

JOURNAL
OF THE
COUNCIL
CITY OF CHARLESTON

WEST VIRGINIA

September 7, 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 7th 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 DAVID HIGGINS.

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

| | | |
|------------------|--------------------|-------------------|
| CHESTNUT | CLOWSER | DEITZLER |
| DAVIS | EALY | HALL |
| HANNA | HARRIS | HARRISON |
| HIGGINS | JONES | LANE |
| LANHAM | | MORTON |
| MILLER | MONROE | |
| | REED | REISHMAN |
| ROBERTSON | SADD | TALKINGTON |
| WARE | MAYOR JONES | |

TWENTY-THREE 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.

SEPTEMBER 7, 2004, FIRST MEETING

PUBLIC SPEAKERS

1. Pauline Shaver.
2. Vic Sprouse.
3. Dave Hardy.

CLAIMS

1. A claim of Tameka Massey, 1425 Ravinia Road, Charleston, WV; alleges damage personal injury;
Refer to City Solicitor.
2. A claim of Scott Cable, 100 Hunting Hill Drive, Charleston, WV; alleges damage to vehicle;
Refer to City Solicitor.
3. A claim of Gail Harper, 122 Moran Avenue, Dunbar, WV; alleges damage to vehicle;
Refer to City Solicitor.
4. A claim of RBM Development, LLC, 200 Bradford Street, Charleston, WV; alleges damage to property;
Refer to City Solicitor.
5. A claim of Duong Tang, 207 Elm Street, Charleston, WV; alleges damage to vehicle;
Refer to City Solicitor.
6. A claim of Perry Cox, 963 Greendale Drive, Charleston, WV; alleges damage to vehicle;
Refer to City Solicitor.
7. A claim of Rosemary Southard, 5517 Toledo Avenue, Charleston, WV; alleges damage to property;
Refer to City Solicitor.
8. A claim of Carolyn Fisher, 162 Oakmont Drive, Poca, WV; alleges damage to vehicle;
Refer to City Solicitor.

PUBLIC HEARING

The Mayor read the following Public Hearing:

AFTER DULY BEING PUBLISHED AS REQUIRED, I NOW DECLARE THE FLOOR OPEN FOR A PUBLIC HEARING ON RESOLUTION NO. 647-04, A RESOLUITON

AUTHORIZING THE ISSUANCE OF MULTIFAMILY HOUSING REVENUE BONDS FOR ACQUISITION OF SPRING HILL APARTMENT COMPLEX.

THE CHAIR SEES NO ONE FROM THE PUBLIC.

THE CHAIR HEARS NO ONE FROM THE PUBLIC.

THE CHAIR DECLARES PUBLIC HEARING ON

RESOLUTION NO. 647-04, CLOSED.

COMMUNICATIONS

None.

MISCELLANEOUS RESOLUTIONS

Resolution No. 648-04

Introduced in Council:

September 7, 2004

Introduced by:

Mary Jean Davis
For Marc Weintraub

Passed by Council:

September 7, 2004

Referred to:

Resolution No. 648-04 – “Giving Council approval to designate the corner of Washington Street East and Ruffner Avenue as permanent locations to suspend or project banners over said streets of the City of Charleston”

WHEREAS, the City of Charleston provides that such banners may be approved by Council and Provided, further, that a permit is obtained from the Building Commissioner of said city; and

WHEREAS, it is the opinion of Council that banners for holidays, public demonstrations or promotions of civic welfare or charitable purposes should be afforded the right to temporarily suspend of project such banners as aforesaid with respect to the permanent locations.

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

That the Council of the City of Charleston does hereby designate the corner of Washington

Street East and Ruffner Avenue as permanent locations to suspend or project banners over said Streets of the City of Charleston; and, be it

FURTHER RESOLVED, that all prior resolution inconsistent with this resolution are expressly repealed as to such inconsistencies.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 648-04, adopted.

REPORTS OF STANDING COMMITTEES

PARKS AND RECREATION

Councilman Jim Harris, Chairman of the Council Committee on Parks and Recreation, submitted the following reports.

Your Committee on Parks and Recreation has had under consideration Bill No. 7094, and reports the same to Council with the recommendation that the Bill do pass.

Bill No. 7094 – Amending and reenacting Chapter 10, Section 114 of the City Code of the City of Charleston, 2003, as amended; all relating to dogs roaming at large.

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

That Chapter 10, Section 114 of the Code of the City of Charleston, 2003, as amended, is amended and reenacted to read as follows:

Sec. 10-114. Dog to be confined and not permitted to roam at large; taking dogs on leash.

The owner of a dog or person harboring or keeping a dog shall not allow such dog to roam at larges in the city. The owner of a dog or person harboring or keeping a dog shall confine such dog at the owner's premises, or the premises of such person harboring or keeping such dog. No person shall take any dog onto the streets, sidewalks, or public places of the city unless the dog shall be upon a leash or under effective control: Provided, that a person is permitted to allow a dog to roam at large in city designated dog parks, which have been designated as such by resolution passed by city council. Such resolution shall be kept on file in the office of the city clerk and the department of parks and recreation.

(Code 1975, § 4-28)

The question being on the passage of the Bill a roll call was taken and there yeas-23 nays-0, absent-4, as follows:

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

NAYS:

ABSENT: Loeb, Markham, Nielsen, Weintraub, White.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7094, 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. 634-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 634-04 – “Authorizing the Mayor to enter into an agreement with J&J Emergency Vehicle Sales, in the amount of \$107,500, for purchase of an ambulance for the Charleston Fire Department.”

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 J&J Emergency Vehicle Sales, in the amount of \$107,500, for purchase of an ambulance for the Charleston Fire Department.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-23 nays-0, absent-4, as follows:

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

NAYS:

ABSENT: Loeb, Markham, Nielsen, Weintraub, White.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 634-04, adopted.

2. Your Committee on Finance has had under consideration Resolution No. 635-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 635-04 – “Authorizing the Mayor to enter into an Agreement with the West Virginia Department of Transportation, Division of Highways, with regard to renovation and interconnection of the traffic signal system on Greenbrier Street at the intersections of Hillcrest Drive, Oakridge Drive and Deitrick Boulevard (Northgate Business Park), and establishing mutual responsibilities for future maintenance and operation of the system.”

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 Department of Transportation, Division of Highways, with regard to renovation and interconnection of the traffic signal system on Greenbrier Street at the intersections of Hillcrest Drive, Oakridge Drive and Deitrick Boulevard (Northgate Business Park), and establishing mutual responsibilities for future maintenance and operation of the system.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 635-04, adopted.

3. Your Committee on Finance has had under consideration Resolution No. 636-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 636-04 – “Authorizing the Mayor to enter into an Agreement with Jimmy A. Dunn Excavating Company, in the amount of \$72,567, for the South Ruffner Road Storm Sewer 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 Jimmy A. Dunn Excavating Company, in the amount of Seventy-two Thousand Five Hundred Sixty-seven Dollars (\$72,567), for the South Ruffner Road Storm Sewer Project.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-23 nays-0, absent-4, as follows:

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

NAYS:

ABSENT: Loeb, Markham, Nielsen, Weintraub, White.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 636-04, adopted.

4. Your Committee on Finance has had under consideration Resolution No. 637-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 637-04 – “Authorizing the Mayor to sign Change Order No. 2 with Green Valley Bridge, Inc., in the amount of \$4,000, to provide for the final connection of the Sixth Avenue Sewer Separation project to the Family Enrichment Center. This change order, plus Change Order No. 1, in the amount of \$13,525, increases the cost of this project from \$111,448 to \$128,973.”

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 Green Valley Bridge, Inc., in the amount of Four Thousand Dollars (\$4,000), to provide for the final connection of the Sixth Avenue Sewer Separation project to the Family Enrichment Center. This change order, plus Change Order No. 1, in the amount of \$13,525, increases the cost of this project from \$111,448 to \$128,973.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-23 nays-0, absent-4, as follows:

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

NAYS:

ABSENT: Loeb, Markham, Nielsen, Weintraub, White.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 637-04, adopted.

5. Your Committee on Finance has had under consideration Resolution No. 638-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 638-04 – “Authorizing the Mayor to execute a full release of all claims and demands for property damage caused by Paul E. Keenan to a City-owned police cruiser on or about April 21, 2004, in exchange for \$10,000.”

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

That the Mayor is hereby authorized and directed to execute a full release of all claims and demands for property damage caused by Paul E. Keenan to a City-owned police cruiser on or about April 21, 2004, in exchange for Ten Thousand Dollars (\$10,000).

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 638-04, adopted.

6. Your Committee on Finance has had under consideration Resolution No. 639-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 639-04 – “Authorizing the Mayor to sign Change Order No. 2 with Barnett Builders, in the amount of \$8,088, for removal of two additional 3,000-gallon underground storage tanks at the site of the New Baseball Stadium. Change Order No. 1 in the amount of \$1,661, and Change Order No. 2 in the amount of \$8,088, increases the contract price for this project from \$14,545 to \$24,294.”

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 Barnett Builders, in the amount of Eight Thousand Eighty-eight Dollars (\$8,088), for removal of two additional 3,000-gallon underground storage tanks at the site of the New Baseball Stadium. Change Order No. 1 in the amount of \$1,661, and Change Order No. 2 in the amount of \$8,088, increases the contract price for this project from \$14,545 to \$24,294.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 639-04, adopted. Abstain: Mark Sadd

7. Your Committee on Finance has had under consideration Resolution No. 640-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 640-04 – “Authorizing the Finance Director to allocate funds in the amount of \$34,970 for acquisition of one (1) HOME project in North 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 Four Thousand Nine Hundred Seventy Dollars (\$34,970) for acquisition of one (1) HOME project in North Charleston.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-23 nays-0, absent-4, as follows:

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

NAYS:

ABSENT: Loeb, Markham, Nielsen, Weintraub, White.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 640-04, adopted.

8. Your Committee on Finance has had under consideration Resolution No. 641-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 641-04 – “Authorizing the Finance Director to allocate funds in the amount of \$25,400 for acquisition of one (1) HOME project on the 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 Twenty Five Thousand Four Hundred (\$25,400) for acquisition of one (1) HOME project on the

West Side.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-23 nays-0, absent-4, as follows:

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

NAYS:

ABSENT: Loeb, Markham, Nielsen, Weintraub, White.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 641-04, adopted.

9. Your Committee on Finance has had under consideration Resolution No. 642-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 642-04 – “Authorizing the Finance Director to issue a refund to McCloy Construction, in the amount of \$24,043.47. The company paid B&O Taxes on construction jobs outside the City during the period of 2000 through 2003.”

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

That the Finance Director is hereby authorized and directed to issue a refund to McCloy Construction, in the amount of Twenty Four Thousand Forty-three Dollars and Forty-seven Cents (\$24,043.47). The company paid B&O Taxes on construction jobs outside the City during the period of 2000 through 2003.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 642-04, adopted.

10. Your Committee on Finance has had under consideration Resolution No. 643-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 643-04 – “Authorizing the Finance Director to issue a refund to Industrial Rubber, in the amount of \$8,323.89. The company paid B&O taxes erroneously using a retail rate instead of a wholesale rate for a portion of its tax base for the period 2000 through 2002.”

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

That the Finance Director is hereby authorized and directed to issue a refund to Industrial Rubber, in the amount of Eight Thousand Three Hundred Twenty-three Dollars and Eighty-nine cents (\$8,323.89). The company paid B&O taxes erroneously using a retail rate instead of a wholesale rate for a portion of its tax base for the period 2000 through 2002.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 643-04, adopted.

11. Your Committee on Finance has had under consideration Resolution No. 644-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 644-04 – “Authorizing the Mayor to enter into an amended Eden System, Incorporated, Software License and Use Agreement, in the amount of \$12,000, to add nine (9) additional concurrent licenses for various modules serving the City’s accounting programs.”
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 amended Eden System, Incorporated, Software License and Use Agreement, in the amount of Twelve Thousand Dollars \$12,000, to add nine (9) additional concurrent licenses for various modules serving the City’s accounting programs.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 644-04, adopted.

12. Your Committee on Finance has had under consideration Resolution No. 645-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 645-04 – “Authorizing the Mayor to sign the Tenth Amendment to the Lease Agreement with Real Estate Resources, Inc. for office space used by the Charleston Police Department at 110 Washington Street, West. This amendment will extend the lease for an additional six-month period from September 1, 2004 through February 28, 2005, without cost to the City.”

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

That the Mayor is hereby authorized and directed to sign the Tenth Amendment to the Lease Agreement with Real Estate Resources, Inc. for office space used by the Charleston Police Department at 110 Washington Street, West. This amendment will extend the lease for an additional six-month period from September 1, 2004 through February 28, 2005, without cost to the City.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 645-04, adopted.

13. Your Committee on Finance has had under consideration Resolution No. 646-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 646-04 – “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-4, as follows:

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

NAYS:

ABSENT: Loeb, Markham, Nielsen, Weintraub, White.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 646-04, adopted.

14. Your Committee on Finance has had under consideration Resolution No. 647-04, and reports the same to Council with the recommendation that the committee report be adopted.

A RESOLUTION AUTHORIZING THE ISSUANCE BY THE CITY OF CHARLESTON, WEST VIRGINIA OF NOT MORE THAN \$10,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF ITS MULTIFAMILY HOUSING REVENUE BONDS (VISTA VIEW APARTMENTS PROJECT) SERIES 2004, IN ONE OR MORE SERIES, TO PROVIDE FUNDS TO ACQUIRE, CONSTRUCT AND EQUIP A COMMERCIAL PROJECT IN THE CITY OF CHARLESTON, WEST VIRGINIA CONSISTING OF THE ACQUISITION AND REHABILITATION OF AN EXISTING MULTIFAMILY RENTAL HOUSING PROJECT AND TO PAY SUCH OTHER COSTS IN CONNECTION THEREWITH; APPROVING THE LOAN OF SAID BOND PROCEEDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A TRUST INDENTURE, A FINANCING AGREEMENT, A REGULATORY AGREEMENT, A COMPOSITE BOND PURCHASE AGREEMENT, AN INTEREST RATE AGREEMENT AND AN ASSIGNMENT, AND AUTHORIZING THE DISTRIBUTION OF OFFERING DOCUMENTS; AND TAKING OTHER NECESSARY

ACTIONS IN CONNECTION WITH THE ISSUANCE AND
SALE OF SUCH BONDS.

WHEREAS, the City of Charleston, West Virginia (the "Issuer"), a municipal corporation, is a duly organized governmental body 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 Section 2 of the Act, to issue its revenue bonds to pay the cost of commercial projects; and

WHEREAS, Vista View Apartments L.P., a West Virginia limited partnership (the "Company") has requested the Issuer to issue its Multifamily Housing Revenue Bonds (Vista View Apartments Project), Series 2004 in the principal amount of not to exceed \$10,000,000, in one or more series (the " Bonds"), the proceeds of which will be used to finance (i) the acquisition, construction and equipping by the Company of a commercial project in the City of Charleston, West Virginia, 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 apartments, 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 renovations and improvements to the Existing Facilities ((i) and (ii) hereinafter referred to as the "Project"); and (iii) costs associated with the issuance of the Bonds; and

WHEREAS, there have been presented to this meeting the following documents to be executed in connection with the issuance and sale of the Bonds:

1. The proposed form of a Financing Agreement, dated as of September 1, 2004 (the "Agreement") between the Company and the Issuer, pursuant to which the Company shall, among other things, agree to pay as loan payments, and such other amounts (including Hedge Payments, as defined in the Financing Agreement), sufficient to pay the principal of, premium, if any, and interest on the Bonds;
2. The proposed form of Trust Indenture, dated as of September 1, 2004 (the "Indenture"), between the Issuer and United Bank, Inc., Charleston, West Virginia (the "Trustee"), pursuant to which the Bonds will be issued;
3. The proposed form of the Bonds as set forth in the Indenture;
4. The proposed form of the Composite Bond Purchase Agreement (the "Composite Bond Purchase Agreement") relating to the Bonds;
5. The proposed form of a Regulatory Agreement and Declaration of Restrictive Covenants (the "Regulatory Agreement");

6. The proposed form of the Official Statement (the "Official Statement") relating to the Bonds;
7. The proposed form of an Agreement for Interest Rate Reduction Payments (the "Interest Rate Agreement") and
8. An Assignment of Deed of Trust and Loan Documents (the "Assignment") relating to the Bonds

WHEREAS, it appears that each of the instruments referred to above, which is now before the Issuer, is in appropriate form and is an appropriate instrument for the purpose intended.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Charleston,, West Virginia as follows:

Section 1. That the proposed issuance of the Bonds, as described in the Indenture, is hereby approved and authorized, pursuant to and in accordance with Article 2C, Chapter 13 of the Code of West Virginia, 1931, as amended (the "Act"), the Agreement and the Indenture and as generally described in the Official Statement, following the execution and delivery of the Bond Purchase Agreement authorized and directed by this Resolution.

Section 2. That the Bonds be and the same hereby are in all respects authorized, approved and confirmed, and the Mayor be and he hereby is authorized, empowered and directed to execute, whether by manual or facsimile signature, and the City Clerk is hereby authorized, empowered and directed to seal with the official seal of the Issuer or a facsimile thereof and deliver for and on behalf of the Issuer, the Bonds to the Trustee for authentication, and the Trustee is hereby authorized and directed to authenticate the Bonds, and the provisions of the Indenture with respect to the Bonds (including without limitation the maturity dates, rates of interest and redemption provisions) be and the same hereby is authorized, approved and confirmed and are incorporated herein by reference.

Section 3. That the Issuer enter into the Financing Agreement and the form and content of the Financing Agreement be and the same hereby is in all respects authorized, approved and confirmed and the Mayor be and he hereby is authorized, empowered and directed to execute and deliver the Financing Agreement, prior to or simultaneously with the issuance of the Bonds for and on behalf of the Issuer, including necessary counterparts, in substantially the form and content now before this meeting but with such changes, modifications, additions or deletions therein as shall to him and to legal counsel for the Issuer be deemed necessary, desirable or appropriate, his execution thereof to constitute conclusive evidence of his approval of any and all changes, modifications, additions or deletions therein from the form and content of the Financing Agreement now before this meeting, and that, from and after the execution and delivery of the Financing Agreement, the Mayor is hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Financing Agreement as executed.

Section 4. That the form and content of the Indenture and the assignment of the Issuer's

interest in the Financing Agreement be and the same hereby is in all respects authorized, approved and confirmed, and the Mayor, be and he hereby is authorized, empowered and directed to execute and deliver the Indenture for and on behalf of the Issuer to the Trustee for the security of the Bonds and the interest thereon, including necessary counterparts, in substantially the form and content now before this meeting but with such changes, modifications, additions and deletions therein as shall to him and to legal counsel for the Issuer be deemed necessary, desirable or appropriate, his execution thereof to constitute conclusive evidence of his approval of any and all changes, modifications, additions or deletions from the form and content of the Indenture now before this meeting, and that, from and after the execution and delivery of the Indenture, the Mayor hereby is authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Indenture as executed.

Section 5. That the form, terms and content of the Official Statement be and the same hereby is in all respects authorized, approved and confirmed, and the Mayor be and he hereby is authorized, empowered and directed to execute the Official Statement in substantially the form and content now before this meeting but with such changes, modifications, additions and deletions therein as shall to him and to legal counsel for the Issuer be deemed necessary, desirable or appropriate, his execution thereof to constitute conclusive evidence of his approval of any and all changes, modifications, additions or deletions from the form and content of the Official Statement now before this meeting.

Section 6. That the form, terms and content of the Regulatory Agreement be and the same hereby is in all respects authorized, approved and confirmed, and the Mayor be and he hereby is authorized, empowered and directed to execute the Regulatory Agreement in substantially the form and content now before this meeting but with such changes, modifications, additions and deletions therein as shall to him and to legal counsel for the Issuer be deemed necessary, desirable or appropriate, his execution thereof to constitute conclusive evidence of his approval of any and all changes, modifications, additions or deletions from the form and content of the Regulatory Agreement now before this meeting.

Section 7. That the form, terms and content of the Interest Rate Agreement and the Assignment, respectively, be and the same hereby is in all respects authorized, approved and confirmed, and the Mayor be and he hereby is authorized, empowered and directed to execute the Interest Rate Agreement and the Assignment in substantially the form and content now before this meeting but with such changes, modifications, additions and deletions therein as shall to him and to legal counsel for the Issuer be deemed necessary, desirable or appropriate, his execution thereof to constitute conclusive evidence of his approval of any and all changes, modifications, additions or deletions from the form and content of the Interest Rate Agreement and the Assignment now before this meeting.

Section 8. That the Issuer enter into the Composite Bond Purchase Agreement, and the form and content of the Composite Bond Purchase Agreement be and the same hereby are in all respects authorized, approved and confirmed and the Mayor be and he hereby is authorized, empowered and directed to execute and deliver the Composite Bond Purchase Agreement, prior to or simultaneously with the issuance of the relevant Bonds for and on behalf of the Issuer, including necessary counterparts, in substantially the form and content now before this meeting but with such

changes, modifications, additions or deletions therein as shall to him and to legal counsel for the Issuer be deemed necessary, desirable or appropriate, his execution thereof to constitute conclusive evidence of his approval of any and all changes, modifications, additions or deletions therein from the form and content of the Composite Bond Purchase Agreement now before this meeting, and that, from and after the execution and delivery of the Composite Bond Purchase Agreement, the Mayor is hereby authorized, empowered, and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Composite Bond Purchase Agreement, as executed.

Section 9. That the Mayor be and he hereby is authorized to execute and deliver for and on behalf of the Issuer any and all additional certificates, documents, opinions or other papers and perform all other acts (including without limitation, the filing of any financing statements or any other documents to create and maintain a security interest in the Project) as he may deem necessary or appropriate in order to implement and carry out the intent and purposes of this Resolution.

Section 10. The Bonds shall contain a recital that they are issued pursuant to the Act, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

Section 11. The provisions hereof are not intended to, and shall not be construed or interpreted to, either (a) obligate or authorize the expenditure of any funds or moneys of the Issuer or derived by the Issuer from any source whatsoever other than the proceeds from issuance and sale of the Bonds as provided for herein, or (b) create any personal liability on the part of the officers or members of the Issuer. The Bonds shall never constitute an indebtedness of the Issuer within the meaning of any constitutional provision or statutory limitation and shall never constitute or give rise to a pecuniary liability of the Issuer. Neither the Bonds nor the interest thereon shall be a charge against the general credit or taxing powers of the Issuer and such fact shall be plainly stated on the face of each Bond.

Section 12. The statutory mortgage lien set forth in Section 8 (§13-2C-8) of the Act is hereby waived by the Issuer.

Section 13. That the provisions of this Resolution are hereby declared to be separable, and, if any section, phrase or provision shall for any reason be declared to be invalid, such declaration shall not affect the validity of the remainder of the sections, phrases or provisions.

Section 14. That all acts and deeds of any officer or agent of the Issuer in furtherance of the purposes and intent of this Resolution hereby are ratified, confirmed and made the acts and deeds of the Issuer.

Section 15. That all resolutions and orders, or parts thereof, in conflict with the provisions of this Resolution, are, to the extent of such conflict, hereby repealed.

Section 16. That the members of the City Council of the Issuer hereby find and determine that all formal actions relative to the adoption of this Resolution were taken in an open meeting of the Issuer and that all deliberations of the members of the Issuer which resulted in formal action were taken in meetings open to the public, in full compliance with applicable legal

requirements, including, but not limited to Section 147(f) of the Internal Revenue Code of 1986, as amended, and that the Project and the financing thereof will greatly benefit the residents of the City of Charleston, West Virginia and otherwise serve the purposes of the Act.

Section 17. That this Resolution shall become effective immediately upon its adoption.

Adopted by the City of Charleston, West Virginia, a municipal corporation, at a meeting held in Charleston,, West Virginia, on the 7th day of September, 2004.

(SEAL)

By: _____

Mayor

Attest:

By: _____

City Clerk

CERTIFICATION

The undersigned, being the duly appointed and qualified acting City Clerk of the City of Charleston,, West Virginia does hereby certify that the foregoing Resolution was duly adopted by the Issuer at its meeting held on September 7, 2004, a quorum being present and acting throughout, and is a true, correct and complete copy as witness my hand and the Seal of the City of Charleston West Virginia this 7th day of September, 2004.

City Clerk

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 647-04, adopted. Abstain: Jack Harrison

15. Your Committee on Finance has had under consideration Resolution No. 649-04, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 649-04 - “Authorizing the Mayor to enter into an agreement with Riley Natural Gas for purchase and delivery of natural gas to City sites at a lock-in price range of \$7.75/dth to \$7.90/dth for a two year period from November 1, 2004 through October 31, 2006.”

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 Riley Natural Gas

for purchase and delivery of natural gas to City sites at a lock-in price range of \$7.75/dth to \$7.90/dth for a two year period from November 1, 2004 through October 31, 2006.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 649-04, adopted.

16. Your Committee on Finance has had under consideration a bid submitted by Greenbrier Nurseries, in the amount of \$8,227.25, for purchase of spring bedding plants to be plated at various locations throughout the City 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 bid submitted by K. Van Bourgandien, in the amount of \$3,154.22, for purchase of Fall Plating Bulbs (Tulips) to be planted at various locations throughout the City 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 bid submitted by West Virginia Tractor Company, in the amount of \$19,400, for purchase of a wood chipper to be used by the Public Grounds Department 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.

19. Your Committee on Finance has had under consideration a bid submitted by West Virginia Tractor Company, in the amount of \$199,900, for purchase of a bucket truck mounted with 70' tree trimmer device to be used by the Public Grounds Department 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.

20. Your Committee on Finance has had under consideration Bill No. 7095, and reports the same to Council with the recommendation that the Bill do pass.

Bill 7095 – Amending and reenacting Chapter 2, Section 461 and 471 of the City Code of the

City of Charleston, 2003, as amended; all relating to contract and purchasing.

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

That Chapter 2, Section 461 and 471 of the Code of the City of Charleston, 2003, as amended, is amended and reenacted to read as follows:

Chapter 2. Administration
Article VI. Finance
DIVISION 4. CONTRACTS AND PURCHASES

Sec. 2-461. Purchase of supplies and materials.

(a) All supplies and materials for the various departments of the city government, not exceeding at any one time the sum of \$10,000, shall be purchased by the city manager, and every reasonable precaution shall be taken to procure the supplies and materials at the very lowest price possible consistent with good service and quality. All such purchases shall be made upon requisition signed by the officer in charge of the department for which the supplies or materials are needed, and filed with the city manager, who shall thereupon direct his/her order to the person from whom it is proposed to purchase the supplier or materials, requiring him/her to deliver the supplies to the person in charge of the department for which ordered, and the supplier shall make out his bill at the contract price, on a blank form attached to order and furnished therewith by the manager, and shall send the bill with the goods to the officer in charge of the department for which they were ordered; and it shall be the duty of the officer to examine the goods delivered and the quantity thereof, and if he/she finds the quantity to be as stated in the order and the quality first class or of the grade ordered, he/she shall endorse the bill with a statement that the goods have been received and the quantity and quality found to be correct and shall return the bill and the order upon which it was furnished to the merchant or person making the same, who shall file it with the city manager for approval and authorization for payment. If found incorrect, or if the quality be found below the standard and grade ordered, the officer in charge shall refuse to accept the goods and shall notify the manager to that effect, and the person furnishing the goods shall be notified by the officer in charge of the department that the goods can only remain where delivered at the risk of the person delivering.

(b) The purchase of supplies and materials for the various department of the city government exceeding at any one time the sum of \$10,000 shall be approved by the city council, and thereupon the provisions of subsection (a) of this section shall become applicable.

(c) Nothing in this article shall be construed to preclude the purchase by the city of materials, supplies and equipment by agreement between the city and state director of the division of purchases of the department of finance and administration, as provided in subsection (a), section 8-12-10 of the Code of West Virginia.

(d) Nothing in this article shall preclude the city manager from purchasing supplies and materials without receiving approval from city council where, in the judgment of the city manager, the failure to immediately purchase supplies and materials, prior to securing council

approval, would result in a condition of extreme peril resulting in substantial damages to injury to persons or property within this city, whether such occurrence is caused by an act of God, nature or man, including an enemy of the United States.

(e) No contract may be authorized to any business or individual that is delinquent in any financial obligation to the city or is not operating with all required licenses and permits.

Sec. 2-471. When advertising for bids required; publication of advertisement, time for opening of bids; letting of contracts; contracts to be in writing.

(a) Whenever any contract is proposed to be entered into by the city involving the expenditure of more than \$10,000, except where such contract involves the rendering of professional services or where such contract is for materials and supplies as referenced in 2-461, the city manager shall publish an advertisement calling for bids for this work, unless it is decided to do this work with city personnel or others employed by the city for such purposes. The time for opening such bids shall not be less than ten day from the date of the first publication of the advertisement. The advertisement shall be printed once a week for two successive weeks in two newspapers of opposite politics, and of general circulation and published in the city, preceding the time of opening the bids. The council shall reserve the right to reject any and all bids, but the contract, if let, must be let to the lowest responsible bidder. No contract shall be awarded to any bidder that is delinquent in any financial obligation to the city or is not operation with all required licenses and permits: Provided; That nothing herein is to effect the procurement procedures for design build projects which are governed by West Virginia Code §5-22A-1 et seq., or the procurement procedures for architectural or engineering services which are governed by West Virginia Code §5G-1-1 et seq.

(b) Nothing in this article shall preclude the city manager from entering into contracts without first advertising for bids and receiving council approval where, in the judgment of the city manager, the failure to immediately enter into a contract, would result in a condition of extreme peril resulting in substantial damage or injury to person or property within this city, whether such occurrence is caused by an act of God, nature or man, including an enemy of the United States.

The question being on the passage of the Bill a roll call was taken and there yeas-23 nays-0, absent-4, as follows:

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

NAYS:

ABSENT: Loeb, Markham, Nielsen, Weintraub, White.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7095, passed.

21. Your Committee on Finance has had under consideration the payment of an invoice from Commercial Insurance Services, in the amount of \$6,097.37, for renewal of the liability coverage for storage tank pollution 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. City Treasurer's Report to City Council Month Ending June, 2004;
Received and Filed.

NEW BILLS INTRODUCED

Introduced by Councilman Reishman on September 7, 2004:

Bill 7096 – A Bill to abandoning, vacating, discontinuing and closing permanently a certain 15 foot wide public alley or way know as Buick Court, generally parallel to Court Street and extending from the northeasterly right of way line on Quarrier Street about 183.5 feet where it dead ends with the portion of Charleston Town Center Company, Limited Partnership, property formerly occupied by Best Products and authorizing conveyance to Charleston Urban Renewal Authority in part and to Charleston Town Center Company, Limited Partnership, in part all the right, title and interest of the City of Charleston in and to the land area occupied by such alley or way know as Buick Court so vacated.

Refer to Municipal Planning Commission .

Introduced by Councilwoman Reed on September 7, 2004:

Bill 7097 – A Bill to prohibit vehicular traffic in a Northerly Direction on Woodward Street from Orchard Street to Garden Street and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, two thousand three, as amended, Traffic Law, Section 263, Division 2, Article 4, Chapter 114, to conform therewith.

Refer to Street and Traffic Committee.

Introduced by Councilman Monroe on September 7, 2004:

Bill 7098 – A Bill to establish a 15 mile per hour speed limit on McGuffin Street and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.

Refer to Streets and Traffic Committee.

Introduced by Councilman Reishman on September 7, 2004:

Bill No. 7099 - A Bill supplementing Ordinance No. 4423 passed by the Council of The City of Charleston, West Virginia, on March 6, 1989, as supplemented by Ordinance No. 4506 passed by the Council on November 6, 1989, by Ordinance No. 4954 passed by the Council on May 3, 1993, by Ordinance No. 6276 passed by the Council on September 3, 1996, by Ordinance No. 6349 passed by the Council on June 2, 1997, by Ordinance No. 6532 passed by the Council on

November 16, 1998, by Ordinance No. 6544 passed by the Council on February 1, 1999, by Ordinance No. 6670 passed by the Council on February 5, 2001, by Ordinance No. 6777 passed by the Council on March 19, 2001, by Ordinance No. 6948 passed by the Council on November 4, 2002, and by Ordinance No. 6977 passed by the Council on May 19, 2003; authorizing the design, acquisition and construction of certain extensions, additions, betterments and improvements to the existing sewerage system of The City of Charleston; authorizing the issuance of not more than \$50,000,000 in aggregate principal amount of Sewerage System Revenue Bonds, in one or more series as designated in a supplemental resolution, of The City of Charleston, the proceeds of which, shall be used, along with other funds and moneys of, or available to, The City of Charleston which may be lawfully expended for such purposes, to permanently finance the cost of such design, acquisition and construction, to fund reserve accounts for such bonds and to pay other costs in connection therewith; providing for the rights and remedies of and security for the registered owners of such bonds; and adopting other provisions related thereto.

Refer to Finance Committee.

UNFINISHED OR MISCELLANEOUS BUSINESS

The Mayor announced that the Halloween date will be October 28, 2004 from 6:00p.m. to 8:00p.m.

ROLL CALL

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

yeas-23 nays-0, absent-4, as follows:

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

ABSENT: Loeb, Markham, Nielsen, Weintraub, White.

At 7:55 p.m., on motion of Councilman Loeb, Council adjourned until Monday September 20, 2004, at 7:00 p.m.

Danny Jones, Honorable Mayor

James M. Reishman, City Clerk