

***JOURNAL***  
**OF THE**  
***COUNCIL***  
**CITY OF CHARLESTON**

**WEST VIRGINIA**

**AUGUST 18, 2003**

**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 18TH DAY, IN THE YEAR 2003, AND WAS CALLED TO ORDER BY THE HONORABLE MAYOR, DANNY JONES, AT 7:00 P.M. THE INVOCATION WAS DELIVERED BY JACK HARRISON, AND THE PLEDGE OF ALLEGIANCE WAS LEAD BY ROBERT REISHMAN.**

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

<b>CHESTNUT</b>	<b>CLOWSER</b>	<b>DEITZLER</b>
<b>DAVIS</b>		
<b>HANNA</b>	<b>HARRIS</b>	<b>HARRISON</b>
<b>HIGGINS</b>	<b>JONES</b>	<b>LANE</b>
<b>LANHAM</b>	<b>LOEB</b>	<b>MORTON</b>
<b>MILLER</b>	<b>MONROE</b>	<b>MARKHAM</b>
<b>NIELSEN</b>	<b>REED</b>	<b>REISHMAN</b>
<b>ROBERTSON</b>		<b>TALKINGTON</b>
<b>WARE</b>	<b>WEINTRAUB</b>	
<b>MAYOR JONES</b>		

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

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

**AUGUST 18, 2003, SECOND MEETING**

## CHARLESTON CITY COUNCIL JOURNAL AUGUST 18, 2003

### PUBLIC SPEAKERS

1. James Straughter, 106 1/2 Michigan Ave.
2. Ari Summer, 16 Shannon Place.
3. Phil Keffer, 912 Alynwood Circle.
4. Vic Grigoraci, City Treasurer

### CLAIMS

1. A claim of Becky and David Griffith, 1011 Cleveland Ave., Charleston WV; alleges damage to property;
2. A claim of Richard Wallace, 820 Middle Rd., Charleston, WV; alleges damage to property;
3. A claim of Michael and Jackie Anderson, 815 Hamilton Circle., Charleston, WV; alleges damage to property;
4. A claim of Betty Stamper, 1719 Chandler Dr., Charleston, WV; alleges damage to property;
5. A claim of Paul and Doris Feazell, 133 Garrison Ave., Charleston, WV; alleges damage to property;
6. A claim of Charles Vincent Jr., 903 Churchill Circle., Charleston, WV; alleges damage to vehicle;

### COMMUNICATIONS

*TWO PROCLAMATIONS*

### MISCELLANEOUS RESOLUTIONS

NONE.

### *STREETS AND TRAFFIC*

Councilman David Higgins, Chairman of the Council Committee on Streets and Traffic, submitted the following reports.

1. You Committee on Streets and Traffic has had under consideration Bill No. 6983, and reports the same to Council with the recommendation that the Bill do pass.

Bill No., 6983, a Bill to amend and reenact article seventeen, chapter thirty-one of the code of the City of Charleston, one thousand nine-hundred twenty-nine, as amended, relating to all-terrain vehicles.

**WHEREAS**, pursuant to Chapter 8, Article 12, Section 5, Paragraph (1) of the West Virginia Code, as amended, municipal corporations have plenary power and authority to keep and maintain public streets, avenues,

roads, alleys, and sidewalks free from obstructions; and

**WHEREAS**, pursuant to Chapter 8, Article 12, Section 5, Paragraph (4) of the West Virginia Code, as amended, municipal corporations have plenary powers and authority to regulate the use of streets, avenues, roads, alleys, sidewalks, crosswalks, and public places belonging to the municipality; and

**WHEREAS**, pursuant to Chapter 8, Article 12, Section 5, Paragraph (13) of the West Virginia Code, as amended, municipal corporations have plenary powers and authority to prevent injury or annoyance to the public or individuals from anything dangerous, offensive, or unwholesome; and

**WHEREAS**, pursuant to Chapter 8, Article 12, Section 5, Paragraph (57) of the West Virginia Code, as amended, municipal corporations have plenary powers and authority to provide penalties for the offenses and violations of law set forth in Chapter 8, Article 12, Section 5 of the West Virginia Code, as amended; and

**WHEREAS**, the Council of the City of Charleston has determined that, in order to best protect the safety, health, and general well-being of all individuals operating all-terrain vehicles, individuals operating unlicensed motor vehicles, individuals operating other permitted and licensed vehicles, and pedestrians, that the operation and use of all-terrain vehicles or any type of motor vehicle not licensed by the West Virginia Department of Motor Vehicles for street use for transportation or recreational purposes, upon the streets, alleys, sidewalks, parking lots, and any realty owned, leased or controlled by the City of Charleston, or any of its boards, authorities, or commission's within the corporate limits of the City of Charleston is prohibited, and further that such activity should be criminalized with the imposition of progressive fines against individuals operating, or allowing the operation of all-terrain vehicles or unlicensed motor vehicles in prohibited areas.

**Now, Therefore, Be it Ordained by the Council of the City of Charleston, West Virginia:** That article seventeen, chapter thirty-one of the code of the City of Charleston, one thousand nine hundred twenty-nine, as amended, relating to all-terrain vehicles be amended and reenacted to read as follows:

#### **ARTICLE XVII ALL-TERRAIN VEHICLES.**

##### **Sec. 31-252. Definitions.**

Except as otherwise provided in this chapter the following words and phrases shall have the meanings set forth below:

- (a) "All-terrain vehicle" (ATV) means any motor vehicle designed for off-highway use, having a seat or saddle designed to be straddled by the operator, and handlebars for steering control, or as otherwise defined in Section 17A-1-1 of the West Virginia Code, or any successor substitute thereto.
- (b) "Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.
- (c) "Minor" means any person under the age of 18.

##### **Sec. 31-253. Prohibition of operation and use of all-terrain vehicles.**

The riding, operation, or other use of all-terrain vehicles for transportation or recreational purposes within or upon the streets, alleys, sidewalks, parking lots, and other realty-owned, leased, or controlled property by the City of Charleston or any of its boards, authorities, or commissions is prohibited.

##### **Sec. 31-254. Exceptions.**

- (a) Notwithstanding any other provision of this code, it shall not be an offense for any person to lawfully ride or operate any such all-terrain vehicle upon any governmentally-owned realty not owned or controlled by the City of Charleston or any of its boards, authorities, or commissions located within the corporate limits of the City of Charleston.
- (b) Notwithstanding an other provision of this code, it shall not be an offense for any person licensed to operate a motor vehicle within the State of West Virginia, to ride, operate, or otherwise use an all-terrain vehicle upon a designated parade route, when such person is a duly registered and recognized participant in any such permitted parade, provided that such all-terrain vehicle riding or operation occurs in conjunction with said parade.
- (c) Notwithstanding any other provision of this code, it shall not be an offense for any person licensed to operate a motor vehicle within the State of West Virginia, to ride, operate, or otherwise use an all-terrain vehicle on

the streets, alleys, sidewalks, parking lots, and other realty-owned, leased, or controlled property by the City of Charleston or any of its boards, authorities, or commissions for purposes of snow removal, if such vehicle is affixed or attached with implements or equipment specifically designed for that purpose, and to be used on such vehicles.

(d) Notwithstanding any other provision of this code, it shall not be an offense for any person licensed to operate a motor vehicle within the State of West Virginia, to ride, operate, or otherwise use an all-terrain vehicle on the streets, alleys, sidewalks, parking lots, and other realty-owned, leased, or controlled property by the City of Charleston or any of its boards, authorities, or commissions during a period of emergency when the emergency has been so declared by the mayor, and when such riding, operating or other use of any such ATV is in conjunction with response to such an emergency.

**Sec. 31-255. Exemptions.**

The Federal Government, the State of West Virginia, and its political subdivisions are exempt from the prohibitions contained herein, when any such all-terrain vehicle is used for government purposes.

**Sec. 31-256. Authorizing or permitting a minor to violate any provision of this article.**

No person shall authorize or knowingly permit a minor to violate any provision within this section. Any such violation or knowingly permitting any such minor to violate the provisions of this section shall constitute a criminal violation hereof and shall subject such person to the criminal penalties set forth in this section. The citing of any person pursuant to this paragraph shall not be reason to prohibit the police officer from also citing the driver of said all-terrain vehicle.

**Sec. 31-257. Penalties.**

(a) Any person who violates section 31-253 of this article shall constitute the commission of a misdemeanor criminal offense, and any officer of the Police Department of the City of Charleston or any other officer of any other police agency exercising proper jurisdiction within the corporate limits of Charleston is hereby authorized and empowered to issue a citation and to charge any such person who commits a violation of section 31-253. Any person convicted of a first offense established hereunder shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00). Any person convicted of a second or subsequent offense established hereunder shall be fined not less than two hundred fifty dollars (\$250.00).

(b) Any person who violates section 31-256 of this article shall constitute the commission of a misdemeanor criminal offense, and any officer of the Police Department of the City of Charleston or any other officer of any other police agency exercising proper jurisdiction within the corporate limits of Charleston is hereby authorized and empowered to issue a citation and to charge any such person who commits a violation of section 31-256. Any person convicted of a first offense established hereunder shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00). Any person convicted of a second or subsequent offense established hereunder shall be fined not less than two hundred fifty dollars (\$250.00).

**Sec. 31-258. Liability.**

Nothing contained within this article is intended, nor shall be construed, so as to create or form the basis for any civil or administrative liability whatsoever on the part of the City of Charleston or any of its officers, officials, employees, or agents for any injury or damage resulting to any person as a consequence of any action or inaction on the part of the City of Charleston related, in any manner, to the enforcement or non-enforcement of this article by the City's officers, officials, employees, or agents.

**Sec. 31-259. Severability.**

The provisions of this article are severable and, in the event that any provision or part hereof shall be held invalid for any reason by any court exercising competent jurisdiction, then such invalidity shall not be deemed to affect or impair any of the other provisions of this section not specifically held to be invalid. It is hereby declared to be the intent of the City of Charleston that this article would have been adopted if any such invalid provision or part hereof had not been included herein.

NOTE: This bill makes technical corrections of the ordinance as passed pursuant to Committee Substitute 6982, passed by Council on June 2, 2003.

**Received and Filed.**

2. You Committee on Streets and Traffic has had under consideration Bill No. 6984, and reports the same to Council with the recommendation that the Bill do pass.

Bill No. 6984. a Bill to amend and reenact chapter thirty-one of the code of the City of Charleston, one thousand nine-hundred twenty-nine, as amended, by adding thereto a new article, designated article eighteen, relating to motorized scooters.

Now, Therefore, Be it Ordained by the Council of the City of Charleston, West Virginia: That chapter thirty-one of the code of the City of Charleston, one thousand nine hundred twenty-nine, as amended, be amended by adding thereto a new article, designated article eighteen to read as follows:

#### ARTICLE XVIII MOTORIZED SCOOTER.

##### Sec. 31-260. Definitions.

Except as otherwise provided in this chapter the following words and phrases shall have the meanings set forth below:

(a) "Minor" means any person under the age of 18.

(b) "Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(c) "Motorized scooter" means any non-balancing, tandem two-wheeled device, or three or four wheeled, self balancing device, that has handle bars, is designed to be stood upon or ridden by the operator, and is powered by a motor having a maximum piston displacement of less than 50 cubic centimeters or an electric drive motor, that is capable of a maximum speed of not more than 25, miles per hour on a flat surface. "Motorized Scooter" does not include a "motorcycle" as defined by West Virginia Code Chapter 17C, Article 1, Section 4, (17C-1-4), a "moped" as defined by W.Va Code 17C-1-5a, a "motor-driven cycle" as defined by W.Va. Code, 17C-1-5, an "electric personal assistive mobility device or "EPAMD" as defined by W.Va. Code, 17C-1-66, or a wheelchair as defined within.

(d) "Wheelchair", a motorized or non motorized wheeled device having a seat or saddle, and designed for, and used by, a person with disabilities.

##### Sec. 31-261. Prohibition of operation and use of motorized scooters.

The riding, operation, or other use of motorized scooters for transportation or recreational purposes within or upon the streets, alleys, sidewalks, parking lots, and other realty-owned, leased, or controlled property by the City of Charleston or any of its boards, authorities, or commissions is prohibited.

##### Sec. 31-262. Exceptions.

Notwithstanding any other provision of this code, it shall not be an offense for any person licensed to operate a motor vehicle within the State of West Virginia, to ride, operate, or otherwise use a motorized scooter upon a designated parade route, when such person is a duly registered and recognized participant in any such permitted parade, provided that such motorized scooter riding or operation occurs in conjunction with said parade.

##### Sec. 31-263. Exemptions.

The federal government, the State of West Virginia, and its political subdivisions are exempt from the prohibitions contained herein, when any such motorized scooter is used for government purposes.

##### Sec. 31-264. Authorizing or permitting a minor to violate any provision of this article.

No person shall authorize or knowingly permit a minor to violate any provision within this section. Any such violation or knowingly permitting any such minor to violate the provisions of this section shall constitute a criminal violation hereof and shall subject such person to the criminal penalties set forth in this section. The citing of any person pursuant to this paragraph shall not be reason to prohibit the police officer from also citing the driver of said motorized scooter.

##### Sec. 31-265. Penalties.

(a) Any person who violates section 31-261 of this article shall constitute the commission of a misdemeanor criminal offense, and any officer of the Police Department of the City of Charleston or any other

officer of any other police agency exercising proper jurisdiction within the corporate limits of Charleston is hereby authorized and empowered to issue a citation and to charge any such person who commits a violation of section 31-261. Any person convicted of a first offense established hereunder shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00). Any person convicted of a second or subsequent offense established hereunder shall be fined not less than two hundred fifty dollars (\$250.00).

(b) Any person who violates section 31-264 of this article shall constitute the commission of a misdemeanor criminal offense, and any officer of the Police Department of the City of Charleston or any other officer of any other police agency exercising proper jurisdiction within the corporate limits of Charleston is hereby authorized and empowered to issue a citation and to charge any such person who commits a violation of section 31-264. Any person convicted of a first offense established hereunder shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00). Any person convicted of a second or subsequent offense established hereunder shall be fined not less than two hundred fifty dollars (\$250.00).

Sec. 31-266. Liability.

Nothing contained within this article is intended, nor shall be construed, so as to create or form the basis for any civil or administrative liability whatsoever on the part of the City of Charleston or any of its officers, officials, employees, or agents for any injury or damage resulting to any person as a consequence of any action or inaction on the part of the City of Charleston related, in any manner, to the enforcement or non-enforcement of this article by the City's officers, officials, employees, or agents.

Sec. 31-267. Severability.

The provisions of this article are severable and, in the event that any provision or part hereof shall be held invalid for any reason by any court exercising competent jurisdiction, then such invalidity shall not be deemed to affect or impair any of the other provisions of this section not specifically held to be invalid. It is hereby declared to be the intent of the City of Charleston that this article would have been adopted if any such invalid provision or part hereof had not been included herein.

NOTE: This bill provides for a new article, thus all underscoring and strike-throughs have been omitted.

**Received and Filed.**

3. You Committee on Streets and Traffic has had under consideration Bill No. 6987, and reports the same to Council with the recommendation that the Bill do pass.

Bill No. 6987 - A Bill to establish a 20 Mile Per Hour speed limit on Morningside Drive and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.

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

Section 1. A 20 Mile Per Hour speed limit on Morningside Drive is hereby established.

Section 2. The Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, shall be and hereby are amended, to conform to this Ordinance.

The question being on the passage of the Bill a roll call was taken and there yeas-24, nays-0, absent-4, as follows:  
YEAS: Clowser, Chestnut, Deitzler, Davis, Hanna, Harris, Harrison, Higgins, Jones, Lane, Lanham, Loeb, Markham, Miller, Monroe, Morton, Nielsen, Reed, Reishman., Robertson, Talkington, Ware, Weintraub, Mayor Jones.

NAYS:

ABSENT: Foster, Hall, Sadd, White,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Bill No. 6987, passed

4. You Committee on Streets and Traffic has had under consideration Bill No. 6989, and reports the same to Council with the recommendation that the Bill do pass.

Bill No. 6989 - A Bill to establish a Yield Sign on Wychwood Road at the intersection of Wilkie Drive and Wychwood Road and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.

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

Section 1. A Yield Sign on Wychwood Road at the intersection of Wilkie Drive and Wychwood Road is hereby established.

Section 2. The Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, 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 yeas-24, nays-0, absent-4, as follows: YEAS: Clowser, Chestnut, Deitzler, Davis, Hanna, Harris, Harrison, Higgins, Jones, Lane, Lanham, Loeb, Markham, Miller, Monroe, Morton, Nielsen, Reed, Reishman., Robertson, Talkington, Ware, Weintraub, Mayor Jones.

NAYS:

ABSENT: Foster, Hall, Sadd, White,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Bill No. 6989, passed.

5. You Committee on Streets and Traffic has had under consideration Bill No. 6990, and reports the same to Council with the recommendation that the Bill do pass.

Bill No. 6990 - A Bill to establish a Stop Sign at the intersection of Spruce Road and Hazel Road and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.

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

Section 1. A Stop Sign on Spruce Road at the intersection of Spruce Road and Hazel Road is hereby established.

Section 2. The Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, 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 yeas-24, nays-0, absent-4, as follows: YEAS: Clowser, Chestnut, Deitzler, Davis, Hanna, Harris, Harrison, Higgins, Jones, Lane, Lanham, Loeb, Markham, Miller, Monroe, Morton, Nielsen, Reed, Reishman., Robertson, Talkington, Ware, Weintraub, Mayor

Jones.

NAYS:

ABSENT: Foster, Hall, Sadd, White,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Bill No. 6990, passed

6. You Committee on Streets and Traffic has had under consideration Bill No. 6991, and reports the same to Council with the recommendation that the Bill do pass.

Bill No. 6991 - A Bill to establish a Stop Sign on Vest Place and the intersection of Oakmont Road and Vest Place and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.

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

Section 1. A Stop Sign on Vest Place at the intersection of Oakmont Road and Vest Place is hereby established.

Section 2. The Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, 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 yeas-24, nays-0, absent-4, as follows:  
YEAS: Clowser, Chestnut, Deitzler, Davis, Hanna, Harris, Harrison, Higgins, Jones, Lane, Lanham, Loeb, Markham, Miller, Monroe, Morton, Nielsen, Reed, Reishman., Robertson, Talkington, Ware, Weintraub, Mayor Jones.

NAYS:

ABSENT: Foster, Hall, Sadd, White,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Bill No. 6991, passed

7. You Committee on Streets and Traffic has had under consideration Bill No. 6996, and reports the same to Council with the recommendation that the Bill do pass.

Bill No. 6996 - A Bill to establish a 4 Way Stop intersection at the intersection of 42nd Street, S.E. and Noyes Avenue and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.

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

Section 1. A 4 Way Stop intersection at the intersection of 42nd Street, S.E. and Noyes 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, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, 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 yeas-24, nays-0, absent-4, as follows:  
YEAS: Clowser, Chestnut, Deitzler, Davis, Hanna, Harris, Harrison, Higgins, Jones, Lane, Lanham, Loeb, Markham, Miller, Monroe, Morton, Nielsen, Reed, Reishman., Robertson, Talkington, Ware, Weintraub, Mayor Jones.

NAYS:

ABSENT: Foster, Hall, Sadd, White,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Bill No. 6996, passed

8. You Committee on Streets and Traffic has had under consideration Bill No. 6997, and reports the same to Council with the recommendation that the Bill do pass.

Bill No. 6997 - A Bill to establish a 4 Way Stop intersection at the intersection of 39th Street, S.E. and Noyes Avenue and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.

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

Section 1. A 4 Way Stop intersection at the intersection of 39th Street, S.E. and Noyes 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, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, 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 yeas-24, nays-0, absent-4, as follows:  
YEAS: Clowser, Chestnut, Deitzler, Davis, Hanna, Harris, Harrison, Higgins, Jones, Lane, Lanham, Loeb, Markham, Miller, Monroe, Morton, Nielsen, Reed, Reishman., Robertson, Talkington, Ware, Weintraub, Mayor Jones.

NAYS:

ABSENT: Foster, Hall, Sadd, White,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Bill No. 6997, passed

## ***PUBLIC SAFETY***

Councilman Harry Deitzler, Vice Chairman of the Council Committee on Public Safety, submitted the following reports.

Bill No., 6983, a Bill to amend and reenact article seventeen, chapter thirty-one of the code of the City of Charleston, one thousand nine-hundred twenty-nine, as amended, relating to all-terrain vehicles.

**WHEREAS**, pursuant to Chapter 8, Article 12, Section 5, Paragraph (1) of the West Virginia Code, as amended, municipal corporations have plenary power and authority to keep and maintain public streets, avenues, roads, alleys, and sidewalks free from obstructions; and

**WHEREAS**, pursuant to Chapter 8, Article 12, Section 5, Paragraph (4) of the West Virginia Code, as amended, municipal corporations have plenary powers and authority to regulate the use of streets, avenues, roads, alleys, sidewalks, crosswalks, and public places belonging to the municipality; and

**WHEREAS**, pursuant to Chapter 8, Article 12, Section 5, Paragraph (13) of the West Virginia Code, as amended, municipal corporations have plenary powers and authority to prevent injury or annoyance to the public or individuals from anything dangerous, offensive, or unwholesome; and

**WHEREAS**, pursuant to Chapter 8, Article 12, Section 5, Paragraph (57) of the West Virginia Code, as amended, municipal corporations have plenary powers and authority to provide penalties for the offenses and violations of law set forth in Chapter 8, Article 12, Section 5 of the West Virginia Code, as amended; and

**WHEREAS**, the Council of the City of Charleston has determined that, in order to best protect the safety, health, and general well-being of all individuals operating all-terrain vehicles, individuals operating unlicensed motor vehicles, individuals operating other permitted and licensed vehicles, and pedestrians, that the operation and use of all-terrain vehicles or any type of motor vehicle not licensed by the West Virginia Department of Motor Vehicles for street use for transportation or recreational purposes, upon the streets, alleys, sidewalks, parking lots, and any realty owned, leased or controlled by the City of Charleston, or any of its boards, authorities, or commission's within the corporate limits of the City of Charleston is prohibited, and further that such activity should be criminalized with the imposition of progressive fines against individuals operating, or allowing the operation of all-terrain vehicles or unlicensed motor vehicles in prohibited areas.

**Now, Therefore, Be it Ordained by the Council of the City of Charleston, West Virginia:** That article seventeen, chapter thirty-one of the code of the City of Charleston, one thousand nine hundred twenty-nine, as amended, relating to all-terrain vehicles be amended and reenacted to read as follows:

#### **ARTICLE XVII ALL-TERRAIN VEHICLES.**

##### **Sec. 31-252. Definitions.**

Except as otherwise provided in this chapter the following words and phrases shall have the meanings set forth below:

(c) "All-terrain vehicle" (ATV) means any motor vehicle designed for off-highway use, having a seat or saddle designed to be straddled by the operator, and handlebars for steering control, or as otherwise defined in Section 17A-1-1 of the West Virginia Code, or any successor substitute thereto.

(d) "Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(c) "Minor" means any person under the age of 18.

##### **Sec. 31-253. Prohibition of operation and use of all-terrain vehicles.**

The riding, operation, or other use of all-terrain vehicles for transportation or recreational purposes within or upon the streets, alleys, sidewalks, parking lots, and other realty-owned, leased, or controlled property by the City of Charleston or any of its boards, authorities, or commissions is prohibited.

##### **Sec. 31-254. Exceptions.**

(a) Notwithstanding any other provision of this code, it shall not be an offense for any person to lawfully ride or operate any such all-terrain vehicle upon any governmentally-owned realty not owned or controlled by the City of Charleston or any of its boards, authorities, or commissions located within the corporate limits of the City of Charleston.

(b) Notwithstanding an other provision of this code, it shall not be an offense for any person licensed to operate a motor vehicle within the State of West Virginia, to ride, operate, or otherwise use an all-terrain vehicle upon a designated parade route, when such person is a duly registered and recognized participant in any such permitted parade, provided that such all-terrain vehicle riding or operation occurs in conjunction with said parade.

(c) Notwithstanding any other provision of this code, it shall not be an offense for any person licensed to operate a motor vehicle within the State of West Virginia, to ride, operate, or otherwise use an all-terrain vehicle on the streets, alleys, sidewalks, parking lots, and other realty-owned, leased, or controlled property by the City of

Charleston or any of its boards, authorities, or commissions for purposes of snow removal, if such vehicle is affixed or attached with implements or equipment specifically designed for that purpose, and to be used on such vehicles.

(d) Notwithstanding any other provision of this code, it shall not be an offense for any person licensed to operate a motor vehicle within the State of West Virginia, to ride, operate, or otherwise use an all-terrain vehicle on the streets, alleys, sidewalks, parking lots, and other realty-owned, leased, or controlled property by the City of Charleston or any of its boards, authorities, or commissions during a period of emergency when the emergency has been so declared by the mayor, and when such riding, operating or other use of any such ATV is in conjunction with response to such an emergency.

**Sec. 31-255. Exemptions.**

The Federal Government, the State of West Virginia, and its political subdivisions are exempt from the prohibitions contained herein, when any such all-terrain vehicle is used for government purposes.

**Sec. 31-256. Authorizing or permitting a minor to violate any provision of this article.**

No person shall authorize or knowingly permit a minor to violate any provision within this section. Any such violation or knowingly permitting any such minor to violate the provisions of this section shall constitute a criminal violation hereof and shall subject such person to the criminal penalties set forth in this section. The citing of any person pursuant to this paragraph shall not be reason to prohibit the police officer from also citing the driver of said all-terrain vehicle.

**Sec. 31-257. Penalties.**

(a) Any person who violates section 31-253 of this article shall constitute the commission of a misdemeanor criminal offense, and any officer of the Police Department of the City of Charleston or any other officer of any other police agency exercising proper jurisdiction within the corporate limits of Charleston is hereby authorized and empowered to issue a citation and to charge any such person who commits a violation of section 31-253. Any person convicted of a first offense established hereunder shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00). Any person convicted of a second or subsequent offense established hereunder shall be fined not less than two hundred fifty dollars (\$250.00).

(b) Any person who violates section 31-256 of this article shall constitute the commission of a misdemeanor criminal offense, and any officer of the Police Department of the City of Charleston or any other officer of any other police agency exercising proper jurisdiction within the corporate limits of Charleston is hereby authorized and empowered to issue a citation and to charge any such person who commits a violation of section 31-256. Any person convicted of a first offense established hereunder shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00). Any person convicted of a second or subsequent offense established hereunder shall be fined not less than two hundred fifty dollars (\$250.00).

**Sec. 31-258. Liability.**

Nothing contained within this article is intended, nor shall be construed, so as to create or form the basis for any civil or administrative liability whatsoever on the part of the City of Charleston or any of its officers, officials, employees, or agents for any injury or damage resulting to any person as a consequence of any action or inaction on the part of the City of Charleston related, in any manner, to the enforcement or non-enforcement of this article by the City's officers, officials, employees, or agents.

**Sec. 31-259. Severability.**

The provisions of this article are severable and, in the event that any provision or part hereof shall be held invalid for any reason by any court exercising competent jurisdiction, then such invalidity shall not be deemed to affect or impair any of the other provisions of this section not specifically held to be invalid. It is hereby declared to be the intent of the City of Charleston that this article would have been adopted if any such invalid provision or part hereof had not been included herein.

NOTE: This bill makes technical corrections of the ordinance as passed pursuant to Committee Substitute 6982, passed by Council on June 2, 2003.

The question being on the passage of the Bill a roll call was taken and there yeas-24, nays-0, absent-4, as follows: YEAS: Clowser, Chestnut, Deitzler, Davis, Hanna, Harris, Harrison, Higgins, Jones, Lane, Lanham, Loeb, Markham, Miller, Monroe, Morton, Nielsen, Reed, Reishman., Robertson, Talkington, Ware, Weintraub, Mayor

Jones.

NAYS:

ABSENT: Foster, Hall, Sadd, White,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Bill No. 6983, passed.

2. Bill No. 6984. a Bill to amend and reenact chapter thirty-one of the code of the City of Charleston, one thousand nine-hundred twenty-nine, as amended, by adding thereto a new article, designated article eighteen, relating to motorized scooters.

Now, Therefore, Be it Ordained by the Council of the City of Charleston, West Virginia: That chapter thirty-one of the code of the City of Charleston, one thousand nine hundred twenty-nine, as amended, be amended by adding thereto a new article, designated article eighteen to read as follows:

#### ARTICLE XVIII MOTORIZED SCOOTER.

Sec. 31-260. Definitions.

Except as otherwise provided in this chapter the following words and phrases shall have the meanings set forth below:

(a) "Minor" means any person under the age of 18.

(b) "Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(c) "Motorized scooter" means any non-balancing, tandem two-wheeled device, or three or four wheeled, self balancing device, that has handle bars, is designed to be stood upon or ridden by the operator, and is powered by a motor having a maximum piston displacement of less than 50 cubic centimeters or an electric drive motor, that is capable of a maximum speed of not more than 25, miles per hour on a flat surface. "Motorized Scooter" does not include a "motorcycle" as defined by West Virginia Code Chapter 17C, Article 1, Section 4, (17C-1-4), a "moped" as defined by W.Va Code 17C-1-5a, a "motor-driven cycle" as defined by W.Va. Code, 17C-1-5, an "electric personal assistive mobility device or "EPAMD" as defined by W.Va. Code, 17C-1-66, or a wheelchair as defined within.

(d) "Wheelchair", a motorized or non motorized wheeled device having a seat or saddle, and designed for, and used by, a person with disabilities.

Sec. 31-261. Prohibition of operation and use of motorized scooters.

The riding, operation, or other use of motorized scooters for transportation or recreational purposes within or upon the streets, alleys, sidewalks, parking lots, and other realty-owned, leased, or controlled property by the City of Charleston or any of its boards, authorities, or commissions is prohibited.

Sec. 31-262. Exceptions.

Notwithstanding any other provision of this code, it shall not be an offense for any person licensed to operate a motor vehicle within the State of West Virginia, to ride, operate, or otherwise use a motorized scooter upon a designated parade route, when such person is a duly registered and recognized participant in any such permitted parade, provided that such motorized scooter riding or operation occurs in conjunction with said parade.

Sec. 31-263. Exemptions.

The federal government, the State of West Virginia, and its political subdivisions are exempt from the prohibitions contained herein, when any such motorized scooter is used for government purposes.

Sec. 31-264. Authorizing or permitting a minor to violate any provision of this article.

No person shall authorize or knowingly permit a minor to violate any provision within this section. Any such violation or knowingly permitting any such minor to violate the provisions of this section shall constitute a criminal violation hereof and shall subject such person to the criminal penalties set forth in this section. The citing of any person pursuant to this paragraph shall not be reason to prohibit the police officer from also citing the driver of said motorized scooter.

Sec. 31-265. Penalties.

(a) Any person who violates section 31-261 of this article shall constitute the commission of a misdemeanor criminal offense, and any officer of the Police Department of the City of Charleston or any other officer of any other police agency exercising proper jurisdiction within the corporate limits of Charleston is hereby authorized and empowered to issue a citation and to charge any such person who commits a violation of section 31-261. Any person convicted of a first offense established hereunder shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00). Any person convicted of a second or subsequent offense established hereunder shall be fined not less than two hundred fifty dollars (\$250.00).

(b) Any person who violates section 31-264 of this article shall constitute the commission of a misdemeanor criminal offense, and any officer of the Police Department of the City of Charleston or any other officer of any other police agency exercising proper jurisdiction within the corporate limits of Charleston is hereby authorized and empowered to issue a citation and to charge any such person who commits a violation of section 31-264. Any person convicted of a first offense established hereunder shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00). Any person convicted of a second or subsequent offense established hereunder shall be fined not less than two hundred fifty dollars (\$250.00).

Sec. 31-266. Liability.

Nothing contained within this article is intended, nor shall be construed, so as to create or form the basis for any civil or administrative liability whatsoever on the part of the City of Charleston or any of its officers, officials, employees, or agents for any injury or damage resulting to any person as a consequence of any action or inaction on the part of the City of Charleston related, in any manner, to the enforcement or non-enforcement of this article by the City's officers, officials, employees, or agents.

Sec. 31-267. Severability.

The provisions of this article are severable and, in the event that any provision or part hereof shall be held invalid for any reason by any court exercising competent jurisdiction, then such invalidity shall not be deemed to affect or impair any of the other provisions of this section not specifically held to be invalid. It is hereby declared to be the intent of the City of Charleston that this article would have been adopted if any such invalid provision or part hereof had not been included herein.

NOTE: This bill provides for a new article, thus all underscoring and strike-throughs have been omitted.

*Councilman David Higgins moved for motion to adopt the following amendments:*

Adding to Line 40, insert "furthermore, operation of a motorized scooter shall not be prohibited hereunder is all the following conditions are satisfied:

- a. The operation of the motorized scooter is at least 13 years of age.
- b. The operation is wearing protective helmet and knee pads.
- c. The motorized scooter is not operated on any street with a posted speed limit in excess of 25 miles per hour nor is the motorized scooter operated upon any side walk adjoining any street having a posted speed limit in excess of 25 miles per hour.
- d. The parent or legal guardian of any minor operating a motor scooter files a statement with the City of Charleston consenting to the minor operating a motorized scooter and obligating such parent or guardian to be financially responsible for any damage or loss resulting from the operation of motorized scooter by such minor including specifically any and all fines imposed upon such child pursuant to Section 31-265, and
- e. The motorized scooter is not operated prior to 9:00 a.m. in the morning or after 8:00p.m., at night."

The question being on the passage of the amendment a roll call was taken and there yeas-5, nays-19, absent-4, as follows:

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

The amendment failed.

*Councilman Harry Deitzler on behalf of the Public Safety Committee moved for motion to adopt the following amendments:*

On line 33, after "provided that such" delete "All-terrain vehicle" and insert "Motorized Scooter".

On line 19, Delete paragraph (C), and insert a new paragraph (c) "Motorized Scooter" means any non-balancing, tandem two-wheeled device, or three or four-wheeled, self balancing device that has handlebars, is designed to be stood upon or ridden by the operator, and is powered by a motor having a maximum piston displacement of less than 50 cubic centimeters or an electric drive motor, that is capable of a maximum speed of not more than 25 miles per hour on a flat surface. {"Motorized Scooter" does not include a "motorcycle" as defined by WV Code 17C-1-5, an "electric personal assistive mobility device" or "EPAMD" as defined by WV code, 17C-1-66, or a wheelchair as defined within.

Add Section (d), "Wheelchair" a motorized or no motorized wheeled device having a seat or saddle, and designed for, and used by a person with disabilities.

The question being on the passage of the amendment a roll call was taken and there yeas-24, nays-0, absent-4, as follows:

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

NAYS:

ABSENT: Foster, Hall, Sadd, White,

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

*The Clerk read Bill No. 6984, as amended.*

The question being on the passage of the Bill a roll call was taken and there yeas-24, nays-0, absent-4, as follows:  
YEAS: Clowser, Chestnut, Deitzler, Davis, Hanna, Harris, Harrison, Higgins, Jones, Lane, Lanham, Loeb, Markham, Miller, Monroe, Morton, Nielsen, Reed, Reishman., Robertson, Talkington, Ware, Weintraub, Mayor Jones.

NAYS:

ABSENT: Foster, Hall, Sadd, White,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No.6984, as amended, approved.

## ***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 a request for the naming and street dedication of Cornwall Lane and Pembroke Square in Sherwood Forest, attached hereto and made a part hereof, and report the same to Council with the recommendation that the street naming and dedication of Cornwall Lane and Pembroke

Square in Sherwood Forest be accepted.

Your Committee finds that the City Engineer has inspected and approved the streets and set a 2-year Maintenance Bond of \$33,000.00. The Maintenance Bond has been received.

The question being on the approval of the Street name and dedication a vote was taken. There being no dissent the Mayor declared Cornwall Lane and Pembroke Square in Sherwood Forest, approved.

2. Your Committee on Planning has had under consideration Special Permit #1116 attached hereto and made a part hereof, and reports the same to Council with the recommendation that the Special Permit be approved.

Your Committee finds that the following:

1. The Charleston Urban Renewal Authority does not object to the request.
2. Due to the commercial nature of the downtown commercial district, there should not be an adverse impact on surrounding land uses.
3. The proposed use as a restaurant/bar is consistent with other uses in the Central Business District.
4. The Municipal Planning Commission forwarded a recommendation for approval to City Council regarding the request for Special Permit for 205 Capitol Street at its June 4, 2003 meeting.

The question being on the approval of the Special Permit a vote was taken. There being no dissent the Mayor declared Special Permit #1116, approved.

## ***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. 340-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 340-03 - "Authorizing the Mayor to sign Change Order No. 3 with D.C Byers Company, in the amount of \$10,250, for additional work related to the upgrade of Municipal Parking Building No. 1, located at Dickinson and Virginia Streets. The change order increases the contract amount from \$1,312,414 to \$1,322,664."

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

That the Mayor is hereby authorized and directed to sign Change Order No. 3 with D.C. Byers Company, in the amount of Ten Thousand Two Hundred Fifty Dollars (\$10,250), for additional work related to the upgrade of Municipal Parking Building No. 1, located at Dickinson and Virginia streets. The original contract was in the amount of \$1,206,414. The three change orders total \$116,250, for a new contract price of \$1,322,664.

Change Order No. 3 provides for the following:

- Removal of 2' x 3' full depth concrete
- Install reinforcement
- Form and pour silica-modified concrete
- Core and install five (5) drains at various locations

The question being on the adoption of the Resolution a vote was taken. There being no dissent and the Mayor declared Resolution No. 340-03, adopted.

2. Your Committee on Finance has had under consideration Resolution No. 341-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 341-03 - "Authorizing the Finance Director to amend the 2002 and 2003 Community Development Block Grant budgets as indicated on the attached list of accounts. This is contingent upon no adverse citizen comments being received during the 30-day comment period required through the MOECD Citizen Participation Plan."

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

That the Finance Director is hereby authorized and directed to amend the 2002 and 2003 Community Development Block Grant budgets as indicated on the attached list of accounts. This is contingent upon no adverse citizen comments being received during the 30-day comment period required through the MOECD Citizen Participation Plan.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-24, nays-0, absent-4, as follows:

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

NAYS:

ABSENT: Foster, Hall, Sadd, White,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 341-03, adopted.

3. Your Committee on Finance has had under consideration Resolution No. 342-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 342-03 - "Authorizing the Mayor to enter into a contract with Astech Corporation, in the amount of \$32,400, for removal of unsuitable material and replacement with compacted fill, and installation of storm drain at 1545, 1547, 1549 Lewis Street and 508 Thompson Street (Broadmoor)."

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

That the Mayor is hereby authorized and directed to enter into a contract with Astech Corporation, in the amount of Thirty-two Thousand Four Hundred Dollars (\$32,400), for removal of unsuitable material and replacement with compacted fill, and installation of storm drain at 1545, 1547, 1549 Lewis Street and 508 Thompson Street (Broadmoor).

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-24, nays-0, absent-4, as follows:

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

NAYS:

ABSENT: Foster, Hall, Sadd, White,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 342-03, adopted.

4. Your Committee on Finance has had under consideration Resolution No. 343-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 343-03 - "Authorizing the Mayor to sign Change Order No. 1 with B.B.R. Drilling Company, in the amount of \$12,345.40, for additional work related to the Burlew Drive Retaining Wall project. The change order

increases the contract price from \$62,603.74 to \$74,949.14."

Be it Ordained 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 B.B.R. Drilling Company, in the amount of Twelve Thousand Three Hundred Forty-five Dollars and Forty Cents (\$12,345.40), for additional work related to the Burlew Drive Retaining Wall project. The change order increases the contract price from \$62,603.74 to \$74,949.14.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-24, nays-0, absent-4, as follows:

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

NAYS:

ABSENT: Foster, Hall, Sadd, White,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 343-03, adopted.

5. Your Committee on Finance has had under consideration Resolution No. 344-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 344-03 - "Authorizing the Mayor to sign the eighth amendment to the Lease Agreement with Real Estate Resources, Inc. for office space at 110 Washington Street, West, for the Charleston Police Department. The eight amendment extends the lease for an additional six-month period from September 1, 2003 to February 29, 2003, at no cost to the City."

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

That the Mayor is hereby authorized and directed to sign the eighth amendment to the Lease Agreement with Real Estate Resources, Inc. for office space at 110 Washington Street, West, for the Charleston Police Department. The eight amendments extend the lease for an additional six-month period from September 1, 2003 to February 29, 2003, at no cost to the City.

The question being on the adoption of the Resolution a vote was taken. There being no dissent and the Mayor declared Resolution No. 344-03, adopted.

6. Your Committee on Finance has had under consideration Resolution No. 345-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 345-03 - "Authorizing the Mayor to enter into an agreement with Fletcher Data Systems, Inc. to provide maintenance and software for the Police Department's Records Management System. The service is required in order to access pre-May 1, 2003 police records data. The agreement is in effect from July 1, 2003 through June 30, 2004, with an annual fee of \$6,000."

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

That the Mayor is hereby authorized and directed to enter into an agreement with Fletcher Data Systems, Inc. to provide maintenance and software for the Police Department's Records Management System. The service is required in order to access pre-May 1, 2003 police records data. The agreement is in effect from July 1, 2003 through June 30, 2004, with an annual fee of Six Thousand Dollars (\$6,000.)

The question being on the adoption of the Resolution a vote was taken. There being no dissent and the Mayor declared Resolution No. 345-03, adopted.

7. Your Committee on Finance has had under consideration Resolution No. 346-03, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 346-03 - "Authorizing the Finance Director to make revisions to the 2002-2003 General Fund budget as indicated on the attached list of accounts."

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

That the Finance Director is hereby authorized and directed to make revisions to the 2002-2003 General Fund budget as indicated on the attached list of accounts; and be it

FURTHER RESOLVED, that this budgetary revision is being made prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-24, nays-0, absent-4, as follows:

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

NAYS:

ABSENT: Foster, Hall, Sadd, White,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 346-03, adopted.

8. Your Committee on Finance has had under consideration a Bid submitted by Terramite, in the amount of \$23,160.24, for purchase of compact tractor loader-backhoe to be used by the Public Safety 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 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 unanimously.

9. Your Committee on Finance has had under consideration a bid submitted by Anderson Equipment, in the amount of \$10,800, for purchase of portable air compressor to be used by the Street Department. To be charged to Account No. 001-977-00-750-4-461, Street-Capital Outlay, Lease/Purchase, and reports the same to Council with the recommendation that the committee 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 unanimously.

10. Your Committee on Finance has had under consideration a bid submitted by West Virginia Tractor Co., in the amount of \$108,500, for Elgin street sweeper to be used by the Street Department. To be charged to Account No. 001-977-00-750-4-461, Street-Capital Outlay, Lease/Purchase, and reports the same to Council with the recommendation that the committee 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 unanimously.

11. Your Committee on Finance has had under consideration a bid submitted by State Equipment Co., in the amount of \$59,175, for purchase of a loader-backhoe to be used by the Street Department. To be charged to Account No. 001-977-00-750-4-461, Street-Capital Outlay, Lease/Purchase, and reports the same to Council with the

recommendation that the committee 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 unanimously.

12. Your Committee on Finance has had under consideration a proposal submitted by General Truck Sales for purchase of two dump trucks, in the amount of \$127,052 (\$63,526 each), to be used by the Street Department. To be charged to Account No. 001-977-00-750-4-461, Street-Capital Outlay, Lease/Purchase, and reports the same to Council with the recommendation that the committee 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 unanimously.

13. Your Committee on Finance has had under consideration a bid submitted by West Virginia Tractor for purchase of two refuse packer units, in the total amount of \$186,988 (\$93,494 each), to be used by the Refuse Collection & Recycling Department. To be charged to Account No. 001-977-00-750-4-461, Street - Capital Outlay, Lease/Purchase, and reports the same to Council with the recommendation that the committee 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 unanimously.

14. Your Committee on Finance has had under consideration a bid submitted by Town Police Supply, in the amount of \$6,100, for purchase of four (4) Remington Tactical Weapons Systems (1,525 each) to be used by the Charleston police Department SWAT team. To be charged to Account No. 043-299-00-000-3-341, Police Forfeiture Fund, and reports the same to Council with the recommendation that the committee 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 unanimously.

15. Your Committee on Finance has had under consideration a payment of an invoice from Kanawha County Commission, in the amount of \$16,156.02, for final costs relating to services and supplies required for the City's General Election held on May 20, 2003. To be charged to Account No. 001-438-00-000-2-230, Election Costs-Contracted Services (2002-2003), and reports the same to Council with the recommendation that the committee 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 unanimously.

16. Your Committee on Finance has had under consideration a payment of two invoices from Astech Corporation, in the total amount of \$8,427.65, for demolition of the structure at 1633 Clay Avenue, consisting of 1,760 square feet at \$1.99/sq.ft. (\$3,502.40); and demolition of the structure at 1902 Whitney Street, consisting of 2, 475 square feet at, and reports the same to Council with the recommendation that the committee be adopted.

The question being on the adoption of the Committee Report a roll call was taken and there yeas-24, nays-0, absent-4, as follows:

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

NAYS:

ABSENT: Foster, Hall, Sadd, White,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the Committee Report, adopted.

17. Your Committee on Finance has had under consideration a Payment of an invoice from Garcie R. Marker & Sons, Inc., in the amount of \$42,336.30, for rental of equipment to repair flood related damages at various locations throughout the City. To be charged to Account No. 001-750-00-000-2-219, Street - Building & Equipment Rents, and reports the same to Council with the recommendation that the committee 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 unanimously.

18. Your Committee on Finance has had under consideration a Payment of an invoice from Spilman, Thomas & Battle in the amount of \$4,231.09, for professional services rendered during the months of April, May and June 2003, in the matter concerning West Virginia-American Water Company's pending rate case before the Public Service Commission of West Virginia. To be charged to Account No. 001-417-00-000-2-223, Legal Department-Professional Services (2002-2003), and reports the same to Council with the recommendation that the committee be adopted.

The question being on the adoption of the committee report a vote was taken. There being two abstentions by Mary Jean Davis and Jerry Ware, the Mayor declared the committee report adopted.

## **REPORTS OF OFFICERS**

1. Report of the City of Charleston, Municipal Court Financial Statements; July 2003.  
Received and Filed.

2. City Treasurer's Report to City Council Month Ending July 2003;  
Received and Filed.

## **NEW BILLS INTRODUCED**

Introduced by Councilman Paul Monroe on August 18, 2003:

Bill No. 6995, A Bill Closing, abandoning and discontinuing as a public walkway that certain 10" alley between Tracts 22 and 23 of Section 4 of the Edgewood Acres Addition, known as 636 Pacific Street and 638 Pacific Street and reserving sewer easements for the City of Charleston.  
Refer to Municipal Planning Commission.

Introduced by Councilman James Harris, Jr., on August 18, 2003:

Bill No. 6998, A Bill to establish Residential Permit Parking on Michigan Avenue from Quarrier Street to Washington Street, East between the hours of 8:00 a.m. and 6:00p.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, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one Article three, to conform therewith.

Refer to Council Committee on Streets and Traffic.

Introduced by Councilman James Harris, Jr., on August 18, 2003:

Bill No. 6999, A Bill to establish Residential Permit Parking on Michigan Avenue from Quarrier Street to Washington Street, East between the hours of 8:00 a.m. and 6:00p.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, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one Article three, to conform therewith.

Refer to Council Committee on Streets and Traffic.

Introduced by Councilman Bobby Reishman, on August 18, 2003:

Bill No. 7001, A Bill authorizing and directing the Mayor of the City of Charleston to purchase private property located in a flood prone area from Greenlee United Methodist Church, pursuant to a cooperative grant agreement between the City and the State Office of Emergency Services, dated May 12, 2000, for the use of said property to be only for the purposes compatible with flood prone property.

Refer to Council Committee on Finance.

Introduced by Councilman Edward Talkington, on August 18, 2003:

Bill No. 7002, A Bill to amend and reenact Chapter 6 of the Code of the City of Charleston by attaching thereto a new Article, designated as Article X, entitles "City Service Fee."

Refer to Council Committee on Ordinance and Rules and Finance Committee.

## **UNFINISHED OR MISCELLANEOUS BUSINESS**

None.

## **ROLL CALL**

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

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

ABSENT: Foster, Hall, Sadd, White,

At 8:40 p.m., on motion of Councilman Loeb, Council adjourned until Tuesday, September 2, 2003, at 7:00 p.m.

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Danny Jones, Honorable Mayor

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James M. Reishman, City Clerk