

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Danny Jones, Honorable Mayor

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James M. Reishman, City Clerk