

JOURNAL
OF THE
COUNCIL
CITY OF CHARLESTON
WEST VIRGINIA
MARCH 3, 2003

THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE FIRST MEETING IN THE MONTH OF MARCH ON THE 3rd 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 HENRY KNAUFF, AND THE PLEDGE OF ALLEGIANCE WAS LEAD BY PAUL GILMER.

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

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

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

**DAVIS
HARRIS
KNAUFF

MARKHAM
MORTON
PRUNTY
ROLLER
MAYOR GOLDMAN**

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

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

MARCH 3, 2003, FIRST MEETING

CHARLESTON CITY COUNCIL JOURNAL MARCH 3, 2003

PUBLIC SPEAKERS

1. Howard Ashworth, 417 Mary Street, Charleston, WV.

CLAIMS

1. A claim of Eric Bowen, 2 Windy Ridge, Milton, WV; alleges damage to property;
Refer to City Solicitor.
2. A claim of Thomas Burford, 311 Redwood Drive, Charleston, WV; alleges damage to property;
Refer to City Solicitor.
3. A claim of Tabitha Stevens, 12714 MacCorkle Ave., Chesapeake, WV; alleges personal injury;
Refer to City Solicitor.
4. A claim of Cammie Cottrell, 204 B Gurley Ave., Kannapolis, NC; alleges damage to vehicle;
Refer to City Solicitor.

COMMUNICATIONS

APPOINTMENT

THREE FOLLOWING

PROCLAMATION

ONE FOLLOWING

The Clerk read the following communication:

TO: Charleston City Council
FROM: James Reishman, City Clerk
DATE: March 3, 2003
RE: Appointment of Election Officials

Our Office has been notified by the Republican and Democrat Executive Committees that the following people have been appointed as the Emergency Ballot Commissioners for the March 11, 2003, Primary Election.

Republican: Barbara Burford
5022 West Washington St.
Cross Lanes, WV. 25313

Democrat: Marge Fleshman
4305 Venable Avenue
Charleston, WV. 25304

Received and filed

MISCELLANEOUS RESOLUTIONS

NONE.

COMMITTEE ON PLANNING

Bill No. 6961_____

Introduced in Council

Defeated by Council

Monday, March 3, 2003

March 3, 2003_____

Introduced by

Referred to

Mary Jean Davis_____

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 and R-4 district to a R-6 district, that certain parcel of land situated at 417 Mary Street Charleston, West Virginia. Be it Ordained by the Council of the City of Charleston, West Virginia:

1. The Zoning Ordinance of the City of Charleston, West Virginia enacted the 7th of March, 1983 as amended, is hereby amended by rezoning from an R-4 district to a R-6 district the whole of the following described parcel of land:

Parcel 34 as shown on West Charleston Tax Map No. 18. Subject parcel commonly known as 417 Mary Street, Charleston, West Virginia. Said tax map is as of record in the Planning Office.

2. The use of the above described lot is restricted to not more than one duplex.

3. The Zoning Map, attached to and made a part of said Zoning Ordinance, is hereby amended in accordance with Section 1 of this ordinance.

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

The question being on the passage of the Bill a roll call was taken and there were; yeas-2, nays-24, absent-1, as follows:

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

NAYS: Fouty-Young, James Lanham

ABSENT: David Lanham.

With a majority of members elected recorded thereon as voting in the negative the Mayor declared the Bill No. 6961 defeated.

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. 197-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 197-03 – “Authorizing the Finance Director to make revisions to the 2002-2003 General Fund budget as indicated on the attached list of account.”

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-26, nays-0, absent-1, as follows:

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

NAYS: None.

ABSENT: David Lanham.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 197-03, adopted.

2. Your Committee on Finance has had under consideration Resolution No. 198-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 198-03 – “Authorizing the Mayor to enter into a contract with Weavertown Environmental Group, in the amount of \$8,300, for mold remediation at Smith Street Station.”

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 Weavertown Environmental Group, in the amount of Eight Thousand Three Hundred Dollars (\$8,300), for mold remediation at Smith Street Station

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

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

NAYS: None.

ABSENT: David Lanham.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 198-03, adopted.

3. Your Committee on Finance has had under consideration Resolution No. 199-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 199-03 – “Authorizing the Finance Director to allocate funds in the amount of \$17,000 for a HOME project located 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 Seventeen Thousand Dollars (\$17,000) for a HOME project located 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-1, as follows:

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

NAYS: None.

ABSENT: David Lanham.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 199-03, adopted.

4. Your Committee on Finance has had under consideration Resolution No. 200-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 200-03 – “Authorizing the Mayor to sign Change Order No. 1 with Schoolfield Harvey in the amount of \$4,450 for removal of a power pole in connection with the electrical contract 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 sign Change Order No. 1 with Schoolfield Harvey in the amount of Four Thousand Four Hundred Fifty Dollars (\$4,450), for removal of a power pole in connection with the electrical contract for construction of the new Fire Station at Orchard Manor. Change Order No. 1 will increase the contract price from \$83,600 to \$88,050.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 200-03, adopted unanimously

5. Your Committee on Finance has had under consideration Resolution No. 201-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 201-03 – “Authorizing the Mayor to sign Change Order No. 1 with Astech Corporation, in the amount of \$6,600, for relocation of a roadway, excavation, foundation and entranceway in connection with the site preparation contract for 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 sign Change Order No. 1 with Astech Corporation, in the amount of Six Thousand Six Hundred Dollars (\$6,600), for relocation of a

roadway, excavation, foundation and entranceway in connection with the site preparation contract for the New Fire Station at Orchard Manor. Change Order No. 1 will increase the contract price from \$96,480 to \$103,080.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 201-03, adopted unanimously

6. Your Committee on Finance has had under consideration Resolution No. 204-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 204-03 – “Authorizing the Mayor to enter into a contract with Environmental Services International, Inc., in the amounts listed on the attached tabulation sheet, for asbestos building inspections and testing services of structures slated for demolition by the Building Commission Office.”

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 Environmental Services International, Inc., in the amounts listed on the attached tabulation sheet, for asbestos building inspections and testing services of structures slated for demolition by the Building Commission Office.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 204-03, adopted unanimously

7. Your Committee on Finance has had under consideration Resolution No. 205-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 205-03 – “Authorizing the Mayor to sign a release of all claims against Helen Smith and Brian Keith Smith and West Virginia Automobile Insurance Company in exchange for compensation in the amount of \$750 for property damage to landscaping near Watt Powell Park.”

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

That the Mayor is hereby authorized and directed to sign a release of all claims against Helen Smith and Brian Keith Smith and West Virginia Automobile Insurance Company in exchange for compensation in the amount of Seven Hundred Fifty Dollars (\$750), for property damage to landscaping near Watt Powell Park.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 205-03, adopted unanimously.

8. Your Committee on Finance has had under consideration Resolution No. 206-03, and reports the same to Council with the recommendation that the recommendation that the committee report be adopted.

Resolution No. 206-03 – “Authorizing the Mayor to enter into a contract with Commercial Insurance Services, as Administration, and Arthur J. Gallagher Risk Management Services, Inc., at a price not to exceed \$1,399,951, for the City’s Risk Management and Property and Casualty insurance coverage for the period March 31, 2003 to March 31, 2004, specifically by rejecting all underinsured motorists coverage and accepting uninsured motorists coverage with statutory minimum limits of \$20,000/\$40,000/\$10,000 only; and further authorizing the Mayor to sign the appropriate forms rejecting the underinsured motorists coverage and accepting the uninsured motorists coverage.”

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 Commercial Insurance Services, as Administrator, and Arthur J. Gallagher Risk Management Services, Inc., at a price not to exceed One Million Three Hundred Ninety-nine Thousand Nine Hundred Fifty-one Dollars (\$1,399,951), for the City’s Risk Management and Property and Casualty insurance coverage for the period March 31, 2003 to March 31, 2004, specifically by rejecting all underinsured motorists coverage and accepting uninsured motorists coverage with statutory minimum limits of \$20,000/\$40,000/\$10,000 only; and further authorizing the Mayor to sign the appropriate forms rejecting the underinsured motorists coverage and accepting the uninsured motorists coverage.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 206-03, adopted unanimously

9. Your Committee on Finance has had under consideration a bid submitted by J&J Emergency Vehicle Sales, in the amount of \$99,500, for a McCoy-Miller “Medic 138” conversion ambulance to be used by the Charleston Fire Department. To be charged to Account No. 001-976-00-706-4-459, Fire Department—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.

10. Your Committee on Finance has had under consideration a bid submitted by Nation’s Rent, in the amount of \$10,688, for an Ingersoll-Rand air compressor for Spring Hill Cemetery. To be charged to Account No. 001-980-00-952-4-459, Spring Hill Cemetery—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.

11. Your Committee on Finance has had under consideration a bid submitted by Crede Tractor Sales & Service, Inc., in the amount of \$3,798, for one 36” Hydro Walk Behind Mowing Machine to be used at Spring Hill Cemetery Park. To be charged to Account No. 001-980-00-952-4-459, Spring Hill Cemetery—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.

12. Your Committee on Finance has had under consideration Bill No. 6944, and reports the same to Council with the recommendation that the Bill do pass.

Bill 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 ORDAINED BY THE COUNCIL OF THE CITY OF CHARLESTON, WEST VIRGINIA:

1. The unimproved portion of Somerset Drive, formerly Valley Drive which extends from Highland Road to Forest Drive in Block 500 of Fairview is hereby closed, abandoned and discontinued.
2. 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 sewer lines. No person shall construct improvements, plant trees or other vegetation, or take any other action which would interfere with this easement, nor alter the present surface profile or contour of the subject right-of-way by more than one (1) foot without the written permission of the Sanitary Board of the City of Charleston and the City Engineer of the City of Charleston.
3. 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 bound by GEORGE POZEGA AND JEAN POZEGA’s property located at 1126 Highland Road except as provided in section two of this ordinance, upon payment of Eight Thousand Five Hundred Dollars (\$8,500), to be paid to the City of Charleston by the petitioner.
4. All ordinances, or parts of ordinances, inconsistent with this ordinance are hereby repealed to the extent of the inconsistency

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

NAYS: None.

ABSENT: David Lanham.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Bill No. 6944 adopted.

13. Your Committee on Finance has had under consideration payment of an invoice from Casto & Harris, in the amount of \$16,916.86, for service and materials required for the City's Primary Election to be held on March 11, 2003. To be charged to Account No. 001-438-00-000-2-230, Municipal Election Costs—Contracted 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.

14. Your Committee on Finance has had under consideration payment of an invoice from WV Health Right, Inc., in the amount of \$11,812.28, for reimbursement of costs for medical supplies. 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-0, as follows:

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

NAYS: None.

ABSENT: David Lanham.

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 payment of an invoice from Bell & Bands, PLLC, in the amount of \$11,016, for professional services rendered from January 3, 2003 to February 7, 2003, re Claim: 01-C-1052, Blue Jay Way, Ltd. v. City of Charleston, Circuit Court of Kanawha County, WV. 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.

REPORTS OF OFFICERS

Report of the City of Charleston Payroll Variance Analysis; January 2003;

Received and Filed.

NEW BILLS INTRODUCED

Introduced by Councilwoman Mary Jean Davis on March 3, 2003:

Bill No. 6967, A Bill amending the Zoning Ordinance of the City of Charleston by amending the table of permitted uses to allow "Skate Board Park" as a permitted use in C-10 General Commercial and I-2 Light Industrial Districts.

Refer to the Municipal Planning Commission

UNFINISHED OR MISCELLANEOUS BUSINESS

Mayor Goldman reviewed with City Council how the City Manager's duties are being divided while she is on maternity leave. Ron Eddy will be handling all budget issues, Nancy Dodson all personnel issues, and Jennifer Piercy-Igo all special projects.

Mayor Goldman also re-appointed the Redistricting Committee. This Committee will consist of the previous members, Linda Nielsen, Chair, Howard Quick, Mary Jean Davis, Bobby Haas, Fred Pettry and Betty Morton. The additional members of this committee will include Marc Weintraub, Jim Harris and Ken McKnight.

ROLL CALL

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

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

ABSENT: David Lanham

At 7:45 p.m., on motion of Councilman Loeb, Council adjourned until 7:00 p.m., Monday, March 17, 2003.

Jay Goldman, Honorable Mayor

James M. Reishman, City Clerk