

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

**October 4, 2004**

**THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE FIRST MEETING IN THE MONTH OF SEPTEMBER ON THE 4<sup>th</sup> 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 LED BY DAVID HIGGINS.**

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

<b>CHESTNUT</b>		<b>DEITZLER</b>
<b>DAVIS</b>	<b>EALY</b>	<b>HALL</b>
<b>HANNA</b>	<b>HARRIS</b>	<b>HARRISON</b>
<b>HIGGINS</b>	<b>JONES</b>	<b>LANE</b>
<b>LANHAM</b>	<b>LOEB</b>	<b>MARKHAM</b>
<b>MORTON</b>	<b>MILLER</b>	<b>MONROE</b>
<b>REED</b>	<b>ROBERTSON</b>	<b>SADD</b>
<b>TALKINGTON</b>	<b>WARE</b>	<b>WEINTRAUB</b>
<b>MAYOR JONES</b>		

**TWENTY- FOUR 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.**

**OCTOBER 4 2004, FIRST MEETING**

**PROCLAMATION**

Proclamation was given to Kanawha County Commissioner W. Kent Carper for his efforts in keeping the Lottery Commission in Charleston.

**PUBLIC SPEAKERS**

1. Victor Wilford
2. Pat Browning
3. James Straughter
4. Jomison Ufond
5. Rachael Dixon

**CLAIMS**

1. A claim of Frank Vincent, 1570 Kanawha Blvd., E. #201, Charleston, WV; alleges damage to property;  
Refer to City Solicitor.
2. A claim of Jack Ohlinger, 715 Grace Ave., Charleston, WV; alleges damage to vehicle;  
Refer to City Solicitor.
3. A claim of Mary Baldwin, 336 Fairview Rd., Fraziers Bottom, WV; alleges damage to vehicle;  
Refer to City Solicitor.

**COMMUNICATIONS**

**TO: JAMES REISHMAN  
CITY CLERK**

**FROM: DANNY JONES  
MAYOR**

**RE: CHARLESTON LAND TRUST COMMITTEE**

**DATE: OCTOBER 4, 2004**

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I am informing City Council that I have appointed Barbara McCabe, 1553 Bridge Road, Charleston, West Virginia 25314 to the Charleston Land Trust Committee, with a said term to expire October 4, 2005.

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

DJ/ads

Council approved the appointment.

**TO: JAMES REISHMAN  
CITY CLERK**

**FROM: DANNY JONES  
MAYOR**

**RE: CHARLESTON LAND TRUST COMMITTEE**

**DATE: OCTOBER 4, 2004**

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I am informing City Council that I have appointed Charles Loeb, 63 North Abney Circle, Charleston, West Virginia 25314, as Ex officio to the Charleston Land Trust Committee, with a said term to expire October 4, 2005.

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

DJ/ads

Council approved the appointment.

**TO: JAMES REISHMAN  
CITY CLERK**

**FROM: DANNY JONES  
MAYOR**

**RE: CHARLESTON LAND TRUST COMMITTEE**

**DATE: OCTOBER 4, 2004**

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I am informing City Council that I have appointed Wayne Eich, 744 Myrtle Road, Charleston, West Virginia 25314 to the Charleston Land Trust Committee, with a said term to expire October 4, 2007.

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

DJ/ads

Council approved the appointment.

**TO: JAMES REISHMAN  
CITY CLERK**

**FROM: DANNY JONES  
MAYOR**

**RE: CHARLESTON LAND TRUST COMMITTEE**

**DATE: OCTOBER 4, 2004**

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I am informing City Council that I have appointed Kemp McElwee, 606 Briarwood Road, Charleston, West Virginia 25314, to the Charleston Land Trust Committee, with a said term to expire October 4, 2008.

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

DJ/ads

Council approved the appointment.

**TO: JAMES REISHMAN**

**CITY CLERK**

**FROM: DANNY JONES  
MAYOR**

**RE: CHARLESTON LAND TRUST COMMITTEE**

**DATE: OCTOBER 4, 2004**

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I am informing City Council that I have appointed Mary Stanley, 740 Myrtle Road, Charleston, West Virginia 25314 to the Charleston Land Trust Committee, with a said term to expire October 4, 2007.

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

DJ/ads

Council approved the appointment.

**TO: JAMES REISHMAN  
CITY CLERK**

**FROM: DANNY JONES  
MAYOR**

**RE: CHARLESTON LAND TRUST COMMITTEE**

**DATE: OCTOBER 4, 2004**

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I am informing City Council that I have appointed Tom Lane, P.O. Box 1386, Charleston, West Virginia 25325, as Chairman to the Charleston Land Trust Committee, with a said term to expire October 4, 2005.

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

DJ/ads

Council approved the appointment.

**TO: JAMES REISHMAN  
CITY CLERK**

**FROM: DANNY JONES  
MAYOR**

**RE: CHARLESTON LAND TRUST COMMITTEE**

**DATE: OCTOBER 4, 2004**

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I am informing City Council that I have appointed Tony Gregory, 1216 Ellen Drive, Charleston, West Virginia 25303 to the Charleston Land Trust Committee, with a said term to expire October 4, 2005.

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

DJ/ads

Council approved the appointment.

**TO: JAMES REISHMAN  
CITY CLERK**

**FROM: DANNY JONES  
MAYOR**

**RE: CHARLESTON LAND TRUST COMMITTEE**

**DATE: OCTOBER 4, 2004**

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I am informing City Council that I have appointed Troy Stallard, 16 Fox Chase Road, Charleston, West Virginia 25304 to the Charleston Land Trust Committee, with a said term to expire October 4, 2007.

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

DJ/ads

Council approved the appointment.

**TO: JAMES REISHMAN  
CITY CLERK**

**FROM: DANNY JONES  
MAYOR**

**RE: CHARLESTON LAND TRUST COMMITTEE**

**DATE: OCTOBER 4, 2004**

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I am informing City Council that I have appointed Connie Hillenbrand, 152 Abney Circle, Charleston, West Virginia 25314, to the Charleston Land Trust Committee, with a said term to expire October 4, 2008.

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

DJ/ads

Council approved the appointment.

#### **MISCELLANEOUS RESOLUTIONS**

NONE.

#### **REPORTS OF STANDING COMMITTEES**

##### ***FINANCE***

Councilman Charlie Loeb, Vice Chairman of the Council Committee on Finance, submitted the following reports.

1. Your Committee on Finance has had under consideration Resolution No. 663-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 663-04 – “Authorizing the Finance Director to amend the 2004 Community Development Block Grant budget as indicated on the attached list. This is contingent upon no adverse citizen comments being received during the 30-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 2004 Community Development Block Grant budget as indicated on the attached list. This is contingent upon no adverse citizen comments being received during the 30-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-23 nays-0, absent-5, as follows:

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

NAYS:

ABSENT: Clowser, Miller, Nielsen, Reishman, White.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 663-04, adopted.

2. Your Committee on Finance has had under consideration Resolution No. 664-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 664-04 – “ Authorizing the Mayor to sign and submit Fiscal Year 2004 Local Economic Development Assistance (LEDA) grant applications and all related documents for funds to supplement the agencies designed on the attached list, located in the City of Charleston.”

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

That the Mayor is hereby authorized and directed to sign and submit Fiscal Year 2004 Local Economic Development Assistance (LEDA) grant applications and all related documents for funds to supplement the agencies designed on the attached list, located in the City of Charleston.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-23 nays-0, absent-5, as follows:

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

NAYS:

ABSENT: Clowser, Miller, Nielsen, Reishman, White.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 664-04, adopted.

3. Your Committee on Finance has had under consideration Resolution No. 665-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 665-04 – “ Authorizing the Finance Director to allocate funds in the amount of \$17,000 for acquisition of one (1) HOME project on the City’s West Side.”

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 Seventeen Thousand Dollars (\$17,000) for acquisition of one (1) HOME project on the City’s West Side.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-23 nays-0, absent-5, as follows:

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

NAYS:

ABSENT: Clowser, Miller, Nielsen, Reishman, White.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 665-04, adopted.

4. Your Committee on Finance has had under consideration Resolution No. 666-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 666-04 – “ Authorizing the Mayor to sign Change Order No. 1 with B.B.R. Drilling Company, in the amount of \$48,125, for additional work related to the Loudon Heights Road Retaining Walls project, as specified on the attached list. The change order increases the contract price from \$404,030 to \$452,155.”

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. 1 with B.B.R. Drilling Company, in the amount of Forty-eight Thousand One Hundred Twenty-five Dollars (\$48,125), for additional work related to the Loudon Heights Road Retaining Walls project, as specified on the attached list. The change order increases the contract price from \$404,030 to

\$452,155.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 666-04, adopted.

5. Your Committee on Finance has had under consideration Resolution No. 667-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 667-04 – “ Authorizing the Finance Director to make revisions to the 2004-2005 General Fund budget as indicated on the attached list of accounts.”

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

That the Finance Director is hereby authorized and directed to make revisions to the 2004-2005 General Fund budget as indicated on the attached list of accounts; and be it

FURTHER RESOLVED, that this budgetary revision is being made prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-23 nays-0, absent-5, as follows:

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

NAYS:

ABSENT: Clowser, Miller, Nielsen, Reishman, White.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 667-04, adopted.

6. Your Committee on Finance has had under consideration Resolution No. 668-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 668-04 – “ Authorizing the Mayor to enter into an Agreement with BBL Carlton, in the amount of \$417, 800, for Package CI 3A, Exterior Restoration of the Building at 601 Morris Street, adjacent to 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 enter into an Agreement with BBL Carlton, in the amount of Four Hundred Seventeen Thousand Eight Hundred Dollars (\$417, 800), for Package CI 3A, Exterior Restoration of the Building at 601 Morris Street, adjacent to 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-23 nays-0, absent-5, as follows:

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

NAYS:

ABSENT: Clowser, Miller, Nielsen, Reishman, White.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 668-04, adopted.

7. Your Committee on Finance has had under consideration Resolution No. 669-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 669-04 – “ Authorizing the Mayor to sign Amendment No.5 to the contract with HNTB for additional services relating to the design of the New Baseball Stadium at an increase in cost of \$4,500. This amendment brings the total contract price to \$1,185,950.”

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

That the Mayor is hereby authorized and directed to sign Amendment No.5 to the contract with HNTB for additional services relating to the design of the New Baseball Stadium at an increase in cost of Four Thousand Five Hundred Dollars (\$4,500). This amendment brings the total contract price to \$1,185,950.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-22 nays-1, absent-5, as follows:

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

NAYS: Markham

ABSENT: Clowser, Miller, Nielsen, Reishman, White.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 669-04, adopted.

8. Your Committee on Finance has had under consideration Resolution No. 670-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 670-04 – “ Authorizing the Mayor to sign Change Order No.3, in the amount of

\$29,242.79, with BBL Carlton for additional services relating to the CI 2A Searing Bowl and Playing Field Project for the New Baseball Stadium. Change order No. 3 increases the contract price for this project to \$4,126,705.97.”

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, in the amount of Twenty-nine Thousand Two Hundred Forty-two Dollars and Seventy-nine Cents (\$29,242.79), with BBL Carlton for additional services relating to the CI 2A Searing Bowl and Playing Field Project for the New Baseball Stadium. Change order No. 3 increases the contract price for this project to \$4,126,705.97.”

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-22 nays-1, absent-5, as follows:

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

NAYS: Markham

ABSENT: Clowser, Miller, Nielsen, Reishman, White.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 670-04, adopted.

9. Your Committee on Finance has had under consideration a bid submitted by West Virginia Tractor Co., in the amount of \$182,904, for purchase of a Vacuum/High Pressure Water Sewer Cleaner Truck to be used by the Street Department. To be charged to Account No. 001-977-00-750-4-461, Street-Capital Outlay, Lease/Purchase, and reports the same to council with the recommendation that the committee report be adopted.

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

10. Your Committee on Finance has had under consideration a bid submitted by Dill's Fire & Safety Company, in the amount of \$7,127, for purchase of a Self-contained Breathing Apparatus by the Office of Emergency Services and Homeland Security to be assigned for use in the Charleston Fire Department. To be charged to Account No. 045-976-04-001-4-459, Homeland Security Grant/ Cities –Capital Outlay, 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.

11. Your Committee on Finance has had under consideration a Proposal submitted by Medtronic Emergency Response Systems, in the amount of \$19,992, for purchase of a LIFEPAK Defibrillator/Monitor, with related accessories, to be used by the Charleston Fire Department.

To be charged to Account No.001-976-00-706-4-459, Fire-Capital Outlay, Equipment, and reports the same to council with the recommendation that the committee report be adopted.

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

12. Your Committee on Finance has had under consideration a Payment of an invoice from Bowles, Rice, McDavid, Graff & Love, LLP, in the amount of \$4,054.69, for professional services rendered during the month of July 2004 relating to general workers' compensation claims. To be charged to Account No. 001-417-00-000-2-223, Legal – Professional Services, and reports the same to council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted. Abstain: Loeb, Lane, Markham

## **REPORTS OF OFFICERS**

1. City Treasurer's Report to City Council Month Ending August, 2004; Received and Filed.

## **NEW BILLS INTRODUCED**

Introduced by Councilman Ealy on October 4, 2004:

**Bill No. 7102** - 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 district and C-4 Neighborhood Commercial District with restrictions, to C-6 Community Commercial District, those certain parcels of land situate on both sides of Sixth Street between Russell Street and Hunt Avenue and west of Hunt Avenue between Sixth Street and the Alley South of Sixth Street, Charleston, WV.

**Refer to Municipal Planning Commission.**

Introduced by Councilman Weintraub on October 4, 2004:

**Bill No. 7104** – A bill approving certain modifications of The Scattered Sites Urban Renewal Plan for the City of Charleston, West Virginia, with respect to providing for the acquisition of residential lots of having serious title problems or having liens placed by the City of Charleston for demolition of substandard structures and replacing Exhibit A with a new list of lots which are subject to this plan.

**Refer to Urban Renewal Committee.**

Introduced by Councilman Reishman on October 4, 2004:

**Bill No. 7105** - A Bill authorizing the Mayor to sell a parcel of land at the corner of 35<sup>th</sup> Street and Venable Avenue, along with Watt Powell Park, by way of public auction, together for a minimum price of Five Million Dollars (\$5,000,000.00).

**Refer to Finance Committee.**

## **UNFINISHED OR MISCELLANEOUS BUSINESS**

### **ROLL CALL**

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

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

ABSENT: Clowser, Miller, Nielsen, Reishman, White.

At 7:55 p.m., on motion of Councilman Loeb, Council adjourned until Monday October 18, 2004, at 7:00 p.m.

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Danny Jones, Honorable Mayor

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James M. Reishman, City Clerk