

JOURNAL
OF THE
COUNCIL
CITY OF CHARLESTON
WEST VIRGINIA

August 2, 2004

THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE FIRST MEETING IN THE MONTH OF AUGUST ON THE 2nd DAY, IN THE YEAR 2004, AND WAS CALLED TO ORDER BY THE HONORABLE MAYOR, DANNY JONES. THE INVOCATION WAS DELIVERED HARRY DEITZLER, AND THE PLEDGE OF ALLEGIANCE WAS LEAD BY ED TALKINGTON.

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

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

TWENTY-FIVE 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.

AUGUST 2, 2004, FIRST MEETING

PUBLIC SPEAKERS

1. Chlorine GrigsbyCarter, Charleston WV.
2. Russell Young, Charleston WV.

CLAIMS

1. A claim of Joann Fields, 5118 Indiana St., South Charleston, WV; alleges personal injury;
Refer to City Solicitor.
2. A claim of James A. Harris, 156 Shawnee Estates., Winfield, WV; alleges damage to vehicle;
Refer to City Solicitor.
3. A claim of Isabel Kinnison, 3006 Virginia Ave. SE., Charleston, WV; alleges damage to
vehicle;
Refer to City Solicitor.
4. A claim of Elizabeth Coltey, 602 Thompson St., Charleston, WV; alleges damage to vehicle;
Refer to City Solicitor.

COMMUNICATIONS

**TO: JAMES REISHMAN
CITY CLERK**

**FROM: DANNY JONES
MAYOR**

RE: CIVIC CENTER BOARD

DATE: AUGUST 2, 2004

I am recommending that Harry Bell, 12 Hamilton Place, Charleston, West Virginia 25314, be reappointed to the Civic Center Board, with a said term to expire June 22, 2008.

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

Council approved the appointment.

**TO: JAMES REISHMAN
CITY CLERK**

**FROM: DANNY JONES
MAYOR**

RE: CIVIC CENTER BOARD

DATE: AUGUST 2, 2004

I am recommending that David Wallace, 4704 Virginia Avenue, SE, Charleston, West Virginia 25314, be reappointed to the Civic Center Board, with a said term to expire June 22, 2008.

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

Council approved the appointment.

**TO: JAMES REISHMAN
CITY CLERK**

**FROM: DANNY JONES
MAYOR**

RE: CIVIC CENTER BOARD

DATE: AUGUST 2, 2004

I am recommending that Mary Jean Davis, 1527 Dogwood Road, Charleston, West Virginia 25314, be appointed to the Civic Center Board, with a said term to expire June 22, 2008. She will be replacing William T. Brotherton.

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

Council approved the appointment.

**TO: JAMES REISHMAN
CITY CLERK**

**FROM: DANNY JONES
MAYOR**

RE: WAYFINDING COMMISSION

DATE: AUGUST 2, 2004

I am recommending that Carolyn Charnock, 1410 Sweetbrier Road, Charleston, West Virginia 25314, be appointed to the Wayfinding Commission, with a said term to expire July 19, 2005.

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

Council approved the appointment.

July 26, 2004

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

Dear Mayor Jones and Councilmember's:

On July 7, 2004, the Municipal Planning Commission held public hearings and it's Regular monthly meeting. The following case should be referred to the Council Committee on Planning:

Special Permit#1162 – Application of Red Tape Processing Co, agent for Ian Enterprises, LLC requesting a Special Permit for an office building with an accessory parking lot in an R-10 district located at 2331-2339- Chesterfield Avenue, Charleston, West Virginia.

*Sincerely,
Municipal Planning Commission*

The Mayor referred the cases to the Planning Committee of Council.

MISCELLANEOUS RESOLUTIONS

Resolution No. 682-04

Introduced in Council

Passed by Council

August 2, 2004

August 2, 2004

Introduced By:

Mary Jean Davis

Paul Monroe

Will Hanna

James Lanham

Ed Talkington

Bob White

Rev. James Ealy

Teresa Reed

WHEREAS, the Charleston Urban Renewal Authority will consider a proposal from the owners and developers of the property located at 121 Washington Street, West, Charleston, WV, commonly known as the Staats Hospital property, for the approval of site and construction plans for a new building to replace the existing Staats Hospital;

WHEREAS, the developer’s proposal is to locate the new building at the rear of the property facing Washington Street, West and behind a parking lot proposed on the present site of the hospital structure;

WHEREAS, the proposed configuration of the building site would be in opposition to principles of Smart Growth and the efforts of the City of Charleston to achieve Sustainable and Walkable Communities, both of which are principles that foster positive economic and social growth;

WHEREAS, it is the desire of the developers to delay demolition of the Staats Hospital building until the new building is complete for the convenience of the developers;

WHEREAS, allowing the building to be placed in any location other than in line with the adjacent properties along Washington Street West, with all required parking in the rear, would amount to a precedent setting decision effecting the current and future economic growth and social well-being of the near West Side and having a far reaching negative effect for decades into the future;

NOW, THEREFORE BE IT RESOLVED, this the 2nd day of August, 2004 that the Charleston City Council strongly encourages the Charleston Urban Renewal Authority to hold the developers of the subject property to the above outlined principles of development by requiring footprint of the new building to maintain the existing street edge by aligning with the adjacent buildings thereby enriching the pedestrian experience and creating a harmonious streetscape.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 682-04, adopted.

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. 617-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 617-04 – “Authorizing the Finance Director to make revisions to the 2004-2005 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 2004-2005 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 currently exists.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-25, nays-0, absent-3, as follows:

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

NAYS:

ABSENT: Hall, Weintraub, White.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 617-04, adopted.

2. Your Committee on Finance has had under consideration Resolution No. 618-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 618-04 – “Authorizing the Mayor to enter into a contract with York International Corp., in the amount of \$23,700, for upgrades of the primary cooling tower serving air conditioning at the Charleston Civic Center Coliseum.”

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 York International Corp., in the amount of Twenty-three Thousand Seven Hundred Dollars (\$23,700), for upgrades of the primary cooling tower serving air conditioning at the Charleston Civic Center Coliseum.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 618-04, adopted.

3. Your Committee on Finance has had under consideration Resolution No. 619-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 619-04 – “Authorizing the Mayor to enter into a contract with City Electric Co., in the amount of \$94,500, for replacement of a stage lighting system at the Charleston Civic Center Little Theater.”

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 City Electric Co., in the amount of Ninety-four Thousand Five Hundred Dollars (\$94,500), for replacement of a stage lighting system at the Charleston Civic Center Little Theater.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 619-04, adopted.

4. Your Committee on Finance has had under consideration Resolution No. 620-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 620-04 – “Authorizing the Mayor to enter into a contract with West Virginia Paving, in the amount of \$2,054,155.36, for the 2004-2005 Street Paving 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 West Virginia Paving, in the amount of Two Million Fifty-four Thousand One Hundred Fifty-five Dollars and Thirty-six Cents (\$2,054,155.36), for the 2004-2005 Street Paving Project.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-25, nays-0, absent-3, as follows:

YEAS: Chestnut, Clowser, Davis, Deitzler, Ealy, Hanna, Harris, Harrison, Higgins, Jones, Lane,

Lanham, Loeb, Markham, Miller, Monroe, Morton, Nielsen, Reed, Reishman, Robertson, Sadd, Talkington, Ware, Mayor Jones.

NAYS:

ABSENT: Hall, Weintraub, White.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 620-04, adopted.

5. Your Committee on Finance has had under consideration Resolution No. 621-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 621-04 – “Authorizing the Mayor to sign a grant request in the amount of \$3,000,000 with a 25% match from other participating agencies to be applied to the Interoperability program in the City of Charleston. This grant request includes the purchase of the trunking system for radio interoperability for use by first responders in Charleston and the surrounding areas.”

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

That the Mayor is hereby authorized and directed to sign a grant request in the amount of \$3,000,000 with a 25% match from other participating agencies to be applied to the Interoperability program in the City of Charleston. This grant request includes the purchase of the trunking system for radio interoperability for use by first responders in Charleston and the surrounding areas.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-25, nays-0, absent-3, as follows:

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

NAYS:

ABSENT: Hall, Weintraub, White.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 621-04, adopted.

6. Your Committee on Finance has had under consideration Resolution No. 622-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 622-04 – “Authorizing the Mayor to enter into a Technical Service Support Agreement with Medtronic Physio-Control, in the amount of \$23,724.90, for a three year period from July 1, 2004 to June 30, 2007, covering patient care equipment used by the Charleston Fire Department.”

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 Technical Service Support Agreement with Medtronic Physio-Control, in the amount of Twenty-three Thousand Seven Hundred Twenty-four Dollars and Ninety Cents (\$23,724.90), for a three year period from July 1, 2004 to June 30, 2007, covering patient care equipment used by the Charleston Fire Department.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 622-04, adopted.

7. Your Committee on Finance has had under consideration a Proposal submitted by Stephens Auto Sales, in the amount of \$45,558, for purchase of two (2) Dodge Durango St 4x4 vehicles by the Office of Emergency Services and Homeland Security. These vehicles will be assigned for use in the Criminal Investigation Division for the Charleston Police Department. Funds for this purchase are available from the Homeland Security Grant. To be charged to Account No. 045-000-04-001-4-459, Homeland Security Grant – Cities, Capital Outlay, 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.

8. Your Committee on Finance has had under consideration a bid submitted by North American Salt Co., in the amount of \$40.35 per ton for purchase of approximately 5,000 tons of salt to be used by the Street Department for now removal and ice removal. To be charged to Account No. 001-750-00-000-3-359, Street – Snow Removal Materials, 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.

9. Your Committee on Finance has had under consideration a proposal submitted by Gregory Industries, in the amount of \$7,550, for purchase of guardrails and related material to be used by the Street Department on an as needed basis. To be charged to Account No. 001-750-00-000-3-341, Street- Materials and Supplies, 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.

10. Your Committee on Finance has had under consideration a proposal submitted by Contech Construction Products, in the total amount of \$8,845.27, for purchase of 24' to 48' pipe (\$7,837); and bands (\$648.27) to be stockpiled and used for projects undertaken by the Street Department.

To be charged to Account No. 001-750-00-000-3-341, Street – Materials & Supplies, 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.

11. Your Committee on Finance has had under consideration a Proposal submitted by Advanced Drainage Systems, in the amount of \$5,154, for purchase of 12’ to 18’ pipe and related materials to be stockpiled and used for projects undertaken by the Street Department. To be charged to Account No. 001-750-00-000-3-341, Street – Materials & Supplies, 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 Bill No. 7071, as amended, and reports the same to Council with the recommendation that the committee report be adopted.

Bill No. 7071, as amended – A Bill closing, abandoning and discontinuing as a public right of way a 16 foot by 300 foot alley situate north of, and parallel with, Noyes Avenue and south of, and parallel with, Staunton Avenue, lying between 49th and 50th Street in the City of Charleston, West Virginia, and reserving a sewer easement for the City of Charleston.

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

1. The public right of way commonly known as a 16 foot by 300 foot alley, more aptly described as follows.

That certain parcel of land 16 foot by 300 foot, which said alley is situate north of, and parallel with, Noyes Avenue and south of, and parallel with Staunton Avenue, lying between 49th Street and 50th Street, in Kanawha City, City of Charleston, Kanawha County, West Virginia, and running westerly from 50th Street towards 49th Street parallel to Noyes Avenue and Staunton Avenue a distance of 300 feet, more or less; and that certain street right of way portion running southerly from Staunton Avenue towards Noyes Avenue, parallel to 49th Street, a distance of 16 feet, more or less, as shown on “Plat of Survey for St. Agnes Church Showing Lots 1 thru 6 and Lots 17 thru 28, block 139, Kanawha City, Located on 49th Street, Charleston, WV”, prepared by Kevin D. Shafer, Licensed Professional Surveyor No. 923, attached hereto, is closed, abandoned and discontinued.

2. The City of Charleston hereby reserves a sewer easement for the full width and length 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 or take any other actions which would interfere with this easement, or 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 City Engineer and Charleston Sanitary Board.

3. The Mayor of the City be, and is hereby authorized and directed to execute, acknowledge and deliver a proper deed conveying the Most Reverend Bernard W. Schmitt, Bishop of the Roman Catholic Diocese of Wheeling-Charleston, and his successors in office, all right, title and interest in and to said alley as described in Section 1 above, except as provided in Section 2 above, upon payment of \$4,800 to be paid to the City of Charleston by the Petitioner.

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

The question being on the passage of the Bill a roll call was taken and there yeas-24, nays-0, absent-3, abstain-1, as follows:

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

NAYS:

ABSENT: Hall, Weintraub, White.

ABSTAIN: Sadd

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7071, as amended, passed.

13. Your Committee on Finance has had under consideration Bill No. 7093, as amended, and reports the same to Council with the recommendation that the committee report be adopted.

Bill No. 7093 – A Bill authorizing the disposition of certain real property; authorizing a Contract of Lease Purchase with the West Virginia Economic Development Authority; authorizing the execution and delivery of the Deed, the Contract of Lease Purchase and related documents; taking all other actions relating to such transactions.

WHEREAS, the City of Charleston, West Virginia (the “City”) and its council (the “Council”) are permitted by Section 8-12-5(36) and Article 16 of Chapter 8 of the Code of West Virginia of 1931, as amended, to expend public funds for acquiring, construction and equipping public buildings and stadiums; and

WHEREAS, the Council desire to acquire, construct, renovate and equip a new baseball stadium complex and to renovate an existing building, a portion of which is to be used by the ball team, all of which is to be leased to the City (the “project”) on certain real property located in the City of Charleston (the “Site”; the Site prior, during and after improvement by, and including the Project, is referred to as the “Facilities”) and has requested that the West Virginia Economic Development Authority (the “Authority”) issue taxable lease revenue bonds (the “Bonds”) to finance a portion of the cost of the Project; and

WHEREAS, in connection with and in consideration for the issuance of the Bonds, the

City desires to transfer to the Authority, by deed, all of its right, title and interest in the Site; and

WHEREAS, the City desires to lease the Facilities from the Authority and to acquire, construct and equip the Project on behalf of the Authority, and the Authority is willing to lease the Facilities to the City and to authorized the City to acquire, construct and equip the Project on its behalf, for rentals sufficient to pay the principal of and interest on the Bonds when due; and

WHEREAS, the Council does hereby find and determine, that (i) the disposition of the Site by the Deed to the Authority, the form of which is attached hereto as Exhibit A (the “Deed”); (ii) the acquisition, construction and equipping of the Project on the Authority’s behalf; (iii) the leasing of the Facilities from the Authority pursuant to the Contract of Lease Purchase, the form of which is attached hereto as Exhibit B (the “Lease”); and (iv) all other things contemplated by or contained in the Deed and the Lease are necessary, proper and appropriate to accomplish the public purpose of providing a new baseball stadium complex as necessary, appropriate and required for the City.

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

Section 1. Findings. (a) It is hereby found and determined that (i) the disposition of the Site by the Deed to the Authority, the form of which is attached hereto as Exhibit A (the “Deed”); (ii) the acquisition, construction and equipping of the Project on the Authority’s behalf; (iii) the leasing of the Facilities from the Authority pursuant to the Contract of Lease Purchase, the form of which is attached hereto as Exhibit B (the “Lease”); and (iv) all other things contemplated by or contained in the Deed and the Lease are necessary, proper and appropriate to accomplish the public purpose of providing a new baseball stadium complex as necessary, appropriate and required for the City.

(b) It is hereby found and determined that title to the Site is vested with the City, and that the City has the power and authority to transfer such real property to the Authority.

Section 2. Transfer of the Site. To provide for the acquisition, construction and improvement of the Facilities, the transfer of the Site to the Authority is hereby authorized. The Mayor of the City is hereby authorized and directed to execute and deliver the Deed to the Authority.

Section 3. Lease. The Council hereby authorizes the Mayor to enter into the Contract of Lease Purchase with the Authority for the Facilities on behalf of the City.

Section 4. Rentals. The Council hereby authorized the payment of the rentals required under the Lease.

Section 5. Incidental Actions. The Mayor is hereby authorized and directed to execute and deliver such other documents, agreements, instruments and certificates and to take delivery of the Deed and Lease. The execution, delivery and due performance of document are hereby in all respects approved, authorized, ratified and confirmed, including all acts heretofore taken in connection with the transfer of the Site and leasing of the Facilities.

Section 6. Effective Date. This Ordinance shall take effect immediately upon enactment.

The question being on the passage of the Bill a roll call was taken and there yeas-23, nays-1, absent-3, abstain-1, as follows:

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

NAYS: Markham.

ABSENT: Hall, Weintraub, White.

ABSTAIN: Loeb.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7093, passed.

14. Your Committee on Finance has had under consideration a Payment of three invoices from Capitol Business Interiors, in the total amount of \$4,522.26, for purchase and installation of workstations in the Information Systems Department. To be charged to Account No. 220-975-00-440-4-458, Building Maintenance – Capital Outlay, Major Improvements, 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.

15. Your Committee on Finance has had under consideration a Payment of an invoice from George & Lorensen, PLLC, in the amount of \$17,050, for professional services rendered during the months of April, May and June, 2004, relating to the service fee case. 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 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 Payroll Variance Analysis; June 2004;
Received and Filed.

NEW BILLS INTRODUCED

Introduced by Councilman Harry Deitzler on August 2, 2004:

Bill No. 7094 - Amending and reenacting Chapter 10, Section 114 of the City Code of the City of Charleston, 2003, as amended; all relating to dogs roaming at large.

Refer to Parks and Recreation Committee.

UNFINISHED OR MISCELLANEOUS BUSINESS

NONE.

ROLL CALL

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

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

ABSENT: Hall, Weintraub, White.

At 7:50 p.m., on motion of Councilman Loeb, Council adjourned until Monday August 16, 2004, at 7:00 p.m.

Danny Jones, Honorable Mayor

James M. Reishman, City Clerk