

JOURNAL

OF THE

COUNCIL

CITY OF CHARLESTON

WEST VIRGINIA

FEBRUARY 4, 2002

THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE FIRST MEETING IN THE MONTH OF FEBRUARY ON THE 4TH DAY, IN THE YEAR 2002, AND WAS CALLED TO ORDER BY THE HONORABLE MAYOR, JAY GOLDMAN. THE INVOCATION WAS DELIVERED BY KNAUFF, AND THE PLEDGE OF ALLEGIANCE WAS LEAD BY WES ARMSTRONG.

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

CHARNOCK	DAVIS	BETH FOUTY-YOUNG
HAAS	HARRIS	RYAN HENRY
JONES	KIMBERLING	KNAUFF
LANE	DAVID LANHAM	JAMES LANHAM
LOEB	LOPEZ	MARKHAM
MCKNIGHT	MOLGAARD	BETTY MORTON
NIELSEN	PETTRY	PRUNTY
QUICK	REISHMAN	ROLLER
CRICKENBERGER		
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.

**FEBRUARY 4, 2002, FIRST MEETING
CHARLESTON CITY COUNCIL JOURNAL FEBRUARY 4, 2002**

INSURANCE COMMITTEE

Councilman David Lanham, Chairperson of the Council Committee on Insurance, submitted the Insurance report.

PUBLIC SPEAKERS

1. Randy Wilson
2. Chuck Smith
3. John A. Jenkins
4. Perry Richardson
5. David Stewart

CLAIMS

1.A claim of Bonnie L. Legg, 2109 Washington Street, W., Charleston, WV.; alleges damage to property;

Refer to City Solicitor.

COMMUNICATIONS

January 31, 2002

Honorable J. Crawford Goldman
and Members of City Council
Charleston, WV. 25301

Dear Mayor Goldman and Councilmembers:

Please withdraw Bill No. 6771 that was introduced in City Council on February 5, 2001. The petitioner also requested that it be withdrawn.

Sincerely,
Sara Crickenberger
Councilperson Ward 10

The question being on the withdraw of the Bill a vote was taken. There being no dissent the Mayor declared Bill No. 6771 withdrawn

January 31, 2002

Honorable J. Crawford Goldman
and Members of City Council
Charleston, WV. 25301

Dear Mayor Goldman and Councilmembers:

Please withdraw Bill No. 6772 that was introduced in City Council on February 5, 2001. The petitioner also requested that it be withdrawn.

Sincerely,
Mary Jean Davis
Council-at-Large

The question being on the withdraw of the Bill a vote was taken. There being no dissent the Mayor declared Bill No. 6772 withdrawn.

January 31, 2002

Honorable J. Crawford Goldman
and Members of City Council
Charleston, WV. 25301

Dear Mayor Goldman and Councilmembers:

Please withdraw Bill No. 6878 that was introduced in City Council on February 4, 2002. The petitioner also requested that it be withdrawn.

Sincerely,
Tom Lane
Council-at-Large

The question being on the withdraw of the Bill a vote was taken. There being no dissent the Mayor declared Bill No. 6878 withdrawn.

January 31, 2002

Honorable J. Crawford Goldman
and Members of City Council

Dear Mayor Goldman and Councilmembers:

Please withdraw Bill No. 6881 that was introduced in City Council on January 22, 2002.

Sincerely,
Mary Jane Lopez
Council-at-Large

The question being on the withdraw of the Bill a vote was taken. There being no dissent the Mayor declared Bill No. 6881 withdrawn.

MISCELLANEOUS RESOLUTIONS

NONE

REPORTS OF STANDING COMMITTEES

PLANNING

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

1. Your Committee on Planning has had under consideration of Bill No. 6868, and reports the same to Council with the recommendation that the Bill do pass.

Your Committee finds that the rezoning should be approved for the following reasons:

1. The property is visible from the interstate and located in a high traffic area making it conducive for commercial development.
2. It is highly unlikely that the property will be developed for an industrial use.
3. It is consistent with the Future Land use Plan of the Kanawha City Revitalization Plan.

The question being on the passage of the Bill a roll call was taken and there were; yeas-25, nays-0, absent-2, as follows:

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

NAYS: None.

ABSENT: Charnock and Talkington

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 6868 passed unanimously.

PUBLIC SAFETY

Councilman Kenneth McKnight, Chairperson of the Council Committee on Public Safety, submitted the following reports.

1. Your Committee on Public Safety has had under consideration of Bill No. 6864, and reports the same to Council with the recommendation that the Bill do pass.

Bill No. 6864, A Bill to adopt and approve the attached “ Policy & Procedure Manual” of the Charleston police Department. This manual hereby replaces the Operations Manual adopted by Council on September 8, 1981. This “Policy and Procedure Manual” hereby supercedes any inconsistent special, general or other inconsistent orders.

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

That City Council adopt and approve the attached “Policy & Procedure Manual” of the Charleston Police Department. This manual hereby replaces the Operations Manual adopted by Council on September 8, 1981. This “Policy and Procedure Manual” hereby supercedes any inconsistent special, general or other inconsistent orders.

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

NAYS: None.

ABSENT: Talkington

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared

Bill No. 6864 passed unanimously.

RULES AND ORDINANCE

Councilman Charlie Loeb, Chairperson of the Council Committee on Rules and Ordinance, submitted the following reports.

1. Your Committee on Rules and Ordinance has had under consideration of Bill No. 6863, and reports the same to Council with the recommendation that the Bill do pass.

Bill No. 6863, Committee Substitute:

Sec. 18-4.1 “Hate Crimes”

(a) This Ordinance may be referred to as the “Anti-Hate Crime Ordinance.” The City of Charleston hereby recognizes and declares that all persons within the City of Charleston have the right to be free from any violence, or intimidation by threat of violence, committed against their person or property because of their actual or perceived race, color, religion, ancestry, national origin, political affiliation, physical or mental disability, sex or sexual orientation.

(b) The State of West Virginia has enacted legislation (found at W. Va. Code 61-6-21 (1987)) deeming certain hate crimes felonious conduct. The purpose of this Ordinance is to expand and create additional classification against which hate crimes will not be tolerated within the City of Charleston as set forth in subsections (c), (d), (e), (f) and (g) hereof.

(c) If any person does force or threat of force willfully injure, oppress, threaten, intimidate or interfere with, or attempt to injure, oppress, threaten, intimidate or interfere with any other person in the free exercise or enjoyment of any right or privilege secured to him or her by the Ordinances of the City of Charleston, the Constitution or laws of the state West Virginia or by the Constitution or laws of the United States, because of such other person’s actual or perceived, color, religion, ancestry, national origin, political affiliation, physical or mental disability, or sexual orientation, her or she shall be guilty of a misdemeanor, and upon conviction, shall be jailed not more that (30) days and fined not more than five hundred dollars.

(d) If any person conspired with another person to willfully injure, oppress, threaten, intimidate or interfere with any other person in the free exercise or enjoyment of any right or privilege secured to him or her by the Ordinances of the City of Charleston, the Constitution or laws of the state West Virginia or by the Constitution or laws of the United States, because of such other person’s actual or perceived, color, religion, ancestry, national origin, political affiliation, physical or mental disability, or sexual orientation an in willful furtherance thereof to assemble with one or more persons for the purpose of teaching any technique or means capable of causing property damage, bodily injury or death which

such persons or person intend to employ to violate this section each such person shall be guilty of a misdemeanor and, upon conviction, shall be jailed not more than thirty (30) days and fined not more than five hundred dollars.

(e) The fact that a person committed a felony or misdemeanor, or attempted to commit a felony or misdemeanor, because of the victim's actual or perceived race, color, religion, ancestry, national origin, political affiliation, physical or mental disability or sexual orientation shall be considered a circumstance in aggravation of any crime in imposing sentence.

(f) Nothing contained in this section make unlawful the teaching of any technique in self-defense.

(g) In any prosecution under this section, (i) evidence providing the defendant's mere abstract beliefs or (ii) evidence of the defendant's mere membership in an organization, shall not be admissible to establish any element of an offense under this section, unless such evidence bears a direct relationship to the underlying crime. Thus, this subsection will not bar all evidence of membership or belief, but would assure that a minimum, any speech association that is not contemporaneous with the crime must be of the chain of events that led to the crime.

(h) If any part of this section is deemed unconstitutional or unenforceable, the remaining provisions will remain in effect.

Charlie Loeb opened the floor for anyone would wanted to have their names added to the bill the following Councilmembers accepted: Crickenberger, Markham, Fouty-Young, Davis and Lopez.

The question being on the passage of the Bill a roll call was taken and there were; yeas-23, nays-3, absent-1, as follows:

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

NAYS: McKnight, Knauff, Pettry,

ABSENT: Talkington

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 6863 passed.

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.918-02, and reports the same to Council with the recommendation that the Resolution be adopted.

Resolution No.918-02, “ 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 No. 918-02 a roll call was taken and there were; yeas-26, nays-0, absent-1, as follows:

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

NAYS: None.

ABSENT: Talkington

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No.918-02 passed unanimously.

2. Your Committee on Finance has had under consideration Resolution No.920-02, and reports the same to Council with the recommendation that the Resolution be adopted.

Resolution No. 920-02, “ Authorizing the Finance Director to amend the 2001 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 2001 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 comments period required through the MOECD Citizen Participation Plan.

The question being on the adoption of the Resolution No. 920-02 a roll call was taken and there were; yeas-26, nays-0, absent-1, as follows:

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

NAYS: None.

ABSENT: Talkington

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No.920-02 passed unanimously.

3. Your Committee on Finance has had under consideration Resolution No.921-02, and reports the same to Council with the recommendation that the Resolution be adopted.

Resolution No. 921-02, "Authorizing the Mayor to sign an addendum letter with Gibbons and Kawash, in the amount of \$24, 000, to extend the scope of services previously approved by Council on June 18, 2001, Resolution No. 780-01, for operational efficiency in the City Collector's Office, to include the development of a written policies and procedures manual for the operations of the Collector's office. The procedures manual will be completed by March 1, 2002."

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

That the Mayor is hereby authorized and directed to sign an addendum letter with Gibbons and Kawash, in the amount of Twenty-four Thousand Dollars (\$24,000), to extend the scope of services previously approved by Council on June 18, 2001, Resolution No. 780-01, for operational efficiency in the City Collector's Office, to include the development of a written policies and procedures manual for the operations of the Collector's office. In addition to the policies and procedures manual, the

addendum also includes the following services:

1. Assist the Collector in reorganizing the current structure of the office.
2. Provide training to office staff on new policies and procedures.
3. Develop a standardized audit approach to be utilized on all B&O tax audits, including the development of a comprehensive audit program.
4. Provide assistance in evaluating potential software applications to maintain the B&O taxpayer records.

The manual is to be completed by March 1, 2002.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No.921-02 adopted unanimously.

4. Your Committee on Finance has had under consideration Resolution No.922-02, and reports the same to Council with the recommendation that the Resolution be adopted.

Resolution No. 922-02, – “ Authorizing the Finance Director to make revisions to the 2001-2002 Parking System 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 Parking System 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 No. 922-02 a roll call was taken and there were; yeas-26, nays-0, absent-1, as follows:

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

NAYS: None.

ABSENT: Talkington

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No.922-02 passed unanimously.

5. Your Committee on Finance has had under consideration Resolution No.923-02, and reports the same to Council with the recommendation that the Resolution be adopted.

Resolution No. 923-02, “ Authorizing the Mayor to sign a renewal of the Letter of Credit with Bank One for Parking System Revenue Bonds, Series 1994-A, 1994-B, and 1995-A; and further authorizing payment in the total amount of \$101,409.68 for the Letter of Credit.”

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 Letter of Credit with Bank One for Parking System Revenue Bonds, Series 1994-A, 1994-B, and 1995-A; and further authorizing payment in the total amount of One Hundred One Thousand Four Hundred Nine Dollars an Sixty-eight Cents (\$101,409.68) for the Letter of Credit.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No.923-02 passed unanimously.

6. Your Committee on Finance has had under consideration Resolution No.924-02, and reports the same to Council with the recommendation that the Resolution be adopted.

Resolution No. 924-02, stating the reasonable expectation of the City of Charleston, West Virginia, to reimburse the City for capital expenditures estimated not to exceed \$1,000,000 in connection with the planning, design, acquisition, construction and equipping of certain extensions, improvements, betterments and additions to the municipal sewerage system facilities made prior to the issuance of tax-exempt sewer revenue bonds estimated not to exceed \$3,750,000.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No.924-02 passed unanimously.

7. Your Committee on Finance has had under consideration a proposal submitted by American Office Systems, in the amount of \$9,065, for purchase of a Lanier 5645 Digital Copier for use in the Records Division of the Police Department. To be charged to Account No. 01-700-0-0-4-059, Police–Capital 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.

8. Your Committee on Finance has had under consideration a proposal submitted by Stephens Auto Center, in the amount of \$19,450, for purchase of a Jeep Grand Cherokee to be used by the Mayor’s Office of Economic and Community Development, HOME Programs. To be charged to Account No. 25-001-00-015, CORP–Administration, 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-26, nays-0, absent-1, as follows:

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

NAYS: None.

ABSENT: Talkington

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

9. Your Committee on Finance has had under consideration a proposal submitted by Stephens Auto Center, in the amount of \$21,586, for the purchase of a 2002 Dodge vehicle to be used by the Equipment Maintenance Division. To be charged to Account No. 01-754-0-0-4-061, Equipment Maintenance–Capital 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.

10. Your Committee on Finance has had under consideration a payment of an invoice from West Virginia Court of Appeals, in the amount of \$4,263, for reimbursement of software development costs for the statewide Domestic Violence Tracking System Program. To be charged to Account No. 39-178-97-5-0-041, Police–Domestic Violence Grant, Pro Arrest, 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 payment of an invoice from Apex Demolition Co., Inc., in the amount of \$3,756.83, for demolition of two structures: 507 Wyoming Street, and 507 ½ Wyoming Street, in accordance with the contract entered into March 5, 2001, at the rate of \$1.19 per square foot. To be charged to Account No. 25-001-00-033, CDBG–Demolition and Clearance, 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-26, nays-0, absent-1, as follows:

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

NAYS: None.

ABSENT: Talkington

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

REPORTS OF OFFICERS

1. Report of the City of Charleston Payroll Variance Analysis; January 2002;

Received and Filed

2. Report of the Charleston Building Department, December, 2001;

Received and Filed.

NEW BILLS INTRODUCED

Introduced by Councilwoman Mary Jean Davis, on February 4, 2002:

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 2 home-based business as a special permit use, and establishing standards for home-based businesses.

Refer to Planning Commission.

Introduced by Councilman Jim Harris, on February 4, 2002:

BILL NO. 6880, a Bill amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 7th day of March 1983, as amended, and the map made a part thereof, by rezoning from an R-4 to a C-10 district, with revised restricted land use as provided in Section 2 below, those certain parcels of land situated near Hillcrest Drive, East, Charleston, West Virginia.

Refer to Planning Commission.

Introduced by Councilman Jim Harris, on February 4, 2002:

BILL NO. 6882, a Bill to amend and re-enact Ordinance No. 4534 passed by Council February 20, 1990, establishing a No parking Anytime Tow-Away zone on the easterly side of Old Greenbrier Street from the intersection of Old Greenbrier Street and Oakridge Drive to a point of 60 feet north of the intersection of Old Greenbrier Street and Oakridge Drive.

Refer to Streets and Traffic.

UNFINISHED OR MISCELLANEOUS BUSINESS

ROLL CALL

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

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

ABSENT: Talkington.

At 8:55 p.m., on motion of Councilman Loeb, Council adjourned until 7:00 p.m., Tuesday, February 19, 2002.

Jay Goldman, Honorable Mayor

James M. Reishman, City Clerk