

JOURNAL
OF THE
COUNCIL
CITY OF CHARLESTON
WEST VIRGINIA

FEBRUARY 2, 2004

THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE FIRST MEETING IN THE MONTH OF FEBRUARY ON THE 2nd DAY, IN THE YEAR 2004, AND WAS CALLED TO ORDER BY THE HONORABLE MAYOR, DANNY JONES, AT 7:00 P.M. THE INVOCATION WAS DELIVERED 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		HALL
HANNA	HARRIS	HARRISON
HIGGINS		LANE
LANHAM	LOEB	MORTON
MILLER	MONROE	MARKHAM
NIELSEN	REED	REISHMAN
ROBERTSON	SADD	TALKINGTON
WARE	WEINTRAUB	WHITE
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.

FEBRUARY 2, 2004, FIRST MEETING

CHARLESTON CITY COUNCIL JOURNAL FEBRUARY 2, 2004

PUBLIC SPEAKERS

1. Nancy Pfister, Charleston WV.

CLAIMS

1. A claim of Delores Graley, 4415 Noyes Ave., Charleston, WV; alleges damage to property; Refer to City Solicitor.
2. A claim of Russell Price, 1755 Daisy Drive, Charleston, WV; alleges damage to property; Refer to City Solicitor.

PROCLAMATIONS

TWO

COMMUNICATIONS

The Clerk read the following Appointments:

Council approved the appointment.

Council approved the appointment.

**TO: JAMES REISHMAN
CITY CLERK**

**FROM: DANNY JONES
MAYOR**

RE: EAST END HISTORICAL DISTRICT REVIEW BOARD

DATE: FEBRUARY 2, 2004

I am recommending that Robert Greathouse be appointed to the East End Historical District Review Board, with said term to expire April 16, 2005. He will be replacing Betty Wampler.

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

DJ/ads

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

DJ/ads

Council approved the appointment.

**TO: JAMES REISHMAN
CITY CLERK**

**FROM: DANNY JONES
MAYOR**

RE: SPRINGHILL CEMETERY BOARD

DATE: FEBRUARY 2, 2004

I am recommending that Tom Tolliver, 702 Hall Street, Charleston, be appointed to the Spring Hill Cemetery Board, with said term to expire April 6, 2004. He will be replacing Reverend Ricardo Flippin.

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

DJ/ads

Council approved the appointment.

MISCELLANEOUS RESOLUTIONS

RESOLUTION NO. 468-04

THE CITY COUNCIL OF CHARLESTON, WEST VIRGINIA

CATHOLIC SCHOOLS WEEK 2004

Introduced February 2, 2004, by Mark A. Sadd and co-introduced by Archie Chestnut, Cheryle Hall, Will Hanna Deatra L. Markham and Jerry Ware

WHEREAS, Roman Catholic schools have a long and honorable tradition of academic, religious and moral instruction in Charleston and the Kanawha Valley beginning with the founding of Sacred Heart School in 1870 at Sacred Heart of Jesus parish at a place where it is located to this day; and

WHEREAS, other Catholic schools were founded in 1922 at Saint Anthony of Padua parish, in 1923 at Saint Agnes parish and in 1949 at Saint Francis of Assisi parish in Saint Albans; and

WHEREAS, Charleston Catholic High School was founded in 1923 and has grown to become one of the finest and most acclaimed secondary schools in West Virginia; and

WHEREAS, these Catholic schools first flourished because of the extra-ordinary devotion and work of orders of religious sisters, including the Sisters of Saint Francis of Penance and Christian Charity, the Sisters of Saint Joseph of Wheeling and the Sisters of the Poor Child Jesus, and the unstinting support of the Catholic faithful; and

WHEREAS, these Catholic schools were the first to integrate the races, the first to articulate principles of peace and justice in their curricula and the first to mandate student community service; and

WHEREAS, these Catholic schools today enroll a combined 1,360 students of different religious faiths and employ a combined 160 teachers and staff; and

WHEREAS, these Catholic schools uniquely are committed to the heart of the city where they began and continue to heavily invest in their facilities, with nearly \$10 million in capital improvements over the past decade alone; and

WHEREAS, state and local economic development experts agree that these Catholic schools are essential to the economic future of the Kanawha Valley because new and recruited businesses want educational choices for the families of their employees who come here to live and work; and

WHEREAS, the enrollment of students in these Catholic schools from at least nine different counties saves taxpayers more than \$11,500,000.00 annually; and

WHEREAS, nearly 10,000 Catholic schools in the United States and Canada have just marked Catholic Schools Week, January 25 through January 31, with events throughout North America, including the Kanawha Valley;

NOW, WHEREFORE, BE IT RESOLVED,

That the City Council of Charleston, West Virginia, does hereby recognize and extol the unique and critical contributions of Catholic schools to the City of Charleston and the Kanawha Valley and the education of their children and, further does hereby congratulate them, their students, their administrators, their teachers, their families and their pastors on their success and the celebration of Catholic Schools Week.

Adopted by the City Council of Charleston, West Virginia,
this 2nd day of February, 2004.

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

the Mayor declared Resolution No. 468-04, adopted.

ENVIRONMENT AND RECYCLING

Councilman Ed Talkington, Chairman of the Council Committee on Environment and recycling, submitted the following reports.

Resolution No. 432-03 -- "Concerning a ten (10%) percent increase in the monthly tonnage at the City of Charleston Landfill operated by Landfill Services of Charleston, Inc.."

WHEREAS, the City entered into an Operating Agreement with Landfill Services of Charleston, Inc., formerly known as West Virginia Waste Services, Inc., on February 15, 1994, to construct and operate the City of Charleston Landfill; and

WHEREAS, the solid waste permit issued to permittee, City of Charleston on December 1, 1994, was modified to reflect a "CLASS A" Landfill with the tonnage authorization of "15,000 tons/month" on April 29, 1997 that was modified to "16,500 tons/month" by a 10% increase on April 19, 1999 by Resolution No. 180-99, and

WHEREAS, West Virginia Code §47-38-3, Item 3.18.2.a.A. mandates that a minor modification may be approved by the director (WVDEP) for a permittee proposing to increase the volume of solid waste accepted at the facility by an amount of ten (10%) percent or less upon application in alternate years, unless such an increase requires a change in the classification of the facility; and

WHEREAS, more than four years time has elapsed since the modification to the Solid Waste Permit; therefore

Be It Resolved By the Council of the City Of Charleston, West Virginia:

That the Council of the City of Charleston directs the administration to take the appropriate action to initiate the submittal to the West Virginia Division of Environmental Protection, Office of Waste Management requesting a ten (10%) percent increase in the allowable monthly tonnage.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 432-04, adopted.

PLANNING

Councilwoman Mary Jean Davis, Chairman of the Council Committee on Planning, submitted the following reports.

1. Your Committee on Planning has had under consideration Special Permit #1130 attached hereto and made part thereof,

Your Committee finds the following:

1. Due to the commercial nature of the downtown commercial district, there should not be an adverse impact on surrounding land uses.
2. The proposed use as a restaurant/bar is consistent with other uses in the Central Business district.
3. The Charleston Urban Renewal Authority strongly supports the request for Special Permit.

And reports the same to Council with the recommendation that the Special Permit be approved.

The question being on the approval of the Special Permit a vote was taken. There being no dissent the Mayor declared Special Permit #1130, approved.

2. Your Committee on Planning has had under consideration Bill No. 7028 as amended, attached hereto and made part thereof,

Bill No. 7028, as amended, A Bill amending the Zoning Ordinance of the City of Charleston by amending the table of permitted uses to allow “Gambling establishment” as a permitted use in the CBD Central Business District and to amend the table of special permit uses to allow “Gambling establishment” as a special permit use in the following districts; C-6 Community Commercial, C-8 Village Commercial, and C-10 General Commercial.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CHARLESTON, WEST VIRGINIA

The Zoning Ordinance of the City of Charleston, West Virginia enacted the 7th day of March 1983, as amended, is hereby amended by adding “Gambling establishment” as a permitted use in the CBD Central Business District and is further amended by adding “Gambling establishment” as a special permit use in the following districts; C-6 Community Commercial, C-8 Village Commercial, and C-10 General Commercial. The new provisions shall read as follows:

1) In ARTICLE II: DEFINITIONS

Section 2-2 Definitions of terms.

Add subsection:

Gambling establishment. An establishment that offers any form of gambling or games of chance that is regulated under the provisions of the Limited Video Lottery Act codified in W. Va. Code '29-22B-101.

2) In ARTICLE XI: C-6 COMMUNITY COMERCIAL DISTRICT

Section 11-4 Special permit uses.

Add subsection:
11-4 (b) (2) Gambling establishment.

Renumber 11-4 (b) 2-4 accordingly.

3) In ARTICLE XII: C-8 VILLAGE COMMERCIAL DISTRICT
Section 12-4 Special permit uses.

Add subsection:
12-4 (b) (2) Gambling establishment.

Renumber 12-4 (b) 2-4 accordingly.

4) In ARTICLE XIII: C-10 GENERAL COMMERCIAL DISTRICT
Section 13-4 Special permit uses.

Add subsection:
13-4 (b) (6) Gambling establishment.

Renumber 13-4 (b) 6-13 accordingly.

5) In ARTICLE XVII SPI SPECIAL PUBLIC INTEREST DISTRICT
Section 17-3 CBD Permitted principal uses.

Add subsection:
17-3 (a) (4) Gambling establishment.

Renumber 17-3 (a) 4-15 accordingly.

6) In ARTICLE XX: SPECIAL PERMIT USES
Section 20-3 Requirements.

Add subsection:
Section 20-3 (e) Gambling establishment.

The intent of this ordinance is to provide suitable locations for gambling establishments within the City of Charleston. The following spacing requirements are designed to prevent the clustering of such uses which may negatively impact the use and enjoyment of neighboring properties and to minimize adverse effects on the community in the best interests of the public health, safety, and welfare.

- (1) Such uses shall not be located within 2000 feet of each other.
- (2) No gambling establishment shall be permitted within 1000 feet of any church, place of worship, library, school, community center, or the State Capitol complex bounded by Greenbrier Street, Kanawha Boulevard, Michigan Avenue, and Piedmont Road.

Renumber 20-3 e-y accordingly.

7) The TABLE OF PERMITTED USES is hereby amended to conform with Sections 2-5 above.

8) 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-25, nays-0, absent-2, abstain-1, as follows:

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

NAYS:

ABSENT: Foster Jones

ABSTAIN: Higgins

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Bill No. 7028 as amended, passed.

3. Your Committee on Planning has had under consideration Bill No. 7029, attached hereto and made part thereof,

Bill No. 7029, A Bill amending the Zoning Ordinance of the City of Charleston by amending the table of permitted to allow “School – nursery, kindergarten, elementary, junior high, senior high, college or university” as a permitted use in the following districts; C-4 Neighborhood Commercial, C-6 Community Commercial, C-8 Village Commercial, C-10 General Commercial, and CBD Central Business District.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CHARLESTON, WEST VIRGINIA

The Zoning Ordinance of the City of Charleston, West Virginia enacted the 7th day of March 1983, as amended, is hereby amended by adding “School – nursery, kindergarten, elementary, junior high, senior high, college or university” as a permitted use in the following districts; C-4 Neighborhood Commercial, C-6 Community Commercial, C-8 Village Commercial, C-10 General Commercial, and CBD Central Business District. The new provisions shall read as follows:

1) In ARTICLE X: C-4 NEIGHBORHOOD COMERCIAL DISTRICT
Section 10-2 Permitted principal uses.

Add subsection:

10-2 (a) (6) School – nursery, kindergarten, elementary, junior high, senior high, college or university.

2) In ARTICLE XI: C-6 COMMUNITY COMERCIAL DISTRICT
Section 11-2 Permitted principal uses.

Add subsection:

11-2 (a) (15) School – nursery, kindergarten, elementary, junior high, senior high, college or university.

Re-number 11-2 (a) 15-17 accordingly.

3) In ARTICLE XII: C-8 VILLAGE COMMERCIAL DISTRICT
Section 12-2 Permitted principal uses.

Add subsection:

12-2 (b) (13) School – nursery, kindergarten, elementary, junior high, senior high, college or university.

4) In ARTICLE XIII: C-10 GENERAL COMMERCIAL DISTRICT
Section 13-2 Permitted principal uses.

Add subsection:

13-2 (b) (17) School – nursery, kindergarten, elementary, junior high, senior high, college or university.

Re-number 13-2 (b) 17-21 accordingly.

5) In ARTICLE XVII: SPI SPECIAL PUBLIC INTEREST DISTRICT
Section 17-3 CBD Permitted principal uses.

Add subsection:

17-3 (a) (12) School – nursery, kindergarten, elementary, junior high, senior high, college or university.

Re-number 17-3 (a) 12-15 accordingly.

6) The TABLE OF PERMITTED USES is hereby amended to conform with Sections 1-5 above.

7) 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-26, nays-0, absent-2, as follows:

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

NAYS:

ABSENT: Foster Jones

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Bill No. 7029, passed.

STREETS AND TRAFFIC

Councilman David Higgins, Chairman of the Council Committee on Streets and Traffic, submitted the following reports.

1. Your Committee on Streets and Traffic has had under consideration Bill No. 7030, and reports the same to Council with the recommendation that the Bill do pass.

A Bill to establish **Perpendicular Parking** on both sides of 44th Street from MacCorkle Avenue to the first alley south of MacCorkle Avenue 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.

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

Section 1. Perpendicular Parking on both sides of 44th Street from MacCorkle Avenue to the first alley south of MacCorkle Avenue is hereby established.

Section 2. 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, shall be and hereby are amended, to conform to this Ordinance.

Section 3. All prior 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 yeas-22, nays-4, absent-2, as follows:

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

NAYS: Loeb, Markham, Sadd, Ware

ABSENT: Foster, Jones

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Bill No. 7030, passed.

2. Your Committee on Streets and Traffic has had under consideration Bill No. 7037, and reports the same to Council with the recommendation that the Bill do pass.

A Bill to establish a **Stop Sign** at the intersection of Somerset Drive and Summit Drive requiring vehicles southbound on Somerset to stop and requiring vehicles northbound on Somerset to stop except when turning right and amending the Traffic Control Map and Traffic

Control File, established by the Code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Law, Chapter one hundred fourteen, Article five, to conform therewith.

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

Section 1. A **Stop Sign** at the intersection of Somerset Drive and Summit Drive is hereby established.

Section 2. The Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Law, Chapter one hundred fourteen, Article five, shall be and hereby are amended, to conform to this Ordinance.

Section 3. All prior Ordinances, inconsistent with this Ordinance are hereby repealed to the extent of said inconsistency.

3. Your Committee on Streets and Traffic has had under consideration Bill No. 7038, and reports the same to Council with the recommendation that the Bill do pass.

A Bill to establish a **No Parking Anytime Tow Away** on the easterly side of Hunt Avenue from Orchard Street to a point 80 feet north of Orchard Street and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Law, Chapter one hundred fourteen, Article five, to conform therewith.

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

Section 1. A **No Parking Anytime Tow Away** on the easterly side of Hunt Avenue from Orchard Street to a point 80 feet north of Orchard Street is hereby established.

Section 2. The Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Law, Chapter one hundred fourteen, Article five, shall be and hereby are amended, to conform to this Ordinance.

Section 3. All prior 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 yeas-26, nays-0, absent-2, as follows:

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

NAYS:

ABSENT: Foster, Jones

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Bill No. 7038, passed.

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. 459-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 459-04 – “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 has 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, Hall, Hanna, Harris, Harrison, Higgins, Lane, Lanham, Loeb, Markham, Miller, Monroe, Morton, Nielsen, Reishman, Reed, Robertson, Sadd, Talkington, Ware, Weintraub, White, Mayor Jones.

NAYS:

ABSENT: Foster, Jones

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 459-04, adopted.

2. Your Committee on Finance has had under consideration Resolution No. 460-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 460-04 – “Authorizing the Mayor to enter into an Agreement with Capital Builders Inc., in the amount of \$58,300, for replacement of at the stage floor 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 an Agreement with Capital Builders Inc., in the amount of Fifty-eight Thousand Three Hundred Dollars (\$58,300), for replacement of at the stage floor 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. 460-04, adopted.

3. Your Committee on Finance has had under consideration Resolution No.461-04, and reports the same to Council with the recommendation that the Committee report be adopted.

Resolution No. 461-04 – “Authorizing the settlement of a claim against the City of Charleston in which the city will make payment in the amount of \$26, 000 to Kalliope Stanley and Spyros Stanley, her husband, in exchange for a full release of all claims related to her slip and fall on a city sidewalk on November 21, 2002, and authorizing the Mayor to execute all agreements and documents related to said settlement.

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

That the settlement is approved and authorized and that the Mayor is authorized to execute all agreements and documents related to the settlement, in which the City of Charleston will pay \$26,000 to Kallipe Stanley, and Spyros Stanley, in exchange for a full release of all claims related to her slip and fall on November 21, 2002.

The question being on the adoption of the Resolution a vote was taken. The Mayor declared Resolution No. 461-04, adopted. Councilman Deitzler voted against this Resolution.

4. Your Committee on Finance has had under consideration Resolution No. 462-04, and reports the same to Council with the recommendation that the Committee report be adopted.

Resolution No. 462-04 – “Authorizing the Mayor to enter into a contract with Cincinnati Floor Company, in the amount of \$6,350, for refinishing the gymnasium floor at Roosevelt Neighborhood Center.”

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

That the Mayor is hereby authorized and directed to enter into a contract with Cincinnati Floor Company, in the amount of Six Thousand Three Hundred Fifty Dollars (\$6,350), for refinishing the gymnasium floor at Roosevelt Neighborhood Center.

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

NAYS:

ABSENT: Foster, Jones

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 462-04, adopted.

5. Your Committee on Finance has had under consideration Resolution No. 463-04, and reports

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

Resolution No. 463-04 – “Authorizing the Mayor to sign a Recreational Trails grant request on behalf of the West Side Neighborhood Association. The application will fund development of a 10-foot wide asphalt trail running parallel to the Kanawha Trestle (where it meets the ground on the West Side) to Kanawha Boulevard. Total cost of the project is \$100,000, with \$80,000 being requested in Recreational Trail funds and \$20,000 will be in-kind match based on the value of the trestle.”

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

That the Mayor is hereby authorized and directed to sign a Recreational Trails grant request on behalf of the West Side Neighborhood Association. The application will fund development of a 10-foot wide asphalt trail running parallel to the Kanawha Trestle (where it meets the ground on the West Side) to Kanawha Boulevard. Total cost of the project is One Hundred Thousand Dollars (\$100,000), with Eighty Thousand Dollars (\$80,000) being requested in Recreational Trail funds and Twenty Thousand Dollars (\$20,000) will be in-kind match based on the value of the trestle.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 463-04, adopted.

6. Your Committee on Finance has had under consideration Resolution No. 464-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 464-04 – “Authorization for Signing of Certificate of Authorization Resolution with West Virginia Economic Development Authority for Construction of Ballpark.”

WHEREAS, the Grantee is the recipient of a grant (the “Grant”) to pay for all or a portion of the constructing, equipping, improving or maintaining an economic development project, capital improvement project or infrastructure, namely **Project No. 1 - City of Charleston – Ballpark Project** (the “Project”), which was one of the projects certified by the Economic Development Grant Committee (the “Grant Committee”) pursuant to W.Va. Code §29-22-18a, to be funded by the proceeds of Excess Lottery Revenue Bonds issued by the West Virginia Economic Development Authority (the “WVEDA”); and

WHEREAS, the terms of the Grant are set forth in (i) a Memorandum of Understanding and Grant Agreement dated November 5, 2003, entered into by the Grant Committee, the Grantee and the WVEDA (including all schedules and attachments, the “MOU”), and (ii) a Disbursement Agreement _____, 2003, between the WVEDA and the Grantee (including all schedules and attachments, the “Disbursement Agreement”); and

WHEREAS, the Disbursement Agreement provides that the Grant shall be disbursed pursuant to an originally-signed and properly authorized Disbursement Request (a “Disbursement Request”), substantially in the form attached to the Disbursement Agreement as

Exhibit 1; and

WHEREAS, the Disbursement Agreement further provides that the Grantee must provide a resolution (or ordinance) establishing that the person signing the Disbursement Request is an “Authorized Person” properly authorized by the Grantee to sign Disbursement Request on behalf of the Grantee;

NOW, THEREFORE, BE IT RESOLVED, that the following persons, holding the offices or positions set forth opposite their names, are hereby designated by the Grantee as “Authorized Persons” who are duly authorized by the Grantee to sign Disbursement Requests on behalf of the Grantee pursuant to the Disbursement Agreement:

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 464-04, adopted. Abstain- Mark Sadd

7. Your Committee on Finance has had under consideration Resolution No. 465-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 465-04 – “Authorizing the Mayor to sign the Memorandum of Understanding and Agreement with Charleston Professional Baseball Club, LLC, and West Virginia Baseball, LLC, regarding stadium license, lease and service agreement, and construction of new ballpark.”

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

That the Mayor is hereby authorized and directed to sign the Memorandum of Understanding and Agreement with Charleston Professional Baseball Club, LLC, and West Virginia Baseball, LLC, regarding stadium license, lease and service agreement, and construction of new ballpark.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 465-04, adopted. Abstain- Sadd.

8. Your Committee on Finance has had under consideration Resolution No. 466-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 466-04 – “Authorizing the Mayor to submit a grant in the amount of \$66,500 to the Recreational Trails Program through the West Virginia Department of Transportation, Division of Highways, for construction of the Cato Trail.”

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

That the Mayor is hereby authorized and directed to submit a grant in the amount of \$66,500 to the Recreational Trails Program through the West Virginia Department of Transportation, Division of Highways, for construction of the Cato Trail.

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

the Mayor declared Resolution No. 466-04, adopted.

9. Your Committee on Finance has had under consideration Bill No. 6995, and reports the same to Council with the recommendation that the committee report be adopted.

A Bill closing, abandoning and discontinuing as a public walkway that certain 10' alley between Tracts 22 and 23 of Section 4 of the Edgewood Acres Addition, known as 636 Pacific Street and 638 Pacific Street 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. That certain ten foot alley/walkway beginning at a point; at the northeast corner of Tract 22; thence S 62 degrees 55' E 10.4 feet to a point at the northwest corner of Tract 23; thence S 5 degrees 41' W 208.78 feet to a point; thence N 65 degrees 05' 10.3 feet' to a point; thence N 5 degrees 41' E 204.20 feet to the place of beginning being a 10' walkway of 2,023.60 square feet 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 liens. 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 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 Carl S. Wolfe, Virgie L. Wolfe and Kevin B. Wolfe all right provided in section two of this ordinance, upon payment of One Hundred Forty- two Dollars (\$ 142.00) to be paid to the City of Charleston by the Petitioners.
4. All ordinances, or parts of ordinances, inconsistent with this ordinance are hereby repealed to the extend of the inconsistency.

**PETITION TO CLOSE, ABANDON, AND DISCONTINUE AS A PUBLIC WALKWAY
THOSE PORTIONS OF AN UNIMPROVED 10' WALKWAY WHICH EXTEND FROM
AN EIGHTY ACRE UNIMPROVED TRACT TO PACIFIC STREET BETWEEN
TRACTS 22 & 23 OF SECTION 4 OF THE EDGEWOOD ACRES ADDITION.**

TO THE MAYOR AND COUNCIL OF THE CITY OF CHARLESTON, WEST
VIRGINIA:

I.

Petitioners are Carl S. Wolfe and Virgie L. Wolfe, husband and wife and Kevin B. Wolfe, and as such are the owners of land located on Pacific Street in the City of Charleston, Kanawha

County, West Virginia, as more specifically shown on the map attached hereto and made a part hereof.

II.

Petitioners seek to close one unimproved alley/walkway as follows: the ten foot unimproved alley/walkway between Tracts 22 and 23 from an 80 acre unimproved tract owned by the City of Charleston to Pacific Street.

III.

The Petitioners own land which adjoins the walkway on the east and west side. The City of Charleston is the property owner to the north and Pacific Street is to the south.

IV.

The petitioner wishes to close, abandon and discontinue use as a public alley/walkway because this property has never been used as an alley or walkway and Petitioners have no intention to use this property as an alley or walkway. Petitioners have no knowledge that the City of Charleston plans to use this alley/walkway.

V.

Annexed hereto are the following:

1. The map referred to above;
2. A proposed bill for enactment as an ordinance by the City Council to accomplish the requested alley closing; and
3. A list showing the names and addresses of all persons owning property.

The question being on the passage of the Bill a roll call was taken and there were; yeas-24, nays-0, absent-4, as follows:

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

NAYS:

ABSENT: Foster, Markham, Chestnut, Lanham

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 6995, passed.

10. Your Committee on Finance has had under consideration a Payment of two invoices from Royal Oldsmobile, in the total amount of \$15,888.03, for repair of Police Vehicle Unit #W-1 (\$5,953.47), and MDENT vehicle (\$9,934.56). Both vehicles sustained damages as a result of involvement in separate accidents. To be charged to account No. 001-700-00-000-2-217, Police – Maintenance & Repair, Vehicles, 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

11. Payment of an invoice from Manna Meals, Inc., in the amount of \$3,862.46, for reimbursement of costs to provide meals to the homeless. To be charged to Account No. 009-003-00-011-0-999, 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-26, nays-0, absent-2, as follows:

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

NAYS:

ABSENT: Foster, Jones

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

12. Your Committee on Finance has had under consideration a Payment of an invoice from Astech Corporation, in the amount of \$5,635.68, for demolition of structure located at 731 Garrison Avenue. To be charged to Account No. 009-003-00-033-0-999, CDBG—Demolition, 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-26, nays-0, absent-2, Abstain – 1, as follows:

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

NAYS:

ABSENT: Foster, Jones, Sadd.

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

13. Your Committee on Finance has had under consideration a Payment of an invoice from Alternative Services Concepts, LLC. In the amount of \$17,957.50, for additional funds required for the Claims Contact Performance Reconciliation services for the insurance periods March 31, 2002 to March 31, 2003. To be charged to Account No. 001-412-00-000-2-227, City manager – Insurance, 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

REPORTS OF OFFICERS

1. Report of the City of Charleston Financial Statements For the Six-Month period ended December 31, 2003.
Received and Filed.
2. City Treasurer's Report to City Council Month Ending December, 2003;
Received and Filed.

NEW BILLS INTRODUCED

NONE

UNFINISHED OR MISCELLANEOUS BUSINESS

A presentation was given by Bill Goode and Susie Salisbury, concerning the merger of the Chamber of Commerce, BIDCO and Charleston Renaissance.

ROLL CALL

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

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

ABSENT: Foster, Jones

At 8:50 p.m., on motion of Councilman Loeb, Council adjourned until Tuesday February 17 2004, at 7:00 p.m.

Danny Jones, Honorable Mayor

James M. Reishman, City Clerk