

***JOURNAL***  
**OF THE**  
***COUNCIL***  
**CITY OF CHARLESTON**  
**WEST VIRGINIA**

**July 19, 2004**

**THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE SECOND MEETING IN THE MONTH OF JULY ON THE 19<sup>th</sup> DAY, IN THE YEAR 2004, AND WAS CALLED TO ORDER BY THE HONORABLE MAYOR, DANNY JONES. THE INVOCATION WAS DELIVERED JACK HARRISON, AND THE PLEDGE OF ALLEGIANCE WAS LEAD BY LINDA NIELSEN.**

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

**CHESTNUT  
DAVIS**

**HIGGINS  
LANHAM**

**MILLER  
NIELSEN  
ROBERTSON**

**WARE  
MAYOR JONES**

**CLOWSER**

**HARRIS**

**LOEB  
MONROE**

**REED  
SADD  
WEINTRAUB**

**DEITZLER  
HALL  
HARRISON  
LANE  
MORTON  
MARKHAM  
REISHMAN  
TALKINGTON  
WHITE**

**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.**

**JULY 19, 2004, SECOND MEETING**

**CHARLESTON CITY COUNCIL JOURNAL JULY 19, 2004**

**PUBLIC SPEAKERS**

1. NONE

**CLAIMS**

1. NONE

**COMMUNICATIONS**

**TO: JAMES REISHMAN  
CITY CLERK**

**FROM: DANNY JONES  
MAYOR**

**RE: WAYFINDING COMMISSION**

**DATE: JULY 19, 2004**

---

I am recommending that Chris Walker, 200 Civic Center Drive, Charleston, West Virginia 25301, be reappointed 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.

**TO: JAMES REISHMAN  
CITY CLERK**

**FROM: DANNY JONES  
MAYOR**

**RE: WAYFINDING COMMISSION**

**DATE: JULY 19, 2004**

---

I am recommending that Betsy Johnson, 1199 Johnson Road, Charleston, West Virginia 25301, be reappointed 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.

**TO: JAMES REISHMAN  
CITY CLERK**

**FROM: DANNY JONES  
MAYOR**

**RE: WAYFINDING COMMISSION**

**DATE: JULY 19, 2004**

---

I am recommending that Charlie Loeb, 63 North Abney Circle, Charleston, West Virginia 25314, be reappointed 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.

**TO: JAMES REISHMAN  
CITY CLERK**

**FROM: DANNY JONES  
MAYOR**

**RE: WAYFINDING COMMISSION**

**DATE: JULY 19, 2004**

---

I am recommending that Tom Lane, P.O. Box 1386, Charleston, West Virginia 25325, be reappointed 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.

**TO: JAMES REISHMAN  
CITY CLERK**

**FROM: DANNY JONES  
MAYOR**

**RE: WAYFINDING COMMISSION**

**DATE: JULY 19, 2004**

---

I am recommending that Georgette George, P.O. Box 8523, Charleston, West Virginia 25314, be reappointed 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 8, 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 cases ere heard by the commission:*

*Bill No. 7072 – A Bill amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 7<sup>th</sup> day of March, 1983, as amended, and the map made a part thereof, by rezoning from R-4 Single Family Residential to C-4 Neighborhood Commercial District that certain parcel of land situate at 215 Stockton Street, also known as West Charleston Map 23, Parcel 22 in the City of Charleston, West Virginia.*

*Bill No. 7084 – Petition of the Municipal Planning Commission to amend the Zoning Ordinance of the City of Charleston to allow “Public Utility” as a special permit use in a C-4 Neighborhood Commercial District, C-6 Community Commercial District and C-8 Village District.*

*Street Renaming – Application of Rick Hendricks requesting the renaming of Scott Road to Barclay Drive, Charleston, West Virginia.*

*These Cases should be referred to the Planning Committee of Council.*

*Sincerely,  
Municipal Planning Commission*

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

## MISCELLANEOUS RESOLUTIONS

### Resolution No. 615-04

Introduced in Council:

July 19, 2004\_\_\_\_\_

Introduced by:

Councilman Harry Deitzler

Adopted by Council:

July 19, 2004\_\_\_\_\_

Referred to:

\_\_\_\_\_

**WHEREAS**, the founders of this nation declared that principles of law, as enumerated in a Constitution and its Amendments, would govern them and those who followed, as opposed to the arbitrary will and rules of the King of England; and

**WHEREAS**, July 4 commemorates our nation’s birth and our freedom so secured because citizens 228 years ago declared such independence and rule of law, and through generations since have fought, sacrificed and died to promote and preserve liberty and the rule of law; and

**WHEREAS**, The City of Charleston recognized that freedom and honored the sacrifices made for its cause through a July 4<sup>th</sup> weekend celebration in honor of all West Virginians who have answered the call of our nation to preserve our freedom; and

**WHEREAS**, That first Independence Day 228 years ago preserved the right of every citizen to express himself or herself peacefully (in a non-obscene manner) as guaranteed by the First Amendment of the United States Constitution and the Article III, Section 7 of the West Virginia Constitution, regardless of whether that expression is popular or unpopular, favorable or unfavorable, a view of the majority or of the minority; and

**WHEREAS**, The Presidential visit in conjunction with Charleston's Fourth of July weekend celebration was neither a private event nor campaign appearance, but rather an official Presidential visit, which was open to any person who made the effort to pick up a ticket and which was designed to commemorate this country's Declaration of Independence, creation of a constitutional democracy and our foundation of individual liberties and freedom which were previously not reserved to the citizens; and

**WHEREAS**, Our Charleston police officers are the best trained, most professional municipal or county police officers in the state who respond and act professionally as they have been trained; and

**WHEREAS**, When Charleston Police Department was called to the scene of an incident at the Capitol on July 4, officers from other law enforcement agencies on a multi-agency security force had already made a decision – in conjunction with event organizers – to arrest and remove Nicole and Jeff Rank from a secured perimeter of the official Presidential visit, and one of our officers was on the team of law enforcement officials directed to execute the arrest and remove two individuals; and

**WHEREAS**, Our officers acted responsibly and in good faith, following the directives of persons whom they reasonably found to be state or federal government officers in charge of security issues for the ticket-screened audience immediately in advance of the time when the President of the United States would appear before that crowd; and

**WHEREAS**, Based on the information available at the time, the Charleston police officers' response was appropriate and reasonable based upon probable cause as presented to them at that time and place; and

**WHEREAS**, Knowing what we know now, with the advantage of having information that was not available to the officers at that time when they acted, the factual basis for the arrest which was given to our officers by others directing security issues at the Capitol may have been incorrect or incomplete; and

**WHEREAS**, If Nicole and Jeff Rank did nothing other than peaceably exercise their right of free speech and expression as guaranteed by our Constitutions, they should not have been arrested or charged with a crime; and

**WHEREAS**, If Nicole and Jeff Rank did nothing more than wear t-shirts which expressed their personal views and political opinions, and if that was the real reason that event officials directed our officers to arrest them, then Nicole and Jeff Rank deserve an apology;

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL AND MAYOR OF CHARLESTON, that to the extent that on July 4, 2004, the right of Nicole and Jeff Rank to freely express themselves, as guaranteed by both the United States and West Virginia Constitutions, was directly or indirectly abridged, suppressed, or prevented by the City of Charleston, the City does hereby apologize to Nicole and Jeff Rank.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 615-04, adopted.

Resolution No. 593-04, as amended

Introduced in Council:

July 19, 2004

Adopted by Council:

July 19, 2004

Introduced by:

Councilman David Higgins

Referred to:

**WHEREAS**, the City of Charleston is faced with an accrued unfunded liability in its policemen's and firemen's pension fund of approximately \$134 million;

**WHEREAS**, other cities and municipalities in West Virginia face a similar problem;

**WHEREAS**, Charleston City Council received a Special Report on the Unfunded Pension Obligations of the City of Charleston at its meeting on May 3, 2004, a copy of which report is attached hereto and incorporated herein by reference;

**WHEREAS**, Charleston City Council wishes to address the serious problem of these unfunded pension plans;

**WHEREAS**, for reasons more fully explained in the Special Report, there are certain changes to state law which if made would greatly increase the ability of cities and municipalities

such as the City of Charleston to address this problem of unfunded pensions;

**NOW, WHEREFORE,** be it resolved as follows:

1. The Governor and the Legislature of the State of West Virginia are respectfully requested to make specific changes to state law in order to give cities and municipalities such as Charleston the tools by which to address the serious problem of unfunded pension liabilities relating to policemen's and firemen's pensions.

2. Specifically, it is respectfully requested that the Governor and the Legislature identify a new revenue source which can be made available to the cities and municipalities on the express condition that the revenues thus generated must be contributed to the policemen's and firemen's pension and relief funds maintained by the city or the municipality.

3. It is also requested that West Virginia Code § 8-22-20(c)(1) be amended to provide that for cities using the alternate method that contributions in excess of the required one hundred seven percent (107%) level shall not be included in the seven (7%) increase in contributions required for the subsequent year.

4. The Clerk of the City of Charleston is instructed and directed to cause an official copy of this resolution to be sent to the Governor, the Speaker of the House of Delegates, the President of the Senate and to each member of the Kanawha County Delegation in the House of Delegates and the Senate.

July 2004

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 593-04 as amended, adopted.

## REPORTS OF STANDING COMMITTEES

### *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 #1152, attached hereto and made a part thereof,

Your Committee finds the following:

1. Due to the commercial nature of the Central Business 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. An upscale lounge bar will provide an alternative venue for entertainment and attract visitors to the downtown area.

4. The Charleston Urban Renewal Authority 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 #1152, approved.

2. Your Committee on Planning has had under consideration Special Permit #1159, attached hereto and made a part thereof,

Your Committee finds the following:

1. The request complies with the zoning requirements relating to parking requirements and maintaining the historical character of the structure.

2. The Municipal Planning Commission and City Council have approved similar requests in the area.

3. The addition will not damage, hazard, nuisance, or be a detriment to persons in the vicinity.

4. The property is restricted to non medical offices.
5. A 6 ft. fence or wall is to be built to City Code on the back of the property.

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 #1159, approved.

3. Bill No. 7071 – “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 49<sup>th</sup> and 50<sup>th</sup> Street in the City of Charleston, West Virginia, and reserving a sewer easement for the City of Charleston.

Be it Ordained 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 10 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 49<sup>th</sup> Street and 50<sup>th</sup> Street, in Kanawha City, City of Charleston, Kanawha County, West Virginia, and running westerly from 50<sup>th</sup> Street towards 49<sup>th</sup> 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 49<sup>th</sup> 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 49<sup>th</sup> Street, Charleston, WV”, prepared by Kevin D. Shafer, Licensed Professional Surveyor No. 923, attached hereto,

is hereby 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 of 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 of Charleston be, and is hereby authorized and directed to execute, acknowledge and deliver and proper deed conveying to 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, for the consideration as a donation by the City of Charleston to the Petitioner.

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

The Mayor referred Bill No. 7071 to Finance Committee of Council.

### ***STREETS AND TRAFFIC***

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

Bill No. 7088 - A Bill to repeal Ordinance No. 5075 passed by Council February 22, 1994, relating to a No Parking Anytime Tow-Away zone on the east side of Pennsylvania Avenue from the intersection of Pennsylvania Avenue and Mary Street to a point 300 feet south of Mary 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, Section 263, Division 2, Article 4, Chapter 114 to conform therewith

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

Section 1. Repeal Ordinance No. 5075 passed by Council February 22, 1994, relating to a No Parking Anytime Tow-Away zone the east side of Pennsylvania Avenue from the intersection of Pennsylvania Avenue and Mary Street to a point 300 feet south of Mary Street is hereby repealed.

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, Section 263, Division 2, Article 4, Chapter 114, 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-25, nays-0, absent-3, as follows:

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

NAYS:

ABSENT: Ealy, Hanna, Jones.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7088 passed.

Bill No. 7087 - A Bill to establish a 20 Mile Per Hour speed limit on Noyes Avenue between 28<sup>th</sup> Street and 30<sup>th</sup> Street and amending the Traffic Control Map and Traffic Control File, 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, Section 263, Division 2, Article 4, Chapter 114, conform therewith.

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

Section 1. A 20 Mile Per Hour speed limit on Noyes Avenue between 28<sup>th</sup> Street and 30<sup>th</sup> 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, Section 263, Division 2, Article 4, Chapter 114, 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-25, nays-0, absent-3, as follows:

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

NAYS:

ABSENT: Ealy, Hanna, Jones.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7087 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. 602-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 602-04, as amended – “Authorizing the Mayor to enter into a contract with B.B.R. Drilling Co., in the amount of \$404,030, for construction of four (4) retaining walls of Loudon Heights Road.”

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 B.B.R. Drilling Co., in the amount of Four Hundred Four Thousand Thirty Dollars (\$404,030), for construction of four (4) retaining walls of Loudon Heights Road.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 602-04, adopted.

2. Your Committee on Finance has had under consideration Resolution No. 603-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 603-04 - "Authorizing the Mayor to sign Change Order No. 2 with Jimmy A Dunn Excavating Co., in the amount of \$21,252.63, for additional work in connection with the Twilight Drive Storm Sewer Rehabilitation project (see attachment). To change order increases the contract price to \$948,649.03."

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

That the Mayor is hereby authorized and directed to sign Change Order No. 2 with Jimmy A Dunn Excavating Co., in the amount of Twenty-one Thousand Two Hundred Fifty-two Dollars and Sixty-three Cents (\$21,252.63), for additional work in connection with the Twilight Drive Storm Sewer Rehabilitation project (see attachment). To change order increases the contract price to \$948,649.03.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 603-04, adopted.

3. Your Committee on Finance has had under consideration Resolution No. 604-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 604-04 - "Authorizing the Mayor to sign Change Order No. 2 with Tony Baiano Construction Company Inc., in the amount of \$40,243.94, for additional work relating to the 2003 Streetscape project (see attachment). To change order increases the contract price to \$805,043.94."

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

That the Mayor is hereby authorized directed and to sign Change Order No. 2 with Tony Baiano Construction Company Inc., in the amount of Forty-Thousand Two Hundred Forty-three Dollars and Ninety-four Cents (\$40,243.94), for additional work relating to the 2003 Streetscape project (see attachment). To change order increases the contract price to \$805,043.94."

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 604-04, adopted.

4. Your Committee on Finance has had under consideration Resolution No. 605-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 605-04 - “Authorizing the Mayor to sign Change Order No. 3 with Tony Baiano Construction Company Inc., in the amount of \$16,000, for additional work relating to the 2003 Streetscape project (see attachment). To change order increases the contract price to \$821,043.94.”

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

That the Mayor is hereby authorized and directed to sign Change Order No. 3 with Tony Baiano Construction Company Inc., in the amount of Sixteen Thousand Dollars (\$16,000), for additional work relating to the 2003 Streetscape project (see attachment). To change order increases the contract price to \$821,043.94.”

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 605-04, adopted.

5. Your Committee on Finance has had under consideration Resolution No. 606-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 606-04 - “Authorizing the Mayor to renew the Irrevocable Letter of Credit from City National Bank in the amount of \$328,000 for bonding of the permitted acreage at the City Landfill; and further authorizing payment of the premium in the amount of \$3,280 for the period July 1, 2004 to June 30, 2005. The premium is due annually with reimbursement to the City by Landfill Services of Charleston, Inc.”

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

That the Mayor is hereby authorized and directed to renew the Irrevocable Letter of Credit from City National Bank in the amount of \$328,000 for bonding of the permitted acreage at the City Landfill; and further authorizing payment of the premium in the amount of \$3,280 for the period July 1, 2004 to June 30, 2005. The premium is due annually with reimbursement to the City by Landfill Services of Charleston, Inc.”

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 606-04, adopted.

6. Your Committee on Finance has had under consideration Resolution No. 607-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 607-04 - “Authorizing the Mayor to sign a contractual agreement with the West

Virginia Division of Criminal Justice Services (DCJS) to receive and administer grant funds in the amount of \$324,348 to pay for salary related reimbursements for the MDENT Unit.”

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

That the Mayor is hereby authorized and directed to sign a contractual agreement with the West Virginia Division of Criminal Justice Services (DCJS) to receive and administer grant funds in the amount of Three Hundred Twenty-four Thousand Three Hundred Forty-eight Dollars (\$324,348) to pay for salary related reimbursements for the MDENT Unit.”

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 607-04, adopted.

7. Your Committee on Finance has had under consideration Resolution No. 608-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 608-04 - “Authorizing the Mayor to sign a request for project change of scope for PRO-Kids Incorporated in the amount of \$6,683.94. The original scope of work was to perform and carry out in a satisfactory and proper manner all duties, tasks and functions necessary to purchase computers, educational materials, supplies, window blinds and office furniture for Pro-kids, Inc. after school tutoring program for elementary students. In addition to the original scope, they are eligible for a state food grant.”

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

That the Mayor is hereby authorized and directed to sign a request for project change of scope for PRO-Kids Inc. #03CPGP0081 in the amount of \$6,683.94. The original scope of work was to perform and carry out in a satisfactory and proper manner all duties, tasks and functions necessary to purchase computers, educational materials, supplies, window blinds and office furniture for Pro-kids, Inc. after school tutoring program for elementary students. In addition to the original scope, they are eligible for a state food grant.

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

NAYS:

ABSENT: Ealy, Hanna, Jones.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 608-04, adopted.

8. Your Committee on Finance has had under consideration Resolution No. 609-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 609-04 - “Authorizing the Mayor to sign a request for project change of scope for the East End Association Project No. 04LEDA0146 in the amount of \$15,000. The original scope of work was the East End beautification project and safety improvements to Ruffner Park. The change of scope is for the funds to be used for fencing and waste receptacles at the new dog park located in the East End, in addition to the original scope of services.”

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

That the Mayor is hereby authorized and directed to sign a request for project change of scope for the East End Association Project No. 04LEDA0146 in the amount of \$15,000. The original scope of work was the East End beautification project and safety improvements to Ruffner Park. The change of scope is for the funds to be used for fencing and waste receptacles at the new dog park located in the East End, in addition to the original scope of services.

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

NAYS:

ABSENT: Ealy, Hanna, Jones.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 609-04, adopted.

9. Your Committee on Finance has had under consideration Resolution No. 610-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 610-04 - “Authorizing the Mayor to sign the U.S. Department of Housing and Urban Development (HUD) Continuum of Care Application for the Kanawha Valley Collective (KVC) Supportive Services renewal grant in the amount of \$ 189,267.04.”

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

That the Mayor is hereby authorized and directed to sign the U.S. Department of Housing and Urban Development (HUD) Continuum of Care Application for the Kanawha Valley Collective (KVC) Supportive Services renewal grant in the amount of One Hundred Eighty-nine Thousand Two Hundred Sixty-seven Dollars and Four Cents (\$189,267.04).

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

NAYS:

ABSENT: Ealy, Hanna, Jones.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 610-04, adopted.

10. Your Committee on Finance has had under consideration Resolution No. 611-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 611-04 – “Authorizing the Finance Director to allocate funds in the amount of \$22,000 for acquisition of one (1) lot on the East End of Charleston for the Kanawha Institute for Social Research and Action Incorporated.”

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

That the Finance Director is hereby authorized and directed to allocate funds in the amount of Twenty-two Thousand Dollars (\$22,000) for acquisition of one (1) lot on the East End of Charleston for the Kanawha Institute for Social Research and Action Incorporated.

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

NAYS:

ABSENT: Ealy, Hanna, Jones.

11. Your Committee on Finance has had under consideration Resolution No. 612-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 612-04 – “Authorizing the Mayor to execute all exclusion forms and other documents necessary to exclude the City of Charleston (or “opt out”) from the settlement of a class action lawsuit styled in Re: AT&T Fiber Optic Cable Installation Litigation, and referred to as the “West Virginia Telecommunications Cable/Railroad Corridor Settlement Class” matter.”

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

That the Mayor is hereby authorized and directed to execute all exclusion forms and other documents necessary to exclude the City of Charleston (or “opt out”) from the settlement of a class action lawsuit styled in Re: AT&T Fiber Optic Cable Installation Litigation, and referred to as the “West Virginia Telecommunications Cable/Railroad Corridor Settlement Class” matter.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 612-04, adopted.

12. Your Committee on Finance has had under consideration Resolution No. 613-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 613-04 – “Authorizing the Mayor to enter into a contract with Vanguard Plastics, Inc., in the total amount of \$267,748, for purchase of a one-year supply of black plastic refuse bags in the amount of \$210,780; and a one-year supply of clear yard waste bags, in the amount of \$65,968. The bags will be distributed to the citizens of Charleston for the one year from September 2004 to August 2005.”

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

That the Mayor is hereby authorized and directed to enter into a contract with Vanguard Plastics, Inc., in the total amount of \$267,748, for purchase of a one-year supply of black plastic refuse bags in the amount of \$210,780; and a one-year supply of clear yard waste bags, in the amount of \$65,968. The bags will be distributed to the citizens of Charleston for the one year from September 2004 to August 2005.

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

NAYS:

ABSENT: Ealy, Hanna, Jones.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 613-04, adopted.

13. Your Committee on Finance has had under consideration Resolution No. 614-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 614-04 – “Authorizing expenditure of funds in the amount of \$230,095, representing the City’s share of costs in the Sanitary Board’s contract with Rover Construction, Inc. for the 21<sup>st</sup> Street Sanitary Sewer Improvements and Storm Water System Project. Bids for the project were received by the Charleston Sanitary Board and the low bid of \$523,010 submitted by Rover Construction, Inc. was accepted. The City shall incur expenses for the storm water system portion of the contract, in the amount of \$230,095, and the Sanitary Board will invoice the City in accordance with progression of the project.”

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

That expenditure of funds in the amount of \$230,095, representing the City’s share of costs in the Sanitary Board’s contract with Rover Construction, Inc. for the 21<sup>st</sup> Street Sanitary Sewer Improvements and Storm Water System Project. Bids for the project were received by the Charleston Sanitary Board and the low bid of \$523,010 submitted by Rover Construction, Inc. was accepted. The City shall incur expenses for the storm water system portion of the contract, in the amount of Two Hundred Thirty Thousand Ninety-five Dollars (\$230,095), and the Sanitary Board will invoice the City in accordance with progression of the project.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 614-04, adopted.

14. Your Committee on Finance has had under consideration Resolution No. 616-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 616-04: Authorizing the Mayor to prepare and file or participate in a grant application with the Greater Kanawha Valley Foundation for building sustainable communities”.

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

That the Mayor be authorized to prepare and file or participate in a grant application with the Greater Kanawha Valley Foundation for building sustainable communities.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 616-04, adopted.

15. Your Committee on Finance has had under consideration a bid submitted by Packard Business Systems, in the amount of \$17,912, plus annual maintenance of \$2,195, for a total of \$20,107, to be used in the Information Systems Department. To be charged to Account No. 001-975-00-439-4-459, IS Dept., Capital Outlay, Equip), 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.

16. Your Committee on Finance has had under consideration a proposal submitted by Data 911, in the amount of \$45,576, for purchase of eight (8) computers to be installed in police cruisers utilized by the officers of the Charleston Police Department Patrol Division. To be charged 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 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.

17. Your Committee on Finance has had under consideration a proposal submitted by Electronic Communications of WV, Inc., in the amount of \$15,950, for purchase of 22 Kenwood TK-290 portable radios for use in the Charleston Police Department. To be charged 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 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.

18. Your Committee on Finance has had under consideration a payment of an invoice for Visionair, in the amount of \$34,062.31, for the annual software maintenance contract covering the Mobile Data System and the Records Management System in the Charleston Police

Department for the period August 1, 2004 through July 31, 2005. To be charged to Account No. 001-700-00-000-2-216, Police – Maintenance & Repair, Equipment), and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted.

## **REPORTS OF OFFICERS**

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

## **NEW BILLS INTRODUCED**

Introduced by Councilwoman Ditty Markham on July 19, 2004:

Bill No. 7085 - A Bill to establish a Stop intersection on Watson Avenue at Victory Avenue 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, Section 263, Division 2, Article 4, Chapter 114, to conform therewith.  
Refer to Streets and Traffic Committee.

Introduced by Councilman James Ealy on July 19, 2004:

Bill No. 7090 A Bill amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 7<sup>th</sup> day of March 1983, as amended and the map made a part thereof, by rezoning from an R-4 district to a C-10 district, that two parcels of land situate at 1606 and 1608 3<sup>rd</sup> Avenue, Charleston, West Virginia.  
Refer to Municipal Planning Commission.

Introduced by Councilman Jack Harrison on July 19, 2004:

Bill No. 7091 - A Bill amending the zoning Ordinance of the City of Charleston, West Virginia, enacted the 7<sup>th</sup> day of March, 1983, as amended, and the map made a part thereof, by rezoning from C-4 with restrictions to C-4, that certain parcel of land situate at 1013A Oakhurst Drive, Charleston, West Virginia.  
Refer to Municipal Planning Commission.

Introduced by Councilwoman Mary Jean Davis on July 19, 2004:

Bill No. 7092 – A Bill amending the Zoning Ordinance of the City of Charleston to allow “Indoor Self-Storage Facility” as a special permit use in C-6 Community Commercial District, C-10 General Commercial District and I-2 Light Industrial District and amend Section 21-4 Off-Street Parking Requirements to add “Indoor Self-Storage Facility” to Commercial Uses with a “1 space for each 5,000 Square feet of gross floor area” and amend Article XX, Special Permit Uses by adding “Indoor Storage Facility (1) Outdoor storage at the proposed site requires a buffering plan be submitted to the Commission and, (2) In cases where there is re-use of an existing building the Commission may require architectural features such as window treatments, etc. to preserve the character of the building.”

Refer to Municipal Planning Commission.

Introduced by Councilman Bobby Reishman on July 19, 2004:

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 and related documents; taking all other actions relating to such transactions.

Refer to Finance Committee.

### **UNFINISHED OR MISCELLANEOUS BUSINESS**

NONE.

### **ROLL CALL**

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

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

ABSENT: Ealy, Jones, Hanna.

At 8:15 p.m., on motion of Councilman Loeb, Council adjourned until Monday August 2, 2004, at 7:00 p.m.

---

Danny Jones, Honorable Mayor

---

James M. Reishman, City Clerk