

JOURNAL

OF THE

COUNCIL

CITY OF CHARLESTON

WEST VIRGINIA

MAY 5, 2003

THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE FIRST MEETING IN THE MONTH OF MAY ON THE 5th 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 BOY SCOUTS TROOP #34.

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
REISHMAN
WEINTRAUB**

**DAVIS
HARRIS
KNAUFF
DAVID LANHAM
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.

MAY 5, 2003, FIRST MEETING

CHARLESTON CITY COUNCIL JOURNAL MAY 5, 2003

PUBLIC SPEAKERS

1. None.

CLAIMS

1. A claim of James Bennett, 1008 Loudon Hgts., Charleston WV; alleges damage to property; Refer to City Solicitor.
2. A claim of Mary Dodson, 4314 Noyes Ave., Charleston, WV; alleges damage to property; Refer to City Solicitor.
3. A claim of William Jean, 5405 Venable Ave., SE., Charleston, WV; alleges damage to vehicle; Refer to City Solicitor.
4. A claim of Mary Ann Bennett, 1529 Quarrier St., Charleston, WV; alleges damage to vehicle; Refer to City Solicitor.
5. A claim of Mary Harless, 1614 Clark Rd., Charleston, WV; alleges damage to property; Refer to City Solicitor.
6. A claim of Irene Zellers, 5306 Noyes Ave., Charleston, WV; alleges damage to property; Refer to City Solicitor.

COMMUNICATIONS

APPOINTMENT

ONE FOLLOWING

The Clerk read the following communication:

**TO: JAMES REISHMAN
CITY CLERK**

**FROM: JAY GOLDMAN
MAYOR**

RE: CIVIC CENTER BOARD

DATE: APRIL 30, 2003

I am recommending that Harry Bell of 1235 Upper Ridgeway, Charleston, West Virginia, 25314 be appointed to the Civic Center Board to replace William Chambers who has resigned. Said term will expire June 22, 2004.

I respectfully request City Council's approval of this recommendation.

JG/kk

Council approved the appointment.

MISCELLANEOUS RESOLUTIONS

The Clerk read the following resolution introduced by Councilman Howard Quick;

Resolution No. 271-03, "Appointing a Select Committee of Council to perform certain functions for the Council in the City of Charleston General Election to be held on May 20, 2003."

WHEREAS, the code of West Virginia, 1931 as amended, requires the Council of a municipality to perform certain functions in the conduct of an election; and

WHEREAS, the size of Council makes it impractical to perform these functions as a body, and the West Virginia Secretary of State has directed that such functions be done by committee;
NOW THEREFORE,

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

That Howard Quick, Chairman, Betty Morton and David Molgaard, members of the Council of the City of Charleston, West Virginia, are hereby appointed as the Select Committee to perform all required functions in connection with the City of Charleston General Election to be held on

the twentieth day of May, two thousand three, including but not limited to a canvass of votes cast.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 271-03, adopted unanimously

FINANCE

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

Resolution No. 251-03, “Authorizing the Mayor to enter into a contract with J. Wesley Carr, Inc., in the amount of \$29,035, for the Ruffner Park restoration Project.”

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 J. Wesley Carr, Inc., in the amount of Twenty-nine Thousand Thirty Five Dollars (\$29,035), for the Ruffner Park Restoration Project.

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, David Lanham, James Lanham, Loeb, Lopez, Markham, McKnight, Molgaard, Morton, Nielsen, Prunty, Quick, Reishman, Roller, Talkington, Weintraub, and Mayor Goldman.
NAYS: None.

ABSENT: Pettry.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 251-03, adopted.

2. Your Committee on Finance has had under consideration Resolution No. 256-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 256-03, “Authorizing the Mayor to enter into a contract with B.B.R. Drilling Company, in the amount of \$200,500, for the Upper Edgewood Drive Retaining Wall Project.”

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 B.B.R. Drilling Company, in the amount of Two Hundred Thousand Five Hundred Dollars (\$200,500), for the Upper Edgewood Drive Retaining Wall Project.

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

the Mayor declared Resolution No. 256-03, adopted unanimously

3. Your Committee on Finance has had under consideration Resolution No. 261-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 261-03, “Authorizing the Mayor to sign Change Order No. 5 with Wiseman Construction Company, in the amount of \$18,858. This change order brings the contract price to \$1,338,166.”

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. 5 with Wiseman Construction Company, in the amount of Eighteen Thousand Eight Hundred Fifty-eight dollars (\$18,858). This change order brings the contract price to \$1,338,166.”

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 261-03, adopted unanimously

4. Your Committee on Finance has had under consideration Resolution No. 262-03 and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 262-03, “Authorizing the Finance Director to make B&O Tax Refunds to the following companies:

WV Paving	\$234,257.77
Cives Steel Co.	\$11,981.31

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

That the Finance Director is hereby authorized and directed to make B&O Tax Refunds to the following companies:

WV Paving	\$234,257.77
Cives Steel Co.	\$11,981.31

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 262-03, adopted unanimously

5. Your Committee on Finance has had under consideration Resolution No. 263-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 263-03, “Authorizing the Mayor to sign Change Order No. 1 with Silling Associates, Inc., in the amount of \$9,515, for the Civic Center Renovations/Phase II Project Relating to changes in the schematic design of various areas in the building, additional

engineering services, and coordination of additional asbestos abatement uncovered during the construction period.”

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 Silling Associates, Inc., in the amount of Nine Thousand Five Hundred Fifteen Dollars \$9,515, for the Civic Center Renovations/Phase II Project Relating to changes in the schematic design of various areas in the building, additional engineering services, and coordination of additional asbestos abatement uncovered during the construction period. This change order increases the amount of the contract from \$310,544 to \$320,059.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 263-03, adopted unanimously

6. Your Committee on Finance has had under consideration Resolution No. 264-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 264-03, “Authorizing the Finance Director to amend the 1997, 1999, 2000, and 2002 Community Development Block Grant Budgets as indicated on the attached list of accounts.”

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

That the Finance Director is hereby authorized and directed to amend the 1997, 1999, 2000, and 2002 Community Development Block Grant Budgets as indicated on the attached list of accounts. This is contingent upon no adverse citizen comments being received during the 30-day comments period required through the MOECD Citizen Participation Plan.

The question being on the adoption of the Resolution 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, David Lanham, James Lanham, Loeb, Lopez, Markham, McKnight, Molgaard, Morton, Nielsen, Prunty, Quick, Reishman, Roller, Talkington, Weintraub, and Mayor Goldman.

NAYS: None.

ABSENT: Pettry.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 264-03, adopted.

7. Your Committee on Finance has had under consideration Resolution No. 265-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 265-03, “Authorizing the Mayor to sign and submit to the U.S. Department of

Housing and Urban Development the 2003 Community Development Block Grant Action Plan and all required agreements, including Subrecipient project contracts relating to the 2003 Program Year.”

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

That the Mayor is hereby authorized and directed to sign and submit to the U.S. Department of Housing and Urban Development the 2003 Community Development Block Grant Action Plan and all required agreements, including Subrecipient project contracts relating to the 2003 Program Year

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, David Lanham, James Lanham, Loeb, Lopez, Markham, McKnight, Molgaard, Morton, Nielsen, Prunty, Quick, Reishman, Roller, Talkington, Weintraub, and Mayor Goldman.
NAYS: None.

ABSENT: Pettry.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 265-03, adopted.

8. Your Committee on Finance has had under consideration Resolution No. 266-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 266-03, “Authorizing the Finance Director to allocate funds in the amount of \$25,325.00 for acquisition of one (1) HOME Project located on the 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 Twenty Five Thousand Three Hundred Twenty Five Dollars (\$25,325.00) for acquisition of one (1) HOME Project located on the 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, David Lanham, James Lanham, Loeb, Lopez, Markham, McKnight, Molgaard, Morton, Nielsen, Prunty, Quick, Reishman, Roller, Talkington, Weintraub, and Mayor Goldman.
NAYS: None.

ABSENT: Pettry.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 266-03, adopted.

9. Your Committee on Finance has had under consideration Resolution No. 267-03, and reports

the same to Council with the recommendation that the committee report be adopted.

Resolution No. 267-03, “Authorizing the Mayor to sign a request for project amendment, scope/activity change, for the Spring Hill Apartments Budget Digest Grant No. 00CPGO284 in the amount of \$4,000. The original scope for the project funds was to purchase equipment for the Springhill Apartments. The City of Charleston is requesting that the funds be used instead for improvements to the playground on Twilight Drive.”

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

That the Mayor is hereby authorized and directed to sign a request for project amendment, scope/activity change, for the Spring Hill Apartments Budget Digest Grant No. 00CPGO284 in the amount of Four Thousand (\$4,000). The original scope for the project funds was to purchase equipment for the Springhill Apartments. The City of Charleston is requesting that the funds be used instead for improvements to the playground on Twilight Drive.

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, David Lanham, James Lanham, Loeb, Lopez, Markham, McKnight, Molgaard, Morton, Nielsen, Prunty, Quick, Reishman, Roller, Talkington, Weintraub, and Mayor Goldman.

NAYS: None.

ABSENT: Pettry.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 267-03, adopted.

10. Your Committee on Finance has had under consideration Resolution No. 268-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 268-03, “Authorizing the sale of a 1989 GMC Water Truck to the City of Ripley for \$15,000.”

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

That the sale of a 1989 GMC Water Truck to the City of Ripley for Fifteen Thousand Dollars (\$15,000) is hereby approved.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 268-03, adopted unanimously

11. Your Committee on Finance has had under consideration Resolution No. 269-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 269-03, “Authorizing the Mayor to sign an application to the West Virginia Division of Criminal Justice Services for a Juvenile Accountability Incentive Block Grant

(JAIBG) in the amount of \$29,693 to be used to support programs that allow for the arrest and prosecution of juveniles who commit serious criminal offenses. The grant is for a one year period from July 1, 2003 to June 30, 2004.”

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

That the Mayor is hereby authorized and directed to sign an application to the West Virginia Division of Criminal Justice Services for a Juvenile Accountability Incentive Block Grant (JAIBG) in the amount of Twenty-nine Thousand Six Hundred Ninety-three Dollars (\$29,693) to be used to support programs that allow for the arrest and prosecution of juveniles who commit serious criminal offenses. The grant is for a one year period from July 1, 2003 to June 30, 2004.”

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 269-03, adopted unanimously

12. Your Committee on Finance has had under consideration Resolution No. 270-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 270-03, “Authorizing the Mayor to sign an application to the West Virginia Division of Criminal Justice Services for a grant from the Drug and Violent Crime Control Program in the amount of \$345,624 to be used in the continued operation of the MDENT Drug Task Force through salary and overtime funding. The grant is for a one year period from July 1, 2003 to June 30, 2004.”

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

That the Mayor is hereby authorized and directed to sign an application to the West Virginia Division of Criminal Justice Services for a grant from the Drug and Violent Crime Control Program in the amount of Three Hundred Forty-five Thousand Six Hundred Twenty-four Dollars (\$345,624) to be used in the continued operation of the MDENT Drug Task Force through salary and overtime funding. The grant is for a one year period from July 1, 2003 to June 30, 2004.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 270-03, adopted unanimously

13. Your Committee on Finance has had under consideration a payment of an invoice from Carson Associates, Inc., in the amount of \$3,867.50, as partial payment for consulting services rendered to develop a Life Safety Evaluation for Festival Seating in the Charleston Civic Center. This invoice covers 65% of the evaluation work and the remaining costs will be approximately \$2,100. To be charged to Account No. 402-910-01-000-2-215, Civic Center –Maintenance & Repair, Building & Grounds, 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 payment of an invoice from Dinsmore & Shohl, LLP, in the amount of \$3,728.50, for professional services rendered during January 2003 regarding general labor and employment advice. 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 unanimously

REPORTS OF OFFICERS

1. Report of the City of Charleston Payroll Variance Analysis; April 2003;
Received and Filed.

NEW BILLS INTRODUCED

Introduced by Councilwoman Linda Nielsen, on May 5, 2003:

Bill No. 6975, A Bill to establish a 20 Mile Per Hour speed limit on Wilkie Drive from Cantley Drive to Sheridan Circle 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 Council Committee on Streets and Traffic.

Introduced by Councilman Patrick Jones, on May 5, 2003:

Bill No. 6976, A Bill to establish a Vehicular Parking zone for the exclusive use of the physically disabled on the southerly side of 7th Avenue from a point 392 feet west of 29th Street to a point 436 feet west of 29th street to provide for the removal of vehicles illegally parked in these spaces to incorporate the provisions of the West Virginia State Code, Chapter 17C, Article 13, Section 15, 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 Council Committee on Streets and Traffic.

Introduced by Councilman Larry Roller, on May 5, 2003:

Bill No. 6977, a Bill supplementing Ordinance No. 4423 passed by the Council of The City of Charleston, West Virginia, on March 6, 1989, as supplemented by Ordinance No. 4506 passed by the Council on November 6, 1989, by Ordinance No. 4828 passed by the Council on April 20,

1992, by Ordinance No. 4954 passed by the Council on May 3, 1993, by Ordinance No. 6276 passed by the Council on September 3, 1996, by Ordinance No. 6532 passed by the Council on February 1, 1999, by Ordinance No. 6670 passed by the Council on February 5, 2001, and by Ordinance No. 6777 passed by the Council on March 19, 2001; and by Ordinance 6948 passed by Council on November 4, 2002; authorizing the design, acquisition and construction of certain extensions , additions betterments and improvements to the existing sewerage system of the City of Charleston; authorizing the issuance of not more than \$12,000,000 in one aggregate principal amount of Sewerage System Revenue Bonds, Series 2003, in one or more series as may be required, of the City of Charleston, the proceeds of which, shall be used, along with other funds and moneys of , or available to , The City of Charleston which may be lawfully expended for such purposes, to permanently finance the cost of such design, acquisition and construction, to fund reserve accounts for such bond and to pay other costs in connection therewith; authorizing the issuance of not more than \$2,000,000 in aggregate principal amount of Sewerage System Bond Anticipation Notes, Series 2003 A, to temporarily finance the cost of such design, acquisition and construction; providing for the rights and remedies of an security for the registered owners of such bonds and notes; and adopting other provisions related thereto.
Refer to the Council Committee on Finance.

UNFINISHED OR MISCELLANEOUS BUSINESS

NONE.

ROLL CALL

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

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

ABSENT: Pettry.

At 7:30 p.m., on motion of Councilman Loeb, Council adjourned until 7:00 p.m., Monday, May 19, 2003.

Jay Goldman, Honorable Mayor

James M. Reishman, City Clerk