



## Legislation Text

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Resolution Appropriating \$17,000.00 of Fund Balance 01-38078 to the Fiscal Year 2019 Operating Budget of the City Attorney as Authorized by Virginia Code §58.1-3969

**PURPOSE/BACKGROUND:** The Treasurer has the authority 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 5, 2017, the Treasurer, with the assistance of the City Attorney, conducted an auction for the sale of certain properties, including one property through the nonjudicial tax sale process which sold for an amount in excess of the amount of the taxes due and cost of the sale. This property was RPC #1003145, an unimproved property which was assessed at \$400.00.

The successful bidder paid, in full, the bid price and all costs and fees owed pursuant to the sale described above. On August 17, 2018, the Treasurer transferred the sum of \$1,950.00, or the equivalent of ten percent of the sales prices, into Fund Balance 01-38078.

On April 5, 2018, the Treasurer, with the assistance of the City Attorney, conducted an auction for sale of certain properties, including four properties which sold for amounts in excess of the amount of the taxes due and cost of the sale. These properties were 1) 624 Day Street (RPC #1002685), an improved property assessed at \$108,400.00; 2) 704 Delaware Avenue (RPC #1003149), an improved property assessed at \$71,700.00; 3) 1203 North Mallory (RPC #12005456), an improved property assessed at \$113,200.00; and, 4) 2525 Victoria (RPC #1003145), an unimproved property assessed at \$26,000.00.

By Orders entered by the Circuit Court of the City of Hampton, the Court ordered Attorneys' Fees for those four properties in the total amount of \$15,050.00.

The successful bidders paid, in full, the bid price and all costs and fees owed pursuant to the sales described above. On August 21, 2018, the Treasurer transferred the sum of \$15,050.00, which is the combined total of Attorneys' Fees awarded in those cases. Those funds are currently held in

Fund Balance 01-38078.

The total amount to be appropriated is \$17,000.00.

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 the Resolution

**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 5, 2017, and April 5, 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 1003145, 1002685, 1003149, 12005456 and 1003145;

**WHEREAS**, the Circuit Court of the City of Hampton ordered Attorneys' Fees in the amount of \$15,050 for four of properties which were sold at those sales, and an addition property, which was sold through the nonjudicial tax sale process, accrued attorneys' fees in the amount of \$1,950 or the equivalent of ten percent of the tax sale price;

**WHEREAS**, on August 17, 2018 and August 21, 2018 the Treasurer transferred to Fund Balance 01-38078 the total sum of \$17,000.00 pursuant to the orders of the Circuit Court for the City of Hampton and the nonjudicial tax sale parcel;

**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 sum of \$17,000.00 is hereby appropriated from Fund Balance 01-38078 to the Fiscal Year 2018 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.