

JOURNAL
OF THE
COUNCIL
CITY OF CHARLESTON

WEST VIRGINIA

December 20, 2004

THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE SECOND MEETING IN THE MONTH OF DECEMBER ON THE 20th DAY, IN THE YEAR 2004, AND WAS CALLED TO ORDER BY THE HONORABLE MAYOR, DANNY JONES. THE INVOCATION WAS DELIVERED JACK HARRISON, AND THE PLEDGE OF ALLEGIANCE WAS LED BY JERRY WARE.

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

CHESTNUT	CLOWSER	DEITZLER
DAVIS	EALY	HALL
HANNA	HARRIS	HARRISON
HIGGINS	JONES	LANE
LANHAM		MORTON
MILLER	MONROE	MARKHAM
NIELSEN	REED	REISHMAN
ROBERTSON	SADD	TALKINGTON
WARE	WEINTRAUB	
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 20, 2004, SECOND MEETING

PUBLIC SPEAKERS

1. Harry Deitzler
2. James Ealy

CLAIMS

1. A claim of Herb Nottingham, 215 Shellar Dr., Charleston, WV; alleges damage to property; Refer to City Solicitor.
2. A claim of Lynn Greter, 103 Phyllis Dr., Charleston, WV; alleges damage to property; Refer to City Solicitor.
3. A claim of NG, Kwok Yuen, 1309 A. Quarrier St., Charleston, WV; alleges damage to property; Refer to City Solicitor.
4. A claim of John M. Rogers, 200 Wertz Ave., Charleston, WV; alleges damage to property; Refer to City Solicitor.

PROCLAMATION

Little Red Stocking Day

COMMUNICATIONS

December 9, 2004

Honorable Danny Jones and
City Council Members
Charleston, West Virginia 25301

Dear Mayor Jones and Councilmember's:

On December 8, 2004, the Municipal Planning Commission held public hearings and its regular monthly meeting. The following case should be referred to the Council Committee on Planning.

Bill No. 7110 – Petition of Red Tape Processing Company, agent for Shining Light Celebration Church requesting to rezone from an R-4 district to a C-6 district those parcels of land situate at 1718 Fifth Avenue.

Special Permit No. 1182 – Application of John S. Lively requesting a special permit to

establish a professional office and restricted accessory parking lot in an R-10 zoning district at 209 Chesapeake Avenue.

Bill No. 7112 – Petition of the University of Charleston requesting to rezone from an R-4 district to an R-O district those certain parcels of land situated at 2503 Kanawha Ave., S.E.

Bill No. 7112 – Petition of Joyce F. Ofsa, Spilman Thomas & Battle, PLLC on behalf of Charleston Area Medical Center, In. requesting to close, abandon and discontinue as public streets and alleys that portion of Noyes Avenue east of 33rd Street, a portion of the alley south of Noyes Avenue in the 3300 Block, and a portion of the alley north of Noyes Avenue, S.E. in the 3300 Block.

Bill No. 7111 – Petition of Joyce F. Ofsa, Spilman, Thomas & Battle, PLLC on behalf of Charleston Area Medical Center, Inc., requesting to rezone from R-4 to C-6 districts to MMC district that certain parcel of land identified as Lot A of the Memorial Medical Complex addition.

Bill #7113 should also be referred to Finance Committee.

Sincerely,
Municipal Planning Commission
Phyllis White, Administrative Assistant

The Mayor referred the cases to the Planning Committee and Bill No. 7113 to the Finance Committee.

The clerk read the following appointments:

TO: James Reishman
City Clerk

FROM: Danny Jones
Mayor

RE: Charleston Land Trust

DATE: December 20, 2004

I recommend that David Higgins, Ex Officio, 18 Norwood Road, Charleston, WV 25314, be appointed to the Charleston Land Trust Committee, with said term to expire October 4, 2005.

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

The Mayor declared the appointment approved.

TO: James Reishman
City Clerk

FROM: Danny Jones
Mayor

RE: Charleston Land Trust

DATE: December 20, 2004

I recommend that Barry Cunningham, 4404 Kanawha Avenue, S.E., 8, Charleston, WV 25304, be appointed to the Charleston Land Trust Committee, with said term to expire October 4, 2006.

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

The Mayor declared the appointment approved.

TO: James Reishman
City Clerk

FROM: Danny Jones
Mayor

RE: Charleston Land Trust

DATE: December 20, 2004

I recommend that Tom Vasale, Ex Officio, P.O. Box 5238, Charleston, WV 25361, be appointed to the Charleston Land Trust Committee, with said term to expire October 4, 2005.

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

The Mayor declared the appointment approved.

TO: James Reishman
City Clerk

FROM: Danny Jones
Mayor

RE: Charleston Land Trust

DATE: December 20, 2004

I recommend that Mary Warner Cook, 901 Ridgmont Road, Charleston, WV 25314, replaces Kemp McElwee, 606 Briarwood Road, Charleston, West Virginia 25314, on the Charleston Land Trust Committee, with said term to expire October 4, 2008.

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

The Mayor declared the appointment approved.

MISCELLANEOUS RESOLUTIONS

NONE.

REPORTS OF STANDING COMMITTEES

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. 712-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 712-04 – “Authorizing the Mayor to enter into a Lease Agreement with the Federal Bureau of Investigation for approximately 1,476 square feet of office space in Municipal Parking Building No. 1, Suite 1, located at 116 Dickinson Street. The space will be leased to the FBI on a month to month basis at the rate of \$1,365.30 per month beginning on January 1, 2005.”

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 approximately 1,476 square feet of office space in Municipal Parking Building No. 1, Suite 1, located at 116 Dickinson Street. The space will be leased to the FBI on a month to month basis at the rate of One Thousand Three Hundred Sixty-five Dollars and Thirty Cents (\$1,365.30) per month beginning on January 1, 2005.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 712-04, adopted.

2. Your Committee on Finance has had under consideration Resolution No. 713-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 713-04– “ Authorizing the Finance Director to make revisions to the 2004-2005 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 2004-2005 General Fund budget as indicated on the attached list of accounts

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, Ealy, Hall, Hanna, Harris, Harrison, Higgins, Jones, Lane, Lanham, Markham, Miller, Monroe, Morton, Nielsen, Reed, Reishman, Robertson, Sadd, Talkington, Ware, Weintraub, Mayor Jones.

NAYS:

ABSENT: Loeb, White

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 713-04, adopted.

3. Your Committee on Finance has had under consideration Resolution No. 714-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 714-04– “ Authorizing the Mayor to sign Change Order No. 10 with BBL Carlton, LLC, in the amount of \$20,592.72, for labor and material in connection with installation of a sand/oil separator for Baseball Stadium Bid Package CI-2A/ Seating Bowl.”

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. 10 with BBL Carlton, LLC, in the amount of Twenty Thousand Five Hundred Ninety-two Dollars and Seventy-two Cents (\$20,592.72), for labor and material in connection with installation of a sand/oil separator for Baseball Stadium Bid Package CI-2A/ Seating Bowl.

The question being on the adoption of the Resolution a vote was taken. There being one from

Markham, the Mayor declared Resolution No. 714-04, adopted.

4. Your Committee on Finance has had under consideration Resolution No. 715-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 715-04– “ Authorizing the Mayor to sign Change Order No. 11 with BBL Carlton, LLC, in the amount of \$28,502.49, for additional costs associated with unforeseen onsite conditions and delays during drilling of caissons for Baseball Stadium Bid Package CI-2A/ Seating Bowl.”

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. 11 with BBL Carlton, LLC, in the amount of Twenty-eight Thousand Five Hundred Two Dollars and Forty-nine Cents (\$28,502.49), for additional costs associated with unforeseen onsite conditions and delays during drilling of caissons for Baseball Stadium Bid Package CI-2A/ Seating Bowl.

The question being on the adoption of the Resolution a vote was taken. There being one from Markham, the Mayor declared Resolution No. 715-04, adopted.

5. Your Committee on Finance has had under consideration Resolution No. 716-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 716-04– “ Authorizing the Mayor to enter into an Agreement with Metro Masonry, on a time and materials basis with a guaranteed maximum price of \$509,000, for Baseball Stadium Bid Package CI-3A/ 601 Morris Exterior – Paint and Bricks.”

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 Metro Masonry, on a time and materials basis with a guaranteed maximum price of \$509,000, for Baseball Stadium Bid Package CI-3A/ 601 Morris Exterior – Paint and Bricks.

The question being on the adoption of the Resolution a vote was taken. There being one from Markham, the Mayor declared Resolution No. 716-04, adopted.

6. Your Committee on Finance has had under consideration Resolution No. 717-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 717-04– “ Authorizing the Mayor to enter into a one-year Agreement with Lowe’s Building and Supply of Charleston to supply materials for the “Christmas in April” and World Changers rehabilitation projects.”

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 one-year Agreement with Lowe's Building and Supply of Charleston to supply materials for the "Christmas in April" and World Changers rehabilitation projects.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 717-04, adopted.

7. Your Committee on Finance has had under consideration Resolution No. 718-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 718-04— " Authorizing the Mayor to enter into a one-year Agreement with Sitescan, Inc., to supply lead hazards inspections/testing, risk assessment, and clearance technician services to the City of Charleston, as required through the MOECD 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 one-year Agreement with Sitescan, Inc., to supply lead hazards inspections/testing, risk assessment, and clearance technician services to the City of Charleston, as required through the MOECD office.

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, Ealy, Hall, Hanna, Harris, Harrison, Higgins, Jones, Lane, Lanham, Markham, Miller, Monroe, Morton, Nielsen, Reed, Reishman, Robertson, Sadd, Talkington, Ware, Weintraub, Mayor Jones.

NAYS:

ABSENT: Loeb, White

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 718-04, adopted.

8. Your Committee on Finance has had under consideration Resolution No. 719-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 719-04— " Authorizing the Finance Director to amend the 2001 and 2004 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 comment period required though the MOECD Citizen Participation Plan."

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 2001 and 2004 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 comment period required though 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, Ealy, Hall, Hanna, Harris, Harrison, Higgins, Jones, Lane, Lanham, Markham, Miller, Monroe, Morton, Nielsen, Reed, Reishman, Robertson, Sadd, Talkington, Ware, Weintraub, Mayor Jones.

NAYS:

ABSENT: Loeb, White

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 719-04, adopted.

9. Your Committee on Finance has had under consideration Resolution No. 720-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 720-04— “Authorizing the Mayor to enter into a Memorandum of Understanding with Vista View Apartments, LLP, committing the company’s assistance as inducement to the City to enter into a Memorandum of Understanding with the U.S. Department of Housing and Urban Development committing the City to a one-for-one replacement housing plan in conjunction with the proposed Vista View Apartments 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 Memorandum of Understanding with Vista View Apartments, LLP, committing the company’s assistance as inducement to the City to enter into a Memorandum of Understanding with the U.S. Department of Housing and Urban Development committing the City to a one-for-one replacement housing plan in conjunction with the proposed Vista View Apartments Project.

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, Ealy, Hall, Hanna, Harris, Harrison, Higgins, Jones, Lane, Lanham, Markham, Miller, Monroe, Morton, Nielsen, Reed, Reishman, Robertson, Sadd, Talkington, Ware, Weintraub, Mayor Jones.

NAYS:

ABSENT: Loeb, White

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 720-04, adopted.

10. Your Committee on Finance has had under consideration Resolution No. 721-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 721-04— “Authorizing the Mayor to enter into a Memorandum of Understanding with the U.S. Department of Housing and Urban Development, committing the City to a one-for-

one replacement housing plan in conjunction with the proposed Vista View Apartments Project. This plan was developed in compliance with 24 CFR 42.375, Subpart C, as required under the Community Development Block Grant (CDBG) and Home Investment Partnership (HOME) programs.”

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 Memorandum of Understanding with the U.S. Department of Housing and Urban Development, committing the City to a one-for-one replacement housing plan in conjunction with the proposed Vista View Apartments Project. This plan was developed in compliance with 24 CFR 42.375, Subpart C, as required under the Community Development Block Grant (CDBG) and Home Investment Partnership (HOME) programs.

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, Ealy, Hall, Hanna, Harris, Harrison, Higgins, Jones, Lane, Lanham, Markham, Miller, Monroe, Morton, Nielsen, Reed, Reishman, Robertson, Sadd, Talkington, Ware, Weintraub, Mayor Jones.

NAYS:

ABSENT: Loeb, White

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 721-04, adopted.

11. Your Committee on Finance has had under consideration a proposal submitted by General Truck Sales Corporation, in the amount of \$32,134, for purchase of a dump truck to be used by the Parks & Recreation Department. To be charged to Account No. 001-979-00-900-4-461, P&R – Capital Outlay, Lease/Purchase, 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.

12. Your Committee on Finance has had under consideration an amendment to the purchase for a utility vehicle from General Truck Sales Corporation, in the amount of \$26,850, by changing the model of the vehicle from 2-door to a 4-door, crew cab utility truck at a cost of \$30,842.50. The original purchase was one of seven vehicles approved by Council on December 6, 2004, by piggybacking a State of West Virginia contract. The new vehicle will be assigned to the Street Department. To be charged to Account No. 001-977-00-750-4-461, Street – Capital Outlay, Lease/Purchase, 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.

13. Your Committee on Finance has had under consideration a bid submitted by Dell Marketing, LP, in an amount not to exceed \$80,629.64, for purchase of up to sixty (60) computer workstations (\$74,834) to be installed in various City departments, and one (1) server (\$5,795.64). To be charged to Account No. 001-975-00-439-4-459, Information Systems – 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.

REPORTS OF OFFICERS

1. Report of the City of Charleston, Municipal Court Financial Statements; November, 2004. Received and Filed.

2. Report of the City of Charleston Financial Statements for the Five Month period ended November 30, 2004. Received and Filed.

NEW BILLS INTRODUCED

Introduced by Councilman Marc Weintraub on December 20, 2004:

Bill No. 7120- A Bill approving the modification and reenactment of the Downtown/Old Charleston Urban Renewal Plan for the City of Charleston, West Virginia as follows: Extend the effective date of the Plan to January 1, 2008 and reenact the Plan for the tree years then ended. Refer to Urban Renewal Committee.

Introduced by Councilman Marc Weintraub on December 20, 2004:

Bill No. 7121- A Bill approving the modification and reenactment of the Shrewsbury/Smith Streets Urban Renewal Plan for the City of Charleston, West Virginia as follows: Extend the effective date of the Plan to January 1, 2015 and reenact the Plan of the ten years then ended. Refer to Urban Renewal Committee.

Introduced by Councilman Bobby Reishman on December 20, 2004:

Bill No. 7122- 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 R-4 district to R-O district, those certain parcels or tracts of land including Parcels 38,39,40,41,54,55,56, and 57 on Tax Map 20, in Kanawha City, in the City of Charleston, Kanawha County, State of West Virginia, owned by or being acquired by The University of Charleston, Inc., a West Virginia nonprofit, nonstock corporation. Refer to Municipal Planning Commission.

ROLL CALL

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

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

ABSENT: Loeb, White

At 7:45 p.m., on motion of Councilman Lane, Council adjourned until Monday, January 3, 2005, at 7:00 p.m.

Danny Jones, Honorable Mayor

James M. Reishman, City Clerk