

COUNCIL PROCEEDINGS
Regular Meeting
September 23, 2019

CALL TO ORDER: By Mayor Lewis on Monday, September 23, 2019 at 7:00 p.m.

PRESENT: Councilmembers Christian, Dyer, Ridge, Russo, Mitchell, Mayor Pro-Tem Baker, Mayor Lewis, City Clerk Terpstra and City Manager Guetschow.

The invocation was offered by Pastor Chuck Jenson, West Carmel Church, followed by the Pledge of Allegiance.

APPROVAL OF MINUTES FOR REGULAR MEETING OF September 9, 2019: Council member Ridge moved, supported by Baker to approve the regular meeting minutes of September 9, 2019 as presented. Carried. 7 Yes. 0 No.

ABSENT: None.

PUBLIC HEARINGS:
PUBLIC HEARING TAX EXEMPTION EDMOND SENIOR HOUSING PHASE II:
Public Hearing Opened: 7:02 P.M.

Gary Beebe, 124 E. Lovett, stated that he had obtained several copies of agreements from City Hall regarding the PILOT agreements and met with the City Manager in regards to the agreements. He noted differences in the document formulas from the Sugar Mill project and the Edmond Senior project. He noted that the Phase II Edmond agreement states as long as fifty years. He does not feel there should be a limitation on this. He noted portions of Public Act 346 in regards to the service charge.

June Potter, 225 S. Washington, addressed the ongoing issues regarding construction and maintenance issues.

Sam Rogers, representing TWG, explained the the PILOT is the key component to be able to offer lower rent to their tenants. He stated as with all new construction they are working on what needs to be fixed.

Public Hearing Closed: 7:15 P.M.

PUBLIC HEARING SPECIAL APPROVAL FOR PARKING EDMOND SENIOR HOUSING:
Public Hearing Opened: 7:15 P.M.

Gary Beebe, 124 E. Lovett, stated that he had been watching the parking across the street for the last fifty-one years. He feels that TWG should have retained ownership of the parking area and they would not have a problem. He feels there are several options to address this issue. One option being to buy back the property that they sold to the church. Another would be ask the church how much they owe on the loan and pay the balance off and allow to have ownership. Another to buy the property with the house and barn facing Oliver Street and use as a staging area for the next phase. After that was built pave it for a parking area.

Sam Rogers, representing TWG, stated that the usage rate is 75% on their projects. That would equate to 1.1 spaces with a 75% ratio.

June Potter, 225 S. Washington, stated that they were promised senior living not a parking lot. She is concerned about overflow and snow. She said that seniors that are not mobile will have trouble getting to the building. She is also concerned about the flooding in the parking lot currently. She would like them to come back with a better plan.

Ben Phlegar, 425 Horatio, stated that he lives two blocks from the site and is also concerned about the snow. There is a concern about the entrance being reduced to one entrance off Oliver Street. There will be more traffic on Oliver and Horatio and also construction traffic. Where will the equipment be put for the construction? He thinks that they should think about the broader aspect of the project.

Mary Workman, 218 S. Oliver, addressed concerns about the parking lot flooding for the last fifty years. She stated that she has lived there since she was two. She stated that during the construction she could not let her dogs out. She doesn't feel there would be any parking for another building. Oliver Street has one lane parking, Washington Street double parking and Seminary no parking. She feels this is a ridiculous proposal to put more apartment buildings.

Public Hearing Closed: 7:30 P.M.

PUBLIC COMMENTS:

Gary Beebe, 124 E. Lovett, passed out some papers to council for their review regarding the Edmond Senior project.

Ben Phlegar, 425 Horatio, spoke in regards to agenda item 13a regarding park policies for the TimePiece park. He is concerned about all smoking including vaping and smokeless tobacco. He suggested putting up signs in the park and also talking with Mike's Sports Page about their patrons. He would also like to see a larger than 50' barrier from the park where smoking is prohibited. He would also like to see the ordinance expedited.

APPROVAL OF AGENDA: Mayor Pro-Tem Baker moved, supported by Russo to approve the agenda as presented. Carried. 7 Yes. 0 No.

SPECIAL PRESENTATIONS: None.

EXPEDITED RESOLUTIONS AND ORDINANCES

A. CONSIDER APPROVAL OF RESOLUTION NO. 2019-92 TO AUTHORIZE VOTE FOR MML DIRECTOR:

RESOLUTION NO. 2019-92

A RESOLUTION AUTHORIZING TO VOTE ON OFFICIAL BALLOT FOR DIRECTOR TO THE MICHIGAN MUNICIPAL LEAGUE LIABILITY & PROPERTY POOL
WHEREAS, there is one position open with three year term beginning January 1, 2020 for the Michigan Municipal Liability and Property Pool; and
WHEREAS, Jean Stegeman, Incumbent, Mayor, City of Menominee is seeking re-election; and
THEREFORE, BE IT RESOLVED that the City Clerk be authorized, by action of this governing body, to cast and mail a vote for the above person to serve as Director of the Michigan Municipal League Liability & Property Pool.

Council member Ridge moved, supported by Dyer to approve Resolution No. 2019-92 to authorize vote for MML Director as presented. Carried. 7 Yes. 0 No.

B. CONSIDER APPROVAL OF RESOLUTION NO. 2019-93 FOR APPROVAL OF AN APPLICATION FOR A FIREWORKS DISPLAY CHARLOTTE HIGH SCHOOL:

RESOLUTION NO. 2019-93

A RESOLUTION TO APPROVE AN APPLICATION FOR A FIREWORKS DISPLAY AT CHARLOTTE PUBLIC SCHOOLS ON OCTOBER 13, 2017
WHEREAS, the City has received an application for a permit for a fireworks display to be held at the Charlotte Public Schools baseball diamond on October 18, 2019; and
WHEREAS, the application has been reviewed by Fire Department personnel and a determination has been made that the

pyrotechnic operator and location meet the department's requirements for a fireworks display;

THEREFORE, BE IT RESOLVED that the City Council does hereby approve the application for a fireworks display at the Charlotte Public Schools baseball diamond on October 18, 2019 and authorizes the City Clerk to execute the application on behalf of the City.

Council member Ridge moved, supported by Baker to approve Resolution No. 2019-93 for approval of an application for a fireworks display Charlotte High School as presented. Carried. 7 Yes. 0 No.

C. CONSIDER APPROVAL OR RESOLUTION NO. 2019-95 TO AUTHORIZE SPECIAL APPROVAL FOR PARKING EDMOND SENIOR HOUSING:

RESOLUTION NO. 2019-95

**A RESOLUTION GRANTING AN EXCEPTION OR SPECIAL APPROVAL
TO MODIFY THE NUMBER OF PARKING SPACES
REQUIRED**

FOR EDMOND SENIOR APARTMENTS PHASES I AND II

WHEREAS, TWG Development is the owner and developer of Edmond Senior Apartments, a 40-unit apartment building located at 225 South Washington Street; and

WHEREAS, TWG Development is proposing the construction of a second phase of its development on the same site, which project would create an additional 31 apartment units; and

WHEREAS, the zoning ordinance provisions pertaining to apartment complexes in the central business district require that a minimum of 1.5 parking spaces per dwelling unit be provided for a total of 107 parking spaces; and

WHEREAS, TWG is requesting to provide a total of 78 spaces; and

WHEREAS, the zoning ordinance permits the Zoning Board of Appeals to grant an exception or special approval to modify

the parking space requirements of the zoning ordinance where such modification will not be inconsistent with the purpose and intent of such requirements; and

WHEREAS, the City Council, acting as Zoning Board of Appeals, has conducted a public hearing and received testimony regarding the exception or special approval requested; and

WHEREAS, the City Council has made the following findings:

- That the zoning ordinance, for senior housing outside the central business district, requires a minimum of 1 parking space for each 3 units plus 1 for each employee and that the number of spaces proposed by TWG Development would exceed this standard;
- That business and property owners in the downtown have expressed concern that Edmond Senior Apartments residents and visitors will take up available public parking spaces if insufficient off-street parking is provided on-site;
- That the Downtown Development Authority board has recommended that the number of spaces required for the development not be reduced below the current standard of 1.5 per dwelling unit so as to reduce potential pressure on limited public parking spaces;
- That TWG Development has provided testimony in support of their request including providing data from other developments they own as to the adequacy of 1 parking space per dwelling unit of senior housing;
- That current residents of Edmond Senior Apartments have expressed concern about the adequacy of parking available to them if the exception or special approval is granted; and

WHEREAS, the City Council has determined that granting the modification of parking space requirements as requested would/would not be inconsistent with the purpose and intent of such requirements;

NOW, THEREFORE, BE IT RESOLVED that the City Council, acting as Zoning Board of Appeals, does hereby grant/deny the requested exception or special approval to modify the parking space requirements for Edmond Senior Apartments Phases I and II to provide a total of 78 spaces.

City Manager Guetschow explained the process as to how the council would act as Zoning Board of Appeals.

Discussion was held among council members regarding the current and future parking. Discussion was held on issues for snow removal and staging areas if they were to proceed with Phase II of the project.

Sam Rogers spoke on behalf of TWG on plans to work with the church to acquire a plan for parking. They are still in the process of those negotiations.

Council member Ridge moved, supported by Christian to table to the next meeting. Carried. 5 Yes. (Baker, Dyer, Christian, Ridge, Lewis) 2 No. (Mitchell, Russo)

D. CONSIDER APPROVAL OF RESOLUTION NO. 2019-94 REGARDING PAYMENT OF CLAIMS & ACCOUNTS:

RESOLUTION NO. 2019-94

A RESOLUTION TO APPROVE EXPENDITURES OF THE CITY FOR SEPTEMBER 23, 2019

WHEREAS, Section 7.7 (B) of the City Charter requires Council approval for the expenditure of city funds; and

WHEREAS, the September 13, 2019 payroll totaled \$205,840.01;

WHEREAS, the September 23, 2019 claims total \$465,805.35;

WHEREAS, the September 9, 2019 insurance claims total \$2,561.43 and September 16, 2019 claims total \$2,524.67;

THEREFORE, BE IT RESOLVED that the City Council approves claims and accounts for September 23, 2019 in the amount of \$676,731.46.

APPROVAL OF CLAIMS AND ACCOUNTS BY ROLL CALL VOTE: Council member Ridge moved, supported by Dyer to approve Resolution 2019-94 regarding payment of claims & accounts as presented. Carried. 7 Yes. 0 No.

ACTION ITEMS – RESOLUTIONS AND ORDINANCES:

A. CONSIDER APPROVAL OF RESOLUTION NO. 2019-90 TO REJECT BID FOR THE 2019 MILL AND RESURFACE STREET PROJECT:

RESOLUTION NO. 2019-90

A RESOLUTION TO REJECT BID FOR THE 2019 MILL AND RESURFACE STREET PROJECT

WHEREAS, the 2019 Mill and Resurface Street Project was approved in the FY 19-20 City budget; and

WHEREAS, sealed bids were received on Thursday, August 29, 2019; and

WHEREAS, C&D Hughes, Inc. submitted the only bid in the amount of \$349,049.00 to complete the project per the specifications prepared by the Engineer; and

WHEREAS, the cost presented in the bid was prohibitive; and

WHEREAS, it has been determined that current workload of contractors due to the wet Spring along with the strike of one paving company has increased prices statewide.

THEREFORE, BE IT RESOLVED that the bid from C&D Hughes, Inc. in hereby rejected and the project will be rebid in late winter/ early spring 2020.

Council member Russo moved, supported by Baker to approve Resolution No. 2019-90 to reject bid for the 2019 Mill and resurface street project as presented. Carried. 7 Yes. 0 No.

B. CONSIDER APPROVAL ORDINANCE NO. 2019-06
TAX EXEMPTION FOR EDMOND SENIOR
APARTMENTS PHASE II ON S. WASHINGTON ST:

CITY OF CHARLOTTE
ORDINANCE NO. 2019-06

AN ORDINANCE TO AMEND CHAPTER 64 TAX EXEMPTION BY ADDING DIVISION 3 TO ESTABLISH A TAX EXEMPTION FOR THE EDMOND SENIOR APARTMENTS PHASE II ON SOUTH WASHINGTON STREET

SECTION 1. PURPOSE. The City is authorized by State law to levy a service charge in lieu of property taxes for certain housing developments for individuals with low and moderate incomes. An ordinance establishing such a charge for the Sugar Mill Apartments complex was passed in 2002. This ordinance amends City code to establish a service charge in lieu of property taxes for a proposed senior housing development called the Edmond Senior Apartments to be located on South Washington Street.

SECTION 2. Chapter 64 of the Code of Ordinances is hereby amended to read as follows:

Division 1. Sugar Mill Apartments

§ 64-1 IN GENERAL.

This division shall be known and cited as the "City of Charlotte Tax Exemption Ordinance for Sugar Mill Apartments Complex on Maynard Street."

§ 64-2 PREAMBLE.

(A) It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its citizens of low to moderate income and to encourage the development

of such housing by providing for a service charge in lieu of property taxes in accordance with the State Housing Development Authority Act of 1966 (1966) Public Act 346 of 1966, being M.C.L.A. §§ 125.1401 *et seq.*, as amended. The city is authorized by this Act to establish or change the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under this Act at any amount it chooses not to exceed the taxes that would be paid but for this Act. It is further acknowledged that such housing is a public necessity, and as the city will be benefitted and improved by such housing, the encouragement of the same by providing certain real estate tax exemption for such housing is a valid public purpose; further, that the continuance of the provision of the chapter, for tax exemption and the service charge in lieu of taxes during the period contemplated in this chapter are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance on such tax exemption.

(B) The city acknowledges that Sugar Mill Limited Dividend Housing Association, Michigan Limited Partnership, ("the sponsor") has offered subject to receipt of a mortgage loan from the Michigan State Housing Development Authority, to erect, own and operate a housing development identified as Sugar Mill Apartments (the "housing development") on certain property located on the 100 Block of Maynard Street in the city to serve senior citizens of low to moderate income, and that the sponsor has offered to pay the city, on account of this housing development, an annual service charge for public services in lieu of taxes.

§ 64-3 DEFINITIONS.

AUTHORITY. The Michigan State Housing Development Authority.

ACT. The State Housing Development Authority Act, being Public Act 346 of 1966 of the State of Michigan, being M.C.L.A. §§ 125.1401 *et seq.*, as amended.

ANNUAL SHELTER RENT. The total collections during an agreed annual period from all occupants of a housing development representing rent or occupancy charges, exclusive of charges for gas, electricity, heat or other utilities furnished to the occupants.

ELDERLY PERSONS. A family where the head of household is 62 years of age or older or a single person who is 62 years of age or older. Also includes persons of any age who are handicapped or disabled.

HOUSING DEVELOPMENT. A development which contains a significant element of housing for persons of low to moderate income and such elements of other housing, commercial, recreational, industrial, communal and educational facilities as the Authority determines improves the quality of the development as it relates to housing for persons of low to moderate income.

MORTGAGE LOAN. A loan to be made by the Authority to the sponsor for the construction and/or permanent financing of the housing development.

UTILITIES. Fuel, water, sanitary sewer service and/or electrical service, which are paid by the housing development.

SPONSOR. Person(s) or entities which have applied to the Authority for a mortgage loan to finance a housing development.

§ 64-4 CLASS OF HOUSING DEVELOPMENT.

It is determined that the class of housing development to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be senior housing which are financed or assisted pursuant to the Act. It is further determined that Sugar Mills Apartments is of this class.

§ 64-5 ESTABLISHMENT OF ANNUAL SERVICE CHARGE.

(A) The housing development identified as Sugar Mills Apartments and the property on which it shall be constructed shall be exempt from all property taxes from and after the commencement of construction. The city, acknowledging that the sponsor and the Authority have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this chapter, the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established in this chapter in consideration of the sponsors offer, subject to receipt of a mortgage loan from the Authority, to construct, own and operate the housing development, agrees to accept payment of an annual service charge for public services in lieu of all property taxes.

(B) The annual service charge shall be the greater of the following:

(1) Fourteen percent of the difference between the annual shelter rents actually collected and utilities; or

(2) A minimum payment determined as follows. In the first year of operation, the minimum payment shall be \$35,900, prorated on a daily basis from the date the final occupancy permit is issued through the next August 31. Each year thereafter, this payment shall be adjusted annually by the lesser of: 5%; or the increase or decrease in the general price level for the preceding year, as defined in the Michigan Constitution, § 33. The general price level is also the same percentage used to calculate the taxable property value by the City Tax Assessor.

§ 64-6 LIMITATION ON THE PAYMENT OF ANNUAL SERVICE CHARGE.

(A) Notwithstanding § 64-5, the service charge to be paid each year in lieu of taxes for the part of the housing development which is tax exempt and which is occupied by other than low to moderate income persons or families shall be equal to the full amount of the taxes which

would be paid on that portion of the housing development if the housing development were not tax exempt.

(B) The term **LOW TO MODERATE PERSONS** as used herein means, with respect to any housing development that is tax-exempt, senior persons eligible to move into that development.

§ 64-7 CONTRACTUAL EFFECT OF CHAPTER.

Notwithstanding the provisions of § 15(a)(5) of the Act, to the contrary, a contract between the city and the sponsor with the authority as third party beneficiary under the contract to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this chapter.

§ 64-8 PAYMENT OF SERVICE CHARGE.

The service charge in lieu of taxes as determined under the chapter shall be payable in the same manner as general property taxes are payable to the city except that the annual payment will be paid on or before August 31 each year.

§ 64-9 DURATION.

This chapter shall remain in effect and shall not terminate so long as the mortgage loan remains outstanding and unpaid or the Authority has any interest in the property; provided, that construction of the housing development commences within 1 year from the effective date of this chapter.

§ 64-10 SEVERABILITY.

The various sections and provisions of this chapter shall be deemed to be severable, and should any section or provision of this chapter be declared by any court of competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of the chapter as a whole or any section or provision of this chapter other than the section or provision so declared to be unconstitutional or invalid. It is hereby amplified that it is the city's intent to accept a payment in lieu of taxes

only for the purpose of a senior development. If the property is ever used for another purpose, or if this chapter is unacceptable to any state agencies, this chapter is declared null and void.

Division 2.

§ 64-11 IN GENERAL.

This division shall be known and cited as the "City of Charlotte Tax Exemption Ordinance for the Edmond Senior Apartments on South Washington Street."

§ 64-12 PREAMBLE.

(A) It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its citizens of low to moderate income and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the State Housing Development Authority Act of 1966 (1966) Public Act 346 of 1966, being M.C.L.A. §§ 125.1401 *et seq.*, as amended. The city is authorized by this Act to establish or change the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under this Act at any amount it chooses not to exceed the taxes that would be paid but for this Act. It is further acknowledged that such housing is a public necessity, and as the city will be benefitted and improved by such housing, the encouragement of the same by providing certain real estate tax exemption for such housing is a valid public purpose; further, that the continuance of the provision of the chapter, for tax exemption and the service charge in lieu of taxes during the period contemplated in this chapter are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance on such tax exemption.

(B) The city acknowledges that the Sponsor, as defined in this division, is a limited dividend housing association limited partnership and has offered, subject to receipt of an allocation under the Low Income Housing Tax Credit (LIHTC) Program and a Federally Aided

Mortgage (as defined in the Act) to construct, own and operate the Housing Development Project to be known as The Edmond Senior Apartments located in the City to serve Low Income Persons, as defined herein, and that the Sponsor has offered to pay the City on account of this Housing Development an annual service charge for public services in lieu of all ad valorem property taxes.

§ 64-13 DEFINITIONS.

ACT. The State Housing Development Authority Act, being Public Act 346 of 1966 of the State of Michigan, being M.C.L.A. §§ 125.1401 *et seq.*, as amended.

ANNUAL SHELTER RENT. The total collections during an agreed annual period from or paid on behalf of all Low Income Persons, as defined herein of the Housing Development Project representing rent or occupancy charges, exclusive of charges for Utilities, as defined herein.

AUTHORITY. The Michigan State Housing Development Authority.

CITY. The City of Charlotte, a Michigan municipal corporation.

COMMENCEMENT OF CONSTRUCTION. The commencement of the Housing Development, as defined herein.

HOUSING DEVELOPMENT PROJECT. The project being constructed at the Housing Development Location, consisting of a building to include qualified low income residential apartment units including approximately fifty (50) units reserved for Low Income Persons and such recreational, industrial, communal and educational facilities as the Sponsor and/or Authority determine will improve the quality of the Housing Development Project as it relates to housing for ~~Elderly~~ *Senior* Persons.

HOUSING DEVELOPMENT LOCATION. Lots 7, 8, 11, 12, 15, 16 and the West 30 feet 6 inches of Lot 17, the dividing line being the center of a block wall, and the vacated alley South of Lot 15 and the West ½ of the vacated alley adjacent to Lots 7, 8, 11, 12 & 15 Cummings Subdivision to the original Plat, City of Charlotte, Michigan and Lots 9, 10, 13, 14 the East 11 feet 1/5 inches of Lot 17, the dividing line being the center of a block wall, Lots 18, 19, 20 and the vacated alley South of Lot 14 and the East ½ of the vacated alley adjacent to Lots 9, 10, 13 & 14 of the Cummings Subdivision to the original plat, City of Charlotte, Michigan.

LOW INCOME PERSONS. Senior Persons eligible to move into the Housing Development Project pursuant to the Act and the Authority.

MORTGAGE LOAN. A loan to be made by the Authority to the sponsor for the construction and/or permanent financing of the housing development.

SENIOR PERSONS. Single persons who are 55 years of age or older or a household in which at least one member is 55 years of age or older ~~and all other members are 50 years of age or older.~~

SPONSOR. The Edmond Senior Apartments limited Dividend Housing Association Limited Partnership, 333 North Pennsylvania Street, Suite 100, Indianapolis, Indiana, who shall act as the owner of the Housing Development Project.

UTILITIES. Fuel, water, heat sanitary sewer service and/or electrical service furnished to the occupants which are paid by the Housing Development Project.

§ 64-14 CLASS OF HOUSING DEVELOPMENT.

It is determined that the class of housing development to which the tax exemption shall apply and for which a service charge shall be paid

in lieu of such taxes shall be senior housing which are financed or assisted pursuant to the Act. It is further determined that The Edmond Senior Apartments is of this class.

§ 64-15 ESTABLISHMENT OF ANNUAL SERVICE CHARGE.

(A) Subject to the provisions of this division, the Housing Development Project and the Housing Development Location shall be exempt from all property taxes for the period specified in Section 64-19. The City acknowledges that the Sponsor and the Authority have established the economic feasibility of the Housing Development Project in reliance upon the enactment and continuing effect of this Agreement and qualification of the Housing Development Project for the exemption from all property taxes and a payment in lieu of taxes as established in this division. Therefore, in consideration of the Sponsor's offer to construct, own and operate the Housing Development Project, the City has agreed to accept payment of an annual Service Charge, as defined below, for public services in lieu of all ad valorem property taxes as provided for in Section 64-15 (C) provided the Sponsor furnishes proof, on an annual basis upon request by the City, that the number of qualified low income units in the Housing Development Project have not increased, decreased, or been altered in any material form unless the City has otherwise amended the provisions of this division.

(B) In addition to the annual certified verification requirement in Section 64-15 (A), the tax exemption shall commence upon the acquisition of the Housing Development Location by the Sponsor. The Sponsor of the Housing Development Project eligible for exemption, or the City as appropriate and necessary, shall file with the local assessing officer a certified notification of the exemption, which shall be in an affidavit form by either the Authority, the city and/or the Sponsor as appropriate. The completed affidavit form first shall be submitted to the Authority for certification by the Authority that the Housing Development Project is eligible for the exemption. The

Sponsor and/or the City shall file or cause to be filed the certified notification of the exemption with the local assessing officer as soon as practically possible.

(C) The annual service charge shall be equal to ten percent (10%) of the difference between the Annual Shelter Rent actually collected and Utilities (the "Service Charge.")

§ 64-16 LIMITATION ON THE PAYMENT OF ANNUAL SERVICE CHARGE.

Notwithstanding § 64-15, the service charge to be paid each year in lieu of taxes for any part of the housing development which is tax exempt and occupied by other than Low Income Persons shall be equal to the full amount of the taxes which would be due and payable on that portion of the Housing Development Project if the project were not tax exempt.

§ 64-17 CONTRACTUAL EFFECT OF CHAPTER.

Notwithstanding the provisions of § 15(a)(5) of the Act, to the contrary, a contract between the city and the sponsor with the authority as third party beneficiary under the contract to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this division.

§ 64-18 PAYMENT OF SERVICE CHARGE.

The service charge in lieu of taxes as determined under the chapter shall be payable in the same manner as general property taxes are payable to the city except that the annual payment will be paid on or before June 30 of the year following the calendar year upon which such Service Charge is calculated and shall be distributed to the several units levying ad valorem property taxes in the same proportion as for said taxes. Failure to pay the service charge on or before June 30 of each year shall result in the service charge being subject to one percent (1%) interest per month until paid. If any amount of the annual service charge or accrued interest shall remain unpaid as of December

31 of any year, the amount unpaid shall be a lien upon the real property constituting the Housing Development Project upon the City Treasurer filing a certificate of non-payment of the service charge, together with an affidavit of proof of service of the certificate of non-payment upon the Sponsor with the Eaton County Register of Deeds, and proceedings may then be had to enforce the lien as provided by law for the foreclosure of tax liens upon real property.

§ 64-19 DURATION.

This division shall remain in effect and shall not terminate so long as the Housing Development Project continues to be used for Low Income Persons as provided in this division, but not to exceed fifty (50) years; provided, however, if construction of the Housing Development Project does not commence within one (1) year of the Authority's LIHTC April 1, 2017 funding round award date, which is anticipated to be on or about July 1, 2017, or if the Sponsor materially changes the scope or purpose of the Housing Development Project with the consent of the City, by and through its representatives, and in accordance with the requirements of law, this division shall automatically expire, terminate and be of no further effect.

§ 64-20 SEVERABILITY.

The various sections and provisions of this chapter shall be deemed to be severable, and should any section or provision of this chapter be declared by any court of competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of the chapter as a whole or any section or provision of this chapter other than the section or provision so declared to be unconstitutional or invalid. It is hereby amplified that it is the city's intent to accept a payment in lieu of taxes only for the purpose of a senior development. If the property is ever used for another purpose, or if this chapter is unacceptable to any state agencies, this division is declared null and void.

Division 3.

§ 64-21 IN GENERAL.

This division shall be known and cited as the "City of Charlotte Tax Exemption Ordinance for the Edmond Senior Apartments Phase II on South Washington Street."

§ 64-22 PREAMBLE.

(A) It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its citizens of low to moderate income and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the State Housing Development Authority Act of 1966 (1966) Public Act 346 of 1966, being M.C.L.A. §§ 125.1401 *et seq.*, as amended. The city is authorized by this Act to establish or change the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under this Act at any amount it chooses not to exceed the taxes that would be paid but for this Act. It is further acknowledged that such housing is a public necessity, and as the city will be benefitted and improved by such housing, the encouragement of the same by providing certain real estate tax exemption for such housing is a valid public purpose; further, that the continuance of the provision of the chapter, for tax exemption and the service charge in lieu of taxes during the period contemplated in this chapter are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance on such tax exemption.

(B) The city acknowledges that the Sponsor, as defined in this division, is a limited dividend housing association limited partnership and has offered, subject to receipt of an allocation under the Low Income Housing Tax Credit (LIHTC) Program and a Federally Aided Mortgage (as defined in the Act) to construct, own and operate the Housing Development Project to be known as The Edmond Senior Apartments Phase II located in the City to serve Low Income Persons, as defined herein, and that the Sponsor has offered to pay the City on

account of this Housing Development an annual service charge for public services in lieu of all ad valorem property taxes.

§ 64-23 DEFINITIONS.

ACT. The State Housing Development Authority Act, being Public Act 346 of 1966 of the State of Michigan, being M.C.L.A. §§ 125.1401 *et seq.*, as amended.

ANNUAL SHELTER RENT. The total collections during an agreed annual period from or paid on behalf of all Low Income Persons, as defined herein of the Housing Development Project representing rent or occupancy charges, exclusive of charges for Utilities, as defined herein.

AUTHORITY. The Michigan State Housing Development Authority.

CITY. The City of Charlotte, a Michigan municipal corporation.

COMMENCEMENT OF CONSTRUCTION. The commencement of the Housing Development, as defined herein.

HOUSING DEVELOPMENT PROJECT. The project being constructed at the Housing Development Location, consisting of a building to include qualified low income residential apartment units including approximately thirty-one (31) units reserved for Low Income Persons and such recreational, industrial, communal and educational facilities as the Sponsor and/or Authority determine will improve the quality of the Housing Development Project as it relates to housing for Senior Persons.

HOUSING DEVELOPMENT LOCATION. Lots 11, 12 and 15 and West ½ of vacated alley adjacent to Lots 11, 12 and 15 Cummings Subdivision to the original Plat City of Charlotte, Michigan.

LOW INCOME PERSONS. Senior Persons eligible to move into the Housing Development Project pursuant to the Act and the Authority.

MORTGAGE LOAN. A loan to be made by the Authority to the sponsor for the construction and/or permanent financing of the housing development.

SENIOR PERSONS. Single persons who are 55 years of age or older or a household in which at least one member is 55 years of age or older.

SPONSOR. The Edmond Senior Apartments II Limited Dividend Housing Association Limited Partnership, 333 North Pennsylvania Street, Suite 100, Indianapolis, Indiana, who shall act as the owner of the Housing Development Project.

UTILITIES. Fuel, water, heat sanitary sewer service and/or electrical service furnished to the occupants which are paid by the Housing Development Project.

§ 64-24 CLASS OF HOUSING DEVELOPMENT.

It is determined that the class of housing development to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be senior housing which are financed or assisted pursuant to the Act. It is further determined that The Edmond Senior Apartments is of this class.

§ 64-25 ESTABLISHMENT OF ANNUAL SERVICE CHARGE.

(A) Subject to the provisions of this division, the Housing Development Project and the Housing Development Location shall be exempt from all property taxes for the period specified in Section 64-29. The City acknowledges that the Sponsor and the Authority have established the economic feasibility of the Housing Development

Project in reliance upon the enactment and continuing effect of this Agreement and qualification of the Housing Development Project for the exemption from all property taxes and a payment in lieu of taxes as established in this division. Therefore, in consideration of the Sponsor's offer to construct, own and operate the Housing Development Project, the City has agreed to accept payment of an annual Service Charge, as defined below, for public services in lieu of all ad valorem property taxes as provided for in Section 64-25 (C) provided the Sponsor furnishes proof, on an annual basis upon request by the City, that the number of qualified low income units in the Housing Development Project have not increased, decreased, or been altered in any material form unless the City has otherwise amended the provisions of this division.

(B) In addition to the annual certified verification requirement in Section 64-25 (A), the tax exemption shall commence upon the acquisition of the Housing Development Location by the Sponsor. The Sponsor of the Housing Development Project eligible for exemption, or the City as appropriate and necessary, shall file with the local assessing officer a certified notification of the exemption, which shall be in an affidavit form by either the Authority, the city and/or the Sponsor as appropriate. The completed affidavit form first shall be submitted to the Authority for certification by the Authority that the Housing Development Project is eligible for the exemption. The Sponsor and/or the City shall file or cause to be filed the certified notification of the exemption with the local assessing officer as soon as practically possible.

(C) The annual service charge shall be equal to ten percent (10%) of the difference between the Annual Shelter Rent actually collected and Utilities (the "Service Charge.")

§ 64-26 LIMITATION ON THE PAYMENT OF ANNUAL SERVICE CHARGE.

Notwithstanding § 64-25, the service charge to be paid each year in lieu of taxes for any part of the housing development which is tax exempt and occupied by other than Low Income Persons shall be equal to the full amount of the taxes which would be due and payable on that portion of the Housing Development Project if the project were not tax exempt.

§ 64-27 CONTRACTUAL EFFECT OF CHAPTER.

Notwithstanding the provisions of § 15(a)(5) of the Act, to the contrary, a contract between the city and the sponsor with the authority as third party beneficiary under the contract to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this division.

§ 64-28 PAYMENT OF SERVICE CHARGE.

The service charge in lieu of taxes as determined under the chapter shall be payable in the same manner as general property taxes are payable to the city except that the annual payment will be paid on or before June 30 of the year following the calendar year upon which such Service Charge is calculated and shall be distributed to the several units levying ad valorem property taxes in the same proportion as for said taxes. Failure to pay the service charge on or before June 30 of each year shall result in the service charge being subject to one percent (1%) interest per month until paid. If any amount of the annual service charge or accrued interest shall remain unpaid as of December 31 of any year, the amount unpaid shall be a lien upon the real property constituting the Housing Development Project upon the City Treasurer filing a certificate of non-payment of the service charge, together with an affidavit of proof of service of the certificate of non-payment upon the Sponsor with the Eaton County Register of Deeds, and proceedings may then be had to enforce the lien as provided by law for the foreclosure of tax liens upon real property.

§ 64-29 DURATION.

This division shall remain in effect and shall not terminate so long as the Housing Development Project continues to be used for Low Income Persons as provided in this division, but not to exceed fifty (50) years; provided, however, if construction of the Housing Development Project does not commence within one (1) year of the Authority's LIHTC October 1, 2019 funding round award date, which is anticipated to be on or about January 15, 2020, or if the Sponsor materially changes the scope or purpose of the Housing Development Project with the consent of the City, by and through its representatives, and in accordance with the requirements of law, this division shall automatically expire, terminate and be of no further effect.

§ 64-30 SEVERABILITY.

The various sections and provisions of this chapter shall be deemed to be severable, and should any section or provision of this chapter be declared by any court of competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of the chapter as a whole or any section or provision of this chapter other than the section or provision so declared to be unconstitutional or invalid. It is hereby amplified that it is the city's intent to accept a payment in lieu of taxes only for the purpose of a senior development. If the property is ever used for another purpose, or if this chapter is unacceptable to any state agencies, this division is declared null and void.

Discussion was held regarding the tax abatement and parking and maintenance issues by council members.

Council member Ridge moved to approve Ordinance No. 2019-06 tax exemption for Edmond Senior Apartments Phase II on S. Washington St. as presented. No second. Motion Dies.

INTRODUCTION OF RESOLUTIONS AND ORDINANCES:

A. CONSIDER FIRST READING OF RESOLUTION NO. 2019-96 TO PROMULGATE RULES AND REGULATIONS FOR TIMEPIECE PARK BY

APPROVING COUNCIL POLICY NO. 2019-02;
CONDUCT WITHIN AND USE OF CITY PARKS:

RESOLUTION NO. 2019-96

A RESOLUTION TO PROMULGATE RULES AND REGULATIONS FOR TIMEPIECE PARK BY APPROVING COUNCIL POLICY 2019-02:

CONDUCT WITHIN AND USE OF CITY PARKS

WHEREAS, Timepiece Park has been constructed in downtown Charlotte at 108-110 E. Lawrence Avenue; and

WHEREAS, the protection and preservation of the public health, safety and welfare warrants establishing rules and regulations governing its use by the public; and

WHEREAS, pursuant to the City Code of Ordinances, rules and regulations for various City parks are promulgated through the adoption of a Council policy, the current version of which is Council Policy 2019-01; and

WHEREAS, Council Policy 2019-02: Conduct Within and Use of City Parks would replace Council Policy 2019-01 and incorporate rules and regulations applicable to Timepiece Park;

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby approve Council Policy 2019-02: Conduct Within and Use of City Parks.

Discussion was held regarding adding vaping and smokeless tobacco as also being prohibited.

City Manager Guetschow stated that this could be included if it was the consensus of the council to do so.

Council member Ridge moved, supported by Mitchell to approve first reading of Resolution No. 2019-96 to promulgate rules and regulations for Timepiece Park by approving Council Policy No.

2019-02; Conduct within and use of City parks as presented. Carried. 7 Yes. 0 No.

COMMUNICATIONS AND COMMITTEE REPORTS

CITY ATTORNEY REPORT: City Attorney report included in the packet.

CITY MANAGER REPORT: City Manager Guetschow reported that he has been working on an agreement with Carmel Township to better deal with shared taxes regarding annexation. A proposal has been presented to the City Attorney to prepare an amendment to the development cooperation agreement.

COUNCILMEMBER COMMITTEE REPORTS: None.

PUBLIC COMMENT:

June Potter, 225 S. Washington, thanked council for their conversation regarding the Edmond Senior project. She also stated that she was speaking on behalf of several residents who did not feel comfortable getting up to speak.

Ben Phlegar, 425 Horatio, thanked council for the overwhelming vote regarding the smoking issues and encouraged staff to work with Mikes Sports Page and their patrons to abide by the rules of the park. He stated that this is homecoming week at Charlotte High School. He invited everyone to attend the athletic Hall of Fame festivities that will be held at the Charlotte Performing Arts on Saturday, September 28th from 5:00 to 7:00 p.m. He thanked the community and all of the supporters for the opportunity to provide this event.

MAYOR AND COUNCIL COMMENTS:

- Council member Christian no comment.
- Council member Russo no comment.

- Council member Ridge thanked everyone for their comments. She thanked Sam and Tyler with TWG for attending. She stated that she had toured the facility and thinks that it is a great project. She is looking forward to everyone working to get the residents concerns taken care of. She stated that this is homecoming spirit week and there is a lot going on. The CANDO! Meeting will be held on September 25th at the Charlotte Public Schools Board Room. The topic will be Safe Routes to Schools. She invited everyone to come out. It will be held from 5:30 to 7:00 p.m.
- Council member Dyer is excited to be attending the MML Conference next week.
- Council member Mitchell no comment.
- Mayor Lewis no comment.

Mayor Pro-Tem Baker moved, seconded by Dyer to adjourn at 8:25 P.M. Carried. 7 Yes. 0 No

Mayor Tim Lewis

Ginger Terpstra, City Clerk, CMMC