

JOURNAL

OF THE

COUNCIL

CITY OF CHARLESTON

WEST VIRGINIA

APRIL 15, 2002

THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE SECOND MEETING IN THE MONTH OF APRIL ON THE 15TH DAY, IN THE YEAR 2002, AND WAS CALLED TO ORDER BY THE HONORABLE MAYOR, JAY GOLDMAN. THE INVOCATION WAS DELIVERED BY KEN GUTHRIE, AND THE PLEDGE OF ALLEGIANCE WAS LEAD BY BOBBY REISHMAN.

THE CLERK CALLED THE ROLL AND THE FOLLOWING MEMBERS ANSWERED TO THEIR NAMES:

**CHARNOCK
FOUTY-YOUNG
HENRY
KNAUFF
JAMES LANHAM
MARKHAM
MORTON
PRUNTY
ROLLER
MAYOR GOLDMAN**

**CRICKENBERGER
HAAS
JONES
LANE
LOEB
MCKNIGHT
NIELSEN
QUICK
TALKINGTON**

**DAVIS
HARRIS

DAVID LANHAM
LOPEZ
MOLGAARD
PETTRY
REISHMAN**

TWENTY-SIX MEMBERS BEING PRESENT, THE MAYOR DECLARED A QUORUM.

APRIL 15, 2002, SECOND MEETING

CHARLESTON CITY COUNCIL JOURNAL APRIL 15, 2002

PUBLIC SPEAKERS

1. NONE.

CLAIMS

1.A claim of Janet Thompson,1300 Roseberry Circle Charleston, WV.;alleges damage to property;
Refer to City Solicitor.

2.A claim of Helen Pushkin, 1401 Bedford Rd. Charleston, WV.;alleges damage to property;
Refer to City Solicitor.

3.A claim of Stephen Janney, 308 21st St., South East., Charleston, WV.;alleges damage to property;
Refer to City Solicitor.

COMMUNICATIONS

PROCLAMATIONS

TWO FOLLOWING

RULES AND ORDINANCES

Councilman Charlie Loeb, Chairman of the Council Committee on Rules and Ordinances, submitted the following reports.

1. Your Committee on Rules and Ordinances has had under consideration Bill No. 6898, Committee Substitute, a Bill to amend, revise and re-enact the City's workplace anti-discrimination policies contained in Section 2-104 of the Code of the City of Charleston, titled Adiscrimination@, and contained in Section 1.6 of the Police Department Policy & Procedures Manual, titled Aworkplace violence, harassment and discrimination policy@, to amend, unify and re-enact the City's policies on sexual harassment, discrimination and workplace violence, and reports the same to Council with the recommendation that the Bill do pass.

Bill No. 6898, committee substitute, a Bill to amend, revise and re-enact the City's workplace anti-discrimination policies contained in Section 2-104 of the Code of the City of Charleston, entitled Adiscrimination@, and contained in Section 1.6 of the Police Department Policy & Procedures Manual, entitled Aworkplace violence, harassment and discrimination policy@, to amend, unify and re-enact the City's policies on sexual harassment, discrimination and workplace violence.

Be it Ordained by the Council of the City of Charleston, West Virginia: That the Council of the City of Charleston does hereby amend, revise and re-enact the City's workplace anti-discrimination policies contained in Section 2-104 of the Code of the City of Charleston, entitled Adiscrimination@, and in Section 1.6 of the Police Department Policy & Procedures Manual, entitled Aworkplace violence, harassment and discrimination policy@, and hereby amends, unifies and re-enacts the City's policies on sexual harassment, discrimination and workplace violence, as directed below:

Article VI. CIVIL SERVICE OTHER THAN FOR FIRE AND POLICE:

Article VI. CIVIL SERVICE OTHER THAN FOR FIRE AND POLICE:

Sec. 2-104. Sexual Harassment, Workplace Violence and Discrimination Policy.

(a) Statement of Policy:

The City of Charleston strives to provide a work environment that is free from fear, violence, intimidation, hostility, harassment or other offenses which might interfere with work performance. Sexual harassment and discrimination violate state and federal law, in addition to the City's laws and policies. Violence, harassment, and discrimination of any sort (e.g., verbal, physical, visual) or of any type (e.g., sexual, sexual orientation, gender, racial, ethnic, religion, national origin, age, disabilities) will not be tolerated, and violators are subject to severe disciplinary action up to and including discharge. Violence should be self explanatory. Discrimination and harassment can take many forms. While it is not possible to last all behaviors that may constitute harassment and discrimination, the following are examples of conduct, which may constitute harassment and/or discrimination depending upon the totality of the circumstances, the severity of the conduct and its pervasiveness. The City has a zero tolerance policy for supervisory sexual harassment.

(b) Examples of Prohibited Conduct:

- Unwelcome sexual advance whether they involve physical touching or not.
- Requiring or suggestion that submission to unwelcome sexual advances is either explicitly or implicitly a term or condition of an individual's employment.
- Using submission or rejection of unwelcome sexual advances by an individual as the basis for employment decision affection such individuals.
- Using conduct that has the purpose or effect of substantially interfering with an individual's work performance or creating a intimidating, hostile or offensive working environment.
- Displaying sexually suggestive or offensive objects, pictures, computer graphics or cartoons.
- Unwelcome leering, whistling, brushing against the body, sexual gestures, suggesting or insulting comments.
- Inquiring into one's sexual experiences, or discussion of one's sexual activities.
- Asking employees for dates once that person has expressed no interest in starting or continuing a personal relationship.
- Making slurs or jokes based on sex, race, religion, national origin, age, disabilities, or ethnic background to or about employees.
- Failing to or inability to demonstrate positive efforts to get along with employees of the opposite sex, or of another race, religion, national origin or disability, or refusing to work with such persons because of these reasons.
- Posting derogatory graffiti, cartoons, or script on bulletin boards, computer screens, chalkboards, walls, locker rooms, or in vehicles or failing to remove or arrange for the removal of such prohibited graffiti, cartoons, script, or illustrations.
- Threatening or intimidating a subordinate employee at any time, on or off duty.
- A supervisor or employee observing or condoning, through actions or inactions, prohibited harassment or discrimination by failing to properly report it to the designated management authorities. This is particularly serious if a supervisor is found in violation.
- A supervisor denying or granting an employee with whom he or she currently has or has had a personal relationship an atypical amount of preferential job assignments or work conditions.

(c) Discrimination in the Performance of duties:

In words, deeds, gestures, performance of jobs, duties, tasks and delivery of services to the public, employees shall not discriminate.

(d) Reporting Requirements:

All employees, and particularly supervisors and managers, have a responsibility for keeping the work environment free of harassment and discrimination. If any employee believes that he or she has been subjected to harassment or discrimination, the employee shall file a complaint, either in writing or orally, with any supervisor, department head, the Human Resources Director, the City Manager, or, if the alleged violator/harassor/aggressor is a sworn police officer, to the Professional Standards Division of the Police Department. This does not preclude the employee from contacting the City or State Human Rights Commission and filing a complaint.

Any supervisor, department head, City Manager or any other employee who receives a

complaint of sexual harassment shall report the same directly to the Human Resources Director: provided that, if the alleged violator/harassor/aggressor is a sworn police officer, the person receiving the complaint shall forward the complaint to the Professional Standards Division of the Police Department. If the employee's supervisor is the harassing party, the employee may report misconduct directly to the Human Resources Director or to the Professional Standards Division where the accused is a sworn police officer.

The Human Resources Director or, where the accused is a sworn police officer, the Professional Standards Division, to whom a complaint is given, shall have the duty to 1) advise the complainant of the meaning and importance of the policy and the city's commitment to prevent retaliation; 2) make written note of the allegation; 3) explain the procedure for handling the complaint; 4) advise the complainant that the complaint will remain confidential to the extent practicable to meet the goals of this policy and permitted by law.

Employees who become aware of sexual harassment, whether by witnessing the incident or being told of it, have an affirmative responsibility to report it immediately. The Human Resources Director, or where the accused is sworn police officer, the Professional Standard Division, will determine in each instance if immediate action is necessary to defuse any situation and will direct what, if any, immediate steps are to be taken.

(e) Confidentiality Policy:

Information generated during the course of informal reviews and formal investigations necessary for enforcing this policy will be given the full extent of confidentiality to the extent practicable to meet the goals of this policy and permitted by law. The City will strive to maintain such confidentiality. Any person who, without authorization from the Human Resources Director or the Professional Standards Division, reveals such information, will be subject to discipline.

(f) Retaliation Prohibited:

Retaliation by a supervisor or fellow employee against an employee who has made an effort to report or complains about harassment or discrimination and/or who is cooperating with an investigation thereof will not be tolerated. While it is not possible to list all behaviors that may constitute retaliation, the following are examples of conduct that which may constitute retaliation: any act of reprisal including internal interference, coercion and restraint by a city employee, including any supervisory employee, or by one acting on behalf of the city. The recommended discipline for retaliation will be severe and may include termination from employment.

(g) Investigation of Harassment Complaint:

All reported allegations will be promptly investigated in a fair and expeditious manner by the Human Resources Director or his/her designee or by the Professional Standards Division where the accused violator/harassor/aggressor is a sworn police officer. The investigation will include a private interview with the complainant and with witnesses. The accused will be interviewed. The complainant will be given advance notice of the date when the accused will be informed about the complainant's accusations. The investigator will determine whether there have been other complaints of sexual harassment or discrimination made to the City by the complainant or about the accused. A written report for each investigation which contains the identification of the complainant and the accused, complainant's

written statement of the complaint if any, the accused response to the complaint, the findings and a summary of facts that constitute a basis for those findings and the suggested resolution and recommendation for resolution will be prepared and kept by the City. The City will strive to complete the investigation within sixty (60) days. If the investigation cannot be completed within 60 days, the investigator will so advise both the accused violator/harassor/aggressor and complainant. When the investigation is completed, to the extent appropriate, the complainant and accused will be notified of the results of that investigation.

(h) Corrective and/or Disciplinary Action:

If it is determined that inappropriate conduct has been committed by an employee, the degree and extent of action taken will be commensurate with the seriousness of the offense, the deterrent affect on the other employees, the employee's complete work history, and seniority. Corrective action can take a variety of forms, including remedial training, counseling, and job reassignment in addition to disciplinary action up to termination.

(i) Policy not intended to limit rights of City:

While this policy sets forth the goal of promoting a workplace that is free of harassment and discrimination, in any form, this policy is not designed nor intended to limit the City of Charleston's authority to discipline or take remedial action for workplace conduct which it deems unacceptable, regardless of whether that conduct satisfies the legal definition of sexual harassment, discrimination or workplace violence. Furthermore, by establishing this policy, the City of Charleston does not agree to assume any liability for individuals who commit act of sexual harassment against another employee or any citizen. Individuals who do these things may be personally liable for such actions.

(j) Legal Review and Training:

This policy shall be reviewed by April 1st of each year by the City Attorney, and a record of this review will be given to the Human Resources Director for keeping. The City will provide training to its employees and document such training in their personnel files.

CHARLESTON POLICE DEPARTMENT POLICY & PROCEDURE

1.0. INTRODUCTION AND PURPOSE:

CHARLESTON POLICE DEPARTMENT POLICY & PROCEDURE MANUAL:

1.0. INTRODUCTION AND PURPOSE:

Section 1.6 Sexual Harassment, Workplace Violence and Discrimination Policy:

1.6.1 State of Policy:

The City of Charleston strives to provide a work environment that is free from fear, violence, intimidation, hostility, harassment or other offenses which might interfere with work performance. Sexual harassment and discrimination violate state and federal law, in addition to the City's laws and policies. Violence, harassment, and discrimination of any sort (e.g., verbal, physical, visual) or of any type (e.g., sexual, sexual orientation, gender, racial, ethnic, religion, national origin, age, disabilities) will not be

tolerated, and violators are subject to severe disciplinary action up to and including discharge. Violence should be self explanatory. Discrimination and harassment can take many forms. While it is not possible to list all behaviors that may constitute harassment and discrimination, the following are examples of conduct, which may constitute harassment and/or discrimination depending upon the totality of the circumstances, the severity of the conduct and its pervasiveness. The City has a zero tolerance policy for supervisory sexual harassment.

1.6.2 Examples of Prohibited Conduct:

- Unwelcome sexual advance whether they involve physical touching or not.
- Requiring or suggestion that submission to unwelcome sexual advances is either explicitly or implicitly a term or condition of an individual's employment.
- Using submission or rejection of unwelcome sexual advances by an individual as the basis for employment decision affection such individuals.
- Using conduct that has the purpose or effect of substantially interfering with an individual's work performance or creating a intimidating, hostile or offensive working environment.
- Displaying sexually suggestive or offensive objects, pictures, computer graphics or cartoons.
- Unwelcome leering, whistling, brushing against the body, sexual gestures, suggesting or insulting comments.
- Inquiring into one's sexual experiences, or discussion of one's sexual activities.
- Asking employees for dates once that person has expressed no interest in starting or continuing a personal relationship.
- Making slurs or jokes based on sex, race, religion, national origin, age, disabilities, or ethnic background to or about employees.
- Failing to or inability to demonstrate positive efforts to get along with employees of the opposite sex, or of another race, religion, national origin or disability, or refusing to work with such persons because of these reasons.
- Posting derogatory graffiti, cartoons, or script on bulletin boards, computer screens, chalkboards, walls, locker rooms, or in vehicles or failing to remove or arrange for the removal of such prohibited graffiti, cartoons, script, or illustrations.
- Threatening or intimidating a subordinate employee at any time, on or off duty.
- A supervisor or employee observing or condoning, through actions or inactions, prohibited harassment or discrimination by failing to properly report it to the designated management authorities. This is particularly serious if a supervisor is found in violation.
- A supervisor denying or granting an employee with whom he or she currently has or has had a personal relationship an atypical amount of preferential job assignments or work conditions.

1.6.3 Discrimination in the Performance of duties:

In words, deeds, gestures, performance of jobs, duties, tasks and delivery of services to the public, employees shall not discriminate.

1.6.4 Reporting Requirements:

All employees, and particularly supervisors and managers, have a responsibility for keeping the work environment free of harassment and discrimination. If any employee believes that he or she has

been subjected to harassment or discrimination, the employee shall file a complaint, either in writing or orally, with any supervisor, department head, the Human Resources Director, the City Manager, or, if the alleged violator/harassor/aggressor is a sworn police officer, to the Professional Standards Division of the Police Department. This does not preclude the employee from contacting the City or State Human Rights Commission and filing a complaint.

Any supervisor, department head, City Manager or any other employee who receives a complaint of sexual harassment shall report the same directly to the Human Resources Director: provided that, if the alleged violator/harassor/aggressor is a sworn police officer, the person receiving the complaint shall forward the complaint to the Professional Standards Division of the Police Department. If the employee's supervisor is the harassing party, the employee may report misconduct directly to the Human Resources Director or to the Professional Standards Division where the accused is a sworn police officer.

The Human Resources Director or, where the accused is a sworn police officer, the Professional Standards Division, to whom a complaint is given, shall have the duty to 1) advise the complainant of the meaning and importance of the policy and the city's commitment to prevent retaliation; 2) make written note of the allegation; 3) explain the procedure for handling the complaint; 4) advise the complainant that the complaint will remain confidential to the extent practicable to meet the goals of this policy and permitted by law.

Employees who become aware of sexual harassment, whether by witnessing the incident or being told of it, have an affirmative responsibility to report it immediately. The Human Resources Director, or where the accused is sworn police officer, the Professional Standard Division, will determine in each instance if immediate action is necessary to defuse any situation and will direct what, if any, immediate steps are to be taken.

1.6.5 Confidentiality Policy:

Information generated during the course of informal reviews and formal investigations necessary for enforcing this policy will be given the full extent of confidentiality to the extent practicable to meet the goals of this policy and permitted by law. The City will strive to maintain such confidentiality. Any person who, without authorization from the Human Resources Director or the Professional Standards Division, reveals such information, will be subject to discipline.

1.6.6 Retaliation Prohibited:

Retaliation by a supervisor or fellow employee against an employee who has made an effort to report or complains about harassment or discrimination and/or who is cooperating with an investigation thereof will not be tolerated. While it is not possible to list all behaviors that may constitute retaliation, the following are examples of conduct that which may constitute retaliation: any act of reprisal including internal interference, coercion and restraint by a city employee, including any supervisory employee, or by one acting on behalf of the city. The recommended discipline for retaliation will be severe and may include termination from employment.

1.6.7 Investigation of Harassment Complaint:

All reported allegations will be promptly investigated in a fair and expeditious manner by the Human Resources Director or his/her designee or by the Professional Standards Division where the

accused violator/harassor/aggressor is a sworn police officer. The investigation will include a private interview with the complainant and with witnesses. The accused will be interviewed. The complainant will be given advance notice of the date when the accused will be informed about the complainant's accusations. The investigator will determine whether there have been other complaints of sexual harassment or discrimination made to the City by the complainant or about the accused. A written report for each investigation which contains the identification of the complainant and the accused, complainant's written statement of the complaint if any, the accused response to the complaint, the findings and a summary of facts that constitute a basis for those findings and the suggested resolution and recommendation for resolution will be prepared and kept by the City. The City will strive to complete the investigation within sixty (60) days. If the investigation cannot be completed within 60 days, the investigator will so advise both the accused violator/harassor/aggressor and complainant. When the investigation is completed, to the extent appropriate, the complainant and accused will be notified of the results of that investigation.

1.6.8 Corrective and/or Disciplinary Action:

If it is determined that inappropriate conduct has been committed by an employee, the degree and extent of action taken will be commensurate with the seriousness of the offense, the deterrent affect on the other employees, the employee's complete work history, and seniority. Corrective action can take a variety of forms, including remedial training, counseling, and job reassignment in addition to disciplinary action up to termination.

1.6.9 Policy not intended to limit rights of City:

While this policy sets forth the goal of promoting a workplace that is free of harassment and discrimination, in any form, this policy is not designed nor intended to limit the City of Charleston's authority to discipline or take remedial action for workplace conduct which it deems unacceptable, regardless of whether that conduct satisfies the legal definition of sexual harassment, discrimination or workplace violence. Furthermore, by establishing this policy, the City of Charleston does not agree to assume any liability for individuals who commit act of sexual harassment against another employee or any citizen. Individuals who do these things may be personally liable for such actions.

1.6.9 Legal Review and Training:

This policy shall be reviewed by April 1st of each year by the City Attorney, and a record of this review will be given to the Human Resources Director for keeping. The City will provide training to its employees and document such training in their personnel files.

All prior ordinances, parts of ordinances and policies 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-26, nays-0, absent-1, as follows:

YEAS: Charnock., Crickenberger, Davis, Haas, Harris, Henry, Jones, Knauff, Lane, James Lanham, David Lanham, Loeb, Lopez, Markham, McKnight, Molgaard, Morton, Nielsen, Pettry, Prunty, Quick, Reishman, Roller, Talkington, Fouty-Young and Mayor Goldman.

NAYS: None.
ABSENT: Kimberling.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 6898, committee substitute, passed unanimously.

STREETS AND TRAFFIC

Councilwoman Beth Fouty-Young, Chairman 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. 6893, and reports the same to Council with the recommendation that the Bill do pass.

Bill No. 6893, a Bill to amend and re-enact Ordinance No. 6839 passed by Council August 20, 2001, establishing a two hour parking tow-away zone on the westerly side of Carroll Road from a point 48 feet north of Oakwood Road to a point 275 feet north of Oakwood Road and a No Parking Anytime Tow-away zone on the easterly side of Carroll Road from Oakwood Road to a point 275 feet north of Oakwood Road and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.

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

Section 1. Amend and re-enact Ordinance No. 6893 a two hour parking tow-away zone on the westerly side of Carroll Road from a point 48 feet north of Oakwood Road to a point 275 feet north of Oakwood Road and a No Parking Anytime Tow-away zone on the easterly side of Carroll Road from Oakwood Road to a point 275 feet north of Oakwood Road is hereby established.

Section 2. The Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, 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, nays-0, absent-1, as follows:

YEAS: Charnock., Crickenberger, Davis, Haas, Harris, Henry, Jones, Knauff, Lane, James Lanham, David Lanham, Loeb, Lopez, Markham, McKnight, Molgaard, Morton, Nielsen, Pettry, Prunty, Quick, Reishman, Roller, Talkington, Fouty-Young and Mayor Goldman.

NAYS: None.
ABSENT: Kimberling.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 6893 passed unanimously.

2. Your Committee on Streets and Traffic has had under consideration Bill No. 6897, and reports the same to Council with the recommendation that the Bill do pass.

Bill No. 6897, a Bill to establish a No Parking Anytime Tow-away zone on the northerly side of Rosalie Drive from Market Street to Jean Street and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.

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

Section 1. A No Parking Anytime Tow-Away zone on the northerly side of Rosalie Drive from Market Street to Jean Street is hereby established.

Section 2. The Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, shall be and hereby are amended, to conform to this Ordinance.

The question being on the passage of the Bill a roll call was taken and there were; yeas-26, nays-0, absent-1, as follows:

YEAS: Charnock., Crickenberger, Davis, Haas, Harris, Henry, Jones, Knauff, Lane, James Lanham, David Lanham, Loeb, Lopez, Markham, McKnight, Molgaard, Morton, Nielsen, Pettry, Prunty, Quick, Reishman, Roller, Talkington, Fouty-Young and Mayor Goldman.

NAYS: None.
ABSENT: Kimberling.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 6897 passed unanimously.

FINANCE

Councilman Larry Roller, Chairman of the Council Committee on Finance, submitted the following reports.

1. Your Committee on Finance has had under consideration Resolution No. 965-02, authorizing the Finance Director to make revisions to the 2001-2002 General Fund budget as indicated on the attached list of accounts, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 965-02 - ~~A~~Authorizing the Finance Director to make revisions to the 2001-2002 General Fund budget as indicated on the attached list of accounts.@

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

That the Finance Director is hereby authorized and directed to make revisions to the 2001-2002 General fund budget as indicated on the attached list of accounts, and be it

FURTHER RESOLVED, that this budgetary revision is being made prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-26, nays-0, absent-1, as follows:

YEAS: Charnock., Crickenberger, Davis, Haas, Harris, Henry, Jones, Knauff, Lane, James Lanham, David Lanham, Loeb, Lopez, Markham, McKnight, Molgaard, Morton, Nielsen, Pettry, Prunty, Quick, Reishman, Roller, Talkington, Fouty-Young and Mayor Goldman.

NAYS: None.

ABSENT: Kimberling.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No.965-02 passed unanimously.

2. Your Committee on Finance has had under consideration Resolution No. 966-02, authorizing the Mayor to sign an Extension Agreement with MTax to act as agent for the City of Charleston for collection of the City's Business and Occupation Taxes from current and ~~A~~identified off-system@accounts for the period June 30, 2002 through June 30, 2005, with the City having the option to cancel the Agreement at the end of the fiscal year by providing MTax written notice of such cancellation at least sixty (60) day prior to the end of the one year period, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 966-02 - ~~A~~Authorizing the Mayor to sign an Extension Agreement with MTax to act as agent for the City of Charleston for collection of the City's Business and Occupation Taxes from current and ~~A~~identified off-system@accounts for the period June 30, 2002 through June 30, 2005, with the City having the option to cancel the Agreement at the end of the fiscal year by providing MTax written notice of such cancellation at least sixty (60) day prior to the end of the one year period.@

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

That the Mayor is hereby authorized and directed to sign an Extension Agreement with MTax to act as agent for the City of Charleston for collection of the City's Business and Occupation Taxes from current and identified off-system accounts for the period June 30, 2002 through June 30, 2005, with the City having the option to cancel the Agreement at the end of the fiscal year by providing MTax written notice of such cancellation at least sixty (60) days prior to the end of the one year period.

MTax is paid commissions based on revenues collected.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No.966-02 adopted unanimously.

3. Your Committee on Finance has had under consideration Resolution No. 967-02, authorizing the Mayor to enter into a contract with Grigoraci, Trainer, Wright & Paterno, in the amount of \$3,850, to conduct an Agreed Upon Procedures Engagement for the City's Solid Waste Facility, operated by Landfill Services of Charleston, Inc., for the calendar year ended December 31, 2001, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 967-02 - Authorizing the Mayor to enter into a contract with Grigoraci, Trainer, Wright & Paterno, in the amount of \$3, 850, to conduct an Agreed Upon Procedures Engagement for the City's Solid Waste Facility, operated by Landfill Services of Charleston, Inc., for the calendar year ended December 31, 2001.@

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

That the Mayor is hereby authorized and directed to enter into a contract with Grigoraci, Trainer, Wright & Paterno, in the amount of Three Thousand Eight Hundred Fifty Dollars (\$3,850), to conduct an Agreed Upon Procedures Engagement for the City's Solid Waste Facility, operated by Landfill Services of Charleston, Inc., for the calendar year ended December 31, 2001.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No.967-02 adopted unanimously.

4. Your Committee on Finance has had under consideration Resolution No. 968-02, authorizing the Finance Director to allocate HOME Program funds in the total amount of \$31,200 for a project in North Charleston (\$12,200); and a project on the West Side (\$19,000), and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 968-02 - Authorizing the Finance Director to allocate HOME Program funds in the total amount of \$31,200 for a project in North Charleston (\$12,200); and a project on the West Side (\$19,000).@

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

That the Finance Director is hereby authorized and directed to allocated HOME Program funds in the total amount of Thirty-one Thousand Two Hundred Dollars (\$31,200) for a project in North Charleston (\$12,200); and a project on the West Side (\$19,000).

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-26, nays-0, absent-1, as follows:

YEAS: Charnock., Crickenberger, Davis, Haas, Harris, Henry, Jones, Knauff, Lane, James Lanham, David Lanham, Loeb, Lopez, Markham, McKnight, Molgaard, Morton, Nielsen, Pettry, Prunty, Quick, Reishman, Roller, Talkington, Fouty-Young and Mayor Goldman.

NAYS: None.

ABSENT: Kimberling.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No.968-02 passed unanimously.

5. Your Committee on Finance has had under consideration Resolution 969-02, authorizing the Mayor to sign and submit an application to the Appalachian Regional Commission (ARC) on behalf of the Family Enrichment Center, in the amount of \$300,000, for purchase of equipment. This is contingent upon no adverse citizen comments being received during the 30-day comment period required through MOECD Citizen Participation Plan, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution 969-02 - AAuthorizing the Mayor to sign and submit an application to the Appalachian Regional Commission (ARC) on behalf of the Family Enrichment Center, in the amount of \$300,000, for purchase of equipment.@

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

That the Mayor is hereby authorized and directed to sign and submit an application to the Appalachian Regional Commission (ARC) on behalf of the Family Enrichment Center, in the amount of Three Hundred Thousand Dollars (\$300,000), for purchase of equipment. This is contingent upon no adverse citizen comments being received during the 30-day comment period required through the MOECD Citizen Participation Plan.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-26, nays-0, absent-1, as follows:

YEAS: Charnock., Crickenberger, Davis, Haas, Harris, Henry, Jones, Knauff, Lane, James Lanham, David Lanham, Loeb, Lopez, Markham, McKnight, Molgaard, Morton, Nielsen, Pettry, Prunty, Quick, Reishman, Roller, Talkington, Fouty-Young and Mayor Goldman.

NAYS: None.

ABSENT: Kimberling.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No.969-02 passed unanimously.

6. Your Committee on Finance has had under consideration Resolution No. 971-02, authorizing the Mayor, Asubject to contractor expressly agreeing to indemnify, defend and save harmless the City of Charleston with respect to any claim that contractor is not qualified and such other provisions as the Mayor, upon advice of counsel, deems appropriate@, to enter into a contract with Appalachian Electric Power Company for a base bid of \$1,416,560.62 for the Kanawha Boulevard Walkway Project, plus an alternate bid for Fixture Type S101 in the amount of \$2,295, a reimbursable cost to be received from the Kanawha County Commission, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 971-02 as amended - AAuthorizing the Mayor to enter into a contract with Appalachian Electric Power Company for a base bid of \$1,416,560.62 for the Kanawha Boulevard Walkway Project, plus an alternate bid for Fixture Type S101 in the amount of \$2,295, a reimbursable cost to be received from the Kanawha County Commission.@

WHEREAS, on January 3, 2000, The City of Charleston applied for a grant from the West Virginia Department of Transportation for an amount not to exceed \$1,000,000 for the Kanawha Boulevard Sidewalk Transportation Enhancement Project; and

WHEREAS, on November 6, 2000, The City of Charleston was awarded funds in the amount of \$1,000,000 from the West Virginia Department of Transportation for the Kanawha Boulevard Sidewalk Transportation Enhancement Project, with matching funds in the amount of \$125,000 form the Charleston Urban Renewal Authority (CURA) and \$125,000 from the Mayor's Office of Economic and Community Development (MOECD), for a total of \$1,250,000; and

WHEREAS, on July 3, 2001, additional funds in the amount of \$1,874,866 were received from the West Virginia Department of Transportation for the Project, for a grand total of \$3,124,866; and

WHEREAS, on March 26, 2002 and April 2, 2002, the Project was advertised in both local newspapers and bids were received by the City Manager on April 9, 2002, and the lowest responsible bidder has been selected for the Project; now, therefore,

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

That the Mayor is hereby authorized and directed to enter into a contract with Appalachian Electric Power Company for a base bid of One Million Four Hundred Sixteen Thousand Five Hundred Sixty Dollars and Sixty-two Cents (\$1,416,560.62) for the Kanawha Boulevard Walkway Project, plus an alternate bid for Fixture Type S101 in the amount of Two Thousand Two Hundred Ninety-five Dollars (\$2,295), a reimbursable cost to be received from the Kanawha County Commission.@

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-26, nays-0, absent-1, as follows:

YEAS: Charnock., Crickenberger, Davis, Haas, Harris, Henry, Jones, Knauff, Lane, James Lanham, David Lanham, Loeb, Lopez, Markham, McKnight, Molgaard, Morton, Nielsen, Pettry, Prunty, Quick, Reishman, Roller, Talkington, Fouty-Young and Mayor Goldman.

NAYS: None.

ABSENT: Kimberling.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No.971-02, as amended, passed unanimously.

7. Your Committee on Finance has had under consideration the purchase of various chemical supplies to be used by the Parks & Recreation Department in City swimming pools. The supplies will be purchased on an as needed basis at prices quoted from the following vendors: SAL Chemical Co., Inc. Chlorine Tablets- 100lb. Containers \$127.00, Calcium Chloride - 50lb. Bags \$12.00, Granular Chloride- 100lb Containers \$117.00, Sodium Bicarbonate- 50lb. \$18.50.

National Pool & Equipment Muratic Acid- 1gal. Containers \$10.50, Diatomaceous Earth - 50lb. Bags \$24.00, Sodium Carbonate - 50lb. Bags \$14.90. Phillips Supply Co. Stabilizer - 45lb. Drum \$83.26, Liquid Chlorine - 5gal. Containers \$17.58. To be charged to Account No. 01-900-0-0-3-041, P&RBMaterials & Supplies, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted unanimously.

8. Your Committee on Finance has had under consideration a proposal submitted by Athens Technical Specialists, Inc. (ATSI), in the amount of \$7,600, for purchase of a Conflict Monitor Tester to replace an existing tester used by the Traffic Engineering Department. To be charged to Account No. 01-712-0-0-4-059, Traffic EngineeringBCapital Outlay, Equipment, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted unanimously.

9. Your Committee on Finance has had under consideration a bid submitted by Accuquest Corporation, in the amount of \$24, 980, for purchase of surveillance system to be used by investigative units of the Charleston Police Department. To be charged to Account No. 37-037-0-0-4-059, PoliceBLaw Enforcement Block Grant 2000, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted unanimously.

10. Your Committee on Finance has had under consideration a Bid submitted by Electronic Services, in the amount of \$5,786.32, for purchase of emergency equipment to be installed on eight (8) vehicles used in the Criminal Investigation Division of the Charleston Police Department. To be charged to Account No. 37-037-0-0-4-059, Police Law Enforcement Block Grant 2000, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted unanimously.

11. Your Committee on Finance has had under consideration Bill No. 6899, Committee Substitute, amending and re-enacting Section 2-15 of the City Code to change the time of the meeting to approve the levy from 8:00 p.m. to Aa time to be fixed by the Mayor@, and reports the same to Council with the recommendation that the Bill do pass.

Bill No. 6899 - Amending and re-enacting Section 2-15 of the City Code to change the time of the meeting to approve the levy from 8:00 p.m. to Aa time to be fixed by the Mayor@.

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

That the Council for the City of Charleston hereby amends section 2-15 of the City Code to change the time of the meeting to approve the levy from 8:00 p.m. to Aa time to be fixed by the Mayor, and amends and re-enacts the language of Sec. 2-15 of the City Code as follows:

Article II. City Council.

Sec. 2-15. Same-Annual tax estimate and levy.

Prior to the first day of March in each year the Mayor shall fix a date and time between the seventh and twenty-eighth days of March, and at a time and on the date so fixed the council shall meet in public session at the council chamber in the city building and shall then and there proceed with the transaction of the business which is the subject of section 11-8-14 of the Code of West Virginia. Upon completion of that business, the session shall stand adjourned until a time so fixed by the Mayor on the next following third Tuesday in April, at which time it shall reconvene and the council shall proceed in conformity with the provisions of section 11-8-14a of the Code of West Virginia.

For charter provisions as to annual estimate of receipts and expenditures, see Char., 50.
For state law requirement that city clerk forward a fiscal statement to state tax commission, and publish a copy thereof, immediately following the council meeting in March, see W.Va. Code, 11-8-14.

All prior inconsistent ordinance, or parts thereof, or other rules or laws of the City of Charleston,

are hereby repealed to the extent of such inconsistency.

This ordinance is to become effective immediately upon passage.

The question being on the passage of the Bill a roll call was taken and there were; yeas-26, nays-0, absent-1, as follows:

YEAS: Charnock., Crickenberger, Davis, Haas, Harris, Henry, Jones, Knauff, Lane, James Lanham, David Lanham, Loeb, Lopez, Markham, McKnight, Molgaard, Morton, Nielsen, Pettry, Prunty, Quick, Reishman, Roller, Talkington, Fouty-Young and Mayor Goldman.

NAYS: None.

ABSENT: Kimberling.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 6899 passed unanimously.

12. Your Committee on Finance has had under consideration a payment of Invoice from Tri-State Roofing & Sheet-metal Company, in the amount of \$13,478, for purchase and installation of rubber membrane roofing system over gymnasium area of the former Roosevelt Jr. High School. Also, the project included the extension of flashing, fabrication and installation of a new drip edge at the gutter, and the removal and disposal of the existing roof materials. To be charged to Account No. 58-440-0-0-4-060, Building MaintenanceBCapital Outlay, Major Improvements, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted unanimously.

13. Your Committee on Finance has had under consideration a payment of Invoice from Fletcher Data Systems, in the amount of \$6,030.50, for hardware and software maintenance support for C.L.A.W.S. network and police records Management System for the period January 1, 2002 through June 30, 2002. To be charged to Account No. 01-700-0-0-2-016, Police B Maintenance, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted unanimously.

14. Your Committee on Finance has had under consideration a payment of Invoice from Lewis, Glasser, Casey & Rollins, in the amount of \$6,090.25, for attorney fees in Civil Action No., 97-MISC-325, Kanawha City Soccer Club v. Municipal Planning Commission, et al., pursuant to Court Order dated March 1, 2002. To be charged to Account No. 01-417-0-0-2-029, Legal DepartmentBCourt Costs and Damages, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted unanimously.

15. Your Committee on Finance has had under consideration a payment of Invoice from Michael Carey, in the amount of \$11, 204.02, for attorney fees in Civil Action No. 97-MISC-325, Kanawha City Soccer Club v. Municipal Planning Commission, et al., pursuant to Court Order dated March 1, 2002. To be charged to Account No. 01-417-0-0-2-029, Legal Department Court Costs & Damages, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted unanimously.

16. Janet Matthews addressed Council about the Citizen Comments for 2002 Community Development Block Grants.

REPORTS OF OFFICERS

1. Report of the City of Charleston , Municipal Court Financial Statements; March 2002; Received and Filed.
2. Report of the City of Charleston Payroll Variance Analysis; March 2002; Received and Filed.
3. City of Charleston Financial Statements for the Nine - Month Period Ended March 31, 2002; Received and Filed.
4. City Treasurer's Report to City Council Month Ending March 2002; Received and Filed.

NEW BILLS INTRODUCED

Introduced by Councilman Ryan Henry, on April 15, 2002:

1. Bill No. 6900, a Bill to establish a Residential Permit Parking on Quarrier Street between California Avenue and Michigan Ave between the hours of 8:00a.m., and 6:00p.m., Monday through Friday and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of

Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.

Refer to Streets and Traffic Committee.

Introduced by Councilwoman Sara Crickenberger, on April 15, 2002:

2. Bill No. 6901, a Bill to establish a Residential Permit Parking on Lee Street East between Brooks Street and Morris Street 24 hours a day, seven days a week and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.

Refer to Streets and Traffic Committee.

Introduced by Councilman Larry Roller, on April 15, 2002:

3. Bill No. 6903, a Bill and Order relating to the laying of levies on real, personal and public utility property within the City of Charleston, West Virginia, including excess levies previously provided for in the Official Municipal Budget Document for the fiscal year beginning the first day of July, two thousand two.

Refer to Finance Committee.

Introduced by Councilman Larry Roller, on April 15, 2002:

4. Bill No. 6905, a Bill authorizing the City to donate property located at 2nd Avenue, otherwise known as the 2nd Avenue Recreation Center, to the New Covenant Community Development, Inc.

Refer to Finance Committee.

UNFINISHED OR MISCELLANEOUS BUSINESS

The Mayor Announced that Chad Dean who worked for the Parking System has graduated from Law School.

ROLL CALL

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

YEAS: Charnock., Crickenberger, Davis, Haas, Harris, Henry, Jones, Knauff, Lane, James Lanham, David Lanham, Loeb, Lopez, Markham, McKnight, Molgaard, Morton, Nielsen, Pettry, Prunty, Quick, Reishman, Roller, Talkington, Fouty-Young and Mayor Goldman.

ABSENT: Kimberling.

At 8:05 p.m., on motion of Councilman Loeb, Council adjourned until 7:00 p.m., Monday, May 6, 2002.

Jay Goldman, Honorable Mayor

James M. Reishman, City Clerk

