



Legislation Details (With Text)

File #: 17-0025 **Version:** 1 **Name:** Appropriation of Unassigned General Fund Balance

Type: Resolution-Budget **Status:** Passed

File created: 1/13/2017 **In control:** City Council Legislative Session

On agenda: 1/25/2017 **Final action:** 1/25/2017

Title: Resolution Appropriating \$5,354.87 from the Unassigned Fund Balance of the General Fund to the Fiscal Year 2017 Operating Budget of the City Attorney as Authorized by Code of Virginia §58.1-3969

Sponsors:

Indexes: Annual Budget Appropriations

Code sections: 58.1-3965 - When land may be sold for delinquent taxes; notice of sale; owner's right of redemption, 58.1-3969 - Order of reference; appointment of special commissioner to make sale; costs; attorney fees

Attachments: 1. Entered Amended Order Approving Bid (17 Lacrosse), 2. Entered Order Approving Bid (237 Pocahontas), 3. Code of VA 58.1-3969

| Date | Ver. | Action By | Action | Result |
|-----------|------|----------------------------------|----------|--------|
| 1/25/2017 | 1 | City Council Legislative Session | approved | Pass |

Resolution Appropriating \$5,354.87 from the Unassigned Fund Balance of the General Fund to the Fiscal Year 2017 Operating Budget of the City Attorney as Authorized by Code of Virginia §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 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 related to such suits. 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.

On September 15, 2016, the Treasurer, with the assistance of the City Attorney conducted an auction for sale of certain properties, including (1) 237 Pocahontas Place (LRSN: 1003595), an improved parcel with a current assessed value of \$110,600; and (2) 17 Lacrosse Street (LRSN: 12002725), an unimproved parcel with a current assessed value of \$13,300. By Order entered by the Circuit Court of the City of Hampton on October 4, 2016 in Case No. CL16-1165, the court allowed attorneys' fees in the amount of \$5,250.00 for the sale of 237 Pocahontas Place. In addition, by Order entered by the Circuit Court of the City of Hampton on November 18, 2016 in Case No. CL15-2190, the court allowed attorneys' fees in the amount of \$104.87.

The successful bidders paid, in full, the bid price and all costs and fees owed pursuant to the sales

described above. The Treasurer has deposited the total sum of \$5,354.87 from those payments in the General Fund, which is the combined total of attorneys' fees awarded in the Orders described above. Those funds are currently held in the Unassigned Fund Balance. 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 Brandi 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.

Discussion:

See Purpose/Background above.

Impact:

See Purpose/Background above.

Recommendation:

Approve the Resolution.

WHEREAS, the Treasurer has the authority to 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 15, 2016, the Treasurer, with the assistance of the City Attorney, conducted an auction for sale of certain properties;

WHEREAS, by Order entered by the Circuit Court of the City of Hampton on October 4, 2016 in Case No. CL16-1165, the court allowed Attorneys' Fees in the amount of \$5,250.00 for the sale of 237 Pocahontas Place (LRSN: 1003595);

WHEREAS, by Order entered by the Circuit Court of the City of Hampton on November 18, 2016 in Case No. CL15-2190, the court allowed Attorneys' Fees in the amount of \$104.87 for the sale of 17 Lacrosse Street (LRSN: 12002725);

WHEREAS, the Treasurer has deposited in the General Fund the total sum of \$5,354.87, which is the combined total of Attorneys' Fees awarded in the Orders described above and was paid to the City by the purchasers of the respective parcels; and

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 certain land.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Hampton, Virginia, that the sum of \$5,354.87 is hereby appropriated from Unassigned Fund Balance of the General Fund to the Fiscal Year 2017 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.*