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**JOURNAL of the PROCEEDINGS**

**of the**

**CITY COUNCIL**

CITY OF CHARLESTON, WEST VIRGINIA

Regular Meeting – Monday, April 20, 2015

at 7:00 P.M.

Council Chamber – City Hall – Charleston, West Virginia

**OFFICIAL RECORD**

**James M. Reishman**

**City Clerk**

**Danny Jones**

**Mayor**

***CALL TO ORDER***

The Council met in the Chambers of the City Building at 7:00 P.M., for the second meeting in the month of April on the 20th day, in the year 2015, and was called to order by the Honorable Mayor, Danny Jones. The invocation was delivered by Councilman Harrison and the Pledge of Allegiance was led by Councilman Burton. The Clerk, James M. Reishman, called the roll of members and it was found that there were present at the time:

**BURKA BURTON CLOWSER**

**DAVIS DENEAULT DODRILL**

**EALY HAAS HARRISON**

**HOOVER KIRK KNAUFF LANE MILLER MINARDI NICHOLS PERSINGER REISHMAN RICHARDSON RUSSELL SALISBURY SHEETS SMITH SNODGRASS TALKINGTON WARE WHITE**

**MAYOR JONES**

With twenty-seven members being present, the Mayor declared a quorum present.

Pending the reading of the Journal of the previous meeting, the reading thereof was dispensed with and the same duly approved.

***PUBLIC SPEAKERS***

1. Martha Vineyard from the Vineyard Foundation presented the City with a plaque of appreciation for the use of various City facilities for the foundation’s fund raisers.

***CLAIMS***

1. A claim of Elizabeth George, 601 Monroe Street, Charleston, WV; alleges damage to vehicle.

Refer to City Solicitor.

1. A claim of Mary Grace, 3737 Laurel Fork Rd., Clendenin, WV; alleges damage to vehicle.

Refer to City Solicitor.

1. A claim of Daniel Yon, 316 North Blvd., Huntington, WV; alleges damage to vehicle.

Refer to City Solicitor.

***MISCELLANEOUS RESOLUTION***

Resolution No. 581-15

Introduced in Council

April 20, 2015

Tom Lane, Kasey Russell, Susie Salisbury, Mary Jean Davis. Rev. James Ealy, Jack Harrison, Bobby Reishman, Mary Beth Hoover, Joe Deneault, Adam Knauff, Andy Richardson, Chris Dodrill, Brent Burton, Ed Talkington, Rick Burka and Jerry Ware

**WHEREAS:** The month of May 2015 is nationally recognized as Bicycling Month and May 15 has been designated as Bike to Work Day, both of which are nationwide efforts sponsored by the League of American Bicyclists; and

**WHEREAS:** Our City recognizes bicycles as legitimate roadway vehicles, entitled to legal and responsible use of all public roads in West Virginia, except where prohibited by law, and further recognizes that bicycling provides a means of both outdoor exercise, which leads to better health, and a decreased use of cars, which leads to better air quality; and

**WHEREAS:** The City of Charleston has begun a major planning effort to increase use of the bicycles, and, to that end, has engaged a nationally recognized consulting firm to develop a bike trail master plan with the goal of establishing world class bike trails in Charleston and the surrounding area; and

**WHEREAS:** The bike trail master plan will recognize the use of bicycles as a viable mode of transportation and will incorporate plans to promote safe and responsible bicycling, all with a vision for revitalizing Charleston and supporting livable neighborhoods and improved quality of life; and

**WHEREAS:** The Imagine Charleston Plan, adopted as Charleston’s comprehensive plan, calls for more bike trails and increased bike use in and around our City; and

**WHEREAS:** The Mayor, City Council, Charleston Police Department, Charleston Area Alliance, and West Virginia Connecting Communities encourage all citizens to ride their bicycles to work, to the store, to the park, around their neighborhoods and with friends and family to promote the personal and societal benefits achieved from bicycling.

**NOW, THEREFORE BE IT RESOLVED** by the elected leaders of Charleston, that we hereby recognize the month of May 2015 as **National Bike Month** and **Bicycle Safety Month**, and May 15, 2015 as **Bike to Work Day.**

We also urge all who support bicycling to participate in the events planned and all road users to share the road safely with bicyclists.

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Danny Jones, Mayor Tom Lane, Council President

Councilman Reishman moved to approve the resolution. Councilman Lane seconded the motion. With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the resolution adopted.

***REPORTS OF COMMITTEES***

**COMMITTEE ON ENVIRONMENTAL AND RECYCLING**

Councilperson Edward Talkington, Chairperson of the Council Committee on Environmental and Recycling, submitted the following reports:

1. Your committee on Environmental and Recycling has had under consideration Resolution No. 577-15, and reports the same to Council with the recommendation that the bill do pass.

Resolution No. 577-15: “Concerning a 10% increase in the monthly tonnage at the City of Charleston Landfill operated by Landfill Services of Charleston, Inc.

WHEREAS, the City entered into an Operating Agreement with Landfill Services of Charleston, Inc., formerly known as West Virginia Waste Services, Inc., on February 15, 1994, to construct and operate the City of Charleston Landfill; and

WHEREAS, the solid waste permit issued to the permittee City of Charleston on December 1, 1994, was modified to reflect a "CLASS A" Landfill with the tonnage authorization of "15,000 tons/month" on April 29, 1997 that was modified to "16,500 tons/month" by a 10% increase on April 19, 1999 by Resolution No. 180-99, modified to 18,150 tons/month on February 2, 2004 by Resolution No. 432-03, modified to 19,965 tons/month on August 7, 2006, by Resolution No. 080-06, modified to 21,962 tons/month on January 5, 2009, by Resolution No. 500-09, and modified to 24,157 tons/month on November 7, 2011, by Resolution No. 029-11; and

WHEREAS, pursuant to West Virginia Code §22-15-1 *et seq.* and West Virginia Solid Waste Management Rule 33-01, a permittee may request a permit modification in alternate years from the West Virginia Division of Environmental Protection ("WVDEP") to increase the volume of solid waste accepted at the landfill facility by an amount of 10% or less, unless such an increase requires a change in the classification of the facility; and

WHEREAS, more than two years time has elapsed since the previous modification to the Solid Waste Permit; and

WHEREAS, the City has received an Engineer's Recommendation, incorporated herein and attached hereto as Exhibit A, which indicates that a 10% monthly tonnage increase is necessary to provide for continued efficient disposal of waste at the landfill facility; and

WHEREAS, upon information and belief, a 10% increase in monthly tonnage will not change the classification of the landfill facility;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHARLESTON THAT:

That the Council of the City of Charleston directs the administration to take the appropriate action(s), consistent with all state and local laws and rules, to initiate the submittal of an application to the WVDEP, Office of Waste Management, requesting a permit modification allowing permittee to increase the allowable monthly tonnage of the landfill facility by 10%.

Councilman Talkington moved to approve the Resolution. Councilman Lane seconded the motion. With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution 577-15 adopted.

1. Your committee on Environmental and Recycling has had under consideration Bill No. 7652, and reports the same to Council with the recommendation that the bill do pass.

**Bill No. 7652:** “A BILL to establish a Restricted Use Area in the Kanawha City area of Charleston for the purpose of prohibiting the drilling into and the extraction of groundwater within the Restricted Use Area except for ground water monitoring and/or remediation.

**WHEREAS,** an approximately 0.37 acre/16,300 square feet parcel of land located at 3719 MacCorkle Avenue, SE (the “Site”) has been subject of subject of environmental assessment and risk-based remediation by Daniel and Linda Strait, as part of their Voluntary Remediation agreement # 09131 with the State of West Virginia Department of Environmental Protection (“DEP”) that will allow the sale and development of a site which contained “chemicals of concern” resulting from the former operation of a dry cleaning laundry facility on the Site; and

**WHEREAS,** the environmental assessment has indicated that “chemicals of concern” from previous businesses located on the Site are now migrating with the flow of ground water from the Site into surrounding ground water; and

**WHEREAS,** Daniel and Linda Strait, in cooperation with the DEP, have notified the City of the migration, and have requested that the City take protective action to prevent the uncontrolled exposure to the chemicals of concern in the ground water; and

**WHEREAS,** the City of Charleston has the duty and authority under W. Va. State Code § 8-12-5(23) to provide for the elimination of hazards to public health and safety; and

**WHEREAS,** the Kanawha Charleston Health Department is the governmental agency with authority to issue permits with respect to ground water drilling within Kanawha County, including within the City of Charleston;

**Now, therefore, be it Ordained by the Council of the City of Charleston, West Virginia:**

**THAT** there is hereby established within the City of Charleston a Restricted Use Area in which the drilling into and extraction of ground water is prohibited. The Restricted Use Area is defined as Parcels 60, 61, 63 through 70, and 99 through 106 as set forth on Map Number 18, Kanawha City District 13 on file in the Kanawha County Assessor’s Office (the “Parcels”), including alleyways adjacent to the Parcels, and a sections of 37th Street adjacent to the western parcels, 38th Street adjacent to the eastern parcels and a portion of MacCorkle Avenue, SE which bisects the as Exhibit 1.  This area represents the maximum predicted extent of contamination migration (120 feet) plus a conservative safety factor of 120-180 feet.

Ground water is defined as water occurring in the zone of saturation beneath the seasonal high water table, or any perched water zone.

This prohibition applies to any excavation or penetration in the ground, whether drilled, bored, cored, driven or jetted that enters or passes through ground water for purposes of extracting ground water, including but not limited to, a water supply, exploration for water, dewatering, or heat pump wells.

Nothing contained in this ordinance shall prohibit the extraction of ground water from installation, modification, operation, repair or removal of monitoring and/or remediation wells when operated with the authorization of or at the direction of state or federal environmental officials or agencies.

Nothing contained in this ordinance shall prevent any construction activity within the Restricted Use Area which is not for the purpose of extracting ground water and does not contemplate the disruption of ground water during construction. Additionally, nothing in this ordinance shall prohibit any construction activity within the Restricted Use Area which is not for the purpose of extracting ground water but that may result in incidental disturbance of ground water, provided all state laws and regulations applicable to construction under such conditions, including, but not limited to, all laws and regulations enforced and promulgated by the DEP, are verifiably met. If incidental disturbance of ground water occurs, the contractor shall provide notice of the disturbance to the Office of Environmental Remediation of the Department of Environmental Protection (304-926-0455), and reference Voluntary Remediation file # 09131.

Nothing contained in this ordinance shall prevent the use of ground water in the Restricted Use Area if the ground water has been treated to meet state standards appropriate for its intended use prior to any use. Nothing contained in this ordinance shall prevent ground water monitoring and/or remediation of groundwater.

Upon passage, the Clerk shall submit a certified copy of this ordinance to the Kanawha Charleston Health Department for their use when evaluating applications for ground water drilling within the City of Charleston.

Upon passage, a copy of this Ordinance shall also be provided to the City of Charleston Building Department, the City of Charleston Planning and Zoning Department, and the City of Charleston Engineering Department, and shall be kept on file in the City Clerk’s Office.

Councilman Talkington moved to approve the Bill. Councilman Lane seconded the motion. A roll call was taken.

YEAS: Burka, Burton, Clowser, Davis, Deneault, Dodrill, Ealy, Haas, Hoover, Kirk, Knauff, Lane, Minardi, Miller, Nichols, Persinger, Reishman, Richardson, Russell, Salisbury, Sheets, Smith, Talkington, Ware, White, Jones

NAYS: None

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7652 adopted.

**COMMITTEE ON PARKING**

Councilperson Bobby Reishman, Chairperson of the Council Committee on Parking, submitted the following report:

1. Your committee on Parking has had under consideration Resolution No. 579-15, and reports the same to Council with the recommendation that the resolution do pass.

Resolution No. 579-15: Authorizing the approval of FY 2015-2016 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 FY 2015- 2016 Parking System Budget as indicated on the attached list of accounts is hereby approved.

Councilman Reishman moved to approve the Committee Report. Tom Lane seconded that motion. The Resolution will be voted on under the Finance section of the meeting.

*Received and Filed.*

**COMMITTEE ON FINANCE**

Councilperson Bobby Reishman, Chairperson of the Council Committee on Finance, submitted the following reports:

1. Your committee on Finance has had under consideration Resolution No. 575-15, and reports the same to Council with the recommendation that the resolution do pass.

Resolution No. 575-15: “Authorizing the Mayor or City Manager to enter into an Agreement with Arch Masonry, Inc., in the amount of $52,130, to Repoint Mortar Joints and Clean and Repair Limestone Areas at the Spring Hill Cemetery Mausoleum.”

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

That the Mayor or City Manager is hereby authorized and directed to enter into an Agreement with Arch Masonry, Inc., in the amount of $52,130, to Repoint Mortar Joints and Clean and Repair Limestone Areas at the Spring Hill Cemetery Mausoleum.

Funds for the project are available through a grant received from the State Historic Preservation Office, Division of West Virginia Culture & History.

Councilman Reishman moved to approve the Resolution. Councilman Lane seconded the motion. With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution 575-15 adopted.

1. Your committee on Finance has had under consideration Resolution No. 576-15, and reports the same to Council with the recommendation that the resolution do pass.

Resolution No. 576-15: “Authorizing the Mayor to receive and administer grant funds in the amount of $135,000 from the West Virginia Homeland Security Department of Military Affairs and Public Safety to provide training and equipment to the Charleston Police Department’s SWAT Team.”

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 grant funds in the amount of $135,000 from the West Virginia Homeland Security Department of Military Affairs and Public Safety to provide training and equipment to the Charleston Police Department’s SWAT Team.

Councilman Reishman moved to approve the Resolution. Councilman Lane seconded the motion. With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution 576-15 adopted.

1. Your committee on Finance has had under consideration Resolution No. 578-15, and reports the same to Council with the recommendation that the resolution do pass.

Resolution No. 578-15: “Authorizing the Mayor or City Manager to enter into an Agreement with Mountaineer Glass., in the amount of $24,950.00, to replace forty –seven windows at Smith Street Station.”

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

That the Mayor or City Manager is hereby authorized and directed to enter into an Agreement with Mountaineer Glass., in the amount of $24,950.00, to replace forty –seven windows at Smith Street Station.

Funds for the project are available through a forgivable loan from WV Affordable Housing Trust Fund.

Councilman Reishman moved to approve the Resolution. Councilman Lane seconded the motion. With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution 578-15 adopted.

1. Your committee on Finance has had under consideration Resolution No. 579-15, and reports the same to Council with the recommendation that the resolution do pass.

Resolution No. 579-15: Authorizing the approval of FY 2015-2016 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 FY 2015- 2016 Parking System Budget as indicated on the attached list of accounts is hereby approved.

Councilman Reishman moved to approve the Resolution. Councilman Lane seconded the motion. A roll call was taken.

YEAS: Burka, Burton, Clowser, Davis, Deneault, Dodrill, Ealy, Haas, Hoover, Kirk, Knauff, Lane, Minardi, Miller, Nichols, Persinger, Reishman, Richardson, Russell, Salisbury, Sheets, Smith, Snodgrass, Talkington, Ware, White, Jones

NAYS: None

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 579-15 adopted.

1. Your committee on Finance has had under consideration the following committee report, and reports the same to Council with the recommendation that the committee report do pass.

To amend the price for purchase of two (2) Packer Trucks from West Virginia Tractor Company from $243,212 to $244,112, approved by Council on April 6, 2015 for the Refuse Department. The trucks proposed are equipped with hydraulic tipper bars and the Refuse Department is requesting to eliminate the bar from the trucks and replace it with a winch for an additional cost of $450.00 each, or a new total price of $244,112.

To be charged to Account No. 001-978-00-800-4-459, Refuse—Capital Outlay, Equip.

(PNC Equipment Finance, Lease Purchase Schedule No. 187583000)

Councilman Reishman moved to approve the committee report. Councilman Lane seconded the motion. With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the committee report adopted.

***REPORTS OF OFFICERS***

1 . City Treasurer’s Report to City Council Month Ending March 2015.

*Received and Filed.*

***ADJOURNMENT***

*The Clerk, James M. Reishman, called the closing roll call:*

YEAS: Burka, Burton, Clowser, Davis, Deneault, Dodrill, Ealy, Haas, Hoover, Kirk, Knauff, Lane, Minardi, Miller, Nichols, Persinger, Reishman, Richardson, Russell, Salisbury, Sheets, Smith, Snodgrass, Talkington, Ware, White, Jones

At 7:25 p.m., by a motion from Councilmember Harrison, Council adjourned until Tuesday, April 21, 2015, at 5:30 p.m., in the Council Chamber in City Hall.

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Danny Jones, Honorable Mayor

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James M. Reishman, City Clerk