

JOURNAL
OF THE
COUNCIL
CITY OF CHARLESTON
WEST VIRGINIA

DECEMBER 1, 2003

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 1st DAY, IN THE YEAR 2003, AND WAS CALLED TO ORDER BY THE HONORABLE MAYOR, DANNY JONES, AT 7:00 P.M. THE INVOCATION WAS DELIVERED BY HARRY DEITZLER, AND THE PLEDGE OF ALLEGIANCE WAS LEAD BY MARY JEAN DAVIS.

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

CHESTNUT	CLOWSER	DEITZLER
DAVIS		HALL
HANNA	HARRIS	HARRISON
HIGGINS	JONES	LANE
LANHAM	LOEB	MORTON
MILLER	MONROE	MARKHAM
NIELSEN	REED	
ROBERTSON	SADD	TALKINGTON
WARE	WEINTRAUB	WHITE
MAYOR JONES		

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 1, 2003, FIRST MEETING

CHARLESTON CITY COUNCIL JOURNAL NOVEMBER 17, 2003

PUBLIC SPEAKERS

1. Susie Salisbury, Charleston Renaissance.
2. Thaleor Patel, Charleston, WV.

CLAIMS

1. A claim of Rachal Saunders, 673 Gordon Dr., Charleston WV; alleges damage to property; Refer to City Solicitor.
2. A claim of Eugene Norman, 605 Randolph St., Charleston WV; alleges damage to vehicle; Refer to City Solicitor.
3. A claim of Geoff Korwan, 659 Holly Rd., Charleston, WV; alleges damage to property; Refer to City Solicitor.
4. A claim of Ann Moran, 8 Hunter Point Rd, Charleston, WV; alleges damage to property. Refer to City Solicitor.

COMMUNICATIONS

The Mayor Read the following Public Hearing:

AFTER DULY BEING PUBLISHED AS REQUIRED, I NOW DECLARE THE FLOOR OPEN FOR A PUBLIC HEARING ON RESOLUTION NO. 412-03, A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A TWO YEAR LEASE AGREEMENT WITH CHARLESTON HOSPITAL, INC., FOR PORTION OF THE OLD FARMER'S MARKET PARKING LOT.

THE CHAIR SEES NO ONE FROM THE PUBLIC.

THE CHAIR HEARS NO ONE FROM THE PUBLIC.

THE CHAIR DECLARES PUBLIC HEARING ON

RESOLUTION NO. 412-03, CLOSED.

MISCELLANEOUS RESOLUTIONS

Resolution No. 431-03

Introduced in Council:

December 1, 2003

Introduced by:

Mary Jean Davis

RESOLUTION

WHEREAS the Board of Directors of the Charleston Renaissance Corporation, along with the West Virginia Development Office's Main Street West Virginia program, joined in the creation of East End Main Street to stimulate and restore viability to the commercial corridors Charleston's East End through preservation of its historic resources and education; and

WHEREAS, the West Virginia Development Office has submitted to the Office of the Governor, as its only improvement package for inclusion in the Governor's Fiscal Year 2005 budget, a request of \$468,200 to provide funding for nationally-certified Main Street communities in the State and necessary staff support in the Main Street West Virginia office:

NOW, THEREFORE, BE IT RESOLVED that the City of Charleston hereby urges Governor Wise to include funding for nationally-certified Main Street Communities in his 2005 budget submission to the West Virginia Legislature.

FINANCE

Councilman Charlie Loeb, Vice Chairman of the Council Committee on Finance, submitted the following reports.

1. Your Committee on Finance has had under consideration Resolution No. 412-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 412-03 – "Authorizing the Mayor to enter into a two-year Lease Agreement with Charleston Hospital, Inc., dba Saint Francis Hospital, for leasing of a portion of the Old Farmer's Market parking lot (see attached map) at the rate of \$2,000 per month."

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 two-year Lease Agreement with Charleston Hospital, Inc., dba Saint Francis Hospital, for leasing of a portion of the Old Farmer's Market parking lot (see attached map) at the rate of Two Thousand Dollars (\$2,000) per month.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 412-03, adopted. Abstain- Sadd, Weintraub.

2. Your Committee on Finance has had under consideration Resolution No. 427-03, as amended, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 427-03, as amended – “Authorizing ‘Citizen Appreciation Parking’ for each specified Saturday during the month of December 2003 (6th, 13th, 20th, 27th). ‘Citizen Appreciation Parking’ shall include the waiving of hourly parking fees at all City-operated facilities excluding Parking Building #2, and all metered on-street parking spaces. If ratified by full Council, the revenue losses, at \$1,000 per Saturday, will be paid from General Revenue funds, as amended by Resolution No. 401-99, adopted December 6, 1999.”

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

That ‘Citizen Appreciation Parking’ for each specified Saturday during the month of December 2003 (6th, 13th, 20th, 27th) is hereby approved. ‘Citizen Appreciation Parking’ shall include the waiving of hourly parking fees at all City-operated facilities excluding Parking Building #2, and all metered on-street parking spaces. If ratified by full Council, the revenue losses, at One Thousand Dollars (\$1,000) per Saturday, will be paid from General Revenue funds, as amended by Resolution No. 401-99, adopted December 6, 1999.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 427-03, adopted.

3. Your Committee on Finance has had under consideration Resolution No.424-03, and reports the same to Council with the recommendation that the Committee report be adopted.

Resolution No. 424-03 – “Authorizing the Finance Director to allocate funds in the amount of \$4,500 for rehabilitation of an owner-occupied residence on the City’s west side.”

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 Four Thousand Five Hundred Dollars (\$4,500) for rehabilitation of an owner-occupied residence on the City’s west side.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-26, nays-0, absent-2, as follows:

YEAS: Chestnut, Clowser, Davis, Deitzler, Hall, Hanna, Harris, Harrison, Higgins, Jones, Lane, Lanham, Loeb, Markham, Miller, Monroe, Morton, Nielsen, Reed, Robertson, Sadd, Talkington, Ware, Weintraub, White, Mayor Jones.

NAYS:

ABSENT: Foster, Reishman.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 424-03, adopted.

4. Your Committee on Finance has had under consideration Resolution No. 425-03, and reports the same to Council with the recommendation that the Committee report be adopted.

Resolution No. 425-03 – “Authorizing the Finance Director to make revisions to the 2003-2004 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 2003-2004 General Fund budget as indicated on the attached list of accounts; and be it

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

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-26, nays-0, absent-2, as follows:

YEAS: Chestnut, Clowser, Davis, Deitzler, Hall, Hanna, Harris, Harrison, Higgins, Jones, Lane, Lanham, Loeb, Markham, Miller, Monroe, Morton, Nielsen, Reed, Robertson, Sadd, Talkington, Ware, Weintraub, White, Mayor Jones.

NAYS:

ABSENT: Foster, Reishman.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 425-03, adopted.

5. Your Committee on Finance has had under consideration Resolution No. 426-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 426-03 – “Authorizing the Finance Director to make refund to Ohio Concrete Sawing and Drilling, Inc., in the amount of \$5,890.90, representing taxes on all its sales in West Virginia for the period of the first quarter of 2001 through the first quarter of 2003 being paid to the City 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 make a refund to Ohio concrete

Sawing and Drilling, Inc., in the amount of Five Thousand Eight Hundred Ninety Dollars and Ninety Cents (\$5,890.90), representing taxes on all its sales in West Virginia for the period of the first quarter of 2001 through the first quarter of 2003 being paid to 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. 426-03, adopted.

6. Your Committee on Finance has had under consideration Resolution No. 428-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 428-03 – “Authorizing the Finance Director to amend the 2003 Community Development Block Grant 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 2003 Community Development Block Grant budget 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 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-2, as follows:

YEAS: Chestnut, Clowser, Davis, Deitzler, Hall, Hanna, Harris, Harrison, Higgins, Jones, Lane, Lanham, Loeb, Markham, Miller, Monroe, Morton, Nielsen, Reed, Robertson, Sadd, Talkington, Ware, Weintraub, White, Mayor Jones.

NAYS:

ABSENT: Foster, Reishman.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 428-03, adopted.

7. Your Committee on Finance has had under consideration Resolution No. 429-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 429-03 – “Authorizing the Mayor to enter into an agreement with AT&T Wireless to provide wireless data transport services to the City of Charleston Police Department Mobile Data Network at an annual estimated cost of \$41,263.20.”

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 AT&T Wireless to provide wireless data transport services to the City of Charleston Police Department Mobile Data Network at an annual estimated cost of Forty-one Thousand Two Hundred Sixty-three Dollars and Twenty Cents (\$41,263.20). The annual estimated recurring costs are as follows:

Frame Relay	\$6,588.00
Public IPs	1,080.00
Individual Device Rate Service	<u>33,595.20</u>
	\$41,263.20

This agreement provides to the City of Charleston, at no additional cost, 40 Sierra Wireless modems with a retail value of approximately \$40,000.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 429-03, adopted.

8. Your Committee on Finance has had under consideration Resolution No. 430-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 430-03 – “Authorizing the Mayor to enter into a Commercial Account Agreement with Bank One, West Virginia, NA, to provide all services relating to deposits and withdrawals on City account with commencement of the Agreement to be on the date of receipt and acceptance by Bank One, and ending on the second anniversary of the commencement date.”

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 Commercial Account Agreement with Bank One, West Virginia, NA, to provide all services relating to deposits and withdrawals on City account with commencement of the Agreement to be on the date of receipt and acceptance by Bank One, and ending on the second anniversary of the commencement date.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 430-03, adopted. Abstain- Weintraub

9. Your Committee on Finance has had under consideration a bid submitted by Charleston Blue Print, Inc., in the amount of \$6999, for purchase of a wide-format analog copier to be used by the Engineering Department. To be charged to Account No. 001-975-00-420-4-459, Engineering – Capital Outlay, Equipment, and reports the same to Council with the recommendation that the committee be adopted.

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

10. Your Committee on Finance has had under consideration a bid submitted by Stephens Auto Center, in the amount of \$21,869, for purchase of a 4X4 Dodge Durango to be used by the Engineering Department. To be charged to Account No. 001-975-00-420-4-461, Engineering-

Capital Outlay, Lease/Purchase, and reports the same to Council with the recommendation that the committee be adopted.

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

11. Your Committee on Finance has had under consideration Bill No. 7023, and reports the same to Council with the recommendation that the Bill do pass, as amended.

Bill No. 7023 -Authorizing and directing the Mayor to convey, by quit claim deed, the City of Charleston's interest and rights to a parcel of property, known as the second half of Old White Oak Road, which was closed and abandoned by the City of Charleston on March 16, 1998.

WHEREAS, On March 16, 1998 Council passed a resolution which closed, abandoned and discontinued *all* of old White Oak Road, and directed the Mayor to convey all right, title and interest in *one half* (parcel two on attached map) of the old road to the adjacent property owner, James H. Harless, in exchange for consideration in the amount of \$625.00;

WHEREAS, the City of Charleston held a public auction at which an additional parcel, described as Tax parcel 51 on the attached map, was sold to James H. Harless, for \$6,875.00;

WHEREAS, James H. Harless was of the belief that he also purchased the remaining one half of old White Oak Road (parcel one on attached map) at this auction and believes he paid appropriate and complete consideration for both parcels;

WHEREAS, Mr. Harless recently discovered that the ordinance (No. 6549) and deed (2477 page 594) conveying parcel 51 to him mistakenly did not include the this second half of Old White Oak Road (parcel one);

WHEREAS, Mr. Harless would now like to take to acquire all the City of Charleston's interest and rights to parcel one in exchange for the additional consideration on one dollar (\$1.00);

WHEREAS, as the only adjacent property owner to the previously closed and abandoned road, Mr. Harless is entitled to purchase the parcel from the City without the need for a public auction.

WHEREAS, the legal description of the property is attached hereto as Exhibit 2.

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

That the Mayor is authorized and directed to convey, by quit claim deed, all of the City of Charleston's interest and rights to a parcel of property, known as the second half of Old White Oak Road (parcel one), to James H. Harless in exchange for additional consideration in the amount of \$1.00.

This ordinance is to become effective immediately upon passage.

The question being on the passage of the Bill a roll call was taken and there yeas-26, nays-0, absent-2, as follows:

YEAS: Chestnut, Clowser, Davis, Deitzler, Hall, Hanna, Harris, Harrison, Higgins, Jones, Lane, Lanham, Loeb, Markham, Miller, Monroe, Morton, Nielsen, Reed, Robertson, Sadd, Talkington, Ware, Weintraub, White, Mayor Jones.

NAYS:

ABSENT: Foster, Reishman.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Bill No. 7023, passed.

12. Your Committee on Finance has had under consideration Bill No. 7025, and reports the same to Council with the recommendation that the Bill do pass, as amended.

Bill No. 7025, as amended – A Bill authorizing and directing the Mayor of the City of Charleston to accept a deed from the Charleston Housing Authority for a .07 acre parcel of property described more fully below for consideration in the amount of \$1.00 and for the purpose of adding driveway space to the Public Safety Center in Orchard Manor, approval subject to subdivision approval by Municipal Planning Commission.

WHEREAS, the City of Charleston desires to acquire this property in addition to parcels A and B which the City has already been authorized to accept, for the purpose of adding driveway space to the Public Safety Center;

WHEREAS, the Charleston Housing Authority holds said property in trust for the benefit of the residents of public housing; and as such, requires that the property be used for the benefit of said residents;

WHEREAS, it is believed that the Public Safety Center would be beneficial to the residents of public housing in Orchard Manor and also beneficial to all citizens of The City of Charleston;

WHEREAS, said parcel is described in the attached map prepared by Carr Engineering and Surveying Co.;

WHEREAS, the legal description of said parcel follows:

Beginning at rebar found located in the easterly right of way line of Copenhaver Drive across from Lippert Street intersection, a corner of Parcel "A" located S28-01'-00W, 222.65' from a rebar near Hutchinson Street in the easterly r/w line of Copenhaver Drive, then with said r/w line S28-01'-00"W, 14.00' to a 3/4" iron pipe set in said r/w line, the S62-17'-01" E, 217.13' to a 3/4" iron pipe set near the west bank of Kanawha Two-Mile Creek, then N33-30'-00" E, 14.07' to rebar found, a corner of Parcel "A" thence with property line of Parcel "A" N62-17"-00" W, 153.19' to rebar found and continuing N62-

17'-00" W, 65. 28' to the beginning, a total of 218.47', containing 0.07 acre, as shown on a map dated September 17, 2002 prepared by Carr Engineering and Surveying Company; and,

WHEREAS, the City as previously authorized to accept parcels A & B by ordinance No. 6924.

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

Mayor of the City of Charleston is authorized and directed to accept a deed from the Charleston Housing Authority for the .07 acre parcel described above for consideration in the amount of \$1.00.

The question being on the passage of the Bill a roll call was taken and there yeas-26, nays-0, absent-2, as follows:

YEAS: Chestnut, Clowser, Davis, Deitzler, Hall, Hanna, Harris, Harrison, Higgins, Jones, Lane, Lanham, Loeb, Markham, Miller, Monroe, Morton, Nielsen, Reed, Robertson, Sadd, Talkington, Ware, Weintraub, White, Mayor Jones.

NAYS:

ABSENT: Foster, Reishman.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Bill No. 7025, as amended, passed.

13. Your Committee on Finance has had under consideration a payment of an invoice from Visionair, in the amount of \$13,564, for Software Installation, training and maintenance fees for computer system in Municipal Court. To be charged to Account No. 001-975-00-439-4-459, IS-Capital Outlay, Equipment, and reports the same to Council with the recommendation that the committee 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 A payment of an invoice from YWCA Senior Housing Project, in the amount of \$75,000, for costs related to acquisition for properties located at 509 and 511 Elizabeth Street. To be charged to Account No. 009-003-00-006-0-999, CDBG-Acquisition of Property, and reports the same to Council with the recommendation that the committee 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, as follows:

YEAS: Chestnut, Clowser, Davis, Deitzler, Hall, Hanna, Harris, Harrison, Higgins, Jones, Lane, Lanham, Loeb, Markham, Miller, Monroe, Morton, Nielsen, Reed, Robertson, Sadd, Talkington, Ware, Weintraub, White, Mayor Jones.

NAYS:

ABSENT: Foster, Reishman.

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

15. Your Committee on Finance has had under consideration a A payment of an invoice from Dunn Engineers, Inc., in the amount of \$4,525, for general engineering services associated with the Kanawha City Kroger Crime Scene Investigation. To be charged to Account No. 001-700-00-000-2-223, Police – Professional Services, and reports the same to Council with the recommendation that the committee 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, Abstain- Morton.

16. Your Committee on Finance has had under consideration a Payment of an invoice from Bowles, Rice, McDavid, Graff & Love, in the amount of \$10,000, for the second and final installment for professional services associated with Police Rank Promotional Tests. To be charged to Account No. 001-700-00-000-2-223, Police – Professional Services, and reports the same to Council with the recommendation that the committee 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, Abstain- Markham, Lane, Loeb.

17. Your Committee on Finance has had under consideration a payment of an invoice from The Tinney Law Firm, PLLC, fir professional services rendered during the month of October, in the amount of \$4,688.30, regarding the claim Cagle v. City of Charleston and Kenneth Guthrie. To be charged to Account No. 001-417-00-000-2-223, Legal-Professional Services, and reports the same to Council with the recommendation that the committee 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 A payment of an invoice from Spilman, Thomas & Battle, PLLC, in the amount of \$5,297.29, for professional services rendered during the months of September and October 2003 relating to acquisition of property for new ballpark. To be charged to Account No. 001-417-00-000-2-223, Legal Department- Professional Services, and reports the same to Council with the recommendatio n that the committee be adopted, Abstain- Davis, Sadd.

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.

19. Your Committee on Finance has had under consideration a payment of an invoice from Spilman, Thomas & Battle, PLLC, in the amount of \$23,962.36, for professional services

rendered during the month of September 2003, in the matter concerning West Virginia-American Water Company's pending rate case before the Public Service Commission of West Virginia. 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 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, Abstain- Davis, Loeb, Ware.

REPORTS OF OFFICERS

1. City Treasurer's Report to City Council Month Ending October 2003;
Received and Filed

NEW BILLS INTRODUCED

Introduced by Councilman David Higgins, on December 1, 2003:

Bill No. 7026, amending and reenacting Chapter 114, Section 578 the City Code titled "Residential Permit Parking", said amendments allowing owners of non residential buildings within designated areas to purchase one (1) visitor permit and providing a procedure for the declassification of residential permit parking areas.

Refer to Streets and Traffic Committee.

UNFINISHED OR MISCELLANEOUS BUSINESS

A presentation was given by Dave Hofsteller from the Route 35 Committee, about the new Interstate in Putnam County.

ROLL CALL

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

YEAS: Chestnut, Clowser, Davis, Deitzler, Hall, Hanna, Harris, Harrison, Higgins, Jones, Lane, Lanham, Loeb, Markham, Miller, Monroe, Morton, Nielsen, Reed, Robertson, Sadd, Talkington, Ware, Weintraub, White, Mayor Jones.

ABSENT: Foster, Reishman.

At 7:50 p.m., on motion of Councilman Loeb, Council adjourned until December 15, 2003, at 7:00 p.m.

Danny Jones, Honorable Mayor

James M. Reishman, City Clerk