

## **COUNCIL PROCEEDINGS**

**Regular Meeting  
November 23, 2020**

**CALL TO ORDER:** By Mayor Armitage on Monday, November 23, 2020 at 7:10 p.m

**PRESENT:** Councilmembers McRae, Baker, Weissenborn, Hoogstra, VanStee, Dyer & Mayor Armitage. All reported their remote meeting location as being in the City of Charlotte, County of Eaton and State of Michigan.

**PLEDGE OF ALLEGIANCE:** Mayor Armitage led the Pledge of Allegiance to the Flag of the United States of America.

**INVOCATION:** There was no minister present for the meeting to offer an invocation.

**APPROVAL OF MINUTES:** Motion by Dyer, Second by McRae to approve the Regular Session Minutes of November 9, 2020 as presented. Carried. 7 Yes. 0 No. 0 Absent.

**EXCUSE ABSENT MEMBERS:** All members were present.

**PUBLIC HEARINGS:** There were no public hearings conducted.

**PUBLIC COMMENTS:** There were no public comments.

**APPROVAL OF REGULAR AGENDA AND UNANIMOUS CONSENT AGENDA:** Motion by Baker, Second by Dyer to approve the Regular Meeting Agenda. Carried. 7 Yes. 0 No. 0 Absent.

Council member Dyer asked that agenda item 13c. be removed from the Unanimous Consent Agenda for individual discussion.

**Council member Hoogstra moved, supported by VanStee to approve the Unanimous Consent Agenda as presented. Carried. 7 Yes. 0 No. 0 Absent.**

**SPECIAL PRESENTATIONS: AUDIT PRESENTATION FOR FISCAL YEAR 2019-2020**

The audit presentation for City of Charlotte Fiscal year 2019-2020 was presented by **William Brickey** and **Nicolette Acho** representing the audit firm of Plante Moran.

The following presentation summarized the detailed findings in the printed report.

Mr. Brickey said that 2020 has been a difficult audit year, due to the remote work that had to be done due to COVID-19 restrictions, and he thanked City staff for their cooperation on the audit.

Mr. Brickey said that Plante Moran is offering an 'Unqualified' audit opinion, accompanied by a Comprehensive Annual Financial Report, which is a higher level of financial reporting than is strictly necessary.

Ms. Acho delivered a digital presentation. She indicated that the City's fund balance is in the middle of the healthy range at 23%. She said the City is charging appropriate rates for water and sewer to keep that fund healthy. She said the City's pension funds have improved to 53% of its liability. She also discussed post employee benefits funding.

Mr. Brickey discussed two findings regarding internal controls. These included auditor-proposed adjustments to Accounts Payable and the post employee benefits fund. They also included management of Fire Department cash activity in a Volunteer Fire Department cash account. Mr. Brickey said this account should not be used in the City's Federal ID Number if it is not recorded in the City's accounts. It is being treated as if it were a separate entity, which is not appropriate. He indicated that steps are being taken to incorporate the Volunteer Fire Department as an official non-profit corporation which could be treated as a vendor in the future.

Council member McRae asked whether it is the auditor's opinion that the City has a 'structural deficit.' Mr. Brickey said that while the City did use fund balance this year, it was mostly for capital improvement projects, so it would not be correct to describe it as a 'structural deficit' in the sense that the City is taking in enough revenue to cover its operational expenses. He did say that the City would need to 'watch' its Capital Improvement spending in the future, as it is not sustainable to always draw from fund balance for these needs.

Council member McRae asked about what would constitute a 'normal' arrangement for a fire department. Mr. Brickey said volunteers are usually compensated as employees. McRae asked whether making these adjustments would result in an income tax liability for the volunteers. Mr. Brickey said he did not know, but he did not think there is any reason to assume the compensation shouldn't be counted as income for tax purposes.

Mr. Brickey continued the presentation, discussing Corrected and Uncorrected Misstatements of accounts. He also discussed several recommendations they are making in regard to bank reconciliations, payroll submissions, fire department overtime, fuel sales at the airport, and construction code expenses.

Council member Weissenborn asked whether there are penalties associated with any of the findings. Mr. Brickey said that any risk would be associated with the fire department bank account. That will have to be reported, but there is low risk of any financial penalty associated with that.

Council member Baker asked if any of these issues are 'repeats' from previous years. Mr. Brickey said that it is possible, but is mostly likely due to the staffing changes and pandemic issues.

Mayor Armitage said the City would need to make sure it enacts a corrective plan for the deficiencies identified; and that is getting started with the changes in the fire department.

Council member Dyer asked about whether there would be any ramifications to fire fighter retirement. Mr. Brickey said no.

**CONSIDER FIRST READING OF ORDINANCE NO.  
2020-09 TAX EXEMPTION FOR PK DEVELOPMENT  
AT 301 & 335 HORATIO STREET AND SET PUBLIC  
HEARING FOR DECEMBER 14, 2020:**

**CITY OF CHARLOTTE  
ORDINANCE NO. 2020-09**

AN ORDINANCE TO AMEND CHAPTER 64 TAX EXEMPTION  
BY ADDING DIVISION 3 TO ESTABLISH A TAX EXEMPTION  
FOR PK DEVELOPMENT, 301 & 335 HORATIO STREET,  
COMMONLY KNOWN AS OLD SCHOOL VILLAGE  
APARTMENTS

*Division 3.*

**§ 64-21 IN GENERAL.**

This division shall be known and cited as the "City of Charlotte Tax Exemption Ordinance for the PK Charlotte School LDHA LP family housing development at 301 & 335 Horatio 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 proposed Housing Development Project at 301 & 335 Horatio Street 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 fifty-four (54) 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 Low Income Persons.

**HOUSING DEVELOPMENT LOCATION.** 335 Horatio Street, Parcel No. **200-062-600-195-00, legally described as** N 42 FEET OF LOT 19. LOTS 20, 21, 22, 23, 24, 25 & 26. LAWRENCE'S SUBDIVISION OF OUT LOTS CITY OF CHARLOTTE; and 301 Horatio Street, Parcel No. **200-051-000-110-00, legally described as** LOTS 11, 12, 25, & 26 EXCEPT S 5 1/2 FEET. GALE'S ADDITION CITY OF CHARLOTTE; and unaddressed parcel on Pleasant Street, Parcel No. **200-051-000-260-00, legally described as** S 5 1/2 FEET OF LOT 26. N 40 FEET OF LOT 27. GALE'S ADDITION CITY OF CHARLOTTE.

**LOW INCOME PERSONS.** 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.

**SPONSOR.** PK Charlotte School LDHA LP, 1784 Hamilton Road, Okemos, MI 48864, 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 family housing which are financed or assisted pursuant to the Act. It is further determined that the proposed PK Development project at this location 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.

**§ 64-28 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 February 1, 2021 funding round award date, which is anticipated to be in May 2021, 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.

**SECTION 3. EFFECTIVE DATE.** This ordinance shall become effective 20 days after adoption.

Council member Baker asked about the proposed development project and whether there would be enough parking. Community Development Director Bryan Myrkle said that the proposal would meet or exceed the City's on-site parking requirements.

Council member McRae asked about the tax revenues associated with this project as it is proposed, as opposed to what they would be if the project was taxed in a more traditional way. Mr. Myrkle said that the taxes would be approximately one-third of what they would be otherwise; but noted that there is no proposal to do this project in the traditional way, and the choice is really between this project and no project at all, rather than this project and a traditional

project. He also pointed out that the Payment In Lieu Of Taxes is new revenue to the City. The city is not giving up any taxes it currently receives.

Mayor Armitage talked about the need for affordable housing in the community. He also asked about the need to take action after the fact to ensure that these tax receipts end up with the Downtown Development Authority, rather than the City's General Fund. Mr. Myrkle confirmed that because this a payment by agreement rather than a tax, the funds would not automatically be captured by the DDA and, in fact, the City would have to take steps to send them to the DDA if that is what it wishes to do.

**Council member Baker moved, supported by Council member Dyer to approve the first reading of this proposed ordinance and to set the required public hearing for December 14, 2020. Carried. 7 Yes. 0 No. 0 Absent.**

**PUBLIC COMMENTS:** Ron Smith, 742 N. Cochran Avenue, Charlotte, Michigan. Mr. Smith said that the Volunteer Fire Department has handled its finances the same way for 50 years and it has never been a problem until now. It has never been brought up before.

**COMMUNICATIONS AND COMMITTEE REPORTS,**

**COUNCILMEMBER COMMENTS:** Council member VanStee said that the City is still looking for people to join the

Planning Commission and encouraged anyone interested to contact Mayor Armitage.

**ADJOURNMENT: Council member Baker moved, supported by Council member Dyer to adjourn the meeting at 8:13 p.m. Carried. 7 Yes. 0 No. 0 Absent.**