

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

December 19, 2011

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 19th DAY, IN THE YEAR 2011, AND WAS CALLED TO ORDER BY THE HONORABLE MAYOR, DANNY JONES. THE INVOCATION WAS DELIVERED BY RICHARDSON AND THE PLEDGE OF ALLEGIANCE WAS LED BY PAUL NUSBAUM.

**BURKA
DAVIS
EALY
KIRK**

**REISHMAN
SALISBURY
SNODGRASS
WARE
MAYOR JONES**

**BURTON
DENEALT
HAAS
LANE
NICHOLS
RICHARDSON
SHEETS
STAJDUHAR
WEINTRAUB**

**CLOUSER
DODRILL
HARRISON
MILLER
PERSINGER**

**SMITH
TALKINGTON
WHITE**

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. Emily Capece – Woman Song

CLAIMS

A claim of Wilma Cave, 274 Country Club Rt. Lot 54., Elkins, WV; alleges personal injury. Refer to City Solicitor

PUBLIC HEARING

The mayor read the following:

After duly being published as required, I now declare the floor open for a Public Hearing on Resolution No. 063-11—Authorizing Approval of the Application to Create a Development or Redevelopment District (the “TIF District”) in the City of Charleston, as Authorized by the West Virginia Tax Increment Financing Act Following Satisfaction of all Requirements of the Act; and Submitting the Application and Supporting Materials to the West Virginia Development Office for its Approval

With only one Public Speaker, Raymond Keener, the Mayor declare the Public Hearing on Resolution No. 063-11, Closed.

FINANCE

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

- 1. Your Committee on Finance has had under consideration Resolution No 062-11, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 062-11 : “Authorizing the Mayor to sign Change Order No. 2 with Wiseman Construction Co., in the amount of \$59,540.84, for the *Rehabilitation of Loudon Heights Bridge and Pier “C” of the South Side Bridge*. The change order provides for additional shotcrete repair in the amount of \$57,483.12 for the Loudon Heights Bridge and \$18,290.72 for the South Side Bridge, less deductions totaling \$16,233, for a new contract price of \$540,254.84.”

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

That the Mayor is hereby authorized and directed to sign Change Order No. 2 with Wiseman Construction Co., in the amount of \$59,540.84, for the *Rehabilitation of Loudon Heights Bridge and Pier “C” of the South Side Bridge*. The change order provides for additional shotcrete repair in the amount of \$57,483.12 for the Loudon Heights Bridge and \$18,290.72 for the South Side Bridge, less deductions totaling \$16,233, for a new contract price of \$540,254.84. The additions and deductions applied to Change Order No. 2 are listed below:

Add 281.78 square feet of shotcrete repair at \$204/sf (LHB)	\$57,483.12
Deduct 29 lineal feet of epoxy injection repair at \$100/lf (LHB)	(\$2,900.00)
Deduct 10 supplemental drains (LHB)	(\$3,333.00)
Add 89.66 square feet of shotcrete repair at \$204/sf (SSB)	\$18,290.72
Deduct North Side Pier ‘C’ Patching (SSB)	(\$10,000.00)
 Total of Change Order No. 2	 \$59,540.84

Original Contract Price:	\$439,914.00
Change Order #1:	\$ 40,800.00
Change Order #2:	\$ 59,540.84
 New Contract Price:	 \$540,254.84

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the resolution 062-11, adopted.

2. Your Committee on Finance has had under consideration Resolution No 063-11, and reports the same to Council with the recommendation that the resolution be adopted.

WHEREAS, The City Council of the City of Charleston, West Virginia (the "City Council"), is authorized by the West Virginia Tax Increment Financing Act, Chapter 7, Article 11B of the Code of West Virginia, 1931, as amended (the "Act"), to create a development or redevelopment district, cause project plans to be prepared, issue tax increment financing obligations and take other actions to facilitate the orderly development and economic stability of Charleston, West Virginia (the "City"), all as more fully set forth in the Act;

WHEREAS, the City plans to create a development/redevelopment district (the "TIF District") as set forth on a map attached hereto and incorporated by reference herein as EXHIBIT A;

WHEREAS, the City intends to propose a project plan consisting of (i) renovating, equipping and expanding the Charleston Civic Center, including creating a walking trail connected to the Charleston Civic Center, running from the Kanawha Boulevard to Spring Street along the Elk River and (ii) paying engineering, administrative and other professional costs related to the aforementioned (the "TIF Project");

WHEREAS, in Resolution No. 053-11 adopted by the City on November 21, 2011, the City set a public hearing regarding the TIF Application (the "Application") for Monday, December 19, 2011, at 7:00 p.m.;

WHEREAS, the City has reviewed the Application and has found and determined that the TIF District and the TIF Project will benefit the City and its residents by facilitating the orderly development and economic stability of the City, and that the development therein will encourage investing in job-producing, private development and expand the public tax base of the City, that future improvements will result in the increase in the value of property located in the TIF District and will encourage increased employment and business activity within such area and will serve a public purpose of the City;

WHEREAS, the City has held a public hearing with respect to the proposed creation of the TIF District and approval of the TIF District, following publication of notice of such public hearing in accordance with the Act; and

WHEREAS, the City desires to adopt this Resolution to evidence its willingness to proceed with the creation of the TIF District following satisfaction of all requirements of the Act;

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

1. The City has reviewed the Application, heard all interested parties regarding the creation of the TIF District and approval of the TIF Project and hereby approves the Application.
2. It is hereby further determined that the City shall submit the Application and all supporting materials to the West Virginia Development Office for its approval.
3. The City hereby approves the boundaries of the TIF District as shown in the map attached as Exhibit A.
4. It is hereby further found and determined that due to the nature of the TIF Project, the TIF Project would not reasonably be expected to be completed without the use of tax increment financing.
5. The Mayor and the City Manager is hereby authorized to take any further action required to submit the application to the Development Office and create the TIF District.
6. This Resolution shall become effective immediately upon adoption.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the resolution 063-11, adopted.

3. Your Committee on Finance has had under consideration Resolution No 064-11, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 064-11: "Approving settlement of pending litigation, captioned *Janet Stone v. City of Charleston, West Virginia-American Water Co. and Blacktop Industries and Equipment Co. d/b/a Blacktop Industries*, Civil Action No. 07-C-1222, Circuit Court of Kanawha County W.Va., Judge James C. Stucky, in the amount of \$30,000.00 and authorizing the Mayor or his designee to execute any documents necessary to consummate the full settlement and dismissal of the pending civil action in exchange for a full release by Plaintiff of all claims stemming from injuries sustained by Ms. Stone on June 25, 2005.

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

That the City Council for the City of Charleston hereby approves settlement of pending litigation, captioned *Janet Stone v. City of Charleston, West Virginia-American Water Co. and Blacktop Industries and Equipment Co. d/b/a Blacktop Industries*, Civil Action No. 07-C-1222, Circuit Court of Kanawha County W.Va., Judge James C. Stucky, in the amount of \$30,000.00 and hereby authorizes the Mayor or his designee to execute any documents necessary to

consummate the full settlement and dismissal of the pending civil action in exchange for a full release by Plaintiff of all claims stemming from injuries sustained by Ms. Stone on June 25, 2005.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the resolution 064-11, adopted.

4. Your Committee on Finance has had under consideration Resolution No 065-11, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 065-11: “Authorizing the Mayor to enter into an agreement with Casto Technical Services, in the amount of \$49,740.78, for purchase and installation of six (6) gas furnaces and related materials in the Giltinan Center Men’s Homeless Shelter.”

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 Casto Technical Services, in the amount of \$49,740.78, for purchase and installation of six (6) gas furnaces and related materials in the Giltinan Center Men’s Homeless Shelter.

The question being on the adoption of the Resolution. A roll call was taken and there were; yeas –26, absent - 2, as follows:

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

ABSENT: Minardi, Russell,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 065-11 adopted.

5. Your Committee on Finance has had under consideration Resolution No 066-11, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 066-11: “Authorizing the City of Charleston’s consent to the sale of Wells Fargo Third Party Administrators, Inc. (WFTPA), formerly Acordia National, Inc. and J. Smith Lanier & Company, via stock purchase to HealthSmart Holdings, Inc. The City’s agreement for health and vision insurance with Wells Fargo will be continued under the new ownership.”

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

That the City of Charleston’s consent to the sale of Wells Fargo Third Party Administrators, Inc. (WFTPA), formerly Acordia National, Inc. and J. Smith Lanier & Company, via stock purchase to HealthSmart Holdings, Inc., is hereby approved. The City’s agreement for health and vision insurance with Wells Fargo will be continued under the new ownership.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the resolution 066-11, adopted. Richardson - Abstain

6. Your Committee on Finance has had under consideration Resolution No 067-11, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 067-11: “Authorizing the Mayor or his designee to sign a renewal of the contract with ING Employee Benefits for the City’s life insurance program and the continuance of basic rates at current levels for a two year period from January 1, 2012 to January 1, 2014.”

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

That the Mayor or his designee is hereby authorized and directed to sign a renewal of the contract with ING Employee Benefits for the City’s life insurance program and the continuance of basic rates at current levels for a two year period from January 1, 2012 to January 1, 2014. The basic rates are as follows:

	<u>Basic Life</u>	<u>Basic AD&D</u>	<u>Basic Dependent Family</u>
Enrolled Lives	1318	861	391
Inforce Rate(s) (per 1,000)	\$0.570	\$0.040	\$2.47
Renewal Rate(s) (per 1,000)	\$0.570	\$0.040	\$2.47
Rate Guarantee	2 years	2 years	2 years

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the resolution 067-11, adopted.

7. Your Committee on Finance has had under consideration Resolution No 068-11, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 068-11: “Approving settlement of pending litigation, captioned *Ebony Hill v. City of Charleston*, Civil Action No. 08-C-1671, Circuit Court of Kanawha County W.Va., Judge Jennifer Bailey, in the amount of \$9,500.00, and further authorizing the payment of up to an additional \$15,000.00 in the event that Ms Hill elects to undergo rotator cuff repair surgery, and contingent upon the following: (i) payment will be made only for related out-of-pocket medical expenses not covered by Ms Hill’s insurance; (ii) payment will be made only for related medical expenses incurred within one year after January 1, 2012; (iii) payment will be made directly to healthcare providers associated with the rotator cuff surgery. This resolution further authorizes the Mayor or his designee to execute any documents necessary to consummate the full settlement and dismissal of the pending civil action in exchange for a full release by Plaintiff of all claims stemming from injuries allegedly sustained by Ms Hill on September 8, 2006.”

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

That the City Council for the City of Charleston hereby approves settlement of pending litigation, captioned *Ebony Hill v. City of Charleston*, Civil Action No. 08-C-1671, Circuit Court of Kanawha County W.Va., Judge Jennifer Bailey, in the amount of \$9,500.00, and further authorizes the payment of up to an additional \$15,000.00 in the event that Ms Hill elects to undergo rotator cuff repair surgery, consistent with the conditions set forth herein. The Mayor or his designee are hereby authorized to execute any documents necessary to consummate the full settlement and dismissal of the pending civil action in exchange for a full release by Plaintiff of all claims stemming from injuries allegedly sustained by Ms Hill on September 8, 2006.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the resolution 068-11, adopted.

8. Your Committee on Finance has had under consideration a proposal submitted by AT&T, in the amount of approximately \$11,759.51, for purchase of up to 49 iPhone 4 cell phones at \$199.99 each (\$9,799.51) and 49 protective cases at \$40.00 each (\$1,960.00) to replace phones used by City employees currently on the phone rotation schedule. Funds for the cell phones are available in various departmental telephone expense accounts, and reports the same to Council with the recommendation that the Committee Report be adopted.

A motion was made by Councilman Dodrill to table the committee report, the motion was second by Davis. With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the committee report tabled.

9. Your Committee on Finance has had under consideration a proposal submitted by AT&T for purchase of 100 Mobile Iron software and licenses (\$7,500.00) for the new iPhone 4 cell phones, plus annual maintenance support for two years (\$3,000.00), and onetime fee for remote product training (\$2,985.00), for a total of \$13,485.00. To be charged to Account No. 001-430-00-000-3-353, Information Systems--Software, and reports the same to Council with the recommendation that the Committee Report be adopted.

A motion was made by Councilman Dodrill to table the committee report, the motion was second by Davis. With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the committee report tabled.

REPORTS OF OFFICERS

1. Report of the City of Charleston Financial Statements for the Five-Month period ended November 30, 2011.

Received and Filed.

2. Report of the City of Charleston Payroll Variance Analysis; November 2011

Received and Filed.

3. City Treasurer's Report to City Council Month Ending November 2011.

Received and Filed.

ROLL CALL

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

ABSENT: Minardi, Russell,

At 7:45 p.m., by a motion from Councilmember Harrison, Council adjourned until Tuesday, January 3, 2012, at 7:00 p.m.

Danny Jones, Honorable Mayor

James M. Reishman, City Clerk