

JOURNAL
OF THE
COUNCIL
CITY OF CHARLESTON
WEST VIRGINIA

April 18, 2005

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

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

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

TWENTY- SEVEN 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.

APRIL 18, 2005, SECOND MEETING

PUBLIC SPEAKERS

None

CLAIMS

1. A claim of Edward Kingery, 794 Gordon Dr., Charleston, WV; alleges damage to property. Refer to City Solicitor.
2. A claim of Marlo Scruggs, 919 South Walnut St., St. Albans, WV; alleges damage to vehicle. Refer to City Solicitor.
3. A claim of Douglas Truman, 108 Glenwood Ave., Charleston, WV; alleges damage to property. Refer to City Solicitor.
4. A claim of Debra Anita Blackburn, 11 Eagle Pass., Hurricane, WV; alleges damage to vehicle. Refer to City Solicitor.
5. A claim of Lee Ann Wilson, 509-C Nancy St., Charleston, WV; alleges damage to vehicle. Refer to City Solicitor.
6. A claim of Robert Lorea, 4208 Venable Ave., Charleston, WV; alleges damage to vehicle. Refer to City Solicitor.

COMMUNICATIONS

PROCLAMATIONS

1. GFWC West Virginia Federation Day – Drema Davis

The clerk read the following communication:

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

Dear mayor Jones and Councilmember's:

On April 6, 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 # 7139 – Petition of Anthony D. Frederick requesting a Bill to rezone the property located at 940 Greenbrier Street, NC Map 55, Parcels 1 and 9, from R-4 Single Family Residential to C-10 General Commercial.

Special Permit#1199 – Application of Jerry Burgess requesting a special permit to establish a gambling establishment in a C-10 General Commercial District located at 2197 Sissonville Drive, Charleston, WV.

Sincerely,
Municipal Planning Commission
Phyllis White,
Administrative

The Mayor referred the cases to the Planning Committee of Council

MISCELLANEOUS RESOLUTIONS

NONE.

REPORTS OF STANDING COMMITTEES

PLANNING

Councilwoman Linda Nielsen, Vice Chairperson of the Council Committee on Planning, submitted the following reports.

1. Your Committee on Planning has had under consideration Bill No. 7130, and reports the same to Council with the recommendation that the bill do pass.

Bill No. 7130 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 I-4 district to a C-10 district, that certain parcel of land situate at 805 Court Street, 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 I-4 district to a C-10 district the whole of the following described parcel of land:

Parcel No. 31 as shown on Charleston East Tax Map No. 6.
Subject parcel commonly known as Lot 27, Charleston Extension
(805 Court Street), Charleston, West Virginia. Said tax map is of record
in the Planning Office.

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.

All prior 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-27, nays-0, absent-1, as follows:

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

NAYS:

ABSENT: Davis

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7130, passed.

2. Your Committee on Planning has had under consideration Bill No. 7131, and reports the same to Council with the recommendation that the bill do pass.

Bill No. 7131 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 C-10 General Commercial District to CBD Central Business District, the parcels of land bounded by Brooks Street, Smith Street, Morris Street and Lewis Street, Charleston, West Virginia.

Be it Ordained by the 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 C-10 General Commercial District to CBD Central Business District the whole of the following described parcels of land:

Parcels 30, 31, 32, 33, 34, 35, 36, 37, 38, 42, 45, 52, 56, 64, 67, 68, 70, 74, 75, 76, 77, 78, 297, 297.1, 303, and 308 as shown on East Charleston Tax Map No. 18. Subject parcels are bounded Brooks Street, Smith Street, Morris Street and Lewis Street, Charleston, West Virginia. Said tax map is of record in the City of Charleston Planning Office.

2. The zoning Map, attached to and made a part of said 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-27, nays-0,

absent-1, as follows:

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

NAYS:

ABSENT: Davis

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7131, 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. 801-05, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 801-05: “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-27, nays-0, absent-1, as follows:

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

NAYS:

ABSENT: Davis

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 801-05, adopted.

2. Your Committee on Finance has had under consideration Resolution No. 802-05, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 802-05: “Authorizing a contribution to West Virginia Symphony in the

amount of \$7,500 in support of “Symphony Sunday 2005.”

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

That a contribution to West Virginia Symphony in the amount of Seven Thousand Five Hundred Dollars (\$7,500) in support of “Symphony Sunday 2005” is hereby approved.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 802-05, adopted.

3. Your Committee on Finance has had under consideration Resolution No. 803-05, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 803-05: “Authorizing the Mayor to sign a grant contract with West Virginia Criminal Justice Services, in the amount of \$57,718, to be appropriated to area police departments for the STOP Violence Against Women (VAWA) program.”

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

That the Mayor is hereby authorized and directed to sign a grant contract with West Virginia Criminal Justice Services, in the amount of Fifty-seven Thousand Seven Hundred Eighteen Dollars (\$57,718), to be appropriated to area police departments for the STOP Violence Against Women (VAWA) program.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 803-05, adopted.

4. Your Committee on Finance has had under consideration Resolution No. 804-05, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 804-05: “Authorizing the Mayor to sign a request for Project Amendment Scope/Activity Change for the East End Main Street Project No. 03CPGP0306N in the amount of \$1,714.00. The original scope for the first phase of this project provided for the Ruffner Walk expansion connecting Lee and Quarrier streets and included resurfacing, lighting and landscaping for that area. However, this property is no longer available and the East End Main Street Committee is requesting that the funds be redirected to bring a nationally recognized artist to work with local residents, businesses and children to design and implement a mural for the western side of the building at 1588 Washington Street, East.”

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

That the Mayor is hereby authorized and directed to sign a request for Project Amendment Scope/Activity Change for the East End Main Street Project No. 03CPGP0306N in the amount of One Thousand Seven Hundred Fourteen Dollars (\$1,714.00). The original scope for the first phase of this project provided for the Ruffner Walk expansion connecting Lee and Quarrier

streets and included resurfacing, lighting and landscaping for that area. However, this property is no longer available and the East End Main Street Committee is requesting that the funds be redirected to bring a nationally recognized artist to work with local residents, businesses and children to design and implement a mural for the western side of the building at 1588 Washington Street, East.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-27, nays-0, absent-1, as follows:

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

NAYS:

ABSENT: Davis

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 804-05, adopted.

5. Your Committee on Finance has had under consideration Resolution No. 805-05, and reports the same to Council with the recommendation that the committee report be adopted.

A resolution supplementing Ordinance No. 7132, which supplemented 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 \$42,000,000 in aggregate principal amount of Sewerage System 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 permanently finance the cost of such design, acquisition and construction, to fund a reserve account 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, Series 2005 A, of The City of Charleston, 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.

WHEREAS, the Council (the "Council") of The City of Charleston, West Virginia (the "City"), on March 7, 2005, adopted Ordinance No. 7132, which became effective following a public hearing on March 21, 2005 (the "Ordinance"), authorizing the issuance of The

City of Charleston Sewerage System Revenue Bonds (the "Bonds"), in an aggregate principal amount not to exceed \$50,000,000, in one or more series, to permanently finance the cost of design, acquisition and construction of certain extensions, additions, betterments and improvements to the sewerage system of the City, and the issuance of The City of Charleston Sewerage System Bond Anticipation Notes (the "Notes"), in an aggregate principal amount not to exceed \$10,000,000, to temporarily finance the cost of such design, acquisition and construction, and all as more fully set out therein;

WHEREAS, capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Ordinance when used herein;

WHEREAS, the Ordinance provides for the issuance of the Bonds and the Notes, all in accordance with Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (the "Act"), and further provides that the exact principal amount, series designation, date, maturity date, redemption provision, interest rate, interest and principal payment dates, sale price and other terms of and matters relating to, the Bonds and the Notes should be established by a supplemental resolution;

WHEREAS, the Ordinance, pursuant to Section 6 of the Act, directed the City Clerk to publish an abstract of the Ordinance (the "Abstract"), together with a notice that the Ordinance has been adopted, that the City contemplates the issuance of the Bonds and the Notes as described in the Ordinance and that any person interested may appear before the Council upon a certain day and present protests (the "Notice");

WHEREAS, the Ordinance required that the Abstract and Notice be published as a Class II legal advertisement in the Charleston Daily Mail and Charleston Gazette, two newspapers published and of general circulation in the City, and the first publication of such Abstract and Notice was to be not less than ten (10) days before the date set by the Ordinance and the Notice at which interested persons may appear before the Council and present protests, and the last publication of such Abstract and Notice was to be prior to said date set by the Ordinance and the Notice;

WHEREAS, the Ordinance and the Notice provided for a public hearing to be held at 7:00 p.m., prevailing time, on March 21, 2005, in Council Chambers in City Hall;

WHEREAS, the Bonds are proposed to be purchased by the West Virginia Water Development Authority (the "Authority"), pursuant to the terms and conditions set forth under a Loan Agreement for each series of the Bonds by and between the City and the Authority (collectively, the "Loan Agreement");

WHEREAS, the Notes are proposed to be purchased by United Bank, Inc. (the "Bank"), pursuant to the terms and conditions set forth under a commitment letter of the Bank (the "Bank Commitment Letter");

WHEREAS, the Council wishes to delegate to the Mayor the authority to approve, within the parameters set forth herein, the final terms of the Bonds and the Notes, including the exact principal amount, the series designation, the date, the maturity date, the

redemption provision, the interest rate, the interest and principal payment dates, the sale price and other terms of the Bonds and the Notes and to approve the Loan Agreement, the Bank Commitment Letter and all other agreements in connection therewith, all as set forth in the Certificate of Determination attached hereto, without the requirement of further official action by the Council;

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 805-05, adopted. Loeb- abstain

6. Your Committee on Finance has had under consideration A bid submitted y Dill’s Fire & Safety, in the amount of \$111,980, for purchase of a Special response Tow Vehicle by the Office of Emergency Services and Homeland Security. This vehicle will be assigned for use in the Charleston Fire Department and will provide a means to transport hazardous materials from an emergency disaster site. To be charged to Account No. 045-976-04-001-4-459, Homeland Security Grant--Capital Outlay, Cities, 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 the Mayor declared the committee report adopted.

7. Your Committee on Finance has had under consideration a Proposal submitted by Verizon, in the amount of \$19,021.44, for purchase of support equipment by the Office of Emergency Services and Homeland Security to be assigned for use in the Information Systems Department. The equipment will provide a wireless link and support the continuation of critical infrastructure development between City Hall and the designated disaster site, Dudley Public Safety Center (Fire Station No. 9). To be charged to Account No. 045-976-04-001-4-459, Homeland Security Grant--Capital Outlay, Cities, 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 the Mayor declared the committee report adopted.

8. Your Committee on Finance has had under consideration a bid submitted by RGA, Inc., in the amount of \$40,772, for purchase of Traffic Signal Heads and LED Signal Faces for the Traffic Engineering Department. To be charged to Account No. 001-976-00-712-4-459, Traffic Engineering – Capital Outlay, Equipment, and reports the same to Council with the recommendation that the Committee Report be adopted.

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

REPORTS OF OFFICERS

1. Report of the City of Charleston, Municipal Court Financial Statements; March, 2005.

Received and Filed.

2. Report of the City of Charleston Payroll Variance Analysis; March 2005;
Received and Filed.

NEW BILLS INTRODUCED

Introduced by Councilman Robert Reishman, April 18, 2005:

Bill No. 7140- a Bill and Order relating to the laying of levies on real, personal and public utility property within the City of Charleston, West Virginia, including excess levies previously provided for in the Official Municipal Budget Document for the fiscal year beginning the first day of July, Two Thousand Five.

Refer to Finance Committee.

Introduced by Councilman Archie Chestnut, April 18, 2005:

Bill No. 7141 - A Bill to establish a 5 minute stopping or standing zone on the easterly side of Hale Street from a point 76 feet south of Quarrier Street to a point 120 feet south of Quarrier St. 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 Streets and Traffic Committee.

Introduced by Councilman Mose Lanham, April 18, 2005:

Bill No. 7142 - A Bill to establish a vehicular parking zone for the exclusive use of the physically disabled on the southerly side of Washington St. W. from a point 104 feet west of Florida Street to a point 192 feet west of Florida 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 Streets and Traffic Committee.

Introduced by Councilman Mose Lanham, April 18, 2005:

Bill No. 7143 - A Bill to establish a 30 Mile Per Hour speed limit on Ferry 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 Streets and Traffic Committee.

UNFINISHED BUSINESS

The Mayor announced that there will be a Special Meeting of Council on Tuesday, April 19, 2005 at 5:30p.m.

ROLL CALL

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

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

ABSENT: Davis

At 7:35 p.m., on motion of Councilman Loeb, Council adjourned until Monday, May 2, 2005, at 7:00 p.m.

Danny Jones, Honorable Mayor

James M. Reishman, City Clerk