

JOURNAL
OF THE
COUNCIL
CITY OF CHARLESTON

WEST VIRGINIA

January 18, 2005

THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE SECOND MEETING IN THE MONTH OF JANUARY ON THE 18th DAY, IN THE YEAR 2005, AND WAS CALLED TO ORDER BY THE HONORABLE MAYOR, DANNY JONES. THE INVOCATION WAS DELIVERED JACK HARRISON, AND THE PLEDGE OF ALLEGIANCE WAS LED BY ED TALKINGTON.

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

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

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

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

JANUARY 18, 2005, SECOND MEETING

PUBLIC SPEAKERS

1. Jerry Pauley, Police Chief

CLAIMS

1. A claim of D. Stephen Walker, 1410 Connell Road, Charleston, WV; alleges damage to property.
Refer to City Solicitor.
2. A claim of Robin Armstrong, 510 Maxwell St., Charleston, WV; alleges damage to property.
Refer to City Solicitor.
3. A claim of Ellen Cannon, 4404 Blackwell St., South Charleston; alleges damage to property.
Refer to City Solicitor.

COMMUNICATIONS

The Clerk read the following appointments.

To: James Reishman
City Clerk

From: Danny Jones
Mayor

Re: Charleston Housing Authority

Date: January 11, 2005

This is to inform you and the Charleston City Council that I have reappointed Richard Cooke, 1005 Dartmouth Avenue, Charleston, West Virginia 25302, as a member of the Charleston Housing Authority with said term to expire December 10, 2008.

I respectfully request that you forward this information to the City Council.

Council approved the appointment.

To: James Reishman
City Clerk

From: Danny Jones
Mayor

Re: Charleston Housing Authority

Date: January 11, 2005

This is to inform you and the Charleston City Council that I have reappointed Vernadine Crothers, 2102 Lippert Street, Apartment 360, Charleston, West Virginia 25312, as a member of the Charleston Housing Authority with said term to expire December 10, 2009.

I respectfully request that you forward this information to the City Council.

Council approved the appointment.

The Clerk read the following report from the Municipal Planning Commission:

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

Dear Mayor Jones and Councilmember's:

On January 5, 2005, the Municipal Planning Commission held public hearings and its regular monthly meeting. The following case should be referred to the Council Committee on Planning:

Bill No. 7122 – Petition of the University of Charleston requesting to rezone from an R-4 district to an R-O district those certain parcels of land known as 2505, 2506, 2508, 2509, 2510, & 2512 Cherokee Avenue, identified on Kanawha City Tax Map 20, as Parcels 38,39,40,41,54,55, & 27.

Special Permit # 1185 – Application of Gregory Miles dba Southern BBQ requesting a special permit for a restaurant/catering business serving alcoholic beverages in the Downtown Village Urban Renewal District accessory to the business located at 713 Lee Street, East.

Sincerely,
Municipal Planning Commission
Phyllis White

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

MISCELLANEOUS RESOLUTIONS

NONE

REPORTS OF STANDING COMMITTEES

PLANNING

Councilwoman Mary Jean Davis, Chairperson of the Council Committee on Planning, submitted the following reports.

1. Your Committee on Planning has had under consideration Bill No. 7110, and reports the same to Council with the recommendation that the Bill do pass.

Bill No. 7110 – A bill amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 7th day of March 1983, as amended, and the map made a part thereof, by rezoning from an R-4 district to a C-6 district, those certain parcels of land situated at 1718 Fifth Avenue, Charleston, West Virginia.

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

1. The Zoning Ordinance of the City of Charleston, West Virginia, enacted the 7th day of March 1983, as amended, is hereby amended by rezoning from an R-4 district to a C-6 district the whole of the following described parcels of land:

Parcels 202,202.1, 202.2 and 203 as shown on West Charleston Tax Map No. 10. Said parcels commonly known as 1718 Fifth Avenue, Charleston, West Virginia.
2. The Zoning Map, attached and made a part of said Zoning Ordinance, is hereby amended in accordance with Section 1 of this ordinance.
3. All ordinances or parts of ordinances, inconsistent with this ordinance are hereby repealed to the extent of such 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, Hall, Hanna, Harris, Harrison, Higgins, Jones, Lane, Lanham, Loeb, Markham, Miller, Monroe, Morton, Reed, Reishman, Robertson, Sadd, Talkington, Ware, Weintraub, White, Mayor Jones.

NAYS:

ABSENT: Ealy, Nielsen.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7110, passed.

2. Your Committee on Planning has had under consideration Bill No. 7111, and reports the same to Council with the recommendation that the Bill do pass.

A Bill amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 7th day of March, 1983, as amended, and the map made a part thereof, by rezoning from R-4 and C-6 districts to a MMC district, that certain parcel or tract of land identified as Lot A of the Memorial Medical Complex Addition, in Kanawha City, in the City of Charleston, Kanawha County, State of West Virginia, owned by Charleston Area Medical Center, Inc., a West Virginia nonprofit, nonstock corporation.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CHARLESTON, WEST VIRGINIA THAT:

1. The Zoning Ordinance of the City of Charleston, West Virginia, enacted the 7th day of March, 1983, as amended, is hereby amended by rezoning from R-4 and C-6 districts to a MMC district the whole of the following described parcel of land:

Beginning at the intersection of the northerly right of way line of MacCorkle Avenue (WV Route 61) with the westerly right of way line of former Thirty-Third Street, S.E. (now closed and vacated and formerly known as Third Street), said point being located at the southeasterly corner of former Lot 16 of Block 14 of the Revised Map of Kanawha City, as recorded in the Office of the Clerk of the County Commission of Kanawha County in Map Book 2, at Pages 148 and 149; thence leaving MacCorkle Avenue and with the westerly right of way line of former Thirty-Third Street, S.E., N.05°37'20"E. 596.00 feet to the northeasterly corner of former Lot 8 of Block 13 of the Revised Map of Kanawha City; thence crossing former Thirty-Third Street, S.E., S.84°22'40"E., intersecting the easterly right of way line of former Thirty-Third Street, S.E. at 60.00 feet, said point being the intersection of the easterly right of way line of former Thirty-Third Street, S.E. with the southerly right of way line of Staunton Avenue, S.E. (formerly known as Ohio Avenue), and continuing on this bearing, with the southerly right of way line of Staunton Avenue, S.E., for a total distance on this line of 117.98 feet, to a point in the northerly line of former Lot 2 of Block 19 of the Revised Map of Kanawha City; thence leaving Staunton Avenue, S.E. and running through said former Lot 2 of Block 19 and former Lot 3 of Block 19 on a curve to the right for a distance 123.07 feet, said curve having a radius of 95.39 feet, the chord of which bears S.31°20'18"E. for a distance of 114.71 feet; thence continuing through former Lot 3 of Block 19, S.05°37'20"W., intersecting the northerly right of way line of a former sixteen foot wide alley (now closed and vacated) at 28.24 feet, crossing the former alley and intersecting the southerly right of

way line of said former alley at 44.34 feet, and continuing on this bearing, through former Lot 11 of Block 19, for a total distance on this line of 153.41 feet; thence continuing through former Lot 11 of Block 19, S.10°11'46"W., intersecting the northerly right of way line of former Noyes Avenue, S.E. (now closed and vacated and formerly known as Kentucky Avenue) at 10.97 feet, crossing former Noyes Avenue, S.E. and intersecting the southerly right of way line of former Noyes Avenue, S.E. at 44.34 feet, and continuing on this bearing, through former Lot 3 of Block 18, for a total distance on this line of 141.03 feet; thence continuing through former Lot 3 of Block 18 on a curve to the left, intersecting the northerly right of way line of a former sixteen foot wide alley (now closed and vacated) at 50.47 feet, crossing the former alley and intersecting the southerly right of way line said former alley at 66.70 feet, and continuing along said curve, through former Lot 11 of Block 18, for a total distance on this line of 96.31 feet, said curve having a radius of 236.61 feet, the chord of the entire line herein described bearing S.01°27'55"E. for a distance of 95.65 feet; thence continuing through former Lot 11 of Block 18, S.13°07'36"E. 11.64 feet; thence continuing through former Lot 11 of Block 18 on a curve to the right for a distance 53.47 feet, said curve having a radius of 163.39 feet, the chord of which bears S.03°45'08"E. for a distance of 53.23 feet; thence continuing through former Lot 11 of Block 18, S.05°37'20"W. 11.93 feet; thence continuing through former Lot 11 and former Lot 12 of Block 18 on a curve to the right for a distance 62.79 feet, said curve having a radius of 39.97 feet, the chord of which bears S.50°37'20"W. for a distance of 56.53 feet to a point in the northerly line of a permanent construction easement six feet in width, said permanent construction easement being shown on Sheets 7 and 8 of 29 in the plans for West Virginia Department of Highways State Project 320-119-14.47, Federal Project F-193(13); thence with the northerly line of said permanent construction easement, N.84°22'40"W., intersecting the easterly right of way line of former Thirty-Third Street S.E. at 99.94 feet, said point being the northwesterly corner of said permanent construction easement, and continuing from said point forward with the northerly right of way line of MacCorkle Avenue, for a total distance on said line of 159.94 feet to the place of beginning, containing 2.50 acres, more or less, being all of Lot A of the Memorial Medical Complex Addition.

2. The Zoning Map, attached to and made a part of said Zoning Ordinance, is hereby amended in accordance with Section 1 of this Ordinance.

3. All prior ordinances, or parts of ordinances, inconsistent with this Ordinance, are hereby repealed to the extent of said inconsistency.

The question being on the passage of the Bill a roll call was taken and there yeas-25, nays-0, absent-2, abstain – 1, as follows:

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

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

NAYS:

ABSENT: Ealy, Nielsen.

ABSTAIN: Davis.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7111, passed.

3. Your Committee on Planning has had under consideration Bill No. 7112, and reports the same to Council with the recommendation that the Bill do pass.

Bill No. 7112 – A bill amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 16th day of November 2004, as amended, and the map made a part thereof, by rezoning from an R-4 district to a R-O district, those certain parcels of land situated at 2503 Kanawha Avenue, Charleston, West Virginia.

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

1. The Zoning Ordinance of the City of Charleston, West Virginia, enacted the 16th day of November 2004, as amended, is hereby amended by rezoning from an R-4 district to a R-O district the whole of the following described parcels of land:

Parcel 46.1 as shown on Kanawha City Tax Map No. 2, and that portion of Parcel No. A as shown on the Kanawha City Map No. 2 that abuts said Parcel No. 46.1 to the south thereof. Said parcels are commonly known as 2503 Kanawha Avenue, Charleston, West Virginia, and the former C&O railroad siding.

2. The Zoning Map, attached and made a part of said Zoning Ordinance, is hereby amended in accordance with Section 1 of this ordinance.
3. All ordinances or parts of ordinances, inconsistent with this ordinance are hereby repealed to the extent of such 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, Hall, Hanna, Harris, Harrison, Higgins, Jones, Lane, Lanham, Loeb, Markham, Miller, Monroe, Morton, Reed, Reishman, Robertson, Sadd, Talkington, Ware, Weintraub, White, Mayor Jones.

NAYS:

ABSENT: Ealy, Nielsen.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7112, passed.

4. Your Committee on Planning has had under consideration Special Permit #1182 attached hereto and made a part thereof, and reports the same to Council with the recommendation that he Special Permit be approved.

Your Committee finds the following:

1. The request complies with the zoning requirements relating to parking requirements.
2. The Municipal Planning Commission and the City Council have approved similar requests in the area.
3. The addition should not cause damage, hazard, nuisance, or be a detriment to persons in the vicinity.

And reports the same to Council with the recommendation that he Special Permit be approved.

The question being on the passage of the Special Permit a vote was taken. There being no dissent the Mayor declared Special Permit #1182 approved.

STREETS AND TRAFFIC

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

1. Your Committee on Streets and Traffic has had under consideration Bill No. 7115, and reports the same to Council with the recommendation that the Bill do pass.

Bill No. 7115 - A Bill to establish a Stop intersection at the intersection of Twilight Drive and Green Street requiring vehicles northbound on Green Street to stop and requiring vehicles southbound on Twilight Drive to stop except when turning right and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Law, 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 Stop intersection on Twilight Drive and Green Street requiring vehicles northbound on Green Street to stop and requiring and requiring vehicles southbound on Twilight Drive to stop except when turning right 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, Hall, Hanna, Harris, Harrison, Higgins, Jones, Lane, Lanham, Loeb, Markham, Miller, Monroe, Morton, Reed, Reishman, Robertson, Sadd, Talkington, Ware, Weintraub, White, Mayor Jones.

NAYS:

ABSENT: Ealy, Nielsen.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7115, passed.

2. Your Committee on Streets and Traffic has had under consideration Bill No. 7116, and reports the same to Council with the recommendation that the Bill do pass.

Bill No. 7116 - A Bill to establish a Stop intersection at the intersection of Twilight Drive and Heath Street requiring vehicles westbound on Twilight Drive to stop and requiring vehicles eastbound on Heath Street to stop except when turning right and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Law, 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 Stop intersection on Twilight Drive and Heath 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, Hall, Hanna, Harris, Harrison, Higgins, Jones, Lane, Lanham, Loeb, Markham, Miller, Monroe, Morton, Reed, Reishman, Robertson, Sadd, Talkington, Ware, Weintraub, White, Mayor Jones.

NAYS:

ABSENT: Ealy, Nielsen.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7116, passed.

3. Your Committee on Streets and Traffic has had under consideration Bill No. 7117, and reports

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

A Bill to amend and re-enact Ordinance No. 4206, passed by Council on August 17, 1987 relating to establishing a 20 miles per hour speed limit on Somerset Drive between Summit Drive and Edgewood Court 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.

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

Section 1. 20 miles per hour speed limit on Somerset Drive between Summit Drive and Edgewood 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 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, Hall, Hanna, Harris, Harrison, Higgins, Jones, Lane, Lanham, Loeb, Markham, Miller, Monroe, Morton, Reed, Reishman, Robertson, Sadd, Talkington, Ware, Weintraub, White, Mayor Jones.

NAYS:

ABSENT: Ealy, Nielsen.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7117, passed.

4. Your Committee on Streets and Traffic has had under consideration Bill No. 7118, and reports the same to Council with the recommendation that the Bill do pass.

A Bill to amend and re-enact Ordinance No. 6938, passed by Council on November 4, 2002 relating to establishing a No Parking Anytime Tow Away Zone on the southerly side of Costello Street from Dayton Drive to a point 260 feet west of Grove Avenue 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.

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

Section 1. A Bill to AMEND and REENACT ORDINANCE NO. 6938, passed by Council November 4, 2002 relating to establishing a No Parking Anytime Tow Away Zone on

the southerly side of Costello Street from Dayton Drive to a point 260 feet west of Grove 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 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, Hall, Hanna, Harris, Harrison, Higgins, Jones, Lane, Lanham, Loeb, Markham, Miller, Monroe, Morton, Reed, Reishman, Robertson, Sadd, Talkington, Ware, Weintraub, White, Mayor Jones.

NAYS:

ABSENT: Ealy, Nielsen.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7118, passed.

5. Your Committee on Streets and Traffic has had under consideration Bill No. 7119, and reports the same to Council with the recommendation that the Bill do pass.

A Bill to establish a No Parking Anytime Tow-Away zone on Market Drive from Camden Drive to a point 125 feet north of Camden Drive 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 Market Drive to a point 125 feet north of Camden Drive 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, Hall, Hanna, Harris, Harrison, Higgins, Jones, Lane, Lanham, Loeb, Markham, Miller, Monroe, Morton, Reed, Reishman, Robertson, Sadd, Talkington, Ware, Weintraub, White, Mayor Jones.

NAYS:

ABSENT: Ealy, Nielsen.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7119, 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. 729-05, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 729-05: “Authorizing the Mayor to sign a renewal of the Letter of Credit with Bank One for Parking System Revenue Bonds, Series 1994-A, 1994-B, and 1995-A; and further authorizing payment in the amount of \$93,488.16 for renewal of the Letter of Credit for the period February 1, 2005 through January 31, 2006.”

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

That the Mayor is hereby authorized and directed to sign a renewal of the Letter of Credit with Bank One for Parking System Revenue Bonds, Series 1994-A, 1994-B, and 1995-A, and further authorizing payment in the amount of Ninety-three Thousand Four Hundred Eighty-eight Dollars and Sixteen Cents (\$93,488.16) for renewal of the Letter of Credit for the period February 1, 2005 through January 31, 2006.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 729-05, adopted. Abstain - Loeb

2. Your Committee on Finance has had under consideration Resolution No. 730-05, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 730-05: “Authorizing the Mayor to increase the City’s percentage contribution to the Charleston Convention and Visitors Bureau provided the Bureau implements changes to improve its public accountability.”

WHEREAS, the Charleston Convention and Visitors Bureau is facing a serious financial problem with current outstanding debt reported to be at least \$200,000; and

WHEREAS, the Bureau’s outstanding indebtedness was incurred with limited or ineffective oversight; and

WHEREAS, a professional review of the Bureau's operations by Marshall Murdaugh called attention to the self-perpetuating nature of the Board membership as a fundamental warning sign in terms of ineffective management oversight and limited public accountability; and

WHEREAS, substantially all revenues of the Bureau are public moneys with the primary source being the City of Charleston, and, because of the fiduciary duty for proper accounting and management, it is proper that the City maintain fiscal control and that it assist the Bureau in this time of tremendous opportunity to promote our City; and

WHEREAS, the Kanawha County Commission has also agreed to provide financial oversight and assistance to help lead the Bureau under its new management toward a more productive and fiscally responsible future; now, therefore

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

That the Mayor is hereby authorized and directed to increase the City's contribution to the Convention and Visitors Bureau from fifty percent (50%) to sixty percent (60%) of moneys received from the Hotel-Motel Taxes collected in the City of Charleston during the next 12 months if, and only if, the by-laws of the Convention and Visitors Bureau are changed so that:

- (1) Three people representing public entities serve on the Board of Directors by position, while all other Board members are appointed by the Mayor of Charleston and confirmed by the City Council of Charleston with terms that are staggered; and
- (2) All meetings of the Bureau's Board of Directors and its standing committees are open to the public, except as permitted under the State of West Virginia's open meetings law; and
- (3) The Bureau will submit its annual budget for review by City Council prior to the beginning of each fiscal year.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 730-05, adopted.

3. Your Committee on Finance has had under consideration Resolution No. 731-05, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 731-05, a resolution authorizing the issuance by the City of Charleston, West Virginia of not more than \$17,500,000 in aggregate principal amount of its Multifamily Housing Revenue Bonds (Vista View Apartments Project) Series 2005, in one or more series, to provide funds to acquire, construct and equip a commercial project in Berkeley County, 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 bond placement 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 previously 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 Originally Authorized"), 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 Apartments," 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 Originally Authorized; and

WHEREAS, on September 7, 2004, the Issuer approved a resolution (the "Original Resolution") authorizing the issuance of its Multifamily Housing Revenue Bonds (Vista View Apartments Project), Series 2004 in the principal amount of not to exceed \$10,000,000; and

WHEREAS, the Company has advised the Issuer that due to restructuring of the proposed financing, it is requesting that the Issuer authorize and approve the issuance of up to an additional \$7,500,000 of its bonds, such that the total amount approved shall be an amount not to exceed \$17,500,000, such bonds to be redesignated as "Multifamily Housing Revenue Bonds (Vista View Apartments Project) Series 2005" (The "Bonds"); and

WHEREAS, the Issuer has determined that the issuance of the Bonds will benefit the citizens of the City of Charleston, West Virginia and is in furtherance of the public purposes as Section 2 of the Act,

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").

Section 2. 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 nor taxing powers of the Issuer and such fact shall be plainly stated on the face of each Bond.

Section 3. 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 4. 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 5. 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, provided, however, that except to the extent modified hereby, the Original Resolution shall remain in full force and effect.

Section 6. 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

Section 7. 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 18th day of January 2005.

(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 January 18, 2005, 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 18th day of January, 2005.

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

NAYS:

ABSENT: Ealy, Nielsen.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 731-05, adopted.

4. Your Committee on Finance has had under consideration Resolution No. 732-05, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 732-05: “Authorizing the Mayor to sign a revised Stadium License, Lease and Service Agreement with West Virginia Baseball, LLC, d/b/a West Virginia Power.”

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

That the Mayor is hereby authorized and directed to sign a revised Stadium License, Lease and Service Agreement with West Virginia Baseball, LLC, d/b/a West Virginia Power.

The question being on the adoption of the Resolution a vote was taken. There being one dissent from Markham the Mayor declared Resolution No. 732-05, adopted. Abstain - Sadd

5. Your Committee on Finance has had under consideration Resolution No. 733-05, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 733-05: “Authorizing the Mayor to enter into a contract with BBL Carlton, LLC, in an amount up to \$2,986,000, for Baseball Stadium Bid Package CI.3C – 601 Morris Street Build Out.”

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

That the Mayor is hereby authorized and directed to enter into a contract with BBL Carlton, LLC, in an amount up to Two Million Nine Hundred Eighty-six Thousand Dollars (\$2,986,000),

for Baseball Stadium Bid Package CI.3C – 601 Morris Street Build Out.

The question being on the adoption of the Resolution a vote was taken. There being one dissent from Markham the Mayor declared Resolution No. 733-05, adopted.

6. Your Committee on Finance has had under consideration Resolution No. 734-05, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 734-05: “Authorizing the Mayor to enter into a contract with Schoolfield Harvey Electric Company, in an amount up to \$418,800, for Baseball Stadium Bid Package CI.3C – 601 Morris Street Build Out – MEP/F Systems (Electrical).”

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

That the Mayor is hereby authorized and directed to enter into a contract with Schoolfield Harvey Electric Company, in an amount up to Four Hundred Eighteen Thousand Eight Hundred Dollars (\$418,800), for Baseball Stadium Bid Package CI.3C – 601 Morris Street Build Out – MEP/F Systems (Electrical).

The question being on the adoption of the Resolution a vote was taken. There being one dissent from Markham the Mayor declared Resolution No. 734-05, adopted.

7. Your Committee on Finance has had under consideration Resolution No. 735-05, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 735-05: “Authorizing the Mayor to enter into a contract with Rock Branch Mechanical, Inc., in an amount up to \$636,000, for Baseball Stadium Bid Package CI.3C – 601 Morris Street Build Out-MEP/F Systems (Plumbing).”

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

That the Mayor is hereby authorized and directed to enter into a contract with Rock Branch Mechanical, Inc., in an amount up to Six Hundred Thirty-six Thousand Dollars (\$636,000), for Baseball Stadium Bid Package CI.3C – 601 Morris Street Build Out—MEP/F Systems (Plumbing).

The question being on the adoption of the Resolution a vote was taken. There being one dissent from Markham the Mayor declared Resolution No. 735-05, adopted.

8. Your Committee on Finance has had under consideration Resolution No. 736-05, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 736-05 : “Authorizing the Mayor to enter into a contract with Rock Branch Mechanical, Inc., in an amount up to \$505,000, for Baseball Stadium Bid Package CI.3C – 601 Morris Street Build Out—MEP/F Systems (Mechanical).”

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

That the Mayor is hereby authorized and directed to enter into a contract with Rock Branch Mechanical, Inc., in an amount up to Five Hundred Five Thousand Dollars (\$505,000), for Baseball Stadium Bid Package CI.3C – 601 Morris Street Build Out – MEP/F Systems (Mechanical).

The question being on the adoption of the Resolution a vote was taken. There being one dissent from Markham the Mayor declared Resolution No. 736-05, adopted.

9. Your Committee on Finance has had under consideration Resolution No. 737-05, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 737-05 : “Authorizing the Mayor to enter into a contract with Brewer and Company of West Virginia, Inc., in an amount up to \$98,100, for Baseball Stadium Bid Package CI.3C – 601 Morris Street Build Out – MEP/F Systems (Fire Systems).”

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

That the Mayor is hereby authorized and directed to enter into a contract with Brewer and Company of West Virginia, Inc., in an amount up to Ninety-eight Thousand One Hundred Dollars (\$98,100), for Baseball Stadium Bid Package CI.3C – 601 Morris Street Build Out – MEP/F Systems (Fire Systems).

The question being on the adoption of the Resolution a vote was taken. There being one dissent from Markham the Mayor declared Resolution No. 737-05, adopted.

10. Your Committee on Finance has had under consideration Resolution No. 738-05, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 738-05 : “Authorizing the Mayor to sign Change Order No. 13 with BBL Carlton, in the amount of \$1,218.90, for Baseball Stadium Bid Package CI.2A/Seating Bowl, relating to changes made in door hardware.”

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. 13 with BBL Carlton, in the amount of One Thousand Two Hundred Eighteen Dollars and Ninety Cents (\$1,218.90), for Baseball Stadium Bid Package CI.2A/Seating Bowl, relating to changes made in door hardware.

The question being on the adoption of the Resolution a vote was taken. There being one dissent from Markham the Mayor declared Resolution No. 738-05, adopted.

11. Your Committee on Finance has had under consideration Resolution No. 739-05, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 739-05: “Authorizing the Mayor to sign Change Order No. 14 with BBL Carlton, in the amount of \$31,868.10, for Baseball Stadium Bid Package CI.2A/Seating Bowl, relating to changes in hand railing and signage light pole foundations.”

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. 14 with BBL Carlton, in the amount of Thirty-one Thousand Eight Hundred Sixty-eight Dollars and Ten Cents (\$31,868.10), for Baseball Stadium Bid Package CI.2A/Seating Bowl, relating to changes in hand railing and signage light pole foundations.

The question being on the adoption of the Resolution a vote was taken. There being one dissent from Markham the Mayor declared Resolution No. 739-05, adopted.

12. Your Committee on Finance has had under consideration Resolution No. 740-05, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 740-05: “Authorizing the Mayor to sign Change Order No. 15 with BBL Carlton, in the amount of \$7,810, for Baseball Stadium Bid Package CI.2A/Seating Bowl, relating to installation of additional area drains.”

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. 15 with BBL Carlton, in the amount of Seven Thousand Eight Hundred Ten Dollars (\$7,810), for Baseball Stadium Bid Package CI.2A/Seating Bowl, relating to installation of additional area drains.

The question being on the adoption of the Resolution a vote was taken. There being one dissent from Markham the Mayor declared Resolution No. 740-05, adopted.

13. Your Committee on Finance has had under consideration Resolution No. 741-05, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 741-05: “Authorizing the Mayor to sign Change Order No. 16 with BBL Carlton, in an amount up to \$7,660.40, for Baseball Stadium Bid Package CI.2A/Seating Bowl, relating to additional labor and materials to add conduit around field for scoreboard controls.”

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. 16 with BBL Carlton, in an amount up to Seven Thousand Six Hundred Sixty Dollars and Forty Cents (\$7,660.40), for Baseball Stadium Bid Package CI.2A/Seating Bowl, relating to additional labor and materials to add conduit around field for scoreboard controls.

The question being on the adoption of the Resolution a vote was taken. There being one dissent from Markham the Mayor declared Resolution No. 741-05, adopted.

14. Your Committee on Finance has had under consideration Resolution No. 742-05, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 742-05: “Authorizing the Mayor to sign Change Order No. 17 with BBL Carlton, in an amount up to \$11,930.60, for Baseball Stadium Bid Package CI.2A/Seating Bowl, relating to installation of additional underground conduit for sound system.”

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. 17 with BBL Carlton, in an amount up to Eleven Thousand Nine Hundred Thirty Dollars and Sixty Cents (\$11,930.60), for Baseball Stadium Bid Package CI.2A/Seating Bowl, relating to installation of additional underground conduit for sound system.

The question being on the adoption of the Resolution a vote was taken. There being one dissent from Markham the Mayor declared Resolution No. 742-05, adopted.

15. Your Committee on Finance has had under consideration Resolution No. 743-05, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 743-05: “Authorizing the Mayor to sign Change Order No. 4 with BBL Carlton, in the amount of \$23,647.83, for Baseball Stadium Bid Package CI.2B/Concourse, relating to underslab vent system.”

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. 4 with BBL Carlton, in the amount of Twenty-three Thousand Six Hundred forty-seven Dollars and Eighty-three Cents (\$23,647.83), for Baseball stadium Bid Package CI.2B/Concourse, relating to underslab vent system.

The question being on the adoption of the Resolution a vote was taken. There being one dissent from Markham the Mayor declared Resolution No. 743-05, adopted.

16. Your Committee on Finance has had under consideration Resolution No. 744-05, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 744-05: “Authorizing the Mayor to sign Change Order No. 5 with BBL Carlton, in the amount of \$89,813.05, for Baseball Stadium Bid Package CI.2B/Concourse, relating to the extension of the third base building for storage area.”

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. 5 with BBL Carlton, in the amount of Eighty-nine Thousand Eight Hundred Thirteen Dollars and Five Cents (\$89,813.05), for Baseball Stadium Bid Package CI.2B/Concourse, relating to the extension of the third base building for storage area.

The question being on the adoption of the Resolution a vote was taken. There being one dissent from Markham the Mayor declared Resolution No. 744-05, adopted.

17. Your Committee on Finance has had under consideration Resolution No. 745-05, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 745-05: “Authorizing the Mayor to sign Change Order No. 6 with BBL Carlton, in the amount of \$75,171.88, for Baseball Stadium Bid Package CI.2B/Concourse, relating to additional costs for increasing the height of the retaining wall on Brooks Street.”

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. 6 with BBL Carlton, in the amount of Seventy-five Thousand One Hundred Seventy-one Dollars and Eighty-eight Cents (\$75,171.88), for Baseball Stadium Bid Package CI.2B/Concourse, relating to additional costs for increasing the height of the retaining wall on Brooks Street.

The question being on the adoption of the Resolution a vote was taken. There being one dissent from Markham the Mayor declared Resolution No. 745-05, adopted.

18. Your Committee on Finance has had under consideration Resolution No. 746-05, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 746-05: “Authorizing the Mayor to sign Change Order No. 4 with Dougherty Co., in the amount of \$14,296.54, for Baseball Stadium Bid Package CI.2D/HVAC and Plumbing, relating to additional costs for revised food service drawings.”

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. 4 with Dougherty Co., in the amount of Fourteen Thousand Two Hundred Ninety-six Dollars and Fifty-four Cents (\$14,296.54), for Baseball Stadium Bid Package CI.2D/HVAC and Plumbing, relating to additional costs for revised food service drawings.

The question being on the adoption of the Resolution a vote was taken. There being one dissent from Markham the Mayor declared Resolution No. 746-05, adopted.

19. Your Committee on Finance has had under consideration a proposal submitted by Country Club Chrysler, in the amount of \$21,189, for purchase of one (1) Dodge Durango ST vehicle with police package to be used by the Charleston Fire Department. To be charged to Account No. 001-976-00-706-4-461, Fire – Capital Outlay, Lease/Purchase, and reports the same to Council with the recommendation that he 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 a proposal submitted by Stephens Auto Center, in the amount of \$24,420, for purchase of one (1) 2005 Ford E350 Econoline Van to be used by the Charleston Fire Department. To be charged to Account No. 001-976-00-706-4-461, Fire – Capital Outlay, Lease/Purchase, and reports the same to Council with the recommendation that he 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.

21. Your Committee on Finance has had under consideration a bid submitted by Stephens Auto Center, in the amount of \$19,929, for one (1) 4x4 2005 Jeep Grand Cherokee to be used by the Engineering Department. To be charged to Account No. 001-975-00-420-4-461, Engineering, Capital Outlay—Lease/Purchase, and reports the same to Council with the recommendation that he 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.

22. Your Committee on Finance has had under consideration a proposal submitted by Evenflo, Inc., in the amount of \$14,983.15, for purchase of 351 child safety seats in assorted sizes for distribution throughout the State of West Virginia under the Child Passenger Safety Program. To be charged to Account No. 095-165-03-000-0-238, Police Grant – Child Passenger Safety Program, and reports the same to Council with the recommendation that he 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.

23. Your Committee of Finance has had under consideration Bill No. 7113, and reports the same to Council with the recommendation that the bill do pass.

A Bill closing, abandoning and discontinuing as public streets and alleys, that portion of 33rd Street extending from MacCorkle Avenue north to Staunton Avenue, that portion of Noyes Avenue extending from 33rd Street to a point 126.07 feet eastward, that portion of the alley located in Block 18 as shown on the Revised Map of Kanawha City between MacCorkle Avenue and Noyes Avenue extending from 33rd Street to a point 119.76 feet eastward, and that portion of the alley located in Block 19 as shown on the Revised Map of Kanawha City between Noyes Avenue and Staunton Avenue extending from 33rd Street to a point 126.95 feet eastward, together with all easements for storm and sanitary sewer therein.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CHARLESTON, WEST VIRGINIA THAT:

1. 33rd Street, extending from MacCorkle Avenue north to Staunton Avenue, Noyes Avenue extending from 33rd Street to a point 126.07 feet eastward, and those two 16-foot alleys in Blocks 18 and 19 between MacCorkle Avenue and Staunton Avenue extending from 33rd Street eastward as shown on the Revised Map of Kanawha City recorded in the office of the County Commission of Kanawha County, West Virginia, in Map Book 2, at Pages 148 and 149, together with all easements for storm and sanitary sewer therein, as shown on a map attached hereto, is hereby closed, abandoned and discontinued, being more particularly described as:

Beginning at the intersection of the existing northerly right of way line of MacCorkle Avenue (WV Route 61) with the existing westerly right of way line of Thirty-Third Street, S.E. (formerly known as Third Street), said point being located at the southeasterly corner of Lot 16 of Block 14 of the Revised Map of Kanawha City, as recorded in the Office of the Clerk of the County Commission of Kanawha County in Map Book 2, at Pages 148 and 149; thence leaving MacCorkle Avenue and with the existing westerly right of way line of Thirty-Third Street, S.E., N.05°37'20"E. 596.00 feet to the northeasterly corner of Lot 8 of Block 13 of the Revised Map of Kanawha City; thence crossing the existing right of way of Thirty-Third Street, S.E., S.84°22'40"E. 60.00 feet to the intersection of the existing easterly right of way line of Thirty-Third Street, S.E. with the existing southerly right of way line of Staunton Avenue, S.E. (formerly known as Ohio Avenue), said point being located at the northwesterly corner of Lot 1 of Block 19 of the Revised Map of Kanawha City; thence leaving Staunton Avenue, S.E. and with the existing easterly right of way line of Thirty-Third Street, S.E., S.05°37'20"W. 120.00 to the existing northerly right of way line of a sixteen foot wide alley, said point being located at the southwesterly corner of said Lot 1 of Block 19 of the Revised Map of Kanawha City; thence leaving said

existing right of way line of Thirty-Third Street, S.E. and with the existing northerly right of way line of said alley, S.84°22'40"E. 126.95 feet to the proposed westerly right of way line of relocated Thirty-Third Street, S.E., said point being in the southerly line of Lot 3 of Block 19 of the Revised Map of Kanawha City; thence leaving Lot 3 of Block 19 and crossing the existing right of way of said alley, binding on the proposed westerly right of way line of relocated Thirty-Third Street, S.E., S.05°37'20"W. 16.00 feet to the existing southerly right of way line of said alley, said point being in the northerly line of Lot 11 of Block 19 of the Revised Map of Kanawha City; thence leaving the proposed westerly right of way line of relocated Thirty-Third Street, S.E. and with the existing northerly right of way line of said alley, N.84°22'40"W. 126.95 feet to the existing easterly right of way line of Thirty-Third Street, S.E., said point being located at the northwesterly corner of Lot 9 of Block 19 of the Revised Map of Kanawha City; thence leaving said alley and with the existing easterly right of way line of Thirty-Third Street, S.E., S.05°37'20"W. 120.00 feet to the existing northerly right of way line of Noyes Avenue, S.E. (formerly known as Kentucky Avenue), said point being located at the southwesterly corner of said Lot 9 of Block 19 of the Revised Map of Kanawha City; thence leaving the existing easterly right of way line of Thirty-Third Street, S.E. and with the existing northerly right of way line of Noyes Avenue, S.E., S.84°22'40"E. 126.07 feet to the proposed westerly right of way line of relocated Thirty-Third Street, S.E., said point being in the southerly line of Lot 11 of Block 19 of the Revised Map of Kanawha City; thence leaving Lot 11 of Block 19 and crossing the existing right of way of Noyes Avenue, S.E., binding on the proposed westerly right of way line of relocated Thirty-Third Street, S.E., S.10°11'46"W. 60.19 feet to the existing southerly right of way line of Noyes Avenue, S.E., said point being in the northerly line of Lot 3 of Block 18 of the Revised Map of Kanawha City; thence leaving the proposed westerly right of way line of relocated Thirty-Third Street, S.E. and with the existing southerly right of way line of Noyes Avenue, S.E., N.84°22'40"W. 121.27 feet to the existing easterly right of way line of Thirty-Third Street, S.E., said point being located at the northwesterly corner of Lot 1 of Block 19 of the Revised Map of Kanawha City; thence leaving Noyes Avenue, S.E. and with the existing easterly right of way line of Thirty-Third Street, S.E., S.05°37'20"W. 120.00 feet to the existing northerly right of way line of a sixteen foot wide alley, said point being located at the southwesterly corner of said Lot 1 of Block 19 of the Revised Map of Kanawha City; thence leaving the existing easterly right of way line of Thirty-Third Street, S.E. and with the existing northerly right of way line of said alley, S.84°22'40"E. 117.05 feet to the proposed westerly right of way line of relocated Thirty-Third Street, S.E., said point being in the southerly line of Lot 3 of Block 18 of the Revised Map of Kanawha City; thence leaving Lot 3 of Block 18 and crossing the existing right of way of said alley, binding on the proposed westerly right of way line of relocated Thirty-Third Street, S.E. on a curve to the left for a distance of 16.23 feet, said curve having a radius of 236.61 feet, the chord of which bears S.03°59'24"E. for a distance of 16.23 feet to the existing southerly right of way line of said alley, said point being in the northerly line of Lot 11 of

Block 18 of the Revised Map of Kanawha City; thence leaving the proposed westerly right of way line of relocated Thirty-Third Street, S.E. and with the existing northerly right of way line of said alley, N.84°22'40"W. 119.76 feet to the existing easterly right of way line of Thirty-Third Street, S.E., said point being located at the northwesterly corner of Lot 9 of Block 18 of the Revised Map of Kanawha City; thence leaving said alley and with the existing easterly right of way line of Thirty-Third Street, S.E., S.05°37'20"W. 144.00 feet to the existing northerly right of way line of MacCorkle Avenue, said point being located at the southwesterly corner of said Lot 9 of Block 18 of the Revised Map of Kanawha City; thence with the existing northerly right of way line of MacCorkle Avenue, N.84°22'40"W. 60.00 feet to the place of beginning, containing 1.08 acres, more or less.

2. The Mayor of the City of Charleston be, and is hereby authorized and directed to execute, acknowledge and deliver a proper deed conveying to Charleston Area Medical Center, Inc., a West Virginia nonprofit, nonstock corporation, all right, title and interest in and to said streets and alleys, in consideration and in exchange for the dedication to the City of Charleston by petitioner of that portion of petitioner's real estate containing approximately 1.09 acres for purposes of the relocation of 33rd Street and right-of-way, together with easements for storm and sanitary sewer, all as shown on a map attached hereto.

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

The question being on the passage of the Bill a roll call was taken and there yeas-25, nays-0, absent-2, abstain – 1, as follows:

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

NAYS:

ABSENT: Ealy, Nielsen.

ABSTAIN: Davis.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7113, passed.

24. Your Committee on Finance has had under consideration Bill No. 7123, and reports the same to council with the recommendation that the bill do pass.

Bill No. 7123 - A Bill authorizing the refunding of the Parking System Refunding Revenue Bonds, Series 1993, the Parking System Revenue Bonds, Series 1994 A, the Parking System Subordinate Revenue Bonds, Series 1994 B and the Parking System Subordinate Revenue Bonds, Series 1995 A if The City of Charleston; authorizing the issuance of not more than 3,500,000 in Parking System Bond Anticipation Notes; authorizing the issuance of not more than \$12,885,000 in aggregate principal amount of Parking System Refunding Revenue Bonds, Series

2005 A and Series 2005 B, 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 finance the cost of such refunding, 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.

The question being on the passage of the Bill a roll call was taken and there yeas-24, nays-0, absent-2, abstain – 2, as follows:

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

NAYS:

ABSENT: Ealy, Nielsen.

ABSTAIN: Loeb, Weintraub.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7123, passed.

25. Your Committee on Finance has had under consideration a Payment of an invoice from Charleston Newspapers, in the amount of \$27,874.60, publication of City's Financial Statement in The Charleston Gazette and the Charleston Daily Mail on December 20, 2004. To be charged to Account No. 001-412-00-000-2-220, City Manager – Advertising/ Legal Publications, and reports the same to Council with the recommendation that he 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; December, 2004. Received and Filed.

NEW BILLS INTRODUCED

Introduced by Councilman John Miller, January 18, 2005:

Bill No. 7124, a bill to establish a vehicular parking zone for the exclusive use of the physically disabled on the southerly side of Venable Avenue from a point 25 feet west of 46th Street to a point 69 feet west of 46th Street 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, Chapter one hundred fourteen, Article five, to conform therewith.

Refer to Council Committee on Streets and Traffic.

Introduced by Councilman James Ealy, January 18, 2005;
Bill No. 7125, a bill to establish a Two Hour Parking Tow-away zone on the southerly side of West Washington Street from Patrick Street to Bream 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.
Refer to Council Committee on Streets and Traffic.

ROLL CALL

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

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

ABSENT: Ealy, Nielsen.

At 8:10 p.m., on motion of Councilman Loeb, Council adjourned until Monday, February 7, 2005, at 7:00 p.m.

Danny Jones, Honorable Mayor

James M. Reishman, City Clerk