

JOURNAL
OF THE
COUNCIL
CITY OF CHARLESTON
WEST VIRGINIA

NOVEMBER 3, 2003

THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE SECOND MEETING IN THE MONTH OF NOVEMBER ON THE 3RD 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 JERRY WARE.

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

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

TWENTY-EIGHT 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.

NOVEMBER 3, 2003, FIRST MEETING

CHARLESTON CITY COUNCIL JOURNAL NOVEMBER 3, 2003

PUBLIC SPEAKERS

1. NONE.

CLAIMS

1. A claim of Hilda Halstead, Rt. 2, Box 348-B., Charleston WV; alleges damage to property;
Refer to City Solicitor .

COMMUNICATIONS

To: James Reishman, City Clerk

From: Danny Jones, Mayor

RE: Regional Development Authority

DATE: November 3, 2003

I am informing City Council that I have appointed Mike Clowser, 42 Quarry Ridge, Charleston WV. 25304 to the Regional Development Authority with said term to expire June 30, 2004. Mr. Clowser is replacing Mary Jean Davis.

I respectfully request Council approval of this recommendation.

The question being on the approval of the Appointment a vote was taken. There no dissent the Mayor declared the appointment approved.

TWO PROCLAMATIONS

MISCELLANEOUS RESOLUTIONS

NONE.

FINANCE

Councilman Bobby Reishman, Chairman of the Council Committee on Finance, submitted the following reports.

1. Your Committee on Finance has had under consideration Resolution No. 399-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 399-03 - "Authorizing the Finance Director to make revisions to the 2003-2004 Parking System 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 Parking System budget as indicated on the attached list of account; 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-28, nays-0, absent-0, as follows:

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

NAYS:

ABSENT:

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 399-03, adopted.

2. Your Committee on Finance has had under consideration Resolution No. 400-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 400-03 – “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 account; and be it

FURTHER RESOLVED, that this budgetary revisions 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-28, nays-0, absent-0, as follows:

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

NAYS:

ABSENT:

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 400-03, adopted.

3. Your Committee on Finance has had under consideration Resolution No. 401-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 401-03 – “ 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 2003-2004 Civic Center 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-28, nays-0, absent-0, as follows:

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

NAYS:

ABSENT:

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 401-03, adopted.

4. You Committee on Finance has had under consideration Resolution No. 402-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 402-03 – “Authorizing the Mayor to enter into a contract with Jimmy Dunn Excavating Co., in the amount of \$879,592, for the Twilight Drive/Barlow Drive Storm Sewer Rehabilitation 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 Jimmy Dunn Excavating Co., in the amount of Eight Hundred Seventy-nine Thousand Five Hundred Ninety-two Dollars (\$879,592), for the Twilight Drive/Barlow Drive Storm Sewer Rehabilitation project.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 402-03, adopted.

5. Your Committee on Finance has had under consideration Resolution No. 403-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 403-03 – “Authorizing the Mayor to enter into a contract with Rock Branch Mechanical, Inc., in the amount of \$21,750, for two rooftop heating units for the gymnasium area at the Martin Luther King, Jr. Recreation Center.”

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 Rock Branch mechanical, Inc., in the amount of Twenty-one Thousand Seven Hundred Fifty Dollars (\$21,750), for two rooftop heating units for the gymnasium area at the Martin Luther King, Jr. Recreation Center.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 403-03, adopted.

6. Your Committee on Finance has had under consideration Resolution No. 404-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 404-03 – “Authorizing the Finance Director to allocate funds in the amount of \$63,375 for acquisition of three (3) HOME projects.”

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

That the Finance Director is hereby authorized and directed to allocated funds in the amount of Sixty-three Thousand Three Hundred Seventy-five (\$63,375) for acquisition of three (3) HOME projects as follows:

Kanawha City	\$19,475
West Side	\$18,500

West Side

\$25,400

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-28, nays-0, absent-0, as follows:

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

NAYS:

ABSENT:

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 404-03, adopted.

7. Your Committee on Finance has had under consideration Resolution No. 405-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 405-03 – “Authorizing the Mayor to sign the Memorandum of Understanding and Grant Agreement regarding terms and conditions for receipt of grant funds, in the amount of \$12,000,000, awarded by the West Virginia Economic Development Grant Committee in relation to construction of the new baseball stadium.”

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

That the Mayor is hereby authorized and directed to sign the Memorandum of Understanding and Grant Agreement regarding terms and conditions for receipt of grant funds, in the amount of Twelve Million Dollars (\$12,000,000), awarded by the West Virginia Economic Development Grant Committee in relation to construction of the new baseball stadium.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-23, nays-4, absent-0, abstain- 1, as follows:

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

NAYS: Chestnut, Foster, Markham, Monroe,

ABSENT:

ABSTAIN: Sadd.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 405-03, adopted.

8. Your Committee on Finance has had under consideration Resolution No. 406-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 406-03 – “Authorizing the Mayor to sign an amendment to the contract with HNTB for additions and changes to the design of the new baseball stadium, in the amount of \$50,000 plus expenses, bringing the total contract amount authorized to date, including amendments, to \$1,141,450 plus expenses.”

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

That the Mayor is hereby authorized and directed to sign an amendment to the contract with HNTB for additions and changes to the design of the new baseball stadium, in the amount of Fifty Thousand (\$50,000) plus expenses, bringing the total contract amount authorized to date, including amendments, to One Million One Hundred Forty-one Thousand Four Hundred Fifty Dollars (\$1,141,450) plus expenses.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-23, nays-4, absent-0, abstain- 1, as follows:

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

NAYS: Chestnut, Foster, Markham, Monroe,
ABSENT:
ABSTAIN: Sadd.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 406-03, adopted.

9. Your Committee on Finance has had under consideration Resolution No. 407-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 407-03 – “Authorizing the Mayor to enter into a contract with BBL Carlton, LLC, for construction manager services for the new baseball stadium.”

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 BBL Carlton, LLC, for construction manager services for the new baseball stadium to include the following:

Item A: Pre-Construction Services

- (1) A monthly fee of \$14,500 for professional services;
- (2) An allowance of \$25,000 for outside consultants, including mechanical and electrical;
- (3) An allowance of \$10,000 to cover travel expenses for on trip to Lansing, Michigan, to visit a HNTB designed stadium.

Item B: Construction Manager at Risk with GMP whereby the Construction Manager is also the Constructor

- (1) A fixed fee of 5.95% for the construction phase;
- (2) Once the GMP is established – a split of any saving, with 30% going to BBL Carlton, LLC, and 70% going to the City of Charleston;
- (3) Demolition and excavation will not be part of GMP but will be managed by BBL Carlton as part of pre-construction services.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-22, nays-5, absent-0, abstain- 1, as follows:

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

NAYS: Chestnut, Foster, Hanna, Markham, Monroe,

ABSENT:

ABSTAIN: Sadd.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 407-03, adopted.

10. Your Committee on Finance has had under consideration Resolution No. 408-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 408-03 – “Authorizing the Mayor to enter into a Lease Agreement with the Federal Bureau of Investigation for 3,476 square feet of space in Municipal Parking Building No. 1, located at 116 Dickinson Street. The FBI will lease the space on a month-to-month basis at the rate of \$2,679.42 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 Lease Agreement with the Federal Bureau of Investigation for 3,476 square feet of space in Municipal Parking Building No. 1, located at 116 Dickinson Street.

The FBI will lease the space on a month-to-month basis at the rate of Two Thousand Six Hundred Seventy-nine Dollars and Forty-two Cents (\$2,679.42) per month.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 408-03, adopted.

11. Your Committee on Finance has had under consideration a Payment of an invoice from WVSC Research & Development Corp. Department of Land Grant Programs, in the amount of \$3,560.78, for reimbursement of expenses for the After School Program at Spring Hill Apartments 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 be adopted.

The question being on the adoption of the Committee Report a roll call was taken and there were; yeas-27, nays-0, absent-0, abstain-1, as follows:

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

NAYS:

ABSENT:

ABSTAIN: Nielsen

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

12. Your Committee on Finance has had under consideration a Payment of an invoice from Kanawha Dental Health Council, Inc., in the amount of \$4,687.50, for reimbursement of salaries for School Dental Educators. 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 be adopted.

The question being on the adoption of the Committee Report a roll call was taken and there were; yeas-28, nays-0, absent-0, as follows:

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

NAYS:

ABSENT:

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

13. Your Committee on Finance has had under consideration a Payment of an invoice from The Tinney Law Firm, PLLC, in the amount of \$4,658.36, professional services rendered during September 2003 in the matter 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.

14. Your Committee on Finance has had under consideration a A Payment of an invoice from George & Lorensen, PLLC, in the amount of \$5,000, for Professional Services rendered relating to user fee. 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.

REPORTS OF OFFICERS

1. City of Charleston Financial Statements for the Fiscal Year Ended; June 30, 2003.
Received and Filed.
2. City of Charleston Financial Statements for the one- month period ended; July 31, 2003.
Received and Filed.
3. City of Charleston Financial Statements for the two- month period ended; August 31, 2003.
Received and Filed.
4. City of Charleston Financial Statements for the three- month period ended; September 30, 2003.
Received and Filed.

NEW BILLS INTRODUCED

Introduced by Councilman Marc Weintraub, on November 3, 2003:

Bill No. 7020, A Bill to establish a 4 Way Stop intersection at 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.

Refer to Streets and Traffic Committee.

UNFINISHED OR MISCELLANEOUS BUSINESS

Presentation on the Kanawha Trestle Trail/ Florida Streetscape Project.

ROLL CALL

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

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

ABSENT:

At 8:05 p.m., on motion of Councilman Loeb, Council adjourned until November 17, 2003, at 7:00 p.m.

Danny Jones, Honorable Mayor

James M. Reishman, City Clerk