

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

**February 19, 2008**

**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 19<sup>th</sup> DAY, IN THE YEAR 2008, AND WAS CALLED TO ORDER BY THE HONORABLE MAYOR, DANNY JONES. THE INVOCATION WAS DELIVERED BY HARRISON AND THE PLEDGE OF ALLEGIANCE WAS LED BY WARE.**

**BURTON  
DEITZLER  
HANNA  
HIGGINS  
KNAUFF  
MILLER  
REISHMAN  
SHEETS  
WARE  
MAYOR JONES**

**HARRIS  
JONES  
LANE  
PAYNE  
RUSSELL  
SMITH  
WEINTRAUB**

**DAVIS  
HALL  
HARRISON  
KIRK  
LANHAM  
REED  
SALISBURY  
TALKINGTON  
WHITE**

**TWENTY- SIX 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

## **PUBLIC HEARING**

After duly being published as required, I now declare the floor open for a Public Hearing on Bill No.7320: An Ordinance Amending And Reenacting Section 118-141 Of Division 4 Of Article III Of Chapter 118 Of The Code Of The City Of Charleston, West Virginia, With Respect To Adoption Of Rules And Regulations And Increasing Existing Rates And Charges For Sanitary Sewer Service.

The Chair sees no one from the public.

The Chair hears no one from the public.

The Chair declares Public Hearing on Bill No. 7320, Closed.

## **CLAIMS**

1. A claim of Norvell R. Adkins, 401 4<sup>th</sup> Street, Belle WV; alleges damage to vehicle. Refer to City Solicitor

2. A claim of Susan Tucker, 1 Morris St., Apt. # 602, Charleston, WV; alleges damage to vehicle. Refer to City Solicitor

3. A claim of Janet Brooks, 3820 Waverly Rd., Huntington, WV; alleges personal injury. Refer to City Solicitor

## **PLANNING**

Councilman Mary Jean Davis, of the Council Committee on Planning, submitted the following reports.

1. Your Committee on Planning has had under consideration Bill No. 7311, and reports the same to Council with the recommendation that the bill do pass.

A bill closing, abandoning and discontinuing as a public right of way the streets known as Walton Street, Wesley Street, Atkins Court, McLanes Alley and an unnamed 7 foot wide alley situate south of Washington Street, West and Lee Street, West and north of the Norfolk and Southern Railroad right of way in Charleston West Taxing District, City of Charleston, Kanawha County, West Virginia, and reserving a sewer easement for the City of Charleston.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CHARLESTON, WEST

VIRGINIA:

That the Council of the City of Charleston, West Virginia, finds and determines:

1. The public right of ways commonly known as Walton Street, Wesley Street, Atkins Court, McLanes Alley and an unnamed 7 foot wide alley located in Charleston West Taxing District, City of Charleston, West Virginia more accurately described as follows:

The public rights of way commonly known as Walton Street, Wesley Street, Atkins Court, McLanes Alley and unnamed 7.4 foot wide alley located in Charleston West Taxing District, City of Charleston, Kanawha County, West Virginia, being more particularly described as follows:

Beginning at a 1" iron pipe found at the intersection of the southerly right of way line of Washington Street West and the westerly right of way line of McLanes Avenue; thence with the southerly line of Washington Street S67°28'55" E. 9.15' to a point on the easterly right of way line of McLanes Avenue; thence leaving Washington Street west right of way line and with the easterly right of way line of McLanes Avenue S32°45'00" W. 112.26' to a point at the intersection of Walton Street and McLanes Avenue; thence leaving McLanes Avenue and with the northerly right of way line of Walton Street S65°36'41" E. 156.99' to a railroad spike found at the intersection of Walton Street and Atkins Court; thence leaving Walton Street and with the westerly right of way line of Atkins Court N31°08'55" E 116.92' to a point in the southerly right of way line of Washington Street West; thence with the southerly line of Washington Street West S67°28' 55"E 15.68' to a point at the intersection of the southerly right of way line of Washington Street West with the easterly right of way line of Atkins Court; thence with the easterly right of way line of Atkins Court S31°08'55" W 85.85' to a point at the intersection of the easterly right of way line of Atkins Court with the northerly right of way line of Wesley Street S60°17'09" E 113.93' to a point on the terminus of said Wesley Street; thence S30°59'54" W 25.01 to a point on the southerly right of way line of Wesley Street; thence with said southerly right of way line N60°17'09" W 118.13' to a point at the intersection of Wesley Street and Atkins Court; thence S30°00'51" W 139.09' with the easterly line of a 7.4' wide alley to a point on the northerly right of way line of Norfolk and Southern railroad; thence with said railroad N69°01'21" W 7.49' to a point on the westerly line of a 7.4' wide alley; thence with said alley N30°00'51" E 107.47' to a ¾" iron pipe found at the intersection of said 7.4' wide alley and Walton Street; thence with the southerly right of way line of Walton Street N65°36'47" W 162.35' to a point on the easterly right of way line of McLanes Avenue; thence with the easterly line of said McLanes Avenue S32°45'00" W 118.28' to a point on the northerly right of way line of Norfolk and Southern Railroad; thence with said railroad right of way N69°01'21" W 9.19' to a point on the westerly right of way line of McLanes Avenue; thence with the westerly line of McLanes Avenue N32°45'00" E 256.05' to the place of beginning, containing 0.27 acres, more or less, as surveyed by Tarradon Corporation, and shown on a plat dated October 9, 2007, and being located in the City of Charleston (the "Streets").

2. The City of Charleston hereby reserves a sewer easement for the full width and length of McLanes Avenue for the purpose of construction, maintenance, repair and removal of storm and sanitary sewer lines.
3. The Mayor of the City of Charleston is hereby authorized and directed to execute, acknowledge and deliver a proper deed conveying to Ed Street Company, and its successors in title, all right, title and interest in and to said real estate as described in Section 1 above, except as provided in Section 2 above, the consideration of \_\_\_\_\_ Dollars.

All prior ordinances, or parts of ordinances, inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

The Bill was referred to Finance for final consideration.

2. Your Committee on Planning has had under consideration Bill No. 7316, and reports the same to Council with the recommendation that the bill do pass.

Bill No. 7316 amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 1<sup>st</sup> day of January, 1006, as amended, and the map made a part thereof, by rezoning from an R-6 district to a C-8 district, that certain parcel of land situate at 877 Oakwood Road, Charleston, West Virginia.

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

The Zoning Ordinance of the City of Charleston, West Virginia, enacted the 1<sup>st</sup> day of January, 2006, as amended, is hereby amended by rezoning from an r-6 district to a C-8 district the following described parcels of land:

A portion of parcels 18, 19, 20, 21.01, 33, 34, 35, 36, all parcels being a part of South Annex tax map 11, located on the west side of U.S. 119 and Oakwood Road, at the intersection of Oakwood Road, Oakhurst Drive, and Mullins Road, in Charleston, West Virginia.

The zoning map, attached to and made a part of said Zoning Ordinance, is hereby amended in accordance with Article 27 of this ordinance. 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 a roll call was taken and there were; yeas- 26, absent - 2, as follows:

YEAS: Burton, , Davis, Deitzler, Hall, Hanna, Harris, Harrison, Higgins, Jones, Kirk, Knauff, Lane, Lanham, Miller, Payne, Reed, Reishman, Russell, Salisbury, Sheets, Smith, Talkington, Ware, Weintraub, White, Mayor Jones.

ABSENT: Ealy, Clowser

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7316, passed.

**FINANCE**

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

1. Your Committee on Finance has had under consideration Resolution No. 336-08, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 336-08: “Authorizing the Mayor to enter into an Agreement with West Virginia Guttering, Inc. to supply guttering replacement for the City of Charleston Rehabilitation Programs.”

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

That the Mayor is hereby authorized and directed enter into an agreement with West Virginia Guttering to supply gutter replacement for the City of Charleston Rehabilitation Programs at the following prices:

Seamless 5” Guttering (Class K, or Equivalent)	\$ 3.25/LF
Downspout	\$ 3.25/LF
Hangers	\$ 2.00 each
Mitered Corner (inside & outside)	\$10.00 each
Fascia Brackets	\$ 2.00 each

The above prices include installation of materials.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-26, absent - 1, as follows:

YEAS: Burton, Davis, Deitzler, Hall, Hanna, Harris, Harrison, Higgins, Jones, Kirk, Knauff, Lane, Lanham, Miller, Payne, Reed, Reishman, Russell, Salisbury, Sheets, Smith, Talkington, Ware, Weintraub, White, Mayor Jones.

ABSENT: Ealy, Clowser

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 336-08, adopted.

2. Your Committee on Finance has had under consideration Resolution No. 337-08, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 337-08: “Authorizing the Mayor to sign an Agreement with Lowe’s of Kanawha City for supplying materials for rehabilitation of owner occupied residences 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 an Agreement with Lowe’s of

Kanawha City for supplying materials for rehabilitation of owner occupied residences in the City of Charleston. The materials will be purchased on an as needed basis for each project undertaken through the Rehabilitation Programs.

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-26, absent - 1, as follows:

YEAS: Burton, Davis, Deitzler, Hall, Hanna, Harris, Harrison, Higgins, Jones, Kirk, Knauff, Lane, Lanham, Miller, Payne, Reed, Reishman, Russell, Salisbury, Sheets, Smith, Talkington, Ware, Weintraub, White, Mayor Jones.

ABSENT: Ealy, Clowser

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 337-08, adopted.

3. Your Committee on Finance has had under consideration Resolution No. 338-08, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 338-08: "Authorizing the Mayor to enter into an Agreement with Pinnacle Environmental Consultant, Inc. to supply lead hazard inspections/testing, risk assessments and clearance technician services for 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 enter into an Agreement with Pinnacle Environmental Consultant, Inc. to supply lead hazard inspections/testing, risk assessments and clearance technician services for the City of Charleston at the following prices:

Lead Inspection / XRF Analyzer	\$400.00 / structure
Lead Risk Assessment	\$275.00 / structure
Clearance Testing	\$200.00 / structure

The question being on the adoption of the Resolution a roll call was taken and there were; yeas-26, absent - 1, as follows:

YEAS: Burton, Davis, Deitzler, Hall, Hanna, Harris, Harrison, Higgins, Jones, Kirk, Knauff, Lane, Lanham, Miller, Payne, Reed, Reishman, Russell, Salisbury, Sheets, Smith, Talkington, Ware, Weintraub, White, Mayor Jones.

ABSENT: Ealy, Clowser

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 338-08, adopted.

4. Your Committee on Finance has had under consideration Resolution No. 339-08, and reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 339-08: "Authorizing the Mayor to receive and administer

supplemental funds in the amount of \$50,000 from the Governor's Highway Safety Office for the 2008 Safe Community Grant. The funds will be used to purchase 25 laptop computers and includes software and training in racial profiling programs for the officers assigned to perform these services."

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

That the Mayor is hereby authorized and directed to receive and administer supplemental funds in the amount of \$50,000 from the Governor's Highway Safety Office for the 2008 Safe Community Grant. The funds will be used to purchase 25 laptop computers and includes software and training in racial profiling programs for the officers assigned to perform these services.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 339-08, adopted

5. Your Committee on Finance has had under consideration a Proposal submitted by Stephen's Auto Center, in the amount of \$17,493, for purchase of a 2008 Dodge Charger. The new vehicle will be assigned to the City of Charleston Chief of Police. To be charged to Account No. 001-976-00-700-4-459, Police—Capital Outlay, through the JP Morgan Chase Lease Purchase Escrow Account, Schedule No. 1000131808 and reports the same to Council with the recommendation that the committee report be adopted.

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

6. Your Committee on Finance has had under consideration Bill No. 7311, and reports the same to Council with the recommendation that the committee report be adopted.

A bill closing, abandoning and discontinuing as a public right of way the streets known as Walton Street, Wesley Street, Atkins Court, McLanes Alley and an unnamed 7 foot wide alley situate south of Washington Street, West and Lee Street, West and north of the Norfolk and Southern Railroad right of way in Charleston West Taxing District, City of Charleston, Kanawha County, West Virginia, and reserving a sewer easement for the City of Charleston.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CHARLESTON, WEST VIRGINIA:

- That the Council of the City of Charleston, West Virginia, finds and determines:
4. The public right of ways commonly known as Walton Street, Wesley Street, Atkins Court, McLanes Alley and an unnamed 7 foot wide alley located in Charleston West Taxing District, City of Charleston, West Virginia more accurately described as follows:

The public rights of way commonly known as Walton Street, Wesley Street, Atkins Court, McLanes Alley and unnamed 7.4 foot wide alley located in Charleston West Taxing District, City of Charleston, Kanawha County, West Virginia, being more particularly described as follows:

Beginning at a 1" iron pipe found at the intersection of the southerly right of way line of Washington Street West and the westerly right of way line of McLanes Avenue; thence with the southerly line of Washington Street S67°28'55" E. 9.15' to a point on the easterly right of way line of McLanes Avenue; thence leaving Washington Street west right of way line and with the easterly right of way line of McLanes Avenue S32°45'00" W. 112.26' to a point at the intersection of Walton Street and McLanes Avenue; thence leaving McLanes Avenue and with the northerly right of way line of Walton Street S65°36'41" E. 156.99' to a railroad spike found at the intersection of Walton Street and Atkins Court; thence leaving Walton Street and with the westerly right of way line of Atkins Court N31°08'55" E 116.92' to a point in the southerly right of way line of Washington Street West; thence with the southerly line of Washington Street West S67°28' 55"E 15.68' to a point at the intersection of the southerly right of way line of Washington Street West with the easterly right of way line of Atkins Court; thence with the easterly right of way line of Atkins Court S31°08'55" W 85.85' to a point at the intersection of the easterly right of way line of Atkins Court with the northerly right of way line of Wesley Street S60°17'09" E 113.93' to a point on the terminus of said Wesley Street; thence S30°59'54" W 25.01 to a point on the southerly right of way line of Wesley Street; thence with said southerly right of way line N60°17'09" W 118.13' to a point at the intersection of Wesley Street and Atkins Court; thence S30°00'51" W 139.09' with the easterly line of a 7.4' wide alley to a point on the northerly right of way line of Norfolk and Southern railroad; thence with said railroad N69°01'21" W 7.49' to a point on the westerly line of a 7.4' wide alley; thence with said alley N30°00'51" E 107.47' to a ¾" iron pipe found at the intersection of said 7.4' wide alley and Walton Street; thence with the southerly right of way line of Walton Street N65°36'47" W 162.35' to a point on the easterly right of way line of McLanes Avenue; thence with the easterly line of said McLanes Avenue S32°45'00" W 118.28' to a point on the northerly right of way line of Norfolk and Southern Railroad; thence with said railroad right of way N69°01'21" W 9.19' to a point on the westerly right of way line of McLanes Avenue; thence with the westerly line of McLanes Avenue N32°45'00" E 256.05' to the place of beginning, containing 0.27 acres, more or less, as surveyed by Tarradon Corporation, and shown on a plat dated October 9, 2007, and being located in the City of Charleston (the "Streets").

5. The City of Charleston hereby reserves a sewer easement for the full width and length of McLanes Avenue for the purpose of construction, maintenance, repair and removal of storm and sanitary sewer lines.
6. The Mayor of the City of Charleston is hereby authorized and directed to execute, acknowledge and deliver a proper deed conveying to Ed Street Company, and its successors in title, all right, title and interest in and to said real

estate as described in Section 1 above, except as provided in Section 2 above, the consideration of 44,316.00 Dollars.

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 a roll call was taken and there were; yeas-25, absent – 2, abstain-1, as follows:

YEAS: Burton, , Davis, Deitzler, Hall, Hanna, Harris, Harrison, Higgins, Jones, Kirk, Knauff, Lanham, Miller, Payne, Reed, Reishman, Russell, Salisbury, Sheets, Smith, Talkington, Ware, Weintraub, White, Mayor Jones.

ABSENT: Ealy, Clowser

ABSTAIN: Lane

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7311, passed.

7. Your Committee on Finance has had under consideration Bill No. 7320 and reports the same to Council with the recommendation that the bill do pass.

AN ORDINANCE AMENDING AND REENACTING SECTION 118-141 OF DIVISION 4 OF ARTICLE III OF CHAPTER 118 OF THE CODE OF THE CITY OF CHARLESTON, WEST VIRGINIA, WITH RESPECT TO ADOPTION OF RULES AND REGULATIONS AND INCREASING EXISTING RATES AND CHARGES FOR SANITARY SEWER SERVICE.

WHEREAS, in order to protect the public health, safety and welfare, the Council of the City of Charleston ("City Council") has determined that it is necessary for the Sanitary Board of the City of Charleston (the "Sanitary Board") to complete a project of betterments and improvements to the existing public sewerage system of the City of Charleston (the "System"), consisting of replacements, rehabilitation, and improvements to the wastewater collection system (the "Project"); and

WHEREAS, in order for the Sanitary Board to collect annual revenues necessary to pay the personnel expenses, operation and maintenance expenses, and the debt service, including the Project additions, of the System, the existing rates and charges for sanitary sewer service to the customers of the Sanitary Board must be increased; now, therefore

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

SECTION 1. That Bill No. 7034 of the City of Charleston, West Virginia, enacted the 20<sup>th</sup> day of January 2004, and codified in the City Code of the City of Charleston as Section 118-141 "Adoption of Certain Rules and Regulations and Establishment of a Schedule of Just and Equitable Rates or Charges; Use of Water Meters" of Division 4 of Article III of Chapter 118 be further amended and reenacted by establishing a schedule of rates and charges for the use of services rendered by the System, all of said Section is hereby amended to provide as follows:

Sec. 118-141. Adoption of certain rules and regulations and establishment

of a schedule of just and equitable rates or charges; use of water meters. For the operation of the system and for the payment of proper and reasonable expense of operations, repair, replacements, improvements, additions, betterments, extensions, and maintenance of the sewer system and for the payment of the sums required to pay the principal and interest of all sewer revenue bonds as the same become due, there is hereby established rules and regulations and a schedule of just and equitable rates or charges for the use of the sanitary board, which rules and regulations and schedule of rates or charges, based upon the metered amount of water supplied the premises, shall be as follows:

(1) *Rules and regulations.*

a. Rules and regulations for the government of sewerage utilities adopted by the Public Service Commission of West Virginia, and now in effect, and all amendments thereto, and modifications thereof hereafter made by said commission.

b. On all premises having a private water supply and connected with the sewer system and works there shall be installed a meter for measuring the amount of water supplied said premises.

c. If for any reason there be no record of the amount of water supplied any month, then the charge shall be based upon the last available monthly meter reading.

d. Users, the nature and character of whose use is such that the amount of water discharged into the said system is deemed by the sanitary board to be substantially less than the amount of metered water supplied the premises, shall be charged for sewer service substantially on the basis of the amount of water discharged into the sewer system, as may be determined according to formulae approved by the sanitary board.

e. In apartment buildings, mobile home courts, shopping centers and other places where more than one occupancy unit is served with water through one water meter, the customer shall be required to pay not less than the minimum monthly charge provided in the tariff for each occupancy.

(2) *Rates.*

a. For sewage that does not contain industrial waste:

In excess of 2,000 gallons used per month, per thousand gallons . . . \$8.97

b. For sewage that contains industrial waste:

1. Where the character of sewage from any manufacturing or industrial plant, building or premises is such that it imposes a burden upon the sewer system in addition to the burden imposed by the average sewage entering the sewer system, the sanitary board may, if it deems advisable to do so,

compel the owner, tenant or occupant of such manufacturing or industrial plant, building or premises to treat such sewage in such manner as shall be specified by the sanitary board before discharging into the sewer system. In the absence of such treatment sufficient to remove such additional burden, the charges for treatment of such sewage shall be as follows:

Monthly service charge . . . \$7,455.73  
Volumetric treatment charge, per thousand gallons  
. . . \$4.07  
Biochemical oxygen demand (BOD) charge, per pound . . . \$0.42  
Total Suspended Solids (TSS) charge, per pound  
. . . \$0.33

2. When an industrial user is to be served, a preliminary study of its waste, and the cost of transport and treatment thereof, will be made. Waste containing materials which, in the judgment of the sanitary board, should not be introduced into the sewer system, need not be handled by it. The results of this preliminary study will be used to determine the feasibility of the proposed sewer service.

(3) *Minimum charge.* A charge of \$16.38 shall be the minimum for each month or fraction thereof. If, for any reason, there be no record of the amount of water supplied in any month, then the charge shall be based upon the last available monthly meter reading.

(4) *Recovery of bank charges.* If a bank or other financial institution returns a customer's check to the sanitary board and charges a fee to the sanitary board for such service, the fee charged will be added to the account of the customer whose check is returned.

(5) *Pretreatment charge.* In addition to all other charges contained herein, all customers who operate under a pretreatment permit will pay an annual charge of \$2500.00, payable on July 1 of each year.

(6) *Disconnect, lien, and reconnect fees.* If the sanitary board gives notice to a provider of water service to disconnect water service to a customer of the sanitary board, the following charges will be added to the account of such customer:

a. A charge equal to that imposed upon the sanitary board by the water service provider, plus any legally required certified mail charge, will be added to such customer's account at the time notice to disconnect is given to the water

provider.

b. A charge equal to the filing fee to cover the cost of placing a lien on the property served will be added to the account of such customer at the time such lien is filed in the office of the clerk of the county commission of the county where the property served is located.

c. A reconnect charge equal to that imposed upon the sanitary board by the water service provider will be made at the time the customer pays the amounts due on such customer's account and requests the reconnection of water and sewer service.

(7) *New service fee.* A new service fee equal to the greater of \$250.00 or the sanitary board's actual cost of making the connection shall be paid before sewer service can be obtained at any location not previously connected to the collection system of a sewer utility.

(8) *Delayed Payment Penalty.* On all current usage billings not paid in full by the latest pay date, which shall be no sooner than the 20<sup>th</sup> day following the date the sanitary board mails the bill, ten percent will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

(9) *Grease trap charge.* In addition to all other charges contained herein, all customers who are required by the sanitary board to install a grease trap shall pay an annual charge of \$320.00, payable on July 1 of each year.

(10) *Surcharges.* Customers served from the facilities acquired from the Mt. Tyler Public Service District shall pay, in addition to the foregoing, a monthly surcharge of \$2.14 per month until the retirement of bonds issued by said district, as approved by the Public Service Commission of West Virginia in Case No. 98-0215-PSD-S-C.

Customers served from the facilities acquired from the Guthrie Public Service District shall pay, in addition to the foregoing, a monthly surcharge of \$1.75 per thousand gallons until the retirement of bonds issued by said district, as approved by the Public Service Commission of West Virginia in Case No. 00-0152-PSD-PC.

**SECTION 2.** That, in accordance with the requirements of Chapter 16, Article 13, Section 16 of the Code of West Virginia, 1931, as amended, the City shall cause notice of the proposed adoption of this Ordinance to be published as a Class II-0 legal advertisement, with the first publication being made at least ten days before the City Council meeting at which this Ordinance is to be finally adopted, and with said notice meeting the other requirements set forth in Code §16-13-16; and this hearing is also with regard to an ordinance raising revenues in compliance with Chapter 8, Article 11, Section 4 of the Code of West Virginia, 1931, as amended;

and

SECTION 3. That in accordance with the provisions of Chapter 24, Article 2, Section 4(b) of the Code of West Virginia, 1931, as amended, the rules and regulations and the rates and charges provided for herein shall be effective not sooner than 45 days from the date of adoption;

and

SECTION 4. That, in accordance with the Public Service Commission's *Rules for the Construction and Filing of Tariffs*, 150 CSR 2, notice of this Ordinance shall be provided by (a) causing to be published the Commission's Tariff Form No. 12 as a Class II legal advertisement, with the first publication occurring within five days after the adoption of this Ordinance, in a qualified newspaper of general circulation in the area of Charleston, and (b) causing to be published a press release that contains the substance of Tariff Form No. 12, in a qualified newspaper of general circulation in the area of Charleston, (c) posting a notice that conforms with Tariff Form No. 12 in a conspicuous place at the Sanitary Board's business premises beginning the day after the City Council meeting at which this Ordinance is adopted and continuing for 30 days, and (d) filing with the Public Service Commission, within 5 days after adoption of this Ordinance, a copy of this Ordinance along with other information as required by Section 22.1.f of the *Tariff Rules*.

SECTION 5. All prior ordinances, or parts of ordinances, inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 6. This Ordinance shall be effective immediately upon adoption.

The question being on the passage of the Bill a roll call was taken and there were; yeas-27, absent - 1, as follows:

YEAS: Burton, Clowser, Davis, Deitzler, Hall, Hanna, Harris, Harrison, Higgins, Jones, Kirk, Knauff, Lane, Lanham, Miller, Payne, Reed, Reishman, Russell, Salisbury, Sheets, Smith, Talkington, Ware, Weintraub, White, Mayor Jones.

ABSENT: Ealy,

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

### **REPORTS OF OFFICERS**

1. Report of the City of Charleston, Municipal Court Financial Statements; January, 2008.

Received and Filed.

2. City Treasurer's Report to City Council Month Ending January 2008.

Received and Filed.

3. Report of the City of Charleston Financial Statements for the Seven- Month Period Ended January 31, 2008.

Received and Filed.

## ROLL CALL

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

YEAS: Burton, Clowser, Davis, Deitzler, Hall, Hanna, Harris, Harrison, Higgins, Jones, Kirk, Knauff, Lane, Lanham, Miller, Payne, Reed, Reishman, Russell, Salisbury, Sheets, Smith, Talkington, Ware, Weintraub, White, Mayor Jones.

ABSENT: Ealy

At 7:50 p.m., by a motion from Councilmember Harrison, Council adjourned until Monday, March 3, 2008, at 7:00 p.m.

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Danny Jones, Honorable Mayor

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James M. Reishman, City Clerk