

# ***JOURNAL***

## **OF THE**

# ***COUNCIL***

**CITY OF CHARLESTON**

**WEST VIRGINIA**

**DECEMBER 2, 2002**

**THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE FIRST MEETING IN THE MONTH OF DECEMBER ON THE 2<sup>ND</sup> DAY, IN THE YEAR 2002, AND WAS CALLED TO ORDER BY THE HONORABLE MAYOR, JAY GOLDMAN, AT 7:00 P.M. THE INVOCATION WAS DELIVERED BY HENRY KNAUFF, AND THE PLEDGE OF ALLEGIANCE WAS LEAD BY DAVID LANHAM.**

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

**CHARNOCK  
FOUTY-YOUNG  
JONES  
LANE  
LOEB  
MCKNIGHT  
NIELSEN  
QUICK  
TALKINGTON**

**CRICKENBERGER  
HAAS  
KIMBERLING  
JAMES LANHAM  
LOPEZ  
MOLGAARD  
PETTRY  
REISHMAN**

**DAVIS  
HARRIS  
KNAUFF  
DAVID LANHAM  
MARKHAM  
MORTON  
PRUNTY  
ROLLER  
MAYOR GOLDMAN**

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

**PENDING THE READING OF THE JOURNAL OF THE PREVIOUS MEETING, THE READING THEREOF WAS DISPENSED WITH AND THE SAME DULY APPROVED.**

**DECEMBER 2, 2002, FIRST MEETING**

**CHARLESTON CITY COUNCIL JOURNAL DECEMBER 2, 2002**

**PUBLIC SPEAKERS**

1. NONE

**PUBLIC HEARING**

**AFTER DULY BEING PUBLISHED AS REQUIRED, I NOW DECLARE THE FLOOR OPEN FOR A PUBLIC HEARING ON RESOLUTION NO. 122-02, A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A LEASE AGREEMENT WITH KANAWHA VALLEY ROWING CLUB.**

**THE CHAIR SEES NO ONE FROM THE PUBLIC.**

**THE CHAIR HEARS NO ONE FROM THE PUBLIC.**

**THE CHAIR DECLARES PUBLIC HEARING ON RESOLUTION NO. 122-02 CLOSED.**

**CLAIMS**

1. A claim of Catherine Peters, 2099 Superior Ave., South Charleston, WV; alleges damage to vehicle;  
Refer to City Solicitor.

**COMMUNICATIONS**

None.

**MISCELLANEOUS RESOLUTIONS**

None.

## ***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. 77-02 as amended, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 77-02 as amended – “Authorizing the Mayor to enter into a contract with Benatec Associated, in the amount of \$66,3000, for professional planning services for updating the City’s zoning and subdivision ordinances.”

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 Benatec Associated, in the amount of Ninety-six Thousand Four Hundred Dollars (\$66,3000), for professional planning services for updating the City’s zoning and subdivision ordinances.

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, Jones, Knauff, Lane, James Lanham, Lopez, Kimberling, Loeb, Markham, McKnight, Molgaard, Morton, Nielsen, Pettry, Quick, Reishman, Roller, Talkington, David Lanham, Fouty-Young, Prunty, and Mayor Goldman.

NAYS: None.

ABSENT: Weintraub.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Resolution No. 77-02 as amended, adopted.

2. Your Committee on Finance has had under consideration Resolution No. 100-02 as amended, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 100-02, as amended– “Granting limited air rights over the alley in the 200 block of Brooks Street, Charleston, West Virginia, between the land owned by Public Service Commission of West Virginia, between the land owned by Public Service Commission of West Virginia (201 Brooks Street, Charleston, West Virginia), on the South side of said alley, and the land owned by Public Service Commission of West Virginia (201 Brooks Street, Charleston, West Virginia), on the North side of the alley.”

WHEREAS, a connecting Parking Structure between the land owned by Public Service Commission of West Virginia on the South Side of the alley in the 200 block of Brooks Street, Charleston, West Virginia, and land owned by Public Service Commission of West Virginia on the North side of said alley is necessary in order to connect these structures for coordinated utilization of buildings; and

WHEREAS, it is considered by Council that granting limited air rights over the alley in 200 block of Brooks Street and 201 Brooks Street is reasonable and necessary and the granting of said air rights will facilitate utilization of the buildings by a single entity, now, therefore,

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

(1) That the owners and their lessees, successors or assigns are hereby granted limited air rights over the alley in the 200 block of Brooks Street, Charleston, West Virginia, between the land owned by Public Service Commission of West Virginia, (201 Brooks Street, Charleston, West Virginia) on the south said of said alley, and the land owned by Public Service Commission of West Virginia (201 Brooks Street, Charleston, West Virginia), on the North side of said alley. In accordance with the drawing which are attached hereto, incorporated herein, and made a part hereof. Said air rights were hereby limited to a minimum of 16 feet and a maximum of 90 feet wide.

(2) The City shall have the right to request inspection, at the cost of the owner, by qualified personnel in accordance with American Association of State Highway Transportation Officials (AASHTO) requirements. The City shall get copies of the inspection report to assure the City that the structure is safe in regard to the public traveling on the road and sidewalk under the Parking Structure. That the connecting Parking Structure access construction and maintenance by owners shall be enclosed and conform to applicable State and City laws.

(3) That the owners and their lessees, successors or assigns shall indemnify and save the City harmless from any damages to any person or property by reason of maintenance or existence of said connecting Parking Structure access over said alley.

(4) That the Mayor of the City of Charleston be and hereby is authorized and directed to execute a Deed granting the limited air rights, subject to and conditioned upon the owners complying with paragraphs 1, 2, and 3 of this Resolution, and the payment of a total of \$1.00 to the City of Charleston, and to make the grant of the right-of-way subject to reverting to the City if and when the air space no longer is used as a Parking Structure between the two lands.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 100-02, as amended, adopted unanimously.

ABSTAIN: Mayor Goldman

3. Your Committee on Finance has had under consideration Resolution No. 117-02 as amended, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 117-02 as amended – “Authorizing the Mayor to sign an amendment to the lease agreement with the Greater Huntington Theatre Corporation for an increase in the discount parking rates at Cinema VII to seventy-five cents (75¢) instead of sixty-five cents (65¢), which is

due to become effective December 1, 2002 (approved by Council August 6, 2001, Resolution No. 802-01); increase the parking time limit for movie patrons to four hours by moving the start time to 11:00 a.m. from the previous start time of 12 noon; and change the exit gate hours from noon to 1:00 a.m. to 1:30 p.m. to 12:30 p.m.”

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

That the Mayor is hereby authorized and directed to sign an amendment to the lease agreement with the Greater Huntington Theatre Corporation for an increase in the discount parking rates at Cinema VII to seventy-five cents (75¢) instead of sixty-five cents (65¢), which is due to become effective December 1, 2002 (approved by Council August 6m 2001, Resolution No. 802-01); increase the parking time limit for movie patrons to four hours by moving the start time to 11:00 a.m. from the previous start time of 12 noon; and change the exit gate hours from noon to 1:00 a.m. to 1:30 p.m. to 12:30 p.m.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 117-02, as amended, adopted unanimously

4. Your Committee on Finance has had under consideration Resolution No. 124-02 as amended, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 124-02 as amended – “Authorizing the Mayor to enter into a contract with Wiseman construction Company, in the amount of \$1,056,772, fir the Bridge Road Retaining Wall 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 Wiseman construction Company, in the amount of One Million One Hundred Sixty-seven Thousand Seven Hundred Seventy-two Dollars (\$1,056,772), for the Bridge Road Retaining Wall project.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 124-02, as amended, adopted unanimously

5. Your Committee on Finance has had under consideration 125-02, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 125-02 – “Authorizing the Finance Director to amend the 2002 CDBG budget.

AMENDMENT TO THE 2002 CDBG BUDGET

<u>ACCOUNT</u>	<u>DESCRIPTION</u>	<u>INCREASE/DECREASE</u>
009-002-00-011	Daymark, Inc./New Connections	\$9,508.77 (Decrease)

009-002-00-199	Contingencies	\$9,508.77 Increase
009-002-00-199	Contingencies	\$9,508.77 (Decrease)
009-002-00-011	Daymark, Inc. /Patchwork	\$9,508.77 Increase

Daymark requested funds from their New Connections Case Manager activity be redirected to their Patchwork Residential Counselors activity, where funding is more critically needed.

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, Jones, Knauff, Lane, James Lanham, Lopez, Kimberling, Loeb, Markham, McKnight, Molgaard, Morton, Nielsen, Pettry, Quick, Reishman, Roller, Talkington, David Lanham, Fouty-Young, Prunty, and Mayor Goldman.

NAYS: None.

ABSENT: Weintraub.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Resolution No. 125-02, adopted.

6. Your Committee on Finance has had under consideration Resolution No. 126-02, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 126-02

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 126-02 adopted unanimously.

ABSTAIN: Loeb

7. You Committee on Finance has had under consideration Resolution No. 127-02, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 127-02 – “Authorizing the Mayor to enter into a contract with Central Masonry, in the amount of \$149,484, for Masonry Services associated with construction of the new fire station at Orchard Manor.”

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 Central Masonry, in the amount of One Hundred Forty-nine Thousand Four Hundred Eighty-four Dollars (\$149,484), for Masonry Services associated with construction of the new fire station at Orchard Manor.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 127-02, adopted unanimously

8. Your Committee on Finance has had under consideration Resolution No. 128-02, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 128-02 – “Authorizing the Mayor to enter into a contract with RC General Contractors, in the amount of \$195,481, for General Trades Services associated with construction of the new fire station at Orchard Manor.”

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 RC General Contractors, in the amount of One Hundred Ninety-five Thousand Four Hundred Eighty-one Dollars (\$195,481), for General Trades Services associated with construction of the new fire station at Orchard Manor.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 128-02 adopted unanimously.

ABSTAIN: Loeb

9. Your Committee on Finance has had under consideration Resolution No. 129-02, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 129-02 – Authorizing the disposition of certain real property; authorizing an Agreement and Lease with the Charleston Building Commission; authorizing the execution and delivery of the Agreement and Lease, Deed and related documents; authorizing the Mayor to execute the Agreement and Lease and Deed taking all other actions relating to such transactions.

WHEREAS, the City of Charleston, West Virginia (the “City”) and its council (the “Council”) are permitted or required, as the case may be, by Section 8-12-5-(36) and Articles 15 and 16 of Chapter 8 of the Code of West Virginia of 1931, as amended, to expend public funds for acquiring, constructing and equipping fire stations; and

WHEREAS, the Council desires to acquire, construct and equip a new fire station (the “Project”) on certain real property located in Orchard Manor (the “Site”; the Cite prior, during and after improvement by, and including the Project, is referred to as the “Facilities”) and has requested that the Charleston Building Commission (the “Commission) issue facilities revenue bonds (the “Bonds”) to finance all or a portion of the cost of the Project; and

WHEREAS, in connection with and inconsideration for the issuance of the Bonds, the Council desires to transfer to the Commission, by deed, all of its right, title and interest in the Site; and

WHEREAS, the Council desires to lease the Facilities from the Commission and to acquire, construct and equip the Project on behalf of the Commission, and the Commission is willing to lease the Facilities to the City and to authorize the City to acquire, construct and equip the Project on its behalf, including for rentals sufficient to pay the principal of and interest on the Bonds when due; and

WHEREAS, the Council does hereby find and determine, that (i) the disposition of the Site by the Deed to the Commission, attached hereto as Exhibit A (the “Deed”); (ii) the acquisition , construction and equipping of the Project on the Commission’s behalf; (iii) the leasing of the Facilities from the Commission pursuant to the Agreement and Lease, attached hereto as Exhibit B (the “Lease”); and (iv) all other things contemplated by or contained in the Deed and the Lease are necessary, proper and appropriate to accomplish the public purpose of providing a new fire station as necessary, appropriate and required for the City.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF CHARLESTON, WEST VIRGINIA, HEREBY RESOLVES:

Section 1. Findings. (a) It is hereby found and determined that (i) the disposition of the Site by the Deed to the Commission; (ii) the acquisition, construction and equipping of the Project on the Commission’s behalf; (iii) the leasing of the Facilities from the Commission pursuant to the Lease; and (iv) all other things contemplated by or contained in the Deed and the Lease are necessary, proper and appropriate to accomplish the public purpose of providing a new

fire station as necessary, appropriate and required for the City.

(b) It is hereby found and determined that title to the Site is vested with the City, and that pursuant to Section 8-33-9 of the Code of West Virginia of 1931, as amended, the City has the power and authority to transfer such real property to the Commission.

Section 2. Transfer of the Site. To provide for the acquisition, construction and improvement of the Facilities, the transfer of the Site to the Commission is hereby authorized. The Mayor of the City is hereby authorized and directed to execute and deliver the Deed to the Commission.

Section 3. Agreement and Lease. The Council hereby authorized the Mayor to enter into the Agreement and Lease with the Commission for the Facilities on behalf of the City.

Section 6. Incidental Actions. The Mayor is hereby authorized and directed to execute and deliver such other documents, agreements, instruments and certificated and to take such other action as may be necessary or appropriate in order to effectuate the execution and delivery of the Deed and Lease. The execution, delivery and due performance of documents are hereby in all respects approved, authorized, ratified and confirmed, including all acts heretofore taken in connection with the transfer of the Site and the leasing of the Facilities.

Section 7. Formal Actions. The Council hereby finds and determines that all formal action relative to the adoption of this Resolution were taken in an open meeting of the Council, notice of which was duly given and that all deliberations of the Council which resulted in formal action, were meetings open to the public, in full compliance with all applicable legal requirements.

Section 8. Effective Date. This Resolution shall take effect immediately upon adoption, and all prior resolution or parts thereof inconsistent herewith are hereby repealed.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 129-02 adopted unanimously.  
ABSTAIN: Loeb

10. A bid submitted by West Virginia Tractor Company, in the amount of \$17,654, for purchase of a chipper to be used by the Street Department. To be charged to Account No. 001-977-00-750-4-461, Street—Capital Outlay, Lease/Purchase.

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. A proposal submitted by General Truck, Inc., in the amount of \$19,867.29, for one (1) pickup truck to be used by the Equipment Maintenance Department. To be charged to Account No. 001-977-00-754-4-461, Equipment Maintenance—Capital outlay, Lease/Purchase.

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. A bid submitted by Kerstein Heating & Air Conditioning, in the amount of \$4,540, for purchase of two (2) overhead gas heaters for Fire Station No. 2, located at 808 Virginia Street, West. To be charged to Account No. 001-706-00-000-2-216, Fire Department—Maintenance and Repair, Equipment.

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. Payment of an invoice from Kanawha Dental Health Council, in the amount of \$7,500, for reimbursement of salaries for dental health educators. To be charged to Account No. 009-001-00-011-0-999, CDBG—Public Services.

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

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

NAYS: None.

ABSENT: Weintraub.

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

14. A payment of an invoice from Asbestos Consulting, Inc., in the amount of \$7,805.25, for asbestos abatement of the structure located at 1201 Crescent Road (2,601.75 square feet @ \$3.00/sf, pursuant to a contract approved by Council April 1, 2002). To be charged to Account No. 009-002-00-006-0-999, CDBG –Acquisition.

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

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

NAYS: None.

ABSENT: Weintraub.

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

## **REPORTS OF OFFICERS**

1. Report of the City of Charleston Payroll Variance Analysis; November 2002;  
Received and Filed.
2. City of Charleston Financial Statements for the Two-Month Period Ended  
August 31, 2002;  
Received and Filed.
3. City of Charleston Financial Statements for the Three-Month Period Ended  
September 30, 2002;  
Received and Filed.

## **NEW BILLS INTRODUCED**

Introduced by Councilwoman Mary Jean Davis on December 2, 2002:

Bill No. 6950, A Bill amending the Zoning Ordinance of the City of Charleston by creating "Group recreational or sports facility, commercial" as a special permit use in all residential districts and establishing spacing provisions and performance standards for commercial group recreational or sports facilities.

Refer to Municipal Planning Commission.

Introduced by Councilwoman Linda Nielsen on December 2, 2002:

Bill No. 6953, a Bill fixing the number of wards in the City of Charleston; fixing the number of persons to be elected from such wards; and fixing the boundaries of such wards.

Refer to the Committee on Redistricting.

Introduced by Councilman Larry Roller on December 2, 2002:

Bill No. 6954, A Bill to establish a 25 Mile Per Hour speed limit on Rosewood 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 Council Committee on Streets and Traffic.

Introduced by Councilman Larry Roller on December 2, 2002:

Bill No. 6955, A Bill to establish a 25 Mile Per Hour speed limit on Sierra 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 Council Committee on Streets and Traffic.

Introduced by Councilman Ed Talkington on December 2, 2002:

Bill No. 6956, A Bill to repeal Ordinance No. 6520 passed by Council on September 21, 1998, relating to a two hour parking on the southerly side of Central Avenue from the intersection of Central Avenue and Park Avenue to a point 173 feet east of the intersection of Central Avenue and Park Avenue and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one Article three, to conform therewith.

Refer to Council Committee on Streets and Traffic.

Introduced by Councilwoman Sara Crickenberger on December 2, 2002:

Bill No. 6957, A Bill adopting the Urban Renewal Plan for demolishing substandard residential structures for the purpose of acquiring and demolishing sub-standard residential structures and in turn, providing sites for new housing located within the incorporated areas of the City of Charleston pursuant to Chapter 16, Article 18 of the West Virginia Code.

Refer to Urban Renewal.

#### **UNFINISHED OR MISCELLANEOUS BUSINESS**

None.

## **ROLL CALL**

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

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

ABSENT: Weintraub.

At 7:35p.m., on motion of Councilman Loeb, Council adjourned until 7:00 p.m., Monday, December 16, 2002.

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Jay Goldman, Honorable Mayor

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James M. Reishman, City Clerk