

JOURNAL
OF THE
COUNCIL
CITY OF CHARLESTON

WEST VIRGINIA

August 15, 2005

THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE SECOND MEETING IN THE MONTH OF AUGUST ON THE 15th 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 DAVID HIGGINS.

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

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

TWENTY- FIVE 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.

August 15, 2005, SECOND MEETING

PUBLIC SPEAKERS

1. James Straughter
2. Kathy Deitzler

CLAIMS

1. A claim of Eric Potesta, 511 Price St., Charleston, WV; alleges damage to vehicle.
Refer to City Solicitor.
2. A claim of Sherrie Ball, 6610 Roosevelt Ave., Charleston, WV; alleges damage to property.
Refer to City Solicitor.
3. A claim of Robert Russell, 152 Holmes Dr., Crab Orchard, WV; alleges damage to vehicle.
Refer to City Solicitor.
4. A claim of Robert Simpson, 400 Allen Dr., Charleston, WV; alleges damage to property.
Refer to City Solicitor.
5. A claim of Dorothy Beckett, 5411 Starling Dr., Charleston, WV; alleges personal injury.
Refer to City Solicitor.
6. A claim of Patricia Stevens, 836 Lower Chester Rd., Charleston, WV; alleges damage to vehicle.
Refer to City Solicitor.
7. A claim of Tammy Coles, 1201 2nd Ave., Charleston, WV; alleges damage to vehicle.
Refer to City Solicitor.

REPORTS OF STANDING COMMITTEES

PLANNING

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

1. Your Committee on Planning has had under consideration Bill No. 7156, and reports the same to Council with the recommendation that the Bill do pass.

Bill No. 7156 - A Bill amending the Zoning Ordinance of the City of Charleston by amending the table of permitted uses to allow "Catering" as a permitted use in a C-4 Neighborhood Commercial District.

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

The Zoning Ordinance of the City of Charleston, West Virginia enacted the 7th day of March 1983, as amended, is hereby amended by adding "catering" as a permitted use in a C-4 Neighborhood Commercial District. The new provisions shall read as follows:

1) ARTICLE 10: C-4 NEIGHBORHOOD COMMERCIAL DISTRICT
Section 10-2. Permitted principal uses.

Add subsection:

10-2 (c) (6) Catering.

Re-number 10-2 (c) 6-19 accordingly

2) The TABLE OF PERMITTED USES is hereby amended to conform with Section 1 above.

3) 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 were; yeas-25, nays-0, absent-3, as follows:

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

NAYS:

ABSENT: Hanna, Markham, Robertson

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7156, adopted.

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. 873-05, and

reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 873-05 : “Authorizing the Mayor to enter into an agreement with the Federal Bureau of Investigation (FBI) to provide resources in assisting the FBI in the Charleston Gang Task Force. The FBI will reimburse the City for overtime, travel, fuel, training and other expenses related to the officer(s) assigned as a member of the joint operation/task force.”

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

That the Mayor is hereby authorized and directed to enter into an agreement with the Federal Bureau of Investigation (FBI) to provide resources in assisting the FBI in the Charleston Gang Task Force. The FBI will reimburse the City for overtime, travel, fuel, training and other expenses related to the officer(s) assigned as a member of the joint operation/task force.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 873-05, adopted.

2. Your Committee on Finance has had under consideration Resolution No. 876-05, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 876-05 : “Authorizing the Mayor to sign Change Order No. 1 with Thaxton Construction Co., Inc., in the amount of \$46,340, for the Craze Drive Slips Project. The change order adds 500 linear feet of predrilled soldier piling and 384 square feet of concrete lagging to the project and increases the contract price from \$249,000 to \$295,340.”

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

That the Mayor is hereby authorized and directed to sign Change Order No. 1 with Thaxton Construction Co., Inc., in the amount of Forty-six Thousand Three Hundred Forty Dollars (\$46,340), for the Craze Drive Slips Project. The change order adds 500 linear feet of predrilled soldier piling and 384 square feet of concrete lagging to the project and increases the contract price from \$249,000 to \$295,340.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 876-05, adopted.

3. Your Committee on Finance has had under consideration Resolution No. 877-05, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 877-05 : “Authorizing the Mayor to sign Change Order No. 2 with Thaxton Construction Co., Inc., in the amount of \$20,000, for the Craze Drive Slips Projects. The change order provides for excavating and removing all unsuitable material adjacent to 1777-A Craze Drive and replace with shot rock, cap the embankment with fill, seed and fertilize; reattach underground utilities; demolish and dispose of two failed porch structures; re-grade

existing driveway with stone; and add two cross drains through Craze Drive with pipe material to be provided by the City. Change Order increases the contract price for this project from \$295,340 to \$315,340.”

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

That the Mayor is hereby authorized and directed to sign Change Order No. 2 with Thaxton Construction Co., Inc., in the amount of Twenty Thousand Dollars (\$20,000), for the Craze Drive Slips Projects. The change order provides for excavating and removing all unsuitable material adjacent to 1777-A Craze Drive and replace with shot rock, cap the embankment with fill, seed and fertilize; reattach underground utilities; demolish and dispose of two failed porch structures; re-grade existing driveway with stone; and add two cross drains through Craze Drive with pipe material to be provided by the City. Change Order increases the contract price for this project from \$295,340 to \$315,340.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 877-05, adopted.

4. Your Committee on Finance has had under consideration Resolution No. 878-05, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 878-05 : “Authorizing the Mayor to sign a request for Project Amendment Scope/Activity Change (Form 2) for the East End Community Association Project No. 03CPGP0078, in the amended amount of \$10,000, with original scope of services providing for installation of trash receptacles, landscaping and beautification for East End neighborhoods; and Project No. 04LEDA0146, in the amended amount of \$10,000, with original scope of services providing for a green space beautification project at Ruffner Park and purchase and installation of fencing and waste receptacles at the new dog park, which have been completed. The remaining funds for these projects have been requested for allocation to the Washington Street Streetscape Project to include, but not limited to, design work and additional landscaping and beautification services.”

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 (Form 2) for the East End Community Association Project No. 03CPGP0078, in the amended amount of \$10,000, with original scope of services providing for installation of trash receptacles, landscaping and beautification for East End neighborhoods; and Project No. 04LEDA0146, in the amended amount of \$10,000, with original scope of services providing for a green space beautification project at Ruffner Park and purchase and installation of fencing and waste receptacles at the new dog park, which have been completed. The remaining funds for these projects have been requested for allocation to the Washington Street Streetscape Project to include, but not limited to, design work and additional landscaping and beautification services.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-25, nays-0, absent-3, as follows:

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

NAYS:

ABSENT: Hanna, Markham, Robertson

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 878-05, adopted.

5. Your Committee on Finance has had under consideration Resolution No. 879-05, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 879-05 : “Authorizing the Mayor to enter into a contract with Point Forward, in the Amount of \$21,000, for Corporate Partnership Marketing Services.”

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 Point Forward, in the amount of \$21,000, for Corporate Partnership Marketing Services payable as follows:

- \$7,000 due at signing of contract
- \$7,000 due after 45 days
- \$7,000 due after final deliverables remitted (within 90 days of contract signing)

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 879-05, adopted.

6. Your Committee on Finance has had under consideration Resolution No. 880-05, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 880-05 : “Authorizing the Mayor to enter into a contract with Larry Groce for professional services related to special events and festivals for the City of Charleston at the rate of \$3,000 per month.”

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 Larry Groce for professional services related to special events and festivals for the City of Charleston at the rate of \$3,000 per month.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 880-05, adopted.

7. Your Committee on Finance has had under consideration Resolution No. 881-05, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 881-05 : “Authorizing the Mayor to sign Change Order No. 2 with Tri-State Roofing & Sheet Metal Co., in the amount of \$6,930, or \$8.25/square foot, for replacement of an additional 840 square feet of deteriorated and rusted metal roof decking as it relates to the Roofing System Project at the Charleston Civic Center. The change order increases the contract price to \$73,597.”

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

That the Mayor is hereby authorized and directed to sign Change Order No. 2 with Tri-State Roofing & Sheet Metal Co., in the amount of Six Thousand Nine Hundred Thirty Dollars (\$6,930), or \$8.25/square foot, for replacement of an additional 840 square feet of deteriorated and rusted metal roof decking as it relates to the Roofing System Project at the Charleston Civic Center. The change order increases the contract price to \$73,597.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 881-05, adopted.

8. Your Committee on Finance has had under consideration Resolution No. 882-05, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 882-05 : “Authorizing the Mayor to enter into a contract with City Electric, in the amount of \$18,000, for installation of an Electrical Motor Control Center on the roof of the Civic Center Convention Hall. Following the recent malfunction of the Electrical Motor Control Center, which controls air handlers that feed the second floor conference rooms, WV rooms, South Hall and Lounge at the Charleston Civic Center, a replacement unit was ordered. The unit will be received over the next several days and a contractor must be in place to install the system on a timely basis so as not to delay functions at the Civic Center.”

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 City Electric, in the amount of Eighteen Thousand Dollars (\$18,000), for installation of an Electrical Motor Control Center on the roof of the Civic Center Convention Hall. Following the recent malfunction of the Electrical Motor Control Center, which controls air handlers that feed the second floor conference rooms, WV rooms, South Hall and Lounge at the Charleston Civic Center, a replacement unit was ordered. The unit will be received over the next several days and a contractor must be in place to install the system on a timely basis so as not to delay functions at the Civic Center.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 882-05, adopted.

9. Your Committee on Finance has had under consideration Resolution No. 883-05, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 883-05 : “Authorizing the Mayor to enter into a contract with FiberNet to provide services for the City’s Centrex Telephone Lines at the rate of \$14.25 per line. The contract is for a one year period, with an option to renew for a second year at the same contract rates.”

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 FiberNet to provide services for the City’s Centrex Telephone Lines at the rate of \$14.25 per line. The contract is for a one year period, with an option to renew for a second year at the same contract rates.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 883-05, adopted.

10. Your Committee on Finance has had under consideration Resolution No. 884-05, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 884-05 : “Authorizing the Mayor to execute a Landlord Estoppel Certificate & Agreement, a Lessor’s Consent Form, and a Waiver and Release Form on behalf of the City of Charleston for the purpose of consenting to the assignment from Shaner Hotel Group Properties Three Limited Partnership to Shaner SPE Associates Limited Partnership of a ground lease for property known as the Holiday Inn Civic Center, located at 100 Civic Center Drive, Charleston, West Virginia.”

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

That the Mayor is hereby authorized and directed to execute a Landlord Estoppel Certificate & Agreement, a Lessor’s Consent Form, and a Waiver and Release Form on behalf of the City of Charleston for the purpose of consenting to the assignment from Shaner Hotel Group Properties Three Limited Partnership to Shaner SPE Associates Limited Partnership of a ground lease for property known as the Holiday Inn Civic Center, located at 100 Civic Center Drive, Charleston, West Virginia.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 884-05, adopted. Abstain - Loeb

11. Your Committee on Finance has had under consideration a proposal submitted by General Truck Sales, in the amount of \$30,168, for purchase of 3/4 –Ton utility body truck to be used by the Parking System. To be charged to Account No. 406-571-00-000-4-461, Parking System – Capital Outlay, Lease/Purchase, and reports the same to Council with the recommendation that

the committee report be adopted.

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

12. Your Committee on Finance has had under consideration a proposal submitted by General Truck Sales, in the amount of \$26,077, for purchase of a crew cab pickup truck to be used by the Public Grounds department. To be charged to Account No. 001-975-00-567-4-461, Public Grounds – Capital Outlay, Lease/Purchase, and reports the same to Council with the recommendation that the committee report be adopted.

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

13. Your Committee on Finance has had under consideration a Payment of an invoice from Bowles, Rice, McDavid, Graff & Love, in the amount of \$10,000, as the first installment for professional services associated with the Charleston Police Department’s promotional examinations for the ranks of captain, lieutenant, sergeant and corporal. To be charged to Account No.001-700-00-000-2-223, Police - Professional Services, and reports the same to Council with the recommendation that the committee report be adopted.

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

REPORTS OF OFFICERS

None.

NEW BILLS INTRODUCED

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 14, to conform therewith.

Refer to Streets and Traffic Committee.

Introduced by Councilman Marc Weintraub, on August, 15, 2005:

Bill No. 7159 – A Bill to establish a 20 Mile Per Hour speed limit on Rugby 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, Chapter14, to conform therewith.

Refer to Streets and Traffic Committee.

Introduced by Councilman Marc Weintraub, on August, 15, 2005:

Bill No. 7160 – A Bill to establish a 20 Mile Per Hour speed limit on Stadium Place 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 14, to conform therewith.

Refer to Streets and Traffic Committee.

Introduced by Councilwoman Cheryle Hall, on August, 15, 2005:

Bill No. 7161 – A Bill to establish a Stop Sign on Yorktowne Place at Peyton Way 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 David Higgins, on August, 15, 2005:

Bill No. 7162 – A Bill to establish a 20 Mile Per Hour speed limit on Ridgeway Road 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 14, to conform therewith.

Refer to Streets and Traffic Committee.

Introduced by Councilman Marc Weintraub, on August, 15, 2005:

Bill No. 7163 – A Bill to establish a No Parking Anytime Tow-Away zone on the easterly side of Thompson Street from Hansford Street to Piedmont Road 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 Robert Reishman, on August, 15, 2005:

Bill No. 7164 -- Authorizing the City to purchase property adjacent to Tennis Club Road for the purpose of constructing a structural retaining wall and sidewalk extension and authorizing and directing the Mayor to accept a deed for said parcels on behalf of the City of Charleston.

Refer to Finance Committee.

Introduced by Councilman Jack Harrison, on August, 15, 2005:

Bill No. 7165 - Amending and reenacting Chapter 102, Article III, Section 2.2 of the Right-of-Way Excavation & Restoration Ordinance Manual, to delete the following language: The City of Charleston and its agents, officers, directors and employees, shall be included as an insured under the policy.

Refer to Ordinance and Rules Committee.

ROLL CALL

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

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

ABSENT: Hanna, Markham, Robertson

At 7:40 p.m., on motion of Councilman Loeb, Council adjourned until Tuesday, September 6, 2005, at 7:00 p.m.

Danny Jones, Honorable Mayor

James M. Reishman, City Clerk