

**JOURNAL  
OF THE  
COUNCIL  
CITY OF CHARLESTON  
WEST VIRGINIA  
MARCH 5, 2007**

**THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE FIRST MEETING IN THE MONTH OF MARCH 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 MARKHAM.**

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

**CLOWSER  
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**

None

## **CLAIMS**

1. A claim of Patricia R. Pope, 1401 Mount Vernon Rd., Charleston, WV; alleges damage to vehicle.  
Refer to City Solicitor.
2. A claim of Harrel Knight, 1410 Oakmont Rd., Charleston, WV; alleges damage to vehicle.  
Refer to City Solicitor.
3. A claim of South Ruffner Freewill Baptist Church, Charleston, WV; alleges damage to property.  
Refer to City Solicitor.
4. A claim of Julia Linzy, 427 Skyline Drive, Charleston, WV; alleges damage to vehicle.  
Refer to City Solicitor.

## ***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. 7252, and reports the same to Council with the recommendation that the bill do pass, after being referred to the Finance Committee.

Bill No. 7252- - 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 Ten Dollars (\$10.00) per load at the City of Charleston Landfill (the "Landfill") for all loads brought to the Landfill weighing Two Hundred Fifty (250) pounds or less.

WHEREAS, there is currently no minimum gate rate imposed by the Landfill, and Landfill Services of Charleston, Inc., has requested the City's approval to petition the PSC for approval of a minimum gate rate of Ten Dollars (\$10.00) per load for all loads weighing Two Hundred Fifty (250) 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, liter, 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 Brideport, 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 Ten Dollars (\$10.00) per load at the City of Charleston Landfill for all loads brought to the Landfill weighing Two Hundred Fifty (250) pounds or less.

Received and Filed.

***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. 179-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 179-07: "Authorizing the Finance Director to amend the 2006-2007 Parking System 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 Parking System budget as indicated on the attached list of accounts; and be it

FURTHER RESOLVED, that this budgetary 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, as follows:

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

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No.179-07, adopted.

2. Your Committee on Finance has had under consideration Resolution No. 180-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 180-07: "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 budgetary 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, as follows:

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

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No.180-07, adopted.

3. Your Committee on Finance has had under consideration Resolution No. 181-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 181-07: “Authorizing the Mayor to enter into an Agreement with Teays River Construction, in an amount not to exceed \$81,700, providing for Drainage Improvements at the Charleston Civic Center Grand Hall.”

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 Teays River Construction, in an amount not to exceed Eighty-one Thousand Seven Hundred Dollars (\$81,700), providing for Drainage Improvements at the Charleston Civic Center Grand Hall.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 181-07, adopted.

4. Your Committee on Finance has had under consideration Resolution No. 182-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 182-07: “Authorizing the Mayor to sign a contract between the City of Charleston and West Virginia Development Office for FY 2006 Community Partnership Grant on behalf of the Charleston Community Music Association in the amount of \$5,000 to be used for costs associated with cultural and educational concerts.”

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

That the Mayor is hereby authorized and directed to sign a contract between the City of Charleston and West Virginia Development Office for FY 2006 Community Partnership Grant on behalf of the Charleston Community Music Association in the amount of Five Thousand Dollars (\$5,000) to be used for costs associated with cultural and educational concerts.

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

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

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No.182-07, adopted.

5. Your Committee on Finance has had under consideration Resolution No. 183-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 183-07: “Authorizing the Finance Director to allocate funds in the amount of \$17,060 for rehabilitation of two owner-occupied residents on the City’s West Side.”

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

That the Finance Director is hereby authorized and directed to allocate funds in the amount of Seventeen Thousand Sixty Dollars (\$17,060) for rehabilitation of two owner-occupied residents on the City’s West Side.

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

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

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No.183-07, adopted.

6. Your Committee on Finance has had under consideration Resolution No. 185-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 185-07: “Authorizing the Mayor to enter into an Agreement with B.B.R. Drilling Company, in the amount of \$26,000, to provide for materials, labor and

equipment for drilling and placement of ten (10) HP 10x42 beams for the purpose of stabilizing the roadway embankment adjacent to Rockaway Road on an emergency basis.”

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 B.B.R. Drilling Company, in the amount of Twenty-six Thousand Dollars (\$26,000), to provide for materials, labor and equipment for drilling and placement of ten (10) HP 10x42 beams for the purpose of stabilizing the roadway embankment adjacent to Rockaway Road on an emergency basis.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 185-07, adopted.

7. Your committee on Finance has had under consideration a bid submitted by Ohio Tool Systems, Inc., in the amount of \$14,453, for purchase of a Rigid Color CCTV Video System and Pipe Locator to be used by the Engineering Department. To be charged to Account No. 001-975-00-420-4-459, Engineering—Capital Outlay, Equipment, 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.

8. Your committee on Finance has had under consideration a bid submitted by Campbell Business Machines, Inc., in the amount of \$594.53 per month, for leasing of Mailing Equipment to be installed in the Mail Room on the 4<sup>th</sup> Floor of City Hall. The lease is for a 60 month period, subject to Council appropriating annual funding for the lease. The new equipment will replace a unit that has been in service for approximately six years. To be charged to Account No. 001-431-00-000-2-219, Mail Room—Bldg. / Equip. Rents

The question being on the adoption of the Committee Report roll call was taken and there were; yeas-28, as follows:

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

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

9. Your committee on Finance has had under consideration a bid submitted by Dell Marketing, in the amount of \$20,075.40, for purchase of (9) Computers with 19” Monitors; (9) 17” Monitors; and one Server to be installed in the Drug Unit of the Charleston Police Department To be charged to Account No. 097-976-07-000-4-459,

Cops Meth Grant— Capital Outlay, 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.

10. Your committee on Finance has had under consideration a proposal submitted by Carr Concrete, in the amount of \$6,381, for purchase and delivery of 60 pieces of concrete lagging (\$5,881); and two lifting clamps (\$500), used by the Street Department to install the lagging for the Roadway Embankment Project adjacent to Rockaway Road. To be charged to Account No. 221-975-00-420-4-458, Engineering—Capital Outlay, Major Improvements—City Service Fee Capital Projects Fund, 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 of Bill No. 7252 and reports the same to Council with the recommendation that the bill do Pass.

Bill No. 7252- - 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 Ten Dollars (\$10.00) per load at the City of Charleston Landfill (the “Landfill”) for all loads brought to the Landfill weighing Two Hundred Fifty (250) pounds or less.

WHEREAS, there is currently no minimum gate rate imposed by the Landfill, and Landfill Services of Charleston, Inc., has requested the City’s approval to petition the PSC for approval of a minimum gate rate of Ten Dollars (\$10.00) per load for all loads weighing Two Hundred Fifty (250) 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, liter, 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 Ten Dollars (\$10.00) per load at the City of Charleston Landfill for all loads brought to the Landfill weighing Two Hundred Fifty (250) pounds or less.

The question being on the passage of the Bill, a roll call was taken and there were;

yeas-28, absent – 0, as follows:

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

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7252 passed.

### **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.

At 7:40 p.m., on motion of Councilmember Loeb, Council adjourned until Monday, March 20, 2007, at 7:00 p.m.

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Danny Jones, Honorable Mayor

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James M. Reishman, City Clerk