

JOURNAL
OF THE
COUNCIL
CITY OF CHARLESTON
WEST VIRGINIA

April 17, 2006

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 17th DAY, IN THE YEAR 2006, AND WAS CALLED TO ORDER BY THE HONORABLE MAYOR, DANNY JONES. THE INVOCATION WAS DELIVERED BY DEITZLER, AND THE PLEDGE OF ALLEGIANCE WAS LED BY WARE.

**CHESTNUT
DEITZLER**

**HIGGINS
LANHAM
MILLER
NIELSEN
ROBERTSON
WARE
MAYOR JONES**

**CLOWSER
EALY
HARRIS
JONES**

**MONROE
REED
SADD**

**DAVIS
HALL**

LOEB

**REISHMAN
TALKINGTON
WHITE**

TWENTY- TWO 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.

PUBLIC SPEAKERS

1. Paul Mooney – Noise Ordinance
2. Larry and Kay McConaha – Noise Ordinance

CLAIMS

1. A claim of Patricia Copening, 821 7th Street, Charleston, WV; alleges personal injury.
Refer to City Solicitor.
2. A claim of Betty Arce, 1218 Summit Drive, Charleston, WV; alleges damage to vehicle.
Refer to City Solicitor.
3. A claim of Sherry Milam, P.O. 185, Bloomingrose, WV; alleges personal injury.
Refer to City Solicitor.
4. A claim of Mary Gresham, 2111 7th Avenue, Charleston, WV; alleges damage to property.
Refer to City Solicitor.

REPORTS OF STANDING COMMITTEES

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. 017-06, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 017 -06: “Granting a subterranean easement for the installation, maintenance, operation, removal and repair of cable television and communications facilities to Charter Communications VI, LLC, locally known as Charter Communications (“Charter”).”

WHEREAS, Charter wishes to install, maintain, operate, remove and repair cable television and communications facilities; and

WHEREAS, the proposed easement shall be used to provide cable television and communications to the Town Center Mall as described in Exhibit A; and

WHEREAS, Charter has requested the City of Charleston grant and convey to it an easement for the subterranean projection for a term of three (3) years with automatic

one (1) year renewals unless terminated in writing by either party with at least one hundred twenty (120) days notice; and

WHEREAS, for legally sufficient consideration, the City of Charleston desires to grant Charter an easement to maintain the subterranean easement, to be consistent with all applicable City and State of West Virginia laws, provided the easement in no way conflicts with the City of Charleston's use or development of its property;

WHEREAS, the Franchise granted hereunder shall not be assigned, except to an entity controlling, controlled by, or under common control with Charter, and only with the prior consent of the City, which shall not be unreasonably withheld or delayed.

NOW, THEREFORE, BE IT RESOLVED that the Mayor of the City of Charleston be and is hereby authorized and directed, on behalf of the City of Charleston, and subject to all applicable City and State of West Virginia laws and consistent with the terms set forth herein, to grant to Charter Communications VI, LLC, locally known as Charter Communications, a subterranean easement as described in Exhibit A.

FURTHER, BE IT RESOLVED that said easement is granted subject to the express condition and limitations that if the easement conflicts in any way with the City of Charleston's use or development of its property, Charter shall, upon receiving written notice from the City of Charleston, within one hundred twenty (120) days and at Charter's expense, remove the subterranean projection and any and all facilities from the City of Charleston's property and shall restore the property to pre-constructed condition.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 017-06, adopted.

2. Your Committee on Finance has had under consideration Resolution No. 018-06, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 018-06: "Authorizing the Mayor to sign Change Order No. 1 with Tony Baiano Construction Co., Inc., in the amount of \$40,000, for the Streetscape Project. The additional cost will provide for the contractor to make repairs to streetscape areas throughout the City that relate to tripping hazards. The change order increases the contract price from \$641,700 to \$681,700."

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 Tony Baiano Construction Co., Inc., in the amount of Forty Thousand Dollars (\$40,000), for the Streetscape Project. The additional cost will provide for the contractor to make repairs to streetscape areas throughout the City that relate to tripping hazards. The change order increases the contract price from \$641,700 to \$681,700.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 018-06, adopted.

3. Your Committee on Finance has had under consideration Resolution No. 019-06, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 019-06: "Authorizing the Finance Director to allocate funds in the amount of \$29,600 for acquisition for one (1) HOME project located 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-nine Thousand Six Hundred Dollars (\$29,600.00) for acquisition for one (1) HOME project located on the City's West Side.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-22, 6- absent as follows:

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

ABSENT: Hanna, Harrison, Lane, Markham, Morton, Weintraub

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 019-06, adopted.

4. Your Committee on Finance has had under consideration Resolution No. 020-06, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 020-06: "Authorizing the Mayor to sign a one year contract with Lowe's of Kanawha City to supply materials for the rehabilitation of owner-occupied residences within the City of Charleston."

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

That the Mayor is hereby authorized and directed to sign a one year contract with Lowe's of Kanawha City to supply materials for the rehabilitation of owner-occupied residences within the City of Charleston.

The question being on the adoption of the Resolution a roll call was taken and there were; were; yeas-22, 6- absent as follows:

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

ABSENT: Hanna, Harrison, Lane, Markham, Morton, Weintraub

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 020-06, adopted.

5. Your Committee on Finance has had under consideration Resolution No. 021-06, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 021-06: "Authorizing the Mayor to enter into a contract with the Kanawha County Board of Education, consistent with state and local laws and upon review and approval of counsel for the City, to apply for a Prevention Resource Officer (PRO) grant through the West Virginia Division of Criminal Justice Services. The grant provides funding to implement the PRO program which covers reimbursement for one experienced officer's salary in the amount of \$28,000, plus training and supplies. The assigned officer will adhere to community policing principles, provide education to all areas of juvenile law, act as a deterrent to crime, and be a positive role model and mentor for the youth in Stonewall Jackson Junior High School from July 2006 to June 2007. The officer's employee benefits will be used for the grant's required twenty-five percent (25%) match."

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 the Kanawha County Board of Education, consistent with state and local laws and upon review and approval of counsel for the City, to apply for a Prevention Resource Officer (PRO) grant through the West Virginia Division of Criminal Justice Services. The grant provides funding to implement the PRO program which covers reimbursement for one experienced officer's salary in the amount of Twenty-eight Thousand Dollars (\$28,000), plus training and supplies. The assigned officer will adhere to community policing principles, provide education to all areas of juvenile law, act as a deterrent to crime, and be a positive role model and mentor for the youth in Stonewall Jackson Junior High School from July 2006 to June 2007. The officer's employee benefits will be used for the grant's required twenty-five percent (25%) match.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 021-06, adopted.

6. Your committee on Finance has had under consideration a proposal submitted by Stephens Auto Sales, in the amount of \$12,370, for purchase of a 2006 Dodge Stratus to be used by the Planning Department. To be charged to Account No. 001-975-00-437-4-459, Planning – Capital Outlay, Equip. (Part of Lease/Purchase Escrow Account Schedule No. 5 for FY 2006, 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.

7. Your Committee on Finance has had under consideration Bill No. 7203, and reports the same to Council with the recommendation that the do pass.

Bill No. 7203 - A Bill authorizing the Mayor to convey by appropriate deed of conveyance and thereby relinquish all right, title and interest of the City of Charleston in and to that certain parcel of real estate situate in Charleston East Tax District, City of Charleston, Kanawha County, West Virginia, comprising 6,028.04 square feet, or 0.14 acre, more or less, bordering in part along Bibby Street and now owned by the City of Charleston, to the Housing Authority of the City of Charleston, a public body corporate and politic created and existing under Chapter 16, Article 15, Section 1 et seq., West Virginia Code and ordinance of the City of Charleston, for use by the Housing Authority of the City of Charleston in conjunction with its housing redevelopment and revitalization project.

WHEREAS, the Council of the City of Charleston, West Virginia, hereby finds and determines that:

(a) The Housing Authority of the City of Charleston is a public body corporate and politic created and existing pursuant to Chapter 16, Article 15, Section 1 et seq., West Virginia Code and by Ordinance of the City of Charleston, West Virginia, and the City of Charleston is authorized and empowered by West Virginia Code §1-5-1 et seq. to dispose of real property owned by it by conveyance or transfer to another public body upon terms and conditions as may be agreed upon by and between said public bodies;

(b) The City of Charleston, West Virginia presently owns title to a certain parcel of real estate situate in Charleston East Tax District, City of Charleston, Kanawha County, West Virginia, comprising 6,028.04 square feet or, 0.14 acre, more or less, bordering in part along Bibby Street and more fully described on Exhibit "A" attached to this Ordinance and incorporated by reference herein;

(c) The Housing Authority of the City of Charleston is presently engaged in a project for the redevelopment and revitalization of its public and affordable housing units including the construction of additional housing stock in order to provide additional affordable and low income housing units for the public and citizens of Kanawha County, West Virginia;

(d) The Housing Authority presently holds title to certain property situate near the parcel to be conveyed by authorization of this Ordinance which will also be utilized as a part of said redevelopment and revitalization project, together with other property situate in the immediate area which will be acquired for use in said project and which adjoins the parcel to be conveyed by authorization of this Ordinance;

(e) The City of Charleston, West Virginia has no present need for the parcel to be conveyed by authorization of this Ordinance and the parcel is needed by the Housing Authority of the City of Charleston, a public body, and will be used for the public purpose of developing and providing additional affordable housing opportunities for the

citizens of Charleston and Kanawha County, thereby benefiting the City of Charleston and its citizens.

WHEREAS, in conformity with the foregoing findings and determinations, said parcel now owned by the City of Charleston, West Virginia, and as more fully described and set forth on Exhibit "A," attached hereto, should be conveyed by proper deed of conveyance to the Housing Authority of the City of Charleston, a public body corporate and politic, for the public use and purpose set forth herein.

Now Therefore be it Ordained by the Council of the City of Charleston, West Virginia:
That, consistent with the findings herein and West Virginia Code §1-5-3, the Mayor of the City of Charleston, West Virginia, be, and he is hereby authorized and directed to execute, acknowledge and transfer without charge to the Housing Authority of the City of Charleston, a deed conveying all of the right, title and interest of the City of Charleston, West Virginia, in and to the parcel of real estate situate in Charleston East Tax District, City of Charleston, Kanawha County, West Virginia, comprising 6,028.04 square feet or, 0.14 acre, more or less, as more fully described and set forth on Exhibit "A" attached hereto.

This Ordinance shall become effective immediately upon passage.

The question being on the passage of the Bill a roll call was taken and there were; yeas- 22, 6- absent as follows:

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

ABSENT: Hanna, Harrison, Lane, Markham, Morton, Weintraub

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7203, passed.

REPORTS OF OFFICERS

1. City Treasurer's Report to City Council Month Ending March 2006;
Received and Filed.

NEW BILLS INTRODUCED

Introduced by Councilman Robert Reishman, on April 17, 2006:
Bill No. 7204 – 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 Six. *First reading to be voted on at the Special Meeting April 18, 2006*

Introduced by Councilman Archie Chestnut, on April 17, 2006:

Bill No. 7205 - A Bill to establish a 15 minute Stopping and Standing Zone on the easterly side of Brooks Street from a point 73 feet north of Quarrier Street to a point 231 feet north of Quarrier 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 Streets and Traffic Committee.

Introduced by Councilman Archie Chestnut, on April 17, 2006:

Bill No. 7206 - A Bill to establish On Duty Magistrate Parking Only on the easterly side of Goshorn Street from a point 92 feet north of Virginia Street, East to a point 114 feet north of Virginia Street, East and amending the Traffic 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 John Miller, on April 17, 2006:

Bill No. 7207 - A Bill to establish a School Bus Parking Only Tow-Away zone on The northerly side of Noyes Avenue from a point 50 feet west of 37th Street to a point 110 feet west of 37th Street from 7:00 A.M. to 3:00 P.M. Monday through Friday 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 John Miller, on April 17, 2006:

Bill No. 7208 - A Bill to establish two perpendicular handicapped parking spaces on the northerly side of Noyes Avenue from a point 24 feet west of 37th Street to a point 50 feet west of 37th Street for the exclusive use of the physically disabled and 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.

ROLL CALL

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

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

ABSENT: Hanna, Harrison, Lane, Markham, Morton, Weintraub

At 7:40 p.m., on motion of Councilman Loeb, Council adjourned until Monday, May 1, 2006, at 7:00 p.m.

Danny Jones, Honorable Mayor

James M. Reishman, City Clerk