

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

**May 7, 2007**

**THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE FIRST MEETING IN THE MONTH OF MAY ON THE 7<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 TALKINGTON.**

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

**EALY  
HARRIS  
JONES  
LOEB  
MONROE  
REED  
  
WEINTRAUB**

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

**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.**

## **PUBLIC SPEAKERS**

1. Jeane Ann Herscher & Margie Hall – Barbara Vineyard Foundation
2. Susie Salisbury – Historic District Coloring Books

## **CLAIMS**

1. A claim of Rehoboth Cathedral of Christ, 915 Main Street, Charleston, WV; alleges damage to property.  
Refer to City Solicitor.
2. A claim of Sunil Jain, 2905 Noyes Ave., Charleston, WV; alleges damage to property.  
Refer to City Solicitor.
3. A claim of Valerie Johnson, 1615 Sugar Creek Drive, Charleston, WV; alleges damage to vehicle.  
Refer to City Solicitor.
4. A claim of Pamela Ellis, 640 Gordon Drive, Charleston, WV; alleges damage to vehicle.  
Refer to City Solicitor.
5. A claim of Geoffrey Ekenasi, 1516 Bigley Ave., Charleston, WV; alleges damage to vehicle.  
Refer to City Solicitor.
6. A claim of Mary Cordelia Figgatt, 4233 W. Washington St., Charleston, WV; alleges damage to vehicle.  
Refer to City Solicitor.

## **COMMUNICATIONS**

The Clerk read the following Appointment:

TO: JAMES REISHMAN  
CITY CLERK

FROM: DANNY JONES  
MAYOR

RE: CHARLESTON URBAN RENEWAL AUTHORITY

DATE: MAY 7, 2007

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I recommend that Diane Strong-Treister, 503 Pennsylvania Avenue, Charleston, WV 25302, be reappointed to the Charleston Urban Renewal Authority, with a said term to expire March 3, 2012.

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

Council approved the Appointment.

TO: JAMES REISHMAN  
CITY CLERK

FROM: DANNY JONES  
MAYOR

RE: CHARLESTON URBAN RENEWAL AUTHORITY

DATE: MAY 7, 2007

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I recommend that Jack Cavender, 10 Hale Street, Suite 100, Charleston, WV 25301, be reappointed to the Charleston Urban Renewal Authority, with a said term to expire March 3, 2012.

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

Council approved the Appointment.

TO: JAMES REISHMAN  
CITY CLERK

FROM: DANNY JONES  
MAYOR

RE: FIREMAN'S CIVIL SERVICE COMMISSION

DATE: MAY 7, 2007

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I recommend that Eric Kinder, 807 Vogel Drive, Charleston, WV 25302, to the Fireman's Civil Service Commission, with an initial term to expire February 17, 2010. He is replacing James F. Jarrett.

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

Council approved the Appointment.

**MISCELLANEOUS RESOLUTIONS**

Resolution No. 222-07

Introduced in Council

Passed by Council

May 7, 2007

May 7, 2007

Introduced by  
Tom Lane

WHEREAS: Led by head coach Bill McClanahan and assistant coaches Fred McPherson and Matt Morrison, the boys basketball team from Charleston Catholic High School won its second straight Class A High School Basketball Championship in Charleston this year; and

WHEREAS: The 2006-2007 boys team, which had a 24-2 record and achieved the back-to-back state championship for this high school in the heart of our city featured: Bo King, Joe Sassler, Graham Warren, Andrew Neff, Andrew Sovick, Micheal Farris, Gus Shaffer, Andrew Cassis, Sean Riley, John Busse, Tommy Dexter, Stephen Carey and Dominic Tallerico; and

WHEREAS: Charleston Catholic High School's girls basketball team had the same 24-2 record as the boys team and also won the West Virginia Class A High School Basketball Championship, giving the school a rare distinction of two state championship teams in the same year; and

WHEREAS: Led by head coach Ashley Shepler and assistant coach Scott Welch, CCHS's championship girls team included: State Player of the Year Mackenzie Maier and team members Kim Abcouwer, Christine Bronikowski, Sarah Whitsberger, Jill Huxley, Alex Thomas, Elizabeth Davis, Julia Miller, Erin Vorholt, Meghan Shrewsbury and Maria Femia; and

WHEREAS: In addition to their athletic achievements, the boys varsity team contributed community service hours by planting several hundred trees along MacCorkle Avenue as part of the Riverfront South Beautification Project sponsored by the City and the Charleston Land Trust.

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

That we congratulate the players and coaches of Charleston Catholic High School's dual state championship basketball teams and express our appreciation for their

community service in our city that makes Charleston a better place to be.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 222-07, adopted.

Resolution No. 223-07, as amended :

Introduced in Council:

Adopted by Council:

May 7, 2007

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Introduced by:

Referred to:

Charles Loeb

\_\_\_\_\_

Resolution No. 223-07 : “Authorizing the non-recognition of Saturday, June 9, 2007, the date of a State authorized and County sanctioned special election, as a City holiday.”

WHEREAS, the Charleston City Council previously passed Bill No.7144, Committee Substitute, amending §86-161, §54-105, and §66-64 of the code of the City of Charleston, 2003, as amended, which provides that if a special or other election of a political subdivision other than the City of Charleston falls on a Saturday or Sunday, the City of Charleston may choose not to recognize the day of the election as a holiday if a majority of the City of Charleston City Council votes not to recognize the day of the election as a holiday; and

WHEREAS, a political subdivision other than the City of Charleston , has scheduled a State authorized and County sanctioned special election on a Saturday, June 9, 2007; now, therefore

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

That the City of Charleston City Council, by majority vote, chooses not to recognize Saturday, June 9, 2007, the date of a State authorized and County sanctioned special election, as a City holiday.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 223-07, as amended, adopted.

## **ORDINANCE AND RULES**

Councilman Charlie Loeb, Chairman of the Council Committee on Ordinance and Rules, submitted the following reports.

Ordinance No. 7258 A Bill to amend Chapter 82 of the City Code by adding and reserving Sections 82-128 through 82-160 and by adding Article V, Sections 82-161, 82-162, and 82-163, all relating to regulation of boater use of designated City electrical hook-ups at Haddad Riverfront Park events within the City of Charleston.

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

That the Council for the City of Charleston hereby amends Chapter 82 of the City Code by adding and reserving Sections 82-128 through 82-160 and by adding Article V, Sections 82-161, 82-162, and 82-163, all relating to regulation of boater use of designated City electrical hook-ups at Haddad Riverfront Park events within the City of Charleston, and all to read as follows:

### **ARTICLE V. BOATER USE OF DESIGNATED CITY ELECTRICAL HOOK-UPS AT HADDAD RIVERFRONT PARK EVENTS**

Sec. 82-161. Purpose; Definitions.

(a) Purpose. The City from time to time holds or permits events at Haddad Riverfront Park for the purpose of providing wholesome entertainment, to attract tourism, and to generally provide opportunities for people to take advantage of the great resource which is our downtown riverfront area. Making the area accessible to boaters attending such events promotes and furthers these purposes. This ordinance sets forth guidelines and conditions for the permitting and licensing of boaters to safely utilize designated electric power sources which may, at the City's discretion, be made available to boaters attending these events.

(b) Definitions. For the purpose of and wherever used in this Article, the following terms shall be defined and have the meanings as set forth herein:

*"Approved Cord"* means any cord and plug to be used by Boaters which meet the specifications set by City rules and regulations promulgated pursuant to this Article for purposes of connecting to and using any designated power source provided by the City;

*"Boater"* means any individual utilizing a Watercraft on the Kanawha River.

*"Daisy-chain"* means extending electric power via cords or connections to one or more end-user(s) other than an intended licensee's Watercraft.

*"Dock"* means any structure or platform, whether temporary or permanent, erected or placed at Haddad Riverfront Park for the purpose of securing or mooring Watercraft during any Event(s).

*“Event”* means any gathering or activity authorized by the City which is held at Haddad Riverfront Park and the surrounding area, including, but not limited to, such things as Live at the Levee concerts, FestivAll, the annual Charleston Sternwheel Regatta, Fourth of July fireworks celebrations, or other such events held at Haddad Riverfront Park.

*“Watercraft”* means any vessel being used or capable of being used for transportation on the water, including but not limited to:

- (a) A vessel operated by machinery either permanently or temporarily affixed, including motorboats, speedboats, sternwheelers, or other vessels intended to be used as boats;
- (b) A sailboat other than a sailboard;
- (c) An inflatable, manually propelled boat that is required by federal law to have a hull identification number meeting the requirement of the United States Coast Guard; or
- (d) A canoe, rowboat, or other such manually propelled boat.

#### Sec. 82-162. Event Electricity Hook-up; License for Hook-up

(a) The City may provide access to power sources for Boaters attending certain or all Events at Haddad Riverfront Park to allow Boaters to energize electrical systems or devices on their Watercraft while moored or secured at a Dock. The City shall have full discretion for the manner, timing, location, and placement of any and all designated power sources made available for such Events, and reserves the right to limit or shut-off the power at any time for any reason.

(b) Access to land-based electrical power sources during Events by Boaters shall be by means of an Approved Cord. No Boater shall access or connect to such power sources by any other means.

(c) Daisy-chains being fed power from land-based electrical power sources during Events are strictly prohibited. No Boater shall cause, construct, or allow such Daisy-chains.

(d) Permission to access land-based electrical power sources by Boaters during Events shall be by license issued by the City Manager or his/her designee. No Boater shall access or connect to such power sources without a license.

(e) The City may charge an administrative fee for licenses not to exceed \$100 per license. Licenses shall be non-transferable and may be issued for periods not exceeding one year.

(f) The City Manager is hereby authorized to promulgate reasonable rules and regulations for the administration of this Article, which may include (i) the setting of fees, (ii) the application process, requirements, and qualifying criteria; (iii) manner, timing, location, and placement of power source access, including the designation of Events subject to be licensed; (iv) insurance requirements and indemnity provisions to protect the City’s interests; (v) establishing classes or categories of licenses based upon an

Event, a group of Events, size of Watercraft, or other criteria; (vi) any other provisions, conditions, or limitations which may be appropriate to carry out the intent of this Article; Provided, that the City Manager shall retain the right to revoke or suspend any license, with or without cause, at any time.

(g) Any Boater licensed pursuant to this Article shall carry valid photo identification and a copy of the City license at all times when he or she is connected to any power source provided by the City, and shall present them to any City official or law enforcement officer upon request.

#### Sec. 82-163. Violations, Enforcement, and Penalties.

(a) In addition to immediate revocation and forfeiture of a Boater's license, and immediate confiscation of any improper or unauthorized cord, any violation of subsection (b), (c), (d), or (g) of the preceding section (§82-162) shall be considered a misdemeanor punishable by a fine not in excess of \$500.00 per offense.

(b) Any law enforcement officer, within the scope of his authority, may enforce the provisions of this Article, and any rules and regulations promulgated by the City Manager pursuant hereto, and in the exercise thereof may board any vessel which is in any way connected to any City provided power source for purposes of enforcing this Article and its applicable rules and regulations.

(c) Nothing in this Article shall be deemed to exempt any licensed Boater from any other or additional applicable permit and licensing requirements or any other laws of this State or of the City of Charleston. Further, any violation of any such permit, requirement, or laws of this State or of the City shall be grounds for immediate revocation of any license issued hereunder.

*The Ordinance was referred to Finance for final consideration.*

#### **FINANCE**

Councilman Tom Lane, of the Council Committee on Finance, submitted the following reports.

1. Your Committee on Finance has had under consideration Resolution No. 213-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 213-07: "Authorizing approval of the 2007-2008 Parking System Budget as indication on the attached list of accounts."

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

That the 2007-2008 Parking System Budget, as indicated on the attached list of

accounts, is hereby approved.

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

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

ABSENT: Clowser, Higgins, Reishman, Sadd

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 213-07, adopted.

2. Your Committee on Finance has had under consideration Resolution No. 214-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 214-07: “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-24, absent – 4, as follows:

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

ABSENT: Clowser, Higgins, Reishman, Sadd

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 214-07, adopted.

3. Your Committee on Finance has had under consideration Resolution No. 215-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 215-07: “Authorizing the Mayor to enter into a contract with Suttle & Stalnaker, in the amount of \$4,000, for an Agreed Upon Procedures Engagement for Solid Waste Facility, operated by Landfill Services of Charleston, Inc., for the calendar year ended December 31, 2006.”

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

That the Mayor is hereby authorized and directed to enter into a contract with Suttle and Stalnaker, in the amount of Four Thousand Dollars (\$4,000), for an Agreed Upon Procedures Engagement for Solid Waste Facility, operated by Landfill Services of Charleston, Inc., for the calendar year ended December 31, 2006.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 215-07, adopted.

4. Your Committee on Finance has had under consideration Resolution No. 216-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 216-07: “Authorizing the Mayor to sign and submit to the U.S. Department of Housing and Urban Development (HUD) the Annual Action Plan for Program Year 2007 to 2008 (Year 3 of the Consolidated Plan) and all required agreements including subrecipient project contracts relating to the Annual Action Plan.”

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

That the Mayor is hereby authorized and directed to submit to the U.S. Department of Housing and Urban Development (HUD) the Annual Action Plan for Program Year 2007 to 2008 (Year 3 of the Consolidated Plan) and all required agreements including subrecipient project contracts relating to the Annual Action Plan.

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

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

ABSENT: Clowser, Higgins, Reishman, Sadd

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 216-07, adopted.

5. Your Committee on Finance has had under consideration Resolution No. 217-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 217-07: “Authorizing the Mayor to sign and submit applications to the Office of Economic Opportunity for the 2007 West Virginia Homeless Shelters Program (WVHSP) to provide maintenance, operating expenses, and essential services for the following agencies: YWCA/Sojourner’s, YWCA/Resolve Family Abuse, Daymark Inc., Covenant House Inc., Roark Sullivan Lifeway Center Inc., and RCCR/Samaritan

Inn shelters; and further authorizing the Mayor to sign all required documents and agreements with all agencies.”

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 applications to the Office of Economic Opportunity for the 2007 West Virginia Homeless Shelters Program (WVHSP) to provide maintenance, operating expenses, and essential services for the following agencies: YWCA/Sojourner’s, YWCA/Resolve Family Abuse, Daymark Inc., Covenant House Inc., Roark Sullivan Lifeway Center Inc., and RCCR/Samaritan Inn shelters; and further authorizing the Mayor to sign all required documents and agreements with all agencies.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-23, absent – 4, abstain -1, as follows:

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

ABSENT: Clowser, Higgins, Reishman, Sadd

ABSTAIN: Weintraub,

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 217-07, adopted.

6. Your Committee on Finance has had under consideration Resolution No. 218-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 218-07: “Authorizing the Mayor to enter into a Grant Contract Agreement with the Division of Criminal Justice Services to receive and administer grant funds up to \$63,718 for the purpose of enhancing and continuing the Kanawha County STOP Team to improve the criminal justice system’s response to violence against women, starting July 1, 2007, and continuing through June 30, 2008.”

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

That the Mayor is hereby authorized and directed to enter into a Grant Contract Agreement with the Division of Criminal Justice Services to receive and administer grant funds up to Sixty-three Thousand Seven Hundred Eighteen Dollars (\$63,718) for the purpose of enhancing and continuing the Kanawha County STOP Team to improve the criminal justice system’s response to violence against women, starting July 1, 2007, and continuing through June 30, 2008.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 218-07, adopted.

7. Your Committee on Finance has had under consideration Resolution No. 219-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 219-07: "Authorizing the Mayor to sign an Agreement with Security America, Inc. to provide security services at the Sunrise Carriage Trail at an hourly rate of \$12.26 for the period May 15, 2007 to September 15, 2007."

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

That the Mayor is hereby authorized and directed to sign an Agreement with Security America, Inc. to provide security services at the Sunrise Carriage Trail at an hourly rate of \$12.26 for the period May 15, 2007 to September 15, 2007.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 219-07, adopted.

8. Your Committee on Finance has had under consideration Resolution No. 220-07, as amended, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 220-07: "Granting an airspace easement for the projection of architectural features and details over a City right-of-way for the building located 103 Capitol Street, Charleston, West Virginia."

WHEREAS, SSM, LLC ("SSM"), a West Virginia limited liability company, is the owner of a building and parcel of land located at 103 Capitol Street and being more particularly described in that certain deed of record in the Office of the Clerk of the Kanawha County Commission at Deed Book 2620, page 643 (the "Property"); and

WHEREAS, SSM intends to renovate the Property and, consistent with the plans attached hereto as Exhibit A, desires to include architectural features and details which project into the airspace over the City right-of-way, including the addition of three balconies on the third floor of the structure that will encroach into the airspace of the City's right-of-way at certain intervals above the sidewalk along Capitol Street (the "Projections"); and

WHEREAS, the Projections will not encroach more than two feet into the right-of-way and will be no wider than three feet at a height of approximately twenty feet above the sidewalk; and

WHEREAS, SSM has requested that the City grant SSM an easement for airspace to accommodate the proposed Projections for so long as the building remains in existence and said Projections are an appurtenance thereto; and

WHEREAS, granting an easement to SSM to maintain architectural features and details which project into the airspace will not materially interfere with the City or the public generally; and

WHEREAS, granting an easement to SSM to maintain architectural features and details on the Property will act to enhance the appearance of the building façade for the public view along Capitol Street;

WHEREAS, for legally sufficient consideration, the City desires to grant SSM an easement for airspace to construct and maintain the Projections, said construction and maintenance to be consistent with all applicable City and State of West Virginia laws, provided the easement in no way conflicts with the City's use or development of its property;

NOW, THEREFORE BE IT RESOLVED, that the Mayor of the City of Charleston be and is hereby authorized and directed, on behalf of the City, and subject to the terms set forth herein, to grant to SSM an easement for the Projections to be constructed and maintained in accordance with Exhibit A hereto.

BE IT FURTHER RESOLVED, that said easement shall be upon the express condition and limitation that in the event such Projections cease to be an appurtenance to the Property, or if the easement conflicts in any way with the City's use or development of its property, the easement shall cease, terminate, and be of no further effect, and SSM shall, upon receiving written notice from the City, immediately and at SSM's expense, remove the Projections from the City's right-of-way.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 220-07 as amended, adopted.

9. Your Committee on Finance has had under consideration Resolution No. 221-07, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 221-07: "Authorizing the Mayor to apply for the FY 2006-2007 Emergency Management Performance Grant ("EMPG") through the West Virginia Division of Homeland Security and Emergency Management. This grant will assist the City in continuing and improving its emergency management response system and will reimburse the City 50% for most of the operating and other costs incurred by the Office of Emergency Services and Homeland Security."

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

That the Mayor is hereby authorized and directed to apply for the FY 2006-2007 Emergency Management Performance Grant ("EMPG") through the West Virginia Division of Homeland Security and Emergency Management. This grant will assist the City in continuing and improving its emergency management response system and will

reimburse the City 50% for most of the operating and other costs incurred by the Office of Emergency Services and Homeland Security.

The question being on the adoption of the Resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 221-07, adopted.

10. Your committee on Finance has had under consideration a bid submitted by West Virginia Tractor Company, in the amount of \$24,990, for purchase of an Altec DC 1217 Wood Chipper to be used at Spring Hill Cemetery Park. To be charged to Account No. 001-980-00-952-4-459, Spring Hill Cemetery Park-- 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.

11. Your committee on Finance has had under consideration a proposal submitted by West Virginia Signal & Light, Inc., in the amount of \$11,364.85, for purchase of a Traconex Cabinet Assembly to replace a damaged traffic signal cabinet at Virginia and McFarland streets. To be charged to Account No. 001-976-00-712-4-459, Traffic 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.

12. Your committee on Finance has had under consideration a Payment of three invoices from Waynesboro Nurseries, in the total amount of \$16,084.75, for purchase of trees and shrubs (\$7,304.25; \$3,560.00; \$5,220.50) for the MacCorkle Avenue project. To be charged to Account No. 001-567-00-000-3-341, Public Grounds—Materials and Supplies, 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 Bill No. 7258, and reports the same to Council with the recommendation that the bill do pass.

Ordinance No. 7258 A Bill to amend Chapter 82 of the City Code by adding and reserving Sections 82-128 through 82-160 and by adding Article V, Sections 82-161, 82-162, and 82-163, all relating to regulation of boater use of designated City electrical hook-ups at Haddad Riverfront Park events within the City of Charleston.

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

That the Council for the City of Charleston hereby amends Chapter 82 of the City Code by adding and reserving Sections 82-128 through 82-160 and by adding Article V, Sections 82-161, 82-162, and 82-163, all relating to regulation of boater use of designated City electrical hook-ups at Haddad Riverfront Park events within the City of Charleston, and all to read as follows:

#### ARTICLE V. BOATER USE OF DESIGNATED CITY ELECTRICAL HOOK-UPS AT HADDAD RIVERFRONT PARK EVENTS

Sec. 82-161. Purpose; Definitions.

(a) Purpose. The City from time to time holds or permits events at Haddad Riverfront Park for the purpose of providing wholesome entertainment, to attract tourism, and to generally provide opportunities for people to take advantage of the great resource which is our downtown riverfront area. Making the area accessible to boaters attending such events promotes and furthers these purposes. This ordinance sets forth guidelines and conditions for the permitting and licensing of boaters to safely utilize designated electric power sources which may, at the City's discretion, be made available to boaters attending these events.

(b) Definitions. For the purpose of and wherever used in this Article, the following terms shall be defined and have the meanings as set forth herein:

*"Approved Cord"* means any cord and plug to be used by Boaters which meet the specifications set by City rules and regulations promulgated pursuant to this Article for purposes of connecting to and using any designated power source provided by the City;

*"Boater"* means any individual utilizing a Watercraft on the Kanawha River.

*"Daisy-chain"* means extending electric power via cords or connections to one or more end-user(s) other than an intended licensee's Watercraft.

*"Dock"* means any structure or platform, whether temporary or permanent, erected or placed at Haddad Riverfront Park for the purpose of securing or mooring Watercraft during any Event(s).

*"Event"* means any gathering or activity authorized by the City which is held at Haddad Riverfront Park and the surrounding area, including, but not limited to, such things as Live at the Levee concerts, FestivAll, the annual Charleston Sternwheel Regatta, Fourth of July fireworks celebrations, or other such events held at Haddad Riverfront Park.

*"Watercraft"* means any vessel being used or capable of being used for transportation on the water, including but not limited to:

- (a) A vessel operated by machinery either permanently or temporarily affixed, including motorboats, speedboats, sternwheelers, or other vessels intended to be used as boats;
- (b) A sailboat other than a sailboard;

- (c) An inflatable, manually propelled boat that is required by federal law to have a hull identification number meeting the requirement of the United States Coast Guard; or
- (d) A canoe, rowboat, or other such manually propelled boat.

Sec. 82-162. Event Electricity Hook-up; License for Hook-up

(a) The City may provide access to power sources for Boaters attending certain or all Events at Haddad Riverfront Park to allow Boaters to energize electrical systems or devices on their Watercraft while moored or secured at a Dock. The City shall have full discretion for the manner, timing, location, and placement of any and all designated power sources made available for such Events, and reserves the right to limit or shut-off the power at any time for any reason.

(b) Access to land-based electrical power sources during Events by Boaters shall be by means of an Approved Cord. No Boater shall access or connect to such power sources by any other means.

(c) Daisy-chains being fed power from land-based electrical power sources during Events are strictly prohibited. No Boater shall cause, construct, or allow such Daisy-chains.

(d) Permission to access land-based electrical power sources by Boaters during Events shall be by license issued by the City Manager or his/her designee. No Boater shall access or connect to such power sources without a license.

(e) The City may charge an administrative fee for licenses not to exceed \$100 per license. Licenses shall be non-transferable and may be issued for periods not exceeding one year.

(f) The City Manager is hereby authorized to promulgate reasonable rules and regulations for the administration of this Article, which may include (i) the setting of fees, (ii) the application process, requirements, and qualifying criteria; (iii) manner, timing, location, and placement of power source access, including the designation of Events subject to be licensed; (iv) insurance requirements and indemnity provisions to protect the City's interests; (v) establishing classes or categories of licenses based upon an Event, a group of Events, size of Watercraft, or other criteria; (vi) any other provisions, conditions, or limitations which may be appropriate to carry out the intent of this Article; Provided, that the City Manager shall retain the right to revoke or suspend any license, with or without cause, at any time.

(g) Any Boater licensed pursuant to this Article shall carry valid photo identification and a copy of the City license at all times when he or she is connected to any power source provided by the City, and shall present them to any City official or law enforcement officer upon request.

Sec. 82-163. Violations, Enforcement, and Penalties.

(a) In addition to immediate revocation and forfeiture of a Boater's license, and immediate confiscation of any improper or unauthorized cord, any violation of subsection (b), (c), (d), or (g) of the preceding section (§82-162) shall be considered a misdemeanor punishable by a fine not in excess of \$500.00 per offense.

(b) Any law enforcement officer, within the scope of his authority, may enforce the provisions of this Article, and any rules and regulations promulgated by the City Manager pursuant hereto, and in the exercise thereof may board any vessel which is in any way connected to any City provided power source for purposes of enforcing this Article and its applicable rules and regulations.

(c) Nothing in this Article shall be deemed to exempt any licensed Boater from any other or additional applicable permit and licensing requirements or any other laws of this State or of the City of Charleston. Further, any violation of any such permit, requirement, or laws of this State or of the City shall be grounds for immediate revocation of any license issued hereunder.

The question being on the passage of the Bill, a roll call was taken and there were; yeas-24, absent – 4, 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.

ABSENT: Clowser, Higgins, Reishman, Sadd

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7258 passed.

## **REPORTS OF OFFICERS**

1. Report of the City of Charleston, Municipal Court Financial Statements; April 2007. Received and Filed.

## **NEW BILLS**

Introduced by Councilmember Mary Jean Davis, on May 7, 2007

Bill No.7257 amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 1<sup>st</sup> day of January 2006, as amended, and the map made a part thereof, by rezoning from an R-4 and C-8 to a C-10 district, these certain parcels of land situate at 1606, 1608, 1610, 1612, and 1614 3<sup>rd</sup> Street, Charleston, West Virginia.

Refer to Municipal Planning Commission

Introduced by Councilmember David Higgins, on May 7, 2007

Bill No. 7259 a Bill authorizing execution of an agreement with the West Virginia

Department Of Transportation, Division Of Highways, with regard to establishment and maintenance of a traffic signal system within the municipal limits of the City of Charleston, Kanawha County, West Virginia.

Refer to Streets and Traffic Committee

## **ROLL CALL**

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

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

ABSENT: Clowser, Higgins, Reishman, Sadd

At 7:50 p.m., on motion of Councilmember Loeb, Council adjourned until Monday, May 21, 2007, at 7:00 p.m.

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Danny Jones, Honorable Mayor

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James M. Reishman, City Clerk