

JOURNAL
OF THE
COUNCIL
CITY OF CHARLESTON

WEST VIRGINIA

JANUARY 20, 2004

THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE FIRST MEETING IN THE MONTH OF JANUARY ON THE 20th 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 BY JACK HARRISON, AND THE PLEDGE OF ALLEGIANCE WAS LEAD BY BOBBY REISHMAN.

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

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

TWENTY-SEVEN 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.

JANUARY 20, 2004, SECOND MEETING

CHARLESTON CITY COUNCIL JOURNAL JANUARY 20, 2004

PUBLIC SPEAKERS

1. James Straughter, Charleston WV.

CLAIMS

1. A claim of Gary Harris, 4522 Washington Ave., SE, Charleston, WV; alleges personal injury; Refer to City Solicitor.

PUBLIC HEARINGS

The Mayor read the following Public Hearings:

**AFTER DULY BEING PUBLISHED AS REQUIRED, I NOW
DECLARE THE FLOOR OPEN FOR A PUBLIC HEARING ON
BILL NO. 7034, A BILL TO AMENDING AND REENACTING
THE CITY CODE WITH RESPECT TO ADOPTION OF RULES
AND REGULATIONS AND INCREASING EXISTING RATES
AND CHARGES FOR THE SANITARY SEWER SERVICE.
IS THERE ANYONE FROM THE PUBLIC WHO WOULD LIKE
TO SPEAK.**

THE CHAIR SEES NO ONE FROM THE PUBLIC.

THE CHAIR HEARS NO ONE FROM THE PUBLIC.

**THE CHAIR DECLARES PUBLIC HEARING ON BILL NO. 7034
CLOSED.**

AFTER DULY BEING PUBLISHED AS REQUIRED, I NOW DECLARE THE FLOOR OPEN FOR A PUBLIC HEARING ON BILL NO. 7031, A BILL TO AMENDING AND REENACTING THE BUILDING CODE FOR THE CITY OF CHARLESTON TO UPDATE PROVISIONS IN LIGHT OF THE STATE'S ADOPTION OF THE INTERNATIONAL CODE COUNCIL'S BUILDING CODE MODELS; TO INCLUDE INSPECTION FEES; TO UPDATE THE BUILDING DEPARTMENT ADMINISTRATIVE MANUAL, AND TO PROVIDE FOR THE RELEASE OF DEMOLITION LIENS IN EXCHANGE FOR TIMELY IMPROVEMENTS TO PROPERTY. IS THERE ANYONE FROM THE PUBLIC WHO WOULD LIKE TO SPEAK.

THE CHAIR SEES NO ONE FROM THE PUBLIC.

THE CHAIR HEARS NO ONE FROM THE PUBLIC.

THE CHAIR DECLARES PUBLIC HEARING ON BILL NO. 7031

CLOSED.

PROCLAMATION

EXECUTIVE DEPARTMENT

CITY OF CHARLESTON

PROCLAMATION

By the Mayor

WHEREAS: Sharon King has dedicated countless hours as a volunteer and unparalleled experience as a leader of the Charleston Regatta for more than an decade; and

WHEREAS: As the director of the 2003 Regatta, Sharon King faced weather problems beyond

her control, yet still managed to keep costs under control and produce a budget surplus under very difficult conditions; and

WHEREAS: Ms. King's strong fiscal management of the Sternwheel Regatta has kept the event as a valuable, viable and vibrant community festival for the City of Charleston and our surrounding region; and

WHEREAS: Her years of service as a trusted and dedicated volunteer have given her a thorough understanding of all aspects of the Regatta and strong connection to the hundreds of other volunteers who make this community event possible; and

WHEREAS: Planning for the 2004 Regatta begins with a balance of more than \$60,000 because of Ms. King's creative financial management and hundreds of dedicated volunteers because of her personal commitment to all of the people who work for the cause; and

WHEREAS: With Sharon King continuing to provide her experienced volunteer leadership and strong fiscal management and because of an unprecedented partnership with the Mayor's Office, the 2004 Regatta promises to be the best of its kind in a long time;

NOW, THEREFORE, I, Danny Jones, Mayor of the City of Charleston, do hereby recognize and commend for public appreciation

Regatta festival director Sharon King

for her long-time service and dedicated leadership of the Charleston Regatta festival. As we recognize and thank Ms. King for her continuing involvement with this vibrant community event, we also join in expressing our appreciation for the hundreds of others who volunteer their time, energies and expertise in making the Regatta a real showcase event and another reason why Charleston is a more attractive place to live, visit and invest in the future.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the Executive Department to be affixed this 5th day of January 2004.

DANNY JONES, MAYOR

COMMUNICATIONS

The Clerk read the following Communication

Honorable Danny Jones
And Members of City Council
Charleston, WV 25301

Dear Mayor Jones and Councilmember's:

On January 7, 2004, the Municipal Planning Commission held public hearings and its regular monthly meeting. The following case was heard by the Commission:

Special Permit #1130 – Application of Aoleen Staurulakis requesting a Special Permit for a Restaurant/Bar serving alcoholic beverages in an Urban Renewal District accessory to the business located at 218 Capitol Street.

Bill #7028 – Petition of the Municipal Planning Commission to amend the Zoning Ordinance of the City of Charleston to allow “Gambling establishment” as a permitted use in the CBD Central Business District and to allow “Gambling establishment” as a Special Permit use in the C-6 Community Commercial District, C-8 Village Commercial District, and the C-10 General Commercial District.

Bill #7029 – Petition of the Municipal Planning Commission to amend the Zoning Ordinance of the City of Charleston to allow “School – nursery, kindergarten, elementary, junior high, senior high, college or university” as a permitted use in the C-4 Neighborhood commercial District, C-6 Community Commercial District, C-8 Village Commercial District, C-10 General Commercial District, and CBD Central Business District.

These cases should be referred to the Planning Committee of Council.

Sincerely,
Municipal Planning Commission

Phyllis White, Administrative Assistant

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

MISCELLANEOUS RESOLUTIONS

NONE.

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 the acceptance and dedication of the remaining portion of Roanoke Trace situated from the end of Jamestown Road to the northeast end of Roanoke Trace within Jamestown Subdivision attached hereto and made a part hereof, and reports the same to Council with the recommendation that the remaining portion of Roanoke Trace be accepted and dedicated contingent upon receiving a 2 year street and storm water maintenance bond in the amount of \$17,000.00.

The question being on the acceptance and dedication of Roanoke Trace a vote was taken. There being no dissent the Mayor declared Roanoke Trace accepted and dedicated.

STREETS AND TRAFFIC

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

1. Bill No. 7021, a Bill to establish a 4 Way Stop intersection at 55th Street and Virginia 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. A 4 Way Stop intersection at 55th Street and Virginia 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, in consistent 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-27, nays-0, absent-1, as follows:

YEAS: Chestnut, Clowser, Davis, Deitzler, 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: Foster.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Bill No. 7021, passed.

2. Bill No. 7022, A Bill to establish a 25 Mile Per Hour speed limit on Kanawha Avenue from 37th Street, to 57th 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.

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

Section 1. A 25 Mile Per Hour speed limit on Kanawha Avenue between 37th Street, S. E. and 57th Street, S. E. 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.

The question being on the passage of the Bill a roll call was taken and there yeas-27, nays-0, absent-1, as follows:

YEAS: Chestnut, Clowser, Davis, Deitzler, 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: Foster.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Bill No. 7022, passed.

3. Bill No. 7026, amending and reenacting Chapter 114, Section 578 the City Code titled “Residential Permit Parking”, said amendments allowing owners of non residential buildings within designated areas to purchase one (1) visitor permit and providing a procedure for the declassification of residential permit parking areas.

Be it Ordained by the Council of the City of Charleston, West Virginia: that Section 31-208.1 Residential Permit Parking is hereby amended and re-enacted and to read as follows:

CHAPTER 114.
TRAFFIC ORDINANCE
Article VII. Stopping, Standing and Parking.
Division 1. Generally

Section 114-578 Residential Permit Parking

a). Residential Permit Parking Area Designation: A Residential Permit Parking Area may only be established in areas of the City zoned R-O, R-2, R-4, R-6, and R-8. A Residential Permit

Parking Area may be established by filing a petition with the City Traffic Engineering Department upon a form to be prescribed by the Traffic Engineering Department and approved by the City Council Streets and Traffic Committee. The cost of the permits must be stated on the form.

- (1) The petition must contain the boundaries of the area sought for residential permit parking, the number of residential units in the area, the address of each residential unit in the area, the license numbers for all vehicles owned by the residents of each residential unit in the proposed area, and the reason that the Residential Permit Parking area is requested. The petition must be signed by at least one resident of a minimum of 67% of the residential units in the proposed area. The petition must set forth the hours during which the applicant is seeking restricted residential permit parking.
- (2) Residential permit parking may be sought for day time hours (8:00 a.m. to 6:00 p.m.), night time hours (6:00 p.m. to 8:00 a.m.), or on a 24 hours basis. A non-refundable filing fee of \$100.00 must accompany the petition. Upon filing, a copy of the petition shall be promptly provided to the ward councilperson.
- (3) Upon receipt of the petition and the filing fee, the City of Charleston Traffic Engineering Department shall verify the names, addresses, and vehicle information on the petition. The Traffic Engineering Department shall then cause appropriate traffic surveys to be conducted in the area sought for residential permit parking. If the Traffic Engineering surveys find that on average 80% of the available on street parking spaces are occupied and more than 50% of the vehicles parked in the area belong to non-residents, then the area is eligible for designation as a Residential Permit Parking Area, and the petition and the results of the survey shall be transmitted to the ward councilperson. The ward councilperson shall submit a bill to designate the area as a Residential Permit Parking Area to City Council for consideration. The bill shall be referred to Council's Committee on Streets and Traffic which will report to council its recommendation. City Council shall make its decision on whether to designate area based upon the recommendation from its Committee on Streets and Traffic, the recommendation from Traffic Engineering, input from members of the public and any other material information.

b). Authorized Permits: If a Residential Permit Parking area is established by City Council, each residential unit in the Residential Permit Parking area may obtain a maximum of two permits for specific vehicles owned by the residents. One visitor permit per residential unit may also be obtained. Owners of non residential buildings within the designated areas may purchase one (1) visitor permit to be used by the owner or his or her designee.

- (1) Each permit will be valid for one year. The cost for each residential parking permit and visitor permit is \$25.00 per permit annually.
- (2) The permits shall be issued and used in accordance with the Residential Permit Parking Policy established by Council.

c.) Violations: Any vehicle parking in a Residential Permit Parking area in violation of the terms of this ordinance shall be subject to a fine of \$75.00 and/or shall be impounded in accordance with section 31-209. Vehicles making deliveries or providing service to residential units within the permit area may be parked without a permit for the duration of the delivery or the provision of service.

Any residential permit parking area in the City of Charleston established prior to the adoption of this ordinance shall be subject to the provisions of paragraphs b and c.

d.) Decertification Procedure: A residential parking area may be decertified if at least one resident of a minimum of 67% of the residential units in the designated area sign and file a petition with the City Traffic Engineering Department requesting elimination of the residential permit parking area designation. Such an application for decertification must be accompanied by a non-refundable filing fee of \$100.00. Upon receipt of the petition and the filing fee, the City Traffic Engineering Department shall verify the names and addresses on the petition. Once the names and addresses are verified as area residential unit owners, a copy of the petition shall be promptly provided to the ward councilperson. The ward councilperson shall submit a bill to decertify the area as a Residential Permit Parking Area to City Council for consideration. The bill shall be referred to Council's Committee on Streets and Traffic which will report to council its recommendation. City Council shall make its decision on whether to decertify the area based upon the recommendation from its Committee on Streets and Traffic, the recommendation from Traffic Engineering, input from members of the public and any other material information.

Ordinances, resolutions or parts thereof that are inconsistent with the provisions of this ordinance are hereby repealed.

This ordinance shall take effect immediately upon passage

The question being on the passage of the Bill a roll call was taken and there yeas-27, nays-0, absent-1, as follows:

YEAS: Chestnut, Clowser, Davis, Deitzler, 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: Foster.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Bill No. 7026, 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. 442-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 442-04 – “To amend Resolution No. 442-04, approved by Council on January 5, 2004, by correcting the annual costs for leasing of space in Municipal Parking Building No. 2 by The Board of Publication of the Methodist Church, Inc. (Cokesbury Bookstore) for a five year period.”

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

That Resolution No. 442-04, approved by Council on January 5, 2004, is hereby amended by correcting the annual costs for leasing of space in Municipal Parking Building No. 2 by The Board of Publication of the Methodist Church, Inc. (Cokesbury Bookstore) for a five year period, as follows:

2004	\$23,617.50
2005	\$25,060.00
2006	\$26,502.50
2007	\$27,954.00
2008	\$29,387.50

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 442-04, adopted.

2. Your Committee on Finance has had under consideration Resolution No. 451-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 451-04 – “Authorizing the Mayor to sign a renewal of the Letter of Credit with Bank One for Parking System Revenue Bonds, Series 1994-A, 1994-B, and 1995-A; and further authorizing payment in the amount of \$95,631.09 for the Letter of Credit.”

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

That the Mayor is hereby authorized and directed to sign a renewal of the Letter of Credit with Bank One for Parking System Revenue Bonds, Series 1994-A, 1994-B, and 1995-A; and further authorizing payment in the amount of Ninety-five Thousand Six Hundred Thirty-one Dollars and Nine Cents (\$95,631.09) for the Letter of Credit.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 451-04, adopted.

3. Your Committee on Finance has had under consideration Resolution No. 452-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 452-04 – “Authorizing the Finance Director to amend the 2001, 2002, and 2003 Community Development Block Grant budgets as indicated on the attached list of accounts.”

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

That the Finance Director is hereby authorized and directed to amend the 2001, 2002, and 2003 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 through the MOECD Citizen Participation Plan.

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

YEAS: Chestnut, Clowser, Davis, Deitzler, 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: Foster.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 452-04, adopted.

4. Your Committee on Finance has had under consideration Resolution No. 453-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 453-04 – “Authorizing the Mayor to enter into an agreement with Dill’s Fire & Safety Equipment, in the amount of \$549,348, for purchase of two (2) 1500-gallon single stage pumper units for the Charleston Fire Department.”

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

That the Mayor is hereby authorized and directed to enter into an agreement with Dill’s Fire & Safety Equipment, in the amount of Five Hundred Forty-nine Thousand Three Hundred Forty-eight Dollars (\$549,348), for purchase of two (2) 1500-gallon single stage pumper units for the Charleston Fire Department. One unit is for Fire Station No. 8 at 208 Copenhaver Drive (Orchard Manor); and the second unit is for Fire Station No. 4 at 1810 Oakridge Drive.

The CDBG budget included \$250,000 for purchase of one pumper unit. Additional funds of \$24,674 were required for this purchase and are being requested through the CDBG budget amendment on tonight's agenda. The CDBG funds will be made available contingent upon no adverse citizen comments being received during the 30-day comment period required through the MOECD Citizen Participation Plan.

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

YEAS: Chestnut, Clowser, Davis, Deitzler, 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: Foster.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 453-04, adopted.

5. Your Committee on Finance has had under consideration Resolution No. 454-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 454-04 – “Authorizing the Mayor to enter into a renewal of the lease agreement with the West Virginia Department of Transportation, Division of Highways, for land under the I-77 Bridge at Court Street for consideration of One Dollar (\$1.00) for a 25-year period. The property will be used for the proposed skate park 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 renewal of the lease agreement with the West Virginia Department of Transportation, Division of Highways, for land under the I-77 Bridge at Court Street for consideration of One Dollar (\$1.00) for a 25-year period. The property will be used for the proposed skate park project.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 454-04, adopted.

6. Your Committee on Finance has had under consideration Resolution No. 455-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 455-04 – “Authorizing the Mayor or City Manager to sign the Disbursement Agreement with the West Virginia Economic Development Authority, and all Disbursement Requests, on behalf of the City of Charleston, for disbursement of grant funds awarded to the City of Charleston for construction of a new ballpark.”

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

That the Mayor or City Manager is hereby authorized and directed to sign the Disbursement Agreement with the West Virginia Economic Development Authority, and all Disbursement Requests, on behalf of the City of Charleston, for disbursement of grant funds awarded to the City of Charleston for construction of a new ballpark.

The question being on the adoption of the Resolution a vote was taken. The majority voting in the affirmative the Mayor declared Resolution No. 455-04, adopted. Markham- No, Sadd- Abstain.

7. Your Committee on Finance has had under consideration Resolution No. 456-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 456-04 – “Authorizing the Mayor to enter into a contract with the Charleston Professional Baseball Club, LLC (Alley Cats) for lease of Watt Powell Park, commencing upon City Council approval and signature of the Club’s Managing Partner, and terminating on December 31, 2004, and under the terms and conditions set forth in the contract.”

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 the Charleston Professional Baseball Club, LLC (Alley Cats) for lease of Watt Powell Park, commencing upon City Council approval and signature of the Club’s Managing Partner, and terminating on December 31, 2004, and under the terms and conditions set forth in the contract.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 456-04, adopted. Sadd- abstain.

8. Your Committee on Finance has had under consideration a proposal submitted by a bid submitted by Universal Air Products, in the amount of \$14,400, for purchase of a Fresh Air Compressor to be utilized by Fire Station No. 1, located at Lee and Morris streets. To be charged to Account No. 001-976-00-706-4-459, Fire – Capital Outlay, Equipment, 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

9. Your Committee on Finance has had under consideration a proposal submitted by a bid submitted by Electronic Communication of WV, in the amount of \$35,014.16, for 12 sets of emergency equipment to be installed on 2004 Ford Crown Victoria Police Interceptors for use in the Patrol Division of the Charleston Police Department. To be charges to Account No. 001-976-00-700-4-459, Police – Capital Outlay, Equip, 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

10. Your Committee on Finance has had under consideration a proposal submitted by a proposal submitted by County Club Chrysler, Plymouth, Dodge, in the amount of \$45,186, for two (2) 2004 Dodge Durango Police Utility Vehicles for use in the Charleston Police Department. To be charged to Account No. 001-976-00-700-4-461, Police – Capital Outlay, Lease/Purchase, 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. Your Committee on Finance has had under consideration a proposal submitted by a proposal submitted by RGA, Inc., in the amount of \$20,500, for the purchase of ten (10) Traffic Signal System Controllers for the Traffic Engineering Department. The new controllers are for installation at the following locations: Kanawha Boulevard and Clendenin Street, Kanawha Boulevard and Court Street, Kanawha Boulevard and Laidley Street, Kanawha Boulevard and Summers Street, Kanawha Boulevard and Capitol Street, Kanawha Boulevard and MacFarland Street, Kanawha Boulevard and Broad Street, Kanawha Boulevard and Brooks Street, Kanawha Boulevard and Morris Street, Spare. To be charged to Account No. 001-976-00-712-4-459, Traffic Engineering – Capital Outlay, Equipment, 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

12. Your Committee on Finance has had under consideration Bill No. 7034, and reports the same to Council with the recommendation that the committee report be adopted.

AN ORDINANCE AMENDING AND REENACTING SECTION 118-141 OF DIVISION 4 OF ARTICLE III OF CHAPTER 118 OF THE CODE OF THE CITY OF CHARLESTON, WEST VIRGINIA, WITH RESPECT TO ADOPTION OF RULES AND REGULATIONS AND INCREASING EXISTING RATES AND CHARGES FOR SANITARY SEWER SERVICE.

WHEREAS, in order to protect the public health, safety and welfare, the Council of the City of Charleston (“City Council”) has determined that it is necessary for the Sanitary Board of the City of Charleston (the “Sanitary Board”) to complete a project of additions, betterments and improvements to the existing public sewerage system of the City of Charleston (the “System”),

consisting of replacements and improvements to the wastewater collection and treatment plant, together with all appurtenant facilities (the “Project”); and

WHEREAS, in order for the Sanitary Board to collect annual revenues necessary to pay the operation and maintenance expenses and the debt service, including the Project additions, of the System, the existing rates and charges for sanitary sewer service to the customers of the Sanitary Board must be increased; now, therefore

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

SECTION 1. That Bill No. 6802 of the City of Charleston, West Virginia, enacted the 18th day of June 2001, and codified in the City Code of the City of Charleston as Section 118-141 “Establishment of a Schedule of Just and Equitable Rates or Charges; Use of Water Meters” of Division 4 of Article III of Chapter 118 be further amended and reenacted by establishing a schedule of rates and charges for the use of and services rendered by the System, all of said Section is hereby amended to provide as follows:

Sec. 118-141. Adoption of certain rules and regulations and establishment of a schedule of just and equitable rates or charges; use of water meters.

For the operation of the system and for the payment of proper and reasonable expense of operations, repair, replacements, improvements, additions, betterments, extensions, and maintenance of the sewer system and for the payment of the sums required to pay the principal and interest of all sewer revenue bonds as the same become due, there is hereby established rules and regulations and a schedule of just and equitable rates or charges for the use of the sanitary board, which rules and regulations and schedule of rates or charges, based upon the metered amount of water supplied the premises, shall be as

follows:

(1) *Rules and regulations.*

a. Rules and regulations for the government of sewerage utilities adopted by the Public Service Commission of West Virginia, and now in effect, and all amendments thereto, and modifications thereof hereafter made by said commission.

b. On all premises having a private water supply and connected with the sewer system and works there shall be installed a meter for measuring the amount of water supplied said premises.

c. If for any reason there be no record of the amount of water supplied any month, then the charge shall be based upon the last available monthly meter reading.

d. Users, the nature and character of whose use is such that the amount of water discharged into the said system is deemed by the sanitary board to be substantially less than the amount of metered water supplied the premises, shall be charged for sewer service substantially on the basis of the amount of water discharged into the sewer system, as may be determined according to formulae approved by the sanitary board.

e. In apartment buildings, mobile home courts, shopping centers and other places where more than one occupancy unit is served with water through one water meter, the customer shall be required to pay not less than the minimum monthly charge provided in the

tariff for each occupancy.

(2) *Rates.*

a. For sewage that does not contain industrial waste:

In excess of 2,000 gallons used per month, per thousand
gallons. . \$6.33

b. For sewage that contains industrial waste:

1. Where the character of sewage from any manufacturing or industrial plant, building or premises is such that it imposes a burden upon the sewer system in addition to the burden imposed by the average sewage entering the sewer system, the sanitary board may, if it deems advisable to do so, compel the owner, tenant or occupant of such manufacturing or industrial plant, building or premises to treat such sewage in such manner as shall be specified by the sanitary board before discharging into the sewer system. In the absence of such treatment sufficient to remove such additional burden, the charges for treatment of such sewage shall be as follows:

Monthly service charge . . . \$5,262.00

Volumetric treatment charge, per thousand gallons
. . . \$2.87

Biochemical oxygen demand (BOD) charge, per
pound . . . \$0.42

Total Suspended Solids (TSS) charge, per pound

. . . \$0.33

2. When an industrial user is to be served, a preliminary study of its waste, and the cost of transport and treatment thereof, will be made. Waste containing materials which, in the judgment of the sanitary board, should not be introduced into the sewer system, need not be handled by it. The results of this preliminary study will be used to determine the feasibility of the proposed sewer service.

(3) *Minimum charge.* A charge of \$11.56 shall be the minimum for each month or fraction thereof. If, for any reason, there be no record of the amount of water supplied in any month, then the charge shall be based upon the last available monthly meter reading.

(4) *Recovery of bank charges.* If a bank or other financial institution returns a customer's check to the sanitary board and charges a fee to the sanitary board for such service, the fee charged will be added to the account of the customer whose check is returned.

(5) *Pretreatment charge.* In addition to all other charges contained herein, all customers who operate under a pretreatment permit will pay an annual charge of \$2500.00, payable on July 1 of each year.

(6) *Disconnect, lien, and reconnect fees.* If the sanitary board gives notice to a provider of water service to disconnect water service to a customer of the sanitary board, the following charges will be added to the account of such customer:

a. A charge equal to that imposed upon the sanitary board by the water service provider, plus any legally required certified mail charge, will be added to such customer's account at the time notice to disconnect is given to the water provider.

b. A charge equal to the filing fee to cover the cost of placing a lien on the property served will be added to the account of such customer at the time such lien is filed in the office of the clerk of the county commission of the county where the property served is located.

c. A reconnect charge equal to that imposed upon the sanitary board by the water service provider will be made at the time the customer pays the amounts due on such customer's account and requests the reconnection of water and sewer service.

(7) *New service fee.* A new service fee equal to the greater of \$250.00 or the sanitary board's actual cost of making the connection shall be paid before sewer service can be obtained at any location not previously connected to the collection system of a sewer utility.

(8) *Delayed Payment Penalty.* On all current usage billings not paid in full by the latest pay date, which shall be no sooner than the 20th day following the date the sanitary board mails the bill, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

(9) *Grease trap charge.* In addition to all other charges contained herein, all customers who are required by the sanitary board to install a grease trap shall pay an annual charge of \$300.00, payable on July 1 of each year.

(10) *Surcharges.* Customers served from the facilities acquired from the Mt. Tyler Public Service District shall pay, in addition to the foregoing, a monthly surcharge of \$2.14 per month until the retirement of bonds issued by said district, as approved by the Public Service Commission of West Virginia in Case No. 98-0215-PSD-S-C.

Customers served from the facilities acquired from the Guthrie Public Service District shall pay, in addition to the foregoing, a monthly surcharge of \$1.75 per thousand gallons until the retirement of bonds issued by said district, as approved by the Public Service Commission of West Virginia in Case No. 00-0152-PSD-PC.

SECTION 2. That, in accordance with the requirements of Chapter 16, Article 13, Section 16 of the Code of West Virginia, 1931, as amended, the City shall cause notice of the proposed adoption of this Ordinance to be published as a Class II-0 legal advertisement, with the first publication being made at least ten days before the City Council meeting at which this Ordinance is to be finally adopted, and with said notice meeting the other requirements set forth in Code §16-13-16; and this hearing is also with regard to an ordinance raising revenues in compliance with Chapter 8, Article 11, Section 4 of the Code of West Virginia, 1931, as amended;

and

SECTION 3. That in accordance with the provisions of Chapter 24, Article 2, Section 4(b) of the Code of West Virginia, 1931, as amended, the rules and regulations and the rates and charges provided for herein shall be effective not sooner than 45 days from the date of adoption; and

SECTION 4. That, in accordance with the Public Service Commission's *Rules for the Construction and Filing of Tariffs*, 150 CSR 2, notice of this Ordinance shall be provided by (a) causing to be published the Commission's Tariff Form No. 12 as a Class II legal advertisement, with the first publication occurring within five days after the adoption of this Ordinance, in a qualified newspaper of general circulation in the area of Charleston, and (b) causing to be published a press release that contains the substance of Tariff Form No. 12, in a qualified newspaper of general circulation in the area of Charleston, (c) posting a notice that conforms with Tariff Form No. 12 in a conspicuous place at the Sanitary Board's business premises beginning the day after the City Council meeting at which this Ordinance is adopted and continuing for 30 days, and (d) filing with the Public Service Commission, within 5 days after adoption of this Ordinance, a copy of this Ordinance along with other information as required by Section 22.1.f of the *Tariff Rules*.

SECTION 5. All prior ordinances, or parts of ordinances, inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 6. This Ordinance shall be effective immediately upon adoption.

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

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

NAYS: Chestnut, Miller, Reed.

ABSENT: Foster.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Bill No. 7034, passed.

13. Your Committee on Finance has had under consideration Bill No. 7035, and reports the same to Council with the recommendation that the committee report be adopted.

Bill No. 7035 – Authorizing the Mayor on behalf of the City of Charleston to exercise eminent domain and institute condemnation proceedings to acquire property described as an undivided one-seventh (1/7th) interest of Robert Kinney in a portion of the Morris Square Block, for the purpose of constructing and maintaining a baseball park and attendant facilities; and, authorizing and directing the Mayor to execute all related documents on behalf of the City of Charleston.

WHEREAS, pursuant to West Virginia Code Sections 8-12-1 and 54-1-1 et seq., the City of Charleston has the authority to exercise eminent domain and condemn this property.

WHEREAS, the property is the preferred site to construct and operate a baseball parks and attendant facilities;

WHEREAS, the property is described as “the undivided one-seventh (1/7th) interest of Robert Kinney in that certain lot of parcel of property, being a portion of the Morris Square Block, said lot or parcel of property being identified on the Assessor’s Tax Map for Charleston Ease District, Kanawha County, West Virginia, as Tax Map 18, Parcel 37, commonly know as 1210 Baines Street.

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

That the Mayor is authorized to institute condemnation proceedings to acquire property described as an undivided one-seventh (1/7th) interest of Robert Kinney in a portions of the Morris Square Block, for the purpose of constructing and maintaining a baseball park and attendant facilities and to execute all related documents on behalf of the City of Charleston.

This ordinance is to become effective immediately upon passage.

The question being on the passage of the Bill a roll call was taken and there yeas-24, nays-2, absent-1, abstain-1, as follows:

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

NAYS: Chestnut, Markham.

ABSENT: Foster.

ABSTAIN: Sadd.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Bill No. 7035, passed.

14. Your Committee on Finance has had under consideration Bill No. 7036, and reports the same to Council with the recommendation that the committee report be adopted.

Bill No. 7036 – Authorizing the Mayor on behalf of the City of Charleston to exercise an option to purchase real estate known as the “Kroger Company Properties” and the “Morris Square Block” from Morris Square Associated, LLC, for the purpose of constructing and operating a baseball park; and, authorizing the Mayor to grant a right of way easement in favor of Morris Square Associated, known as the Charmco Right Of Way”; and, authorizing and directing the Mayor to execute all related documents on behalf of the City of Charleston

WHEREAS, the property is the preferred site to construct and operated a baseball park and attendant facilities;

WHEREAS, the City of Charleston entered into an option to purchase real estate agreement on August 1, 2003 (“purchase agreement”);

WHEREAS, the Charmco Right of Way agreement is defined in the option to purchase agreement, in Exhibit 1 (d), and the City accepts all the terms included therein;

WHEREAS, the legal description of the properties to be purchased by the City of Charleston are known as the “Kroger Company Properties”, more fully described in schedule 1 (m) of the option agreement; the “Morris Square Block”, more fully described in schedule 1 (o) of the option agreement.

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

That the Mayor is authorized and directed to exercise the option to purchase real estate know as the “Kroger Company Properties” and the “Morris Square Block” on behalf of City of Charleston for the purpose of constructing and operating a baseball park and to grant a right of way easement in favor of Morris Square Associated, known as the “Charmco Right of Way” and the Mayor is authorized and directed to execute all related documents on behalf of the City of Charleston.

This ordinance is to become effective immediately upon passage.

The question being on the passage of the Bill a roll call was taken and there yeas-24, nays-2, absent-1, abstain-1, as follows:

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

NAYS: Chestnut, Markham.

ABSENT: Foster.

ABSTAIN: Sadd.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Bill No. 7036, passed.

15. Your Committee on Finance has had under consideration a proposal submitted by a payment of an invoice from the West Side Neighborhood Association for the West Side CSX Trestle/Florida Street Master Plan. To be charged to Account No. 009-000-00-013-0-999, CDBG – Planning, 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-1, as follows:

YEAS:, Chestnut, Clowser, Davis, Deitzler, 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: Foster.

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

16. Your Committee on Finance has had under consideration a proposal submitted by a payment of an invoice from the East End Family Resource Center for reimbursement of salaries, payroll costs, supplies and office equipment. To be charged to Account No. 009-003-00-011-00-999, 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-1, as follows:

YEAS:, Chestnut, Clowser, Davis, Deitzler, 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: Foster.

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

17. Your Committee on Finance has had under consideration a proposal submitted by a consideration a payment of an invoice from Trimble & Associated for preparation of arbitrage rebate computations for the City of Charleston and the Charleston Building Commission's outstanding bond issues. To be charged to Account No. 001-412-00-000-2-223, City Manager – Professional Svc, 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

18. Your Committee on Finance has had under consideration a proposal submitted by A payment of an invoice from Spilman, Thomas and Battle, LLC, for professional services rendered during

August 2003 relating to the West Virginia American Water Company franchise. 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. Abstain- Davis, Ware.

REPORTS OF OFFICERS

1. Report of the City of Charleston, Municipal Court Financial Statements; December, 2003. Received and Filed.
2. Report of the City of Charleston Payroll Variance Analysis; December 2003; Received and Filed.

NEW BILLS INTRODUCED

Introduced by Councilwoman Teresa Reed on January 20, 2004:

Bill No. 7037, 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.

Refer to Streets and Traffic.

Introduced by Councilwoman Teresa Reed on January 20, 2004:

Bill No. 7038, 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.

Refer to Streets and Traffic.

UNFINISHED OR MISCELLANEOUS BUSINESS

ROLL CALL

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

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

ABSENT: Foster.

At 8:07 p.m., on motion of Councilman Loeb, Council adjourned until February 2, 2004, at 7:00 p.m.

Danny Jones, Honorable Mayor

James M. Reishman, City Clerk