



Legislation Details (With Text)

**File #:** 20-0026      **Version:** 1      **Name:** Tax Sale Attorneys' Fees 2020  
**Type:** Resolution-Budget      **Status:** Passed  
**File created:** 1/3/2020      **In control:** City Council Legislative Session  
**On agenda:** 1/22/2020      **Final action:** 1/22/2020  
**Title:** Resolution Amending the Fiscal Year 2020 Council Approved Budget and Appropriating \$18,564.00 from Assigned Fund Balance - City Attorney Fees to the Fiscal Year 2020 Operating Budget of the City Attorney as Authorized by Virginia Code §58.1-3969

**Sponsors:**

**Indexes:** City Attorney's Office, Economic Vitality

**Code sections:**

**Attachments:**

| Date      | Ver. | Action By                        | Action   | Result |
|-----------|------|----------------------------------|----------|--------|
| 1/22/2020 | 1    | City Council Legislative Session | approved | Pass   |

Resolution Amending the Fiscal Year 2020 Council Approved Budget and Appropriating \$18,564.00 from Assigned Fund Balance - City Attorney Fees to the Fiscal Year 2020 Operating Budget of the City Attorney as Authorized by Virginia Code §58.1-3969

**PURPOSE/BACKGROUND:** The Treasurer has the authority to sell land for delinquent taxes in accordance with Code of Virginia §58.1-3965 *et. seq.* Those sections generally require the filing of suit and the appointment of a special commissioner to conduct the sale of the property by auction. Pursuant to Code of Virginia §58.1-3969, the court shall allow as part of the cost payable from the proceeds of such land sales a reasonable sum to defray attorneys' fees and other expenses relate to such suits. For sales that do not require the filing of a suit, attorneys' fees are also specifically authorized by the relevant section of the Code of Virginia. The majority of localities employ outside counsel to conduct these sales. Prior to 2015, sales in Hampton were conducted by outside counsel. Outside counsel took their fees from the sale prior to the satisfaction of delinquent taxes for the properties. Beginning in 2015, the arrangement with outside counsel was terminated and the process was brought in house for the City Attorney and her staff to personally assist the Treasurer with this process. The City Attorney's office only receives attorneys' fees if there are surplus funds after the delinquent taxes on the properties are paid.

**Discussion:**

On September 17, 2018, the Treasurer, with the assistance of the City Attorney, conducted an auction for the sale of certain properties, including five properties which sold for an amount in excess of the amount of the taxes due and cost of the sale. These properties were 1) 1 Silk Tree Place (RPC #4003145), assessed at \$154,500.00; 2) 21 East Sherwood Avenue (RPC #12002384), assessed at \$37,500.00; 3) 69 Cape Dorey Drive (RPC #7002648), assessed at \$42,700.00; 4) 9406 Wind Mill Point Road (RPC #10000564), assessed at \$65,300.00; and 5) 120 Dooley Street (RPC #2000560), assessed at \$14,100.00.

By Orders entered by the Circuit Court of the City of Hampton, the Court ordered attorneys' fees for those five properties in the total amount of \$18,564.00 .

The successful bidders paid, in full, the bid price and all costs and fees owed pursuant to the sales described above. On November 29, 2019, the Treasurer transferred the sum of \$18,564.00, which is the combined total of attorneys' fees awarded in those cases. Those funds are currently held in Assigned Fund Balance - City Attorney Fees .

The total amount to be appropriated from Assigned Fund Balance - City Attorney Fees is \$18,564.00.

The City Attorney's office expended personnel costs and other office resources for the purpose of instituting the requisite suits, proceeding with auction, confirming the sales and all other actions necessary for the sale of those parcels. Primary counsel to the Treasurer in those matters was Deputy City Attorney Brandi A. Law.

The purpose of the resolution below is to appropriate to the City Attorney's office those sums ordered by the Circuit Court of the City of Hampton to be paid to the treasury of the City to defray the costs incurred by the City Attorney's office.

**Recommendation:**

Approve.

**WHEREAS**, the Treasurer has the authority sell land for delinquent taxes in accordance with Code of Virginia §58.1-3965 et. seq.;

**WHEREAS**, instead of using an outside law firm, the City Attorney is now providing legal assistance to sell the aforementioned land at a cost savings to the City;

**WHEREAS**, pursuant to Code of Virginia §58.1-3969, the court shall allow as part of the cost payable from the proceeds of such land sales a reasonable sum to defray the cost of its attorneys ("Attorneys' Fees");

**WHEREAS**, the City Attorney has chosen not to recover Attorneys' Fees unless there are sufficient proceeds to pay off delinquent taxes and administrative fees first;

**WHEREAS**, on September 27, 2018, the Treasurer, with the assistance of the City Attorney, conducted auctions for sale of certain properties;

**WHEREAS**, on those dates, there were five properties which sold for an amount in excess of the amount of the taxes due and cost of the sale, including RPC numbers 4003145, 12002384, 7002648, 10000564 and 2000560;

**WHEREAS**, the Circuit Court of the City of Hampton ordered Attorneys' Fees in the amount of \$18,564.00 for five properties which were sold at those sales;

**WHEREAS**, the City Attorney expended personnel costs and other office resources for the purpose of instituting the requisite suits, proceeding with auction, and all other actions necessary for the sale of the sale of certain land.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of Hampton, Virginia, that the Fiscal Year 2020 Council Approved Budget is amended and the sum of \$18,564.00 is hereby appropriated from Assigned Fund Balance - City Attorney Fees to the Fiscal Year 2020 Operating Budget of the City Attorney in reimbursement for costs incurred in the sale of certain land in accordance with Code of Virginia §58.1-3965 et. seq.