

JOURNAL
OF THE
COUNCIL
CITY OF CHARLESTON

WEST VIRGINIA

February 22, 2005

THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE SECOND MEETING IN THE MONTH OF FEBRUARY ON THE 22nd 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 JERRY WARE.

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

**CHESTNUT
DAVIS
HANNA
HIGGINS
LANHAM
MILLER
NIELSEN**

**EALY
HARRIS
JONES
LOEB
MONROE
REED
SADD
WEINTRAUB**

**DEITZLER
HALL
HARRISON
MORTON
REISHMAN
TALKINGTON
WHITE**

**WARE
MAYOR JONES**

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

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

FEBRUARY 22, 2005, SECOND MEETING

PUBLIC SPEAKERS

1. NONE.

CLAIMS

1. A claim of Jennifer D. Smith, P.O. Box 8654, South Charleston, WV; alleges damage to vehicle.
Refer to City Solicitor.
2. A claim of Paula Moore, 1815 Chestnut Street, Kenova, WV; alleges damage to vehicle.
Refer to City Solicitor.
3. A claim of Daniel Fowler, 2210 Tate Dr., Charleston, WV; alleges damage to vehicle.
Refer to City Solicitor.

COMMUNICATIONS

The clerk read the following Communication

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

Dear Mayor Jones and Councilmember's:

On February 9, 2005, the Municipal Planning Commission held public hearings and its regularly monthly meeting. The following cases should be referred to the Council Committee on Planning.

Bill # 7127 – Crotoman, Inc. to close, abandon and discontinue as a public right –of-way a 30' wide by 1176.21' long under developed parcel of land containing 0.709 acre known as Oak Avenue generally parallel to Kennawa Drive and extending from Washington Heights Drive.

Street Naming – Application of Graff-Lane Development Company requesting the new street name Graff Lane located in the Quarry Creek Subdivision, Phases IV and V.

Street Naming – Application of Graff -Lane Development Company requesting the extension of Quarry Ridge South in Quarry Creek Subdivision, Phase IV be named Quarry Ridge South.

Sincerely,
Municipal Planning Commission
Phyllis White, Administrative Assistant

The Mayor referred the cases to the Planning Committee.

The Clerk read the following Resolution introduced by Councilman Marc Weintraub.

Resolution No. 776-05, amending the boundaries of the Shrewsbury/Smith Streets Urban Renewal Area pursuant to the provisions of Chapter 16, Article 18 of the Code of West Virginia.

WHEREAS, City Council passed a Resolution on September 4, 1984, establishing the boundaries of the Shrewsbury/Smith Streets Urban Renewal Area;

WHEREAS, City Council passed a bill on September 3, 1985, adopting an Urban Renewal Plan for the Shrewsbury/Smith Streets Urban Renewal Area;

WHEREAS, City Council passed a resolution on August 16, 1993 expanding the boundaries of the Shrewsbury/Smith Streets Urban Renewal Area;

WHEREAS, City Council passed a bill on December 20, 1993 adopting an appendix to the Shrewsbury/Smith Streets Urban Renewal Area applicable to the expanded area;

WHEREAS, City Council is cognizant of certain factors that warrant a revision of the perimeter boundaries of the Shrewsbury/Smith Streets Urban Renewal Area, a slum and blighted area as defined in the West Virginia Code; now therefore be it

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

That the perimeter boundary of the Shrewsbury/Smith Streets Urban Renewal Area be revised to delete all of property heretofore included in said area that are within the block bounded by Baines (now closed) Brooks, Smith and Morris Streets.

The Mayor referred Resolution No. 776-05 to the Urban Renewal Committee.

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 Special Permit #1185 attached hereto and made a part thereof, and reports the same to Council with the recommendation that the Special Permit be approved.

Your Committee finds the following:

1. Due to the commercial nature of the Downtown Village District there should not be an adverse impact on surrounding land uses.
2. The proposed use as a restaurant / catering business is consistent with other uses in the Central Business District and Downtown Village District.
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 the 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 #1185 approved.

2. Your Committee on Planning has had under consideration Bill No. 7122, and reports the same to Council with the recommendation that the Bill do pass.

Bill No. 7122– 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 R-O district, those certain parcels or tracts of land including Parcels 38,39,40,41,54,55,56 and 57 on Tax Map 20, in Kanawha City, in the City of Charleston, Kanawha County, State of West Virginia, owned by or being operated by The University of Charleston, Inc., a West Virginia nonprofit, nonstock corporation.

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 R-O district, those certain parcels or tracts of land including Parcels 38,39,40,41,54,55,56 and 57 on Tax Map 20, in Kanawha City, Charleston, West Virginia.
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 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-23, nays-0, absent-5, as follows:

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

NAYS:

ABSENT: Clowser, Lane, Loeb, Markham, Robertson.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7122, passed.

FINANCE

Councilman Robert Reishman, Chairman of the Council Committee on Finance, submitted the following reports.

1. Your Committee on Finance has had under consideration Resolution No. 770-05, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 770-05 : “Authorizing the Finance Director to allocate funds in the amount of \$27,120 for rehabilitation of two (2) owner-occupied homes on the City’s West Side.”

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

That the Finance Director is hereby authorized and directed to allocate funds in the amount of Twenty-seven Thousand One Hundred Twenty Dollars (\$27,120) for rehabilitation of two (2) owner-occupied homes on the City’s West Side.

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

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

NAYS:

ABSENT: Clowser, Lane, Loeb, Markham, Robertson.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 770-05, adopted.

2. Your Committee on Finance has had under consideration Resolution No. 771-05, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 771-05 : “Authorizing the Mayor to enter into a one-year contract with Green Meadow Services to provide labor and equipment necessary to perform landscaping and tree services on an as needed basis for the property clearing project at Sunrise Carriage Trail at the rates listed below. “

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 one-year contract with Green Meadow Services to provide labor and equipment necessary to perform landscaping and tree services on an as needed basis for the property clearing project at Sunrise Carriage Trail. The services to be provided and the hourly rates for the services are as follows:

Tree Service	\$275 / hour
Weed and Brush Removal	\$235 / hour
Mowing	\$195 / hour

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 771-05, adopted.

3. Your Committee on Finance has had under consideration Resolution No. 772-05, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 772-05 : “Authorizing the Mayor to enter into a contract with Thaxton Construction Co., Inc., in the amount of \$197,449, for construction of a retaining wall approximately 150 feet long at the intersection of Cosmos Drive at Pansy Drive; and construction of a retaining wall approximately 300 feet long at 252 Twilight Drive.”

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 Thaxton Construction Co., Inc., in the amount of One Hundred Ninety-seven Thousand Four Hundred Forty-nine Dollars (\$197,449), for construction of a retaining wall approximately 150 feet long at the intersection of Cosmos Drive at Pansy Drive; and construction of a retaining wall approximately 300 feet long at 252 Twilight Drive.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 772-05, adopted.

4. Your Committee on Finance has had under consideration Resolution No. 773-05, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 773-05 : “Authorizing the Mayor to enter into an Agreement with Buchanan Sound & Electronics, Inc., in the amount of \$17,211.46, for installation of a CCTV Surveillance/Alarm System at the Public Grounds facility on Twilight Drive.”

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 Buchanan Sound & Electronics, Inc., in the amount of Seventeen Thousand Two Hundred Eleven Dollars and Forty-six Cents (\$17,211.46), for installation of a CCTV Surveillance/Alarm System at the Public Grounds facility on Twilight Drive.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 773-05, adopted.

5. Your Committee on Finance has had under consideration Resolution No. 774-05, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 774-05: “Authorizing the Mayor to enter into an Agreement with Dell Marketing, L.P., in the amount of \$100,180.09, for purchase and installation of a Disaster Site Solution System. The equipment will be purchased by the Office of Emergency Services and Homeland Security and assigned for use in the Information Systems Department. The new equipment will provide for an automatic off-site backup copy of critical files and data on the City’s network.”

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 Dell Marketing, L.P., in the amount of One Hundred Thousand One Hundred Eighty Dollars and Nine Cents (\$100,180.09), for purchase and installation of a Disaster Site Solution System. The equipment will be purchased by the Office of Emergency Services and Homeland Security and assigned for use in the Information Systems Department. The new equipment will provide for an automatic off-site backup copy of critical files and data on the City’s network.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 774-05, adopted.

6. Your Committee on Finance has had under consideration Resolution No. 775-05, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 775-05: “Authorizing the Mayor to sign four change orders with B.B.L. Carlton relating to four separate bid packages for the New Baseball Stadium in the total amount of \$99,946.90.”

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

That the Mayor is hereby authorized and directed to sign four change orders with B.B.L. Carlton relating to four separate bid packages for the New Baseball Stadium in the total amount of Ninety-nine Thousand Nine Hundred Forty-six Dollars and Ninety Cents (\$99,946.90). The change orders are as follows:

Change Order No. 8 for Bid Package CI-2B Concourse – Additional charge to include cut outs in precast for HVAC duct work \$ 1,100.00

Change Order No. 2 for Bid Package CI-3A Exterior Restoration at 601 Morris – Additional insulation required for project \$ 5,207.00

Change Order No. 3 for Bid Package CI-4 Site – Concrete in lieu of stamped asphalt \$59,547.00

Change Order No. 19 for Bid Package CI-2A Seating Bowl – Revisions to foundation for concourse canopy along 3rd base line\$34,092.90

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 775-05, adopted.

REPORTS OF OFFICERS

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

2. Report of the City of Charleston Payroll Variance Analysis; January 2004; Received and Filed.

NEW BILLS INTRODUCED

Introduced by Councilman Robert Reishman, February 22, 2005:

Bill No. 7132, 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; authorizing the issuance of not more than \$10,000,000 in aggregate principal amount of Sewerage System Bond

Anticipation Notes, to temporarily finance a portion of the cost of such design, acquisition and construction; providing for the rights and remedies of and security for the registered owners of such bonds and notes; and adopting other provisions related thereto.

Refer to Finance Committee.

Introduced by Councilman Robert Reishman, February 22, 2005:

Bill No. 7133, A Bill to amend and reenact Section 110-81, Division 3, of the Business and Occupation Tax Code of the City of Charleston, 2003, as amended.

Refer to Finance Committee.

ROLL CALL

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

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

ABSENT: Clowser, Lane, Markham, Robertson.

At 7:28 p.m., on motion of Councilman Loeb, Council adjourned until Monday, March 7, 2005, at 7:00 p.m.

Danny Jones, Honorable Mayor

James M. Reishman, City Clerk