

JOURNAL

OF THE

COUNCIL

CITY OF CHARLESTON

WEST VIRGINIA

AUGUST 5, 2002

THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 8:45 P.M., FOR THE FIRST MEETING IN THE MONTH OF AUGUST ON THE 5TH DAY, IN THE YEAR 2002, AND WAS CALLED TO ORDER BY THE HONORABLE MAYOR, JAY GOLDMAN. THE INVOCATION WAS DELIVERED BY HENRY KNAUFF, AND THE PLEDGE OF ALLEGIANCE WAS LEAD BY TOM LANE.

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

**CHARNOCK
FOUTY-YOUNG**

**KNAUFF
JAMES LANHAM
MARKHAM
MORTON
PRUNTY
ROLLER
MAYOR GOLDMAN**

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

**DAVIS
HARRIS
KIMBERLING
DAVID LANHAM
LOPEZ
MOLGAARD
PETTRY**

TWENTY-FOUR 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.

AUGUST 5, 2002, FIRST MEETING

CHARLESTON CITY COUNCIL JOURNAL AUGUST 5, 2002

PUBLIC SPEAKERS

NONE.

CLAIMS

1. A claim of Romona Boggess, 5301 Keith Dr., Charleston, WV.; alleges damage to vehicle;
Refer to City Solicitor.
2. A claim of Michael McClung, 3906 Virginia Ave., S.E., Charleston, WV; alleges damage to property;
Refer to City Solicitor.
3. A claim of Connie Robertson, 721 Amity Drive, Charleston, WV; alleges damage to property;
Refer to City Solicitor.
4. A claim of Harvey Creasy, 1534 MT. Vernon Rd., Charleston, WV.; alleges damage to vehicle;
Refer to City Solicitor.
5. A claim of Jennifer Jarvis, 2030 Greenbrier St., Charleston, WV.; alleges damage to vehicle;
Refer to City Solicitor.

COMMUNICATIONS

The Clerk read the following Communications:

1. Special Permit #1087 Application of Bill Shohvich requesting a special permit establish a restaurant serving alcohol in an urban renewal district accessory to the Capitol Market located at 800 Smith Street.

The Mayor referred the Special Permit to the Municipal Planning Commission.

2. Your Committee on Planning has had under consideration Bill No. 6920, and reports the same to Council with the recommendation that the bill do pass.

Bill No. 6920 B A Bill closing, abandoning and discontinuing as a public Right of way a certain portion of Edgeview Drive located off Pacific Street and adjacent to 510 Pacific Street and reserving sewer easements for the City of Charleston, WV.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CHARLESTON, WV.

1. Meets & Bounds is hereby closed, abandoned and discontinued.

DEED DESCRIPTION

March 25, 2002

That certain piece or parcel of land situated in what is known as Section No. 3 of Edgewood Acres, in the City of Charleston, Kanawha County, West Virginia, more particularly described as follows:

Beginning at No. 5 rebar set on the southeasterly right-of-way line of Pacific Street, said point also being the northernmost corner of Lot No. 1 in Section No. 3 of the said Edgewood Acres and also the corner formed by the intersection of the southeasterly line of the said Pacific Street with the southwesterly line of Edgeview Drive, thence N43-40E 30.03 feet, leaving the said Lot No. 1 and running with the said Pacific Street across the said Edgeview Drive to a No. 5 rebar set on the westernmost corner of Lot No. 2 in Section No. 3 of the said Edgewood Acres and also at the corner formed by the intersection of the southeasterly line of the said Pacific Street with the northeasterly line of the said Edgeview Drive; thence S48-59E 98.00 feet, leaving the said Pacific Street and running with the line of the said Lot No. 2 and the northeasterly right-of-way line of the said Edgeview Drive to a point in the line of the said Lot No. 2 and at the northwesterly corner of Lot No. 16; thence S59-32-30W 31.64 feet, leaving the said Lots Nos. 2 and 16, Section No. 3 and running across the said Edgeview Drive to a No. 5 rebar set at the corner of the aforementioned Lot No.1 of Section 3, Edgewood Acres; thence N48-59W 89.33 feet, running with the said Lot No. 1, Section No. 3, Edgewood Acres and the said Edgeview Drive across a deep ravine to the point of beginning, containing in all 2810.00 square feet, more or less, and being a part of the right-of-way of Edgeview Drive in said Edgewood Acres as the same is shown in its entirety on a map or plat of said subdivision of record in the Office of the Clerk of the County Commission of Kanawha County, West Virginia in Map Book 11 at Page 29.

The Mayor referred the Bill to the Finance Committee.

3. Appointment

TO: James Reishman

FROM: Jay Goldman, Mayor

RE: Charleston Building Commission

DATE: July 23, 2002

I am recommending that Walter Dial, 2907 4th Avenue, Charleston, WV. 25312 be reappointed to the Charleston Civic Center. Said term will expire on July 20, 2007.

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

The question being on the approval of the appointment a vote was taken. There being no dissent the Mayor declared the appointment approved.

MISCELLANEOUS RESOLUTIONS

NONE.

REPORTS OF STANDING COMMITTEES

PLANNING

Councilwoman Mary Jean Davis, Chairman of the Council Committee on Planning, submitted the following reports.

1. Your Committee on Planning has had under consideration Bill No. 6869, and reports the same to Council with the recommendation that the bill do pass.

Bill No. 6869, a Bill amending the Zoning Ordinance of the City of Charleston by amending the definition of a home occupation, level 1 permitted accessory and level 2 special permit home-based business, adding level 1 home based businesses as a permitted use in residential districts, adding level 2 home-based business as a special permit use, and establishing standards for home-based businesses.

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

The Zoning Ordinance of the City of Charleston, West Virginia enacted the 7th day of March 1983, as amended, is hereby amended by adding a definition of a home-based business, adding level 1 home based businesses as a permitted use in residential districts, adding level 2 home-based business as a special permit use, and establishing standards for home-based businesses. The new provisions shall read as follows:

1) Delete the following definition in Section 2-2 Definition of terms:

~~A Home Occupation@ An accessory use which:~~

- ~~(a) Is clearly incidental to or secondary to the residential use of a dwelling unit; and~~
- ~~(b) Is customarily and traditionally carried on within a dwelling unit by one or more occupants of such dwelling unit; and~~
- ~~(c) Occupies not more than 25 percent of the total floor area of such dwelling unit and in no event more than 500 square feet of said floor area; and~~
- ~~(d) Is limited to members of the resident family.~~

~~A home occupation shall be conducted wholly within the principal structure. It shall not be permitted to:~~

- ~~(a) Sell articles or products;~~
- ~~(b) Generate any additional traffic;~~
- ~~(c) Display signs; Store materials or products outside a principal structure; and~~
- ~~(d) Make external structural alterations which are not customary in residential buildings.~~

~~Home occupations shall include, but not be limited to: fine arts studios, professional offices, teaching of not more than two pupils simultaneously, seamstresses, real estate or insurance agents, phone or mail sales (excluding storage and warehousing activity), accounting, bookkeeping, computer and secretarial services, and consultants.~~

~~Home occupations shall not include: Dance studios, commercial repair or storage of automobiles or water craft, mortuary establishments, boarding or rooming houses or tourist homes, antique shops, or commercial kennels. (Ord. 6140, 11-6-95)~~

Add the following definitions in Section 2-2 Definition of terms. The new definitions shall read:

~~A~~Home-Based Business@ Any business, occupation, or activity undertaken for gain where the principal office or place of business is located within a residential structure or a permitted accessory structure, that is incidental and secondary to the use of that structure as a dwelling unit. A home-based business shall include Level 1 permitted accessory and Level 2 special permit home-based businesses. **See Section 20 Special Permit Uses for home-based business regulations**

~~A~~Level 1 permitted accessory Home-Based Business@ Any home-based business in which the work conducted on the premises includes, but is not limited to, receiving or initiating correspondence, such as phone calls, mail, faxes, or e-mail; preparing or maintaining business records; word and data processing; and telephone, mail order, and off-premise sales.

~~A~~Level 2 special permit Home-Based Business@ Any home-based business that may require clients or customers to visit the premises providing the business does no create an adverse impact on the surrounding neighborhood as determined by the Municipal Planning Commission.

~~A~~Studio, Fine Arts@ A building, or portion thereof, used as a place of work by a sculptor or artist, not including the teaching or instruction of fine arts.

2) In ARTICLE 4: R-2, SINGLE FAMILY RESIDENTIAL DISTRICT
Section 4-3 Permitted Accessory Uses - delete subsection:

~~4-3 (d) Home occupation in pursuit of the fine arts, garage/yard sales (not to exceed two days in length nor two per year), and home parties/showings held for the display or demonstration of goods or services for the purpose of taking orders (not to exceed four per year of one week duration and by appointment only)~~

Add subsection:

4-3 (d) Level 1 Home-based business (See Sect. 20-3 (f.1))

Add subsection:

4-3 (j) Garage/yard sales (not to exceed two per year), home parties/showings held for the display or demonstration of goods or services for the purpose of taking orders (not to exceed four per year of one week duration and by appointment or invitation only), and fine arts studio (as defined in Sec. 2.2).

Section 4-4 Special Permit Uses - delete subsection:

~~4-4 (i) Home occupation other than those stated in Sec. 4-3 above (Ord. 5036, aa, 1-3-94)~~

Add subsection:

4-4 (i) Level 2 Home-based business

3) In ARTICLE 5: R-4, SINGLE FAMILY RESIDENTIAL DISTRICT:

Section 5-3 Permitted Accessory Uses - delete subsection:

~~5-3 (d) Home occupation in pursuit of the fine arts, garage/yard sales (not to exceed two days in length nor two per year), and home parties/showings held for the display or demonstration of goods or services for the purpose of taking orders (not to exceed four per year of one week duration and by appointment only)~~

Add subsection:

5-3 (d) Level 1 Home-based business (See Sect. 20-3 (f.1))

Add subsection:

5-3 (j) Garage/yard sales (not to exceed two per year), home parties/showings held for the display or demonstration of goods or services for the purpose of taking orders (not to exceed four per year of one week duration and by appointment or invitation only), and fine arts studio (as defined in Sec. 2.2).

Section 5-4 Special Permit Uses - delete subsection:

~~5-4 (j) Home occupation other than those stated in Sec. 5-3 above (Ord. 5036, aa, 1-3-94)~~

Add subsection:

5-4 (j) Level 2 Home-based business

4) In ARTICLE 6: R-6, MEDIUM DENSITY MULTI-FAMILY RESIDENTIAL DISTRICT:

Section 6-3 Permitted Accessory Uses - delete subsection

~~6-3 (d) Home Occupation~~

Add subsection

6-3 (d) Level 1 Home-based business (See Sect. 20-3 (f.1))

Add subsection:

6-3 (k) Garage/yard sales (not to exceed two per year), home parties/showings held for the display or demonstration of goods or services for the purpose of taking orders (not to exceed four per year of one week duration and by appointment or invitation only), and fine arts studio (as defined in Sec. 2.2).

Section 6-4 Special Permit Uses - add subsection

6-4 (k.1) Level 2 Home-based business

5) In ARTICLE 7: R-8, MEDIUM DENSITY MULTI-FAMILY RESIDENTIAL DISTRICT:
Section 7-3 Permitted Accessory Uses - delete subsection

~~7-3 (e) Home Occupation~~

Add subsection

7-3 (e) Level 1 Home-based business (See Sec. 20-3 (f.1))

Add subsection:

7-3 (n) Garage/yard sales (not to exceed two per year), home parties/showings held for the display or demonstration of goods or services for the purpose of taking orders (not to exceed four per year of one week duration and by appointment or invitation only), and fine arts studio (as defined in Sec. 2.2).

Section 7-4 Special Permit Uses - add subsection

7-4 (h.1) Level 2 Home-based business

6) In ARTICLE 8: R-10, HIGH DENSITY MULTI-FAMILY RESIDENTIAL DISTRICT:
Section 8-3 Permitted Accessory Uses - delete subsection

~~8-3 (e) Home Occupation~~

Add subsection

8-3 (e) Level 1 Home-based business (See Sec. 20-3 (f.1))

Add subsection:

8-3 (n) Garage/yard sales (not to exceed two per year), home parties/showings held for the display or demonstration of goods or services for the purpose of taking orders (not to exceed four per year of one week duration and by appointment or invitation only), and fine arts studio (as defined in Sec. 2.2).

Section 8-4 Special Permit Uses - add subsection

8-4 (h.1) Level 2 Home-based business

7) In ARTICLE 9: R-O, RESIDENTIAL OFFICE DISTRICT:
Section 9-3 Permitted Accessory Uses - delete subsection

~~9-3 (f) Home Occupation~~

Add subsection

9-3 (f) Home-based business, provided such business meets the requirements set forth in Section 20-3 (f.1)

Add subsection:

9-3 (o) Garage/yard sales (not to exceed two per year), home parties/showings held for the display or demonstration of goods or services for the purpose of taking orders (not to exceed four per year of one week duration and by appointment or invitation only), and fine arts studio (as defined in Sec. 2.2).

8) In ARTICLE 20: SPECIAL PERMIT USES:
Section 20-3 Requirements - add subsection

20-3 (f.1) Home-based business to read as follows:

The City of Charleston recognizes the desire and/or need of some citizens to use their residence for business activities, but recognizes the need to protect the surrounding areas from adverse impacts generated by these business activities.

(1) Permitting and Enforcement

(A) All proposed home-based businesses shall apply to the City Collector for a Municipal License and to the City Planning Department for zoning review. The Planning Director shall determine whether the proposed home-based business meets the level 1 permitted accessory or level 2 special permit home-based business definition and requirements.

(i) Level 1 permitted accessory Home-based businesses that meet the requirements set forth shall be approved by the Planning Director. The Planning Director shall endorse the Municipal License Application upon approval.

(ii) Level 2 special permit Home-based businesses may be approved after a public hearing for a special permit if the Municipal Planning Commission determines that the proposed home-based business will not constitute a nuisance or otherwise be detrimental to the neighborhood. The Planning Director shall endorse the Municipal License Application upon approval by the Commission.

(iii) Level 2 special permit Home-based business granted by the Municipal Planning Commission shall be specific in nature in that they shall be granted to a designated person or persons who reside at a residential address. Permits are not transferable from person to person or address to address.

(B) Home-based businesses may have their permits revoked for the following reasons:

- (i) Any change in use or any modification to the granted home-based business that is not first approved by the Planning Director or the Commission.
- (ii) Any nuisance, including noise, vibration, smoke, electrical interference, dust, heat, glare, or obnoxious odor, detectable beyond the property lines or beyond the walls of the dwelling unit, if the unit is part of a multifamily structure.
- (iii) Failure to pay any annual municipal license fee within thirty days after the due date or to renew the municipal license.

(2) Level 1 home-based business uses shall be a permitted accessory use in all residential districts where business activities include, but are not limited to, receiving or initiating correspondence, such as phone calls, mail, faxes, or e-mail; preparing or maintaining business records; word and data processing; and telephone, mail order, and off-premise sales.

- (A) Level 1 permitted accessory Home-based businesses shall be distinguished from Level 2 home-based businesses requiring a special permit in that they shall not be permitted to:
 - (i) Sell articles or products on the premises.
 - (ii) Generate any additional pedestrian or vehicular traffic not normally associated with the residential use of the dwelling.
 - (iii) Receive deliveries to or from the dwelling, except by the occupant, U.S. Mail or by courier, and by no customers or clients.
 - (iv) Display signs for the business use.
 - (v) Have employees who are not members of the resident dwelling unit.

(3) Level 2 special permit Home-based businesses shall be regulated and monitored to assure that the use does not create any adverse impact on the surrounding area. Applicants must present the following information to the Municipal Planning Commission:

- (A) The type of business and business activities.
- (B) The total number of resident employees.
- (C) The location and floor area of the home-based business.
- (D) The vehicles used in the home-based business.
- (E) The number of expected customer visits per day and at any one time.

(4) Level 2 special permit Home-based businesses shall meet the following performance standards:

- (A) Hours of operation shall be limited to hours between 8:00 a.m. and 7 p.m.
- (B) Employees working at the subject property must be permanent residents of that dwelling.
- (C) Delivery vehicles used to deliver goods to the home-based business are limited to passenger vehicles, mail carriers, and express carriers. Deliveries shall be permitted between 8:00 a.m. and 6:00 p.m.
- (D) The home-based business shall be limited to the parking/storage of one commercial vehicle on the premises, not exceeding a one-ton capacity.
- (E) The home-based business shall not generate traffic in greater volume than would normally be expected in a residential neighborhood.
- (F) The home-based business must provide one off-street parking space in addition to the parking requirement for the dwelling as required in Article XXI-Parking and Loading.

(G) The home-based business may not create a nuisance due to noise, vibration, smoke, electrical interference, dust, heat, glare, or obnoxious odor. Any noise, vibration, smoke, electrical interference, dust, heat, glare, or obnoxious odor detectable beyond the property lines or beyond the walls of the dwelling unit, if the unit is part of a multifamily structure, shall constitute a violation of the terms of this provision.

(H) The home-based business shall not increase demand on water, sewer, or garbage collection services to the extent that the combined demand for the dwelling and the home-based business is significantly more than is normal to the use of the property for residential purposes.

(I) The Municipal Planning Commission may establish a limit on the number of clients permitted per day or at any one time.

(J) Structural alterations that are not customarily found in a residential structure are prohibited.

(K) Equipment and materials related to the home-based business must be stored in a manner that is out of view to the public.

(L) Signs advertising the home-based business are not permitted.

(5) Level 2 special permit Home-based businesses shall include, but not be limited to:

(A) Professional offices where some clientele may be required, such as architects, brokers, counselors, clergy, engineers, insurance agents, real estate agents, lawyers, accountants, editors, publishers, journalists, cleaning services, salespersons, travel agents, and psychologists.

(B) Personal services, such as barbershops, beauty parlors, manicure and pedicure shops, catering, chauffeuring services, and physical therapists (no more than 2 people being tended to at any one time).

(C) Instructional services such as music, dance, art and craft classes, and tutoring (no more than 2 people being instructed at any one time).

(D) Repair services for small appliances, computers, watches and clocks, electronic devices.

(E) Workrooms for tailors, dressmakers, milliners, and craft persons, including jewelry making, cabinetry and woodworking.

(F) The Municipal Planning Commission shall make the determination whether an unlisted business is similar to a listed permitted use and issue or deny the Level 2 Home-based business special permit.

(6) Home-based businesses shall not include dance studios, commercial repair or storage of automobiles, medical or dental clinics or offices where patients are treated, restaurants, bars/nightclubs, mortuary or funeral establishments, boarding/rooming/tourist homes, kennels, stables, veterinarian clinics/hospitals, nor adult uses. Uses not specifically mentioned shall not be permitted when the Planning Director determines that such use is of the same general character as at least one of those stated above.

9) In ARTICLE 21: PARKING AND LOADING:
Section 21-4. Off-street parking requirements - amend subsection

Section 21-4 (l) Level 2 special permit Home-based businessYYYYYY1 space, in addition to the required parking for the dwelling.

10) The TABLE OF PERMITTED USES is hereby amended to conform with Sections 2, 3, 4, 5,

6 and 7 above.

11) All prior ordinances, or parts of ordinances, inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

The question being on the passage of the Bill a roll call was taken and there were; yeas-24, nays-, absent-3, as follows:

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

NAYS: Fouty-Young.

ABSENT: Henry, Talkington, Reishman.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No.6869, passed unanimously.

2. Your committee of Planning has had under consideration Hemingway place Street Naming request attached hereto and made part thereof,

Your Committee finds that these are new streets and none have been made previously. The Post office, City Engineer and Traffic Engineer have all reviewed the names and have no objections that Hemingway Avenue, Margaux Way, Mariel Way, Ernest Way, and Havana Drive are acceptable as new street names.

The question being on the acceptance of the street names a vote was taken. There being no dissent the Mayor declared the street naming accepted.

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. 30-02, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 30-02 B Authorizing the Finance Director to make revisions to the 2002-2003 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 2002-2003 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-24, nays-, absent-3, as follows:

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

NAYS: Fouty-Young.

ABSENT: Henry, Talkington, Reishman.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No.30-02 adopted unanimously.

2. Your Committee on Finance has had under consideration Resolution No. 31-02, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 31-02 B Authorizing the Finance Director to make revisions to the 2002-2003 Civic Center 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 2002-2003 Civic Center 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-24, nays-, absent-3, as follows:

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

NAYS: Fouty-Young.

ABSENT: Henry, Talkington, Reishman.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No.31-02 adopted unanimously.

3. Your Committee on Finance has had under consideration Resolution No. 32-02, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 32-02 B Authorizing the Finance Director to allocate funds in the amount of \$16,500 for a HOME project in the northeastern section of the City.@

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

That the Finance Director is hereby authorized and directed to allocate funds in the amount of \$16,000 for a HOME project in the northeastern section of the City.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-24, nays-, absent-3, as follows:

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

NAYS: Fouty-Young.

ABSENT: Henry, Talkington, Reishman.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No.32-02 adopted unanimously.

4. Your Committee on Finance has had under consideration Resolution No. 975-02, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 975-02 B Authorizing the Mayor to enter into a unit price contract with Garcie R. Marker & Sons, Inc., in the amount of approximately \$147,750, for construction of concrete sidewalk accessibility ramps.@

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 unit price contract with Garcie R. Marker & Sons, Inc., in the amount of approximately One Hundred Forty-seven Thousand Seven Hundred Fifty Dollars (\$147,750), for construction of concrete sidewalk accessibility ramps.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-24, nays-, absent-3, as follows:

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

NAYS: Fouty-Young.

ABSENT: Henry, Talkington, Reishman.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No.975-02 adopted unanimously.

5. Your Committee on Finance has had under consideration Resolution No. 33-02, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 33-02 B Authorizing the Mayor to enter into a contract with West Virginia Paving, in the amount of \$1,139,885, for the 2002-2003 Street Paving Project.@

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 West Virginia

Paving, in the amount of One Hundred Thirty-nine Thousand Eight Hundred Eighty-five Dollars (\$1,139,885), for the 2002-2003 Street Paving Project.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-24, nays-, absent-3, as follows:

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

NAYS: Fouty-Young.

ABSENT: Henry, Talkington, Reishman.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No.33-02 adopted unanimously.

6. Your Committee on Finance has had under consideration Resolution No. 34-02, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 34-02 B Authorizing the Mayor to enter into an agreement with Bank One, NA, in the amount of approximately \$1,070,000, for a three-year lease rate of 2.71% and a five-year lease rate of 3.21% to provide for the purchase of police cars and various equipment for City departments.@

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 Bank One, NA, in the amount of approximately One Million Seventy Thousand Dollars (\$1,070,000), for a three-year lease rate of 2.71% and a five-year lease rate of 3.21% to provide for the purchase of police cars and various equipment for City departments.

7. Your Committee on Finance has had under consideration Resolution No. 35-02, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 35-02 B Authorizing the Mayor to sign a renewal of the Lease Agreement with the West Virginia Department of Transportation, Division of Highways, for the Daniel Boone Park area, as set forth in Lease No. 326-0120, date September 20, 1977. The renewal of said lease shall be for a additional 25-year period for the consideration of \$1.00.@

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

That the Mayor is hereby authorized and directed to sign a renewal of the Lease Agreement with the West Virginia Department of Transportation, Division of Highways, for the Daniel Boone Park area, as set forth in Lease No. 326-0120, date September 20, 1977. The renewal of said lease shall be for an additional 25-year period for the consideration of One Dollar (\$1.00).

The question being on the adoption of the Resolution a vote was taken. There being no dissent the

Mayor declared Resolution No. 35-02 adopted unanimously.

8. Your Committee on Finance has had under consideration Resolution No. 36-02, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 36-02 B Authorizing the Finance Director to amend the 1996, 1997, and 2002 Community Development Block Grant budgets 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 amend the 1996, 1997, and 2002 Community Development Block Grant budgets as indicated on the attached list of accounts. This is contingent upon no adverse citizen comments being received during the 30-day comment period required through the MOECD Participation Plan.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-24, nays-, absent-3, as follows:

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

NAYS: Fouty-Young.

ABSENT: Henry, Talkington, Reishman.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No.36-02 adopted unanimously.

9. Your Committee on Finance has had under consideration Resolution No. 38-02, and reports the same to Council with the recommendation that the committee report rejecting reconsideration of Resolution No. 971-02 be adopted.

Resolution No. 38-02 B Authorizing the rejection of the reconsideration of Resolution No. 971-02, approved by City Council on April 15, 2002, authorizing the Mayor to enter into a contract with American Electric Power (AEP) for a base bid of \$1,416, 560.62 for the Kanawha Boulevard Walkway Project. This resolution is being reconsidered for the purpose of discussing the hold harmless= clause in the contract.@

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

That the Finance Committee is hereby authorized and directed to reject the reconsideration of Resolution No. 971-02, approved by City Council on April 15, 2002, authorizing the Mayor to enter into a contract with American Electric Power (AEP) for a base bid of \$1,416, 560.62 for the Kanawha Boulevard Walkway Project. This resolution is being reconsidered for the purpose of discussing the hold harmless= clause in the contract.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 38-02 adopted unanimously.

10. Your Committee on Finance has had under consideration a bid submitted by Tennant, in the amount of \$113,491.66, for a Tennant 830II Power Sweeper to be used by the Street Department for cleaning alleys and other narrow passageways. To be charged to Account No. 001-977-00-750-4-461, StreetBCapital Outlay, Lease/Purchase, 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 a Proposal submitted by Kustom Signals, Inc., in the amount of \$33,279, for purchase of six (6) Eyewitness Industrial Grade In-Car Video System for installation in City police cruisers. To be charged to Account No. 094-976-00-000-4-459, PoliceBLocal Law Enforcement Block Grant - 2001, 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.

12. Your Committee on Finance has had under consideration a bid submitted by Shields Electronics, Inc., in the amount of \$84,360, for purchase of 74 personal computers to be used in various City departments. To be charged to Account No. 001-975-00-439-4-459, Information SystemsBCapital 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.

13. Your Committee on Finance has had under consideration a Proposal submitted by Dell Marketing, in the amount of \$6,524, for purchase of an uninterruptible power supply for the City network. To be charged to Account No. 001-975-00-439-4-459, Information SystemsBCapital 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.

14. Your Committee on Finance has had under consideration a Payment of an invoice from West Virginia Supreme Court of Appeals, in the amount of \$13,941.50, for reimbursement costs related to the purchase of software programming and updating the domestic violence system to assist law enforcement officers throughout West Virginia in domestic violence petition information. To be charged to Account No. 095-178-97-005-0-341, PoliceBPro Arrest Grant, 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 invoices from Asbestos Consulting, Inc., in the total amount of \$18,391.66, for asbestos abatement of four structures, per contract agreement at \$3.00 per square foot, for the following structures: 1325- 2 Summit Drive (2windows) \$150.00; 707 Katherine Street (3344sf) \$10,032.00; 1224 Walker Avenue (1532 sf) \$4,596.33; 413 Baird Drive (11 windows) \$3,613.33. To be charged to Account No. 001-436-00-000-2-230, building Comm. BContracted Services, 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. Your Committee on Finance has had under consideration a Payment of an invoice from B-Dry Systems, in the amount of \$5,930, for waterproofing of a structure in North Charleston. To be charged to Account No. 009-000-00-014, CORPBRehabilitation, 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 roll call was taken and there were; yeas-24, nays-, absent-3, as follows:

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

NAYS: Fouty-Young.

ABSENT: Henry, Talkington, Reishman.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Committee Report adopted unanimously.

REPORTS OF OFFICERS

1. Report of the City of Charleston , Municipal Court Financial Statements; May 2002;
Received and Filed.

NEW BILLS INTRODUCED

Introduced by Councilwoman Mary Jean Davis on August 5, 2002:

Bill No. 6929, A Bill amending the Zoning Ordinance of the City of Charleston by adding the retail sale of Automobile parts, supplies or accessories, including tires and batteries as a special permit use in C-8, Village Commercial District.

Refer to Municipal Planning Commission.

Introduced by Councilman Charlie Loeb on August 5, 2002:

Bill No. 6930, A Bill to amend and reenact section forty-seven, chapter eighteen of the code of the City of Charleston, one thousand nine hundred twenty-nine, as amended, relating to declaration of policy on excessive levels of sound; definitions; loud and unnecessary noises; certain loud and disturbing noises enumerated; measurement and control of noise, applicability of statute; exceptions and special waivers; enforcement; conflicts; and penalty.

Refer to Rules and Ordinance Committee.

Introduced by Councilman Bobby Haas on August 5, 2002:

Bill No. 6931, A Bill to establish a Stop intersection on Hanshaw Drive at Sugar Creek Drive 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 Donna Prunty on August 5, 2002:

Bill No. 6932, A Bill to establish a 20 Mile Per Hour speed limit on Callie 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.

Refer to Streets and Traffic Committee.

Introduced by Councilman Larry Roller on August 5, 2002:

Bill No. 6933, A Bill and order determining the necessity for continuance of additional levies for the fiscal years beginning July 1, 2003, July 1, 2003, and July 1, 2005, for current general governmental expenses, and providing for submission to the voters within the City of Charleston of the question of a continuance of the levy rate, providing for publication of notice of the election to authorize continuance of additional levy; authorizing the City Clerk to furnish election officials with the proper election supplies

and make publication of this ordinance, delivery of this ordinance to the Ballot Commissioners and the printing of the ballots; and providing the form of this portion of the official ballot.
Refer to Finance Committee.

Introduced by Councilman Bobby Reishman on August 5, 2002:

Bill No. 6934, A Bill amending and reenacting chapter twenty-eight (28) of the Code of the City of Charleston, as amended, by adding thereto a new article, designated Article VI relating to miscellaneous rules regarding streets, sidewalks, and public places; and by adding thereto a new section designated section forty-five(45) relating to mandating the use of spray chalk and prohibiting the use of permanent paint when locating utilities on streets, sidewalks, and alleys in Charleston Urban Renewal Districts.
Refer to Rules and Ordinance Committee.

UNFINISHED OR MISCELLANEOUS BUSINESS

The Mayor read the following:

The Council of the City of Charleston is granted the plenary power to see that the peace and good order of the municipality are preserved, therefore I am recommending that Thursday, October 31, 2002 from 6:00 to 8:00 p.m., be designated as Trick or Treat Night in the City of Charleston.

Do I hear a Motion?

Do I hear a second?

All in favor vote aye.....

All opposed vote nay.....

The ayes being the Majority the Mayor Declared Thursday, October 31, 2002 as Trick or Treat Night in the City of Charleston.

ROLL CALL

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

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

ABSENT: Henry, Talkington, Reishman

At 9:10 p.m., on motion of Councilman Lane, Council adjourned until 7:00 p.m., Monday, August 19, 2002.

Jay Goldman, Honorable Mayor

James M. Reishman, City Clerk