

JOURNAL
OF THE
COUNCIL
CITY OF CHARLESTON
WEST VIRGINIA
OCTOBER 7, 2002

THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE FIRST MEETING IN THE MONTH OF OCTOBER ON THE 7TH 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 HENERY KNAUFF, AND THE PLEDGE OF ALLEGIANCE WAS LEAD BY ED TALKINGTON.

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

CHARNOCK	CRICKENBERGER	DAVIS
	HAAS	HARRIS
HENRY	JONES	KIMBERLING
KNAUFF	LANE	DAVID LANHAM
JAMES LANHAM	LOEB	LOPEZ
MARKHAM	MCKNIGHT	MOLGAARD
MORTON	NIELSEN	PETTRY
	TALKINGTON	QUICK
REISHMAN	ROLLER	MAYOR GOLDMAN

TWENTY-FIVE 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.

OCTOBER 7, 2002, FIRST MEETING

CHARLESTON CITY COUNCIL JOURNAL OCTOBER 7, 2002

PUBLIC SPEAKERS

1. NONE

SWEARING IN OF THE NEW FIRE CHIEF GRANT GUNNOE.

CLAIMS

1. A claim of Brandi Edens, 147 Snowhill Drive., Charleston, WV; alleges damage to vehicle;
Refer to City Solicitor.

2. A claim of Edward Ball, 3709 Venable Ave., Charleston, WV; alleges damage to property;
Refer to City Solicitor.

3. A claim of Jeremy Stanley, 158 Lincoln Heights., Alum Creek, WV; alleges damage to
vehicle;
Refer to City Solicitor.

3. A claim of Jacquelyn Lilly, 1618 Kirklee Rd., Charleston, WV.; alleges damage to property;
Refer to City Solicitor.

COMMUNICATIONS

PROCOLAMATIONS

ONE FOLLOWING

APPOINTMENT

ONE FOLLOWING

MISCELLANEOUS RESOLUTIONS

RESOLUTION NO. 94-02

Introduced in Council

Adopted by Council

October 7, 2002

Mayor Jay Goldman and
Members of City Council

Resolution No. 94-02: Endorsing the Tuesday, November 5, 2002 special levy election to support operations of the Kanawha Valley Regional Transportation Authority and Kanawha County Emergency Ambulance Authority.

WHEREAS, by order of the Kanawha County Commission, dated July 11, 2002, a special levy election has been set for Tuesday, November 5, 2002, to provide the voters of Kanawha County the opportunity to approve an excess levy for the years beginning July 1, 2004, 2005, and 2006, to support the operations of the Kanawha Valley Regional Transportation Authority (KVRTA), the owner and operator of the public bus transportation system serving Kanawha county and its citizen, the Kanawha County Emergency Ambulance Authority (KCEAA) which has established and maintains an emergency ambulance system for Kanawha County and the establishment of an Emergency Services Fund to assist and support public law enforcement and public fire protection agencies within Kanawha County; and

WHEREAS, the proposed excess levy is needed for the continued operation of KVRTA and KCEAA, and to assist local police and fire departments to meet the public safety concerns of the citizens and will be used to provide funds for the acquisition of equipment, capital improvements and to cover in part current general maintenance and operational expenses as well as match funds from the Government of the United States of America and others; and

WHEREAS, the proposed levy rate was not increased to ensure that the Kanawha County taxpayers will not face any increase in the taxes allocated for the Kanawha Valley Regional Transportation Authority (KVRTA), the Kanawha County Emergency Ambulance Authority (KCEAA), the City of Charleston Ambulance Service and the Public Law and Fire enforcement agencies of Kanawha County.

NOW, THEREFORE, BE IT RESOLVED by the City of Charleston, West Virginia

Does hereby endorse the proposed special levy to be voted on November 5, 2002, and urges all voters in Kanawha County to vote for the levy which will result in the continued operation and improvement of the mass transportation system, provide for the continued operation and expansion of the emergency ambulance system and provide supplemental funding for public law enforcement and public fire protection agencies within Kanawha County, all of which are essential to the

general welfare of all the people of Kanawha County.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 94-02 adopted unanimously.

FINANCE

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

1. Your Committee on Finance has had under consideration Resolution No. 80-02 and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 80-02 – “Authorizing the Mayor to sign the Fifth Amendment to the Lease Agreement with the Federal Deposit Insurance Corporation for 3, 476 square feet of space in Municipal Parking Building No. 1, located at Virginia and Dickinson streets, for the period October 31, 2002 to April 30, 2003, at the rate of \$2,679.42 per month, with the option to renew for an additional six-month period to October 31, 2003, at the same terms and conditions as set forth in the Agreement.”

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

That the Mayor is hereby authorized and directed to sign the Fifth Amendment to the Lease Agreement with the Federal Deposit Insurance Corporation for 3, 476 square feet of space in Municipal Parking Building No. 1, located at Virginia and Dickinson streets, for the period October 31, 2002 to April 30, 2003, at the rate of Two Thousand Six Hundred Seventy-nine Dollars and Forty-two Cents (\$2,679.42) per month, with the option to renew for an additional six-month period to October 31, 2003, at the same terms and conditions as set forth in the Agreement.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 80-02 adopted unanimously.

2. Your Committee on Finance has had under consideration Resolution No. 81-02 and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 81-02 – “Authorizing the Mayor to enter into a contract with AT&T, in the amount of \$3,548.25 per month, for the City’s cellular phone service (see attached tabulation sheet).”

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 AT&T, in the

amount of Three Thousand Five Hundred Forty-eight Dollars and Twenty-five cents (\$3,548.25) per month, for the City's cellular phone service.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 81-02 adopted unanimously

3. Your Committee on Finance has had under consideration Resolution No. 82-02 and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 82-02 – “Authorizing the Mayor to enter into a contract with Page One, in the amount of \$12,000 per year, for the City's pagers (see attached tabulation sheet).”

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 Page One, in the amount of Twelve Thousand Dollars (\$12,000) per year, for the City's pagers (see attached tabulation sheet).

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 82-02 adopted unanimously.

4. Your Committee on Finance has had under consideration Resolution No. 83-02 and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 83-02 – “Authorizing the Mayor to enter into an agreement with Bank One, for lease/purchase/loan rates at 3.71% on the amount of approximately \$1,300,000, for a ten (10) year period, for 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 an agreement with Bank One, for lease/purchase/loan rates at 3.71% on the amount of approximately \$1,300,000, for a ten (10) year period, for 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. 83-02 adopted unanimously.

5. Your Committee on Finance has had under consideration Resolution No. 84-02 and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 84-02 – “Authorizing the Mayor to sign Change Order No. 1 with URS Corporation, in the amount of \$14,476, for additional engineering services in connection with the Tennis Club Road Sidewalk Extension project.”

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

That the Mayor is hereby authorized and directed to sign Change Order No. 1 with URS Corporation, in the amount of Fourteen Thousand Four Hundred Seventy-six Dollars (\$14,476), for additional engineering services in connection with the Tennis Club Road Sidewalk Extension project.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 84-02 adopted unanimously.

6. Your Committee on Finance has had under consideration Resolution No. 85-02 and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 85-02 – “Authorizing the payment of attorney fees and cost to Rebecca Mathews in the amount of \$12,050.00 in regards to Mathews v. City of Charleston, et al., Civil Action No. 96-MISC-189, pursuant to an Order of the Court entered September 16, 1998, by A. Andrew MacQueen, Circuit Court Judge of Kanawha County.”

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

Authorizing the payment of attorney fees and cost to Rebecca Mathews in the amount of \$12,050.00 in regards to Mathews v. City of Charleston, et al., Civil Action No. 96-MISC-189, pursuant to an Order of the Court entered September 16, 1998, by A. Andrew MacQueen, Circuit Court Judge of Kanawha County.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 85-02 adopted unanimously.

7. Your Committee on Finance has had under consideration Resolution No. 86-02 and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 86-02 – “Authorizing the Finance Director to allocate funds in the amount of \$12, 000 for acquisition of one (1) CHDO Home project located in the South Hill area of Charleston.”

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 Twelve Thousand Dollars (\$12, 000) for acquisition of one (1) CHDO Home project located in the South Hill area of Charleston.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-27, nays-, and absent-2, as follows:

YEAS: Charnock, Crickenberger, Davis, Haas, Harris, Henry, Jones, Knauff, Lane, James Lanham, Lopez, Kimberling, Loeb, Markham, McKnight, Molgaard, Morton, Nielsen, Pettry,

Quick, Reishman, Roller, Talkington, David Lanham, and Mayor Goldman.

NAYS: None.

ABSENT: Fouty-Young, Prunty.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No.86-02, passed unanimously.

8. Your Committee on Finance has had under consideration Resolution No. 87-02 and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 87-02 – “Authorizing the Mayor to enter into contract with The Tinney Law Firm, PLLC, and George & Lorensen, PLLC, for combined representation of the City of Charleston in matters related to the assessment of municipal B&O taxed from trial lawyers working in Charleston who are not appropriately reporting for West Virginia municipal business and occupation tax purposes substantial legal fees earned in law suits pursued in courts within in Charleston. The legal fees will range from \$85.00 to \$200.00 per hour and the firms will receive and divide an amount equal to twenty-five percent (25%) of all funds collected.”

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

That the Mayor is hereby authorized and directed to enter into contract with The Tinney Law Firm, PLLC, and George & Lorensen, PLLC, for combined representation of the City of Charleston in matters related to the assessment of municipal B&O taxed from trial lawyers working in Charleston who are not appropriately reporting for West Virginia municipal business and occupation tax purposes substantial legal fees earned in law suits pursued in courts within in Charleston. The legal fees will range from \$85.00 to \$200.00 per hour and the firms will receive and divide an amount equal to twenty-five percent (25%) of all funds collected.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 87-02 adopted unanimously.

9. Your Committee on Finance has had under consideration Resolution No. 88-02 and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 88-02 – “Authorizing the Mayor to enter into a contract with Benatec Associated, in the amount of \$29,950, for a proposed annexation study and recommendations for the City of Charleston.”

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 Twenty Nine Thousand Nine Hundred Fifty Dollars (\$29,950), for a proposed annexation study and recommendations for the City of Charleston.

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

the Mayor declared Resolution No. 88-02 adopted unanimously.

10. Your Committee on Finance has had under consideration Resolution No. 89-02 and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 89 -02, as amended“ Authorizing an amendment to Resolution No. 56-02, as amended, for Stadium License, Lease and Service Agreement with the Charleston Professional Baseball Club, LLC, by deleting the words “contingent upon execution and delivery of a purchase agreement for the sale of Watt Powell Park.”

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

That an amendment to Resolution No. 56-02, as amended, for Stadium License, Lease and Service Agreement with the Charleston Professional Baseball Club, LLC, by deleting the words “contingent upon execution and delivery of a purchase agreement for the sale of Watt Powell Park” is hereby approved.

The amended Resolution will read as follows:

“Authorizing the Mayor to enter into a Stadium License, Lease and Service Agreement substantially in the form of the August 29, 2002 draft lease and including provisions that make the lease subject to adding forfeiture clause with listed defaults and remedies, and further subject to including a provision whereby the Professional Baseball Club will grant to the City, to the extent possible, security interests in its assets other than the franchise with the Charleston Professional Baseball Club, LLC, setting forth terms and conditions relating to the construction of a new baseball stadium, subject to the City of Charleston receiving State funds in the amount of \$12,000,000.”

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-23, nays-2, absent-2, as follows:

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

NAYS: Markham, Loeb.

ABSENT: Fouty-Young, Prunty.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No.89-02, as amended, passed unanimously.

11. Your Committee on Finance has had under consideration Resolution No. 90-02 and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 90-02 – “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-27, nays-, absent-2, as follows:

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

NAYS: None.

ABSENT: Fouty-Young, Prunty.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No.90-02, passed unanimously.

12. Your Committee on Finance has had under consideration Resolution No. 91-02 and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No 91-02 – “Authorizing the Mayor to sign an agreement with HNTB Corporation, in the amount of \$50,000, for additional funds to continue preliminary architectural and engineering services in connection with the new baseball stadium project. The funds will be credited against the total lump sum of \$1,069,850 approved for this project on September 3, 2002. The requested amount of \$50,000 and the previously approved amount of \$40,000 on September 16, 2002, leaves a total of \$979,850 for this project.”

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

That the Mayor is hereby authorized and directed to sign an agreement with HNTB Corporation, in the amount of Fifty Thousand Dollars (\$50,000), for additional funds to continue preliminary architectural and engineering services in connection with the new baseball stadium project. The funds will be credited against the total lump sum of \$1,069,850 approved for this project on September 3, 2002. The requested amount of \$50,000 and the previously approved amount of \$40,000 on September 16, 2002, leaves a total of \$979,850 for this project.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 91-02 adopted unanimously.

13. Your Committee on Finance has had under consideration Resolution No. 92-02 and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 92-02 – “Authorizing the Mayor to sign an agreement with Dick-Pray Alliance,

in the amount of \$20,000, for preliminary work in connection with the construction of the new baseball stadium. This amount will be credited against the total amount of \$115,026 approved by Council on September 3, 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 agreement with Dick-Pray Alliance, in the amount of Twenty Thousand Dollars (\$20,000), for preliminary work in connection with the construction of the new baseball stadium. This amount will be credited against the total amount of \$115,026 approved by Council on September 3, 2002.

The question being on the adoption of the Resolution a vote was taken. There being one vote in the negative from Markham, the Mayor declared Resolution No. 92-02 adopted.

14. Your Committee on Finance has had under consideration a bid submitted by Digitech Security Controls, Inc., in the amount of \$9,312.60, for purchase of digital surveillance/recording system (DSR) for the booking area of the Charleston Police Department. To be charged to Account No. 094-976-00-000-4-459, Police—Local 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.

15. Your Committee on Finance has had under consideration a payment of an invoice from Hope Community Development Corporation, in the amount of \$25,000, for reimbursement of Operational Expenses for the youth program. To be charged to Account No. 009-001-00-011-0-999, CDBG –Public 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 roll call was taken and there were; yeas-27, nays-0, absent-2, as follows:

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

NAYS: None.

ABSENT: Fouty-Young, Prunty.

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

16. Your Committee on Finance has had under consideration a payment of an invoice from RCCR/Smith Street Station, in the total amount of \$10,219.71, for two invoices covering reimbursement costs for operational expenses for the months of July and August 2002. To be charged to Account No. 009-002-00-011-0-999, CDBG –Public 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 roll call was taken and there were; yeas-26, nays-0, absent-2, abstain-1, as follows:

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

NAYS: None.

ABSENT: Fouty-Young, Prunty.

ABSTAIN: Molgaard.

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

17. Your Committee on Finance has had under consideration a payment of an invoice from Daniels Law Firm, in the amount of \$7,900, for professional services rendered relating to hiring of architect and construction manager for the new baseball stadium. To be charged to Account No. 001-417-00-000-2-223, Legal Department—Professional 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.

18. Your Committee on Finance has had under consideration a payment of an invoice from Bowles, Rice, McDavid, Graff & Love, in the total amount of \$3,652.73, for four invoices relating to general representation for the Police Civil Service Commission during the month of June 2002. To be charged to Account No. 001-417-00-000-2-223, Legal Department—Professional Services and reports the same to Council with the recommendation that the committee report be adopted.

Abstain: Lane, Loeb, Markham.

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.

REPORTS OF OFFICERS

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

2 Report of the City of Charleston Payroll Variance Analysis; August 2002; Received and Filed.

NEW BILLS INTRODUCED

Introduced by Councilman James Lanham on October 7, 2002:

Bill No. 6942, A Bill to establish a 20 Mile Per Hour speed limit on Temple Street and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.

Refer to Streets and Traffic Committee.

UNFINISHED OR MISCELLANEOUS BUSINESS

Linda Wright from the Kanawha County Public Library conducted a 10 minute presentation about site plans for the new Kanawha County Public Library.

ROLL CALL

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

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

ABSENT: Fouty-Young, Prunty.

At 8:45 p.m., on motion of Councilman Loeb, Council adjourned until 7:00 p.m., Monday, October 21, 2002.

Jay Goldman, Honorable Mayor

James M. Reishman, City Clerk