MINUTES
FINANCE COMMITTEE MEETING
6:30 P.M., DECEMBER 5, 2022
AV ROOM #308, CITY HALL

Joseph Jenkins, Chairperson, called the meeting of the Charleston City Council Committee on Finance to order at 6:30 p.m., December 5, 2022.

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
Becky Ceperley
Mary Beth Hoover
Chad Robinson

Absent:
Ben Adams

Other Councilmembers present:
Sam Minardi
Larry Moore
Emmett Pepper

I. <u>DISCUSSION:</u>

a. <u>Approval of Previous Minutes</u> - Councilmember Reishman asked for unanimous consent to dispense with the reading of the minutes for the November 21, 2022 meeting and that they be approved as distributed. There were no objections, and the minutes were approved.

II. RESOLUTIONS:

a. Resolution No. 744-22 – Whereas, the Land and Water Conservation Fund ("LWCF") was established by Congress in 1964 to fulfill a bipartisan commitment to safeguard natural areas, water resources, and cultural heritage, as well as to provide recreation opportunities to all Americans;

Whereas, the LWCF is a state and federal partnership program benefiting the State of West Virginia and its political subdivisions;

Whereas, the funding for the program is provided through congressional appropriations to the State & Local Assistance Programs Divisions of the National Park Service;

Whereas, the LWCF program provides matching grants to states for planning, acquiring, developing, or renovating state and local parks;

Whereas, the LCWF grant program may be used to renovate athletic fields, including installing synthetic turf;

Whereas, the City maintains numerous athletic fields that are frequently used by community groups, City Parks & Recreation Department programs, little league organizations, and more;

Whereas, the City's Administration has identified the North Charleston Community Center football field as a suitable candidate for renovation through turf replacement with the assistance of federal grant funds;

Whereas, the estimated cost of turf replacement project is approximately $1.2 million;

Whereas, the LCWF requires applicants to submit a 50% cash match for any awarded funds; and

Whereas, the Council finds that proceeding with the grant application, including committing to the 50% cash match requirement, is in the best interests of the City and its residents

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

That the Mayor or City Manager is authorized to submit a grant application to the Land and Water Conservation Fund in the amount of $1.2 million to perform athletic field turf renovations to the North Charleston Community Center football field. The Mayor or City Manager is further authorized to commit the City to the 50% cash match grant requirement.

City Manager, Jonathan Storage, added that the frequently used field is currently surfaced with grass and dirt, and has significantly deteriorated with uneven playing surfaces. The proposed improvements include excavation, drainage pipes, concrete perimeter curbing, aggregate base and synthetic turf. The proposed project meets key factors looked for in a Land and Water grant application, such as the project will restore or maintain certain services to support demand beyond what is currently present, and the project will promote active lifestyles, innovate community cores, and attract visitors to the area.

Councilmember Jenkins confirmed with Storage that the 50% match meant that the City would have to prove that it could commit to match the maximum award of $500,000. The total cost of the project would cost the City $700,00 assuming the maximum grant was awarded.

Councilmember Ceperley confirmed that this was not included in the turfing of the fields used with ARPA funds. Storage added that the City did not want to commit a large portion of ARPA funds to one project, and sought funding through other means.

Councilmember Jenkins confirmed that the City has pursued similar grants from the Land and Water Conservation Fund for the Bigley fields.

From the audience, Councilmember Moore added that many people use that field, and the only turfed field in Charleston is Laidley Field. Turfing the North Charleston field would allow for tournaments, etc., which would bring in additional revenue.

Councilmember Reishman moved to approve the Resolution. With members present recorded thereon as voting unanimously in the affirmative, Chairperson Jenkins declared Resolution No. 744-22 approved.

b. Resolution No. 745-22 – A Resolution authorizing the acceptance of conservation easements from Graff-Lane Properties, LLC, on lands in the Quarry Creek development on the south side of the Kanawha River (the "Conservation Property"), for the purpose of preserving green spaces and enhancing the scenic backdrop to the State Capitol Building and the City of Charleston.

   WHEREAS, F.T. Graff Jr., J. Thomas Lane, their company, Graff-Lane Properties, LLC, and predecessor companies, have previously imposed conservation easements on their mountain properties extending from Mission Hollow on the east to South Ruffner on the west and providing a scenic backdrop for the State Capitol and City of Charleston and the proposed conservation easements will enhance and supplement the green spaces and scenic property currently existing in the Quarry Creek development; and

   WHEREAS, the State of West Virginia through the Conservation and Preservation Easements Act, W. Va. Code, Chapter 20, Article 12, recognizes the importance and public benefit of conservation easements to protect the natural and scenic resources of the State of West Virginia, and has allowed that such easements may be accepted by municipalities; and

   WHEREAS, the Charleston Land Reuse Agency, and formerly the Charleston Land Trust, as agencies of the City of Charleston were created by ordinance, and are charged with managing and maintaining "public trust lands" for preservation of green space and woodlands, and promoting the preservation of scenic green space areas; and

   WHEREAS, the Charleston Land Reuse Agency has identified the protection of the Conservation Property as desirable to preserve the wooded setting of the Conservation Property in the Quarry Creek development and has recommended that this Resolution be adopted and that the City of Charleston accept the easements;

   THEREFORE, Be It Resolved By The Council Of The City Of Charleston, West Virginia that:

   Subject to review, revision and approval of the deeds by the City Attorney, the acceptance of the Deeds for Conservation Easement from Graff-Lane Properties, LLC, is hereby authorized.

City Attorney, Kevin Baker added that the resolution is for a conservation easement for four parcels in the Quarry Creek area in which the parcels will not be built on or timbered. Tom Lane added that they have been imposing conservation easements on lands that face the Capitol, and have recently begun doing the same in the Quarry Creek area.

Councilmember Reishman moved to approve the resolution. With members present recorded thereon as voting unanimously in the affirmative, Chairperson Jenkins declared Resolution No. 745-22 approved.

c. Bill No. 7979 – A BILL to amend and reenact Sec. 2-743 of the Municipal Code of the City of Charleston, as amended, relating to expanding the time period within which a person may claim a refund for overpayment of the City Service Fee.

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

That Sec. 2-743 of the Municipal Code of the City of Charleston, as amended, be amended and reenacted to read as follows:

Sec. 2-743. - Protest; administrative decision; appeal.

(a) Anyone who has paid the fee imposed by this article shall file a claim for refund no later than 30 days three years after the fee is paid over to the city by written notice of such claim with the city collector setting forth with particularity all objections thereto. The burden of proof shall be upon the aggrieved party to show that the fee was paid and is incorrect and contrary to law, in whole or in part. The city collector shall review the refund claim and provide for any necessary hearing, render a decision on the claim and forthwith either notify the protesting party of such decision in writing or direct that a refund be issued, all within a reasonable time. Said decision shall be issued by certified mail, return receipt requested.

(b) If aggrieved by the decision of the city collector, the protesting party may appeal the decision of the city collector to the Circuit Court of Kanawha County within 30 days after service of the city collector's decision.

(1) The appeal shall be taken by the filing of a petition and notice, which petition and notice shall be served upon or accepted by the city collector as an original notice. 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 Kanawha County Circuit Court and docketed as other cases, with the aggrieved party as plaintiff and the city collector as defendant.

(2) The filing of the appeal shall not stay the collection of the fee unless the plaintiff shall file with such clerk a bond for the use of the defendant, with sureties approved by the Clerk of the Circuit Court of Kanawha County, the penalty of the bond to be not less than the total amount of the fee, and accumulated penalties to the date of the appeal, and conditioned that the plaintiff shall perform the orders of the Kanawha County Circuit Court; provided, that the judge of the Kanawha County Circuit Court may stay the collection of the fee, and accumulated penalties without the requirement of a bond, upon a proper showing by the plaintiff that the properties of the plaintiff are sufficient to secure performance of the Kanawha County Circuit Court's orders or that the ends of justice will be served thereby.

(3) The Kanawha County Circuit Court shall hear the appeal and determine anew all questions submitted to it on appeal from the decision of the city collector. In such appeal a certified copy of the city collector's fee assessment shall be admissible and shall constitute prima facie evidence of the fee due under the provisions of this article.

(c) The administrative remedies set forth in this section are exclusive. Failure to timely file a refund claim in accordance with this section shall preclude any right to refund with respect to any fee paid to the city prior to the claim. If no appeal is taken pursuant to this section within 30 days after service of the city collector's decision, said decision shall become final and conclusive and not subject to administrative or judicial review. The amount of the fee and accumulated penalties, 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.

Baker added that current code for a city service fee refund requires that one must request a refund within 30 days of the overpayment. In practice, the City Collector has found most overpayments are noticed until the end of a year or a quarter. The bill would change that to three years, which is the same time as for a B&O tax refund, and the timeframe the City uses when conducting an audit.

Councilmember Reishman moved to approve the bill. With members present recorded thereon as voting unanimously in the affirmative, Chairperson Jenkins declared Bill No. 7979 approved.

d. Bill No. 7981 – A BILL to amend and reenact Section 110-145 of the Municipal Code of the City of Charleston, as amended, relating to expanding the ability of small businesses to obtain consent from the city collector to pay business and occupation taxes on an annual basis.

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

That Section 110-145 of the Municipal Code of the City of Charleston, as amended, to read as follows:

CHAPTER 110 – TAXATION.
ARTICLE II. – BUSINESS AND OCCUPATION TAX.
DIVISION 3. – PAYMENTS, RETURNS, AND RECORDS.

Sec. 110-145. – Interest and penalties.

(a) The tax imposed by this article shall be in addition to all other licenses and taxes levied by law as a condition precedent to engaging in any business, trade, calling or activity. A person exercising a privilege taxable under this article, subject to the payment of all licenses and charges which are a condition precedent to exercising the privilege tax, may exercise the privilege for the current tax year upon the condition that he they shall pay the tax accruing under this article.

(b) *Computation of tax.*

(1) The taxes levied hereunder shall be due and payable in quarterly installments on or before the expiration of one month from the end of the quarter in which they accrue, except as otherwise provided in this subsection. The taxpayer shall, within one month from the expiration of each quarter, make a return reporting the tax for which he/she is liable for such quarter; sign it and mail it, together with any remittance due, in the form required by section 110-82 of the amount of the tax to the office of the city collector. In reporting and remitting the amount of the tax due for each quarter, the taxpayer may deduct one-fourth of the total exemption allowed for the year. When the total tax for which any person is liable under this article does not exceed the sum of $200.00 $2,500.00 in any year, the taxpayer may pay the tax quarterly as aforesaid or, with the consent in writing of the city collector in the manner prescribed by regulations promulgated pursuant hereto, on an annual basis at the end of the month next following the close of the tax year.

(2) The city collector, if he deems they deem it necessary, based upon past experience with a taxpayer, based on the past practices of a taxpayer, based on the financial condition of the taxpayer, or based on the size of the contract, in order to insure payment of the taxes levied hereunder, may require return and payment under this section for other than quarterly periods. Furthermore, if the city collector deems it necessary to insure payment of the business and occupation tax, he they may require a deposit to be paid by the taxpayer prior to when the taxes accrue and are otherwise payable. The amount of the deposit shall be determined and/or based upon the

taxpayer's projected gross income or gross proceeds of sale for the applicable tax period. This deposit shall be paid to the office of the city collector, at a date and time, and in a manner determined by the city collector.

(3) Every contractor whose principal business location is outside of the city, shall register with the city collector prior to engaging in the performance of a contract in this city, and the city collector, if he they deems it necessary, based on the past experience with a taxpayer, based on the past practices of a taxpayer, based on the financial condition of the taxpayer, or based on the size of the contract, in order to insure payment of the taxes levied hereunder, may also require the following:

(A) At the time of registration, each contractor shall deposit with the city collector six percent of the amount the contractor is to receive for the performance of the contact, which sum shall be held within a contractor's use tax fund pending the completion of the contract.

(B) In lieu of the six percent deposit, each contractor may request the approval of the city collector to provide, in the alternative, a corporate surety bond to be approved by the city collector as to form, sufficiency, value, amount, stability, and other features necessary to provide a guarantee of payment of the tax due the city.

Baker added that the bill adjusts the current B&O tax as to when someone is permitted to request to pay taxes on an annual, as opposed to a quarterly, basis. The current code sets the annual ceiling at $200 or less of taxes per year. The bill would increase that to $2,500.

Councilmember Jenkins asked what would happen if a business had an increase in sales and would go over the threshold. Baker replied that the bill does give the City Collector the authority to make some rules to sort out those kinds of situations.

Councilmember Reishman confirmed that the request to pay taxes annually has to be made every year.

Councilmember Ceperley added that most businesses do not know what their taxes will be throughout the year, and many have different kinds of taxes. She wondered if the bill was solving a problem that didn't exist, and creating more administrative work than was necessary. Baker replied that it would be a choice that a business could make, but there were not obligated to apply to pay their taxes annually.

Councilmember Robinson asked if it had ever been considered to charge taxes for the net income as opposed to the gross. Storage replied that that B&O is set up and administered as a gross tax in the Municipal Code, which is modeled after the State code that was discontinued in the 1980s.

Councilmember Robinson asked how many businesses currently file annually. The City Collector, Christina Merbedone-Byrd, replied that, of the approximate 800 accounts, 400 are landlords, 150 are vendors, and the rest are miscellaneous. The are about 7,000 total accounts.

Councilmember Reishman moved to approve the bill. With members present recorded thereon as voting in the majority as affirmative, with 2 Nays from Ceperley and Reishman, Chairperson Jenkins declared Bill No. 7981 approved.

Councilmember Reishman motioned to adjourn the meeting.
Meeting adjourned.