

COUNCIL PROCEEDINGS

Regular Meeting

September 9, 2019

CALL TO ORDER: By Mayor Lewis on Monday, September 9, 2019 at 7:00 p.m.

PRESENT: Councilmembers Dyer, Ridge, Russo, Mitchell, Mayor Lewis, City Clerk Terpstra and City Manager Guetschow.

The invocation was offered by City Manager Guetschow, followed by the Pledge of Allegiance.

APPROVAL OF MINUTES FOR REGULAR MEETING OF August 26, 2019: Council member Ridge moved, supported by Dyer to approve the regular meeting minutes of August 26, 2019 as presented. Carried. 5 Yes. 0 No. 2 Absent. (Baker, Christian)

ABSENT: Mayor Pro-Tem Baker and Council member Christian.

Council member Russo moved, supported by Mitchell to excuse Council member Christian due to work obligations and Mayor Pro-Tem Baker due to illness. Carried. 5 Yes. 0 No.

PUBLIC HEARINGS:

UNIFORM TRAFFIC CODE AMENDMENT ORDINANCE 2019-05:

Public Hearing Opened: 7:03 P.M

No comments

Public Hearing Closed: 7:04 P.M.

PUBLIC COMMENTS:

June Potter, 225 S. Washington, voiced concerns over maintenance issues not being addressed at the Edmond Senior Housing complex

where she resides. She stated that she has been in contact with Representative Barrett's office. They are also having issues with the parking lot flooding because of drains not being cleaned. She feels that these issues need to be cleaned up before the complex is allowed to proceed with any further construction. There are also concerns about the number of parking spaces being reduced.

Ben Phlegar, 425 Horatio, stated that he is very disappointed with the Frontier Days officials for letting the confederate flag be displayed in the beginning of the parade, He feels that the City needs to have a policy against this being allowed to happen again. Possibly in the approval of the parade permit or resolution that is passed for the festival. He stated by this happening it appears that the City is indirectly endorsing this behavior as it is being displayed on a public street.

APPROVAL OF AGENDA: Council member Ridge moved, supported by Russo to approve the agenda as presented . Carried. 5 Yes. 0 No. 2 Absent.

SPECIAL PRESENTATIONS: None.

EXPEDITED RESOLUTIONS AND ORDINANCES

A. CONSIDER APPROVAL OF RESOLUTION NO. 2019-88 AUTHORIZING ANNUAL CROP WALK:

RESOLUTION NO. 2019-88

A RESOLUTION AUTHORIZING ANNUAL CROP HUNGER WALK

WHEREAS, the 36th Annual CROP Hunger Walk is hosting the traditional walk from Bennett Park to Downtown Charlotte on Sunday, October 6, 2019 to raise funds for charity; and

WHEREAS, this year there will be the 2nd Annual 5k race through Bennett Park; and

WHEREAS, CROP Hunger Walk is an annual event with the cooperation of fifteen local churches, fifteen local businesses, and Olivet College; and

WHEREAS, the 25% of the proceeds will stay local while the remainder goes out into the wider world to help needy people; and

WHEREAS, the event setup and program will be held at Bennett Park with overflow parking available at the First Baptist Church across the street from Fairgrounds; and

WHEREAS, the organizers of CROP Hunger Walk are asking that the Charlotte City Council approve the use of the trails in Bennett Park for part of the race course; and

WHEREAS, CROP Hunger Walk is not asking that the City Council provide any barricades or assistance for the event.

NOW, THEREFORE, BE IT RESOLVED, that CROP Hunger Walk be granted the right to use the trails of Bennett Park for their 5K run.

Council member Ridge moved, supported by Dyer to approve Resolution No. 2019-88 to authorize annual Crop Walk as presented. Carried. 5 Yes. 0 No. 2 Absent.

B. CONSIDER APPROVAL OF RESOLUTION NO. 2019-91 TO APPOINT CHIEF OF POLICE:

RESOLUTION NO. 2019-91

A RESOLUTION TO CONFIRM THE CITY MANAGER'S APPOINTMENT OF PAUL BRENTAR AS CHIEF OF POLICE

WHEREAS, Section 6.2 of the City Charter provides that the City Manager shall appoint the administrative officers of the City subject to confirmation of said appointments by the City Council; and

WHEREAS, the City Manager has appointed Paul Brentar to the position of Chief of Police to fill a vacancy created through retirement; and

WHEREAS, the City Manager has requested the City Council to confirm said appointment;

NOW, THEREFORE, BE IT RESOLVED the City Council does hereby confirm the City Manager's appointment of Paul Brentar as Chief of Police.

Council member Ridge moved, supported by Mitchell to approve Resolution No. 2019-91 to appoint Chief of Police as presented. Carried. 5 Yes. 0 No. 2 Absent.

C. CONSIDER APPROVAL OF RESOLUTION NO. 2019-89 REGARDING PAYMENT OF CLAIMS & ACCOUNTS:

RESOLUTION NO. 2019-89

A RESOLUTION TO APPROVE EXPENDITURES OF THE CITY FOR SEPTEMBER 9, 2019

WHEREAS, Section 7.7 (B) of the City Charter requires Council approval for the expenditure of city funds; and

WHEREAS, the August 30, 2019 payroll totaled \$147,350.69;

WHEREAS, the September 9, 2019 claims total \$123,197.80;

WHEREAS, the August 26, 2019 insurance claims total \$5,017.96

THEREFORE, BE IT RESOLVED that the City Council approves claims and accounts for September 9, 2019 in the amount of \$275,566.45.

APPROVAL OF CLAIMS AND ACCOUNTS BY ROLL CALL VOTE: Council member Ridge moved, supported by Dyer to approve Resolution 2019-89 regarding payment of claims & accounts as presented. Carried. 5 Yes. 0 No. 2 Absent.

ACTION ITEMS – RESOLUTIONS AND ORDINANCES:

A. CONSIDER APPROVAL OF RESOLUTION NO. 2019-86 TO AUTHORIZE THE PURCHASE OF TRICKLING

FILTER DISTRIBUTION ARMS FOR THE WASTE WATER TREATMENT PLANT:

RESOLUTION NO. 2019-86

A RESOLUTION TO AUTHORIZE THE PURCHASE OF TRICKLING FILTER DISTRIBUTION ARMS FOR THE WASTEWATER TREATMENT PLANT

WHEREAS, the distribution arms of the trickling filters are an essential component for the proper distribution of water throughout the trickling filters allowing the plant to meet its permit requirements; and

WHEREAS, the two mast arms in the south trickling filter have now deteriorated to a point that they need to be replaced; and

WHEREAS, the trickling filter equipment is proprietary and must be replaced with distribution arms purchased from WesTech at a cost of \$16,950.00 for the equipment with a \$1,200.00 per day field service charge; and

WHEREAS, sealed bids for the installation of the distribution arms will be later this year as the delivery date for the equipment is 26-30 weeks; and

WHEREAS, funding for this project was included in the FY 19-20 Water and Sewer Budget.

WHEREAS, Section 2-186 of the City Ordinances allows for the waiver of sealed bids for purchases over the amount of \$5,000.

THEREFORE, BE IT RESOLVED That the City Council approve the purchase of the south trickling filter distribution arms from WesTech for \$16,950.00 plus field service charges and agrees to waive the sealed bid process due to proprietary equipment.

Council member Ridge moved, supported by Mitchell to approve Resolution No. 2019-86 to authorize the purchase of Trickling Filter Distribution Arms for the Waste Water Treatment Plant as presented. Carried. 5 Yes. 0 No. 2 Absent.

B. CONSIDER APPROVAL RESOLUTION NO. 2019-87 TO AUTHORIZE THE SALE OF FIREWOOD:

RESOLUTION NO. 2019-87

A RESOLUTION TO AUTHORIZE SALE OF FIRE WOOD

WHEREAS, the City removes trees throughout the year from the City right-of-ways; and

WHEREAS, it was previously determined that the wood had some value and should be sold by sealed bids annually; and

WHEREAS, an advertisement was placed in the local paper and sent to previous bidders for the seven stacks of wood; and

WHEREAS, five people submitted bids for the ten stacks of wood with the highest bids totaling \$1262.04.

THEREFORE, BE IT RESOLVED That the City sell wood stacks #1-10 to the highest bidders of each wood stack totaling \$1262.04 in accordance with the bid tabulation

Council member Ridge moved, supported by Russo to approve Resolution No. 2019-87 to authorize sale of firwood as presented. Carried. 5 Yes. 0 No. 2 Absent.

C. CONSIDER APPROVAL OF ORDINANCE NO. 2019-05 AMENDING THE UNIFORM TRAFFIC CODE:

AN ORDINANCE TO AMEND SECTION 66-102, CHANGES IN CODE BY AMENDING R28.1702, R28.1706 AND R28.1708 OF THE UNIFORM TRAFFIC CODE WITHIN THE CITY OF CHARLOTTE.

THE CITY OF CHARLOTTE ORDAINS:

1. Section 66-102, *Changes in Code*, shall be amended by revising R28.1702, Rule 702, R28.1706, Rule 706, and R28.1708, Rule 708, which code sections shall read as follows:

§ 66-102 CHANGES IN CODE.

The following sections and subsections of the Uniform Traffic Code adopted in this article are hereby amended or deleted as set forth in this section, and additional sections and subsections are added as

indicated. Subsequent section numbers used in this article shall refer to the like-numbered section of the Uniform Traffic Code.

Section 28.1103 is added to read as follows:

Sec. 28.1103. Authority of firefighters directing traffic. Members of the fire department, when at the scene of a fire or in the immediate vicinity thereof, or in the immediate vicinity of the fire station, may direct or assist police in directing traffic.

Section 28.1160 is added to read as follows:

Sec. 28.1160. Reports of stolen and recovered vehicles. A police agency, upon receiving reliable information that any vehicle registered under this act has been stolen, shall immediately report the theft through the law enforcement information network. Upon receiving information that a vehicle previously reported as stolen has been recovered, the police agency shall immediately report the fact of the recovery through the law enforcement information network.

Section 28.1160a is added to read as follows:

Sec. 28.1160a. Abandoned vehicle procedures.

(1) As used in this section, "abandoned vehicle" means a vehicle which has remained on public property or private property for a period of 48 hours after a police agency or other governmental agency designated by the police agency has affixed a written notice to the vehicle.

(2) If a vehicle has remained on public or private property for a period of time so that it appears to the police agency to be abandoned, the police agency shall do all of the following:

- (a) Determine if the vehicle has been reported stolen.
- (b) Affix a written notice to the vehicle. The written notice shall contain the following information:
 - (i) The date and time the notice was affixed.
 - (ii) The name and address of the police agency taking the action.

(iii) The name and badge number of the police officer affixing the notice.

(iv) The date and time the vehicle may be taken into custody and stored at the owner's expense or scrapped if the vehicle is not removed.

(v) The year, make, and vehicle identification number of the vehicle, if available.

(3) If the vehicle is not removed within 48 hours after the date the notice was affixed, the vehicle is deemed abandoned and the police agency may have the vehicle taken into custody.

(4) A police agency which has a vehicle taken into custody shall do all of the following:

- (a) Recheck to determine if the vehicle has been reported stolen.
- (b) Within 24 hours after taking the vehicle into custody, enter the vehicle as abandoned into the law enforcement information network.
- (c) Within seven days after taking the vehicle into custody, send to the registered owner and secured party, as shown by the records of the secretary of state, by first class mail or personal service, notice that the vehicle has been deemed abandoned. The form for the notice shall be furnished by the secretary of state. Each notice form shall contain the following information:
 - (i) The year, make, and vehicle identification number of the vehicle if available.
 - (ii) The location from which the vehicle was taken into custody.
 - (iii) The date on which the vehicle was taken into custody.
 - (iv) The name and address of the police agency which had the vehicle taken into custody.
 - (v) The business address of the custodian of the vehicle.
 - (vi) The procedure to redeem the vehicle.
 - (vii) The procedure to contest the fact that the vehicle has been deemed

abandoned or the reasonableness of the towing fees and daily storage fees.

(viii) A form petition which the owner may file in person or by mail with the specified court which requests a hearing on the police agency's action.

(ix) A warning that the failure to redeem the vehicle or to request a hearing, within 20 days after the date of the notice, may result in the sale of the vehicle and the termination of all rights of the owner and the secured party to the vehicle or the proceeds of the sale.

(5) The registered owner may contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees by requesting a hearing. A request for a hearing shall be made by filing a petition with the court specified in the notice within 20 days after the date of the notice.

If the owner requests a hearing, the matter shall be resolved after a hearing conducted pursuant to sections 28.1160e and 28.1160f. An owner who requests a hearing may obtain release of the vehicle by posting a towing and storage bond in an amount equal to the accrued towing and storage fees with the court. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying the towing and storage fees instead of posting the towing and storage bond. If the court finds that the vehicle was not properly deemed abandoned, the police agency shall reimburse the owner of the vehicle for the accrued towing and storage fees.

(6) If the owner does not request a hearing, he or she may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.

(7) If the owner does not redeem the vehicle or request a hearing within 20 days after the date of the notice, the secured party may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle and the police agency for its accrued costs.

(8) Not less than 20 days after the disposition of the hearing described

in subsection (5) or, if a hearing is not requested, not less than 20 days after the date of the notice, the police agency shall offer the vehicle for sale at a public sale pursuant to section 28.1160g.

(9) If the ownership of a vehicle which has been deemed abandoned under this section cannot be determined, either because of the condition of the vehicle identification numbers or because a check with the records of the secretary of state does not reveal ownership, the police agency may sell the vehicle at public sale pursuant to section 28.1160g, not less than 30 days after public notice of the sale has been published.

Section 28.1160b is added to read as follows:

Sec. 28.1160b. Abandoned scrap vehicle procedures.

(1) As used in this section:

(a) "Registered abandoned scrap vehicle" means a vehicle which meets all of the following requirements:

(i) Is on public or private property.

(ii) Is seven or more years old.

(iii) Is apparently inoperable or is extensively damaged, to the extent that the cost of repairing the vehicle so that it is operational and safe, as required by section 683, would exceed the fair market value of that vehicle.

(iv) Is currently registered in the State of Michigan or displays current year registration plates from another state.

(v) Is not removed within 48 hours after a written notice, as described in section 28.1160a(2)(h), is affixed to the vehicle.

(b) "Unregistered abandoned scrap vehicle" means a vehicle which meets all of the following requirements:

(i) Is on public or private property.

(ii) Is seven or more years old.

(iii) Is apparently inoperable or is extensively damaged, to the extent that the cost of repairing the vehicle so that it is operational and safe, as required by section 683, would exceed the fair market value of that vehicle.

(iv) Is not currently registered in this state and does not display current year registration plates from another state.

(v) Is not removed within 48 hours after a written notice, as described in section 28.1160a(2)(b), is affixed to the vehicle.

(2) A police agency may have an unregistered abandoned scrap vehicle taken into custody, in which case the police agency shall do all of the following:

(a) Determine if the vehicle has been reported stolen.

(b) Take two photographs of the vehicle.

(c) Make a report to substantiate the vehicle as an unregistered abandoned scrap vehicle. The report shall contain the following information:

(i) The year, make, and vehicle identification number if available.

(ii) The date of abandonment.

(iii) The location of abandonment.

(iv) A detailed listing of the damage or the missing equipment.

(v) The reporting officer's name and title.

(vi) The location where the vehicle is being held.

(d) Within 24 hours after taking the vehicle into custody, enter the vehicle into the law enforcement information network.

(3) Within 24 hours, excluding Saturday, Sunday, and legal holidays, after taking the vehicle into custody, the police agency shall complete a release form and release the vehicle to the towing service or a used vehicle parts dealer or vehicle scrap metal processor, who shall then transmit that release form to the secretary of state and apply for a

certificate of the title or a certificate of scrapping. Upon receipt of the release form and application, the secretary of state shall issue a certificate of title or a certificate of scrapping.

(4) The release form described in subsection (3) shall be furnished by the secretary of state and shall include a certification executed by the applicable police agency when the abandoned scrap vehicle is released. The certification shall state that the police agency has complied with all the requirements of subsection (2)(b) and (c).

(5) The secretary of state shall retain the records relating to an abandoned scrap vehicle for not less than two years. The two photographs taken pursuant to subsection (2)(b) shall be retained by the police agency for not less than two years. After the certificate of scrapping has been issued, a certificate of title for the vehicle shall not be issued again.

(6) A police agency may have a registered abandoned scrap vehicle taken into custody, in which case the police agency shall do all of the following:

(a) Determine if the vehicle has been stolen.

(b) Take two photographs of the vehicle.

(c) Make a report to substantiate the vehicle as a registered abandoned scrap vehicle. The report shall contain the following information:

(i) The year, make, and vehicle identification number if available.

(ii) The date of abandonment.

(iii) The location of abandonment.

(iv) A detailed listing of the damage or the missing equipment.

(v) The reporting officer's name and title.

(vi) The location where the vehicle is being held.

(d) Within 24 hours after taking the vehicle into custody, enter the vehicle into the law enforcement information network.

(e) Within seven days after taking the vehicle into custody, send to the registered owner and secured party, as shown by the records of the secretary of state, by first class mail or personal service, notice that the vehicle has been deemed abandoned. The form for the notice shall be furnished by the secretary of state. Each notice form shall contain the following information:

- (i) The year, make, and vehicle identification number of the vehicle if available.
 - (ii) The location from which the vehicle was taken into custody.
 - (iii) The date on which the vehicle was taken into custody.
 - (iv) The name and address of the police agency which had the vehicle taken into custody.
 - (v) The business address of the custodian of the vehicle.
 - (vi) The procedure to redeem the vehicle.
 - (vii) The procedure to contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees.
 - (viii) A form petition which the owner may file in person or by mail with the specified court which requests a hearing on the police agency's action.
 - (ix) A warning that the failure to redeem the vehicle or to request a hearing, within 20 days after the date of the notice, may result in the termination of all rights of the owner and the secured party to the vehicle.
- (7) The registered owner of a registered abandoned scrap vehicle may contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees by requesting a hearing. A request for a hearing shall be made by filing a petition, with the court specified in the notice, within 20 days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing conducted pursuant to sections 28.1160e and 28.1160f.

An owner who requests a hearing may obtain release of the vehicle by posting a towing and storage bond with the court, in an amount as determined by the court. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying the towing and storage fees instead of posting the towing and storage bond. If the court finds that the vehicle was not properly deemed abandoned, the police agency shall reimburse the owner of the vehicle for the accrued towing and storage fees.

(8) If the owner does not request a hearing, he or she may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.

(9) If the owner does not redeem the vehicle or request a hearing within 20 days after the date of the notice, the secured party may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.

(10) Not less than 20 days after the disposition of the hearing described in subsection (7), or if a hearing is not requested, not less than 20 days after the date of the notice described in subsection (6)(e), the police agency shall follow the procedures established in subsections (3) to (5).

Section 28.1160c is added to read as follows:

Sec. 28.1160c. Vehicle removed from private property.

(1) When a vehicle is removed from private property at the direction of a person other than the registered owner of the vehicle or a police agency, the custodian of the vehicle immediately shall notify the police agency from whose jurisdiction the vehicle was towed. The custodian shall supply that information which is necessary for the police agency to enter the vehicle into the law enforcement information network.

(2) Upon receipt of the notification described in subsection (1), the police agency immediately shall do all of the following:

- (a) Determine if the vehicle has been reported stolen.
- (b) Enter the vehicle into the law enforcement information network.
- (3) The owner of the vehicle removed as described in subsection (1) may obtain release of the vehicle by paying the accrued towing and storage fees to the custodian of the vehicle. Upon release of the vehicle, the custodian shall notify the police agency of the disposition of the vehicle.
- (4) If the vehicle described in subsection (1) is not claimed by the owner within seven days after the police agency has been notified by the custodian that it has been taken into custody, the vehicle is deemed abandoned and the procedures prescribed in section 28.1160a(4)(c) to (9) shall apply.

Section 28.1160d is added to read as follows:

Sec. 28.1160d. Vehicle removed by police.

(1) A police agency or a governmental agency designated by the police agency may provide for the immediate removal of a vehicle from public or private property to a place of safekeeping, at the expense of the registered owner of the vehicle, in any of the following circumstances:

- (a) If the vehicle is in such a condition that the continued operation of the vehicle upon the highway would constitute an immediate hazard to the public.
- (b) If the vehicle is parked or standing upon the highway in such a manner as to create an immediate public hazard or an obstruction of traffic.
- (c) If a vehicle is parked in a posted towaway zone.
- (d) If there is reasonable cause to believe that the vehicle or any part of the vehicle is stolen.
- (e) If the vehicle must be seized to preserve evidence of a crime, or when there is reasonable cause to believe that the vehicle was used in

the commission of a crime.

- (f) If removal is necessary in the interest of public safety because of fire, flood, storm, snow, natural or manmade disaster, or other emergency.
- (g) If the vehicle is hampering the use of private property by the owner or person in charge of that property or is parked in a manner which impedes the movement of another vehicle.
- (h) If the vehicle is stopped, standing, or parked in a space designated for handicapped parking and is not permitted by law to be stopped, standing, or parked in a space designated for handicapped parking.
- (i) If the owner of a vehicle or trailer has received and failed to answer six or more parking notices or citations, the vehicle may be impounded or immobilized and not released to owner until all fines, costs and towing charges associated with the parking violation have been paid.
- (2) A police agency which authorizes the removal of a vehicle under subsection (1) shall do all of the following:
 - (a) Check to determine if the vehicle has been reported stolen.
 - (b) Within 24 hours after removing the vehicle, enter the vehicle into the law enforcement information network if the vehicle has not been redeemed. This subsection does not apply to a vehicle that is removed from the scene of a motor vehicle traffic accident.
 - (c) If the vehicle has not been redeemed within ten days after moving the vehicle, send to the registered owner and the secured party, as shown by the records of the secretary of state, by first class mail or personal service, a notice that the vehicle has been removed; however, if the police agency informs the owner or operator of the vehicle of the removal and the location of the vehicle within 24 hours after the removal, and if the vehicle has not been redeemed within 30 days and upon complaint from the towing service, the police agency shall send the notice within 30 days after the removal. The notice shall be by a form furnished by the secretary of state. The notice form shall contain

the following information:

- (i) The year, make, and vehicle identification number of the vehicle.
 - (ii) The location from which the vehicle was taken into custody.
 - (iii) The date on which the vehicle was taken into custody.
 - (iv) The name and address of the police agency which had the vehicle taken into custody.
 - (v) The location where the vehicle is being held.
 - (vi) The procedure vehicle.
 - (vii) The procedure to contest the fact that the vehicle was properly removed or the reasonableness of the towing and daily storage fees.
 - (viii) A form petition which the owner may file in person or by mail with the specified court which requests a hearing on the police agency's action.
 - (ix) A warning that the failure to redeem the vehicle or to request a hearing, within 20 days after the date of the notice, may result in the sale of the vehicle and the termination of all rights of the owner and the secured party to the vehicle or the proceeds of the sale, or to both the vehicle and the proceeds.
- (3) The registered owner may contest the fact that the vehicle was properly removed or the reasonableness of the towing fees and daily storage fees by requesting a hearing. A request for a hearing shall be made by filing a petition, with the court specified in the notice, within 20 days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing conducted pursuant to sections 28.1160e and 28.1160f. An owner who requests a hearing may obtain release of the vehicle by posting a towing and storage bond with the court in an amount equal to the accrued towing and storage fees. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying the towing and storage fees instead of posting the towing and storage bond. If the court finds that the vehicle was not properly removed, the police agency shall reimburse the owner of the

vehicle for the accrued towing and storage fees.

- (4) If the owner does not request a hearing, he or she may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.
- (5) If the owner does not redeem the vehicle or request a hearing within 20 days, the secured party may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle prior to the date of the sale.
- (6) Not less than 20 days after the disposition of the hearing described in subsection (3), or if a hearing is not requested, not less than 20 days after the date of the notice described in subsection (2)(c), the police agency shall offer the vehicle for sale at a public sale unless the vehicle is redeemed. The public sale shall be held pursuant to section 28.1160g.
- (7) If the ownership of a vehicle which has been removed under this section cannot be determined, either because of the condition of the vehicle identification numbers or because a check with the records of the secretary of state does not reveal ownership, the police agency may sell the vehicle at public sale pursuant to section 28.1160g, not less than 30 days after public notice of the sale has been published.

Section 28.1160e is added to read as follows:

Sec. 28.1160e. Abandoned vehicle, jurisdiction of court.

- (1) The following courts shall have jurisdiction to determine if a police agency has acted properly in processing a vehicle under section 28.1160a, 28.1160b(6) to (10), 28.1160c, or 28.1160d:
 - (a) The district court.
 - (b) A municipal court.
 - (c) The common pleas court of the City of Detroit.
- (2) The court specified in the notice prescribed in section 28.1160a(4)(c), 28.1160b(6), 28.1160c(4), or 28.1160d(2)(c) shall be

the court which has territorial jurisdiction at the location from where the vehicle was removed or deemed abandoned.

(3) If the owner fails to pay the accrued towing and storage fees, the towing and storage bond posted with the court to secure release of the vehicle under section 28.1160a, 28.1160b, 28.1160c, or 28.1160d shall be used to pay the towing and storage fees.

Section 28.1160f is added to read as follows:

Sec. 28.1160f Abandoned vehicle, duties of court.

(1) Upon receipt of a petition prescribed in section 28.1160a, 28.1160b, 28.1160c, or 28.1160d, signed by the owner of the vehicle which has been taken into custody, the court shall do both of the following:

(a) Schedule a hearing within 30 days for the purpose of determining whether the police agency acted properly.

(b) Notify the owner and the police agency of the time and place of the hearing.

(2) At the hearing specified in subsection (1), the police agency shall have the burden of showing by a preponderance of the evidence that it has complied with the requirements of this act in processing the abandoned vehicle or vehicle removed pursuant to section 28.1160d.

(3) After the hearing, the court shall make a decision which shall include one or more of the following:

(a) A finding that the police agency complied with the procedures established for the processing of an abandoned vehicle or a vehicle removed under section 28.1160d, and an order providing a period of 20 days after the decision for the owner to redeem the vehicle. If the owner does not redeem the vehicle within 20 days, the police agency shall dispose of the vehicle pursuant to section 28.1160b or 28.1160g.

(b) A finding that the police agency did not comply with the procedures established for the processing of an abandoned vehicle or a vehicle removed pursuant to section 28.1160d. After making such a

finding, the court shall issue an order directing that the vehicle immediately be released to the owner, and that the police agency is responsible for the accrued towing and storage charges.

(c) A finding that the towing and daily storage fees were reasonable.

(d) A finding that the towing and daily storage fees were unreasonable, and issue an order directing an appropriate reduction.

Section 28.1160g is added to read as follows:

Sec. 28.1160g. Abandoned vehicle, public sale.

(1) A public sale for a vehicle which has been deemed abandoned under section 28.1160a or 28.1160c, or removed under section 28.1160d, shall be conducted in the following manner:

(a) It shall be under the control of the police agency or agent of the police agency.

(b) It shall be open to the public and consist of open auction bidding or bidding by sealed bids. If sealed bids are received, the person submitting the bid shall receive a receipt for the bid from the police agency or agent of the police agency.

(c) Except as provided by sections 28.1160a(9) and 28.1160d(7), it shall be held not less than five days after public notice of the sale has been published.

(d) The public notice shall be published at least once in a newspaper having a general circulation within the county in which the vehicle was abandoned. The public notice shall give a description of the vehicle for sale and shall state the time, date, and location of the sale.

(2) The money received from the public sale of the vehicle shall be applied in the following order of priority:

(a) Towing and storage charges.

(b) Expenses incurred by the police agency.

(c) To the secured party, if any, in the amount of the debt outstanding

on the vehicle.

(d) Remainder to the owner. A reasonable attempt shall be made to mail the remainder to the registered owner. If delivery of the remainder cannot be accomplished, the remainder shall become the property of the unit of government that the police agency represents.

(3) If there are no bidders on the vehicle, the police agency may do one of the following:

(a) Turn the vehicle over to the towing firm to satisfy charges against the vehicle.

(b) Obtain title to the vehicle for the police agency or the unit of government the police agency represents, by doing the following:

(i) Paying the towing and storage charges.

(ii) Applying for title to the vehicle.

(c) Hold another public sale pursuant to subsection (1).

(4) A person who acquires ownership of a vehicle under subsection (1) or (3), which vehicle has been designated as a distressed vehicle, shall make application for a salvage certificate of title within 15 days after obtaining the vehicle.

(5) Upon disposition of the vehicle, the police agency shall cancel the entry into the law enforcement information network.

Section 28.1161 is added to read as follows:

Sec. 28.1161. Current regulations. All intersection stops and yield right-of-way requirements; regulations on stopping, standing or parking; one-way streets, roadways and alleys; crosswalks; restricted turns; through streets; play streets; angle parking zones; all- night parking restrictions; curb loading zones; public carrier stands; parking meter zones and spaces; weight restrictions; no passing zones; speed limits and traffic-control devices heretofore established and effective on the effective date of this Code shall be deemed established hereunder, and shall remain effective until rescinded or modified as

herein provided.

Section 28.1162 is added to read as follows:

Sec. 28.1162. Safety belt required; enforcement.

(1) This section shall not apply to a driver or passenger of:

(a) A motor vehicle manufactured before January 1, 1965.

(b) A bus.

(c) A motorcycle.

(d) A moped.

(e) A motor vehicle, if the driver or passenger possesses a written verification from a physician that the driver or passenger is unable to wear a safety belt for physical or medical reasons.

(f) A motor vehicle which is not required to be equipped with safety belts under federal law.

(g) A commercial or United States Postal Service vehicle which makes frequent stops for the purpose of pickup or delivery of goods or services.

(h) A motor vehicle operated by a rural carrier of the United States Postal Service while serving his or her rural postal route.

(2) This section shall not apply to a passenger of a school bus.

(3) Each driver and front seat passenger of a motor vehicle operated on a street or highway in this state shall wear a properly adjusted and fastened safety belt, except that a child less than four years of age shall be protected as required in MCL257.710d, MSA9.2410(4).

(4) Each driver of a motor vehicle transporting a child four years of age or more, but less than 16 years of age, in a motor vehicle shall secure the child in a properly adjusted and fastened safety belt. If the motor vehicle is transporting more children than there are safety belts available for use, all safety belts available in the motor vehicle are being utilized in compliance with this section, and the driver and all

front seat passengers comply with subsection (3), then the driver of a motor vehicle transporting a child four years of age or more, but less than 16 years of age, for which there is not an available safety belt is in compliance with this subsection, if that child is seated in other than the front seat of the motor vehicle. However, if that motor vehicle is a pickup truck without an extended cab or jump seats, and all safety belts in the front seat are being used, the driver may transport such a child in the front seat without a safety belt.

(5) Enforcement of this section by state or local law enforcement agencies shall be accomplished only as a secondary action, when a driver of a motor vehicle has been detained for a suspected violation of another section of this act.

(6) Failure to wear a safety belt in violation of this section may be considered evidence of negligence and may reduce the recovery for damages arising out of the ownership, maintenance, or operation of a motor vehicle. However, such negligence shall not reduce the recovery for damages by more than five percent.

(7) A person who violates this section is responsible for a civil infraction.

Section 28.1163 is added to read as follows:

Sec. 28.1163. Automobile parking system.

(a) Supervision of system. The automobile parking system of the city shall be under the supervision and direction of the police department.

(b) Rates and time limits. The rates and time limits for parking in off-street parking lots and structures, operated as a part of the automobile parking system, shall be established by resolution of the city council from time to time, upon recommendation of the city manager. Such rates and time limits need not be uniform throughout the system, but shall be based upon demand for parking in the area which the lot or structure serves and such other considerations as the city manager and the council shall deem pertinent. No person shall park any vehicle for a period of time longer than permitted by the regulation pertaining to

the lot where such vehicle is parked.

(c) Park in designated spaces. No person shall park any motor vehicle in any parking lot or structure other than within the boundaries of the space designated as allocated for the parking of a single meter vehicle, by appropriate lines or other markings. Any person parking any motor vehicle in any parking lot or structure otherwise than as prescribed in this subsection shall be guilty of a violation of this section, and, in parking structures and in parking lots other than metered parking lots, any person who shall park a motor vehicle so as to occupy or encroach upon more than one designated parking space shall pay the full rate or charge for each parking space occupied or encroached upon, in addition to being guilty of a violation of this section.

(d) Vehicle abandonment. Any motor vehicle parked for over 48 hours in any parking lot of the system shall be deemed abandoned, and may be removed by the city and impounded. Any motor vehicle otherwise parked in violation of this section may be removed by the city from the parking lot or structure in which it is parked and impounded. Any vehicle so impounded by the city shall not be released to the owner until all parking charges, storing and towing charges shall have been paid by the owner. MCL257.252 et seq., MSA9.1952 et seq., shall be followed for the disposition of the vehicle if not claimed within the time allowed.

(e) Presumption from ownership. In any proceeding for violation of the provisions of this section relative to parking, the registration plate displayed on the motor vehicle parked in violation of this section shall constitute in evidence a prima facie presumption that the owner of such vehicle was the person who parked or placed such motor vehicle at the point where such violation occurred.

Section 28.1202 is added to read as follows:

Sec. 28.1202. Obedience to police and fire department officials. No person shall willfully fail or refuse to comply with any lawful order or direction of any police officer or member of the fire department, at the scene or in the immediate vicinity of a fire or in the immediate vicinity

of the fire station, who is vested with authority under this code to direct, control or regulate traffic.

Section 28.1304 is amended to read as follows:

Sec. 28.1304. Steady red indication.

(1) Vehicular traffic facing a steady red signal alone shall stop before entering the crosswalk on the near side of the intersection, or at a limit line when marked, or if none, then before entering the intersection, and shall remain standing until a green indication is shown, except as provided in subsection (c)(2).

(2) Vehicular traffic facing a steady red signal, after stopping before entering the crosswalk on the near side of the intersection, or at a limit line when marked, or if none, then before entering the intersection, shall be privileged to make a right turn from a one-way or two-way street into a two-way street or into a one-way street carrying traffic in the direction of the right turn; or a left turn from a one-way or two-way street into a one-way street carrying traffic in the direction of the left turn, unless prohibited by sign, signal, marking, light, or other traffic-control device. The vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

Section 28.1500 is added to read as follows:

Sec. 28.1500. Mandatory child restraints.

(1) Except as provided in this section, or as otherwise provided by law, a rule promulgated pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of Michigan of 1969 (MCL 24.201 et seq., MSA 3.560(101) et seq.), as amended, or federal regulation, each driver transporting a child in a motor vehicle shall properly secure each child in a child restraint system as follows:

(a) Any child less than one year of age in a child restraint system which meets the standards prescribed in 49 CFR 571.213, except as provided in subsection (6).

(b) Any child one year of age or more but less than four years of age, when transported in the front seat, in a child restraint system which meets the standards prescribed in 49 CFR 571.213, except as provided in subsection (6).

(c) Any child one year of age or more but less than four years of age, when transported in the rear seat, in a child restraint system which meets the standards prescribed in 49 CFR 571.213, unless the child is secured by a safety belt provided in the motor vehicle, except as provided in subsection (6).

(2) This section does not apply to any child being nursed.

(3) This section does not apply if the motor vehicle being driven is a bus, school bus, taxicab, moped, motorcycle, or other motor vehicle not required to be equipped with safety belts under federal law or regulations.

(4) A person who violates this section is responsible for a civil infraction.

(5) Points shall not be assessed for a violation of this section.

(6) The secretary of state may exempt by rules a class of children from the requirements of this section, if the secretary of state determines that the use of the child restraint system required under subsection (1) is impractical because of physical unfitness, a medical problem, or body size. The secretary of state may specify alternate means of protection for children exempted under this subsection.

Section 28.1702 is added to read as follows:

Sec. 28.1702. Pedestrian or bicyclist; right-of-way in crosswalks; violation as a civil infraction.

(1) When traffic control signals are not in place or not in operation, the driver of a vehicle shall stop and yield the right-of-way to every pedestrian or bicyclist within a marked crosswalk.

(2) When traffic control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way,

slowing down or stopping if need be to so yield, to every pedestrian or bicyclist within an unmarked crosswalk at an intersection. A “crosswalk” is defined as set forth at the Uniform Motor Vehicle Code, Section 27.10.

(3) A pedestrian or bicyclist shall not suddenly leave a curb or other place of safety and walk, run or ride into the path of a vehicle that is so close that it is impossible for the driver to yield.

(4) A person who violates this rule is responsible for a civil infraction.

Section 28.1706 is added to read as follows:

Sec. 28.1706. Pedestrians or bicyclists yielding right-of-way: violation as a civil infraction.

(1) Every pedestrian or bicyclist crossing a roadway at any point other than within a marked or unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles on the roadway.

(2) A person who violates this rule is responsible for a civil infraction.

Section 28.1708 is added to read as follows:

Sec. 28.1708. Pedestrians and bicyclists; yielding right-of-way to emergency vehicles; violation of civil infraction.

(1) Any pedestrian or bicyclist crossing a roadway shall yield the right-of-way to an authorized emergency vehicle sounding an audible signal, unless engaging in an emergency run in which silence is required and displaying a flashing, oscillating or rotating red or blue light.

(2) A person who violates this rule is responsible for a civil infraction.

Section 28.1825 is added to read as follows:

Sec. 28.1825. All-night parking prohibited. It shall be unlawful for any

person, firm or corporation to stop, stand or park a vehicle, or to cause or to permit a vehicle to be parked or left unattended, between the hours of 2:00 a.m. and 5:00 a.m. of any day on any of the streets or highways of the city or on any of the city parking lots.

Section 28.1826 is added to read as follows:

Sec. 28.1826. Parking on parkways. It shall be unlawful for any person to park any motor vehicle or trailer in any parkway of any street within the city without permission of the city council. The term "parkway" shall mean that area between the curb, or curb line in the absence of a curb, in the inside sidewalk line. "Motor vehicle" shall have the meaning as defined in the Uniform Traffic Code. "Trailer" includes house trailers, trailers and semitrailers.

Section 28.1827 is added to read as follows:

Sec. 28.1827 Yard parking; violation as civil infraction.

(a) No motor vehicle shall be parked in any yard, as defined by § [82-4 of the Charlotte City Code](#), [except entirely upon a driveway or parking space designated and constructed according to the standards of Chapter 82 of the Charlotte City Code](#).

(b) [A person who violates this section is responsible for a civil infraction. A parking violation notice charging a violation of this section may be issued by a police officer, including a limited duty or parking enforcement officer, also by any city housing, building, or zoning director or building official, in the form and manner provided by MCL 257.742\(6\),\(7\), and \(8\).](#)

Section 28.1906 is added to read as follows:

Sec. 28.1906. Parking violations bureau. Pursuant to section 8:395 of the Revised Judicature Act, State of Michigan, as added by Act No. 154 of the Public Acts of Michigan of 1968 (MCL 600.8395, MSA 27A.8395), as amended, a parking violations bureau, for the purpose of handling alleged parking violations within the city, is hereby established. The parking violations bureau shall be under the

supervision and control of the city treasurer.

Section 28.1907 is added to read as follows:

Sec. 28.1907. Location, employees, rules. The city treasurer shall, subject to the approval of the city council, establish a convenient location for the parking violations bureau, appoint qualified city employees to administer the bureau, and adopt rules and regulations for the operation thereof.

Section 28.1908 is added to read as follows:

Sec. 28.1908. Violation handled. No violation not scheduled in section 28.1911 shall be disposed of by the parking violations bureau. The fact that a particular violation is scheduled shall not entitle the alleged violator to disposition of the violation at the bureau, and in any case the person in charge of such bureau may refuse to dispose of such violation, in which case any person having knowledge of the facts may make a sworn complaint before any court having jurisdiction of the offense as provided by law.

Section 28.1909 is added to read as follows:

Sec. 28.1909. Jurisdiction. No violation may be settled at the parking violations bureau except at the specific request of the alleged violator. No penalty for any violation shall be accepted from any person who denies having committed the offense, and in no case shall the person who is in charge of the bureau determine, or attempt to determine, the truth or falsity of any fact or matter relating to such alleged violation. No person shall be required to dispose of a parking violation at the parking violations bureau, and all persons shall be entitled to have any such violation processed before a court having jurisdiction thereof if they so desire. The unwillingness of any person to dispose of any violation at the parking violations bureau shall not prejudice him or in any way diminish the rights, privileges and protection accorded to him by law.

Section 28.1910 is added to read as follows:

Sec. 28.1910. Parking tickets. The issuance of a traffic ticket or notice of violation by a police officer of the city shall be deemed an allegation of a parking violation. Such traffic ticket or notice of violation shall indicate the length of time in which the person to whom the ticket or notice was issued must respond before the parking violations bureau. It shall also indicate the address of the bureau, the hours during which the bureau is open, the amount of the penalty scheduled for the offense for which the ticket was issued, and advise that a warrant for the arrest of the person to whom the ticket was issued will be sought if such person fails to respond within the time limited.

Section 28.1911 is added to read as follows:

Sec. 28.1911. Schedule.

Uniform Traffic Code Violations

(a) Fine schedule. Fines shall be paid in accordance with a schedule to be adopted by resolution of the city council.

(b) All fines provided in this section will double if not paid within 72 hours of the date and time issued.

(1993 Code, § 66-33) (Ord. passed 4-27-1992; Ord. passed 8-24-1998; Ord. passed 7-4-1999; Ord. passed 7-12-1999; Ord. passed 12-13-1999; Ord. passed 12-27-1999; Ord. passed 2-14-2000(2); Ord. passed 6-12-2000(2); Ord. passed 6-10-2002; Ord. passed 8-14-2006; Ord. passed 4-14-2008)

2. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, said portion shall be deemed a separate, distinct and independent provision and such hold shall not affect the validity of the remaining portions of this ordinance.

3. Effective Date. This ordinance shall become effective as provided by law.

City Manager Guetschow noted that a typo is also being corrected in Sec. 28.12827 (a) to correct Chapter 52 to read: Chapter 82.

He noted that this ordinance is to allow for signs to be posted for traffic to stop for pedestrians instead of yielding.

Council member Ridge moved, supported by Dyer to approve Ordinance No. 2019-05 amending the Uniform Traffic Code as presented. Carried. 5 Yes. 0 No. 2 Absent.

INTRODUCTION OF RESOLUTIONS AND ORDINANCES:

A. CONSIDER FIRST READING OF RESOLUTION NO. 2019-90 TO REJECT BID FOR THE 2019 MILL AND RESURFACE STREET PROJECT:

RESOLUTION NO. 2019-90

A RESOLUTION TO REJECT BID FOR THE 2019 MILL AND RESURFACE STREET PROJECT

WHEREAS, the 2019 Mill and Resurface Street Project was approved in the FY 19-20 City budget; and

WHEREAS, sealed bids were received on Thursday, August 29, 2019; and

WHEREAS, C&D Hughes, Inc. submitted the only bid in the amount of \$349,049.00 to complete the project per the specifications prepared by the Engineer; and

WHEREAS, the cost presented in the bid was prohibitive; and

WHEREAS, it has been determined that current workload of contractors due to the wet Spring along with the strike of one paving company has increased prices statewide.

THEREFORE, BE IT RESOLVED that the bid from C&D Hughes, Inc. in hereby rejected and the project will be rebid in late winter/ early spring 2020.

Council member Ridge moved, supported by Dyer to approve first reading of Resolution No. 2019-90 to reject bid for the 2019 Mill

and resurface street project as presented. Carried. 5 Yes. 0 No. 2 Absent.

B. CONSIDER FIRST READING OF ORDINANCE NO. 2019-06 TAX EXEMPTION FOR EDMOND SENIOR APARTMENTS PHASE II ON S. WASHINGTON ST AND SET PUBLIC HEARING FOR SEPTEMBER 23, 2019:

**CITY OF CHARLOTTE
ORDINANCE NO. 2019-06**

AN ORDINANCE TO AMEND CHAPTER 64 TAX EXEMPTION BY ADDING DIVISION 3 TO ESTABLISH A TAX EXEMPTION FOR THE EDMOND SENIOR APARTMENTS PHASE II ON SOUTH WASHINGTON STREET

SECTION 1. PURPOSE. The City is authorized by State law to levy a service charge in lieu of property taxes for certain housing developments for individuals with low and moderate incomes. An ordinance establishing such a charge for the Sugar Mill Apartments complex was passed in 2002. This ordinance amends City code to establish a service charge in lieu of property taxes for a proposed senior housing development called the Edmond Senior Apartments to be located on South Washington Street.

SECTION 2. Chapter 64 of the Code of Ordinances is hereby amended to read as follows:

Division 1. Sugar Mill Apartments

§ 64-1 IN GENERAL.

This division shall be known and cited as the "City of Charlotte Tax Exemption Ordinance for Sugar Mill Apartments Complex on Maynard Street."

§ 64-2 PREAMBLE.

(A) It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its

citizens of low to moderate income and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the State Housing Development Authority Act of 1966 (1966) Public Act 346 of 1966, being M.C.L.A. §§ 125.1401 *et seq.*, as amended. The city is authorized by this Act to establish or change the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under this Act at any amount it chooses not to exceed the taxes that would be paid but for this Act. It is further acknowledged that such housing is a public necessity, and as the city will be benefitted and improved by such housing, the encouragement of the same by providing certain real estate tax exemption for such housing is a valid public purpose; further, that the continuance of the provision of the chapter, for tax exemption and the service charge in lieu of taxes during the period contemplated in this chapter are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance on such tax exemption.

(B) The city acknowledges that Sugar Mill Limited Dividend Housing Association, Michigan Limited Partnership, ("the sponsor") has offered subject to receipt of a mortgage loan from the Michigan State Housing Development Authority, to erect, own and operate a housing development identified as Sugar Mill Apartments (the "housing development") on certain property located on the 100 Block of Maynard Street in the city to serve senior citizens of low to moderate income, and that the sponsor has offered to pay the city, on account of this housing development, an annual service charge for public services in lieu of taxes.

§ 64-3 DEFINITIONS.

AUTHORITY. The Michigan State Housing Development Authority.

ACT. The State Housing Development Authority Act, being Public Act 346 of 1966 of the State of Michigan, being M.C.L.A. §§ 125.1401 *et seq.*, as amended.

ANNUAL SHELTER RENT. The total collections during an agreed annual period from all occupants of a housing development representing rent or occupancy charges, exclusive of charges for gas, electricity, heat or other utilities furnished to the occupants.

ELDERLY PERSONS. A family where the head of household is 62 years of age or older or a single person who is 62 years of age or older. Also includes persons of any age who are handicapped or disabled.

HOUSING DEVELOPMENT. A development which contains a significant element of housing for persons of low to moderate income and such elements of other housing, commercial, recreational, industrial, communal and educational facilities as the Authority determines improves the quality of the development as it relates to housing for persons of low to moderate income.

MORTGAGE LOAN. A loan to be made by the Authority to the sponsor for the construction and/or permanent financing of the housing development.

UTILITIES. Fuel, water, sanitary sewer service and/or electrical service, which are paid by the housing development.

SPONSOR. Person(s) or entities which have applied to the Authority for a mortgage loan to finance a housing development.

§ 64-4 CLASS OF HOUSING DEVELOPMENT.

It is determined that the class of housing development to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be senior housing which are financed or assisted pursuant to the Act. It is further determined that Sugar Mills Apartments is of this class.

§ 64-5 ESTABLISHMENT OF ANNUAL SERVICE CHARGE.

(A) The housing development identified as Sugar Mills Apartments and the property on which it shall be constructed shall be exempt from all property taxes from and after the commencement of construction. The city, acknowledging that the sponsor and the Authority have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this chapter, the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established in this chapter in consideration of the sponsors offer, subject to receipt of a mortgage loan from the Authority, to construct, own and operate the housing development, agrees to accept payment of an annual service charge for public services in lieu of all property taxes.

(B) The annual service charge shall be the greater of the following:

(1) Fourteen percent of the difference between the annual shelter rents actually collected and utilities; or

(2) A minimum payment determined as follows. In the first year of operation, the minimum payment shall be \$35,900, prorated on a daily basis from the date the final occupancy permit is issued through the next August 31. Each year thereafter, this payment shall be adjusted annually by the lesser of: 5%; or the increase or decrease in the general price level for the preceding year, as defined in the Michigan Constitution, § 33. The general price level is also the same percentage used to calculate the taxable property value by the City Tax Assessor.

§ 64-6 LIMITATION ON THE PAYMENT OF ANNUAL SERVICE CHARGE.

(A) Notwithstanding § 64-5, the service charge to be paid each year in lieu of taxes for the part of the housing development which is tax

exempt and which is occupied by other than low to moderate income persons or families shall be equal to the full amount of the taxes which would be paid on that portion of the housing development if the housing development were not tax exempt.

(B) The term **LOW TO MODERATE PERSONS** as used herein means, with respect to any housing development that is tax-exempt, senior persons eligible to move into that development.

§ 64-7 CONTRACTUAL EFFECT OF CHAPTER.

Notwithstanding the provisions of § 15(a)(5) of the Act, to the contrary, a contract between the city and the sponsor with the authority as third party beneficiary under the contract to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this chapter.

§ 64-8 PAYMENT OF SERVICE CHARGE.

The service charge in lieu of taxes as determined under the chapter shall be payable in the same manner as general property taxes are payable to the city except that the annual payment will be paid on or before August 31 each year.

§ 64-9 DURATION.

This chapter shall remain in effect and shall not terminate so long as the mortgage loan remains outstanding and unpaid or the Authority has any interest in the property; provided, that construction of the housing development commences within 1 year from the effective date of this chapter.

§ 64-10 SEVERABILITY.

The various sections and provisions of this chapter shall be deemed to be severable, and should any section or provision of this chapter be declared by any court of competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of the chapter as a whole or any section or provision of this chapter other than the section

or provision so declared to be unconstitutional or invalid. It is hereby amplified that it is the city's intent to accept a payment in lieu of taxes only for the purpose of a senior development. If the property is ever used for another purpose, or if this chapter is unacceptable to any state agencies, this chapter is declared null and void.

Division 2.

§ 64-11 IN GENERAL.

This division shall be known and cited as the "City of Charlotte Tax Exemption Ordinance for the Edmond Senior Apartments on South Washington Street."

§ 64-12 PREAMBLE.

(A) It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its citizens of low to moderate income and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the State Housing Development Authority Act of 1966 (1966) Public Act 346 of 1966, being M.C.L.A. §§ 125.1401 *et seq.*, as amended. The city is authorized by this Act to establish or change the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under this Act at any amount it chooses not to exceed the taxes that would be paid but for this Act. It is further acknowledged that such housing is a public necessity, and as the city will be benefitted and improved by such housing, the encouragement of the same by providing certain real estate tax exemption for such housing is a valid public purpose; further, that the continuance of the provision of the chapter, for tax exemption and the service charge in lieu of taxes during the period contemplated in this chapter are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance on such tax exemption.

(B) The city acknowledges that the Sponsor, as defined in this division, is a limited dividend housing association limited partnership

and has offered, subject to receipt of an allocation under the Low Income Housing Tax Credit (LIHTC) Program and a Federally Aided Mortgage (as defined in the Act) to construct, own and operate the Housing Development Project to be known as The Edmond Senior Apartments located in the City to serve Low Income Persons, as defined herein, and that the Sponsor has offered to pay the City on account of this Housing Development an annual service charge for public services in lieu of all ad valorem property taxes.

§ 64-13 DEFINITIONS.

ACT. The State Housing Development Authority Act, being Public Act 346 of 1966 of the State of Michigan, being M.C.L.A. §§ 125.1401 *et seq.*, as amended.

ANNUAL SHELTER RENT. The total collections during an agreed annual period from or paid on behalf of all Low Income Persons, as defined herein of the Housing Development Project representing rent or occupancy charges, exclusive of charges for Utilities, as defined herein.

AUTHORITY. The Michigan State Housing Development Authority.

CITY. The City of Charlotte, a Michigan municipal corporation.

COMMENCEMENT OF CONSTRUCTION. The commencement of the Housing Development, as defined herein.

HOUSING DEVELOPMENT PROJECT. The project being constructed at the Housing Development Location, consisting of a building to include qualified low income residential apartment units including approximately fifty (50) units reserved for Low Income Persons and such recreational, industrial, communal and educational facilities as the Sponsor and/or Authority determine will improve the quality of the Housing Development Project as it relates to housing for ~~Elderly~~ *Senior* Persons.

HOUSING DEVELOPMENT LOCATION. Lots 7, 8, 11, 12, 15, 16 and the West 30 feet 6 inches of Lot 17, the dividing line being the center of a block wall, and the vacated alley South of Lot 15 and the West ½ of the vacated alley adjacent to Lots 7, 8, 11, 12 & 15 Cummings Subdivision to the original Plat, City of Charlotte, Michigan and Lots 9, 10, 13, 14 the East 11 feet 1/5 inches of Lot 17, the dividing line being the center of a block wall, Lots 18, 19, 20 and the vacated alley South of Lot 14 and the East ½ of the vacated alley adjacent to Lots 9, 10, 13 & 14 of the Cummings Subdivision to the original plat, City of Charlotte, Michigan.

LOW INCOME PERSONS. Senior Persons eligible to move into the Housing Development Project pursuant to the Act and the Authority.

MORTGAGE LOAN. A loan to be made by the Authority to the sponsor for the construction and/or permanent financing of the housing development.

SENIOR PERSONS. Single persons who are 55 years of age or older or a household in which at least one member is 55 years of age or older ~~and all other members are 50 years of age or older.~~

SPONSOR. The Edmond Senior Apartments limited Dividend Housing Association Limited Partnership, 333 North Pennsylvania Street, Suite 100, Indianapolis, Indiana, who shall act as the owner of the Housing Development Project.

UTILITIES. Fuel, water, heat sanitary sewer service and/or electrical service furnished to the occupants which are paid by the Housing Development Project.

 **§ 64-14 CLASS OF HOUSING DEVELOPMENT.**

It is determined that the class of housing development to which the tax exemption shall apply and for which a service charge shall be paid

in lieu of such taxes shall be senior housing which are financed or assisted pursuant to the Act. It is further determined that The Edmond Senior Apartments is of this class.

 **§ 64-15 ESTABLISHMENT OF ANNUAL SERVICE CHARGE.**

(A) Subject to the provisions of this division, the Housing Development Project and the Housing Development Location shall be exempt from all property taxes for the period specified in Section 64-19. The City acknowledges that the Sponsor and the Authority have established the economic feasibility of the Housing Development Project in reliance upon the enactment and continuing effect of this Agreement and qualification of the Housing Development Project for the exemption from all property taxes and a payment in lieu of taxes as established in this division. Therefore, in consideration of the Sponsor's offer to construct, own and operate the Housing Development Project, the City has agreed to accept payment of an annual Service Charge, as defined below, for public services in lieu of all ad valorem property taxes as provided for in Section 64-15 (C) provided the Sponsor furnishes proof, on an annual basis upon request by the City, that the number of qualified low income units in the Housing Development Project have not increased, decreased, or been altered in any material form unless the City has otherwise amended the provisions of this division.

(B) In addition to the annual certified verification requirement in Section 64-15 (A), the tax exemption shall commence upon the acquisition of the Housing Development Location by the Sponsor. The Sponsor of the Housing Development Project eligible for exemption, or the City as appropriate and necessary, shall file with the local assessing officer a certified notification of the exemption, which shall be in an affidavit form by either the Authority, the city and/or the Sponsor as appropriate. The completed affidavit form first shall be submitted to the Authority for certification by the Authority that the Housing Development Project is eligible for the exemption. The

Sponsor and/or the City shall file or cause to be filed the certified notification of the exemption with the local assessing officer as soon as practically possible.

(C) The annual service charge shall be equal to ten percent (10%) of the difference between the Annual Shelter Rent actually collected and Utilities (the "Service Charge.")

§ 64-16 LIMITATION ON THE PAYMENT OF ANNUAL SERVICE CHARGE.

Notwithstanding § 64-15, the service charge to be paid each year in lieu of taxes for any part of the housing development which is tax exempt and occupied by other than Low Income Persons shall be equal to the full amount of the taxes which would be due and payable on that portion of the Housing Development Project if the project were not tax exempt.

§ 64-17 CONTRACTUAL EFFECT OF CHAPTER.

Notwithstanding the provisions of § 15(a)(5) of the Act, to the contrary, a contract between the city and the sponsor with the authority as third party beneficiary under the contract to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this division.

§ 64-18 PAYMENT OF SERVICE CHARGE.

The service charge in lieu of taxes as determined under the chapter shall be payable in the same manner as general property taxes are payable to the city except that the annual payment will be paid on or before June 30 of the year following the calendar year upon which such Service Charge is calculated and shall be distributed to the several units levying ad valorem property taxes in the same proportion as for said taxes. Failure to pay the service charge on or before June 30 of each year shall result in the service charge being subject to one percent (1%) interest per month until paid. If any amount of the annual service charge or accrued interest shall remain unpaid as of December

31 of any year, the amount unpaid shall be a lien upon the real property constituting the Housing Development Project upon the City Treasurer filing a certificate of non-payment of the service charge, together with an affidavit of proof of service of the certificate of non-payment upon the Sponsor with the Eaton County Register of Deeds, and proceedings may then be had to enforce the lien as provided by law for the foreclosure of tax liens upon real property.

§ 64-19 DURATION.

This division shall remain in effect and shall not terminate so long as the Housing Development Project continues to be used for Low Income Persons as provided in this division, but not to exceed fifty (50) years; provided, however, if construction of the Housing Development Project does not commence within one (1) year of the Authority's LIHTC April 1, 2017 funding round award date, which is anticipated to be on or about July 1, 2017, or if the Sponsor materially changes the scope or purpose of the Housing Development Project with the consent of the City, by and through its representatives, and in accordance with the requirements of law, this division shall automatically expire, terminate and be of no further effect.

§ 64-20 SEVERABILITY.

The various sections and provisions of this chapter shall be deemed to be severable, and should any section or provision of this chapter be declared by any court of competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of the chapter as a whole or any section or provision of this chapter other than the section or provision so declared to be unconstitutional or invalid. It is hereby amplified that it is the city's intent to accept a payment in lieu of taxes only for the purpose of a senior development. If the property is ever used for another purpose, or if this chapter is unacceptable to any state agencies, this division is declared null and void.

Division 3.

§ 64-21 IN GENERAL.

This division shall be known and cited as the "City of Charlotte Tax Exemption Ordinance for the Edmond Senior Apartments Phase II on South Washington Street."

§ 64-22 PREAMBLE.

(A) It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its citizens of low to moderate income and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the State Housing Development Authority Act of 1966 (1966) Public Act 346 of 1966, being M.C.L.A. §§ 125.1401 *et seq.*, as amended. The city is authorized by this Act to establish or change the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under this Act at any amount it chooses not to exceed the taxes that would be paid but for this Act. It is further acknowledged that such housing is a public necessity, and as the city will be benefitted and improved by such housing, the encouragement of the same by providing certain real estate tax exemption for such housing is a valid public purpose; further, that the continuance of the provision of the chapter, for tax exemption and the service charge in lieu of taxes during the period contemplated in this chapter are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance on such tax exemption.

(B) The city acknowledges that the Sponsor, as defined in this division, is a limited dividend housing association limited partnership and has offered, subject to receipt of an allocation under the Low Income Housing Tax Credit (LIHTC) Program and a Federally Aided Mortgage (as defined in the Act) to construct, own and operate the Housing Development Project to be known as The Edmond Senior Apartments Phase II located in the City to serve Low Income Persons, as defined herein, and that the Sponsor has offered to pay the City on

account of this Housing Development an annual service charge for public services in lieu of all ad valorem property taxes.

§ 64-23 DEFINITIONS.

ACT. The State Housing Development Authority Act, being Public Act 346 of 1966 of the State of Michigan, being M.C.L.A. §§ 125.1401 *et seq.*, as amended.

ANNUAL SHELTER RENT. The total collections during an agreed annual period from or paid on behalf of all Low Income Persons, as defined herein of the Housing Development Project representing rent or occupancy charges, exclusive of charges for Utilities, as defined herein.

AUTHORITY. The Michigan State Housing Development Authority.

CITY. The City of Charlotte, a Michigan municipal corporation.

COMMENCEMENT OF CONSTRUCTION. The commencement of the Housing Development, as defined herein.

HOUSING DEVELOPMENT PROJECT. The project being constructed at the Housing Development Location, consisting of a building to include qualified low income residential apartment units including approximately thirty-one (31) units reserved for Low Income Persons and such recreational, industrial, communal and educational facilities as the Sponsor and/or Authority determine will improve the quality of the Housing Development Project as it relates to housing for Senior Persons.

HOUSING DEVELOPMENT LOCATION. Lots 11, 12 and 15 and West ½ of vacated alley adjacent to Lots 11, 12 and 15 Cummings Subdivision to the original Plat City of Charlotte, Michigan.

LOW INCOME PERSONS. Senior Persons eligible to move into the Housing Development Project pursuant to the Act and the Authority.

MORTGAGE LOAN. A loan to be made by the Authority to the sponsor for the construction and/or permanent financing of the housing development.

SENIOR PERSONS. Single persons who are 55 years of age or older or a household in which at least one member is 55 years of age or older.

SPONSOR. The Edmond Senior Apartments II Limited Dividend Housing Association Limited Partnership, 333 North Pennsylvania Street, Suite 100, Indianapolis, Indiana, who shall act as the owner of the Housing Development Project.

UTILITIES. Fuel, water, heat sanitary sewer service and/or electrical service furnished to the occupants which are paid by the Housing Development Project.

 **§ 64-24 CLASS OF HOUSING DEVELOPMENT.**

It is determined that the class of housing development to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be senior housing which are financed or assisted pursuant to the Act. It is further determined that The Edmond Senior Apartments is of this class.

 **§ 64-25 ESTABLISHMENT OF ANNUAL SERVICE CHARGE.**

(A) Subject to the provisions of this division, the Housing Development Project and the Housing Development Location shall be exempt from all property taxes for the period specified in Section 64-29. The City acknowledges that the Sponsor and the Authority have established the economic feasibility of the Housing Development

Project in reliance upon the enactment and continuing effect of this Agreement and qualification of the Housing Development Project for the exemption from all property taxes and a payment in lieu of taxes as established in this division. Therefore, in consideration of the Sponsor's offer to construct, own and operate the Housing Development Project, the City has agreed to accept payment of an annual Service Charge, as defined below, for public services in lieu of all ad valorem property taxes as provided for in Section 64-25 (C) provided the Sponsor furnishes proof, on an annual basis upon request by the City, that the number of qualified low income units in the Housing Development Project have not increased, decreased, or been altered in any material form unless the City has otherwise amended the provisions of this division.

(B) In addition to the annual certified verification requirement in Section 64-25 (A), the tax exemption shall commence upon the acquisition of the Housing Development Location by the Sponsor. The Sponsor of the Housing Development Project eligible for exemption, or the City as appropriate and necessary, shall file with the local assessing officer a certified notification of the exemption, which shall be in an affidavit form by either the Authority, the city and/or the Sponsor as appropriate. The completed affidavit form first shall be submitted to the Authority for certification by the Authority that the Housing Development Project is eligible for the exemption. The Sponsor and/or the City shall file or cause to be filed the certified notification of the exemption with the local assessing officer as soon as practically possible.

(C) The annual service charge shall be equal to ten percent (10%) of the difference between the Annual Shelter Rent actually collected and Utilities (the "Service Charge.")

 **§ 64-26 LIMITATION ON THE PAYMENT OF ANNUAL SERVICE CHARGE.**

Notwithstanding § 64-25, the service charge to be paid each year in lieu of taxes for any part of the housing development which is tax exempt and occupied by other than Low Income Persons shall be equal to the full amount of the taxes which would be due and payable on that portion of the Housing Development Project if the project were not tax exempt.

§ 64-27 CONTRACTUAL EFFECT OF CHAPTER.

Notwithstanding the provisions of § 15(a)(5) of the Act, to the contrary, a contract between the city and the sponsor with the authority as third party beneficiary under the contract to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this division.

§ 64-28 PAYMENT OF SERVICE CHARGE.

The service charge in lieu of taxes as determined under the chapter shall be payable in the same manner as general property taxes are payable to the city except that the annual payment will be paid on or before June 30 of the year following the calendar year upon which such Service Charge is calculated and shall be distributed to the several units levying ad valorem property taxes in the same proportion as for said taxes. Failure to pay the service charge on or before June 30 of each year shall result in the service charge being subject to one percent (1%) interest per month until paid. If any amount of the annual service charge or accrued interest shall remain unpaid as of December 31 of any year, the amount unpaid shall be a lien upon the real property constituting the Housing Development Project upon the City Treasurer filing a certificate of non-payment of the service charge, together with an affidavit of proof of service of the certificate of non-payment upon the Sponsor with the Eaton County Register of Deeds, and proceedings may then be had to enforce the lien as provided by law for the foreclosure of tax liens upon real property.

§ 64-29 DURATION.

This division shall remain in effect and shall not terminate so long as the Housing Development Project continues to be used for Low Income Persons as provided in this division, but not to exceed fifty (50) years; provided, however, if construction of the Housing Development Project does not commence within one (1) year of the Authority's LIHTC October 1, 2019 funding round award date, which is anticipated to be on or about January 15, 2020, or if the Sponsor materially changes the scope or purpose of the Housing Development Project with the consent of the City, by and through its representatives, and in accordance with the requirements of law, this division shall automatically expire, terminate and be of no further effect.

§ 64-30 SEVERABILITY.

The various sections and provisions of this chapter shall be deemed to be severable, and should any section or provision of this chapter be declared by any court of competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of the chapter as a whole or any section or provision of this chapter other than the section or provision so declared to be unconstitutional or invalid. It is hereby amplified that it is the city's intent to accept a payment in lieu of taxes only for the purpose of a senior development. If the property is ever used for another purpose, or if this chapter is unacceptable to any state agencies, this division is declared null and void.

Discussion was held regarding the tax abatement and parking and maintenance issues by council members.

Council member Ridge moved, supported by Dyer to approve first reading of Ordinance No. 2019-06 tax exemption for Edmond Senior Apartments Phase II on S. Washington St. and set public hearing for September 23, 2019 as presented. Carried. 4 Yes. (Ridge, Russo, Dyer, Lewis) 1 No.(Mitchell) 2 Absent.

COMMUNICATIONS AND COMMITTEE REPORTS

CITY ATTORNEY REPORT: City Attorney report included in the

packet.

CITY MANAGER REPORT: City Manager Guetschow reported that the audit will be starting next week. He reported that the grant application for Safe Routes to Schools is due in October and moving along well. He stated that he will be meeting with Carmel Township this week to work on the tax sharing agreement between the City and Carmel Township.

COUNCILMEMBER COMMITTEE REPORTS:

- Council member Ridge stated that the Planning Commission discussed the senior housing project site plan and passed it. They are working on the sign ordinance and plan to continue working on this and present to the City Council in February or March.
- Council member Dyer advised that the Park Board meets on Tuesday, September 10th at 7 P.M.

PUBLIC COMMENT:

June Potter, 225 S. Washington, stated that the Edmond Senior project is less than desirable. She feels she is at the mercy of whomever will listen at this point. She encouraged everyone to stop by and look at the issues at the building before allowing them to move forward on the project.

Mike Armitage, 213 Plymouth Drive, thanked Ben for his comments regarding the flag issue. He stated that he did not think that the statement from Frontier Days went far enough. He stated that his mother lives at the Edmond Senior complex and has not experienced the issues of concern that were expressed. However, staff is only on site two days a week which becomes a problem. He stated that Planning Commission had the entrance on Oliver Street and has asked for additional signage for emergency services and guests. He stated that with the timeline being October it does not give much time to

consider the issues that the developer is asking for and feels it should have been more thought out.

Ben Phlegar, 425 Horatio, brought up concerns with people parking at the Edmond Senior apartments that do not actually live there. He reminded everyone of the Candidate Forum that will be taking place at the Old Courthouse at 7 PM Tuesday, September 10th and invited everyone to attend.

MAYOR AND COUNCIL COMMENTS:

- Council member Russo no comment.
- Council member Ridge advised the Park Board will be talking about the smoking issue at the pocket park. She thanked everyone for expressing their concerns. She stated that she feels the Frontier Days resolution should address any issues in the future. The Safe Routes to School grant is due in October and will be submitted. This is a 1.2 million dollar non matching grant if approved. This will address sidewalks and routes to school for children.
- Council member Dyer no comment.
- Council member Mitchell no comment.
- Mayor Lewis thanked the Fire and Police Departments on their participation in the Frontier Days activities. He congratulated Chief Brentar on his appointment to Chief of Police. He stated that he had spent most of the day on the phone regarding the flag issue in the parade. He stated that Charlotte is NO place for a confederate flag. He stated he will continue having conversation with the Frontier Days Board regarding this issue.

Council member Ridge moved, seconded by Mitchell to adjourn at 8:00 P.M. Carried. 5 Yes. 0 No. 2 Absent.

Mayor Tim Lewis

Ginger Terpstra, City Clerk, CMMC