AMENDED JUNE 22, 2012, see Res. 1a

AGENDA FOR THE REGULAR MEETING OF PARKERSBURG
CITY COUNCIL FOR TUESDAY, JUNE 26, 2012, 7:30 PM
SECOND FLOOR, COUNCIL CHAMBERS, MUNICIPAL BUILDING

I. CALL TO ORDER – Council President, Tom Joyce

II. PRAYER

III. PLEDGE OF ALLEGIANCE

IV. ROLL CALL

V. MINUTES – Regular council meeting held June 12, 2012

VI. REPORTS FROM STANDING OR SPECIAL COMMITTEES

VII. MESSAGE FROM THE EXECUTIVE

VIII. PUBLIC FORUM

IX. RESOLUTIONS

1. Resolutions authorizing Mayor Robert D. Newell to submit grant applications, as follows:

   A. $3,500.00 for the YMCA to upgrade computer system by purchasing a new server;

   B. $3,000.00 for the YMCA to purchase financial software programs;

   C. $3,000.00 for the Homeless Coalition for a new roof and to purchase a storage building;

   D. $3,000.00 for the Children's Home Society to repair a storage building;

   E. $3,000.00 for Juleps Pathways Project for boundless playground;

   F. $70,000.00 for 2013 Recycling Assistance Grant

1a. Resolution temporarily lifting the restrictions in City Park Rules and Regulations to allow beer and wine at Point Park for the Wind Symphony Series July 6, 7, 8, 2012. (Sponsored by Councilmen Joyce, Lynch, and Reynolds; and pending approval of the Public Works Committee)

X. ORDINANCE, FINAL READING

2. An ordinance suspending the operation of the longevity plan, Section VIII, the Compensation Plan of the Personnel Policies and Procedures Manual for 2011-2012 and 2012-2013. (Personnel and Finance Committees of City Council)

3. An ordinance granting all full time City employees a twenty cent ($0.20) increase per hour in their base pay. (Sponsored by the Committee of the Whole.)

4. An ordinance prohibiting the use of an electronic communications device, driving without handheld features, definitions, exceptions, penalties while driving or operating a motor vehicle on a public street or highway. Effective July 1, 2012. (Councilmen Rockhold, Sandy, Reynolds, Wilcox, Reed, Lynch and Tallman)

XI. ADJOURNMENT

JOURNAL OF THE CITY COUNCIL, NO. 53

PARKERSBURG, W. VA., June 12, 2012

CASTO & HARRIS, INC., SPENCER, WV RE-ORDER NO. 1635-09

The council of the City of Parkersburg met Tuesday, June 12, 2012, at 7:30 PM in the Council Chambers on the second floor of the Municipal Building at One Government Square, Parkersburg, WV 26101.

The meeting was called to order by Council President, Tom Joyce, who presided over the meeting. Councilman John Rockhold led the Lord's Prayer and the Pledge of Allegiance, and the clerk noted the attendance as follows: Those present included Councilmen Nancy Wilcox, Sharon Lynch, Brad Kimes, John Sandy, Mike Reynolds, John Rockhold, Jim Reed, and Tom Joyce. Councilwoman Sharyn Tallman was absent.

MINUTES – Mr. Sandy moved, seconded by Mr. Kimes, to approve the minutes from the Council meeting held May 15, 2012 and the Council meeting held May 22, 2012, and the motion was adopted by unanimous vote.

REPORTS FROM STANDING OR SPECIAL COMMITTEES – Councilwoman Sharon Lynch reported that the Personnel Committee met May 29, 2012 and discussed longevity pay, and they are also looking into pay ranges and will meet again in the near future.

Councilman Reed reported that the Finance Committee met this evening prior to the Council meeting and sent forth two resolutions on the agenda this evening for budget revisions.

The Clerk presented the Board of Canvassers' Certificate of Votes Cast, Primary Election May 8, 2012.

MOTION – Mr. Rockhold moved, seconded by Ms. Wilcox, to receive, file, and approve the Certificate and the motion was adopted by unanimous vote.

MESSAGE FROM THE EXECUTIVE – there was no message.

PUBLIC FORUM – No one appeared this evening.

The Clerk presented a resolution requesting a budget revision in the Fire Department for a Captain who is retiring, moving $15,600.00 out of Contingency to the salaries line item to cover payout for vacation and holiday time.

MOTION – Mr. Kimes moved, seconded by Ms. Wilcox, to adopt the resolution, and the motion was adopted by unanimous vote.

The Clerk presented a resolution requesting a budget revision to move $62,550.00 from grants and donations to expend funds for the Johnson T. Janes Park bridge project, to the Building and Grounds Department

MOTION – Mr. Kimes moved, seconded by Ms. Wilcox, to adopt the resolution, and the motion was adopted by unanimous vote.

The clerk presented a resolution authorizing Mayor Robert Newell to submit a grant application to the WV Development Office for funding for Parkersburg Homecoming for $1,000.00.

MOTION – Mr. Kimes moved, seconded by Ms. Wilcox, to adopt the resolution, and the motion was adopted by unanimous vote.

The Clerk presented a resolution authorizing Mayor Robert Newell to submit a grant application to the WV Development Office for $3,000.00 for the Boys and Girls Club

MOTION – Mr. Kimes moved, seconded by Mr. Sandy, to adopt the resolution, and the motion was adopted by majority vote with all members voting "yes" with the exception of Mr. Rockhold, who abstained.

The clerk presented a resolution authorizing Mayor Robert Newell to accept the terms of a contract with the WV Development Office for a $5,000.00 grant for the Women's Center.

MOTION – Mr. Reed moved, seconded by Mr. Rockhold, to adopt the resolution, and the motion was adopted by unanimous vote.

ORDINANCE, FIRST READING:

AN ORDINANCE SUSPENDING THE OPERATION OF
THE LONGEVITY PLAN, SECTION VIII,
THE COMPENSATION PLAN, OF THE CITY
OF PARKERSBURG PERSONNEL POLICIES
AND PROCEDURES

MOTION – Mr. Sandy moved, seconded by Ms. Wilcox, to adopt the ordinance on first reading, and the motion was adopted by majority vote with all members voting "yes" with the exception of Mr. Kimes, who voted "no".

ORDINANCE, FIRST READING

AN ORDINANCE GRANTING AN INCREASE TO
FULL TIME CITY EMPLOYEES OF
THE CITY OF PARKERSBURG

MOTION – Mr. Sandy moved, seconded by Ms. Wilcox, to adopt the ordinance on first reading.

JOURNAL OF THE CITY COUNCIL, NO. 53

PARKERSBURG, W. VA., June 12, 2012

MOTION TO AMEND – Mr. Sandy moved, seconded by Ms. Wilcox, to amend the ordinance to state that the twenty cents is "per hour", and the amendment was adopted by unanimous vote.

MOTION TO AMEND – Mr. Rockhold moved, seconded by Mr. Reed, to amend the ordinance that the twenty cents is for one time for one year, and the amendment was adopted by unanimous vote.

MOTION, as amended – the motion, as twice amended, was adopted by unanimous vote.

ORDINANCE, FIRST READING:

AN ORDINANCE AMENDING THE CITY OF PARKERSBURG TO PROVIDE FOR THE PROHIBITED USE OF AN ELECTRONIC COMMUNICATIONS DEVICE, DRIVING WITHOUT HANDHELD FEATURES; EXCEPTIONS; PENALTIES

MOTION – Mr. Rockhold moved, seconded by Mr. Sandy, to adopt the ordinance on first reading.

Councilman Reynolds asked what would happen is this ordinance failed, and Chief Joe Martin stated that the complaint would go to Magistrate Court instead of Municipal Court. This year the offense is secondary, and next year it will be primary, he said.

Mr. Reynolds asked if it was realistic that the Police Department would have time to write citations for this reason, and Chief Martin said that it was potentially. When Mr. Reynolds asked how much money we would receive from these citations, Mayor Newel said that the law was not passed for revenue, but for safety, and we did not know how much money would be received at this time. Drivers can be stopped for texting, he said, and the use of cell phones will be a primary offense next year.

City Attorney, Joe Santer, stated this is a State law beginning July 1, and all this ordinance does is allow our officials to site them into Municipal Court.

VOTE – the motion was adopted by unanimous vote.

The meeting adjourned at 7:45 PM.

Connie Stainer
City Clerk

Council President

RESOLUTION

WHEREAS, the YMCA is a membership organization that strives to offer quality facilities, programs and activities for the entire family; and

WHEREAS, the YMCA provides quality child care through their Child Care Program which offers licensed child care services for children of all ages.

WHEREAS, the YMCA has been awarded a 2012 Governor's Community Participation Grant in the amount of $3,500 to upgrade the computer system by purchasing a new server;

WHEREAS, the Governor's Community Participation grant requires a 10% which will be provided by the YMCA.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PARKERSBURG, that Mayor Robert d. Newell be and hereby is authorized to submit a grant application to the West Virginia Development Office on behalf of the YMCA.

Sponsored by: Councilmen

A

RESOLUTION

WHEREAS, the YMCA is a membership organization that strives to offer quality facilities, programs and activities for the entire family; and

WHEREAS, the YMCA provides quality child care through their Child Care Program which offers licensed child care services for children of all ages.

WHEREAS, the YMCA has been awarded a 2012 Governor's Community Participation Grant in the amount of $3,000 to purchase financial software programs for all the programs at the YMCA.

WHEREAS, the Governor's Community Participation grant requires a 10% which will be provided by the YMCA.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PARKERSBURG, that Mayor Robert d. Newell be and hereby is authorized to submit a grant application to the West Virginia Development Office on behalf of the YMCA.

Sponsored by: Councilmen

B

RESOLUTION

WHEREAS The Parkersburg Area Coalition for the Homeless is a non-profit organization that provides services to the Homeless population in the community; and

WHEREAS the State of West Virginia through the Community Participation Program is considering funding the Parkersburg Area Coalition for the Homeless in the amount of $3,000 which will be used for a new roof and to purchase a storage building.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PARKERSBURG, that Mayor Robert D. Newell be and hereby is authorized to submit a grant application to the West Virginia Development Office on behalf of the Parkersburg Area Coalition for the Homeless and that the match of $300 will be provided by the Parkersburg Area Coalition for the Homeless.

Sponsored by: Councilmen Lynch, Reed and Rockhold

C

RESOLUTION

WHEREAS the Children's Home Society of West Virginia is a private, non-profit child welfare organization that provides comprehensive child welfare, behavioral health, social casework and advocacy services to children throughout the State of West Virginia; and

WHEREAS the State of West Virginia through the 2012 Community Participation Program has awarded the Arthur N. Gustke Child Shelter $3,000 to repair a storage building; and

WHEREAS the 10% match will be provided by the Children's Home Society of West Virginia.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PARKERSBURG, that Mayor Robert D. Newell be and hereby is authorized to submit a grant application to the West Virginia Development Office on behalf of the Children's Home Society of WV – the Gustke Shelter.

Sponsored by: Councilmen Reed, Rockhold and Lynch

D

RESOLUTION

WHEREAS THE CITY OF PARKERSBURG recognizes the importance of recreation opportunities to the health and well being of the community; and

WHEREAS THE CITY OF PARKERSBURG knows that recreational opportunities enhance the quality of life for its citizens and will attract people to live and work in the community; and

WHEREAS the Juleps Pathways project sponsored by the Junior League of Parkersburg will provide a safe and exciting place for children of varying abilities to play together; and

WHEREAS the Juleps Pathways project will be the first certified boundless playground in West Virginia.

WHEREAS the State of West Virginia through the 2012 Community Participation Grant Program is considering funding the Juleps Pathways in the amount of $3,000 for construction of the project in City Park which requires a 10% match that will be provided by the Junior League of Parkersburg.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PARKERSBURG that Mayor Robert D. Newell be and hereby is authorized to submit a grant application to the West Virginia Development Office for funding for the Juleps Pathways Project with the match requirement being met by the Junior League of Parkersburg.

Sponsored by: Councilmen Rockhold, Lynch and Reed

RESOLUTION

WHEREAS the City of Parkersburg recognizes the importance of promoting recycling in the community; and

WHEREAS, recycling helps to reduce the need for new landfills and extends the useful life of present landfills and allows the recycling of valuable materials.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Parkersburg that Mayor Robert D. Newell be and hereby is authorized to submit a grant application in the amount of $70,000 to the West Virginia Department of Environmental Protection, Division of Land Restoration for a 2013 Recycling Assistance Grant which requires no match.

Sponsored by: Councilmen Rockhold, Lynch and Reed

RESOLUTION

WHEREAS, the City of Parkersburg will host Point Park Music Weekend on July 6th, 7th, and 8th, 2012; and

WHEREAS the music will include River City Brass Band, Mountain State Brass Band, and American Wind Symphony Concert for their 2012 Tour, performing on the deck of Counterpoint II; and

WHEREAS this event will mark the inauguration of the new Point Park.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PARKERSBURG that the City grant a limited exception to the restrictions contained in Section IX, Subpart A of the Rules and Regulations for Parkersburg City Parks by temporarily lifting said restrictions to allow the possession and consumption of wine and beer within Point Park for this event.

Sponsored by Councilmen Joyce, Lynch, and Reynolds

AN ORDINANCE SUSPENDING THE OPERATION OF THE LONGEVITY PLAN, SECTION VIII, THE COMPENSATION PLAN OF THE CITY OF PARKERSBURG PERSONNEL POLICIES AND PROCEDURES

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PARKERSBURG that the operation of the Longevity Plan, Section VIII, The Compensation Plan of the City of Parkersburg Personnel Policies and Procedures or as it may be set forth and contained elsewhere, be and it is hereby suspended and held for naught for the budget years 2011-2012 and 2012-2013 and which longevity pay is based upon such years, but not prior years' service credit.

Sponsored By The Personnel and Finance Committees

AN ORDINANCE GRANTING AN INCREASE
TO FULL TIME CITY EMPLOYEES
OF THE CITY OF PARKERSBURG

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PARKERSBURG that effective July 1, 2012, all full time City employees will receive twenty cents ($0.20) increase per hour in their base pay.

Sponsored by the Committee of the Whole

AN ORDINANCE AMENDING THE CITY OF PARKERSBURG TO PROVIDE FOR THE PROHIBITED USE OF AN ELECTRONIC COMMUNICATIONS DEVICE, DRIVING WITHOUT HANDHELD FEATURES; DEFINITIONS; EXCEPTIONS; PENALTIES

BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF PARKERSBURG, WEST VIRGINIA:

PROHIBITED USE OF AN ELECTRONIC COMMUNICATIONS DEVICE, DRIVING WITHOUT HANDHELD FEATURES; DEFINITIONS; EXCEPTIONS; PENALTIES.

(a) Except as provided in subsection (c) of this section, a person may not drive or operate a motor vehicle on a public street or highway while:

(1) Texting; or

(2) Using a cell phone or other electronic communications device, unless the use is accomplished by hands-free equipment.

(b) For purposes of this section, the following terms shall mean:

(1) "Cell phone" shall mean a cellular, analog, wireless or digital telephone.

(2) "Driving" or "operating a motor vehicle" means operating a motor vehicle, with the motor running, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays, but does not include operating a motor vehicle after the driver has moved the vehicle to the side of, or off, a highway and halted in a location where the vehicle can safely remain stationary.

(3) "Electronic communication device" means a cell telephone, personal digital assistant, electronic device with mobile data access, laptop computer, pager, broadband personal communication device, 2-way messaging device, electronic game, or portable computing device. For the purposes of this section, an "electronic communication device" does not include:

(A) Voice radios, mobile radios, land mobile radios, commercial mobile radios or two way radios with the capability to transmit and receive voice transmissions utilizing a push-to-talk or press-to-transmit function; or

(B) Other voice radios used by a law-enforcement officer, an emergency services provider, an employee or agent of public safety organizations, first responders, Amateur Radio Operators (HAM) licensed by the Federal Communications Commission and school bus operators.

(4) "Engaging in a call" means when a person talks into or listens on an electronic communication device, but shall not include when a person dials or enters a phone number on a pushpad or screen to initiate the call.

(5) "Hands-free electronic communication device" means an electronic communication device that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of such electronic communication device, by which a user engages in a call without the use of either hand or both hands.

(6) "Hands-free equipment" means the internal feature or function of a hands-free electronic communication device or the attachment or addition to a hands-free electronic communication device by which a user may engage in a call or text without the use of either hand or both hands.

(7) "Texting" means manually entering alphanumeric text into, or reading text from, an electronic communication device, and includes, but is not limited to, short message service, e-mailing, instant messaging, a command or request to access a World Wide Web page or engaging in any other form of electronic text retrieval or entry, for present or future communication. For purposes of this section, "texting" does not include the following actions:

(A) Reading, selecting or entering a telephone number, an extension number, or voicemail retrieval codes and commands into an electronic device by the pressing the device in order to initiate or receive a phone call or using voice commands to initiate or receive a telephone call;

(B) Inputting, selecting or reading information on a global positioning system or navigation system; or

(C) Using a device capable of performing multiple functions, including fleet management systems, dispatching devices, smart phones, citizens band radios or music players, for a purpose that is not otherwise prohibited in this section.

(8) "Using a cell phone or other electronic communication device" means holding in a person's hand or hands an electronic communication device while:

(A) Viewing or transmitting images or data;

(B) Playing games;

(C) Composing, sending, reading, viewing, accessing, browsing, transmitting, saving or retrieving e-mail, text messages or other electronic data; or

(D) Engaging in a call.

(c) Subsection (a) of this section shall not apply to:

(1) A law-enforcement officer, a firefighter, an emergency medical technician, a paramedic or the operator of an authorized emergency vehicle in the performance of their official duties;

(2) A person using an electronic communication device to report to appropriate authorities a fire, a traffic accident, a serious road hazard, or a medical or hazardous materials emergencies.

(3) The activation or deactivation of hands-free equipment or a function of hands-free equipment.

(d) This section does not supersede the provisions of section three-a, article two, chapter seventeen-b of the West Virginia Code or any more restrictive provisions for drivers of commercial motor vehicles prescribed by the provisions of chapter seventeen-e of the West Virginia Code or federal law or rule.

(e) Any person who violates the provisions of subsection (a) of this section is guilty of a traffic offense and, upon conviction thereof, shall for a first offense be fined $100; for a second offense be fined $200; and for a third or subsequent offense be fined $300. No court costs or other fees shall be assessed for a violation of subsection (a) of this section.

(f) Driving or operating a motor vehicle on a public street or highway while texting shall be enforced as a primary offense as of July 1, 2012. Driving or operating a motor vehicle on a public street or highway while using a cell phone or other electronic communication device without hands-free equipment shall be enforced as a secondary offense as of July 1, 2012, and as a primary offense as of July 1, 2013 for purposes of citation.

(g) Nothing contained in this section shall be construed to authorize seizure of a cell phone or electronic device by any law- enforcement agency.

Be it further ordained by the City Council of the City of Parkersburg that this Ordinance shall take effect on July 1, 2012.

INTRODUCED: _____

ADOPTED: _____

THE CITY OF PARKERSBURG
WEST VIRGINIA, a municipal corporation

By: _____
Robert D. Newell, Mayor

Attest:

_____
Connie Shaffer, City Clerk

4440086.1

Sponsored by Councilmen Rockhold, Sandy, Reynolds, Wilcox, Reed, Lynch, and Tallman