MINUTES
FINANCE COMMITTEE MEETING
6:15 P.M., OCTOBER 7, 2019
A/V CONFERENCE ROOM

Joseph Jenkins, Chairperson, called the meeting of the Charleston City Council Committee on Finance to order at 6:15 p.m., September 16, 2019, in the Audio/Visual Room in City Hall.

A silent roll was taken by the Clerk and a quorum was established. The following committee members were present:

Joseph Jenkins, Chair
Bobby Reishman, Vice Chair
Brent Burton
Mary Beth Hoover
Will Laird
Keeley Steele

I. <u>DISCUSSION:</u>

a. Councilmember Reishman asked for unanimous consent to dispense with the reading of the minutes for the September 16, 2019 meeting and that they be approved as distributed. There was no objection and the minutes were approved.

II. RESOLUTIONS:

a. Resolution No. 247-19 - Authorizing the Mayor or City Manager to sign Change Order No. 1 with McClanahan Construction Co., in the amount of $47,697.00, to replace existing non-complaint ramps and the sidewalk located around Parking Building #1, and installing a new sidewalk and ramps at the Charleston Coliseum Convention Center as part of the Concrete Sidewalk and Accessible Ramp Project. The additional costs will increase the contract price from $453,106.00 to $500,803.00.

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

That the Mayor or City Manager is hereby authorized and directed to sign Change Order No. 1 with McClanahan Construction Co., in the amount of $47,697.00, to replace existing non-complaint ramps and the sidewalk located around Parking Building #1, and installing a new sidewalk and ramps at the Charleston Coliseum Convention Center as part of the Concrete Sidewalk and Accessible Ramp Project. The additional costs will increase the contract price from $453,106.00 to $500,803.00.

City Manager, Jonathan Storage, added that the work around Parking Building #1 is to repair numerous tripping hazards and construct three compliant accessible ramps at the driveway entrances on Dickinson Street and McFarland Street. The work at the Coliseum and Convention Center will establish a new sidewalk from Quarrier Street across the two driveways into the parking garage and tie into the existing walkway at the Quarrier Street entrance. This was designed during the Coliseum renovations but the cost proposal from the contractor was cost prohibitive at the time. The Administration decided they would add this sidewalk at a later date.

Councilmember Steele confirmed with Storage that this work will be for the outside areas only.

Councilmember Reishman moved to approve the Resolution. With a majority of members present recorded thereon as voting in the affirmative Chairperson Jenkins declared Resolution 247-19 approved.

CONCRETE SIDEWALK AND ACCESSIBLE RAMP PROJECT
SPRING 2019

PROJECT NUMBER E2 02/19-123

Change Order No.1
September 25, 2019

This change order will consist of replacing existing non-compliant ramps and sidewalk located around Parking Building #1 and installing new sidewalk and ramps at the Charleston Coliseum and Convention Center.

Parking Building #1

Sidewalk Replacement (Approx.)	1684.00 s.f. @ $18.50/s.f.		$ 31,154.00
Integral Curb (Approx.)	211.00 l.f. @ $8.00/l.f.		$ 1,688.00
Detectable Warning Surfaces	3 ea. @ $200.00		$ 600.00
		Total:	$ 33,442.00

Charleston Coliseum and Convention Center

Sidewalk Replacement (Approx.)	630.00 s.f. @ $18.50/s.f.		$ 11,655.00
Curb and Gutter (Approx.)	100.00 l.f. @ $14.00/l.f.		$ 1,400.00
Detectable Warning Surfaces	6 ea. @ $200.00		$ 1,200.00
		Total:	$ 14,255.00

Original Contract Price....……………....$453,106.00

Change Order No.1 Price………………$ 47,697.00

New Contract Price …………………...$500,803.00

b. Resolution No. 248-19 - Authorizing the Mayor or City Manager to enter into a contract with ThyssenKrupp Elevator in the amount of $18,000.00 per year, for the annual maintenance of elevators in the Parking garages pursuant to the results of a competitive bidding process. The price is held firm for each year of the three (3) year term, with no price adjustment during the term agreement, and is to be charged to Account No. 406-571-00-000-2-230 –Contract Services.

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

That the Mayor or City Manager is hereby authorized to enter into a contract with ThyssenKrupp Elevator in the amount of $18,000.00 per year, for the annual maintenance of elevators in the Parking garages pursuant to the results of a competitive bidding process. The price is held firm for each year of the three (3) year term, with no price adjustment during the term agreement, and is to be charged to Account No. 406-571-00-000-2-230 –Contract Services.

Storage added that the City received 2 bids. The Parking System currently has in place an agreement with ThyssenKrupp from 2007 that was automatically renewing and with automatic increases, and is currently paying $54,000 per year for maintaining these same elevators. This means a $36,000 savings per year for the next 3 years.

Councilmember Jenkins added that it is great the Administration is actively searching out opportunities for cost-savings.

Councilmember Reishman moved to approve the Resolution. With a majority of members present recorded thereon as voting in the affirmative Chairperson Jenkins declared Resolution 248-19 approved.

Elevator Maintenance Agreement - Parking
Bid Opening: September 10, 2019 @ 11:00am

	DC Elevator	Thyssenkrupp Elevator
	521 Slack Street, Suite B	901 Morris Street
	Charleston WV, 25302	Charleston WV, 25301
	P: (304) 345-7222	P: (304) 342-0187
	kathy.davis@dcelevator.com	eric.hackney@thyssenkrupp.com
Maintenance Agreement Per Year	$28,000.00	$18,000.00

c. Resolution No. 249-19 - Authorizing the Mayor or City Manager to purchase on behalf of the Charleston Fire Department two Pierce Manufacturing Company Arrow XT pumper trucks and associated loose equipment from Finely Fire Equipment Company by using a competitively sourced state-wide contract procured by the West Virginia Purchasing Division and available for use by state municipalities, where the total purchase price will not exceed $1,290,568.00. The purchase will be expensed to the Public Safety Capital Outlay Account, Account No. 001-976-00-706-4-459.

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

That the Mayor or City Manager is hereby authorized to purchase on behalf of the Charleston Fire Department two Pierce Manufacturing Company Arrow XT pumper trucks and associated loose equipment from Finely Fire Equipment Company by using a competitively sourced state-wide contract procured by the West Virginia Purchasing Division and available for use by state municipalities, where the total purchase price will not exceed $1,290,568.00. The purchase will be expensed to the Public Safety Capital Outlay Account, Account No. 001-976-00-706-4-459.

Storage added that the City has historically put out bids for vehicles for the CFD. A recent bid put out in April received mixed results. By using this national contract with assistance from the State Purchasing Department, the City is saving approximately 10% off the retail price. This will be replacing 2 trucks that are both nearly 20 years old that are currently used as backups.

Councilmember Reishman moved to approve the Resolution. With a majority of members present recorded thereon as voting in the affirmative Chairperson Jenkins declared Resolution 249-19 approved.

d. Resolution No. 250-19 - Authorizing approval of Amendment No. 3 in the FY 2019-2020

General Fund Budget as indicated in on the attached list of accounts.

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

That Amendment No. 3 in the FY 2019-2020 General Fund Budget as indicated in on the attached list of accounts is approved.

Storage added that the amendment will address a discrepancy in pay between day and night shift Police Officers that effectively cuts night shift pay by 2 hours per pay period. It also creates a sperate budget item for the C.A.R.E. Office (which will oversee the QRT Program), and transfers funds that were donated from AARP to the Parks and Recreation Department.

Councilmember Snodgrass confirmed that the CPD has about 14 positions vacant.

Councilmember Reishman moved to approve the Resolution. With a majority of members present recorded thereon as voting in the affirmative Chairperson Jenkins declared Resolution 250-19 approved.

General Fund FY 2019-2020 Budget Amendment No. 3 - October 7, 2019

Account No.	Department	Account Description	Amount
001 299	Unassigned Fund Balance		(80,000)
001 700 00 000 1 103	Police	Wages & Salaries	72,760
001 700 00 000 1 104	Police	FICA	1,055
001 700 00 001 1 107	Police	Police Pensions - New Plan	6,185

To allocate a portion of the remaining unassigned fund balance to fund a Shift Differential for Patrol Officers on night shift.

001 299	Unassigned Fund Balance		(100,000)
001 381 00 0000	Revenue	Reimbursements	(121,905)
001 381 01 0000	Revenue	Reimbursements - Police Wages	(37,992)
001 381 04 0000	Revenue	Reimbursement - Fire Wages	(40,103)
001 700 00 000 1 103	Police	Wages & Salaries	33,696
001 700 00 000 1 104	Police	FICA	489
001 700 00 001 1 107	Police	Police Pensions - New Plan	2,864
001 700 00 000 1 226	Police	Insurance - WC & UC	943
001 706 00 000 1 103	Fire	Wages & Salaries	35,568
001 706 00 000 1 104	Fire	FICA	516
001 706 00 001 1 107	Fire	Fire Pensions - New Plan	3,023
001 706 00 000 1 226	Fire	Insurance - WC & UC	996
001 409 02 000 1 103	CARE Office	Wages & Salaries	107,000
001 409 02 000 1 104	CARE Office	FICA	8,186
001 409 02 000 1 105	CARE Office	Medical & Life Insurance	27,078
001 409 02 000 1 106	CARE Office	Retirement - PERS	10,700
001 409 02 000 1 111	CARE Office	Dental/Optical Insurance	932
001 409 02 000 1 112	CARE Office	Insurance - Employee Contribution	(4,024)
001 409 02 000 1 226	CARE Office	Insurance - WC & UC	1,938
001 409 02 000 1 211	CARE Office	Telephone	1,200
001 409 02 000 1 212	CARE Office	Printing	2,000
001 409 02 000 1 214	CARE Office	Travel	8,000
001 409 02 000 1 221	CARE Office	Training	5,000
001 409 02 000 1 230	CARE Office	Contracted Services	37,000
001 409 02 000 1 341	CARE Office	Materials & Supplies	16,895

To recognize the revenue from the QRT grant awarded to the City and to establish the separate budget unit for the CARE Office. The CARE Office includes 2 new positions, CARE Coordinator (Pay Grade 115) and QRT Project Coordinator (Pay Grade 114).

001 368 12 0000	Revenue	Contributions From Others - AARP	(15,000)
001 979 00 900 4 458	Parks & Recreation	Capital Outlay - Major Improvements	15,000

To recognize the contribtuion from AARP for improvements made to the East End Community Park.

Reportable: To Maintain compliance with the budgetary guidelines of the State of West Virginia

III. BILLS:

a. Bill No. 7483 Committee Substitute - A BILL to amend and reenact Sections 110-33, 110-114 and 110-115 of the Municipal Code of the City of Charleston, as amended, all relating to updating the tax hearing procedure and appeal process; clarifying language regarding refunds and credits; requiring the use of a neutral hearing examiner; and clarifying appeal times and processes.

Now, therefore, be it ordained by the Council of the City of Charleston:

That Sections 110-33, 110-114 and 110-115 of the Municipal Code of the City of Charleston, as amended, are hereby amended and reenacted to read as follows:

Sec. 110-33. - Refunds and credits.

(a) Any taxpayer claiming to have overpaid any tax, interest or penalty imposed by this article shall file his claim with the city collector, with a copy to the city attorney, within three years after the due date of the return ~~determined by including any written authorized extension of time for filing,~~ in respect of which the tax was imposed ~~or within two years from the date the tax was paid, whichever of such periods expires the later, or if no return was filed by the taxpayer, within two years from the time the tax was paid~~, and not thereafter. Notwithstanding such period of limitation, the taxpayer may file a claim for refund within ninety days after a final determination by the state tax department of an overpayment in the taxpayers state business and occupation tax liability.

(b) If, on such petition and the proofs filed in support thereof, the city collector shall be of the opinion that the tax, interest or penalty, or any part thereof, was overpaid, ~~he~~ the city collector shall refund the same to the taxpayer. If the city collector shall be in doubt as to whether or not there exists an overpayment, ~~he~~ the city collector ~~may institute against the taxpayer a declaratory judgment proceeding in the circuit court of the county to ascertain whether or not there exists an overpayment of tax, interest or penalty, or any party thereof~~ shall consult with the finance director and city attorney to make a determination. If the city collector is of the opinion that there exists no overpayment of tax, interest or penalty, or any part thereof, ~~he~~ the city collector shall notify the taxpayer.

(c) Taxpayer's failure to abide by express procedures contained in this section precludes taxpayer's claim for refund or credit.

Sec. 110-114. - Hearing procedure; administrative decision.

(a) When a petition for reassessment or refund or credit as provided for in sections ~~10-113 and~~ 110-33, 110-112, or 110-113 is filed within the time prescribed for such filing, the city collector shall assign a time and a place for ~~a~~ an administrative hearing thereon and shall notify the petitioner and the City Attorney of such hearing by written notice at least ~~twenty~~ sixty days in advance thereof. Such hearing shall be held within ninety days from the date of filing the petition, unless continued by written agreement of the parties or in writing by the city collector or hearing examiner designated by the city collector for sufficient cause. With respect to all petitions filed after the effective date of the 2019 amendments to this section, a hearing may not be continued more than one year from the filing of the petition without reasonable cause placed on the record.

(b) The hearing shall be informal and shall be conducted in an impartial manner by ~~the city collector or~~ a hearing examiner designated by the city collector. Any designated hearing examiner shall be a licensed attorney with experience in administrative law or tax law, or with experience as a judge, including the sitting municipal judge, who does not have a conflict of interest ~~with respect to the taxpayer~~. If the city collector desires to designate the municipal judge as the hearing examiner, the city collector shall confirm that the municipal judge is able to meet the time requirements contained in this section as part of, and without detriment to, the other ongoing duties of the municipal judge and without additional compensation. The burden of proof shall be upon the taxpayer to show that the assessment or denial of a refund or credit is incorrect and contrary to law, in whole or in part. The hearing examiner is not bound by the rules of evidence as applied in civil cases in the circuit courts of this State. The hearing examiner may admit and give probative effect to evidence of a type commonly relied upon by a reasonably prudent person in the conduct of his or her affairs. All testimony shall be given under oath. All hearings shall be recorded by means acceptable for use in courts of this State. All parties shall receive notice that the hearing will be recorded and that each is entitled to receive a copy of the recording at cost. A copy of the exhibits made part of the record shall be available to any party upon request and payment of a reasonable fee.

(c) After ~~such~~ the administrative hearing, the ~~city collector shall~~ hearing examiner may request that proposed findings of fact and conclusions of law from the parties be submitted within thirty days and shall, within a reasonable time, give notice in writing of his or her decision. The decision shall be made no later than six months after the administrative hearing unless extraordinary circumstances exist, in which case the Final Order shall disclose such extraordinary circumstances. The Final Order shall include notice of the right to appeal, as stated in section 110-115, and the bonding requirements for such an appeal.

Sec. 110-115. - Appeals to circuit court.

(a) An appeal may be taken by the taxpayer or the City to the Circuit Court of Kanawha County within thirty 30 days ~~after service of the city collector's~~ of entry of the hearing examiner's decision.

(b) The appeal shall be taken by the filing of a petition and notice with the Circuit Court of Kanawha County, a copy of which petition and notice shall be ~~serviced upon or accepted by the city collector as an original notice~~ served upon the city collector and the opposing party's counsel, or directly to the opposing party if not represented by counsel. ~~When the petition and notice is so served it shall, with the return or acceptance~~

~~thereon, be filed in the office of the clerk of the circuit court and~~ The appeal will be docketed at the circuit court in a similar manner as other ~~cases~~ administrative appeals, with the ~~taxpayer as plaintiff~~ appealing party listed as petitioner and the ~~city collector as defendant~~ other party listed as respondent. The petition for appeal shall state whether the appeal is taken on questions of law or questions of fact, or both, and set forth with particularity the items of the hearing examiner’s decision objected to, together with the reasons for the objections. The filing of the appeal shall not stay the ~~collection of the tax~~ decision of the hearing examiner. The ~~collection of the tax~~ decision of the hearing examiner shall be stayed if the ~~plaintiff~~ taxpayer shall file with ~~such~~ the clerk of the circuit court a bond for the use of the ~~defendant~~ City, with sureties approved by the clerk, the ~~penalty of the~~ bond amount to be not less than the total amount of the tax, interest and penalties (to such date) appealed from, and conditioned that the ~~plaintiff~~ taxpayer shall perform the orders of the court; provided, that the judge of the circuit court may stay the ~~collection of the tax~~ decision of the hearing examiner without the requirement of a bond, upon a proper showing by the taxpayer that the properties of the taxpayer are sufficient to secure performance of the court's orders or that the ends of justice will be served thereby. Upon receipt, the city collector shall forward a complete copy of the record, including the Final Order, transcripts/recording of the hearing, papers, motions, documents, exhibits, evidence and records as were before the hearing examiner or supplemented prior to the decision, to the Circuit Court, the City Attorney, and the taxpayer, in a manner consistent with Rule 4 of the West Virginia Rules of Procedure for Administrative Appeals.

(c) The circuit court shall hear the appeal and determine ~~anew~~ all questions submitted to it on appeal from the determination of the ~~city collector~~ hearing examiner pursuant to West Virginia Code § 29A-5-4. In such appeal a certified copy of the city collector's assessment shall be admissible and shall constitute prima facie evidence of the tax due under the provisions of this article. The court shall render its decree thereon, and a certified copy of the decree shall be filed by the clerk of the court with the hearing examiner and the city collector, who shall then correct the assessment in accordance with such decree. Either party may appeal to the Supreme Court of Appeals as provided in West Virginia Code § 29A-6-1.

(d) Unless an appeal is taken pursuant to this section within thirty 30 days ~~after service~~ of entry of the administrative decision, the ~~city collector's~~ hearing examiner’s decision shall become final and conclusive and not subject to administrative or judicial review. The amount, if any, due the city under such decision shall be due and payable on the day following the date upon which such decision becomes final and any decision requiring the city to make changes shall be promptly addressed by correcting the assessment, issuing a requisition, or establishing a credit for the amount of an overpayment, as the case may be, on the day following the date upon which the decision becomes final.

City Attorney, Kevin Baker, explained that the bill is an update to the City's tax appeal process. In the past, the City Collector held the hearing on behalf of the City. Now, an independent hearing examiner will hear appeals. The goal is to create trust by giving all parties a fair hearing. The bill also sets fairly strict timelines for the hearing process. The committee substitute removes the phrase "with respect to the taxpayer."

City Treasurer, Grigoraci, asked what problems the bill was trying to solve. Baker answered that it was going to address independence and timeliness. Grigoraci asked as to the process of having an audit from the perspective of the taxpayer. Baker answered that the taxpayer would have 30 days to contest the assessment. A hearing will be set 90 days out, during which time they may speak with the City Attorney's Office. At the hearing, the examiner will make a decision. Grigoraci advised that that all decisions from the Auditor go to the City Collector before being sent to the taxpayer and would like to see a more informal process. Storage answered that about 90% of complaints are resolved before going having a hearing.

Councilmember Reishman moved to approve the Bill. With a majority of members present recorded thereon as voting in the affirmative Chairperson Jenkins declared Bill No. 7834 Committee Substitute approved.

Councilmember Jenkins mentioned that the next meeting of the Local Vendor Preference Sub Committee will be October 16, 2019 at 12:00 pm, which will be held in the AV Room.

Councilmember Reishman motioned to adjourn the meeting.

Meeting adjourned.