

JOURNAL  
OF THE  
COUNCIL

CITY OF CHARLESTON

WEST VIRGINIA

FEBRUARY 18, 2003

THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE SECOND MEETING IN THE MONTH OF FEBRUARY ON THE 18TH DAY, IN THE YEAR 2003, AND WAS CALLED TO ORDER BY THE HONORABLE MAYOR, JAY GOLDMAN, AT 7:00 P.M. THE INVOCATION WAS DELIVERED BY BILL KIMBERLING, AND THE PLEDGE OF ALLEGIANCE WAS LEAD BY THE BOY SCOUTS TROOP 2.

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

CHARNOCK  
FOUTY-YOUNG  
JONES  
LANE  
LOEB  
MCKNIGHT  
NIELSEN  
QUICK  
TALKINGTON

CRICKENBERGER  
KIMBERLING  
JAMES LANHAM  
LOPEZ  
MOLGAARD  
PETTRY

DAVIS  
HARRIS  
KNAUFF  
DAVID LANHAM  
MARKHAM  
MORTON  
PRUNTY  
ROLLER  
MAYOR GOLDMAN

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

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

FEBRUARY 18, 2003, SECOND MEETING

CHARLESTON CITY COUNCIL JOURNAL FEBRUARY 18, 2003

**PUBLIC SPEAKERS**

1. NONE

**CLAIMS**

1. A claim of John E. Peyton, 407 12<sup>th</sup> St., SE., Charleston, WV; alleges damage to vehicle; Refer to City Solicitor.
2. A claim of Mary Schiano, 13 Courtney Dr., Charleston, WV; alleges damage to property; Refer to City Solicitor.
3. A claim of Jason Floyd, 1213 Olsen Rd., Charleston, WV; alleges damage to property; Refer to City Solicitor.

**COMMUNICATIONS**

NONE.

**MISCELLANEOUS RESOLUTIONS**

NONE.

**PLANNING**

Your Committee on Planning has had under consideration Bill No. 6944, a Bill closing, abandoning and discontinuing as a public road the unimproved portion of Somerset Drive, formerly Valley Drive which extends from Highland Road to Forest Drive in Block 500 of Fairview; and reserving sewer easements for the City of Charleston, West Virginia.

**BE IT ORDINAINED BY THE COUNCIL OF THE CITY OF CHARLESTON WEST VIRGINIA**

The unimproved portion of Somerset Drive, formerly Valley Drive which extends from Highland Road to Forest Drive in Block 500 of Fairview Dr is hereby closed, abandoned and discontinued.

The City of Charleston hereby reserves a sewer easement for the full length and width of the above described right-of-way for the purpose of construction, maintenance, repair and removal of storm and sanitary lines. No person shall construct improvements, plant trees or other vegetation, or take an other action which would interfere with their easement, nor alter the

present surface profile or contour of the subject right-of-way by more than one (1) foot without written permission of the Sanitary Board of the City of Charleston and the City Engineer of the City of Charleston.

The Mayor of the City of Charleston be, and is hereby authorized and directed to execute, acknowledge and deliver a proper deed conveying to George Pozega and Jean Pozega all right, title and interest in and to said portion of Somerset Drive formerly Valley Drive that is except as provided in section two of this ordinance, upon payment of \$\_\_, (\$ ).

All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency.

Councilwoman Mary Jean Davis made the recommendation to refer the Bill to the Finance Committee.

The Mayor Referred Bill No. 6944, to the Finance Committee of Council.

## **STREETS AND TRAFFIC**

Your Committee on Streets and Traffic has had under consideration Bill No. 6964, and reports the same to Council with the recommendation that the bill do pass.

Bill No. 6964 – “A Bill to eliminate the Traffic Signal at the intersection of Ruffner Avenue and Jackson 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.

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

**Section 1.** The Traffic Signal at the intersection of Ruffner Avenue and Jackson Street is hereby eliminated.

**Section 2.** 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, shall be and hereby are amended, to conform to this Ordinance.

The question being on the passage of the Bill a roll call was taken and there were; yeas-24, nays-0, absent-3, as follows:

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

NAYS: None.

ABSENT: Haas, Reishman, Weintraub.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Bill No. 6964, passed.

Your Committee on Streets and Traffic has had under consideration Bill No. 6965, and reports the same to Council with the recommendation that the bill do pass.

Bill No. 6965 – “A Bill to establish a **Stop** intersection on Jackson Street at the intersection of Jackson Street and Ruffner 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.

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

**Section 1.** A **Stop** intersection on Jackson Street at the intersection of Jackson Street and Ruffner Avenue is hereby established.

**Section 2.** 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, shall be and hereby are amended, to conform to this Ordinance.

The question being on the passage of the Bill a roll call was taken and there were; yeas-24, nays-0, absent-3, as follows:

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

NAYS: None.

ABSENT: Haas, Reishman, Weintraub.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Bill No. 6965, passed.

## **FINANCE**

1. Your Committee on Finance has had under consideration: Resolution No. 144-03, and reports the same to Council with the recommendation that the committee report be adopted, as amended.

Resolution No. 144-03, as amended – “Authorizing the Mayor to enter into a contract amendment with the West Virginia Little League wherein the term of the agreement entered into on April 19, 2001, for its shared use of Watt Powell Park will be extended one additional year, or until December 31, 2003.

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

That the Mayor be authorized to enter into a contract amendment with the West Virginia Little League, pursuant to the terms set forth above and other terms approved by the City Attorney.

February 18, 2003: Amended in Finance Committee to read as follows:

“Authorizing the Mayor to enter into a contract with the West Virginia Little League and the University of Charleston for their uses of Watt Powell Park and Blackwell Field until December 31, 2003.”

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 144-03 as amended, adopted unanimously.

2. Your committee on Finance has had under consideration Resolution No. 190-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 190-03 – “Resolution stating the reasonable expectation of The City of Charleston, West Virginia, to reimburse the City for capital expenditures in connection with the acquisition, construction and equipping of certain extensions and additions to the municipal sewerage system facilities made prior to the issuance of tax-exempt revenue Bonds.

WHEREAS, The City of Charleston (the “City”), a municipal corporation and political subdivision of the State of West Virginia, owns and operates a municipal sewerage system (the “System”) which is under control of the Sanitary Board (the “Sanitary Board”) and has determined that certain improvements must be made to the System;

WHEREAS, the City thereby determines that it is necessary to move forward with the design, acquisition, construction and equipping of certain improvements, extensions and additions to the System, consisting of the major upgrades, designated as Phase I and Phase II, to the wastewater treatment plant and pump stations and all appurtenant facilities (the “Project”) at an estimated cost not to exceed \$31,000,000;

WHEREAS, prior to obtaining financing through the issuance of tax-exempt revenue bonds of the City (the “Bonds”), the City anticipates expending funds for design, acquisition, construction and equipping of the Project, certain engineering, environmental and other studies and certain architectural, regulatory approval and other activities, all of which capital expenditures will initially be paid from the Sanitary Board’s “Operating Account;”

WHEREAS, the City reasonably expects to reimburse the Operating Account for such pre-issuance capital expenditures, which are estimated not to exceed \$2,500,000 from the proceeds of the sale of the Bonds;

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHARLESTON, WEST VIRGINIA, AS FOLLOWS:

**Section 1.** The City reasonably expects to reimburse itself for capital expenditures made in

connection with the design, acquisition, construction and equipping of the Project, including expenditures for engineering, environmental and other studies, architectural, regulatory approval and other activities prior to the execution and delivery of the Bonds, from the proceeds of the Bonds, which are reasonably expected to be executed and delivered within one year from the later of (i) the expenditure for payment of said costs or (ii) placing of the Project in service

**Section 2.** This Resolution is intended to constitute a “declaration of official intent” pursuant to Section 1.150-2 of the Treasury Regulations promulgated under the Internal Revenue Code of 1986, as amended (the “Reimbursement Regulations”).

**Section 3.** The source of payment for such capital expenditures will be the Sanitary Board’s Operating Account and upon issuance of the Bonds, proceeds thereof not to exceed the amount of such capital expenditures will be applied to reimbursement of the Sanitary Board’s Operating Account.

**Section 4.** The maximum amount of such reimbursement is a \$2,500,000 and the maximum principal amount of Bonds to be issued for design, acquisition, construction and equipping of the Project is \$31,000,000.

**Section 5.** This Resolution shall become effective on the date of its adoption.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 190-03, adopted, Charlie Loeb abstained.

3. Your Committee on Finance has had under consideration Resolution No. 191-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 191-03 – “Authorizing the Mayor to sign an Economic Development Assistance Grant Program Contract with the West Virginia Development Office for improvements to Ruffner Park, the Municipal Auditorium, and Holtz Elementary School, in the amount of \$50,000.”

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

That the Mayor is hereby authorized and directed to sign an Economic Development Assistance Grant Program Contract with the West Virginia Development Office for improvements to Ruffner Park, the Municipal Auditorium, and Holtz Elementary School, in the amount of Fifty Thousand Dollars (\$50,000).

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 191-03, adopted with one “Nay” from Ditty Markham.

4. Your Committee on Finance has had under consideration Resolution No. 192-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 192-03 – “Authorizing the Mayor to sign a contract with Astech Corporation, in

the amount of \$48,770, for demolition of properties at 1545, 1547, 1549 Lewis Street, and 508 Thompson Street (Broadmoor Apartments).”

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

That the Mayor is hereby authorized and directed to sign a contract with Astech Corporation, in the amount of Forty-eight Thousand Seven Hundred Seventy Dollars (\$48,770), for demolition of properties at 1545, 1547, 1549 Lewis Street, and 508 Thompson Street (Broadmoor Apartments).

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-24, nays-0, absent-3, as follows:

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

NAYS: None.

ABSENT: Haas, Reishman, Weintraub.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 192-03, adopted.

5. The Committee on Finance has had under consideration Resolution No. 193-03, and reports the same to Council with the recommendation that the committee report be adopted, as amended.

Resolution No. 193-03, as amended – “Authorizing the Mayor to enter into a contract with Asbestos Consulting Inc., in the amount of \$6,970, for asbestos abatement of properties at 1545, 1547, 1549 Lewis Street, and 508 Thompson Street (Broadmoor Apartments).”

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 Asbestos Consulting Inc., in the amount of Six Thousand Nine Hundred Seventy Dollars (\$6,970), for asbestos abatement of properties at 1545, 1547, 1549 Lewis Street, and 508 Thompson Street (Broadmoor Apartments).

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-24, nays-0, absent-3, as follows:

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

NAYS: None.

ABSENT: Haas, Reishman, Weintraub.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 193-03 as amended, adopted.

6. The Committee on Finance has had under consideration Resolution No. 195-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 195-03 – “Authorizing approval of the 2003-2004 Civic Center Budget as indicated on the attached list of accounts.”

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

That the 2003-2004 Civic Center Budget as indicated on the attached list of accounts, is hereby approved.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-24, nays-0, absent-3, as follows:

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

NAYS: None.

ABSENT: Haas, Reishman, Weintraub.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 195-03, adopted.

7. Resolution No. 196-03 – “Authorizing the Finance Director to make revisions to the 2003-2004 Civic Center Budget as indicated on the attached list of accounts.”

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

That the Finance Director is hereby authorized and directed to make revisions to the 2002-2003 Civic Center Budget as indicated on the attached list of accounts.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-24, nays-0, absent-3, as follows:

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

NAYS: None.

ABSENT: Haas, Reishman, Weintraub.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 196-03, adopted.

8. Your Committee on Finance has had under consideration a proposal submitted by American Office Systems, in the amount of \$9,706, for a Lanier copier for the Charleston Civic Center administrative offices. To be charged to Account No. 402-910-01-000-4-459, Civic Center –

Capital Outlay, Equipment, and reports the same to council 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.

9. Your Committee on Finance has had under consideration a proposal submitted by Wenger Corporation, in the amount of \$8,884, for staging equipment to match the modular staging already in stock at the Charleston Civic Center. To be charged to Account No. 402-910-01-000-4-459, Civic Center –Capital Outlay, Equipment, and reports the same to council 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 Proposal submitted by Gregory Highway Products, in the amount of \$6,710, for purchase of guardrail and related materials needed for stockpiling at the street Department. To be charged to Account No. 001-750-00-000-3-341, Street—Materials & Supplies, and reports the same to council that the committee report be adopted.

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

11. Your Committee on Finance has had under consideration a Proposal submitted by MAP Enterprises, Inc., in an amount not to exceed \$5,300, for repair of a bucket truck used by the Public Grounds Department. To be charged to Account No. 001-754-00-000-2-216, Equipment Maintenance Department—Maintenance & Repair, Equipment, and reports the same to council that the committee report be adopted.

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

12. Your Committee on Finance has had under consideration a Replacement of the Xerox 5855C copier in the City Manager's Office with a Xerox 480 digital copier. This replacement unit increases printing output from 55 to 75 copies per minute, scans e-mail, and has networking capability. The cost for leasing the new copier is \$623.35 per month, and increase of \$ 88 over monthly costs for present copier. To be charged to Account No. 001-412-00-000-2-219, City Manager – Building & Equipment Rents, and reports the same to council that the committee report be adopted.

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

13. Your Committee on Finance has had under consideration a Replacement of the Xerox 5895 copier, servicing the mail room at City Hall, with a Xerox 490 digital copier. The new copier has a professional finisher with folding and booklet capabilities, and prints 90 copies per minute. The

cost for leasing the new copier is \$1,871.02 per month, a slight decrease from the present leasing price of \$1,872 per month. To be charged to Account No. 001-431-00-000-2-219, Mail Room – Building & Equipment Rents, and reports the same to council that the committee report be adopted.

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

14. Your Committee on Finance has had under consideration a Payment of an invoice from the Verdin Company, in the amount of \$15,310, to replace the two-face street clock previously located in the streetscape area on Charleston's West Side. The clock is being replaced as a result of damages sustained from a vehicle accident. Funds for replacement of the clock will be reimbursed to the City by insurance carrier for the person responsible for the damage. To be charged to Account No. 001-712-00-000-3-341, Traffic Engineering –Materials and Supplies, and reports the same to council 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 New Covenant Community Development, Inc., in the amount of 3,699.21, for reimbursement of operational expenses for its Building Healthy Communities” project for the period December 2002 through January 27, 2003. To be charged to Account No. 001-001-00-011-0-999, CDBG—Public Services, and reports the same to council that the committee report be adopted.

The question being on the adoption of the Committee Report a roll call was taken and there 24, nays-0, absent-3, as follows:

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

NAYS: None.

ABSENT: Haas, Reishman, Weintraub.

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

16. Your Committee on Finance has had under consideration a Payment of an invoice from Steptoe & Johnson, PLLC, in the amount of \$9,080.93, for professional services rendered from January 1, 2001 through August 15, 2001, in connection with AT&T Wireless BZA Appeal to Circuit Court (Special Use Application for Cell Phone Tower in Kanawha City). TO be charged to Account No. 001-417-00-000-2-223, Legal Department—Professional Services, and reports the same to council 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.

## REPORTS OF OFFICERS

1. Report of the City of Charleston, Municipal Court Financial Statements; January 2003;  
Received and Filed.
2. City Treasurer's Report to City Council Month Ending January 2003;  
Received and Filed.
3. City of Charleston Financial Statements for the Seven- Month Period Ended  
January 31, 2003;  
Received and Filed.

## NEW BILLS INTRODUCED

Introduced by Councilman Larry Roller on February 18, 2003:

**Bill No. 6949**, An Ordinance amending and reenacting Sections 28-42 and 43 of the Code of the City of Charleston, by adding and changing conditions and criteria for closing and discontinuing city streets, alleys, lanes, roads and right-of-way, and deleting Section 28-44 of the Code of the City of Charleston.

**Refer to Council Committee on Rules and Ordinances Committee, Finance Committee, Planning Committee.**

Introduced by Councilwoman Mary Jean Davis, on February 18, 2003:

**Bill No. 6961**, A Bill amending the Zoning Ordinance of the City of Charleston, West Virginia enacted the 7<sup>th</sup> day of March, 1983, as amended, and the map made a part thereof, by rezoning from an R-4 district to an R-6 district, that certain parcel of land situated at 417 Mary Street Charleston.

**Refer to Municipal Planning Commission.**

Introduced by Councilman John Charnock, on February 18, 2003:

**Bill No. 6966**, A Bill Closing, abandoning and discontinuing a public street the unimproved right-of-way commonly known as Julia Avenue which generally runs from 700 block of Laurel Road in a northwesterly direction 1,400 feet m/l, and terminates at the DOH right-of way, said street being in the city of Charleston, West Virginia, and reserving a sewer easement for the City of Charleston,

**Refer to Municipal Planning Commission.**

## UNFINISHED OR MISCELLANEOUS BUSINESS

NONE.

## ROLL CALL

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

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

ABSENT: Haas, Reishman, Weintraub.

At 7:40p.m., on motion of Councilman Loeb, Council adjourned until 7:00 p.m., Monday March 3, 2003.

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Jay Goldman, Honorable Mayor

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James M. Reishman, City Clerk