

JOURNAL
OF THE
COUNCIL
CITY OF CHARLESTON
WEST VIRGINIA

June 22, 2004

THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE SECOND MEETING IN THE MONTH OF JUNE ON THE 22nd DAY, IN THE YEAR 2004, AND WAS CALLED TO ORDER BY THE HONORABLE MAYOR, DANNY JONES. THE INVOCATION WAS DELIVERED HARRY DEITZLER, AND THE PLEDGE OF ALLEGIANCE WAS LEAD BY MARC WEINTRAUB.

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

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

TWENTY-FIVE MEMBERS BEING PRESENT, THE MAYOR DECLARED A QUORUM.

PENDING THE READING OF THE JOURNAL OF THE PREVIOUS MEETING, THE READING THEREOF WAS DISPENSED WITH AND THE SAME DULY APPROVED.

JUNE 22, 2004, SECOND MEETING

CHARLESTON CITY COUNCIL JOURNAL JUNE 22, 2004

PUBLIC SPEAKERS

1. Eloisa Tarzonin – Concern of neighborhood.

CLAIMS

1. A claim of Terry Lee Weaver, 1735 Sugar Creek Dr., Charleston, WV; alleges damage to property;
2. A claim of Aneta King Wolfe, 4707 Noyes Ave., SE., Charleston, WV; alleges damage to property;
3. A claim of Andrew Hilts/Deborah Holley, 933 Mathews Ave, Charleston, WV; alleges damage to property;

PROCLAMATION

RON EDDY DAY

COMMUNICATIONS

June 10, 2004

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

Dear Mayor Jones and Councilmember's:

On June 9, 2004, the Municipal Planning Commission held public hearings and its regular monthly meeting. The following cases were heard by the Commission:

Special Permit #1152 – Application of Virgil Sadorra on behalf of GNV Investments requesting a special permit to operate a Lounge/Bar serving alcoholic beverages in an Urban Renewal District at the property located at 212 Hale Street and 211 Dickinson Street.

Special Permit #1159 – Application of Dwight Kevin Moffatt requesting a special permit to establish a professional office use in an R-10 zoning district at the property located at 2102 Kanawha Boulevard, East.

Bill #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 49th and 50th Streets in the City of Charleston, West Virginia, and reserving a sewer easement for the City of Charleston.

These cases should be referred to the Planning Committee of Council. Bill #7071 should also be referred to the Finance Committee.

Sincerely,
Municipal Planning Commission

Phyllis White, Administrative Assistant

MISCELLANEOUS RESOLUTIONS

NONE.

REPORTS OF STANDING COMMITTEES

ENVIRONMENT AND RECYCLING

Councilman Edward Talkington, Chairman of the Environment and Recycling Committee, submitted the following reports.

Resolution No. 571-04 – “Authorizing the Mayor to sign a grant request in the amount of \$100,000 to be applied to the recycling program in the City of Charleston. This grant request includes the purchase of a new recycling vehicle and educational/promotional material regarding City-wide recycling.

The question being on the passage of the Bill a roll call was taken and there yeas-26, nays-0, absent-2, as follows:

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

NAYS:

ABSENT: Harrison, Markham.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7068 passed.

STREETS AND TRAFFICE

1. Bill No. 7065 - A Bill to eliminate the Traffic Signal at the intersection of Ruffner Avenue and Virginia 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. The Traffic Signal at the intersection of Ruffner Avenue and Virginia Street is hereby eliminated.

Section 2. The Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West, 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-26, nays-0, absent-2, as follows:

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

NAYS:

ABSENT: Harrison, Markham.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7065 passed.

2. Bill No. 7066 A Bill to establish a 3 Way Stop intersection at the intersection of Ruffner Avenue and Virginia 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. A 3 Way Stop intersection at the intersection of Ruffner Avenue, and Virginia 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-26, nays-0, absent-2, as follows:

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

NAYS:

ABSENT: Harrison, Markham.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7066 passed.

3. Bill No. 7067 A Bill to establish a No Parking Anytime Tow-Away zone on the westerly side of Garvin Avenue from Beech Avenue to Ferguson 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.

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

Section 1. A No Parking Anytime Tow-Away zone on the westerly side of Garvin Avenue from Beech Avenue to Ferguson 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, 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-26, nays-0, absent-2, as follows:

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

NAYS:

ABSENT: Harrison, Markham.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7067 passed.

4. Bill No. 7073, as amended A Bill to establish a 15 Mile Per Hour speed limit on Wilkie Drive from Newcastle Drive to Rockford Court 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. A 15 Mile Per Hour speed limit on Wilkie Drive from Newcastle Drive to Rockford Court 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-26, nays-0, absent-2, as follows:

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

NAYS:

ABSENT: Harrison, Markham.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7073, as amended, passed.

5. Bill No. 7075 A Bill to establish a 15 Mile Per Hour speed limit on Rockford Court 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. A 15 Mile Per Hour speed limit on Rockford Court 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-26, nays-0, absent-2, as follows:

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

NAYS:

ABSENT: Harrison, Markham.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7075 passed.

6. Bill No. 7076 A Bill to establish a 15 Mile Per Hour speed limit on Kingston Court 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, conform therewith.

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

Section 1. A 15 Mile Per Hour speed limit on Kingston Court 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-26, nays-0, absent-2, as follows:

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

NAYS:

ABSENT: Harrison, Markham.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7076 passed.

7. Bill No. 7078 A Bill to establish a No Parking Anytime Tow-Away zone on Georgetown Circle from 8:00 a.m. to 3:00 p.m., Monday through Friday 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. A No Parking Anytime Tow-Away zone on Georgetown Circle from 8:00 a.m. to 3:00 p.m., Monday through Friday 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-26, nays-0, absent-2, as follows:

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

NAYS:

ABSENT: Harrison, Markham.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7078 passed.

8. Bill No. 7079 A Bill to establish a No Parking Anytime Tow-Away zone on Georgetown Place from 8:00 a.m. to 3:00 p.m., Monday through Friday 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. A No Parking Anytime Tow-Away zone on Georgetown Place from 8:00 a.m. to 3:00 p.m., Monday through Friday 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-26, nays-0, absent-2, as follows:

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

NAYS:

ABSENT: Harrison, Markham.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7079 passed.

9. Bill No. 7080 A Bill to establish a 20 Mile Per Hour speed limit on Georgetown Circle 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. A 20 Mile Per Hour speed limit on Georgetown Circle 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-26, nays-0, absent-2, as follows:

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

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

NAYS:

ABSENT: Harrison, Markham.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7080 passed.

10. Bill No. 7081 A Bill to establish a 20 Mile Per Hour speed limit on Georgetown Place 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. A 20 Mile Per Hour speed limit on Georgetown Place 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-26, nays-0, absent-2, as follows:

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

NAYS:

ABSENT: Harrison, Markham.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7081 passed.

11. Bill No. 7082 A Bill to establish a vehicular parking zone for the exclusive use of the physically disabled on Sunday only on the south side of Roane Street from a point 101 feet west of Maryland Avenue to a point 127 feet west of Maryland Avenue to provide for the removal of vehicles illegally parked in these spaces, to incorporate the provisions of West Virginia Code, Chapter 17C, Article 13, Section 16, 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, Article five, to conform therewith.

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

Section 1. A vehicular parking zone for the exclusive use of the physically disabled on Sunday only, on the south side of Roane Street from a point 101 feet west of Maryland Avenue to a point 127 feet west of Maryland Avenue is hereby established.

Section 2. In order for a physically disabled person to utilized the parking spaces provided in the preceding section the vehicle which they are driving or in which they are being transported must display the distinguishing insignia provided for in West Virginia Code, Chapter 17C, Article 13, Section 6.

Section 3. It shall be unlawful for any vehicle not displaying the insignia provided for in Section 2 to park in those spaces for the disabled provided for in Section 1. Any vehicle in violation of this section may be ticketed and impounded as provided for in Chapter 114, Vehicles and Traffic Law, Code of the City of Charleston, West Virginia.

Section 4. 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.

The question being on the passage of the Bill a roll call was taken and there yeas-26, nays-0, absent-2, as follows:

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

NAYS:

ABSENT: Harrison, Markham.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7082 passed.

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 Bill #7059, attached hereto and made a part thereof,

Your Committee finds the following:

1. The use is consistent with the intent of the C-4 District, which is to provide for retail business and services that serve primarily the residents of the immediate area.
2. The text amendment will not alter the character of the district.
3. The use is consistent with other permissible uses within the district.
4. The text amendment requires a special permit with action being final at City Council which will provide protection against incompatible uses since the intent of the special permit process is to approve requests that will not adversely affect surrounding land uses.

and reports the same to Council with the recommendation that the Bill do pass.

The question being on the passage of the Bill a roll call was taken and there yeas-26, nays-0, absent-2, as follows:

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

NAYS:

ABSENT: Harrison, Markham.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7059 passed.

2. Your Committee on Planning has had under consideration Special Permit #1151, attached hereto and made a part thereof,

Your Committee finds the following:

1. An upscale restaurant will compliment the South Hills Business District.
2. The adaptive reuse of the building will be a benefit to the district and the City, as the building has been vacant for several years.
3. Robert Wong is an accomplished chef and entrepreneur.
4. The use will attract visitors to the South Hills Business District.

and reports the same to Council with the recommendation that the Special Permit be approved contingent upon passage of Bill #7059.

The question being on the approval of the Special Permit a roll call was taken and there yeas-25, nays-1, absent-2, as follows:

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

NAYS: Sadd

ABSENT: Harrison, Markham.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Special Permit, approved.

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. 572-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 572-04 – “Authorizing the City to exercise the option clause in the Agreement with Verizon covering the City’s Centrex telephone lines by extending the Agreement for an additional one year period from August 23, 2004 to August 22, 2005. The extension period provides for the same rate of \$11.80 per line and the terms and conditions set forth in the original Agreement approved by City Council on July 1, 2002.”

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

That the City desires to exercise the option clause in the Agreement with Verizon covering the City’s Centrex telephone lines by extending the Agreement for an additional one year period from August 23, 2004 to August 22, 2005, is hereby approved. The extension period provides for the same rate of \$11.80 per line and the terms and conditions set forth in the original Agreement approved by City Council on July 1, 2002.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 572-04, adopted.

2. Your Committee on Finance has had under consideration Resolution No. 573-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 573-04 – Resolution of the City Council of the City of Charleston, West Virginia, authorizing the issuance of up to \$10,000,000 of the City of Charleston, West Virginia Commercial Development Revenue Bonds (Spring Hill Apartment Project) Series 2004, for the purpose of assisting in the financing of the acquisition, construction and equipping of a commercial project to be located in City of Charleston, West Virginia.

WHEREAS, the City of Charleston, West Virginia (the "Issuer"), acting by and through the City Council of the City of Charleston, West Virginia (the "Council") is a duly organized municipal corporation created by the Constitution of the State of West Virginia (the "State"), is validly existing and in good standing under the Constitution and laws of the State, is a political subdivision thereof, and is authorized by the Industrial Development and Commercial Development Bond Act, Chapter 13, Article 2C, of the Code of West Virginia of 1931, as amended (the "Act"), in furtherance of the public purposes as found and determined by the Legislature of West Virginia as set forth in Section 2 of the Act, to issue its revenue bonds to pay the cost of commercial and industrial projects; and

WHEREAS, the Issuer has been requested by Scott Canel (the "Applicant", which term shall also include any partnership, limited liability partnership, limited liability company or corporation to which said party assigns his interest and in which he or others are partners, member or own stock) to issue its revenue bonds to assist in the financing of the acquisition, construction and equipping of a commercial project in City of Charleston, West Virginia (the "Project"), specifically consisting of (i) the acquisition of the real and personal property currently known as the "Spring Hill Apartment," comprised of one, two, and three bedroom apartment, and four bedroom townhouse apartments in 16 separate buildings located at 1300-1385 Roseberry Circle, Charleston, West Virginia (the "Existing Facilities"), and (ii) the construction and equipping of renovation and improvements to the Existing Facilities ((i) and (ii) hereinafter referred to as the "Project"); and

WHEREAS, the Issuer has determined that under the Act the acquisition, construction, and equipping of the Project constitutes an authorized "Project" under the Act; and

WHEREAS, after careful study and investigation of the nature of the proposed Project, the Issuer has determined that assisting the Applicant with the financing of the Project in the City of Charleston, West Virginia by the Issuer's issuance of its revenue bonds, will thereby implement the stated purposes of the Act and will benefit the people of the State of West Virginia, and increase their commerce, welfare and prosperity; and

WHEREAS, the most feasible method of financing the cost of the acquisition, construction and equipping of the Project is for the Issuer to issue its revenue bonds in the aggregate principal amount of up to \$10,000,000 for the purpose of financing the costs of acquiring, constructing and equipping the Project, and for the further purpose of financing costs relating thereto; and

WHEREAS, the Applicant has requested that the Issuer indicated its willingness and commitment to issue such revenue bonds to finance such costs of the Project so that said acquisition, construction and equipping can be commenced; and

WHEREAS, the Internal Revenue Code of 1986, as amended (the "Code"), and the applicable regulation thereunder require the Issuer to take certain action in connection with the payment of certain expenses in connection with the Project prior to the issuance of tax-exempt bonds in order to allow the Issuer to be reimbursed for such expenditures.

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

1. In order to indicate its willingness and its commitment to issue revenue bonds to finance the acquisition, construction and equipping of the Project, the execution and delivery to the Applicant of an Inducement Agreement is hereby authorized, said Inducement Agreement to be in substantially the form as that attached hereto as Exhibit "A" subject to such changes, insertions and omissions as may be approved by the Mayor of the Issuer and the execution of said Inducement Agreement by the Mayor of the Issuer as herewith authorized shall be conclusive evidence of such approval.
2. The statements contained in this Resolution with respect to the reimbursement of the expenditures described in this Resolution are intended to be statements of official intent as required by, and in conformance with, the provisions of Treasury Regulation Section 1.150-2(e), promulgated under and pursuant to the Code.
3. The expenditures to be reimbursed pursuant to this Resolution have been incurred within 60 day prior to the date hereof or will be incurred after the date hereof in connection with the acquisition construction and equipping of the Project.
4. The maximum principal amount of debt expected to be issued for the Project is \$10,000,000, and, therefore, the maximum amount of reimbursable capital expenditures is \$10,000,000, such capital expenditures to consist of capital expenditures for renovations and improvements to the Existing Facilities and related capital expenditures.
5. The Applicant reasonably expects to reimburse the expenditures set forth in this Resolution with the proceeds of tax-exempt debt to be issued by the Issuer subsequent to the date hereof, but this Resolution does not constitute a binding obligation to issue such debt.
6. If any provision of this Resolution shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever.
7. This Resolution shall be in full force and effect immediately upon its passage and approval, and all resolutions and ordinances or parts thereof, in conflict, hereby repealed.

WITNESS the signature and seal of the City of Charleston, West Virginia, a municipal corporation, at a meeting duly and regularly called and held at City Hall in the City of Charleston, West Virginia, and the 22nd day of June, 2004.

(SEAL)
VIRGINIA

THE CITY OF CHARLESTON, WEST

By

Mayor

City Clerk

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-26, nays-0, absent-2, as follows:

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

NAYS:

ABSENT: Harrison, Markham.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 573-04, adopted.

3. Your Committee on Finance has had under consideration Resolution No. 574-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 574-04 – “Authorizing the Finance Director to amend the 2001 and the 2003 Community Development Block Grant budgets as indicated on the attached list of account. This is contingent upon no adverse citizen comments being received during the 30-day comment period required through the MOECD Citizen Participation Plan.”

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

That the Finance Director is hereby authorized and directed to amend the 2001 and the 2003 Community Development Block Grant budgets as indicated on the attached list of account. 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 there were; yeas-26, nays-0, absent-2, as follows:

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

NAYS:

ABSENT: Harrison, Markham.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor

declared Resolution No. 574-04, adopted.

4. Your Committee on Finance has had under consideration Resolution No. 575-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 575-04 – “Authorizing the Finance Director to allocate funds in the amount of \$32,100 for acquisition of one (1) HOME project in the Forest Hills section of Charleston.”

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 Thirty-two Thousand One Hundred Dollars (\$32,100) for acquisition of one (1) HOME project in the Forest Hills section of Charleston.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-26, nays-0, absent-2, as follows:

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

NAYS:

ABSENT: Harrison, Markham.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 575-04, adopted.

5. Your Committee on Finance has had under consideration Resolution No. 576-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 576-04 – “Authorizing the Mayor to enter into an agreement with the West Virginia Division of Criminal Justice Services to receive and administer grant funds in the amount of \$20,356 under the Juvenile Accountability Block Grant Program. The program provides funding for law enforcement training classes that address serious juvenile crime and the offenders who commit the crimes.”

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

That the Mayor is hereby authorized and directed to enter into an agreement with the West Virginia Division of Criminal Justice Services to receive and administer grant funds in the amount of Twenty Thousand Three Hundred Fifty-six Dollars (\$20,356) under the Juvenile Accountability Block Grant Program. The program provides funding for law enforcement training classes that address serious juvenile crime and the offenders who commit the crimes.

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

the Mayor declared Resolution No. 576-04, adopted.

6. Your Committee on Finance has had under consideration Resolution No. 577-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 577-04 – “Authorizing the Mayor to enter into an agreement wit FDS Support, LLC, to provide Software Support Services for the Police Records System containing records established prior to May 1, 2003. The agreement is for a one year period, effective on the date signed by the City, and for an annual fee of \$6,000.”

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

That the Mayor is hereby authorized and directed to enter into an agreement wit FDS Support, LLC, to provide Software Support Services for the Police Records System containing records established prior to May 1, 2003. The agreement is for a one year period, effective on the date signed by the City, and for an annual fee of Six Thousand Dollars (\$6,000).

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 577-04, adopted.

7. Your Committee on Finance has had under consideration Resolution No. 578-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 578-04 – “Authorizing the Mayor to sign a release from further liability in the claim by the City of Charleston requiring Mountaineer Gas Company, dba Allegheny Power, to make repairs to Chandler Drive as a result of damages sustained when Allegheny Power was replacing pipeline in the Chandler Drive area. The claim resulted in a settlement of \$7,192 from Allegheny Power for the repair work.”

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

That the Mayor is hereby authorized and directed to sign a release from further liability in the claim by the City of Charleston requiring Mountaineer Gas Company, dba Allegheny Power, to make repairs to Chandler Drive as a result of damages sustained when Allegheny Power was replacing pipeline in the Chandler Drive area. The claim resulted in a settlement of Seven Thousand One Hundred Ninety-two Dollars (\$7,192) from Allegheny Power for the repair work.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 578-04, adopted.

8. Your Committee on Finance has had under consideration Resolution No. 579-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 579-04 – “Authorizing the Mayor to sign an agreement with Barnett Builders Construction Group, Inc., in the amount of \$14,545, for removal of an underground storage tank at the site of the new baseball stadium.”

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

That the Mayor is hereby authorized and directed to sign an agreement with Barnett Builders Construction Group, Inc., in the amount of Fourteen Thousand Five Hundred Forty-five Dollars (\$14,545), for removal of an underground storage tank at the site of the new baseball stadium.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-24, nays-1, absent-2, abstain – 1, as follows:

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

NAYS: Harris

ABSENT: Harrison, Markham.

ABSTAIN: Sadd

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 579-04, adopted.

9. Your Committee on Finance has had under consideration Resolution No. 580-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 580-04 – “Authorizing the Mayor to sign Amendment No. 4 to the contract with HNTB for additions and changes to the design of the new baseball stadium, in the amount of \$40,000, plus expenses, bringing the total contract amount authorized to date to \$1,181,450.”

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

That the Mayor is hereby authorized and direct to sign Amendment No. 4 to the contract with HNTB for additions and changes to the design of the new baseball stadium, in the amount of Forty Thousand Dollars (\$40,000), plus expenses, bringing the total contract amount authorized to date to One Million One Hundred Eighty-one Thousand Four Hundred Fifty Dollars (\$1,181,450).

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 580-04, adopted.

10. Your Committee on Finance has had under consideration Resolution No. 581-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 581-04 – “Authorizing the Mayor to enter into an Agreement with Tony Baiano Construction Co., in the amount of \$42,600, for the Valley Road Brick Replacement 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 an Agreement with Tony Baiano Construction Co., in the amount of Forty Thousand Six Hundred Dollars (\$42,600), for the Valley Road Brick Replacement project.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 581-04, adopted.

11. Your Committee on Finance has had under consideration Resolution No. 582-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 582-04 – “Authorizing the Finance Director to establish a new fund to be know as Fund 046 – Arts Festival, to provide the basis for accountability of resources from appropriations, gifts, grants, or any other funds received for the Arts Festival. The monies may be invested with earning retained by the fund.”

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

That the Finance Director is hereby authorized and directed to establish a new fund to be know as Fund 046 – Arts Festival, to provide the basis for accountability of resources from appropriations, gifts, grants, or any other funds received for the Arts Festival. The monies may be invested with earning retained by the fund.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-26, nays-0, absent-2, as follows:

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

NAYS:

ABSENT: Harrison, Markham.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 582-04, adopted.

12. Your Committee on Finance has had under consideration the purchase of various sizes and classes of aggregate on an as needed basis at prices determined through competitive bidding from Martin Marietta Aggregates and Shamblin Stone, Inc.(see attached tabulation sheet). To be charged to Account No. 001-750-00-000-3-341, Street – Materials & Supplies, and reports the same to Council with the recommendation that the committee report be adopted.

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

13. Your Committee on Finance has had under consideration a bid submitted by Pfaff & Smith Builders Supply Co. for purchase of Portland Cement Concrete to be used by the Street Department on an as needed basis at the prices quoted on the attached tabulation sheet. To be charged to Account No. 001-750-00-000-3-341, Street – Materials & Supplies, and reports the same to Council with the recommendation that the committee report be adopted.

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

14. Your Committee on Finance has had under consideration the purchase of Bituminous Concrete (asphalt) on an as needed basis from Kanawha Valley Asphalt, LLC, at prices quoted on the attached tabulation sheet. To be charged to Account No. 001-750-00-000-3-341, Street – Materials & Supplies, and reports the same to Council with the recommendation that the committee report be adopted.

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

15. . Bill No. 7083 – Authorizing the City Manager on behalf of the City of Charleston to waive and exempt City Business and Occupation Taxes for all contractors, subcontractors and suppliers undertaking construction, supplying or other services classified by the City as part of the ballpark project.

WHEREAS, the City has certified to the State Economic Development Grant committee that said project will be completed for \$23,000,000.

WHEREAS, the City Business and Occupation Taxes increase the construction costs by approximately 2% per service provider, which may be compounded for any given bid package depending on the number of subcontractors and suppliers utilized by the successful bidder.

WHEREAS, the funding for the project includes amount to be financed through revenue bonds for which the City will be obligated.

WHEREAS, the City, as the owner of the Ballpark, would ultimately bear the increased costs associated with the City Business and Occupation Tax to be paid by the contractors, subcontractors and suppliers.

WHEREAS, in order to reduce the amount of financing required to pay for the construction of the Ballpark, and to keep its construction within the allotted budget, an exemption of the Business and Occupation Tax for the contractors, subcontractors, and suppliers in relation to the construction of the Ballpark is found to be necessary and desirable.

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

That the Council for the City of Charleston hereby authorized and directs the City Manager to waive and exempt City Business and Occupation Taxes for all contractors, subcontractors and suppliers or other individuals or entities undertaking construction, supplying goods, or supplying other services classified by the City as part of the ballpark project.

The question being on the passage of the Bill a roll call was taken and there were; yeas-22, nays-4, absent-2, as follows:

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

NAYS: Chestnut, Harris, Sadd, Ware

ABSENT: Harrison, Markham.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7083 passed.

16. Your Committee on Finance has had under consideration the payment of an invoice from West Virginia State College, in the amount of \$9,894.10, for reimbursement of funds for salaries and supplies for its After School Program. To be charged to Account No. 009-003-00-011-0-999 – Public Services, and reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a roll call was taken and there were; yeas-26, nays-0, absent-2, as follows:

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

NAYS:

ABSENT: Harrison, Markham.

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 the payment of an invoice from Royal Oldsmobile, in the amount of \$9,708.51, for repair of damages sustained by Police Unit #119 in an accident at Porter Road and MacCorkle Avenue on April 26, 2004. To be charged to Account No. 001-700-00-000-2-217, Police – Maintenance & Repair, Auto/Truck, 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; May, 2004.
Received and Filed.

2. Report of the City of Charleston, Financial Statements for the Eleven-Month Period ended May 31, 2004;
Received and Filed.

NEW BILLS INTRODUCED

Introduced by Councilwoman Mary Jean Davis on June 22, 2004:

Bill No. 7084 - A Bill amending the Zoning Ordinance of the City of Charleston by amending the table of permitted uses to remove "Public Utility" as a permitted use in a C-4 Neighborhood Commercial District, C-6 Community Commercial District, and C-8 Village Commercial District and make "Public Utility" a special permit use in all three districts.
Refer to Municipal Planning Commission.

UNFINISHED OR MISCELLANEOUS BUSINESS

NONE.

ROLL CALL

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

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

NAYS:

ABSENT: Harrison, Markham.

At 8:00 p.m., on motion of Councilman Loeb, Council adjourned until Tuesday, July 6, 2004, at 7:00 p.m.

Danny Jones, Honorable Mayor

James M. Reishman, City Clerk