

**JOURNAL  
OF THE  
COUNCIL  
CITY OF CHARLESTON  
WEST VIRGINIA**

**FEBRUARY 5, 2007**

**THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE FIRST MEETING IN THE MONTH OF FEBRUARY ON THE 5<sup>th</sup> DAY, IN THE YEAR 2007, AND WAS CALLED TO ORDER BY THE HONORABLE MAYOR, DANNY JONES. THE INVOCATION WAS DELIVERED BY DEITZLER, AND THE PLEDGE OF ALLEGIANCE WAS LED BY HIGGINS.**

**CHESTNUT  
DEITZLER  
HANNA  
HIGGINS  
LANHAM  
MILLER  
NIELSEN  
ROBERTSON  
WARE  
MAYOR JONES**

**CLOUSER  
EALY  
HARRIS  
JONES  
LOEB  
MONROE  
REED  
SADD  
WEINTRAUB**

**DAVIS  
HALL  
HARRISON  
LANE  
MORTON  
MARKHAM  
REISHMAN  
TALKINGTON  
WHITE**

**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. Tom Brotherton

**CLAIMS**

- 1. A claim of David Elkins, 1503 B. Dixie Street, Charleston, WV; alleges damage to vehicle.  
Refer to City Solicitor.

**COMMUNICATIONS**

The Clerk read the Appointment:

TO: JAMES REISHMAN  
CITY CLERK

FROM: DANNY JONES  
MAYOR

RE: KANAWHA VALLEY REGIONAL TRANSPORTATION AUTHORITY

DATE: FEBRUARY 5, 2007

I am recommending that Eric Hicks, 837 Edgewood Drive, Charleston 25304, be appointed to the Kanawha Valley Regional Transportation Authority, with an initial term to expire December 31, 2010. He is replacing Howard Quick.

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

Council approved the Appointment.

**MISCELLANEOUS RESOLUTIONS**

Resolution No. 169-07

Introduced in Council

February 5, 2007

Passed by Council

February 5, 2007

Introduced By Bobby Reishman

Resolution No. 169-07, “ Appointing a Select Committee of Council to perform certain functions for the Council in the City of Charleston Primary Election to be held on March 6, 2007.”

WHEREAS, the code of West Virginia, 1931 as amended, requires the Council of a municipality to perform certain functions in the conduct of an election; and

WHEREAS, the size of Council makes it impractical to perform these functions as a body, and the West Virginia Secretary of State has directed that such functions be done by committee; NOW THEREFORE,

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

That Robert Reishman, Chairman, Teresa Reed and Jerry Ware, members of the Council of the City of Charleston, West Virginia, are hereby appointed as the Select Committee to perform all required functions in connection with the City of Charleston Primary Election to be held on March 6, 2007, including but not limited to a canvass of votes cast.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 169-07.

Resolution No. 170-07

Introduced in Council

Passed by Council

February 5, 2007

February 5, 2007

Introduced By Jack Harrison, Mary Jean Davis, Cheryle Hall,

David Higgins, Brenda Robertson, Linda Nielsen

WHEREAS: The intersection of Lucado Road and U.S. Route 119 in the City of Charleston is one of the more dangerous and stressful intersections in the city, primarily because of the volume of traffic along Corridor G and Lucado's location as the main access point for the many homes in neighborhoods that connect to Smith and Lucado Roads; and

WHEREAS: The West Virginia Division of Highways, which has sole jurisdiction over U.S. 119/Corridor G, has decided to prohibit left turns onto U.S. Route 119 by vehicles on Lucado Road, as of February 1, 2007, thus complicating the flow of traffic for the thousands of people who use Lucado to drive to southbound destinations on Corridor G; and

WHEREAS: WVDOH has commissioned a comprehensive study on the traffic flow patterns of U.S. Route 119 from the Southridge shopping center to across the Interstate 64 bridge and its exit ramps that connect to downtown Charleston; and

WHEREAS: WVDOH has rejected repeated requests by the Mayor of Charleston and other city leaders and citizens to install a traffic light at the intersection of Lucado Road and U.S. 119 as a short-term solution until the changes proposed in the state's traffic study plan could be implemented and

address the problems more completely; and

WHEREAS: While the proximity to the traffic light at the intersection of Oakwood Road and U.S. Route 119 poses some unique challenges to traffic flow between two nearby intersections, modern traffic light technology could be used to coordinate the traffic lights and improve the safe access to and from Lucado Road; and

WHEREAS: WVDOH scheduled a public meeting on the U.S. 119 traffic flow study for today, Monday, February 5, 2007 – five days after it imposed the new “Right turn only” restrictions for the thousands of drivers who use Lucado Road to go south on Corridor G;

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

That the City Council of the City of Charleston urges the West Virginia Division of Highways to reconsider its decision to impose “Right turn only” restrictions at Lucado Road and U.S. 119 and its rejection of proposals to install a traffic light instead; and

That the Clerk of the City of Charleston forward this resolution to the Governor of West Virginia, members of the West Virginia Legislature who represent Kanawha County and the West Virginia Commissioner of Highways.

The question being on the adoption of the Resolution a vote was taken. There being one dissent from Councilman Lane, the Mayor declared Resolution No. 170-07, adopted.

## **REPORTS OF STANDING COMMITTEES**

### ***ENVIRONMENT AND RECYCLING***

Councilman Ed Talkington, Chairman of the Council Committee on Environment and Recycling, submitted the following reports.

1. Your Committee on Environment and Recycling has had under consideration of Bill No. 7241, and reports the same to Council with the recommendation that the bill do pass, after being referred to the Finance Committee.

Bill No. 7241- - A Bill authorizing Landfill Services of Charleston, Inc., a subsidiary of Waste Management, Inc., to file a petition with the West Virginia Public Service Commission (“PSC”) for approval of a “minimum gate rate” (or per load minimum fee) of Five Dollars (\$5.00) per load at the City of Charleston Landfill (the “Landfill”) for all loads brought to the Landfill weighing Five Hundred (500) pounds or less.

WHEREAS, there is currently no minimum gate rate imposed by the Landfill;

WHEREAS, on February 21, 2006, Council adopted Bill No. 7193, wherein the Council authorized Landfill Services of Charleston, Inc., to file a petition with the PSC for approval of a proposed minimum gate rate of Ten Dollars (\$10.00) per load at the Landfill for all loads

brought to the Landfill weighing Five Hundred (500) pounds or less;

WHEREAS, Landfill Services of Charleston, Inc., now represents to the City that a minimum gate rate of Five Dollars (\$5.00) is more likely to receive PSC approval and that implementing a minimum gate rate of Five Dollars (\$5.00) will be beneficial to the Landfill and the City;

WHEREAS, Landfill Services of Charleston, Inc, is now requesting the City's approval to petition the PSC for approval of a minimum gate rate of Five Dollars (\$5.00) per load at the Landfill for all loads weighing Five Hundred (500) pounds or less;

WHEREAS, the Landfill currently accepts material for disposal at Forty Dollars (\$40.00) per ton, equating to Two Cents (\$0.02) per pound, which requires the Landfill to process a large number of weight-tickets for very small amounts (e.g. \$0.60, \$0.80, etc.) when small loads are brought to the Landfill;

WHEREAS, every vehicle disposing of waste at the Landfill must cross the scales both before and after disposing of its waste to obtain tare weights to generate the charges to be assessed on a per-ton (or per-pound) basis, such that the Landfill and its equipment are placed under undue physical and administrative stress to process the numerous small loads;

WHEREAS, the proposed minimum gate rate should have minimal negative impact on the residents of the City as they are already provided curbside pickup through the payment of a monthly refuse fee, such that any residents who are bringing small loads to the landfill can simply take further advantage of the curbside collection without incurring any additional fees;

WHEREAS, the charging of a minimum gate rate will likely reduce the total trips Landfill users make to dispose of waste and thereby reduced daily traffic at the scales and public tipping area as the minimum gate rate would deter users from making frequent small-load trips in favor of making less frequent larger-load or combined load trips;

WHEREAS, the reduced traffic and reduced number of transactions to be processed will provide a benefit to the City of Charleston and other Third Party Haulers as it will minimize safety hazards at the facility, decrease delay and wait times while increasing turn-around times and productivity for collection vehicles and other users of the Landfill, thus producing a general conservation of resources;

WHEREAS, the benefits of reduced daily traffic to the Landfill will also benefit the City by reducing the daily traffic, litter, wear-and-tear, and maintenance, and increasing safety on South Park Road, the direct two-lane route that must be taken to access the Landfill entrance road;

WHEREAS, the proposed minimum gate rate is consistent with other sites in the State of West Virginia such as the public landfills in Raleigh County and Mercer County which each have a Ten Dollars (\$10.00) per load minimum fee, and with two Waste Management company-run landfills—DSI in Hurricane, West Virginia (which charges \$24.85) and Meadowfill

in Bridegeport, West Virginia (which charges \$9.89 plus fees);

WHEREAS, the February 15, 1994, Operating Agreement, as amended, between the City and Landfill Services of Charleston, Inc., at paragraph 5.07, allows Landfill Services of Charleston, Inc., to request the City's approval to petition the PSC for changes affecting amounts charged for services rendered by Landfill Services of Charleston, Inc., in its operation of the Landfill;

WHEREAS, subject to PSC approval of this request, the proposed minimum gate rate will not take effect until and unless the City and Landfill Services of Charleston, Inc., enter into an appropriate amendment of the Operating Agreement between the parties which will set forth the terms and responsibilities of Landfill Services of Charleston, Inc., and the City; and

WHEREAS, in conclusion, the proposed minimum gate rate and the benefits derived therefrom as described above will allow for greater efficiency and the increased ability for the Landfill to provide its services to all of its users in a more timely, safe, and efficient manner; now, therefore

Be it Ordained by the Council of the City of Charleston, West Virginia: That the City of Charleston approves of the minimum gate rate as proposed and further, consistent with the Operating Agreement between the City and Landfill Services of Charleston, Inc., authorizes Landfill Services of Charleston, Inc., to file a petition with the PSC for approval of the proposed minimum gate rate of Five Dollars (\$5.00) per load at the City of Charleston Landfill for all loads brought to the Landfill weighing Five Hundred (500) pounds or less. Be it further Ordained that all prior ordinances, or parts of ordinances, inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

**Received and Filed.**

### ***URBAN RENEWAL***

Councilman Marc Weintraub, Chairman of the Council Committee on Urban Renewal, submitted the following reports.

1. Your Committee on Urban Renewal has had under consideration of Bill No.7248, and reports the same to Council with the recommendation that the bill do pass.

Bill No. 7248 - A Bill approving the following modification of the East End Community Renewal Plan for the City of Charleston, West Virginia: Rezoning certain parcels to R-8, High Density Residential District.

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

1. City Council finds that:
  - a. The Charleston Urban Renewal Authority has recommended certain modifications of the East End Community Renewal Plan for the City of Charleston, West Virginia;

- b. A general plan known as the Comprehensive Plan for the City of Charleston has been adopted by City Council and is recognized and used as a general guide for the development of the city;
  - c. The Municipal Planning Commission of the City of Charleston has submitted to the Charleston Urban Renewal authority its findings concerning the conformity of these proposed modifications with the Comprehensive Plan for the City;
  - d. City Council has duly considered the findings of the Municipal Planning Commission; and
  - e. Section “F” of said East End Community Renewal Plan previously approved by City Council, provides that the plan may be changed from time to time in compliance with the requirements of the law.
2. The proposed modifications of the East End Community Renewal Plan which are set forth in the following sections of this ordinance are hereby found to be consistent with the goals, objectives, plans and priorities established by the Comprehensive Plan.
  3. Exhibit 2-A, Phase II Zoning is hereby modified to reflect the following rezoning:

Parcel 138, Tax Map No. 23, is rezoned R-8, High Density Residential District from C-10, General Commercial.

Parcels 139 and 140, Tax Map No. 23, are rezoned R-8, High Density Residential District from R-6, Medium Density Residential.

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

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

ABSENT:

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7248, passed.

**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. 160-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 160-07:“Authorizing the Finance Director to amend the 2006-2007 Civic Center 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 2006-2007 Civic Center budget as indicated on the attached list of accounts; and be it

FURTHER RESOLVED, that this budget amendment 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-28, absent – 0, as follows:

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

ABSENT:

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No.160-07, adopted.

2. Your Committee on Finance has had under consideration Resolution No. 161-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 161-07: “Authorizing the Finance Director to amend the 2006-2007 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 2006-2007 General Fund budget as indicated on the attached list of accounts; and be it

FURTHER RESOLVED, that this budget amendment 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-28, absent – 0, as follows:

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

ABSENT:

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

Mayor declared Resolution No.161-07, adopted.

3. Your Committee on Finance has had under consideration Resolution No. 162-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 162-07: “Authorizing the Mayor to enter into an Agreement with RC General Contractors, in the amount of \$159,300, for Rehabilitation of the Floor at Fire Station No. 4, located at 1810 Oakridge Drive.”

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

That the Mayor is hereby authorized and directed to enter into an Agreement with RC General Contractors, in the amount of One Hundred Fifty-nine Thousand Three Hundred Dollars (\$159,300), for Rehabilitation of the Floor at Fire Station No. 4, located at 1810 Oakridge Drive.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 162-07, adopted.

4. Your Committee on Finance has had under consideration Resolution No. 163-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 163-07: “Authorizing the Mayor to sign an application with the Governor’s Community Partnership Grant Program requesting funds in the amount of \$50,000 to provide for an upgrade of the ballistic safety equipment for the SWAT Team of the Charleston Police Department.”

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

That the Mayor is hereby authorized and directed to sign an application with the Governor’s Community Partnership Grant Program requesting funds in the amount of Fifty Thousand Dollars (\$50,000) to provide for an upgrade of the ballistic safety equipment for the SWAT Team of the Charleston Police Department.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 163-07, adopted.

5. Your Committee on Finance has had under consideration Resolution No. 164-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 164-07: “Authorizing the Mayor to sign and submit Fiscal Year 2007 Local Economic Development Assistance (LEDA) grant application and all related documents for the REA of Hope Fellowship Home located in the City of Charleston.”

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

That the Mayor is hereby authorized and directed to sign and submit Fiscal Year 2007 Local Economic Development Assistance (LEDA) grant application and all related documents for the REA of Hope Fellowship Home located in the City of Charleston.

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

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

ABSENT:

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No.164-07, adopted.

6. Your Committee on Finance has had under consideration Resolution No. 165-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 165-07: “Authorizing the Mayor to sign an application, on behalf of CAMC Memorial Hospital, for a Pre-Disaster Mitigation Grant through the State Division of Homeland Security and Emergency Management for a flood proofing project consisting of the construction of a structural barrier wall system to retain floodwaters from a 100 year storm event.”

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

That the Mayor is hereby authorized and directed to sign an application, on behalf of CAMC Memorial Hospital, for a Pre-Disaster Mitigation Grant through the State Division of Homeland Security and Emergency Management for a flood proofing project consisting of the construction of a structural barrier wall system to retain floodwaters from a 100 year storm event.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 165-07, adopted.

7. Your Committee on Finance has had under consideration Resolution No. 166-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 166-07: “Authorizing the Finance Director to make a B&O tax refund to Joe Fazio’s Restaurant, in the amount of \$20,492.43, for overpayment of taxes. Following an audit on the business, it was determined the business had been reporting / paying all revenues for the audit period in the wrong classification.”

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

That the Finance Director is hereby authorized and directed to make a B&O tax refund to Joe Fazio's Restaurant, in the amount of Twenty Thousand Four Hundred Ninety-two Dollars and Forty-three Cents (\$20,492.43), for overpayment of taxes. Following an audit on the business, it was determined the business had been reporting / paying all revenues for the audit period in the wrong classification.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 166-07, adopted.

8. Your Committee on Finance has had under consideration Resolution No. 167-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 167-07: "Authorizing the Mayor to sign an Addendum to the Stadium License, Lease and Service Agreement with West Virginia Baseball, LLC, authorizing an enhancement to the Stadium by an addition of a Two-tiered Party Deck off of the first base concourse."

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

That the Mayor is hereby authorized and directed to sign an Addendum to the Stadium License, Lease and Service Agreement with West Virginia Baseball, LLC, authorizing an enhancement to the Stadium by an addition of a Two-tiered Party Deck off of the first base concourse; apportioning responsibility for the project whereby the City shall be responsible for steel erection and concrete deck work, and pay for the same out of the Stadium Maintenance Fund; West Virginia Baseball, LLC, shall be responsible and pay for all other portions of the project, including design and management of the construction process; and the City shall deem any liability incurred by West Virginia Baseball, LLC, for the payment of admissions taxes related to the first two baseball seasons in the Stadium, and any West Virginia Baseball Special Events held over that corresponding period, to be satisfied in full.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 167-07, adopted.

9. Your Committee on Finance has had under consideration Resolution No. 168-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 168-07: "Authorizing the City Manager to enter into an Agreement with Insightformation, Inc., in the amount of \$15,290, to provide professional services with respect to the Strategy-Aligned Management Pilot Program."

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

That the City Manager is hereby authorized and directed to enter into an Agreement with Insightformation, Inc., in the amount of Fifteen Thousand Two Hundred Ninety Dollars (\$15,290), to provide professional services with respect to the Strategy-Aligned Management Pilot Program.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 168-07, adopted.

10. Your committee on Finance has had under consideration a approval to rescind purchase of a 2006 Ford Explorer from Jack Garrett Ford, in the amount of \$19,918.35, approved by Council on September 5, 2006, by piggybacking the 2006 State of West Virginia Contract. However, prior to placing the order for the Ford Explorer, the 2007 State of WV Contract had been accepted and a vendor for the Ford Explorer vehicle was not available through the new contract. Therefore, approval is requested to purchase a 2007 Dodge Durango from Country Club Chrysler, in the amount of \$21,574, by piggybacking the 2007 State of WV Contract. The new vehicle will be assigned to the Street Department. Funds for the vehicle are available in Account No. 001-977-00-750-4-459, Street—Capital Outlay, Equipment (Part of Lease/Purchase Escrow Account Schedule No. 1000129621 for FY 2007) , and reports the same to Council with the recommendation that the Committee Report be adopted.

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

11. Your committee on Finance has had under consideration a base bid submitted by Mobile TEK Consulting, LLC, in the amount of \$69,957, for purchase of twelve (12) Mobile Computers for police cruisers and three (3) Mobile Computers for the Dodge Durango police vehicles, and authorizing the City Manager to accept or reject, upon further clarification, a Vendor Marketing Proposal (VMP) whereby Mobile TEK Consulting, LLC, would acquire a defined “Official Supplier” designation for additional consideration. To be charged to Account No. 001-976-00-700-4-459, Police—Capital Outlay, Equip, and reports the same to Council with the recommendation that the Committee Report be adopted.

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

12. Your committee on Finance has had under consideration a bid submitted by Duncan Parking Technologies, in the amount of \$33,737.50, for purchase of 250 Digital Parking Meter Clocks to serve the Duncan meters currently in place throughout the City. To be charged to Account No. 406-571-00-000-4-459, Parking—Capital Outlay, Equip, and reports the same to Council with the recommendation that the Committee Report be adopted.

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

13. Your committee on Finance has had under consideration a payment of an invoice from Charleston Newspapers in the amount of \$25,222.20, for publication of the City Financial Statement in The Charleston Gazette and the Charleston Daily Mail on January 23, 2007. To be charged to Account No. 001-412-00-000-2-220, City Manager—Advertising and Legal Publications,, and reports the same to Council with the recommendation that the Committee Report be adopted.

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

14. Your Committee on Environment and Recycling has had under consideration of Bill No. 7241, and reports the same to Council with the recommendation that the bill do Pass.

Bill No. 7241- - A Bill authorizing Landfill Services of Charleston, Inc., a subsidiary of Waste Management, Inc., to file a petition with the West Virginia Public Service Commission (“PSC”) for approval of a “minimum gate rate” (or per load minimum fee) of Five Dollars (\$5.00) per load at the City of Charleston Landfill (the “Landfill”) for all loads brought to the Landfill weighing Five Hundred (500) pounds or less.

WHEREAS, there is currently no minimum gate rate imposed by the Landfill;

WHEREAS, on February 21, 2006, Council adopted Bill No. 7193, wherein the Council authorized Landfill Services of Charleston, Inc., to file a petition with the PSC for approval of a proposed minimum gate rate of Ten Dollars (\$10.00) per load at the Landfill for all loads brought to the Landfill weighing Five Hundred (500) pounds or less;

WHEREAS, Landfill Services of Charleston, Inc., now represents to the City that a minimum gate rate of Five Dollars (\$5.00) is more likely to receive PSC approval and that implementing a minimum gate rate of Five Dollars (\$5.00) will be beneficial to the Landfill and the City;

WHEREAS, Landfill Services of Charleston, Inc, is now requesting the City’s approval to petition the PSC for approval of a minimum gate rate of Five Dollars (\$5.00) per load at the Landfill for all loads weighing Five Hundred (500) pounds or less;

WHEREAS, the Landfill currently accepts material for disposal at Forty Dollars (\$40.00) per ton, equating to Two Cents (\$0.02) per pound, which requires the Landfill to process a large number of weight-tickets for very small amounts (e.g. \$0.60, \$0.80, etc.) when small loads are brought to the Landfill;

WHEREAS, every vehicle disposing of waste at the Landfill must cross the scales both before and after disposing of its waste to obtain tare weights to generate the charges to be assessed on a per-ton (or per-pound) basis, such that the Landfill and its equipment are placed under undue physical and administrative stress to process the numerous small loads;

WHEREAS, the proposed minimum gate rate should have minimal negative impact on the residents of the City as they are already provided curbside pickup through the payment of a monthly refuse fee, such that any residents who are bringing small loads to the landfill can simply take further advantage of the curbside collection without incurring any additional fees;

WHEREAS, the charging of a minimum gate rate will likely reduce the total trips Landfill users make to dispose of waste and thereby reduced daily traffic at the scales and public tipping area as the minimum gate rate would deter users from making frequent small-load trips in favor of making less frequent larger-load or combined load trips;

WHEREAS, the reduced traffic and reduced number of transactions to be processed will provide a benefit to the City of Charleston and other Third Party Haulers as it will minimize safety hazards at the facility, decrease delay and wait times while increasing turn-around times and productivity for collection vehicles and other users of the Landfill, thus producing a general conservation of resources;

WHEREAS, the benefits of reduced daily traffic to the Landfill will also benefit the City by reducing the daily traffic, litter, wear-and-tear, and maintenance, and increasing safety on South Park Road, the direct two-lane route that must be taken to access the Landfill entrance road;

WHEREAS, the proposed minimum gate rate is consistent with other sites in the State of West Virginia such as the public landfills in Raleigh County and Mercer County which each have a Ten Dollars (\$10.00) per load minimum fee, and with two Waste Management company-run landfills—DSI in Hurricane, West Virginia (which charges \$24.85) and Meadowfill in Bridgeport, West Virginia (which charges \$9.89 plus fees);

WHEREAS, the February 15, 1994, Operating Agreement, as amended, between the City and Landfill Services of Charleston, Inc., at paragraph 5.07, allows Landfill Services of Charleston, Inc., to request the City's approval to petition the PSC for changes affecting amounts charged for services rendered by Landfill Services of Charleston, Inc., in its operation of the Landfill;

WHEREAS, subject to PSC approval of this request, the proposed minimum gate rate will not take effect until and unless the City and Landfill Services of Charleston, Inc., enter into an appropriate amendment of the Operating Agreement between the parties which will set forth the terms and responsibilities of Landfill Services of Charleston, Inc., and the City; and

WHEREAS, in conclusion, the proposed minimum gate rate and the benefits derived therefrom as described above will allow for greater efficiency and the increased ability for the Landfill to provide its services to all of its users in a more timely, safe, and efficient manner; now, therefore

Be it Ordained by the Council of the City of Charleston, West Virginia: That the City of Charleston approves of the minimum gate rate as proposed and further, consistent with the Operating Agreement between the City and Landfill Services of Charleston, Inc., authorizes

Landfill Services of Charleston, Inc., to file a petition with the PSC for approval of the proposed minimum gate rate of Five Dollars (\$5.00) per load at the City of Charleston Landfill for all loads brought to the Landfill weighing Five Hundred (500) pounds or less. Be it further Ordained that all prior ordinances, or parts of ordinances, inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

The question being on the passage of the Bill as amended, a roll call was taken and there were; yeas-27, absent – 0, abstain – Higgins, as follows:

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

ABSENT:

ABSTAIN: Higgins

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7241, passed.

## NEW BILLS

Introduced by Councilmember Brenda Robertson on February 5, 2007:

Bill No. 7249 – A Bill to amend and re-enact Ordinance No. 7079 passed by Council on June 22, 2004 relating to establishing a No Parking Anytime Tow Away Zone on Georgetown Place from 8:00 a. m. to 5:00 p.m., Monday through Friday, and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, two thousand three, as amended, Traffic Law, Section 263, Division 2, Article 4, Chapter 114, to conform therewith.

Refer to Streets and Traffic Committee

Introduced by Councilman Marc Weintraub on February 5, 2007:

Bill No. 7250 – A Bill to establish a No Parking Anytime Tow-Away zone on the northerly side of Washington Street, East from Jefferson Street to a point 55 feet east of Jefferson Street and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Law, Section 263, Division 2, Article 4, Chapter 114, to conform therewith.

Refer to Streets and Traffic Committee

Introduced by Councilman Bobby Reishman on February 5, 2007:

Bill No. 7251 - A Bill to amend and re-enact Sections 114-2, 114-3, 114-6, 114-81, 114-82, 114-83, 114-84, 114-85, 114-86, 114-87, 114-88, 114-89, 114-90, 114-91, 114-92, 114-122, 114-123, 114-124, 114-125, 114-127, 114-151, 114-152, 114-153, 114-154, 114-155, and 114-531 of the City Code of the City of Charleston, 1975, as amended, all

relating to the enforcement of the traffic ordinances pertaining to parking violations within the City of Charleston and the administration of parking citations and other methods of enforcement for such violations.

Refer to Finance Committee

### **UNFINISHED BUSINESS**

Presentation given by Thrasher Corporation and Janet Spry concerning Brownfield Program.

### **ROLL CALL**

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

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

ABSENT:

At 8:10 p.m., on motion of Councilmember Loeb, Council adjourned until Tuesday, February 20 2007, at 7:00 p.m.

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Danny Jones, Honorable Mayor

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James M. Reishman, City Clerk