

**JOURNAL
OF THE
COUNCIL
CITY OF CHARLESTON
WEST VIRGINIA
APRIL 16, 2012**

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 16th DAY, IN THE YEAR 2012, AND WAS CALLED TO ORDER BY THE HONORABLE MAYOR, DANNY JONES. THE INVOCATION WAS DELIVERED BY HARRISON AND THE PLEDGE OF ALLEGIANCE WAS LED BY BOY SCOUT TROOP.

**BURKA
DAVIS
EALY
KIRK
MINARDI
REISHMAN
SALISBURY
SNODGRASS
WARE
MAYOR JONES**

**BURTON
DENEALT
HAAS
LANE
NICHOLS
RICHARDSON
SHEETS
STAJDUHAR
WEINTRAUB**

**CLOWSER
DODRILL
HARRISON
MILLER
PERSINGER
RUSSELL
SMITH
TALKINGTON
WHITE**

WITH TWENTY- EIGHT 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. Lisa Tackett – Vineyard Foundation

CLAIMS

- 1. A claim of Stephanie Boyd, 658 Middle Patch Rd., Gallagher, WV; alleges damage to vehicle. Refer to City Solicitor
- 2. A claim of Young’s Inc., 927 Barlow Drive, Charleston, WV; alleges damage to property.

COMMUNICATIONS

TO: JAMES REISHMAN, CITY CLERK
 FROM: DANNY JONES, MAYOR
 RE: HUMAN RIGHTS COMMISSION
 DATE: APRIL 16, 2012

I recommend that Martha “Gale” Poore, 8 Park Avenue, Charleston, 25302, be appointed to the Human Rights Commission, with an initial term to expire June 30, 2012. She is replacing James Harris.

I respectfully request City Council’s approval of this recommendation.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the appointment confirmed.

MISCELLANEOUS RESOLUTION

Resolution No. 123-12

Introduced in Council

April 16, 2012

John Miller, Mary Jean Davis, Brent Burton, Tom Lane, Jack Harrison, Sam Minardi, Courtney Persinger, Bobby Reishman, Susie Salisbury

WHEREAS: Winning seven of their last nine games, the George Washington High School Girls Basketball team surged toward a 17-10 record and won the Region 3 Section 1 championship for the second year in a row; and

WHEREAS: In the 2012 WVSSAC Girls Basketball Tournament, the seventh-seeded Patriots avenged an earlier season loss to arch-rival South Charleston by defeating the

second-seeded Black Eagles in a thrilling 48-47 victory in the AAA quarter-final game at the Charleston Civic Center; and

WHEREAS: As a result, the GWHS team reached the semi-finals of the State Tournament for the second straight year, and sophomore Kelli Jo Harrison was named to the WVSSAC All-Tournament Team; and

WHEREAS: The team's graduating seniors – Alexa Peoples, Molly Weaver and Adrian Cunningham – provided tremendous leadership throughout the season; and

WHEREAS: Led by Head Coach Jamie LaMaster, and assistant coaches Brian Pratt, Rick Wallace and Karina Kendrick, the team returns 13 players for next year's squad, including Rachel Ward who scored 15 points in the tournament victory over South Charleston.

Therefore be it resolved by The Council and Mayor of The City of Charleston, West Virginia:

That we, the elected leaders of Charleston, congratulate the players and coaches of George Washington High School's Girls Basketball team for reaching the semi-finals of the West Virginia Girls State Basketball Tournament in 2012 and commend them for all of their accomplishments as outstanding student athletes and leaders.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Resolution No. 123-12, adopted.

ORDINANCE AND RULES

Councillperson Jack Harrison, Chairperson of the Council Committee on Ordinance and Rules, submitted the following reports.

1. Your Committee on Ordinance and Rules has had under consideration Bill No. 7522 and reports the same to Council with the recommendation the the bill do pass.

Bill No. 7522: "A BILL to establish a Restricted Use Area in the west end of the City of Charleston for the purpose of prohibiting the drilling into and the extraction of groundwater within the Restricted Use Area.

WHEREAS, the approximately 1.25-acre parcel of land located at 406 West Washington Street (the "Site") has been the subject of environmental assessment and risk-based remediation by the current occupant, Rite Aid Pharmacy, as part of their Voluntary Remediation agreement # 07094 with the State of West Virginia Department of Environmental Protection ("DEP") that allowed them to construct their business on a brownfield site which contained "chemicals of concern" resulting from the operation of a gas station and automobile repair and painting shop prior to Rite Aid's acquisition of and construction on the property; and

WHEREAS, the environmental assessment has indicated that "chemicals of concern" from previous businesses located on the Site are now migrating with the flow of ground water from the Site into surrounding ground water; and

WHEREAS, Rite Aid, in cooperation with the DEP, has notified the City of the migration, and has requested that the City take protective action to prevent the uncontrolled exposure to the chemicals of concern in the ground water; and

WHEREAS, the City of Charleston has the duty and authority under W. Va. State Code § 8-12-5(23) to provide for the elimination of hazards to public health and safety; and

WHEREAS, the Kanawha Charleston Health Department is the governmental agency with authority to issue permits with respect to ground water drilling within Kanawha County, including within the City of Charleston;

Now, therefore, be it Ordained by the Council of the City of Charleston, West Virginia:

THAT there is hereby established within the City of Charleston a Restricted Use Area in which the drilling into or extraction of ground water is prohibited. The Restricted Use Area is defined as 350 feet to the northwest, west and south of the western corner of the Site, as depicted in the map attached as Exhibit 1 hereto. This area represents the maximum predicted extent of contamination migration (120 feet) plus a conservative safety factor of 230 feet.

Ground water is defined as water occurring in the zone of saturation beneath the seasonal high water table, or any perched water zone.

This prohibition applies to any excavation or penetration in the ground, whether drilled, bored, cored, driven or jetted that enters or passes through ground water for purposes that include, but are not limited to, a water supply, exploration for water, dewatering or heat pump wells.

Nothing contained in this ordinance shall prohibit the extraction of ground water from installation, modification, operation, repair or removal of monitoring and/or remediation wells when operated with the authorization of or at the direction of state or federal environmental officials or agencies.

Nothing contained in this ordinance shall prevent any construction activity within the Restricted Use Area which is not for the purpose of using ground water and does not contemplate the disruption of ground water during construction. Additionally, nothing in this ordinance shall prohibit any construction activity within the Restricted Use Area which is not for the purpose of using ground water but that may result in incidental disturbance of ground water, provided all state laws and regulations applicable to construction under such conditions, including, but not limited to, all laws and regulations enforced and promulgated by the DEP, are verifiably met. If incidental disturbance of ground water occurs, the contractor shall provide notice of the disturbance to the Office of Environmental Remediation of the Department of Environmental Protection (304-926-0455), and reference Voluntary Remediation file # 07094.

Nothing contained in this ordinance shall prevent the use of ground water in the Restricted Use Area if the ground water has been treated to meet state standards appropriate for its intended use prior to any use.

Upon passage, the Clerk shall submit a certified copy of this ordinance to the Kanawha Charleston Health Department for their use when evaluating applications for ground water drilling within the City of Charleston.

Upon passage, a copy of this Ordinance shall also be provided to the City of Charleston Building Department, the City of Charleston Planning and Zoning Department, and the City of Charleston Engineering Department, and shall be kept on file in the City Clerk's Office.

The Committee recommended passage of the bill but first be referred to the Environment and Recycling Committee. The Mayor referred Bill 7522 to the Environment and Recycling Committee.

PLANNING

Councillperson 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. 7516, Committee Substitute and reports the same to Council with the recommendation that Bill do pass.

Bill No. 7516 , Committee Substitute: A BILL to create Article VII of Chapter 102 of the Municipal Code of the City of Charleston entitled "Outdoor Dining," creating and regulating outdoor dining on public sidewalks.

WHEREAS, it is the intent of the City of Charleston to facilitate outdoor dining in the Central Business District in order to create an active streetscape, enhance the economic and social vitality of the downtown area, and promote pedestrian and retail friendly activity; and

WHEREAS, it is the intent of the City of Charleston to allow for the use of the public right-of-way for such outdoor dining; and to expedite the approval of such facilities while ensuring that the public use of the sidewalks will not be significantly impaired by such dining, and that neighboring commercial and residential uses will be protected from any adverse impacts from such dining.

Now, therefore, be it Ordained by the Council of the City of Charleston, West Virginia:

That Article VII of Chapter 102 of the Municipal Code of the City of Charleston is hereby created to read as follows:

ARTICLE VII– Outdoor Dining

Sec. 102-271- Planning Department rules and regulations under article

The City of Charleston Planning Department is hereby authorized to promulgate reasonable rules and regulations regarding the administration of the requirements of this article, to review all Outdoor Dining Area permit applications and to either grant or deny such permits under this article. Copies of such regulations, as amended from time to time, shall be maintained by the Planning Department, posted on the City's website and filed in the City Clerk's office, and shall be available to interested parties at all reasonable times.

Sec. 102-272 - Compliance with federal, state and local laws and regulations

(a) The operation of an Outdoor Dining Area pursuant to a permit granted under this article shall comply with the Americans with Disabilities Act, all provisions of state and local building and fire

codes, as well as all state and local health laws and regulations regarding the service and preparation of food. The operations of an Outdoor Dining Area shall also be conducted in accordance with the code provisions and regulations of the West Virginia Alcoholic Beverage Control Administration (WVABCA). Nothing in this article shall be intended to alter or abridge any applicable federal, state and local laws or the Operator's responsibility to comply with all code provisions and regulations of the WVABCA.

(b) Nothing in this article shall be intended to alter or abridge the prohibition of service of alcoholic beverages or possession thereof on public property in the City, as set forth in Section 78-211(b) of the Municipal Code of the City of Charleston, except that any permitted Outdoor Dining Area Operator and patrons of permitted Operator's Outdoor Dining Area shall be deemed to be exempt from said prohibition during the hours of operation of the Outdoor Dining Area and only within the confines of said area.

Sec. 102-273- Nondiscrimination/Right to limit or deny admission or service

No person shall be denied access or service to an Outdoor Dining Area on the basis of race, religion, national origin, sex, sexual orientation, age or disability; notwithstanding the right of the Operator to limit access and admission to an Outdoor Dining Area to only bona fide paying customers of that Operator's establishment who are behaving in a lawful manner.

Sec. 102-274 - Definitions

(a) *Operator* shall mean a person, organization, proprietorship, corporation or other similar entity lawfully operating a business located in the Central Business District (CBD), as shown on the City of Charleston's Official Zoning Map, that possesses a valid State of West Virginia food vendor's permit and serves at a minimum both lunch and dinner, and has been issued an Outdoor Dining Area permit by the City's Planning Department.

(b) *Outdoor Dining Area* shall mean a confined area of the public sidewalk designated by a site plan approved by the City through its Planning Department and located in the Central Business District (CBD), as shown on the City of Charleston's Official Zoning Map, where, if abutting a street, the street abutting the sidewalk is posted at a speed limit of 25 mph or less, and which area is adjacent to Operator's building/permanent structure, where patrons may sit at tables while consuming food and beverages, which may include nonintoxicating beer contingent on proper licensure by the WVABCA.

Sec. 102-275 - Permit Process

(a) An applicant for an Outdoor Dining Area permit shall file an application with the City of Charleston Planning Department on such forms and subject to such procedures as the Planning Department may establish. An application for an Outdoor Dining Area permit shall be accompanied by a \$50 administrative fee and shall include: a site plan, drawn to scale showing the layout for the Outdoor Dining Area which accurately depicts the existing sidewalk conditions, including sidewalk width from building face to curb; location and dimensions of tree wells; locations of lamp posts, traffic and parking signs, signal poles, trash receptacles, benches, and other sidewalk features or obstructions; as well as design, location, size and space of the dining area, chairs, tables, enclosures, aisles between tables; routes of ingress and egress; clearances between the seating area and the curb; and any such additional requirements of the Planning Department with respect to type, style, or specifications of the Outdoor Dining Area, including those requirements subject to the approval of the WVABCA.

(b) After reviewing the application and site plan, the Planning Department shall determine if the proposed Outdoor Dining Area, consistent with the requirements of this article, is reasonable, promotes pedestrian and retail friendly vitality, and that there is adequate space remaining within the public right-of-way to facilitate safe circulation of pedestrian traffic, while promoting the overall public health, safety and welfare. Thereafter, the Planning Department may approve, approve with conditions, or deny an application. The approved plan and permit shall be posted at the Operator's premises, visible to customers and the public. No material change to the approved plan shall be made without prior written approval by the Planning Department.

(c) The Outdoor Dining Area permit term shall be for one calendar year, unless revoked prior to expiration, and may be renewed on an annual basis. An annual renewal permit fee of \$25 shall be assessed for an existing Outdoor Dining Area permit.

(d) Any Operator holding a valid existing permit for a particular Outdoor Dining Area that continues to utilize that Outdoor Dining Area, shall be deemed to have re-applied for permission to use the same space for a succeeding permit term. Such Operator shall pay the annual renewal permit fee, complete all renewal paperwork and comply with any other renewal requirements of the Planning Department, within thirty (30) days of the commencement of the succeeding permit term. If the Operator fails to meet all renewal requirements within the thirty (30) days, then the Operator's permit shall be deemed to have expired.

(e) The issuance of an Outdoor Dining Area permit does not grant or imply vested rights to use of the area by the Operator, but instead is a privilege granted to the Operator. The City retains the right to deny the issuance of a permit or the renewal of a permit for any lawful reason. The City shall have broad discretion to grant or revoke permits issued pursuant to this article in the interests of promoting pedestrian and retail friendly vitality, and improving the overall public health, safety and welfare.

Sec. 102-276 - Standards for outdoor dining areas

(a) The Outdoor Dining Area shall be located adjacent to the property of an existing and lawful establishment of a permitted Operator and shall be under the responsible direction and control of that Operator.

(b) The Outdoor Dining Area may be open to patrons between the hours of 7:00 a.m. and 11:00 p.m. daily, but said Outdoor Dining Area may only be open while the kitchen associated with such establishment is open and operating such that it is capable of serving food to patrons. In the event a permitted Operator intends to serve non-intoxicating beer in an Outdoor Dining Area, all code provisions and regulations of the WVABCA regarding permitted days and hours of service shall be followed.

(c) All furniture and associated enclosures located on the public sidewalk/right-of-way must be readily removable without damage to the surface of public sidewalk/right-of-way. Penetrations into or permanent fixtures placed upon the public sidewalk/right-of-way are strictly prohibited.

(d) The Planning Department shall have the authority to determine when furniture and associated enclosures must be removed from the public sidewalk/right-of-way.

(e) At least three feet, or 36 inches, of unobstructed corridor space must be maintained between the outer dimension of the Outside Dining Area and the curb or nearest obstruction, in order to ensure a clear pedestrian passageway along the sidewalk. In order to achieve a continuous pedestrian walk way, the pedestrian passageway shall be a straight line, parallel to the building face or curb line, for the entire length of the Outdoor Dining Area.

(f) An unobstructed clearance of three feet, or 36 inches, must be maintained between a fire hydrant and any furniture or enclosures of an Outdoor Dining Area.

(g) The Outdoor Dining Area must be kept sanitary, neat and clean at all times and shall be free from the accumulation of food and litter.

(h) In order to control litter, the use of disposable plates and utensils is prohibited.

(i) In accordance with Sec. 78-212 of the Municipal Code of the City of Charleston, noise from an Outdoor Dining Area which unreasonably disturbs neighboring commercial or residential occupants is prohibited.

(j) In order to serve non-intoxicating beer in an Outdoor Dining Area, the designated area must be included in the floor plan for the licensed premises as approved by the WVABCA. Non-intoxicating beer shall be served and consumed only on the enclosed or bounded portion of the public sidewalk designated and permitted by the City as an Outdoor Dining Area. Patrons are not permitted to carry non-intoxicating beer out of the Outdoor Dining Area.

Sec. 102-277 - Additional Requirements

(a) Prior to the issuance of a permit, the applicant must agree, in writing, that it shall indemnify, defend, and save harmless the City, its officers, agents, and employees, from and against all liability, claims, suits, damages, losses, costs, attorneys' fees and expenses of any or all types arising out of, or related in any way to, the permitted Outdoor Dining Area.

(b) The applicant shall maintain such general liability insurance with at least \$1,000,000 coverage per each occurrence and shall the name as additional insured the City of Charleston, its agents, officers, directors and employees. A copy of said insurance policy shall be furnished to the City of Charleston.

(c) The authorization and privilege granted by a permit approved under this section shall be terminated due to the Operator's failure to comply with any federal, state or local laws, any unabated nuisances or whenever the City desires to use the affected public right-of-way for any public purpose. In the event the City shall have a public need for use of the right-of-way or the property affected by the right-of-way, the City may terminate the use of such right-of-way by written notification to the applicant for the removal of any encroachments, and the Operator shall cease use of the right-of-way unless and until such time the City has no public need for use of the right-of-way. Said removal shall be completed by the date specified in the notice and shall be accomplished by the applicant without cost to the City. If the applicant fails or neglects to remove the encroachment within the time specified, the City shall have the right to remove the encroachment, at the expense of the Operator, and shall not be liable to the Operator for any loss, financial or otherwise, or damage to the encroachment or personal property within the encroachment area.

Sec. 102-278 – Denial or Revocation of Permit

(a) An Outdoor Dining Area permit is a privilege granted to the Operator that may be revoked by the City upon finding by the Planning Department that the Operator has violated any federal, state or City law applicable to the Outdoor Dining Area or the operation thereof, including but not limited to, compliance with all code provisions and regulations of the WVABCA, that the continued operation of the Outdoor Dining Area poses a threat to the health, safety or welfare of the public, or that the Outdoor Dining Area constitutes a public nuisance.

(b) An applicant who has been denied a permit, or an Operator whose permit has been revoked, may appeal the denial or revocation to the City of Charleston Board of Zoning Appeals (BZA). The provisions of Article 31 of the City of Charleston Zoning Ordinance shall apply. Such appeal may be made in writing within thirty (30) days following the decision appealed from, on forms available at the Planning Department, and shall set forth the basis on which the person contests the decision. Within ten (10) days of receipt of the appeal by the BZA, the BZA shall set a date and time for a public hearing. The public hearing shall be held within forty-five (45) days of receipt of the appeal to the BZA. The BZA shall conduct a public hearing on the appeal and may: deny the appeal and uphold the original order, requirement, decision or determination; grant the appeal and overturn the original order, requirement, decision or determination; or, issue an order which denies part of the appeal and grants part of the appeal. The BZA shall make written findings of fact and conclusions of law on which the BZA based its decision. The decision of the BZA may be appealed by either party, within thirty (30) days, to the Kanawha County Circuit Court, as set forth in WV Code §8A-9-1, et seq.

Sec. 102-279 – Penalty

Any Operator who violates any provision of this article shall, upon conviction, be fined up to \$500 per day. Each day any violation of this article shall continue shall constitute a separate offense.

*The committee recommends passage of the bill. Reveived and Filed.
(Bill voted on under the Finance section of the Council Meeting)*

STREETS AND TRAFFIC

Councillperson Joe Deneault, Chairperson 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. 7513, and reports the same to Council with the recommendation that Bill do pass.

Bill No. 7513 - A Bill to amend and reenact Ordinance number 6212 passed by Council April 15, 1996 relating to a prohibition of left turns by eastbound vehicles on Kanawha Boulevard between Pennsylvania Avenue, North and Dunbar Street except at Clendenin Street and Laidley 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.

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

Section 1. Left turns by eastbound vehicles on Kanawha Boulevard between Pennsylvania Avenue, North and Dunbar Street, except at Clendenin Street, Laidley Street, Summers Street

and Court Street are hereby prohibited.

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 were; yeas –28, absent - 0, as follows:

YEAS: Burka, Burton, Clowser, Davis, Deneault, Dodrill, Ealy, Haas, Harrison, Kirk, Lane, Miller, Minardi, Nichols, Persinger, Reishman, Richardson, Russell, Salisbury, Sheets, Smith, Snodgrass, Stajduhar, Talkington, Ware, Weintraub, White, Mayor Jones.

ABSENT:

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7513, passed.

2. Your Committee on Streets and Traffic has had under consideration Bill No. 7520, and reports the same to Council with the recommendation that Bill do pass.

Bill No. 7520 - A to amend and reenact Bill 7507, passed on February 6, 2012, relating to Bill to a Two Hour limited time parking tow away from 6:00 am to 5:00 pm., on the Easterly side of 57th Street S.E., from a point 70 feet north of MacCorkle Ave., S.E., to a point 250 feet north of MacCorkle Ave., S.E., and on the westerly side of 57th Street, SE. from a point 85 feet north of MacCorkle Avenue S.E., to a point 150 feet north of MacCorkle Avenue S.E., 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. Two Hour limited time parking tow away from 6:00 am to 5:00 pm., on the Easterly side of 57th Street S.E., from a point 70 feet north of MacCorkle Ave., S.E., to a point 250 feet north of MacCorkle Ave., S.E., and on the westerly side of 57th Street, SE. from a point 85 feet north of MacCorkle Avenue S.E., to a point 150 feet north of MacCorkle Avenue S.E., 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 were; yeas –28, absent - 0, as follows:

YEAS: Burka, Burton, Clowser, Davis, Deneault, Dodrill, Ealy, Haas, Harrison, Kirk, Lane, Miller,

Minardi, Nichols, Persinger, Reishman, Richardson, Russell, Salisbury, Sheets, Smith, Snodgrass, Stajduhar, Talkington, Ware, Weintraub, White, Mayor Jones.

ABSENT:

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7520, passed.

3. Your Committee on Streets and Traffic has had under consideration Bill No. 7521, and reports the same to Council with the recommendation that Bill do pass.

Bill No. 7521 - A Bill to repeal Bill No. 7512 passed by Council on February 21, 2012, relating to an On Duty Magistrate Only Parking zone on the east side of Goshorn Street from a point 92' north of Virginia Street to a point 114' north of Virginia 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.

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

Section 1. An On Duty Magistrate Only zone is hereby repealed.

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 were; yeas –28, absent - 0, as follows:

YEAS: Burka, Burton, Clowser, Davis, Deneault, Dodrill, Ealy, Haas, Harrison, Kirk, Lane, Miller, Minardi, Nichols, Persinger, Reishman, Richardson, Russell, Salisbury, Sheets, Smith, Snodgrass, Stajduhar, Talkington, Ware, Weintraub, White, Mayor Jones.

ABSENT:

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7521, passed.

4. Your Committee on Streets and Traffic has had under consideration Bill No. 7523, and reports the same to Council with the recommendation that Bill do pass.

Bill No. 7523 - A Bill to create a No Parking Anytime Tow Away zone on the north side of Gilbert Drive from Garvin Avenue to a point 62 feet east of Garvin Avenue 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 the north side of Gilbert Drive from

Garvin Avenue to a point 62 feet east of Garvin 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 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 were; yeas –28, absent - 0, as follows:

YEAS: Burka, Burton, Clowser, Davis, Deneault, Dodrill, Ealy, Haas, Harrison, Kirk, Lane, Miller, Minardi, Nichols, Persinger, Reishman, Richardson, Russell, Salisbury, Sheets, Smith, Snodgrass, Stajduhar, Talkington, Ware, Weintraub, White, Mayor Jones.

ABSENT:

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7523, passed.

FINANCE

Councillperson Robert Reishman, Chairperson of the Council Committee on Finance, submitted the following reports.

1. Your Committee on Finance has had under consideration Resolution No 116-12, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 116-12: “Authorizing the Mayor to sign and submit to the U. S. Department of Housing and Urban Development the Emergency Solutions Grant Program (ESG) 2011 second allocation Substantial Amendment contract and all required agreements including Sub-recipient project contracts relating to the ESG 2011 second allocation Substantial Amendment.”

The city of Charleston recommends the following activities for the ESG substantial amendment:

Covenant House:	
Housing Relocation and Stabilization Services	\$12,722
Tenant Based Rental Assistance	\$29,685
Administration (MOECD & Covenant House)	<u>3,430</u>
Total	\$45,837*

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

That the Mayor is hereby authorized and directed to sign and submit to the U. S. Department of Housing and Urban Development the Emergency Solutions Grant Program (ESG) 2011 second allocation Substantial Amendment contract and all required agreements including Sub-recipient project contracts relating to the ESG 2011 second allocation Substantial Amendment.”

*Includes \$70 from first PY 2011 ESG allocation to meet requirements established by HUD.

The proposed allocations are in line with the change in the program's focus (24 CFR Parts 91 and 576) from addressing the needs of homeless people in emergency or transitional shelters to assisting people to quickly regain stability in permanent housing after experiencing a housing crisis or homelessness. The key changes that reflect this new emphasis are the expansion of the homelessness prevention component of the program and the addition of a new rapid re-housing assistance component.

The question being on the adoption of the resolution. A roll call was taken and there were; yeas -28, absent - 0, as follows:

YEAS: Burka, Burton, Clowser, Davis, Deneault, Dodrill, Ealy, Haas, Harrison, Kirk, Lane, Miller, Minardi, Nichols, Persinger, Reishman, Richardson, Russell, Salisbury, Sheets, Smith, Snodgrass, Stajduhar, Talkington, Ware, Weintraub, White, Mayor Jones.

ABSENT:

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 116-12.

2. Your Committee on Finance has had under consideration Resolution No 117-12, and reports the same to Council with the recommendation that the resolution be adopted.

THE SANITARY BOARD OF THE CITY OF CHARLESTON, WEST VIRGINIA

Resolution requesting the City Council of the City of Charleston, West Virginia to authorize the City of Charleston to file civil actions in the Circuit Court of Kanawha County for the condemnation of property for sanitary sewer easements necessary for the Sanitary Board of the City of Charleston, West Virginia to construct, install and complete its Kanawha Two Mile Sewer Rehabilitation and Replacement Project.

WHEREAS, the Sanitary Board of the City of Charleston, West Virginia (the "Sanitary Board") is pursuing a sewer rehabilitation and replacement project in the Kanawha Two Mile area of the City of Charleston (the "Project") which is necessary to correct older, failing sewer collection lines and is necessary for the health and welfare of the citizens of the City of Charleston;

WHEREAS, the Project includes the rehabilitation and/or replacement of approximately 106,000 feet of sewer lines, and numerous permanent easements and temporary construction easements are necessary to undertake and complete the Project;

WHEREAS, the Sanitary Board and its rights-of-way agents have diligently sought easement agreements for such necessary easements from the affected property owners and have received and recorded many signed easement agreements;

WHEREAS, due to numerous factors including, but not limited to, out-of-state property owners, properties held in heirships with numerous heirs, some whose location is unknown, and uncooperative or uncommunicative property owners, the Sanitary Board has been unable to obtain by negotiation and agreement all of the necessary sewer easements;

WHEREAS, the Sanitary Board has no choice but to request the City of Charleston to authorize

the filing of civil actions for the acquisition, pursuant to the City of Charleston's power of eminent domain, of certain property interests in order to obtain the necessary sewer easements for the Project;

WHEREAS, the City of Charleston has adopted two previous resolutions, on September 6, 2011 and November 7, 2011 authorizing the Sanitary Board to file civil actions for the acquisition, pursuant to the City of Charleston's power of eminent domain, of certain property interests in order to obtain necessary sewer easements for the Project; now, therefore,

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

Section 1. To accomplish construction of the sewer rehabilitation and replacement project in the Kanawha Two Mile area of the City of Charleston necessary for the health and welfare of the citizens of the City of Charleston, the Sanitary Board of the City of Charleston, West Virginia ("Sanitary Board") must obtain easements across and through certain properties as set forth on Exhibit A to this Resolution.

Section 2. The Sanitary Board requests the City Council of the City of Charleston to authorize the City of Charleston, on behalf of and by and through the Sanitary Board and its counsel to file civil actions for the acquisition for the Sanitary Board, pursuant to the power of eminent domain, of the property interests set forth on Exhibit A and to take such other and further action as may be reasonably necessary to acquire the property rights for easements necessary to construct, install, operate, maintain, repair, replace, rehabilitate, line and remove sewer lines and appurtenances thereto.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Resolution No. 117-12, adopted.

3. Your Committee on Finance has had under consideration Resolution No 118-12, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 118-12 : "Authorizing the Mayor or his designee to sign Addendum One to the Sublease with Power Alley Grill, LLC, providing for a renewal of the Sublease for an additional three year period, effective from the initial expiration date of December 31, 2010, and in accordance with the terms and conditions set forth in Addendum One to the Sublease attached hereto."

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

That the Mayor or his designee is hereby authorized and directed to sign Addendum One to the Sublease with Power Alley Grill, LLC, providing for a renewal of the Sublease for an additional three year period, effective from the initial expiration date of December 31, 2010, at the same terms and conditions contained in the Sublease, except for the following modification:

Section7(c) is modified to read:

"City shall make all necessary replacements, repairs and perform all necessary maintenance and custodial services for the common areas, including the hallways located on the same floor of the building in which the Premises are situated, but shall not be responsible for maintenance, repair, replacements or custodial services for the restrooms

located on that floor and used by Tenant, its patrons and invitees. Tenant shall make all necessary replacements, repairs and perform all necessary maintenance and custodial service for the restrooms located on the same floor of the building in which the Premises are situated and used by Tenant, its patrons and invitees.”

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Resolution No. 118-12, adopted.

4. Your Committee on Finance has had under consideration Resolution No 119-12, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 119-12: “Authorizing the Mayor or his designee to submit an application to the Bureau of Justice Assistance under the 2012 Justice Assistance Grant program in the amount of \$162,760 to be used for equipment, travel/training and overtime for zero tolerance crime patrols. The Charleston Police Department will receive \$109,162 and the Kanawha County Sheriff’s Department will receive \$53,598.”

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

That the Mayor or his designee is hereby authorized to submit an application to the Bureau of Justice Assistance under the 2012 Justice Assistance Grant program in the amount of \$162,760 to be used for equipment, travel/training and overtime for zero tolerance crime patrols. The Charleston Police Department will receive \$109,162 and the Kanawha County Sheriff’s Department will receive \$53,598.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Resolution No. 119-12, adopted.

5. Your Committee on Finance has had under consideration Resolution No 120-12, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 120-12: “Authorizing the Mayor or his designee to submit a grant application to the West Virginia Division of Justice and Community Services for a Justice Assistance Grant in the amount of \$87,000 for salary, benefits and training for Prevention Resource Officers (PRO) at Stonewall Jackson Middle School, Capital High School, and George Washington High School.”

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

That the Mayor or his designee is hereby authorized and directed to submit a grant application to the West Virginia Division of Justice and Community Services for a Justice Assistance Grant in the amount of \$87,000 for salary, benefits and training for Prevention Resource Officers (PRO) at Stonewall Jackson Middle School, Capital High School, and George Washington High School.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Resolution No. 120-12, adopted.

6. Your Committee on Finance has had under consideration Resolution No 121-12, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 121-12 : “Authorizing the Mayor or his designee to submit a grant application to the West Virginia Division of Justice and Community Services for a Justice Assistance Grant to provide for salary, benefits, officer overtime, and travel/training to implement “*Second Chance*”, a Drug Market Intervention (DMI) program dedicated to permanently eliminating drug markets located within the city limits of Charleston.”

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

That the Mayor or his designee is hereby authorized and directed to submit a grant application to the West Virginia Division of Justice and Community Services for a Justice Assistance Grant to provide for salary, benefits, officer overtime, and travel/training to implement “*Second Chance*”, a Drug Market Intervention (DMI) program dedicated to permanently eliminating drug markets located within the city limits of Charleston.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Resolution No. 121-12, adopted.

7. Your Committee on Finance has had under consideration Resolution No 122-12, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 122-12 : “Authorizing the Finance Director to amend the 2011-2012 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 amend the 2011-2012 General Fund budget as indicated on the attached list of accounts.

The question being on the adoption of the resolution. A roll call was taken and there were; yeas –28, absent - 0, as follows:

YEAS: Burka, Burton, Clowser, Davis, Deneault, Dodrill, Ealy, Haas, Harrison, Kirk, Lane, Miller, Minardi, Nichols, Persinger, Reishman, Richardson, Russell, Salisbury, Sheets, Smith, Snodgrass, Stajduhar, Talkington, Ware, Weintraub, White, Mayor Jones.

ABSENT:

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 122-12.

8. Your Committee on Finance has had under consideration a bid submitted by West Virginia Tractor Company, in the total amount of \$126,225, for a Paint Striping Machine (base bid \$121,900), with option items to include cone platform with air ride seat (\$4,125); back-up alarm (\$112); and fire extinguisher and triangle kit (\$88), to be used by the Street Department. To be charged to Account No. 001-977-00-750-4-459, Street—Capital Outlay, Equipment (Mears Motor Leasing, Lease Purchase Escrow Account No. 131029538, Schedule A2) , and reports the same to Council with the recommendation that the Committee Report be adopted.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor

declared the committee report adopted.

9. Your Committee on Finance has had under consideration Bill No. 7516, Committee Substitute, and reports the same to Council with the recommendation that the resolution be adopted.

Bill No. 7516 : A BILL to create Article VII of Chapter 102 of the Municipal Code of the City of Charleston entitled "Outdoor Dining," creating and regulating outdoor dining on public sidewalks.

WHEREAS, it is the intent of the City of Charleston to facilitate outdoor dining in the Central Business District in order to create an active streetscape, enhance the economic and social vitality of the downtown area, and promote pedestrian and retail friendly activity; and

WHEREAS, it is the intent of the City of Charleston to allow for the use of the public right-of-way for such outdoor dining; and to expedite the approval of such facilities while ensuring that the public use of the sidewalks will not be significantly impaired by such dining, and that neighboring commercial and residential uses will be protected from any adverse impacts from such dining.

Now, therefore, be it Ordained by the Council of the City of Charleston, West Virginia:

That Article VII of Chapter 102 of the Municipal Code of the City of Charleston is hereby created to read as follows:

ARTICLE VII– Outdoor Dining

Sec. 102-271- Planning Department rules and regulations under article

The City of Charleston Planning Department is hereby authorized to promulgate reasonable rules and regulations regarding the administration of the requirements of this article, to review all Outdoor Dining Area permit applications and to either grant or deny such permits under this article. Copies of such regulations, as amended from time to time, shall be maintained by the Planning Department, posted on the City's website and filed in the City Clerk's office, and shall be available to interested parties at all reasonable times.

Sec. 102-272 - Compliance with federal, state and local laws and regulations

(a) The operation of an Outdoor Dining Area pursuant to a permit granted under this article shall comply with the Americans with Disabilities Act, all provisions of state and local building and fire codes, as well as all state and local health laws and regulations regarding the service and preparation of food. The operations of an Outdoor Dining Area shall also be conducted in accordance with the code provisions and regulations of the West Virginia Alcoholic Beverage Control Administration (WVABCA). Nothing in this article shall be intended to alter or abridge any applicable federal, state and local laws or the Operator's responsibility to comply with all code provisions and regulations of the WVABCA.

(b) Nothing in this article shall be intended to alter or abridge the prohibition of service of alcoholic beverages or possession thereof on public property in the City, as set forth in Section 78-211(b) of the Municipal Code of the City of Charleston, except that any permitted Outdoor

Dining Area Operator and patrons of permitted Operator's Outdoor Dining Area shall be deemed to be exempt from said prohibition during the hours of operation of the Outdoor Dining Area and only within the confines of said area.

Sec. 102-273- Nondiscrimination/Right to limit or deny admission or service

No person shall be denied access or service to an Outdoor Dining Area on the basis of race, religion, national origin, sex, sexual orientation, age or disability; notwithstanding the right of the Operator to limit access and admission to an Outdoor Dining Area to only bona fide paying customers of that Operator's establishment who are behaving in a lawful manner.

Sec. 102-274 - Definitions

(a) *Operator* shall mean a person, organization, proprietorship, corporation or other similar entity lawfully operating a business located in the Central Business District (CBD), as shown on the City of Charleston's Official Zoning Map, that possesses a valid State of West Virginia food vendor's permit and serves at a minimum both lunch and dinner, and has been issued an Outdoor Dining Area permit by the City's Planning Department.

(b) *Outdoor Dining Area* shall mean a confined area of the public sidewalk designated by a site plan approved by the City through its Planning Department and located in the Central Business District (CBD), as shown on the City of Charleston's Official Zoning Map, where, if abutting a street, the street abutting the sidewalk is posted at a speed limit of 25 mph or less, and which area is adjacent to Operator's building/permanent structure, where patrons may sit at tables while consuming food and beverages, which may include nonintoxicating beer contingent on proper licensure by the WVABCA.

Sec. 102-275 - Permit Process

(a) An applicant for an Outdoor Dining Area permit shall file an application with the City of Charleston Planning Department on such forms and subject to such procedures as the Planning Department may establish. An application for an Outdoor Dining Area permit shall be accompanied by a \$50 administrative fee and shall include: a site plan, drawn to scale showing the layout for the Outdoor Dining Area which accurately depicts the existing sidewalk conditions, including sidewalk width from building face to curb; location and dimensions of tree wells; locations of lamp posts, traffic and parking signs, signal poles, trash receptacles, benches, and other sidewalk features or obstructions; as well as design, location, size and space of the dining area, chairs, tables, enclosures, aisles between tables; routes of ingress and egress; clearances between the seating area and the curb; and any such additional requirements of the Planning Department with respect to type, style, or specifications of the Outdoor Dining Area, including those requirements subject to the approval of the WVABCA.

(b) After reviewing the application and site plan, the Planning Department shall determine if the proposed Outdoor Dining Area, consistent with the requirements of this article, is reasonable, promotes pedestrian and retail friendly vitality, and that there is adequate space remaining within the public right-of-way to facilitate safe circulation of pedestrian traffic, while promoting the overall public health, safety and welfare. Thereafter, the Planning Department may approve, approve with conditions, or deny an application. The approved plan and permit shall be posted at the Operator's premises, visible to customers and the public. No material change to the approved plan shall be made without prior written approval by the Planning Department.

(c) The Outdoor Dining Area permit term shall be for one calendar year, unless revoked prior to expiration, and may be renewed on an annual basis. An annual renewal permit fee of \$25 shall be assessed for an existing Outdoor Dining Area permit.

(d) Any Operator holding a valid existing permit for a particular Outdoor Dining Area that continues to utilize that Outdoor Dining Area, shall be deemed to have re-applied for permission to use the same space for a succeeding permit term. Such Operator shall pay the annual renewal permit fee, complete all renewal paperwork and comply with any other renewal requirements of the Planning Department, within thirty (30) days of the commencement of the succeeding permit term. If the Operator fails to meet all renewal requirements within the thirty (30) days, then the Operator's permit shall be deemed to have expired.

(e) The issuance of an Outdoor Dining Area permit does not grant or imply vested rights to use of the area by the Operator, but instead is a privilege granted to the Operator. The City retains the right to deny the issuance of a permit or the renewal of a permit for any lawful reason. The City shall have broad discretion to grant or revoke permits issued pursuant to this article in the interests of promoting pedestrian and retail friendly vitality, and improving the overall public health, safety and welfare.

Sec. 102-276 - Standards for outdoor dining areas

(a) The Outdoor Dining Area shall be located adjacent to the property of an existing and lawful establishment of a permitted Operator and shall be under the responsible direction and control of that Operator.

(b) The Outdoor Dining Area may be open to patrons between the hours of 7:00 a.m. and 11:00 p.m. daily, but said Outdoor Dining Area may only be open while the kitchen associated with such establishment is open and operating such that it is capable of serving food to patrons. In the event a permitted Operator intends to serve non-intoxicating beer in an Outdoor Dining Area, all code provisions and regulations of the WVABCA regarding permitted days and hours of service shall be followed.

(c) All furniture and associated enclosures located on the public sidewalk/right-of-way must be readily removable without damage to the surface of public sidewalk/right-of-way. Penetrations into or permanent fixtures placed upon the public sidewalk/right-of-way are strictly prohibited.

(d) The Planning Department shall have the authority to determine when furniture and associated enclosures must be removed from the public sidewalk/right-of-way.

(e) At least three feet, or 36 inches, of unobstructed corridor space must be maintained between the outer dimension of the Outside Dining Area and the curb or nearest obstruction, in order to ensure a clear pedestrian passageway along the sidewalk. In order to achieve a continuous pedestrian walk way, the pedestrian passageway shall be a straight line, parallel to the building face or curb line, for the entire length of the Outdoor Dining Area.

(f) An unobstructed clearance of three feet, or 36 inches, must be maintained between a fire hydrant and any furniture or enclosures of an Outdoor Dining Area.

(g) The Outdoor Dining Area must be kept sanitary, neat and clean at all times and shall be free from the accumulation of food and litter.

(h) In order to control litter, the use of disposable plates and utensils is prohibited.

(i) In accordance with Sec. 78-212 of the Municipal Code of the City of Charleston, noise from an Outdoor Dining Area which unreasonably disturbs neighboring commercial or residential occupants is prohibited.

(j) In order to serve non-intoxicating beer in an Outdoor Dining Area, the designated area must be included in the floor plan for the licensed premises as approved by the WVABCA. Non-intoxicating beer shall be served and consumed only on the enclosed or bounded portion of the public sidewalk designated and permitted by the City as an Outdoor Dining Area. Patrons are not permitted to carry non-intoxicating beer out of the Outdoor Dining Area.

Sec. 102-277 - Additional Requirements

(a) Prior to the issuance of a permit, the applicant must agree, in writing, that it shall indemnify, defend, and save harmless the City, its officers, agents, and employees, from and against all liability, claims, suits, damages, losses, costs, attorneys' fees and expenses of any or all types arising out of, or related in any way to, the permitted Outdoor Dining Area.

(b) The applicant shall maintain such general liability insurance with at least \$1,000,000 coverage per each occurrence and shall the name as additional insured the City of Charleston, its agents, officers, directors and employees. A copy of said insurance policy shall be furnished to the City of Charleston.

(c) The authorization and privilege granted by a permit approved under this section shall be terminated due to the Operator's failure to comply with any federal, state or local laws, any unabated nuisances or whenever the City desires to use the affected public right-of-way for any public purpose. In the event the City shall have a public need for use of the right-of-way or the property affected by the right-of-way, the City may terminate the use of such right-of-way by written notification to the applicant for the removal of any encroachments, and the Operator shall cease use of the right-of-way unless and until such time the City has no public need for use of the right-of-way. Said removal shall be completed by the date specified in the notice and shall be accomplished by the applicant without cost to the City. If the applicant fails or neglects to remove the encroachment within the time specified, the City shall have the right to remove the encroachment, at the expense of the Operator, and shall not be liable to the Operator for any loss, financial or otherwise, or damage to the encroachment or personal property within the encroachment area.

Sec. 102-278 – Denial or Revocation of Permit

(a) An Outdoor Dining Area permit is a privilege granted to the Operator that may be revoked by the City upon finding by the Planning Department that the Operator has violated any federal, state or City law applicable to the Outdoor Dining Area or the operation thereof, including but not limited to, compliance with all code provisions and regulations of the WVABCA, that the continued operation of the Outdoor Dining Area poses a threat to the health, safety or welfare of the public, or that the Outdoor Dining Area constitutes a public nuisance.

(b) An applicant who has been denied a permit, or an Operator whose permit has been revoked, may appeal the denial or revocation to the City of Charleston Board of Zoning Appeals (BZA). The provisions of Article 31 of the City of Charleston Zoning Ordinance shall apply. Such appeal may be made in writing within thirty (30) days following the decision appealed from, on forms available at the Planning Department, and shall set forth the basis on which the person contests the decision. Within ten (10) days of receipt of the appeal by the BZA, the BZA shall set a date and time for a public hearing. The public hearing shall be held within forty-five (45) days of receipt of the appeal to the BZA. The BZA shall conduct a public hearing on the appeal and may: deny the appeal and uphold the original order, requirement, decision or determination; grant the appeal and overturn the original order, requirement, decision or determination; or, issue an order which denies part of the appeal and grants part of the appeal. The BZA shall make written findings of fact and conclusions of law on which the BZA based its decision. The decision of the BZA may be appealed by either party, within thirty (30) days, to the Kanawha County Circuit Court, as set forth in WV Code §8A-9-1, et seq.

Sec. 102-279 – Penalty

Any Operator who violates any provision of this article shall, upon conviction, be fined up to \$500 per day. Each day any violation of this article shall continue shall constitute a separate offense.

The question being on the passage of the Bill. A roll call was taken and there were; yeas –28, absent - 0, as follows:

YEAS: Burka, Burton, Clowser, Davis, Deneault, Dodrill, Ealy, Haas, Harrison, Kirk, Lane, Miller, Minardi, Nichols, Persinger, Reishman, Richardson, Russell, Salisbury, Sheets, Smith, Snodgrass, Stajduhar, Talkington, Ware, Weintraub, White, Mayor Jones.

ABSENT:

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7516 Committee Substitute, passed.

REPORTS OF OFFICERS

1. Report of the City of Charleston, Municipal Court Financial Statements; March 2012.
Received and Filed.

2. City Treasurer's Report to City Council Month Ending March 2012.
Received and Filed.

3. Report of the City of Charleston Financial Statements for the Nine-Month period ended March 31, 2012.
Received and Filed.

NEW BILLS

Introduced by Council member Marc Weintraub on April 16, 2012:

Bill No. 7524 A Bill to establish parking restrictions facilitating street cleaning operations on Washington Street East and to amend the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, as amended, Chapter 114 - Traffic Ordinance, Article IV, Division 2, to conform herewith.

Refer to Streets and Traffic Committee

ROLL CALL

The Clerk called the roll:

YEAS: Burka, Burton, Clowser, Davis, Deneault, Dodrill, Ealy, Haas, Harrison, Kirk, Lane, Miller, Minardi, Nichols, Persinger, Reishman, Richardson, Russell, Salisbury, Sheets, Smith, Snodgrass, Stajduhar, Talkington, Ware, Weintraub, White, Mayor Jones.

ABSENT:

At 7:35 p.m., by a motion from Councilmember Harrison, Council adjourned until Monday, May 7, 2012, at 7:00 p.m.

Danny Jones, Honorable Mayor

James M. Reishman, City Clerk