



DANVILLE CITY COUNCIL REGULAR MEETING AGENDA

MUNICIPAL BUILDING

August 21, 2018

7:00 P.M.

PRESIDING: Alonzo L. Jones, Mayor

**CITY COUNCIL
MEMBERS:** James B. Buckner
L.G. "Larry" Campbell, Jr.
Gary P. Miller
Sherman M. Saunders

Sherman M. Saunders
Fred O. Shanks, III
J. Lee Vogler, Jr., Vice Mayor
Madison J. Whittle

STAFF: Ken F. Larking, City Manager
Earl B. Reynolds, Jr., Deputy City Manager

W. Clarke Whitfield, Jr., City Attorney
Susan M. DeMasi, City Clerk

The City Council is the City of Danville's legislative body and is composed of nine Council members. Council members are elected to serve a four year term of office and elects one of its own to serve as Mayor and presiding officer for a two year term.

Time and Place of Meeting

The public is invited and encouraged to attend and participate in the City Council meetings. The City Council meets in the City Hall, Fourth Floor, Council Chambers at 7:00 p.m. on the first and third Tuesday of each month. All meetings of the Council are open to the public.

Communications from Visitors

Communication from Visitors is an opportunity for citizens to address Council on matters not on the agenda. Citizens who desire to speak on agenda items will be heard when the agenda item is considered. Each speaker shall clearly state his or her name and address. Each individual speaker shall have five uninterrupted minutes. A representative of a group may have up to ten uninterrupted minutes to make a presentation. The representative shall identify the group and a group may have no more than one spokesperson. Time will be kept using the electronic timer on the podium.

Guidelines for Public Hearings

For Public Hearings the applicant or his or her representative shall be the first speaker(s). There shall be a time limit of ten (10) minutes for the applicant's or his or her representative's presentation. The presiding officer shall then solicit comments from the public, asking those in favor of the proposal to speak first, and then those opposed to the proposal. Each speaker must clearly state his or her name and address. There

shall be a time limit of three (3) minutes for each individual speaker. If the speaker represents a group, there shall be a time limit of five (5) minutes. A speaker representing a group shall identify the group at the beginning of his or her remarks. A group may have no more than one spokesperson. The presiding officer may limit or preclude comment which is repetitive, redundant, cumulative, or irrelevant to the subject of the public hearing. After public comments have been received, in a land use case, the applicant or the representative of the applicant, at his or her discretion, may respond with a rebuttal. There shall be a five (5) minute time limit for rebuttal.

MEETING CALLED TO ORDER

ROLL CALL

INVOCATION - Sherman M. Saunders

PLEDGE OF ALLEGIANCE TO THE FLAG

COMMUNICATIONS FROM VISITORS

Citizens who desire to speak on matters not listed on the agenda will be heard at this time. Citizens who desire to speak on agenda items will be heard when the agenda item is considered.

CONSENT AGENDA

All matters listed under the Consent Agenda are considered to be routine, have previously been discussed by City Council and/or introduced for First Reading. There will be no separate discussion on these items and they will be enacted by one motion. If discussion is desired by a Council Member or a citizen, the item(s) will be removed from the consent process and considered separately.

- A. Public Hearing on the Budget Appropriation
- B. Consideration of Approval of Minutes from Regular Council Meeting held on July 17, 2018.
Council Letter Number CL - 1961.
- C. Consideration of Amending the FY 2019 Budget Appropriation Ordinance for Comprehensive Services Act Funds.
Council Letter Number CL - 1934.

An Ordinance Amending the Fiscal Year 2019 Budget Appropriation Ordinance by Appropriating Comprehensive Services Act Funds and Providing Local Matching Funds for a Total Amount of \$4,747,214.

FINAL ADOPTION

APPOINTMENTS

- A. Consideration of Appointments to the following Boards and Commissions.
Council Letter Number 1936.
1. A Resolution Reappointing Jeffrey L. Bond as a Member of the Commission of Architectural Review.
 2. A Resolution Appointing Tyrell Payne as a Member of the Community Improvement Council.
 3. A Resolution Appointing Natalie B. Whitlow as a Member of the Danville Community Policy and Management Team.
 4. A Resolution Appointing Philip Hall as a Member of the Airport Commission.

NEW BUSINESS

- A. Consideration of Amending the FY 2019 Budget Appropriation Ordinance for a Virginia Commission for the Arts Grant in the Amount of \$4,500.00.
Council Letter Number CL - 1941

An Ordinance Amending the Fiscal Year 2019 Budget Appropriation Ordinance to Provide for a Virginia Commission for the Arts Grant in the Amount of \$4,500, and to Provide for the Local Share in the Amount of \$5,000 for a Total Grant of \$9,500.

FIRST READING

- B. Consideration of Approval of a Full Service Ambulance Operator's Permit to LifeCare.
Council Letter Number CL - 1907.
1. Public Hearing
 2. An Ordinance Granting a Full-Service Ambulance Operator's Permit to LifeCare Medical Transports, Inc.
- C. Consideration of Amending and Reordaining Chapter 32, entitled "Retirement System" of the Danville City Code.
Council Letter Number CL - 1932
- D. Consideration of Authorizing the City Manager to Enter into American Municipal Power's Agency Designation Agreement.
Council Letter Number CL - 1894.

A Resolution Authorizing and the City Manager to Execute the Agency Designation Schedule with American Municipal Power, Inc.

- E. Consideration of Rescinding Ordinance Number 2005-09.12 pertaining to the Approval Process for Murals in Downtown Danville.
Council Letter Number CL - 1965.

An Ordinance Repealing Ordinance No. 2005-09.12 Entitled Collaboration Between the City of Danville and the Downtown Danville Association to Implement a Mural Program in Downtown Danville.

- F. Consideration of Approving a Purchase Agreement to Acquire the Daniel Group Hangar at Danville Regional Airport.
Council Letter Number 1938.

A Resolution Approving a Purchase Agreement to Acquire the Daniel Group Hangar at the Danville Regional Airport.

- G. Consideration of Approval of a Five Year Lease Renewal Agreement with Averett University at Danville Regional Airport.
Council Letter Number CL - 1939.

1. Public Hearing
2. A Resolution Approving an Agreement Leasing Hangar and Administrative Space at the Danville Regional Airport to Averett University for it's Flight Center.

- H. Consideration of Approving a Resolution of Support of the Historic Tax Credit Enhancement Act of 2018.
Council Letter Number CL - 1952.

A Resolution Urging the City of Danville's Congressional Delegation to Support the Historic Tax Credit Enhancement Act of 2018.

- I. Consideration of Amending the FY 2019 Budget Appropriation Ordinance for a Grant from the Virginia Housing Development Authority.
Council Letter Number CL - 1964

An Ordinance Amending the Fiscal Year 2019 Budget Appropriation Ordinance to Provide for a Grant from the Virginia Housing Development Authority in the Amount of \$125,000 and Local Share in the Amount of \$75,000 and Appropriating the Same.

FIRST READING

COMMUNICATIONS FROM:

- A. City Manager
- B. Deputy City Manager
- C. City Attorney
- D. City Clerk
- E. Roll Call

ADJOURNMENT

Council Letter

City of Danville, Virginia



CL-1961

Consent Agenda Item #: B.

City Council Regular Meeting

Meeting Date: 08/21/2018

Subject: Consideration of Approval of Minutes

From: Susan M. DeMasi, Clerk of Council

COUNCIL ACTION

Business Meeting: 08/21/2018

SUMMARY

Consideration of Approval of Minutes from Regular Council Meeting held on July 17, 2018.

Council Letter Number CL - 1961.

Attachments

Meeting Minutes

July 17, 2018

The Second Regular July meeting of the Danville City Council was held on July 17, 2018, at 7:00 p.m. in the Council Chambers located on the Fourth Floor of the Municipal Building. The following Council Members were present: James B. Buckner, L.G. "Larry" Campbell Jr., Mayor Alonzo L. Jones, Dr. Gary P. Miller, Sherman M. Saunders, Fred O. Shanks, III, Vice Mayor J. Lee Vogler, Jr., Adam J. Tomer and Madison J.R. Whittle (9).

Staff Members present were: City Manager Ken F. Larking, Deputy City Manager Earl B. Reynolds, Jr., City Attorney W. Clarke Whitfield Jr., and City Clerk Susan M. DeMasi.

Mayor Jones presided.

INVOCATION AND PLEDGE OF ALLEGIANCE

The Invocation was given by Vice Mayor J. Lee Vogler; the Pledge of Allegiance to the Flag followed.

ANNOUNCEMENTS AND SPECIAL RECOGNITIONS

Mayor Jones recognized the graduates from the Danville Police Department First Annual Youth Police Academy. Chief Booth thanked Council for having them here tonight, thanked the Youth Academy members and stated that Officer Brooks and Captain Merricks did an outstanding job. Council Members congratulated the members of the Youth Police Academy, and thanked Chief Booth, Officer Brooks and Captain Merricks, and the new recruits, for their work on the Academy. Council Members encouraged the Youth Academy members to continue to be active in their communities as they grow up.

Mayor Jones recognized Ashton Foddrell, a DRF Intern, who explained her project was to capture the voices in response to the crime that is going on in Danville. After speaking with the youth, as well as community members, she decided to really focus on something Council was trying to focus on, partnerships, and put on an event called Rock D' Block. It was a huge success with a lot of activities for the youth, over twenty partners and about seven hundred sixty four people attending. Ms. Foddrell thanked Council for their support. Council Members congratulated Ms. Foddrell on a great event and thanked her for her work.

Mayor Jones recognized Robert David, the City Gang Prevention Coordinator. Mr. David explained he used a tier approach to connect with the community. He started at the top meeting with administrators, directors and superintendents to understand the needs and some of the barriers they might be facing. The first thing he found was a lack of communication, there are a lot of good people in the City doing a lot of good things, but are operating out of a silo-type effect. He went to pastors, supervisors, case workers and providers and found more information to try to get into the community. He visited the Housing Authority and youth coordinators to develop relationships, and then went to the grass roots level, at the barbershops and beauty salons, getting information, finding out what is on the minds of the people and what they think are some of the needs in the community. He has been able to foster some relationships where they trust him and what he says, and trusts the things the City is trying to do. They are working on partnering with the Workforce Center on getting some of the youth into employee/mentorships where they will receive a stipend; hopefully this will lead to less crime and they may be less apt to join gangs. They are working with the school system, probation and parole and the faith based communities on forging trust. Mr. Larking explained one of Council's focus areas is reducing violent crime and part of that initiative was starting a Youth Task Force and a Gang Task Force. The Gang Task Force adopted the

July 17, 2018

Comprehensive Gang Model and the key component of that is to have a coordinator for those efforts. Mr. David will be coordinating all the City's efforts in the Comprehensive Gang Model; it has been recognized nationally as the best way to deal with gang issues in communities. Mr. Larking noted the Council and the leaders in the community deserve a lot of credit for allowing the City to have this position and for Mr. David to do what he is doing. Council Members thanked Mr. David and noted they are there to assist him in any way they can.

COMMUNICATIONS FROM VISITORS

Mayor Jones recognized Tamira Bennett, Cesthiny Bennett, and Kinsley Waller who discussed suggestions they would like to make about Galileo High School. They believe Galileo should move to Langston for more space and offer more electives such as another language, band or chorus. They also suggested the students from Langston move to Woodrow Wilson and the fourth and fifth graders move to the Galileo building. They also discussed the meals at Galileo and suggested more variety. Mayor Jones introduced the girls to school board member Ty'quan Graves to give him their suggestions.

CONSENT AGENDA

Council Member Campbell **moved** for adoption of the following Consent Agenda Items:

Minutes from the Regular Council Meeting held on June 19, 2018. Draft copies had been distributed prior to the Meeting.

Amending the FY 2019 BAO to Provide for Federal and State Transit Capital Assistance Funds for Regional Bus Service

An Ordinance entitled, Ordinance No. 2018-07.03, presented by its First Reading on July 5, 2018, Amending the Fiscal Year 2019 Budget Appropriation Ordinance to Provide for Federal and State Transit Capital Assistance Funds Related to the Provision of Regional Bus Service by the Danville Transit System to Halifax and Pittsylvania Counties.

Authorizing the Issuance of General Obligation Bonds of the City of Danville in the Maximum Principal Amount of \$16,000,000

An Ordinance entitled, Ordinance No. 2018-07.02, presented by its First Reading on July 5, 2018, Authorizing the Issuance of Bonds of the City of Danville, Virginia, in the Maximum Principal Amount of \$16,000,000 to Finance the Acquisition, Construction and Equipping of Various Capital Projects.

Amending the FY 2019 Budget Appropriation Ordinance for a Department of Criminal Justice Services Grant to Fund the Gang Prevention Coordinator

An Ordinance entitled, Ordinance No. 2018-07.04, presented by its First Reading on July 5, 2018, Amending the Fiscal Year 2019 Budget Appropriation Ordinance by Increasing Revenue for a Department of Criminal Justice Services, Commonwealth of Virginia, Office of the Attorney General Grant for Establishment of the Danville Crime Prevention to be Used to Fund the Gang Prevention Coordinator.

The Motion was **seconded** by Council Member Saunders and carried by the following vote:

July 17, 2018

VOTE: 9-0
AYE: Buckner, Campbell, Jones, Miller, Saunders,
Shanks, Tomer, Vogler and Whittle (9)
NAY: None

APPOINTMENTS

Mayor Jones **moved** for adoption of the following Resolutions:

Resolution No. 2018-07.04 – Reappointing Sherman M. Saunders as a Member of the Danville Development Council.

Resolution No. 2018-07.05 - Reappointing Sherman M. Saunders as a Member of the Employee Retirement System Board of Trustees.

Resolution No. 2018-07.06 – Reappointing Gary P. Miller as a Member of the Roanoke River Basin Association.

Resolution No. 2018-07.07 – Appointing Madison J. Whittle as a Member of the West Piedmont Planning District Commission.

Resolution No. 2018.07.08 – Reappointing James B. Buckner as a Member of the Dan River Business Development Center.

The Motion was **seconded** by Council Member Buckner and carried by the following vote:

VOTE: 9-0
AYE: Buckner, Campbell, Jones, Miller, Saunders,
Shanks, Tomer, Vogler and Whittle (9)
NAY: None

NEW BUSINESS

PROVIDING FOR THE ISSUANCE, SALE AND AWARD BY THE CITY OF DANVILLE OF GENERAL OBLIGATION PUBLIC IMPROVEMENT BONDS

Council Member Buckner **moved** for adoption of a Resolution entitled:

RESOLUTION NO. 2018-07.09

PROVIDING FOR THE ISSUANCE, SALE AND AWARD BY THE CITY OF DANVILLE, VIRGINIA, OF A SERIES OF GENERAL OBLIGATION PUBLIC IMPROVEMENT BONDS, HERETOFORE AUTHORIZED, AND PROVIDING FOR THE FORM, DETAILS AND PAYMENT OF SUCH BONDS

The Motion was **seconded** by Council Member Whittle and carried by the following vote:

VOTE: 9-0
AYE: Buckner, Campbell, Jones, Miller, Saunders,
Shanks, Tomer, Vogler and Whittle (9)
NAY: None

July 17, 2018

APPROVAL OF A MORAL OBLIGATION WITH VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

Council Member Saunders **moved** for adoption of a Resolution entitled:

RESOLUTION NO. 2018-07.10

APPROVING AND AUTHORIZING EXECUTION OF A MORAL OBLIGATION AGREEMENT BY AND BETWEEN THE CITY OF DANVILLE, VIRGINIA AND VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

The Motion was **seconded** by Council Member Miller and carried by the following vote:

VOTE: 9-0
AYE: Buckner, Campbell, Jones, Miller, Saunders,
Shanks, Tomer, Vogler and Whittle (9)
NAY: None

CONSIDERATION OF AMENDING THE FISCAL YEAR 2019 BAO TO PROVIDE FOR VIRGINIA DEPARTMENT OF AVIATION MAINTENANCE GRANT FUNDS

Upon **Motion** by Council Member Miller and **second** by Council Member Buckner, an Ordinance entitled:

ORDINANCE NO. 2018-07.05

AMENDING THE FISCAL YEAR 2019 BUDGET APPROPRIATION ORDINANCE TO PROVIDE FOR THE VIRGINIA DEPARTMENT OF AVIATION MAINTENANCE GRANT FUNDS RELATED TO THE MAINTENANCE OF CERTAIN AIRPORT PROPERTIES IN THE AMOUNT OF \$100,000 AND FOR THE LOCAL SHARE IN THE AMOUNT OF \$16,719 FOR A TOTAL APPROPRIATION OF \$116,719 AND APPROPRIATING THE SAME

was presented by its **First Reading**, as required by City Charter, to lie over before final adoption.

CONSIDERATION OF ENDORSING SMART SCALE APPLICATIONS TO VDOT

ENDORSING A SMART SCALE APPLICATION BY THE DANVILLE MPO TO VDOT FOR THE PROPOSED CONSTRUCTION OF A CONNECTOR ROAD TO THE SOUTHERN VIRGINIA MEGA SITE AT BERRY HILL

Vice Mayor Vogler **moved** for adoption of a Resolution entitled:

RESOLUTION NO. 2018-07.11

ENDORSING A SMART SCALE APPLICATION BY THE DANVILLE METROPOLITAN PLANNING ORGANIZATION TO THE VIRGINIA DEPARTMENT OF TRANSPORTATION FOR THE PROPOSED CONSTRUCTION OF A CONNECTOR ROAD TO THE SOUTHERN VIRGINIA MEGA SITE AT BERRY HILL

The Motion was **seconded** by Council Member Buckner and carried by the following vote:

July 17, 2018

VOTE: 9-0
AYE: Buckner, Campbell, Jones, Miller, Saunders,
Shanks, Tomer, Vogler and Whittle (9)
NAY: None

ENDORISING A SMART SCALE APPLICATION TO VDOT FOR THE PROPOSED CONSTRUCTION OF A ROUNDABOUT ON MOUNT CROSS ROAD AT DIMON DRIVE

Council Member Campbell **moved** for adoption of a Resolution entitled:

RESOLUTION NO. 2018-07.12

ENDORISING A SMART SCALE APPLICATION TO THE VIRGINIA DEPARTMENT OF TRANSPORTATION FOR THE PROPOSED CONSTRUCTION OF A ROUNDABOUT ON MT. CROSS ROAD AT DIMON DRIVE

The Motion was **seconded** by Council Member Miller and carried by the following vote:

VOTE: 9-0
AYE: Buckner, Campbell, Jones, Miller, Saunders,
Shanks, Tomer, Vogler and Whittle (9)
NAY: None

ENDORISING A SMART SCALE APPLICATION TO VDOT FOR THE PROPOSED CONSTRUCTION OF A THIRD LANE ON ROUTE 58 WEST BOUND FROM KENTUCK ROAD TO AIRPORT DRIVE

Vice Mayor Vogler **moved** for adoption of a Resolution entitled:

RESOLUTION NO. 2018-07.13

ENDORISING A SMART SCALE APPLICATION TO THE VIRGINIA DEPARTMENT OF TRANSPORTATION FOR THE PROPOSED CONSTRUCTION OF A THIRD LANE ON ROUTE 58 WEST BOUND FROM KENTUCK ROAD TO AIRPORT DRIVE.

The Motion was **seconded** by Council Member Saunders and carried by the following vote:

VOTE: 9-0
AYE: Buckner, Campbell, Jones, Miller, Saunders,
Shanks, Tomer, Vogler and Whittle (9)
NAY: None

ENDORISING A SMART SCALE APPLICATION TO VDOT FOR THE PROPOSED CONSTRUCTION OF PIEDMONT DRIVE PEDESTRIAN ACCESSIBILITY IMPROVEMENTS

Council Member Buckner **moved** for adoption of a Resolution entitled:

RESOLUTION NO. 2018-07.14

July 17, 2018

ENDORING A SMART SCALE APPLICATION TO THE VIRGINIA DEPARTMENT OF
TRANSPORTATION FOR THE PROPOSED CONSTRUCTION OF PIEDMONT DRIVE
PEDESTRIAN ACCESSIBILITY IMPROVEMENTS

The Motion was **seconded** by Council Member Campbell and carried by the following vote:

VOTE: 9-0
AYE: Buckner, Campbell, Jones, Miller, Saunders,
Shanks, Tomer, Vogler and Whittle (9)
NAY: None

**CODE CHANGE – AMENDING CHAPTER 5, ARTICLE III, SECTION 25 OF THE DANVILLE
CITY CODE**

Council Member Tomer **moved** for adoption of an Ordinance entitled:

ORDINANCE NO. 2018-07.06

AMENDING AND REORDAINING CHAPTER 5, ENTITLED “ANIMALS AND FOWL”, OF
THE CODE OF THE CITY OF DANVILLE, VIRGINIA, 1986, AS AMENDED, ARTICLE III,
ENTITLED “ANIMAL WELFARE”, MORE SECTION 5-25, ENTITLED “ADEQUATE SPACE
FOR ANIMALS; TIME RESTRICTION ON TETHERING COMPANION ANIMALS”.

The Motion was **seconded** by Council Member Miller and carried by the following vote:

VOTE: 9-0
AYE: Buckner, Campbell, Jones, Miller, Saunders,
Shanks, Tomer, Vogler and Whittle (9)
NAY: None

CONSIDERATION OF SETTING THE COMPENSATION OF THE CITY ATTORNEY

Council Member Whittle **moved** for adoption of a Resolution entitled:

RESOLUTION NO. 2018-07.15

A RESOLUTION SETTING THE COMPENSATION OF THE CITY ATTORNEY

The Motion was **seconded** by Council Member Buckner and carried by the following vote:

VOTE: 9-0
AYE: Buckner, Campbell, Jones, Miller, Saunders,
Shanks, Tomer, Vogler and Whittle (9)
NAY: None

**CONSIDERATION OF APPROVING EXECUTION OF AN AMENDMENT TO THE CITY
MANAGER’S CONTRACT**

Council Member Buckner **moved** for adoption of a Resolution entitled:

RESOLUTION NO. 2018-07.16

July 17, 2018

APPROVING AND AUTHORIZING THE EXECUTION OF AN AMENDMENT TO THE CITY MANAGER'S EMPLOYMENT AGREEMENT

The Motion was **seconded** by Council Member Whittle and carried by the following vote:

VOTE: 9-0
AYE: Buckner, Campbell, Jones, Miller, Saunders,
Shanks, Tomer, Vogler and Whittle (9)
NAY: None

CANCELING THE REGULAR MEETING OF DANVILLE CITY COUNCIL SCHEDULED FOR TUESDAY, AUGUST 7, 2018

Vice Mayor Vogler **moved** for adoption of a Resolution entitled:

RESOLUTION NO. 2018-07.17

CANCELING THE REGULAR MEETING OF CITY COUNCIL SCHEDULED FOR TUESDAY, AUGUST 7, 2018 AND SCHEDULING A SPECIAL MEETING OF CITY COUNCIL ON THURSDAY, AUGUST 9, 2018.

The Motion was **seconded** by Council Member Buckner.

Council Member Miller urged citizens to go out on National Night Out, participate in activities and talk to the Council Members. Vice Mayor Vogler noted it is a great time, various neighborhoods participate, with a huge party every year at Cardinal Village and hopes to see everyone out there. Council Member Saunders hoped the community would get out and support the event, it all about the City, keeping it safe, having a bright future and encouraged citizens to participate.

The **Motion** was carried by the following vote:

VOTE: 9-0
AYE: Buckner, Campbell, Jones, Miller, Saunders,
Shanks, Tomer, Vogler and Whittle (9)
NAY: None

COMMUNICATIONS

City Manager Ken Larking thanked Council for placing their confidence in his abilities by their action earlier this evening. Mr. Larking noted he was proud to work for this organization, with this group of Council Members, to help improve the City; every one of them cares very much about Danville. Mr. Larking stated there are times when he is extra proud to serve Danville and earlier in this meeting there were forty young people, who with the work the Police Department to put on that event, is one of those examples of why he is proud to work for Danville, what they are doing to for the youth and the people who live there.

City Attorney Clarke Whitfield noted he went to the graduation of the Youth Police Academy and as good as he felt about the City that morning before the graduation, that just expanded and he has had a smile on his face since he attended that graduation. Mr. Whitfield

July 17, 2018

commended all the graduates; all forty that started, finished the program, and thanked Officer Brooks and Captain Merricks who spearheaded that along with all of the new recruits.

ROLL CALL

Council Member Miller noted that the Third Street Police Station is now being regularly staffed with an officer there forty hours a week with another officer to be added later. One of DRF interns' initiatives is communities and they noted that Cardinal Village has a nice community center, many of the communities don't. He talked to the Mayor, Vice Mayor and others about possibly using that Third Street Police Station as a community center on nights and weekends; that is something that needs to be looked at. Ty'quan Graves Peak performance group will be presenting a play on the 20th, at 11:00 a.m. in multiple performances at 212 Murphy Circle.

Council Member Saunders noted to the City Attorney and City Manager, congratulations on what they do for the City, and is very pleased that both votes this evening were unanimous. Mr. Saunders noted to Captain Jones, thank you for what his people do every single day putting their lives on the line.

Council Member Tomer noted he was proud of Council tonight for looking at issues related to rightsizing the City and also for unanimously passing the most progressive tethering ordinance in the state, and hopes it is a model for other communities. Council helped give a voice to the voiceless, the companion animals, to protect them, and gave the Humane Society a better law to enforce. To the City Manager and City Attorney, the unanimous vote tonight shows Council is committed to them and their excellent representation of the City. Mr. Tomer noted he has asked the City Manager to look into the creation of a public safety memorial and for it to be put on the next City Council work session agenda. To Marc Aron and the Police Department, all those that took part in the lip sync challenge, it was fantastic and thanked them for doing that.

Vice Mayor Vogler noted the lip sync challenge was tremendous with at least 1.5M views, they did a great job. Mr. Vogler stated the City's unemployment rate is the lowest it has been in over a decade, there has been over \$150M of private sector funds invested in the River District, the YMCA was ranked as one of the top ten athletic facilities in the world, the City's Mountain Bike Trail has been ranked in the top twenty-five in the world and Danville has an award winning River City TV; Marc Aron does a great job. As great as those things are, they don't define Danville, Danville is not defined by buildings or parks or ranking, it is defined by their people. Danville is a great City with challenges and he proud to live there.

Council Member Whittle noted he attended the King Community Round Table at High Street and got a tutorial of the last fifty years and how things have grown; it wasn't out of a book but by the people who went through those times in the City. He was glad to be able to attend.

Council Member Buckner congratulated all the graduates of the Youth Police Academy, it was done with a zero budget, hopes that Council can make sure that is not the case next year and makes sure Officer Brooks has all the resources to continue that work.

Council Member Campbell noted he remembered in a Council session in 2016, the high volume of homicides in the community, and repeatedly during that year, that was not Danville. It was very disturbing and a sad year. To see what is happening now, Danville is moving in the right direction.

July 17, 2018

Mayor Jones noted since July 2nd when this Council appointed him as Mayor, he has received 193 phone calls, returned all 193 calls; attended 39 events since July 2nd and every call he has received, people are singing the praises of Danville and this Council. Mayor Jones thanked Council for their support, it takes all of them working together in unity. To the City Manager and City Attorney, they are amazing to work with. There are a lot of wonderful things happening in the City and he is very excited about it. Council's thoughts and prayers go out to the family of Attorney Williams, a former Council Member and Mayor.

The meeting adjourned at 7:47 p.m.

APPROVED:

MAYOR

ATTEST:

CITY CLERK

Council Letter

City of Danville, Virginia



CL-1973

Consent Agenda Item #: C.

City Council Regular Meeting

Meeting Date: 08/21/2018

Subject: FY 2019 Comprehensive Services Act Fund Appropriation

COUNCIL ACTION

First Reading: 08/09/2018

Final Adoption: 08/21/2018

SUMMARY

The Comprehensive Services Act (CSA) was enacted in Fiscal Year 1994, by the Virginia General Assembly, for the purpose of eliminating duplication of services for at-risk children and families. Whenever possible, CSA services must be child specific and community based. Services may be residential or non-residential, private or public, and must be responsive to the child's unique needs and culture. These services may currently exist within the public agencies, such as mental health, social services, education, and court services, or may be available privately. Examples include, but are not limited to: substance abuse counseling, respite care, psychological evaluations, transportation services, home-based therapy, family counseling, parent training, therapeutic foster care, job coaching, after school care, recreation, and housing assistance.

In January 2013, the City began operating its own Community Policy and Management Team (CPMT). This resulted from the request of Pittsylvania County to dissolve the joint Danville-Pittsylvania County Community Policy and Management Board (CPMB). A full time person has been hired under the Division of Social Services to coordinate the City only program. There has been no increased administrative cost to the City as the administration funds that were being paid to Pittsylvania County are now being used to support the City only program.

BACKGROUND

Daily, the schools, social services and court service units are faced with a number of societal issues, such as locating services for abused, neglected, delinquent and special services children with significant mental and physical health impairments. In addition, these organizations work with children with behavioral problems that require specialized placements for treatment, truancy, and children whose disabilities are so severe they are unable to function within the community. These disabilities and behavioral issues include, but are not limited to: Autism, Bipolar Disorder, Schizophrenia, Sexual Reactive Disorder, Post Traumatic Stress Disorder, Suicidal Ideation, Conduct Disorder, Attachment Disorder, and Mental Retardation .

The overall focus of CSA continues to be servicing at-risk children and families. Great strides have been made in bringing additional resources for services to the community. Service providers are meeting the increased demand for specialized programs while trying to manage the costs of such programs. The community partners continue to be faced with younger children whose disabilities are so severe that often times the children cannot be treated locally. The agencies that serve on the CPMT explore all options to provide for the needs of Danville's families and children by utilizing cost effective measures to reduce expenditures to the locality. These measures include using Medicaid vendors, when appropriate, reviewing progress reports prior to authorizing additional service units, when feasible, and reviewing eligibility for IV-E funding which reimburses the locality 100% of allowable costs.

RECOMMENDATION

It is recommended that the City Council adopt the attached Ordinance which will approve FY 2019 state and local funding for the CSA program. The required local match is included in the adopted FY 2019 City of Danville Budget.

Attachments

Ordinance

PRESENTED: _____

ADOPTED: _____

ORDINANCE NO. 2018____.

AN ORDINANCE AMENDING THE FISCAL YEAR 2019 BUDGET APPROPRIATION ORDINANCE BY APPROPRIATING COMPREHENSIVE SERVICES ACT FUNDS AND PROVIDING LOCAL MATCHING FUNDS FOR A TOTAL AMOUNT OF \$4,747,214

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Danville, Virginia, that the Fiscal Year 2019 Budget Appropriation Ordinance be, and is hereby, amended by increasing revenues to anticipate the State and Local funds for the Comprehensive Services Act fund and appropriating such funds within the Special Grants Fund, such appropriation to be as follows:

ANTICIPATED REVENUES

<u>Description</u>	<u>Account No.</u>	<u>Amount</u>
Categorical Aid—State:		
Comprehensive Services Act—		
Pool Funds	60315000-45560	\$3,551,865
Administrative Funds	60315000-45570	18,040
Local Share		
Transfer in From General Fund	60315000-6101	<u>1,177,309</u>
	Total	<u>\$4,747,214</u>

ANTICIPATED EXPENDITURES

<u>Description</u>	<u>Account No.</u>	<u>Amount</u>
Comprehensive Services Act:		
Outside Services	60315000-52349	\$4,550,000
CSA Medicaid	60315000-55570	100,000
FT Salaries	60315000-51100	67,842
FICA	60315000-51450	4,993
Retirement	60315000-51525	5,195
Group Health Insurance	60315000-51600	8,060
Group Life Insurance	60315000-51630	24
Print Shop	60315000-52650	1,200
Temporary Services	60315000-52190	2,000
PS-Office Supplies	60315000-52655	1,400
Postage	60315000-54050	1,000
Travel & Training	60315000-54900	1,800
Office Supplies	60315000-55820	2,000
Materials & Supplies	60315000-55930	500
Dues 60315000-56242		<u>1,200</u>
	Total	<u>\$4,747,214</u>

AND BE IT FURTHER ORDAINED that a flexible budget is hereby authorized whereby appropriations may be increased to the extent that actual revenues from the CSA Pool Fund exceeds the original budget amount; and

BE IT FINALLY ORDAINED that all other accounts and provisions of the Fiscal Year 2019 Budget appropriation Ordinance, as amended, not hereby amended, shall continue in full force and effect unless and until thereafter further amended or repealed.

APPROVED:

MAYOR

ATTEST:

CLERK

Approved as to
Form and Legal Sufficiency:

City Attorney

Council Letter

City of Danville, Virginia



CL-1936

Appointments Item #: A.

City Council Regular Meeting

Meeting Date: 08/21/2018

Subject: Consideration of Appointments to Boards and Commissions

From: Susan M. DeMasi, Clerk of Council

COUNCIL ACTION

Business Meeting: 08/21/2018

SUMMARY

Consideration of Appointments to the following Boards and Commissions.

Council Letter Number 1936.

1. Commission of Architectural Review
2. Community Improvement Council.
3. Danville CPMT
4. Airport Commission

Attachments

Resolutions

PRESENTED: _____

ADOPTED: _____

RESOLUTION NO. 2018 - ____ . ____

**A RESOLUTION REAPPOINTING JEFFREY L. BOND AS A MEMBER OF
THE COMMISSION OF ARCHITECTURAL REVIEW.**

BE IT RESOLVED by the Council of the City of Danville, Virginia, that Jeffrey L. Bond be, and he is hereby reappointed as a member of the Commission of Architectural Review to serve as such for a Five Year term commencing September 1, 2018 and ending August 31, 2023.

APPROVED:

MAYOR

ATTEST:

CITY CLERK

PRESENTED: _____

ADOPTED: _____

RESOLUTION NO. 2018 - ____ . ____

**A RESOLUTION APPOINTING TYRELL PAYNE AS A MEMBER OF THE
COMMUNITY IMPROVEMENT COUNCIL.**

BE IT RESOLVED by the Council of the City of Danville, Virginia, that Tyrell Payne be, and he is hereby appointed as a member of the Community Improvement Council to serve as such for a Two Year term commencing September 1, 2018 and ending August 31, 2020.

APPROVED:

MAYOR

ATTEST:

CITY CLERK

PRESENTED: _____

ADOPTED: _____

RESOLUTION NO. 2018 - ____ . ____

**A RESOLUTION APPOINTING NATALIE B. WHITLOW AS A MEMBER OF
THE DANVILLE COMMUNITY POLICY AND MANAGEMENT TEAM.**

BE IT RESOLVED by the Council of the City of Danville, Virginia, that Natalie B. Whitlow be, and she is hereby appointed as the Department of Health representative member of the Danville Community Policy and Management Team.

APPROVED:

MAYOR

ATTEST:

CITY CLERK

PRESENTED: _____

ADOPTED: _____

RESOLUTION NO. 2018 - ____ . ____

**A RESOLUTION APPOINTING PHILIP HALL AS A MEMBER OF THE
AIRPORT COMMISSION.**

BE IT RESOLVED by the Council of the City of Danville, Virginia, that Philip Hall be, and he is hereby appointed as a member of the Airport Commission, as the Danville Development Council representative, to serve as such for a Three Year Term commencing August 1, 2018 and ending June 30, 2021.

APPROVED:

MAYOR

ATTEST:

CLERK

Council Letter

City of Danville, Virginia



CL-1941

New Business Item #: A.

City Council Regular Meeting

Meeting Date: 08/21/2018

Subject: Creative Communities Partnership Grant

From: William Sgrinia, Director of Parks, Recreation & Tourism

COUNCIL ACTION

First Reading: 08/21/2018

Final Adoption: 09/04/2018

SUMMARY

In the past, the City of Danville has participated in the Creative Communities Partnership Grant, formerly known as the Local Government Challenge Grants program through the Virginia Commission for the Arts. The City has received notification from the Commission that a grant of \$4,500 has been awarded for Fiscal Year 2019.

BACKGROUND

The local match of \$5,000 has been provided in the FY 2019 Budget, General Fund Support of Grants account. With these funds, assistance is provided to local arts organizations. Some of the local groups that have been assisted under this program over the years include: Danville Choral Arts Society, Danville Concert Association, Danville Area Association for the Arts and Humanities, Danville Museum of Fine Arts and History, Danville Festival in the Park, Inc., and the Danville Symphony Orchestra. The advertising for availability of funding and the submittal for funding requests will begin immediately. A public notice will be advertised in the Danville Register and Bee on September 8, 2018 soliciting applications; agencies listed above will be sent letters advising them of the funding opportunity and informing them that they must complete an application. The applications are due back to the City no later than October 1, 2018. City staff reviews the applications and makes award recommendations to a local arts grant task force, who vote on the final awards. Award recipients are notified by letter of their grant amount and that the funds must be spent prior to June 30, 2019.

RECOMMENDATION

It is recommended that City Council adopt the accompanying Ordinance providing funds for a Creative Communities Partnership Grant from the Virginia Commission for the Arts and the required local share.

Attachments

Ordinance

PRESENTED: _____

ADOPTED: _____

ORDINANCE NO. 2018-____.____

AN ORDINANCE AMENDING THE FISCAL YEAR 2019 BUDGET APPROPRIATION ORDINANCE TO PROVIDE FOR A VIRGINIA COMMISSION FOR THE ARTS GRANT IN THE AMOUNT OF \$4,500, AND TO PROVIDE FOR THE LOCAL SHARE IN THE AMOUNT OF \$5,000 FOR A TOTAL GRANT OF \$9,500.

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Danville, Virginia that the FY 2019 Budget Appropriation Ordinance be, and the same is hereby, amended by increasing revenues for a grant in the amount of \$4,500 from the Commonwealth of Virginia, Virginia Commission for the Arts, and the local share of the grant in the amount of \$5,000, all for its support of local arts, such funds to be appropriated in the Special Grants fund and to be as follows:

ANTICIPATED REVENUES

<u>Description</u>	<u>Account No.</u>	<u>Amount</u>
Categorical Aid—State: Virginia Commission for the Arts	60134000-47520	\$ 4,500
Local Share: Transfer from General Fund	60134000-6101	<u>\$ 5,000</u>
	TOTAL	<u>\$9,500</u>

ANTICIPATED EXPENDITURES

<u>Description</u>	<u>Account No.</u>	<u>Amount</u>
Creative Communities Partnership Grant	60139000-55005	<u>\$9,500</u>

AND BE IT FURTHER ORDAINED that all other accounts and provisions of the FY 2019 Budget Appropriations Ordinance, as amended, not hereby amended, shall continue in full force and effect unless and until hereafter further amended or repealed.

APPROVED:

MAYOR

ATTEST:

CLERK

Approved as to
Form and Legal Sufficiency:

City Attorney

Council Letter

City of Danville, Virginia



CL-1907

New Business Item #: B.

City Council Regular Meeting

Meeting Date: 08/21/2018

Subject: Full-Service Ambulance Operator's Permit for LifeCare

From: David R. Eagle, Fire Chief

COUNCIL ACTION

Business Meeting: 08/21/2018

SUMMARY

LifeCare Medical Transports, Inc. (LifeCare) has applied to the City of Danville for a full-service ambulance operator's permit.

BACKGROUND

In accordance with Article III, entitled "Ambulances," of Chapter 39, entitled "Vehicles for Hire," of the Code of the City of Danville, LifeCare submitted an application for Ambulance Operator's permit to the City Clerk. Per Section 39-107 of the City Code, City Administration has conducted the prescribed investigation of the applicant and proposed ambulance services.

RECOMMENDATION

It is recommended that Council approve the attached Ordinance granting a full-service ambulance operator's permit to LifeCare, for a term of five years, beginning September 1, 2018, and ending September 1, 2023, subject to the conditions outlined in the Ordinance.

Attachments

Ordinance

PRESENTED: _____

ADOPTED: _____

ORDINANCE NO. 2018-____.____

AN ORDINANCE GRANTING A FULL-SERVICE AMBULANCE OPERATOR'S PERMIT TO LIFECARE MEDICAL TRANSPORTS, INC.

WHEREAS, LifeCare Medical Transports, Inc., trading as LifeCare, has applied for an ambulance operator's permit, in accordance with the provisions of Article III, entitled "Ambulances," of Chapter 39, entitled "Vehicles for Hire," of the Code of the City of Danville, Virginia, 1986, as amended; and

WHEREAS, THE Ambulance Committee reviewed the application for a full-service operator's permit filed by LifeCare, made an investigation and analysis, as required by Sections 39-101 and 39-107 of the City Code, and recommended that a permit be issued to LifeCare; and

WHEREAS, Council held a public hearing on this date, as required by Sections 39-108 and 39-109 of the City Code and heard the evidence presented by LifeCare, and the evidence presented by the City Administration and the argument by or on behalf of these applicants and the City Administration, as well as the comments of the interested public; and

WHEREAS, Council finds that the public convenience and necessity would be served by the issuance of a full-service ambulance operator's permit to LifeCare; and

WHEREAS, Council, therefore concludes that a full-service ambulance operator's permit should be issued to LifeCare.

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Danville, Virginia, that the request by LifeCare Medical Transports, trading as LifeCare, for a full-service ambulance operator's permit be, and is hereby, approved and that a full-service ambulance operator's permit with a term of five (5) years, expiring on September 1, 2023, be granted, subject to the following conditions:

1. Compliance with all of the applicable provisions of Chapter 39 of the City Code and other applicable federal, state, and local laws, and the conditions set forth.

2. The ambulance operator permit holder will keep such records and make such reports to the City Manager or his designee with respect to furnishing ambulance service under this ambulance operator permit as shall be required and requested by the City Manager or his designee. The City Manager or his designee may prescribe the form of such records and reports and shall have the right to inspect the records, facilities, and equipment of the ambulance operator permit holder at any time.

3. The ambulance operator permit holder will indemnify, keep and hold the City free and harmless from any and all liability for injury or damage to any and all persons, firms, and corporations and property arising out of or directly or indirectly resulting from the performance of this permit; and in the event any suit or proceeding shall be brought against the City, at law or in equity, either independently or jointly with the permit holder, on account of, founded upon or arising out of the performance of this permit, the permit holder will defend the City therein at the cost of the permit holder, and in the event of a final judgement or decree being obtained or entered in any such action of suit against the City, either independently or jointly with the permit holder, then the permit holder will pay such judgement, together with all costs and expenses of whatever nature, or comply with such decree, and hold the City harmless therefrom.

4. Should the ambulance operator permit holder breach any term, condition or provision of this permit and fail to correct, remedy or remove the condition that constitutes such breach within thirty (30) days after written notice thereof has been received by the permit holder from the City Manager or his designee, or should the permit holder become insolvent or a receiver or receivers be appointed for it, or should the permit holder make assignment for the benefit of its creditors and such insolvency is not remedied

or such receivership or assignment is not vacated within thirty (30) days, the City Manager or his designee may immediately terminate this permit.

5. Neither the permit nor the rights, privileges and obligations inuring to or assumed by the ambulance operator permit holder thereunder shall be assigned or transferred, directly or indirectly, and every such assignment or transfer shall be void and shall automatically and immediately terminate this permit.

6. The terms of the ambulance operator permit shall be for five (5) years, beginning September 1, 2018, and ending September 1, 2023, subject to annual review and, for good cause, revision with respect to services provided and rates charged thereunder, and thereafter automatically renewable for a term of one (1) year unless either party should notify the other in writing no less than sixty (60) days prior to the termination of such renewal period of its election not to renew the same.

7. The ambulance service required will serve the hospital, nursing homes, general public, and doctors' offices.

8. Ambulance service must conform to the City Code entitled "Ambulances," of Chapter 39, entitled "Vehicles for Hire," of the Code of the City of Danville, Virginia, 1986, as amended.

9. LifeCare shall provide a performance bond or letter of credit (in a form acceptable to the City Attorney) to secure performance under this permit.

10. LifeCare shall provide an audited financial statement and profit and loss statement for 2017 within ninety (90) days after this date.

11. The ambulance operator permit holder shall immediately notify the Fire Chief of any citation and/or suspension issued against LifeCare's state EMS agency certificate, and/or any employee's state EMS certification, issued by the Virginia Office of Emergency Medical Services.

12. The ambulance operator permit holder shall have a two-way radio communication system between the City of Danville Emergency Communication Center (ECC), LifeCare dispatch office, and each ambulance. All communication equipment will be maintained so that it will operate effectively and efficiently.

13. The ambulance operator permit holder will have available at all times, 24 consecutive hours each day of the year, at a minimum for service at least the following vehicles and equipment:

a. Four (4) ambulances, which meet the state minimum certification requirements, to answer advance life support calls;

b. Proper staff that meets the state EMS personnel regulations with additional current certification for Emergency Medical Technicians (EMT) in the following:

1) Emergency Vehicle Operating Course (EVOC);

2) CPR

c. Additional current certifications for Paramedic, or Enhanced Technicians in the following:

1) Advanced Cardiac Life Support (ACLS)

2) Pediatric Advance Life Support) PALS) or Pediatric Education for Pre-Hospital Professionals (PEPP)

3) CPR

4) Emergency Vehicle Operations Course (EVOC)

14. LifeCare shall operate a central business and response office within the City limits of Danville, said location must be approved by the City Manager or his designee.

15. LifeCare shall have at least one single-party telephone service for receipt and dispatch of ambulance and wheel chair services. The telephone shall

be manned 24 hours a day to take calls from the public. The telephone number assigned to these services shall be listed and made available through publication for use of the general public.

16. Qualified personnel must be provided to efficiently operate telephone and radio communications systems and services for the immediate rendition of ambulance services.
17. Insurance shall be carried against loss and liability in connection with the performance of the ambulance service. (Minimum required—One million (\$1,000,000) for bodily injury to any one person in any one accident and not less than five-hundred thousand (\$500,000) for all bodily injuries resulting from any one accident, and one-hundred thousand (\$100,000) for property damage.) A copy of the insurance carried must be provided to the City Manager or his designee.
18. The City reserves the right to request a financial statement form the bidder or proof of financial stability.

APPROVED:

MAYOR

ATTEST:

CLERK

Approved as to
Form and Legal Sufficiency:

City Attorney

Council Letter

City of Danville, Virginia



CL-1932

New Business Item #: C.

City Council Regular Meeting

Meeting Date: 08/21/2018

Subject: Employees' Retirement System

From: Sara Weller, Director of Human Resources

COUNCIL ACTION

Business Meeting: 08/21/2018

SUMMARY

City of Danville employees are members of the Employees' Retirement System (ERS), which is a defined benefit retirement system created exclusively for City employees. City Council's adopted FY 2019 Budget includes funding to enhance the retirement benefit for Public Safety employees. Changes to ERS require City Council to adopt an ordinance modifying Chapter 32 of City Code.

BACKGROUND

The Employees' Retirement System (ERS) is a defined benefit retirement plan that began in 1946 for the purpose of providing retirement, disability, and death-in-service benefits to regular, full-time employees of the City of Danville. The provisions of Chapter 32 of the City Code and ordinances made by City Council govern the System. Funding for the System comes from employer contributions paid by the City, and investment income.

Each year, with the annual budget, City Council is provided recommended contribution rates from the Board of Trustees to adopt for the next fiscal year. Recommendations are made with a goal of maintaining ERS on a sound financial basis. ERS funds are separate from other City funds and are invested and administered solely in the interest of the members, retirees, and beneficiaries of ERS. ERS covers two employee groups (1) General Employees and (2) Public Safety Employees (uniformed Police and Fire). The current operational provisions are the same for both groups of employees; however, the benefits are different. Public Safety employees have a higher retirement benefit from ERS because they do not participate in the Social Security System.

At City Council's request, a review of the Public Safety's ERS benefit was completed and the decision made to enhance the retirement benefit effective September 1, 2018. Specifically, changes to the benefit include increasing the multiplier used to calculate Public Safety retirement from 2% to 2.2%, and changing the age and service requirements for early-unreduced retirement benefits from age 55 with 30 years of creditable service to age 50 with 25 years of creditable service. These changes, along with other Code edits, are included in the attachment for review.

RECOMMENDATION

It is recommended that City Council adopt the attached Ordinance modifying Chapter 32 of City Code.

Attachments

Ordinance

Retirement Code

PRESENTED: _____

ADOPTED: _____

ORDINANCE NO. 2018-____.____

AN ORDINANCE REPEALING AND REORDAINING CHAPTER 32, ENTITLED "RETIREMENT SYSTEM" OF THE CODE OF THE CITY OF DANVILLE, VIRGINIA, IN ITS ENTIRETY IN ORDER TO UPDATE AND REFLECT THE CURRENT PENSION AND RETIREMENT SYSTEMS FOR THE CITY OFFICERS AND EMPLOYEES.

WHEREAS, the current Chapter 32, entitled "Retirement System" of the Code of the City of Danville, Virginia, needs to be updated to reflect the current Pension and Retirement Systems for City officers and employees.

NOW THEREFORE, BE IT ORDAINED by the Council of City of Danville, Virginia, that the current Chapter 32, entitled "Retirement System" of the Code of the City of Danville, Virginia, 1986, as amended be repealed; and

BE IT FURTHER ORDAINED that Chapter 32, entitled Retirement System" of the Code of the City of Danville, Virginia, 1986, as amended be reordained as attached hereto and made a part hereof, as if fully set forth herein; and

BE IT FINALLY ORDAINED that all other provisions and Chapters of said Code be, and the same are hereby, continued in full force and effect unless and until the same are hereafter amended or repealed.

APPROVED:

MAYOR

ATTEST:

CLERK

Approved as to
Form and Legal Sufficiency:

City Attorney

Chapter 32 - RETIREMENT SYSTEM [11](#)

Footnotes:

--- (1) ---

Cross reference— Personnel system and policies, § 2-1.

State Law reference— Pension and retirement systems for City officers and employees, Code of Virginia, § 51-112 et seq.

ARTICLE I. - IN GENERAL

Sec. 32-1. - Established; purpose; operative date; name.

A retirement system is hereby established for the purpose of providing retirement allowances under the provisions of this chapter for employees of the City. The system shall be a body corporate and shall begin operation as of the first day of January, 1946, and shall be known as the "Employees' Retirement System of the City of Danville, Virginia," under which name all of its business shall be transacted, all of its funds invested, all warrants for money drawn and payments made, and all of its cash and securities and other property held.

(Code 1962, § 8.2-2)

Sec. 32-2. - Definitions.

The following words and phrases, as used in this chapter, shall have the following meanings, unless a different meaning is plainly required by the context:

Accumulated contributions shall mean the sum of all the amounts deducted from the compensation of a member and credited to his individual account in Annuity Savings Account A, together with regular interest thereon plus the sum of all City contributions credited to his individual account in Annuity Savings Account B, together with regular interest thereon, as provided in section 32-28 of this chapter. Notwithstanding the foregoing, any employee who is first employed by the City after September 30, 1991, shall not be eligible to receive any contributions to an Annuity Savings Account B. Any employee who was first employed before October 1, 1991, shall receive or continue to receive contributions to his Annuity Savings Account B until his coverage under this retirement system terminates; as provided in section 32-4(a), an Annuity Savings Account B will not be established for any such employee until the first day of the month following completion of one (1) year of continuous service. Any employee hired after September 30, 1991, and who was previously employed by the City and terminated employment, shall not be eligible to receive any additional contributions to an Annuity Savings Account B.

Actuarial equivalent shall mean equality in value of the aggregate amounts expected to be received under different forms of payment. Such equality in value shall be based on assumptions as to the occurrence of future events. The future events to be taken into account are mortality for members, mortality for beneficiaries, and an interest discount for the time value of money. For this system, the actuarial assumptions are as follows:

- (1) *Mortality assumption for payments to members: **RP 2000 Mortality Tables (1 year setback for males, 1 year set forward for females) projected to 2025 with Scale BB, adjusted for eighty (80) percent male and twenty (20) percent female content.*** ~~UP Mortality Table projected to 1984, adjusted for twenty (20) percent female content.~~
- (2) *Mortality assumption for payments to beneficiaries and survivors: **RP 2000 Mortality Tables (1 year setback for males, 1 year set forward for females) projected to 2025 with Scale BB, adjusted for twenty (20) percent male and eighty (80) percent female content.***

~~UP Mortality Table projected to 1984, adjusted for eighty (80) percent female content.~~

(3) *Interest assumption:* An annual effective rate of **seven (7)** ~~six (6)~~ percent.

Annuity shall mean annual payments for life derived from the accumulated contributions of a member.

Annuity reserve shall mean the present value of all payments to be made on account of an annuity, or benefit in lieu of an annuity, computed at regular interest on the basis of the tables last adopted by the Board.

Average final compensation shall mean the average annual creditable compensation of a member during the three (3) highest consecutive years of creditable service which will produce the highest average, or if he has less than three (3) years of creditable service, then his average annual creditable compensation during his total years of creditable service.

Average final three-year compensation shall mean the average annual creditable compensation of a member during the three (3) consecutive years of creditable service which will produce the highest average, or if he has less than three (3) years of creditable service, then his average annual creditable compensation during his total years of creditable service.

Beneficiary shall mean any person in receipt of a pension, an annuity, a retirement allowance or other benefit as provided by the system.

Board shall mean the Board of Trustees of the system provided for in this chapter to administer the system.

Creditable compensation shall mean the sum of a member's earnable compensation plus the amount, if any, contributed to such member's Annuity Savings Account B based on such earnable compensation. Earnable compensation and creditable compensation are equal prior to March 1, 1979, not contributions having been made to Annuity Savings Account B prior to that date. For any employee who is first employed by the City on or after October 1, 1991, creditable compensation shall be equal to earnable compensation. In the case of any member whose participation in the retirement system commences after June 30, 1996, creditable compensation for purposes of the retirement system shall not exceed the dollar limitation of Internal Revenue Code Section 401(a)(17), which is incorporated herein by reference, adjusted from time to time. If the retirement system determines creditable compensation for a period of time that contains fewer than twelve (12) calendar months, then the annual creditable compensation limit is an amount equal to the annual creditable compensation limit for the calendar year in which the creditable compensation period begins multiplied by the ratio obtained by dividing the number of full months in the period by twelve (12). If there are any contradictions between language herein and Internal Revenue Code Section 401(a)(17), the provisions of such Code section shall prevail. Effective as of the first day of first plan year beginning after December 31, 2001, the annual creditable compensation of each member taken into account in determining benefit accruals in any plan year beginning after December 31, 2001, shall not exceed two hundred thousand dollars (\$200,000.00). Annual compensation means compensation during the plan year or such other consecutive twelve-month period over which compensation is otherwise determined under the system (the determination period). The two hundred thousand dollar (\$200,000.00) limit on annual compensation shall be adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the Internal Revenue Code. The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year. In determining benefit accruals in plan years beginning after June 30, 2002, the annual compensation limit for determination periods beginning before July 1, 2002, shall be two hundred thousand dollars (\$200,000.00).

Creditable service shall mean the sum of (1) membership service prior to retirement service and (2) converted and accumulated sick leave as described in section 32-6(e).

Earnable compensation shall mean the full rate of compensation per annum that would be payable to a member if he worked the full normal working time for his position. In cases where compensation includes maintenance, the Board may, in its discretion, fix the value of that part of the compensation not paid in money. If a member's normal working time is changed during his period of employment, average final compensation and average final three-year compensation shall be adjusted to reflect annual

compensation payable to the member as if he worked the full normal working time scheduled for his position during each period of service for which he was a member.

Employee shall mean any regular and permanent officer or full-time employee of the City as defined in the City's Personnel System, whose compensation is fully paid by the City, whether employed or appointed for stated terms or otherwise, and shall include policemen and firemen and appointed officials, but shall not include employees of the School Board of the City, employees who hold office by popular election and are not required to devote a major portion of their time to the duties of their office. In all cases of doubt, the Board shall decide who is an employee within the meaning of this chapter.

Medical Board shall mean the Board of Physicians provided for in this chapter.

Member shall mean any person included in the membership of the system as provided in section 32-4 of this chapter.

Membership service shall mean (1) service as an employee since last becoming a member for which credit is allowable as provided in subsection (a) of section 32-6 of this chapter, plus (2) service provided by section 32-6(c) and (f) of this chapter.

Pension shall mean annual payments for life derived from money provided by the City, but not from money contributed by the City to Annuity Savings Account B.

Pension reserve shall mean the present value of all payments to be made on account of a pension, or benefit in lieu of a pension, computed at regular interest on the basis of the tables last adopted by the Board.

Permanent officer or employee shall mean "regular employee" as defined in Chapter II, entitled "Definitions", of the Personnel System of the City of Danville, as adopted and ordained in Ordinance No. 83-11.16, adopted November 28, 1983, and as from time to time thereafter amended and reordained.

Physician shall mean a person qualified to practice medicine such as a doctor of medicine, MD, general practitioner, nurse practitioner, and the like

Regular interest shall mean interest at such per centum rate, compounded annually, as shall be established from time to time by the Board as provided in this chapter.

Retirement allowance shall mean the sum of the annuity and the pension. All retirement allowances shall be payable in monthly installments to the former member, except the allowance payable for the month in which he dies, which installments shall be paid to his beneficiary.

Retirement allowance service shall mean a member's membership service, except reduced to one-half ($\frac{1}{2}$) such service for any year during which he worked in a "shared position" (as defined in the City's personnel policies) for the entire year.

Service shall mean service as an employee paid for by the City, to include time the employee is out of work due to a job-related injury or illness compensable under worker's compensation. Under no circumstances shall service extend beyond the employee's termination date.

System shall mean the employees' retirement system of the City of Danville, Virginia, as defined in section 32-1 of this chapter.

(Code 1962, § 8.2-1; Ord. No. 87-6.27, § 1, 6-25-87; Ord. No. 88-9.8, 9-6-88; Ord. No. 89-3.12, § 1, 3-7-89; Ord. No. 90-8.18, 8-7-90; Ord. No. 91-10.14, § 1, 10-1-91; Ord. No. 99-12.04, 12-7-99; Ord. No. 2002-06.09, 6-18-02)

Sec. 32-3. - General obligations of City with respect to system.

The creation and maintenance of reserves in the pension accumulation account, the maintenance of annuity reserves and pension reserves, as provided in this chapter, the payment of all pensions, annuities, retirement allowances, refunds and other benefits granted under the provisions of this chapter

and all expenses in connection with the administration and operation of this system are hereby made obligations of the City.

(Code 1962, § 8.2-34)

Sec. 32-4. - Membership.

- (a) Any person who becomes an employee on or after January 1, 1946, but prior to January 1, 1966, shall become a member of the system as a condition of his employment, and any person who becomes an employee on or after January 1, 1966, but prior to October 1, 1991, shall become a member of the system on the first day of the calendar month coincident with or next following the completion of one (1) year of continuous service as an employee as a condition of his continuing employment. Notwithstanding the foregoing, any employee on October 1, 1991, who is not a member on October 1, 1991, shall become a member effective on such date, as a condition of his continuing employment. However, as provided in the system prior to October 1, 1991, an Annuity Savings Account B will not be established for such an employee until the first day of the month following the completion of one (1) year of continuous service. Any individual who becomes an employee after October 1, 1991, shall become a member on the first day of the calendar month coincident with or next following his date of hire.
- (b) It shall be the duty of the head of each department to submit to the Board a statement showing the name, title, compensation, duties, date of birth and length of service of each member in his department and such information regarding other employees therein as the Board may require, and on the basis thereof the Board shall classify each member as a general employee or as a policeman or fireman. ~~When the duties of a member so require, the Board may reclassify him, provided that no member who has had fifteen (15) or more years of service creditable to him as a member in one (1) class may be so reclassified.~~
- (c) Should any member, in any period of six (6) consecutive years after last becoming a member, be absent from service for more than five (5) years, or should he withdraw his accumulated contributions or die or retire under the provisions of this chapter, he shall thereupon cease to be a member. However, any member who leaves the service of the City to engage in military service at the request of the United States may retain his membership during such military service, if he does not withdraw his accumulated contributions.

(Code 1962, § 8, 2-3; Ord. No. 83-12.2, § 1, 12-6-83; Ord. No. 87-6.27, § 1, 6-25-87; Ord. No. 91-10.14, § 1, 10-1-91; Ord. No. 99-12.04, 12-7-99)

Editor's note— By Ord. No. 82-12.10, adopted Dec. 14, 1982, the specific person then holding the position of City Manager was exempted from the provisions of this chapter and a deferred compensation plan was established for him.

Sec. 32-5. - Reserved.

Editor's note— Ord. No. 99-12.04, adopted Dec. 7, 1999, repealed § 32-5 which pertained to other ordinances providing pensions or retirement benefits not applicable to members and derived from Code 1962, § 8.2-30.

Sec. 32-6. - Creditable service.

- (a) Each member shall receive membership service credit for all service rendered while a member of the system, or since he last became a member in the event of a break in his membership. In the case of a person who became an employee on or after January 1, 1966, he shall receive

membership service credit for his one (1) year of continuous service immediately preceding the date on which he last became a member.

- (b) Anything to the contrary in this chapter notwithstanding, credit for any period of absence from City service due to service in the Armed Forces of the United States, up to ninety (90) days after discharge from such service, shall be included as membership service credit as if such service had been service as an employee of the City, and the earnable compensation of the employee at the time of entering the Armed Forces shall be the earnable compensation for the period of such service. Notwithstanding any provision of this chapter to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Internal Revenue Code Section 414(u).
- (c) Creditable service at retirement on which the retirement allowance of a member shall be based shall consist of his membership service credit, and the amount of unused sick leave accumulated as of the retirement date, subject to the following conditions:
 - (1) The maximum credit for accumulated sick leave is one (1) year.
 - (2) In determining the disability retirement allowed under section 32-56, the amount of sick leave shall not be doubled as otherwise provided under section 32-56(b)(2).
 - (3) No sick leave shall be used in determining creditable service under section 32-63 or years of service under section 32-74.
 - (4) For purposes of determining sick leave within the meaning of this subsection, sick leave accumulates at the rate of 0.04615 year for each year of employment.
 - (5) All questions of accumulated sick leave shall be resolved by the Board and their determination shall be final and not subject to further appeal.
- (d) Anything in this chapter to the contrary notwithstanding, any person who was an employee of the Danville Redevelopment and Housing Authority (DRHA) on March 1, 1983, and transferred to the Community Development Division of the Department of Community Development and Engineering as an employee of the City and a member of the system shall be credited for prior years of service with the DRHA upon retirement.
- (e) Anything in this chapter to the contrary notwithstanding, any general employee of the City who reached the age of sixty-five (65) and any policeman or fireman who reached the age of sixty (60) before January 1, 1987, and continued to be employed by the City after that date will be deemed to have continued to be a member of the system after that date and will receive credit for all service subsequent to reaching such age in accordance with the provisions of subsection (a) above.

(f) Any member serving as a both a general employee and a policeman or fireman during his tenure with the City shall have his benefit calculated as a general employee for the years of credible service in the classification and a policeman or fireman for the years of credible service in the classification. The two calculations shall be combined to determine the member's benefit.

(Code 1962, §§ 8.2-4, 8.2-5; Ord. No. 86-2.4, 2-4-86; Ord. No. 87-6.27, § 1, 6-25-87; Ord. No. 88-9.8, 9-6-88; Ord. No. 96-2.3, 2-6-96; Ord. No. 99-12.04, 12-7-99; Ord. No. 2002-06.09, 6-18-02)

Sec. 32-7. - Amendment of chapter.

The Council shall have continuing power to amend or supplement this chapter, but no amendment shall be adopted which will reduce the then accrued benefits of members or beneficiaries covered by accumulated reserves, which reserves shall constitute a trust fund for the payment of such benefits.

(Code 1962, § 8.2-34)

Sec. 32-8. - Rights, benefits, accounts, etc., provided for in chapter not subject to execution, garnishment, assignment, etc.

The right of a person to a pension, an annuity or a retirement allowance, to the return of contributions, the pension annuity or retirement allowance itself, any optional benefit or death benefit, or any other right accrued or accruing to any person under the provisions of this chapter and the moneys in the various accounts created by this chapter shall be unassignable and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law or any other process of law whatsoever, and shall be unassignable except as in this chapter specifically provided; however, nothing contained in this chapter shall prevent assigning benefits in compliance with an approved domestic relations order as defined in Internal Revenue Code Section 414(p)(1)(B). Notwithstanding any provision of this Section 32-8 to the contrary, an offset to a member's pension annuity or retirement allowance against an amount that the member is ordered or required to pay the retirement system with respect to a judgment, order or decree issued, or a settlement entered into, on or after December 31, 1997, shall be permitted only in accordance with Internal Revenue Code Sections 401(a)(13)(C) and (D).

(Code 1962, § 8.2-31; Ord. No. 99-12.04, 12-7-99; Ord. No. 2002-06.09, 6-18-02)

Sec. 32-9. - False statements or reports; falsification of system records.

Whoever, with intent to deceive, shall make any statements or reports required under this chapter which are untrue, or shall falsify or permit to be falsified any record or records of the system shall be guilty of a misdemeanor and shall be fined not to exceed one hundred dollars (\$100.00), or imprisoned not to exceed three (3) months, or both.

(Code 1962, § 8.2-32)

Sec. 32-10. - Portability of service credit.

- (a) The Board is hereby authorized to enter into reciprocal agreements with the Virginia Retirement System (VRS) and any political subdivision of the Commonwealth of Virginia that sponsors a defined benefit retirement system which is not supplemental to VRS.
- (b) The reciprocal agreements shall be in accordance with Virginia Code Sections 51.1-801.1 and 51.1-143.1 and shall permit vested members to transfer service credit between the system and VRS or the political subdivision for purposes of the determination of retirement benefits. Such agreements shall also provide for the direct transfer, between the System and VRS or the political subdivision, of assets associated with such transferred service credit. All reciprocal agreements shall be designed to be cost neutral to the System, thereby creating no additional unfunded liabilities.

(Ord. No. 99-12.04, 12-7-99)

Secs. 32-11—32-20. - Reserved.

ARTICLE II. - ADMINISTRATION AND FINANCES

Sec. 32-21. - Board of Trustees generally.

- (a) The general administration and management and the responsibility for the proper operation of the system and for making effective the provisions of this chapter are hereby vested in the Board of Trustees of the system, which shall be organized immediately after five (5) of the trustees provided for in this section have qualified and taken the oath of office.

- (b) The Board shall consist of nine (9) trustees, as follows:
 - (1) The City Manager, ex officio.
 - (2) The Mayor, or a Council member who is his designee, ex officio.
 - (3) The Director of Finance, ex officio.
 - (4) Three (3) trustees who shall be City employees who have as many as five (5) years of creditable service in the system. Such trustees shall be elected by the City employees who are members of the system by such method as may be prescribed by the Board for terms of two (2) years; provided that, upon separation from the City, an employee's trusteeship shall thereby terminate.
 - (5) Three (3) trustees who are citizens of the City and not members of the system shall be appointed by the Council for terms of two (2) years.
- (c) If a vacancy occurs in the office of a trustee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled.
- (d) The trustees shall serve as such without compensation.
- (e) Each trustee shall be entitled to one vote in the Board. Five (5) concurring votes shall be necessary for a decision by the trustees at any meeting of the Board, and five (5) trustees shall constitute a quorum of the Board.
- (f) Subject to the limitations of this chapter, the Board shall, from time to time, establish rules and regulations for the administration of the system and for the transaction of its business.
- (g) The Board shall elect from its membership a Chairman and a Vice-Chairman and shall appoint a Secretary who may or may not be a member of the Board. There shall be elected an Executive Secretary, for a two-year term, by the members of the Board. If a person voted upon for the office of Executive Secretary is, at the time of such voting, a member of the Board, he shall not be eligible to participate in such voting. The Executive Secretary shall perform such duties as the Board may from time to time prescribe. The Board may employ such actuarial, medical or other services as shall be required.
- (h) The Board shall keep in convenient form such data as shall be necessary for actuarial valuation of the system and for checking the experience of the system.

(Code 1962, §§ 8.2-2, 8.2-5; Ord. No. 93-10.2, 10-5-93)

Sec. 32-22. - Board's records and annual report to Council.

The Board shall keep a record of all of its proceedings, which shall be open to public inspection. It shall submit to the Council, annually, a report showing the fiscal transactions of the system for the preceding year, the amount of the accumulated cash and securities of the system and the last balance sheet indicating the financial condition of the system, as shown by an actuarial valuation of the assets and liabilities of the system.

(Code 1962, § 8.2-5)

Sec. 32-23. - Annual certification by Board for budget purposes; payment of administrative and operating expenses.

- (a) On or before the first day of February, the Board shall file with the City Manager its certification of the amount of the appropriation necessary to pay the normal and accrued liability contributions to the pension accumulation account for the ensuing fiscal year, and the amount of appropriation required to cover the expense necessary in connection with the administration and operation of the system.

Either or both of these amounts may be presented to the City Manager as a percentage rate of the permanent payroll of the City. The City Manager shall report to the Council at the time the budget is presented the amount to be included therein for retirement purposes compared to the Board's recommendation.

- (b) All costs and expenses of the administration of the System shall be paid from the funds of the System.

(Code 1962, § 8.2-27; Ord. No. 86-3.12, 3-4-86; Ord. No. 90-4.3, 4-3-90)

Sec. 32-24. - Board's legal adviser.

The City Attorney shall be the legal adviser of the Board and as such, shall approve all agreements as to form and legality.

(Code 1962, § 8.2-6; Ord. No. 99-12.04, 12-7-99)

Cross reference— City Attorney, § 2-109 et seq.

Sec. 32-25. - Medical Board.

- (a) The Board shall designate a Medical Board of at least three (3) physicians who are not eligible to participate in the system. The members of the Medical Board shall individually pass upon all medical examinations required under the provisions of this chapter, shall investigate all essential statements and certificates by or on behalf of a member in connection with application for disability retirement, and shall report in writing to the Board its conclusions and recommendations upon all matters referred to it. Any physician who is a member of the same firm or professional corporation as the physician designated as a member of the Medical Board may perform any medical examination for or instead of the physician designated as the member of the Medical Board.
- (b) The terms for members of the Medical Board shall be determined by the Board.

(Code 1962, § 8.2-7; Ord. No. 93-8.6, 8-3-93; Ord. No. 2013-06.13, 6-18-13)

Sec. 32-26. - Actuary; adoption of tables, rates, etc.

- (a) The Board shall designate an actuary who shall be the technical adviser of the Board on matters regarding the operation of the system and who shall perform such other duties as are required in connection therewith.
- (b) Immediately after the establishment of the system, the actuary shall make such investigation of the mortality, service and compensation experience of the members as he shall recommend and the Board shall authorize. On the basis of such investigation, he shall recommend for adoption by the Board such tables and rates of contribution payable by members as are required for the proper operation of the system. The Board shall adopt tables and certify the rates of contributions payable by members and, as soon as practicable thereafter, the actuary shall make, on the basis of such tables, a valuation of the assets and liabilities of the system.
- (c) The Board shall certify from time to time the rates of contribution payable under the provisions of this chapter, and from time to time shall adopt for the system such actuarial methods and assumptions as it shall deem necessary. On the basis of such adopted actuarial methods and assumptions, the Board shall cause the actuary to make an actuarial valuation of the system at least once every two (2) years. Upon the advice of the actuary or of its own volition and at such intervals and times as it may deem necessary or advisable, the Board may cause actuarial investigations to be made into the actuarial methods and assumptions used in the actuarial valuations of the system.

and, taking into account the result of such investigations, may adopt for the system such new actuarial methods or assumptions, or both, as the Board shall deem necessary.

(Code 1962, § 8.2-8; Ord. No. 85-4.5, 4-2-85; Ord. No. 99-12.04, 12-7-99)

Sec. 32-27. - Accounts generally.

The accounts of the system shall be maintained in accordance with generally accepted accounting principles and audited each fiscal year by an independent certified public accountant. Net assets available for benefits shall be credited to the annuity savings account and the pension accumulation account.

(Code 1962, § 8.2-21; Ord. No. 89-3.12, § 2, 3-7-89)

Sec. 32-28. - Annuity savings account; members' contributions.

- (a) The annuity savings account shall be the account in which shall be accumulated the contributions deducted from the compensation of members to provide for their annuities. For membership service prior to July 1, 1977, and upon the basis of such tables as the Board shall adopt and regular interest, there shall be determined, for each general employee, the proportion of earnable compensation which, when deducted from each payment of his prospective earnable compensation prior to the attainment of age sixty-five (65), and accumulated at regular interest until his attainment of such age, shall be computed to provide at that time an annuity equal to one-one hundred fortieth of his average final compensation multiplied by the number of years of his membership service; and for each policeman or fireman the proportion of earnable compensation which, when deducted from each payment of his prospective earnable compensation prior to the attainment of age sixty (60), and accumulated at regular interest until his attainment of such age, shall be computed to provide at that time an annuity equal to one-one hundred twentieth of his average final compensation multiplied by the number of years of his membership service. Such proportion of earnable compensation shall be computed to remain constant. The proportion so computed for a member one year younger than his normal service retirement age shall be applied to a member who has attained a greater age before he becomes a member of the system. Anything to the contrary in this chapter notwithstanding, each policeman or fireman whose credit for membership begins prior to January 1, 1957, may elect, on or before such date, to contribute at the increased rate which would be applicable at his age attained as of that date to a new policeman or fireman. Anything to the contrary in this chapter notwithstanding, any general employee may elect to reduce his contributions with respect to the first four thousand two hundred dollars (\$4,200.00) of each year's salary by one-half by filing written notice of such election with the Board at least thirty (30) days prior to the date such reduction is to become effective, and such a reduction shall be in effect for all general employees after December 31, 1968.
- (b) Effective July 1, 1977, the portion of earnable compensation which each member contributes to the annuity savings account shall be redetermined. The Board shall determine a flat portion of earnable compensation to be contributed by general employees, and the Board shall also determine a flat portion of earnable compensation to be contributed by policemen and firemen. The portion so determined may be different for policemen and firemen than for general employees. The same contribution rate shall apply to all employees of a given class. The Board shall determine the portion to be contributed by each class of employee such that each class of employee shall bear a reasonable portion of, and have an interest in, the total cost of the retirement system.
- (c) Effective January 1, 1979, no active employee of the City whose age equals or exceeds his normal retirement age, as defined in section 32-54, shall be required to contribute to the system. However, the employee's accumulated contributions shall continue to be credited with regular interest until he retires or dies or otherwise ceases to be an employee, whereupon his annuity savings account will be applied for his benefit or for his beneficiary as provided herein as if he were an active member at the time of his retirement, death or cessation of employment.

- (d) On and after January 1, 1969, a member shall not deposit in the annuity savings account, by a single payment or otherwise, any amount in excess of the contributions deducted from his compensation as hereinbefore provided. Any such additional amounts previously deposited shall be treated as excess contributions returnable to the member as an annuity of equivalent actuarial value.
- (e) The contributions of a member, and such interest as may be allowed thereon, paid upon his death or withdrawn by him as provided in this chapter, shall be paid from the annuity savings account, and the balance, if any, of the accumulated contributions of such a member shall be transferred to the pension accumulation account. Upon the retirement of a member, his accumulated contributions shall be transferred from the annuity savings account to the pension accumulation account.
- (f) Effective March 1, 1979, the annuity savings account referred to in the preceding subsections of this section will be redesignated as "Annuity Savings Account A." This account will continue to be credited with regular interest and will be available to provide benefits for members or their beneficiaries as generally provided in this chapter, but no further employee contributions shall be deducted from the compensation of any member or credited to this account. A new account shall be established for each existing member on March 1, 1979, and this new account shall be designated as "Annuity Savings Account B." The amount of contribution to be paid into Annuity Savings Account B for each individual will be generally determined in the same manner as described in subsections (b) through (f) of this section, based on a contribution rate of five (5) percent of earnable compensation for general employees and a contribution rate of six and one-half (6½) percent of earnable compensation for policemen and firemen, but such contribution shall not be deducted from the compensation of any member, but shall instead be provided directly by the City. Any employee of the City who first becomes a member of the system on or after March 1, 1979, shall not have an Annuity Savings Account A established for him, but shall have an Annuity Savings Account B. Notwithstanding the foregoing, any employee who is first employed by the City after September 30, 1991, shall not be eligible to receive any contributions to an Annuity Savings Account B. Any employee who was first employed before October 1, 1991, shall receive or continue to receive contributions to his Annuity Savings Account B until his coverage under this retirement system terminates; as provided in section 32-4(a), an Annuity Savings Account B will not be established for such an employee until the first day of the month following the completion of one (1) year of continuous service. Any employee hired after September 30, 1991, and who was previously employed by the City and terminated employment, shall not be eligible to receive any additional contributions to an Annuity Savings Account B.
- (g) As used throughout this chapter, on and after March 1, 1979, the term "annuity savings account" shall refer to the sum of Annuity Savings Account A and Annuity Savings Account B, and the term "member's accumulated contributions" shall be synonymous with the term "annuity savings account." The phrase "return of the member contributions," as used in this chapter, shall mean the payment to the member of the combined balance of Annuity Savings Account A and Annuity Savings Account B. Annuity Savings Account A and Annuity Savings Account B shall be one hundred (100) percent vested and nonforfeitable to an active member at all times. Upon retirement, the annuity savings account shall be distributed based upon the options selected under section 32-58 of this chapter.

(Code 1962, § 8.2-22; Ord. No. 89-3.12, 3-7-89; Ord. No. 91-10.14, § 2, 10-1-91; Ord. No. 99-12.04, 12-7-99)

Sec. 32-29. - Retirement and benefits reserve and city contributions.

- (a) All of the assets of the fund shall be held in a retirement and benefits reserve, in which shall be accumulated all assets transferred from any predecessor fund and all contributions made pursuant to this division or any other provision of this article, and to which all income from the invested assets of the fund shall be credited. From this reserve shall be paid the retirement allowances and the other benefits of the fund as provided for in this article, as well as the administrative expenses provided for in this chapter 32.
- (b) City contributions.

- (1) The City shall contribute to the reserve each year an amount which is determined as a percentage of the annual salaries of the members who are employed by such employer. The required contribution rates shall be established in accordance with the following provisions of this section.
- (2) To compute the required contribution rates for each employer, the board shall engage an actuary who shall be a Fellow of the Society of Actuaries and shall be enrolled by the Joint Board for the Enrollment of Actuaries. Using recognized actuarial principles in conjunction with methods and assumptions approved by the board, the actuary, on the basis of actuarial valuations made no less frequently than biennially, shall advise the board as to the contribution rates for each employer, expressed as percentages of the salaries of the members, that are likely to remain sufficient, on a long-term basis, to support the benefits to be paid in the future to members who are or were employed by such employer.
- (3) For any year in which the employer's aggregate contributions computed as provided in the preceding subsections are insufficient, when combined with the amount then held in the reserve, to provide the benefits payable from the reserve in such year, the City shall make an additional contribution in the amount necessary to overcome the insufficiency.

(Ord. No. 99-12.04, 12-7-99)

Editor's note— Ord. No. 99-12.04, adopted Dec. 7, 1999, repealed the former § 32-29 and enacted a new section as set out herein. The former § 32-29 pertained to pension accumulation account and city's contributions generally and derived from Code 1962, § 8.2-23 and Ord. No. 89-3.12, adopted March 7, 1989.

Sec. 32-30. - Forfeitures to be used to reduce City's contributions.

Forfeitures arising from severance of employment, death or for any other reason shall not be applied to increase the benefits any employee would otherwise receive under the plan at any time prior to the termination of the plan or the complete discontinuance of contribution. The amount so forfeited must be used as soon as possible to reduce the City's contributions under the plan.

(Code 1962, § 8.2-23; Ord. No. 99-12.04, 12-7-99)

Secs. 32-31—32-36. - Reserved.

Editor's note— Ord. No. 89-3.12, § 4, adopted March 7, 1989, repealed former §§ 32-31—32-36, relative to various pension and retirement provisions, which derived from Code 1962, §§ 8.2-23—8.2-25, 8.2-29 and Ord. No. 86-3.12, adopted March 4, 1986.

Sec. 32-37. - Reserved.

Sec. 32-38. - Custodian of assets; registration of securities; procedure for disbursements.

The City Treasurer shall be the custodian of all funds and assets of the system other than those funds, assets, securities and investments placed by the Board in the custody of qualified financial or investment institution duly designated for such purpose by the Board pursuant to the provisions of section 32-40.1. All registered securities of the system shall be registered in the name of "Employees' Retirement System of the City of Danville, Virginia" or, at the direction of the Board, in the name of designated custodian thereof; and every change in the registration of such securities by reason of sale or assignment shall be authenticated by the signature of the custodian, or in the case of a corporate custodian, an authorized representative or nominee thereof; provided, however, that if the Board shall have designated

a bank or trust company as custodian, then the registered securities in the custody of such custodian may be placed in the possession of and registered in the name of a nominee of such custodian or, in the case of securities eligible therefor, the Depository Trust Company or its nominee, or the Federal Reserve Bank of Richmond or its nominee, all in accordance with applicable law and regulations. All payments from the funds of the system shall be made only by checks issued upon orders signed by such person or persons designated and duly authorized for the purpose by resolution of the Board.

(Code 1962, § 8.2-28; Ord. No. 83-4.9, 4-12-83)

Cross reference— City Treasurer, § 2-93 et seq.

Sec. 32-39. - Available cash may be kept on deposit.

For the purpose of meeting disbursements for pensions, annuities and other payments, there may be kept on deposit available cash in an amount not exceeding ten (10) percent of the total assets of the system.

(Code 1962, § 8.2-28; Ord. No. 83-4.9, 4-12-83)

Sec. 32-40. - Management and investment of funds and assets generally.

- (a) The members of the Board shall be the trustees of all of the funds and assets of the system, and as such have full power, authority and responsibility to invest and reinvest such funds and assets, subject to the limitations, requirements and restrictions prescribed by this chapter. Subject to such limitations, the Board is fully authorized and empowered to hold, purchase, acquire, retain, sell, assign, transfer, exchange and dispose of any of the securities and investments in which any of the funds of the system have been or are hereafter invested, and to otherwise manage and control such securities and investments, as well as the income and proceeds from such investments, and any moneys belonging to the system.
- (b) In investing, reinvesting and otherwise managing the funds, assets and investments of the system, the members of the Board shall exercise the judgment of care under the circumstances then prevailing which men of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income from, as well as the probable safety of, their capital.
- (c) No investment shall be made except in securities or investments which, at the time of the making of the investment, are authorized and permitted by the laws of the Commonwealth for the investment of funds by local retirement systems.

(Code 1962, § 8.2-28; Ord. No. 83-4.9, 4-12-83; Ord. No. 96-10.17, 10-1-96)

Sec. 32-40.1. - Delegation of Board's investment powers and responsibilities; designation of institutional custodian.

Regardless of any provisions of this chapter to the contrary, the Board, in its discretion and exercising the prescribed standard of judgment and care set out in section 32-40, may delegate any part or all of its investment powers and responsibilities to one or more financial or investment institutions lawfully qualified as such, and in addition, may designate and appoint one or more of the same or other like qualified institutions to act as custodian of any part or all of the funds, assets, securities and investments of the system, and in each instance may enter into an arrangement with such institution upon such terms and conditions as may be required and agreed to by the Board.

(Ord. No. 83-4.9, 4-12-83)

Sec. 32-41. - Diversion or use of funds for improper purposes.

Under provisions of this chapter it shall be impossible at any time prior to the satisfaction of all liabilities with respect to members and their beneficiaries under the plan, for any part of the corpus or income to be used for, or diverted to, purposes other than for the exclusive benefit of the members and their beneficiaries.

(Code 1962, § 8.2-34)

Sec. 32-42. - Conflict of interests, etc., of Board members or employees.

Except as otherwise authorized or provided herein, no member, officer, agent or employee of the Board shall have any interest, direct or indirect, in the gains or profits of any investment made by the Board, other than an interest in any pay, compensation or emolument for authorized services rendered to the Board as an employee or agent thereof, and save also insofar as any such member, officer, agent or employee is a member or beneficiary of the system. No member of the Board shall receive, directly or indirectly, any pay or emolument for his services rendered as such. No member, officer, agent or employee of the Board shall, directly or indirectly, for himself or as an agent, in any manner use the funds or deposits of the system except to make such payments therefrom as are authorized by the Board.

(Code 1962, § 8.2-28; Ord. No. 83-4.9, 4-12-83)

Secs. 32-43—32-53. - Reserved.

ARTICLE III. - BENEFITS

Sec. 32-54. - Service retirement allowance.

- (a) The normal service retirement age shall be sixty-five (65) for general employees and sixty (60) for policemen and firemen; however, members hired after adoption of this section must have five (5) or more years of creditable service to be eligible for a service retirement allowance. Any member in service who has attained his normal service retirement age may retire on a service retirement allowance on the first day of any calendar month following the attainment of such age.
- (b) The service retirement allowance shall consist of:
 - (1) An annuity which shall be the actuarial equivalent of the employee's accumulated contributions at the time of his retirement; and
 - (2) A pension which, when added to the annuity provided by the employee's accumulated contributions, shall provide a total amount computed as follows:
 - a. In the case of a general employee, one fifty-fifth ($1/55$) of his average final compensation multiplied by the number of years of retirement allowance service prior to January 1, 1956, and one and forty-two one hundredths (1.42) percent of the part of his average final compensation not in excess of nine thousand five hundred dollars (\$9,500.00) plus one and eighty-two one hundredths (1.82) percent of the part of such compensation in excess of nine thousand five hundred dollars (\$9,500.00) multiplied by the number of years of retirement allowance service after December 31, 1955; ~~and~~
 - b. In the case of a policeman or fireman ***retiring from active status or who left the City as a vested member of the System on or before August 31, 2018***, one-fiftieth ($1/50$) of

his average final compensation multiplied by the number of years of retirement allowance service; **and**

- c. **In the case of a policeman or fireman retiring from active status or who left the City as a vested member of the System on or after September 1, 2018, two and two tenths (2.2) percent of his average final compensation multiplied by the number of years of retirement allowance service.**

- (3) In no event shall an employee's service retirement allowance, after adjustment as provided in section 32-64, be less than the employee's minimum service retirement allowance. The minimum service retirement allowance shall consist of:

- a. An annuity which shall be the actuarial equivalent of the employee's accumulated contributions at the time of his retirement; and
- b. A pension which, when added to the annuity provided by the employee's accumulated contributions, shall provide a total amount computed as follows: one and thirty-five hundredths (1.35) percent of his average final three-year compensation multiplied by his years of retirement allowance service.
- c. The required beginning date for commencement of retirement benefits shall be the later of the April 1 of the calendar year following the calendar year in which the employee attains age seventy and one-half (70½) or the April 1 of the calendar year following the calendar year in which the employee retires.

- (4) **In no event shall an employee's service retirement allowance be more than one hundred (100) percent of the employee's average final compensation used to calculate the member's benefit.**

(Code 1962, § 8.2-9; Ord. No. 87-6.27, § 2, 6-25-87; Ord. No. 89-3.12, § 3, 3-7-89; Ord. No. 90-8.18, 8-7-90; Ord. No. 99-12.04, 12-7-99)

Sec. 32-55. - Early service retirement allowance.

The early service retirement allowance shall consist of:

- (a) **Policeman or Fireman retiring from active status or who left the City as a vested member of the System on or before August 31, 2018:** A policeman or fireman may be permitted to retire at his own election prior to age sixty (60), but after he has attained age fifty-five (55); however, a policeman or fireman hired after adoption of this section must have five (5) or more years of creditable service to be eligible for an early service retirement allowance. The retirement allowance shall be equal to two (2) percent of his average final compensation multiplied by his years of retirement allowance service and reduced by two and one-sixth (2 1/6) percent times the lesser of:

- (1) The number of years that optional retirement occurs prior to age sixty (60); or
- (2) Thirty (30) minus his years of creditable service.

No such reduction shall be made if such policeman or fireman has at least thirty (30) years of creditable service at the time of the optional retirement date.

- (b) **Policeman or Fireman retiring from active status or who left the City as a vested member of the System on or after September 1, 2018:** A policeman or fireman may be permitted to retire at his own election prior to age sixty (60), but after he has attained age fifty (50); however, a policeman or fireman hired after adoption of this section must have five (5) or more years of creditable service to be eligible for an early service retirement allowance. The retirement allowance shall be equal to two and two tenths (2.2) percent of his average

final compensation multiplied by his years of retirement allowance service and reduced by two and one-sixth (2 1/6) percent times the lesser of:

(1) The number of years that optional retirement occurs prior to age sixty (60); or

(2) Twenty-five (25) minus his years of creditable service.

No such reduction shall be made if such policeman or fireman has at least twenty-five (25) years of creditable service at the time of the optional retirement date.

(cb) General Employees: A general employee may be permitted to retire at his own election prior to age sixty-five (65), but after attainment of age fifty-five (55); however, a general employee hired after adoption of this section must also have five (5) or more years of creditable service to be eligible for an early service retirement allowance. The service retirement allowance computed as described in section 32-54 at date of early retirement will be reduced by four and eight-tenths (4 8/10) percent times the lesser of:

(1) The number of years that optional retirement occurs prior to age sixty-five (65); or

(2) Thirty (30) minus his years of creditable service.

No such reduction shall be made if such general employee has at least thirty (30) years of creditable service at the time of the optional retirement date.

(d) In no event shall any employee's early service retirement allowance be more than one hundred (100) percent of the employee's average final compensation used to calculate the member's benefit.

(Code 1962, § 8.2-10; Ord. No. 87-6.27, § 2, 6-25-87; Ord. No. 90-8.18, 8-7-90; Ord. No. 99-12.04, 12-7-99)

Sec. 32-56. - Disability retirement allowance.

(a) Application and determination of eligibility.

- (1) Any member in service or the head of the member's department may apply to the Board for a disability retirement allowance on behalf of the member.**
- (2) In order to apply, a member must have five (5) or more years of creditable service and not attained his normal service retirement age as defined in section 32-54 or be eligible for unreduced early service retirement as defined in section 32-55.**
- (3) Any member who applies shall furnish to the Board, or its designee, a written report from his personal physician which includes the physician's recommendations regarding disability retirement based upon examination of the member. In order to be considered, the physician must certify in writing that the member is mentally or physically totally incapacitated for the performance of duty and such incapacity is likely to be permanent.**
- (4) Upon submission of the application for disability retirement and physician's report, the Board, or its designee, shall arrange for examination of the member by at least two (2) members of the Medical Board. Members of the Medical Board on an individual basis shall examine the member to the extent deemed necessary, review the report of the applicant's physician, if available, consult with the applicant's physician if deemed necessary and review any other available evidentiary material submitted by the Board, or its designee, for review. The members of the Medical Board shall state in their written reports to the Board whether or not the member is mentally or physically totally incapacitated for the performance of duty, whether such incapacity is likely to be permanent and whether such member should be retired.**

- (5) The Board, or its designee, may require that the member be examined by specialist physicians and may obtain such other information pertaining to the member which would be helpful to the Board in evaluating the disability retirement application.
 - (6) The Board shall approve or disapprove a disability retirement application not less than thirty (30) nor more than ninety (90) days next following the execution and filing of the application after giving consideration to reports from at least two (2) members of the Medical Board recommending disability retirement for the member and such other evidentiary material available to the Board. The Board may extend the evaluation period for an additional ninety (90) days if special reports are deemed necessary. The Board may designate authority to a member(s) of City staff to approve or disapprove an application for disability retirement as provided herein.
- (b) *Method of computation.* The disability retirement allowance shall be equal to the service retirement allowance, if the member has attained his normal service retirement age; otherwise, it shall consist of:
- (1) Any annuity which shall be the actuarial equivalent of the accumulated contributions of the member at the time of his retirement; and
 - (2) A pension which, when added to the annuity provided by the member's accumulated contributions, shall provide a retirement allowance equal to a service retirement allowance computed as described in section 32-54 at date of disability retirement. For such calculation, retirement allowance service shall equal the smaller of twice the retirement allowance service to date of disability retirement or the projected retirement allowance service at age sixty (60), but in no event less than retirement allowance service to the date of disability retirement. The minimum retirement allowance so determined shall be twenty-five (25) percent of the member's average final three-year compensation; provided, however, that such minimum allowance shall not exceed one hundred (100) percent of the service retirement allowance that would be payable to him if he had continued in the service of the City to his normal service retirement age and if he had continued to earn compensation at a rate equal to his average final three-year compensation from the date of disability until his normal service retirement age; and further provided, that the minimum retirement allowance shall be applicable to a general employee only until he becomes eligible for an unreduced social security benefit under Title II of the Social Security Act, and a disability retirement allowance.
- (3) *In no event shall an employee's disability retirement allowance be more than one hundred (100) percent of the employee's average final compensation used to calculate the member's benefit.***

(Code 1962, § 8.2-11; Ord. No. 90-8.18, 8-7-90; Ord. No. 93-8.6, 8-3-93; Ord. No. 99-12.04, 12-7-99; Ord. No. 2013-06.13, 6-18-13)

Sec. 32-57. - Reexamination of, and reduction of benefits for beneficiaries retired on account of disability.

- (a) Once each year during the first five (5) years following the retirement of a member on a disability retirement allowance, and once in every three-year period thereafter, the Board may, and upon his application shall, require any disability beneficiary to undergo a medical examination if he has not yet attained his normal service retirement age, such examination to be made at the place of residence of such beneficiary or other place mutually agreed upon. Should any disability beneficiary refuse to submit to such medical examination, his retirement allowance may be discontinued by the Board until his withdrawal of such refusal, and should his refusal continue for one year, all his rights in and to his pension may be revoked by the Board.

- (b) Should the Board determine, based on a report and certification from the Medical Board, or on any other basis, including but not limited to the inquiries provided for in the following subsection (c), that a beneficiary on disability retirement allowance is engaged in or is able to engage in a gainful occupation paying more than the difference between his retirement allowance and his average final compensation, then the amount of his pension shall be reduced to an amount which, together with his annuity and the amount earnable by him, shall equal the amount of his average final compensation. Should his earning capacity be later changed, the amount of his pension may be further modified in like manner.
- (c) The Board or the Executive Secretary, upon the authority of the Board, shall be authorized to make such inquiries of persons who are beneficiaries on disability retirement allowance as are necessary to determine whether any such person is engaged or is able to engage in a gainful occupation paying more than the difference between his retirement allowance and his average final compensation. Such inquiries shall be answered under oath. Any beneficiary on disability retirement allowance may also be required to produce certified tax return and tax withholding forms (W-2s) to establish income. If any beneficiary on disability retirement allowance should refuse or fail to provide the information required by this subsection, the Board shall be authorized to terminate such person's benefits until compliance is achieved.
- (d) Any reduction of benefits made pursuant to this section shall continue until the member on a disability retirement allowance would have been eligible for normal retirement, based on age and service, had the member remained uninjured and employed.

(Code 1962, § 8.2-13; Ord. No. 89-12.4, 12-5-89; Ord. No. 90-9.11, 9-4-90)

Sec. 32-57.1. - Administrative determination; appeals.

- (a) In the event a beneficiary of a disability retirement allowance disagrees with the determination made by the Board, or the Executive Secretary acting under the direction of the Board, as to the reexamination or reduction of benefits pursuant to section 32-57, the beneficiary may appeal the decision to a Disability Appeals Panel. The Panel shall conduct a hearing pursuant to rules of procedure established by the Board, and shall report in writing to the Board a record of its proceedings, together with its recommendations for action. The decision of the Board after a review of the Panel's report shall be final and binding. No appeal shall be allowed unless made in writing to the Executive Secretary within ninety (90) days of the receipt of notice of the original determination.
- (b) The Disability Appeals Panel shall consist of three (3) members appointed by the Board of Trustees as follows:
 - (1) One member to be a citizen-at-large;
 - (2) One member to be a City employee; and
 - (3) One member to represent the City Administration.

Members shall be appointed for one-year terms beginning with January 1, 1990. Panel members may also be members of the Board, and may serve successive terms.

The City Attorney or his designee shall provide legal advice as requested by the Panel or the Board and serve as temporary Chairman of the Panel until the election of a Chairman.

(Ord. No. 90-4.2, 4-3-90; Ord. No. 99-12.04, 12-7-99)

Sec. 32-58. - Optional allowances.

- (a) Until the first payment on account of his retirement allowance becomes normally due, any member may elect to convert the retirement allowance otherwise payable to him into a modified retirement

allowance in accordance with one of the optional forms named below. However, if no option is elected, the member will be assumed to have automatically retired under Option 1.

- (1) *Option 1:* An unreduced retirement allowance payable during the life of the retired member. If he dies before he has received in payments of his annuity the amount of his accumulated contributions at the time of his retirement, the balance of such amount shall be paid to such person, if any, as he shall have nominated by written designation (duly acknowledged and filed with the Board), if such person survives him, otherwise to the estate of such retired member.
 - (2) *Option 2:* A reduced retirement allowance of equivalent actuarial value to Option 1 payable during the life of the retired member, with the provision that upon his death his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall have nominated by written designation (duly acknowledged and filed with the Board).
 - (3) *Option 3:* A reduced retirement allowance of equivalent actuarial value to Option 1 payable during the life of the retired member, with the provision that upon his death one-half of his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall have nominated by written designation (duly acknowledged and filed with the Board).
 - (4) *Option 4:* A reduced retirement allowance of equivalent actuarial value to Option 1 payable during the life of the retired member, with the provision that upon his death some other benefit shall be payable to such person as he shall have nominated by written designation (duly acknowledged and filed with the Board); provided that the total value of the allowance during his life and the succeeding benefit shall be computed to be of equivalent actuarial value to the retirement allowance which he would receive without optional modification and provided that the benefit shall be approved by the Board.
 - (5) *Option 5:* A retirement allowance of equivalent actuarial value to Option 1 payable during the life of the retired member, with greater monthly installments paid prior to age sixty-five (65) and a reduced monthly installment payable thereafter, such that the combined monthly benefit from the system and from primary Social Security benefits shall be calculated to be substantially level.
 - (6) *Lump sum payments:* Notwithstanding any other provisions of the system, if the actuarial equivalent of a service retirement allowance, early service retirement allowance, disability retirement allowance, or death benefit is ten thousand dollars (\$10,000.00) or less at the time benefits are to commence, such actuarial equivalent shall be offered to such member or such member's beneficiary as determined under subsection 32-59(c), as the case may be, as soon as practicable following such member's date of retirement or death. For purposes of this subsection, the term "actuarial equivalent" shall be calculated in accordance with the actuarial equivalent assumptions as outline in section 32-2.
- (b) Notwithstanding anything contained herein, in no event shall payments under any optional method extend beyond the later of the lifetime of the member, the lifetime of the member and the member's beneficiary, the life expectancy of the member or the joint life expectancies of the member and his beneficiary. Unless payments are to continue to a surviving spouse under a nondecreasing survivor annuity the method of distribution selected must assure that at least fifty (50) percent of the present value of the accrued benefit is paid within the life expectancy of the member.
- (c) If any of the following should occur (i) the member's original beneficiary has died, (ii) the member obtains a final decree of divorce from the member's original beneficiary and such order has been entered by the appropriate court of law, or (iii) the member has obtained the written consent of the member's original beneficiary, together with evidence, satisfactory to the Board, of the good health of the member's original contingent beneficiary; then a retired member who has elected a retirement allowance under Option 2, 3, or 4 of paragraph (a) of this code section may for one (1) time only, in the manner prescribed by the Board, revoke such election and elect one (1) of the two (2) following options:

- (1) Elect to receive from time of notification the retirement allowance to which he would have been entitled had no option been elected initially.
- (2) Elect an allowance actuarially equivalent thereto under Option 2, 3, or 4 of paragraph (a) of this code section naming a different beneficiary.

If the provisions of this subsection are invoked by a retired member on the basis of the member having been divorced from his spouse, if his spouse is his beneficiary, and the marriage had been of a duration of twenty (20) years or more, the provisions of this subsection shall not be applicable until the death or remarriage of the former spouse unless such spouse consents in writing to the revocation of the option prior to death or marriage.

If such an election is made as result of the death or divorce of the member's beneficiary, the benefit payable to the retired member may be adjusted retroactively for a period of not more than sixty (60) days from the date the Board first receives notification of the desire of the retired member to make such a change, but in no event prior to the adoption of this subsection.

(Code 1962, § 8.2-15; Ord. No. 87.6-27, § 2, 6-25-87; Ord. No. 89-3.12, § 3, 3-7-89; Ord. No. 97-12.15, 12-2-97; Ord. No. 99-12.04, 12-7-99; Ord. No. 2001-08.05, 8-7-01; Ord. No. 2005-02.04, 2-1-05)

Sec. 32-59. - Return of contributions and death benefits.

- (a) Should a member cease to be an employee for any reason other than death or retirement under the provisions of this chapter, he shall be paid, upon request, the sum of his contributions at the time he ceased to be an employee, together with such interest thereon as the Board shall allow, but not less than one-half of the regular interest credited thereon. Payment shall be made no earlier than the end of the next month following termination of employment.
- (b) Should a member die at any time before retirement, and if no benefits are payable under subsection (d) of this section, the amount of his accumulated contributions, reduced by the amount of any retirement allowance previously received by him under this chapter, shall be paid to such person, if any, as he has nominated by written designation made on a form prepared by the Board, signed and acknowledged by such member before some person authorized to take acknowledgments and filed with the Board, otherwise to his executors or administrators. Any such designation may be changed by the member by the written designation of such other person, signed, acknowledged, and filed as aforesaid.

In the event no designation has been made, then such proceeds shall be paid to the person or persons surviving at the death of the member in the following order of precedence:

First, to the widow or widower of such member;

Second, if none of the above, to the child or children of such member and descendants of deceased children, per stirpes;

Third, if none of the above, to the parents of such member or the survivor of them;

Fourth, if none of the above, to the duly appointed executor or administrator of the estate of such member;

Fifth, if none of the above, to other next of kin of such member entitled under the laws of the domicile of such member at the time of his death.

- (c) Should a member in service die at any time before retirement, there shall be paid a retirement allowance to the person nominated in subsection (c) if such person is the (i) wife, (ii) husband, (iii) minor child, (iv) mother, or (v) father of the member; however, a member hired after adoption of this section must have five (5) or more years of creditable service in order to have death benefits paid under the subparagraph (d). Such retirement allowance shall be paid to the first person qualifying in the preceding order of precedence; however, if more than one (1) minor child survives the deceased

member, the allowance shall be divided among them in such manner as the Board may determine. Such retirement allowance shall be continued during the lifetime of such person or in the case of a minor child until such time as the child dies or attains age eighteen (18), whichever shall first occur, and shall be, (1) in the case of a member who dies prior to attaining his fifty-fifth (55th) birthday, an allowance equal to one-half of the retirement allowance that would have been payable to the member had the member retired on the date prior to his death after having elected to have his allowance payable under a joint and one-half survivor option described in Option 3 of section 32-58 so that one-half thereof would be continued after his death to such person, and in the case of a member who had not attained his fifty-fifth (55th) birthday at his date of death, it shall be assumed that the member's age at his date of death is fifty-five (55) for the purpose of reducing the benefit on an actuarial equivalent basis; or (2) in the case of a member who dies after attaining his fifty-fifth (55th) birthday, an allowance equal to the decreased retirement allowance that would have been payable to the member had the member retired on the date prior to his death after having elected to have his allowance payable under a joint and one hundred (100) percent survivor option described in Option 2 of section 32-58 so that the same amount would be continued after his death to such person. Provided that in the determination of the allowance that would have been payable to the member had the member retired on the date of his death, the amount of the member's accumulated contributions, reduced by the amount of any retirement allowance previously received by him under this chapter, shall be paid to such person exclusively in lieu of any other benefits under this section, if such person so elects in writing under seal and duly acknowledged.

(Code 1962, § 8.2-12; Ord. No. 83-12.2, § 2, 12-6-83; Ord. No. 89-6.18, 6-6-89; Ord. No. 99-12.04, 12-7-99)

Sec. 32-60. - Restoration of beneficiaries to membership.

- (a) Should a disability beneficiary under normal service retirement age be restored to or be in service at a compensation equal to or greater than his average final compensation at retirement, or should any other beneficiary be restored to service, his retirement allowance shall cease, he shall again become a member of the system, and he shall contribute thereafter at the same rate he paid prior to his retirement. An amount equal to the actuarial reserve held for the annuity provided by his own contributions shall be credited to him as accumulated contributions.
- (b) If a former member who is entitled to a vested retirement allowance, commencing after he attains his normal service retirement age, returns to service as an employee of the City before such allowance has become payable, he shall again become a member of the system upon his return. He shall contribute thereafter at the rate determined as of the time he returned, and his retirement allowance payable on subsequent retirement shall be computed in accordance with the provisions of this chapter in effect at such time on the basis of service standing to his credit at the time of his termination and service credited to him after his return.
- (c) If a former member who is entitled to and who is receiving a vested retirement allowance from the retirement system returns to service with the City, then either such member can be employed as a part-time or temporary employee as defined within the City's Personnel System or such former member must again become a member of the system and no longer receive a retirement allowance upon his return to full-time employment with the City.
- (d) Nothing in this section shall require member contributions or City contributions or the accrual of additional benefits which would not be required for a currently active member of the same age, length of creditable service, and employee classification who has never had an interruption in his service.
- (e) Members are eligible to make a one-time purchase of all or part of certain service credits. Members who gain service credits increase the amount of future retirement benefits.

Members must purchase service while they are actively employed in a covered position or within ninety (90) days of termination. Military leave must be purchased while the member is actively employed in a covered position.

Members on leave without pay are not eligible to purchase any service credit.

Disability applicants who have been denied disability benefits are allowed the later of ninety (90) days from termination or ninety (90) days from the date of final denial to purchase service if service retirement is taken.

- (1) With at least five (5) years of service in the retirement system, a member may make a one-time purchase of certain past service credits, provided that this service will not be used in calculation of retirement benefits under any other pension plan.

Under the conditions stated above, a member may purchase any retirement allowance service under this retirement system that was forfeited as a result of a member's receiving a distribution of his or her contributions following termination of service. Such member may purchase service at a fifteen (15) percent rate for general employees and twenty (20) percent for police and firemen, provided they have a minimum of five (5) years of credited service at the time of purchase. Purchase of this service will not change the member's retirement reduction factor; that is, this service cannot be used to satisfy the thirty-year service requirement for full benefits before normal retirement age; nor can it be doubled in determining service to be used in computing the amount of disability retirement benefits.

- (2) The cost to purchase service credit will be fifteen (15) percent for general employees and twenty (20) percent for police and firemen multiplied by the higher of a, b and c below, multiplied by each year of credited service to be purchased.
 - a. Current salary;
 - b. Salary as of the last date in service (if the member is within ninety (90) days of termination);
 - c. The average annual creditable compensation during the thirty-six (36) highest months of creditable service.
 - (3) Any service credit purchased must be paid either in one (1) lump sum or by payroll deduction as provided in section 32-60(e)(4). Lump sum payments may be made by submitting a check to the retirement system for the entire amount of service credit that the member wishes to purchase.
 - (4) A member may purchase past service credits by payroll deduction upon written request to the Secretary. The cost to purchase service credit, as provided by section 32-60(e)(2), shall be withheld by payroll deduction (fifteen (15) percent of salary for general employees and twenty (20) percent of salary for police and firemen). The member will receive service credit equal to a period of time he purchases service credit by payroll deduction. A member can discontinue the purchase of service credit at anytime with written notice to the Secretary. Once such payroll deduction has been discontinued, the member will be ineligible to again purchase service credit.
 - (5) A member who repurchases credited service under this subsection shall not have his or her Annuity Savings Account A or B reestablished.
- (f) If there is a portability agreement between the Board of Trustees of the System and the VRS or another political subdivision of the Commonwealth having a defined benefit plan which is not supplemental to the VRS, as authorized by section 32-10 of this Code, then any member in active service on the date the portability agreement is entered into may purchase any credited service in such other retirement system, that is not credited to the member in this system, upon the transfer of assets as provided in the portability agreement. For each year of nontransferred time, the member shall pay fifteen (15) percent of salary for general employees and twenty (20) percent of salary for police and firemen.

(Code 1962, § 8.2-14; Ord. No. 91-11.8, 11-7-91; Ord. No. 99-12.04, 12-7-99; Ord. No. 2002-06.09, 6-18-02)

Sec. 32-61. - Off-set of workmen's compensation benefits.

Any amounts which may be paid or payable under the provisions of any workmen's compensation or similar law to any member or beneficiary, or to the dependents of any member or beneficiary, on account of any disability including but not limited to cost of living increases paid under the provisions of any workmen's compensation or similar law shall, in such manner as the Board shall determine, be offset against, and payable in lieu of, any benefits payable out of funds provided by the City under the provisions of this chapter on account of the same disability.

(Code 1962, § 8.2-16; Ord. No. 99-05.14, 5-18-99)

Sec. 32-62. - Unused sick leave for Constitutional Officers and their employees.

- (a) At retirement, the amount of unused sick leave accumulated as of the retirement date may be paid to Constitutional Officers and employees for their unused sick leave.
- (b) At retirement, if the Constitutional Officer or employee elects to be paid for unused sick leave it shall be at the rate of one dollar and fifty cents (\$1.50) per hour with a maximum of nine hundred and sixty (960) hours.

(Ord. No. 2008-09.13, 9-16-08; Ord. No. 2010-06.08, 6-1-10)

Sec. 32-63. - Vested retirement allowance.

- (a) Anything in this chapter to the contrary notwithstanding, a member whose service is terminated, for reasons other than death or retirement, after he has completed five (5) or more years of creditable service, may elect to receive a vested retirement allowance in lieu of the return of his contributions. The vested retirement allowance shall be a deferred allowance commencing at his normal retirement age, or, **for general employees at age fifty-five (55) provided the member has thirty (30) or more creditable years of service, for policeman and fireman that retired from active service or left the City as a vested member of the System on or before August 31, 2018, at age fifty-five (55) provided the member has thirty (30) or more creditable years of service, and, for policeman and fireman that retire from active status or left the City as a vested member of the System on or after September 1, 2018, at age fifty (50) provided the member has twenty-five (25) or more creditable years of service.** Reduced benefits may be requested by vested **policeman and fireman** members who have less than **twenty-five (25)** ~~thirty (30)~~ years service **and retire from active status or leave the City as a vested member of the System on or after September 1, 2018, vested policeman and fireman members who have less than thirty (30) years service and retire from active status or leave the City as a vested member of the System on or before August 31, 2018, and vested general employee members who have less than thirty (30) years service** in accordance with the provisions in section 32-55, reduced for the number of years the member's age is less than sixty (60) as provided in section 32-55(a)(1) or sixty-five (65) as provided in section 32-55(b)(1), whichever is appropriate. Sections 32-55(a)(2) and 32-55(b)(2) shall not apply to members whose service is terminated for reasons other than death or retirement. The vested retirement allowance (before reduction) shall consist of:
 - (1) An annuity which shall be the actuarial equivalent of the member's accumulated contributions at his normal service retirement age; and,
 - (2) A pension which, when added to the annuity provided by the member's accumulated contributions, shall provide a retirement allowance equal to an amount computed, pursuant to

section 32-54 as a service retirement allowance on the basis of his average final compensation and creditable service at the date his employment terminated.

- (b) Should a member who has elected a vested retirement allowance request the return of his contributions or die prior to the date when the first payment of his retirement allowance is normally due to become payable, the amount of his contributions shall be returned in accordance with the provisions of section 32-59 and no further benefit shall be due or become payable on account of his previous membership.

(Code 1962, § 8.2-18; Ord. No. 82-11.3, 11-9-82; Ord. No. 87-6.27, § 2, 6-25-87; Ord. No. 99-12.04, 12-7-99)

Sec. 32-64. - Special adjustments in allowances.

- (a) Any retirement allowance payable as a result of retirement or termination of service after December 31, 1968, shall be adjusted in accordance with this section.
- (b) The retirement allowance of any general employee who did not elect, pursuant to section 32-28, to reduce his contributions with respect to the first four thousand two hundred dollars (\$4,200.00) of each year's salary when first eligible to do so shall be increased by the actuarial equivalent of the amount by which his accumulated contributions at retirement exceed the accumulated contributions he would have had if he had made such election.
- (c) The pension of any policeman or fireman in service on January 1, 1957, who did not elect to increase his contributions to the system from that date in accordance with section 32-28 shall be reduced by the actuarial equivalent of the amount by which his accumulated contributions at retirement would have been increased as a result of such election.
- (d) The retirement allowance of any member who became a member on or prior to January 1, 1966, shall be increased by the actuarial equivalent of the contributions made by him during his first year of membership, together with regular interest thereon.
- (e) Any additional contributions deposited by a member in the annuity savings account pursuant to section 32-28, as in effect prior to January 1, 1969, shall not be considered in the computation of any pension under this section.

(Code 1962, § 8.2-19; Ord. No. 99-12.04, 12-7-99)

Sec. 32-65. - Adjustment of benefits to correct errors.

Should any change or error in the records result in any member or beneficiary receiving from the system more or less than he would have been entitled to receive had the records been correct, the Board shall have the power to correct such error, and as far as practicable, to adjust the payments in such a manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid.

(Code 1962, § 8.2-33)

Sec. 32-66. - Benefits upon termination of plan.

Should the retirement plan be terminated, or contributions to the plan be completely discontinued, the rights of each member to benefits accrued to the date of such termination or discontinuance, to the extent then funded, or the rights of each member to the amounts credited to his account at such time, are nonforfeitable.

(Code 1962, § 8.2-34)

Sec. 32-67. - Increase in benefits as of January 1, 1973.

The retirement allowance payable to each beneficiary in receipt of such allowance on January 1, 1973, and the retirement allowance payable after December 31, 1972, to any former member of the system who will be eligible to receive such allowance after he attains his normal service retirement age, shall be increased to the amount which is actuarially equivalent to the retirement allowance provided under Option 1 of section 32-58.

(Code 1962, § 8.2-20)

Sec. 32-68. - Increase in benefits as of January 1, 1974.

The retirement allowance payable to each beneficiary in receipt of such allowance on January 1, 1974 shall be increased, such increase to begin on October 1, 1974. The monthly retirement allowance increase shall equal two (2) percent of the monthly retirement allowance in effect without regard to section 32-67, multiplied by the number of years that the beneficiary was in receipt of a pension prior to January 1, 1974. For the purpose of determining the number of years in the preceding sentence, a partial year shall be counted as a full year.

(Code 1962, § 8.2-20.1)

Sec. 32-69. - Increase in benefits as of July 1, 1977.

The retirement allowance payable to each beneficiary in receipt of such allowance on July 1, 1977, shall be increased, such increase to begin on July 1, 1977. The monthly retirement allowance increase shall equal two (2) percent of the monthly retirement allowance in effect immediately prior to July 1, 1977.

(Code 1962, § 8.2-20.2)

Sec. 32-70. - Increase in benefits as of January 1, 1978.

The retirement allowance payable to each beneficiary in receipt of such allowance on January 1, 1978, shall be increased, such increase to begin on November 1, 1978. The amount of the increase shall be based upon the amount of the monthly retirement allowance in effect immediately prior to November 1, 1978, and shall be equal to the following percentage of such allowance, based upon the calendar year during which the member's first monthly allowance was due to be paid:

Calendar Year of Retirement	Increase in Benefit
1977	0%
1976	4%
1975	10%

1974	16%
1973	22%
1972	26%
1971	30%
1970	34%
1969	36%
1968	38%
1967	40%
1966	42%
1965	44%
1964	46%
1963	48%
1962	50%
1961	52%
1960	54%
1959	56%
1958	58%
1947	60%
1956	62%
1955	64%

1954	66%
1953	68%
1952	70%
1951	72%
1950	74%
1949	76%
1948	78%
1947	80%
1946 or earlier	82%

(Code 1962, § 8.2-20.3)

Sec. 32-71. - Increase in benefits as of January 1, 1981.

The retirement allowance payable to each beneficiary in receipt of such allowance on January 1, 1981, shall be increased, such increase to begin on July 1, 1981, and shall be equal to the following percentage of such allowance, based upon the calendar year during which the member's first monthly allowance was due to be paid:

Calendar Year of Retirement	Increase in Benefit
1980	0%
1979	5%
1978	10%
1977 or earlier	15%

(Code 1962, § 8.2-20.4)

Sec. 32-72. - Increase in benefits as of July 1, 1984.

Effective July 1, 1984, monthly retirement allowances are increased by the following percentages, based upon the amount of the beneficiary's monthly retirement allowance immediately prior thereto and the calendar year during which the member's first monthly retirement allowance was due to be paid:

Calendar Year of Retirement	Increase in Benefit
1980 or earlier	9%
1981	6%
1982	3%
1983—1984	0%

(Ord. No. 84-6.13, 6-5-84)

Sec. 32-73. - Increase in benefits as of July 1, 1987.

Effective July 1, 1987, monthly retirement allowances are increased by the following percentages, based upon the amount of the beneficiary's monthly retirement allowance immediately prior thereto and the fiscal year during which the member's first monthly retirement allowance was due to be paid:

Fiscal Year of Retirement	Increase in Benefit
6/30/84 or earlier	9%
7/1/84—6/30/85	6%
7/1/85—6/30/86	3%
7/1/86 and thereafter	0%

(Ord. No. 87-6.27, § 3, 6-25-87)

Sec. 32-73.1. - Increase in benefits of beneficiaries as of July 1, 1989.

Effective July 1, 1989, monthly retirement allowances are increased by the following percentages, based upon the amount of the beneficiary's monthly retirement allowance immediately prior thereto and the fiscal year during which the member's first monthly retirement allowance was due to be paid:

Fiscal Year of Retirement	Increase in Benefit
June 30, 1987 or earlier	7.5%
July 1, 1987—June 30, 1988	3.75%
July 1, 1988 and thereafter	0%

(Ord. No. 89-6.18, 6-6-89)

Sec. 32.73.2. - Increase in benefits of beneficiaries as of July 1, 1990.

Effective July 1, 1990 monthly retirement allowances are increased by the following percentages, based upon the amount of the beneficiary's monthly retirement allowance immediately prior thereto and the fiscal year during which the member's first monthly retirement allowance was due to be paid:

Fiscal Year of Retirement	Increase in Benefit
June 30, 1990 or earlier	3%
July 1, 1990 and thereafter	0%

(Ord. No. 90-6.4, 6-5-90)

Sec. 32-73.3. - Increase in benefits of beneficiaries as of January 1, 1993.

Effective January 1, 1993, monthly retirement allowances are increased by the following percentages, based upon the amount of the beneficiary's monthly retirement allowance immediately prior thereto and the year during which the member's first monthly retirement allowance was due to be paid:

Date of Retirement	Increase in Benefit
--------------------	---------------------

December 31, 1991 or earlier	3%
January 1, 1992 and thereafter	0%

(Ord. No. 93-2.2, 2-2-93)

Sec. 32-73.4. - Increase in benefits of beneficiaries as of July 1, 1994.

Effective July 1, 1994, monthly retirement allowances are increased by the following percentages, based upon the amount of the beneficiary's monthly retirement allowance immediately prior thereto and the year during which the member's first monthly retirement allowance was due to be paid:

Date of Retirement	Increase in Benefit
June 30, 1992 or earlier	5.0%
June 30, 1993	2.5%
June 30, 1994 and thereafter	0%

(Ord. No. 94-11.8, 11-1-94)

Sec. 32-73.5. - Increase in benefits of beneficiaries as of July 1, 1996.

Effective July 1, 1996, monthly retirement allowances are increased by the following percentages, based upon the amount of the beneficiary's monthly retirement allowance immediately prior thereto and the year during which the member's first monthly retirement allowance was due to be paid:

Fiscal Year of Retirement	Increase in Benefit
June 30, 1994 or earlier	5.0%
June 30, 1995	2.5%
June 30, 1996 and thereafter	0%

(Ord. No. 96-6.2, 6-4-96)

Sec. 32-73.6. - Increase in benefits of beneficiaries as of July 1, 1998.

Effective July 1, 1998, monthly retirement allowances are increased by the following percentages, based upon the amount of the beneficiary's monthly retirement allowance immediately prior thereto and the year during which the member's first monthly retirement allowance was due to be paid:

Fiscal Year of Retirement	Increase in Benefit
June 30, 1996 or earlier	5.2%
June 30, 1997	2.3%
June 30, 1998	0%

(Ord. No. 98-10.02, 10-8-98)

Sec. 32-73.7. - Increase in benefits of beneficiaries as of July 1, 1999.

Effective July 1, 1999, monthly retirement allowances are increased by the following percentages, based upon the amount of the beneficiary's monthly retirement allowance immediately prior thereto and the year during which the member's first monthly retirement allowance was due to be paid:

Fiscal Year of Retirement	Increase in Benefit
June 30, 1998 or earlier	1.6%

(Ord. No. 99-06.09, 6-1-99)

Sec. 32-73.8. - Increase in benefits of beneficiaries as of July 1, 2000.

Effective July 1, 2000, monthly retirement allowances are increased by the following percentages, based upon the amount of the beneficiary's monthly allowance immediately prior thereto and the year during which the member's first monthly retirement allowance was due to be paid:

Fiscal Year of Retirement	Increase in Benefit
June 30, 1999 or earlier	2.2%

(Ord. No. 00-05.11, 5-16-00)

Sec. 32-73.9. - Increase in benefits of beneficiaries as of July 1, 2001.

Effective July 1, 2001 monthly retirement allowances are increased by the following percentages, based upon the amount of the beneficiary's monthly allowance immediately prior thereto and the year during which the member's first monthly retirement allowance was due to be paid:

Fiscal Year of Retirement	Increase in Benefit
June 30, 2000 or earlier	3.2%

(Ord. No. 2001-06.01, 6-5-01)

Sec. 32-73.10. - Increase in benefits of beneficiaries as of July 1, 2003.

Effective July 1, 2003 monthly retirement allowances for members who retired prior to July 1, 2002 are increased by three (3) percent, based on the beneficiary's monthly allowance immediately prior to the effective date.

(Ord. No. 2003-06.04, 6-3-03)

Sec. 32-73.11 - Increase in benefits of beneficiaries as of July 1, 2004.

Effective July 1, 2004 monthly retirement allowances are increased by the following percentages, based upon the amount of the beneficiary's monthly allowance immediately prior thereto and the year during which the member's first monthly retirement allowance was due to be paid:

Fiscal Year of Retirement	Increase in Benefit
June 30, 2003 or earlier	3.0%

(Ord. No. 2004-06.06, 6-1-04)

Sec. 32-73.12. - Increase in benefits of beneficiaries as of July 1, 2006.

Effective July 1, 2006 monthly retirement allowances are increased by the following percentages, based upon the amount of the beneficiary's monthly allowance immediately prior thereto and the year during which the member's first monthly retirement allowance was due to be paid:

Fiscal Year of Retirement	Increase in Benefit
---------------------------	---------------------

June 30, 2005 or earlier	3.0%
--------------------------	------

(Ord. No. 2006-06.02, 6-6-06)

Sec. 32-73.13 - Increase in benefits of beneficiaries as of July 1, 2007.

Effective July 1, 2007 monthly retirement allowances are increased by the following percentages, based upon the amount of the beneficiary's monthly allowance immediately prior thereto and the year during which the member's first monthly retirement allowance was due to be paid:

Fiscal Year of Retirement	Increase in Benefit
June 30, 2006 or earlier	3.0%

(Ord. No. 2007-06.07, 6-19-07)

Sec. 32-73.14. - Increase in benefits of beneficiaries as of July 1, 2008.

Effective July 1, 2008 monthly retirement allowances are increased by the following percentages, based upon the amount of the beneficiary's monthly allowance immediately prior thereto and the year during which the member's first monthly retirement allowance was due to be paid:

Fiscal Year of Retirement	Increase in Benefit
June 30, 2007 or earlier	3%

(Ord. No. 2008-06.12, 6-17-08)

Sec. 32-74. - Limitations on annual benefits and contributions under the system.

- (a) This section applies regardless of whether any member is or has ever been a participant in another qualified plan maintained by the City.
 - (1) The annual benefit otherwise payable to a member at any time will not exceed the maximum permissible benefit. If the benefit the member would otherwise accrue in a limitation year would produce an annual benefit in excess of the maximum permissible benefit, the benefit must be limited (or the rate of accrual reduced) to a benefit that does not exceed the maximum permissible benefit.
 - (2) If a member has made qualified voluntary member contributions, under the terms of this retirement system, the amount of such contributions is treated as an annual addition to a

qualified defined contribution plan, for purposes of sections 32-74(a)(1) and 32-74(b)(2) of this article.

- (b) This section applies if any member is also a member, or has ever participated, in another plan maintained by the City, including a qualified plan, a welfare benefit fund maintained by the City (as defined in Section 419(e) of the Internal Revenue Code) under which amounts attributable to post-retirement medical benefits are allocated to separate accounts of key employees (as defined in Section 419(a)(d)(3) of the Internal Revenue Code), an individual medical account (as defined in Section 415(1)(2) of the Internal Revenue Code), or a simplified employee pension, that provides an annual addition as described in section 32-74(d)(1).
- (1) If a member is, or has ever been, a member in more than one (1) defined benefit plan maintained by the City, the sum of the member's annual benefits from all such plans may not exceed the maximum permissible benefit. Where the member's city-provided benefits under all defined benefit plans ever maintained by the City (determined as of the same age) would exceed the maximum permissible benefit applicable at that age, the City will limit the member's benefit accrual in accordance with section 32-74(d)(9).
- (2) If the City maintains, or ever maintained, one (1) or more qualified defined contribution plans in which any member in this retirement system participated, including a welfare benefit fund maintained by the City (as defined in Section 419(e) of the Internal Revenue Code) under which amounts attributable to post-retirement medical benefits are allocated to separate accounts of key employees (as defined in Section 419(A)(d)(3) of the Internal Revenue Code), an individual medical benefit account (as defined in Section 415(1)(2) of the Internal Revenue Code), or a simplified employee pension, the sum of the member's defined contribution retirement system fraction and defined benefit retirement system fraction will not exceed 1.0 for any limitation year and, where the sum exceeds 1.0 for a member for a limitation year, the annual benefit otherwise payable to the member under this retirement system will be limited in accordance with section 32-74(d)(9). Notwithstanding the foregoing, this section 32-74(b)(2) shall not apply in any limitation year beginning on or after January 1, 2000, to members who complete an hour of service on or after such date.
- (c) In the case of an individual who was a member in one (1) or more defined benefit plans of the City as of the first day of the first limitation year beginning after December 31, 1986, the application of the limitations of this article XIV shall not cause the maximum permissible benefit for such individual under all such defined benefit plans to be less than the individual's TRA '86 accrued benefit. The preceding sentence applies only if such defined benefit plans met the requirements of Section 415 of the Internal Revenue Code for all limitation years beginning before January 1, 1987.
- (d) Definitions.
- (1) "Annual additions" mean the sum of the following amounts credited to a member's account for the limitation year:
- City contributions;
 - Member contributions; and
 - Forfeitures.
- Provided, however, "annual additions" shall not include employee contributions to a simplified employee pension; but shall include amounts allocated after March 31, 1984, to an individual medical account that is part of a pension or annuity plan maintained by the City, and amounts derived from contributions paid or accrued after December 31, 1985, in taxable years ending after such date, that are attributable to post-retirement medical benefits allocated to the separate account of a key employee (as defined in Section 419(A)(d)(3) of the Internal Revenue Code) under a welfare benefit fund.
- (2) "Annual benefit" means a benefit that is payable annually in the form of a straight life annuity. Except as provided below, if a benefit is payable in a form other than a straight life annuity, the benefit must be adjusted to an actuarially equivalent straight life annuity before applying the

limitations of this section 32-74. Effective for limitation years beginning on or after January 1, 1995, where a member's benefit must be adjusted to an actuarially equivalent straight life annuity, the actuarially equivalent straight life annuity is equal to the greater of the annuity benefit computed using the interest rate specified in section 32-2 of the retirement system and the mortality table (or other tabular factor) specified in section 32-2 of the retirement system, and the annuity benefit computed using a five (5) percent interest rate assumption and the applicable mortality table prescribed by the Secretary of the Treasury or his delegate in accordance with Internal Revenue Code Section 415(b)(2)(E)(v).

Notwithstanding the foregoing, no actuarial adjustment to the benefit is required for (i) the value of a qualified joint and survivor annuity, (ii) benefits that are not directly related to retirement benefits (such as a qualified disability benefit, pre-retirement death benefits, and post-retirement medical benefits), and (iii) the value of post-retirement cost-of-living increases made in accordance with Section 415(d) of the Internal Revenue Code and Section 1.415-3(c)(2)(iii) of the Income Tax Regulations. The annual benefit does not include any benefits attributable to member contributions or rollover contributions, or the assets transferred from a qualified plan that was not maintained by the City.

- (3) "Compensation" means a member's earned income, wages, salaries, and fees for professional services, and other amounts received (without regard to whether or not an amount is paid in cash) for personal services actually rendered in the course of employment with the City to the extent that the amounts are includible in gross income (including, but not limited to, commission paid salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips and bonuses, fringe benefits, and reimbursements, or other expense allowances under a nonaccountable plan (as described in Section 1.62-2(c) of the Internal Revenue Service Regulations), and excluding the following:
- a. City contributions to a plan of deferred compensation which are not includible in the member's gross income for the taxable year in which contributed or City contributions under a simplified employee pension plan, or any distributions from a plan of deferred compensation;
 - b. Amounts realized from the exercise of a nonqualified stock option, or when restricted stock (or property) held by the member either becomes freely transferable or is no longer subject to a substantial risk of forfeiture;
 - c. Amounts realized from the sale, exchange or other disposition of stock acquired under a qualified stock option; and
 - d. Other amounts which received special tax benefits, or contributions made by the City (whether or not under a salary reduction agreement) towards the purchase of an annuity described in Section 403(b) of the Internal Revenue Code (whether or not the contributions are actually excludable from the gross income of the member).

For any self-employed individual, compensation will mean earned income. Compensation for any limitation year is the compensation actually paid or made available during such limitation year.

- (4) "Defined benefit dollar limitation" means ninety thousand dollars (\$90,000.00), automatically adjusted, effective January 1 of each year, under Section 415(d) of the Internal Revenue Code in such manner as the Secretary shall prescribe, and payable in the form of a straight life annuity. The new limitation will apply to limitation years ending with or within the calendar year of the date of the adjustment. Effective with the first day of the limitation year following December 31, 2001, the "defined benefit dollar limitation" means one hundred sixty thousand dollars (\$160,000.00), as adjusted, effective January 1 of each year, under Section 415(d) of the Internal Revenue Code in such manner as the Secretary shall prescribe, and payable in the form of a straight life annuity. A limitation as adjusted under Section 415(d) will apply to limitation years ending with or within the calendar year for which the adjustment applies. Benefit increases resulting from the increase in the limitations of Section 415(b) of the Internal Revenue

Code shall be provided to all members in the system who have one (1) hour of service on or after the first day of the first limitation year ending after December 31, 2001. Benefit increases resulting from the increase in the limitations of Section 415(b) of the Internal Revenue Code will be provided to all members.

- (5) "Defined benefit retirement system fraction" means a fraction, the numerator of which is the sum of the member's projected annual benefits under all the defined benefit plans (whether or not terminated) maintained by the City, and the denominator of which is one hundred twenty-five (125) percent of the defined benefit dollar limitation applicable to the member, adjusted as necessary in accordance with section 32-74(d)(6) below.

Notwithstanding the above, if the member was a member as of the first day of the first limitation year beginning after December 31, 1986, in one (1) or more defined benefit plans maintained by the City that were in existence on May 6, 1986, the denominator of this fraction will not be less than 125 percent of the sum of the annual benefits under such plans that the member had accrued as of the close of the last limitation year beginning before January 1, 1987, disregarding any changes in the terms and conditions of the plans after May 5, 1986. The preceding sentence applies only if the defined benefit plans individually and in the aggregate satisfied the requirements of Section 415 of the Internal Revenue Code for all limitation years beginning before January 1, 1987.

- (6) "Defined contribution retirement system fraction" means a fraction, the numerator of which is the sum of the annual additions to the member's account under all the defined contribution plans (whether or not terminated) maintained by the City for the current and all prior limitation years, and the denominator of which is the sum of the maximum aggregate amounts for the current and all prior limitation years of the member's service with the City (regardless of whether a defined contribution plan was maintained by the City). The maximum aggregate amount for any limitation year is the lessor of (i) one hundred twenty-five (125) percent of the defined contribution dollar limitation in effect pursuant to Code Section 415(c)(1)(A), or (ii) thirty-five (35) percent (1.4×25 percent) of the member's compensation for such year.

The annual addition for any limitation year beginning before January 1, 1987, shall not be recomputed to treat all member contributions as annual additions.

If the member was a member as of the first day of the first limitation year beginning after December 31, 1986, in one or more defined contribution plans maintained by the City that were in existence on May 6, 1986, the numerator of this fraction will be adjusted if the sum of this fraction and the defined benefit retirement system fraction would otherwise exceed 1.0 under the terms of this retirement system. Under the adjustment, an amount equal to the product of (i) the excess of the sum of the fractions over 1.0 times (ii) the denominator of this fraction, will be permanently subtracted from the numerator of this fraction. The adjustment is calculated using the fractions as they would be computed as of the end of the last limitation year beginning before January 1, 1987, and disregarding any changes in the terms and conditions of the plans made after May 5, 1986, but using the Internal Revenue Code Section 415 limitation applicable to the first limitation year beginning on or after January 1, 1987.

- (7) "City" for purposes of this section 32-74 means the employer that adopts this retirement system, and all members of a controlled group of corporations (as defined in Section 414(b) of the Internal Revenue Code, as modified by Section 415(h) of the Code), all commonly controlled trades or businesses (as defined in Section 414(c) of the Internal Revenue Code as modified by Section 415(h) of the Code), and affiliated service groups (as defined in Section 414(m) of the Internal Revenue Code) of which the adopting employer is a part, and any other entity required to be aggregated with the employer pursuant to Section 414(o) of the Internal Revenue Code.
- (8) "Limitation year" means the calendar year. All qualified plans maintained by the City must use the same limitation year. If the limitation year is amended to a different twelve-consecutive

month period, the new limitation year must begin on a date within the limitation year in which the amendment is made.

(9) "Maximum permissible benefit" means the defined benefit dollar limitation (adjusted where required, as provided below).

- a. If the member has less than ten (10) years of participation in the retirement system, the defined benefit dollar limitation shall be multiplied by a fraction — (A) the numerator of which is the number of years (or part thereof) of participation in the retirement system, and (B) the denominator of which is ten (10).

Where a defined benefit retirement system fraction is calculated, the adjustments of this subsection (1) shall be applied in the denominator of the fraction based upon years of service. For purposes of computing the defined benefit retirement system fraction only, years of service shall include future years of service (or part thereof) commencing before the member's normal retirement age. Such future years of service shall include the year that contains the date the member reaches normal retirement age, only if it can be reasonably anticipated that the member will receive a year of service for such year, or the year in which the member terminates employment, if earlier.

- b. If the benefit of a member commences prior to age sixty-two (62), the defined benefit dollar limitation applicable to the member at such earlier age shall be adjusted to be the actuarial equivalent of the defined benefit dollar limitation applicable to the member (adjusted under subsection (1) above, if necessary). Effective for limitation years beginning on or after January 1, 1995, the defined benefit dollar limitation applicable at an age prior to age sixty-five (62) is the actuarial equivalent of the defined benefit dollar limitation, computed using an interest rate not less than the greater of five (5) percent and the rate specified in section 32-2 of the retirement system, and the applicable mortality table as defined in section 32-2 of the retirement system. Any decrease in the defined benefit dollar limitation determined in accordance with this provision shall not reflect a mortality decrement if benefits are not forfeited upon the death of the member. If any benefits are forfeited upon death, the full mortality decrement is taken into account. Notwithstanding the foregoing, the adjustments shall not produce a defined benefit dollar limitation of less than seventy-five thousand dollars (\$75,000.00) for any benefits beginning at or after age fifty-five (55) ***for general employees and policemen and firemen retiring from active status or who leave the City as a vested member of the System on or before August 31, 2018, or age fifty (50) for policemen and firemen retiring from active status or who leave the City as a vested member of the System on or after September 1, 2018;*** or, if the benefit begins before age fifty-five (55) ***for general employees and policemen and firemen retiring from active status or who leave the City as a vested member of the System on or before August 31, 2018, or age fifty (50) for policemen and firemen retiring from active status or who leave the City as a vested member of the System on or after September 1, 2018,*** such adjustment shall not produce a defined benefit dollar limitation of less than the actuarial equivalent of a benefit of seventy-five thousand dollars (\$75,000.00) beginning at age fifty-five (55) ***for general employees and policemen and firemen retiring from active status or who leave the City as a vested member of the System on or before August 31, 2018, or age fifty (50) for policemen and firemen retiring from active status or who leave the City as a vested member of the System on or after September 1, 2018;***
- c. If the benefit of a member commences after age sixty-five (65), the defined benefit dollar limitation applicable to the member at the later age shall be adjusted to be actuarially equivalent to the defined benefit dollar limitation applicable to the member (adjusted under subsection (1) above, if necessary). Effective for limitation years beginning on or after January 1, 1995, the actuarial equivalent of the defined benefit dollar limitation at an age after sixty-five (65) is the actuarial equivalent of the defined benefit dollar limitation, computed using an interest rate not greater than five (5) percent. For these purposes,

mortality between a member's social security retirement age and the age at which benefits commence must be ignored.

- (10) "TRA '86 accrued benefit" means a member's accrued benefit under the retirement system, determined as if the member had separated from service as of the close of the last limitation year beginning before January 1, 1987, when expressed as an annual benefit within the meaning of Section 415(b)(2) of the Internal Revenue Code. In determining the amount of a member's TRA '86 accrued benefit, the following shall be disregarded:
- a. Any change in the terms and conditions of the retirement system after May 5, 1986; and
 - b. Any cost-of-living adjustment occurring after May 5, 1986.
- (11) "Year of participation" means each accrual computation period for which the member shall be credited with a year of participation (computed to fractional parts of a year) when the following conditions are met: (i) the member is credited with at least the number of hours of service for benefit accrual purposes, required under the terms of the retirement system in order to accrue a benefit for the accrual computation period, and (ii) the member is included as a member under the eligibility provisions of the retirement system for at least one (1) day of the accrual computation period. If these two (2) conditions are met, the portion of a year of participation credited to the member shall equal the amount of benefit accrual service credited to the member for such accrual computation period. A member who is permanently and totally disabled within the meaning of Section 415(c)(3)(C)(i) of the Internal Revenue Code for an accrual computation period shall receive a year of participation with respect to that period. In addition, for a member to receive a year of participation (or part thereof) for an accrual computation period, the retirement system must be established no later than the last day of such accrual computation period. In no event will more than one (1) year of participation be credited for any twelve-month period.
- (e) Preservation of accrued benefit under the Tax Equity and Fiscal Responsibility Act of 1982. Notwithstanding the above provisions of this section 32-74, if a member was a member in this retirement system before January 1, 1983, the maximum annual benefit shall not be less than the member's accrued benefit at the close of the 1982 limitation year.

(Ord. No. 87-6.27, § 3, 6-25-87; Ord. No. 88-2.3, 2-2-88; Ord. No. 2002-06.09, 6-18-02)

Sec. 32-75. - Cost-of-living increases.

In order to maintain a well-funded retirement system and sustainable contribution levels from the City, effective July 1, 2013, the retirement system will no longer grant cost-of-living increases to retirees.

(Ord. No. 2012-12.02, 12-4-12)

Sec. 32-76. - Direct rollover elections.

- (a) This article applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the retirement system to the contrary that would otherwise limit a distributee's election under this article, a distributee may elect, at the time and in the manner prescribed by the Retirement System Administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.
- (b) Definitions.
- (1) Eligible rollover distribution: An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one (1) of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancy) of the distributee and the distributee's

designated beneficiary, or for a specified period of ten (10) years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code; and for plan years beginning prior to July 1, 2002 only, the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).

- (2) Eligible retirement plan: An eligible retirement plan is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code, an annuity plan described in Section 403(a) of the Internal Revenue Code, or a qualified trust described in Section 401(a) of the Internal Revenue Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity. Effective as of the first day of the first plan year beginning after December 31, 2001, for purposes of the direct rollover provisions in section 32-76 of the System, an eligible retirement plan shall also mean an annuity contract described in Section 403(b) of the Internal Revenue Code and an eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relation order, as defined in Section 414(p) of the Internal Revenue Code.
- (3) Distributee: A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code; are distributees with regard to the interest of the spouse or former spouse.
- (4) Direct rollover: A direct rollover is a payment by the retirement system to the eligible retirement plan specified by the distributee.
- (5) This retirement system shall not accept direct rollovers.
- (c) Additional direct rollover rules. The following additional rules apply to the retirement system in addition to the model language provided above.
 - (1) A distributee may elect a complete direct rollover with respect to all of the distribution or a partial direct rollover with respect to a portion of the distribution and the remainder will be paid directly to the distributee. The amount of a partial direct rollover must be at least five hundred dollars (\$500.00).
 - (2) A distributee who is entitled to elect a direct rollover with respect to any or any portion of a distribution but who does not make any election shall be deemed to have rejected the direct rollover option.
 - (3) A distribution of less than two hundred dollars (\$200.00) that would otherwise be an eligible rollover distribution shall not be an eligible rollover distribution if it is reasonable to expect that all such distributions to the distributee from the retirement system during the same calendar year will total two hundred dollars (\$200.00) or less.
 - (4) The rules of this article shall be administered in compliance with regulations issued by the Internal Revenue Service under Sections 401(a)(31), 402(c), 402(f) and 3405(c) of the Internal Revenue Code, and such regulations are hereby specifically incorporated by reference.

(Ord. No. 2002-06.09, 6-18-02)

Council Letter

City of Danville, Virginia



CL-1894

New Business Item #: D.

City Council Regular Meeting

Meeting Date: 08/21/2018

Subject: Kentuck solar farm metering and billing-American Municipal Power

From: Jason Grey, Utilities Director

COUNCIL ACTION

Business Meeting: 08/21/2018

SUMMARY

The City of Danville currently receives the six megawatts of electric generation produced by the Kentuck Solar farm. The solar farm is owned and operated by Washington Gas and Light and has been in operation since March 19, 2018. From a financial perspective, staff would like City Council's approval to have American Municipal Power (AMP) meter this generation resource and bill the City for the energy and capacity produced. AMP currently provides this service for both projects they own and other non-AMP generation projects that their members are participants in.

BACKGROUND

In May 2016, the City of Danville entered into a twenty-five year agreement with Washington Gas and Light for six megawatts of solar generation at Kentuck solar farm located in Ringgold, Virginia. The City took receipt of the electric generation starting on March 19, 2018. This generation resource will provide local energy and save on transmission and capacity charges.

RECOMMENDATION

Staff recommends that City Council authorize the City Manager to enter into American Municipal Power's (AMP) Agency Designation Agreement, which will allow AMP to manage the revenue meter associated with the Kentuck solar farm, and bill the City for any electric generation produced at the facility.

Attachments

Resolution

AMP Agreement

PRESENTED: _____

ADOPTED: _____

RESOLUTION NO. 2018-____.____

A RESOLUTION AUTHORIZING AND THE CITY MANAGER TO EXECUTE THE AGENCY DESIGNATION SCHEDULE WITH AMERICAN MUNICIPAL POWER, INC.

WHEREAS, the City of Danville, Virginia, ("Municipality") owns and operates an electric utility system for the sale of electric capacity and associated energy for the benefit of its citizens and taxpayers; and

WHEREAS, in order to satisfy the electric capacity and energy requirements of its electric utility system, the Municipality purchases economical, reliable and environmentally sound capacity and energy and related services from, or arranged by, American Municipal Power, Inc. ("AMP"), of which the Municipality is a member; and

WHEREAS, AMP is an Ohio nonprofit corporation, organized to own and operate facilities, or to provide otherwise, for the generation, transmission, or distribution of electric capacity and energy, or any combination thereof, and to furnish technical services on a cooperative, nonprofit basis, for the mutual benefit of AMP members ("Members"); and

WHEREAS, the Municipality, acting individually and through AMP with other political subdivisions of this and other states that own and operate electric utility systems, jointly, endeavors to arrange for reliable, environmentally sound, and reasonably priced supplies of electric capacity and energy and related services for ultimate delivery to its customers; and

WHEREAS, the Municipality has entered into a Master Services Agreement with AMP, which contemplates that the Municipality shall enter into various schedules for the provision of power and related services; and

WHEREAS, the Municipality entered into a Power Purchase Agreement to purchase the output of the WGL solar power project with WGL Energy ("WGL PPA"); and

WHEREAS, the Municipality desires to designate AMP as its agent for the purpose of metering the power produced by the WGL solar power project, billing Municipality, and remitting payment to WGL Energy on behalf of Municipality; and

WHEREAS, after due consideration, the Municipality has determined it is reasonable and in its best interests to proceed as authorized herein below and requests and authorizes AMP to serve as the metering and billing agent upon the terms and conditions set forth in the Agency Designation Agreement.

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Danville, Virginia that:

SECTION 1. That the Agency Designation Schedule between the Municipality and AMP, substantially in the form attached hereto and made a part here of, as if fully set forth herein and on file with the City Clerk, is approved, subject to and with any and all changes provided for herein and therein.

SECTION 2. That the City Manager is hereby authorized to execute the Agency Designation Schedule and is further authorized to execute and deliver any and all documents necessary to effectuate the metering and billing as set forth in the Agency Designation Schedule.

SECTION 3. That competitive bidding is not required on the Municipality's acquisition of the services described in the Agency Designation Schedule, and in the event any competitive bidding requirements are applicable, any such competitive bidding requirement that might otherwise be applicable, are hereby waived.

SECTION 4. That if it is found and determined that all formal actions of this Council concerning and relating to the adoption of this resolution were adopted in an open meeting of a quorum of the Council, and that all deliberations of this Council and of any its committees that resulted in such formal action, were held in meetings open to the public, in compliance with all legal requirements.

SECTION 5. If any section, subsection, paragraph, clause or provision, or any part thereof of this resolution shall be finally adjudicated by a court of competent jurisdiction to be invalid, the remainder of this resolution shall be unaffected by such adjudication and all the remaining provisions of this resolution shall remain in full force and effect as though such section, subsection, paragraph, clause or provision, or any part thereof so adjudicated to be invalid had not, to the extent of such invalidity, been included herein.

SECTION 6. That this resolution shall take effect at the earliest date allowed by law.

APPROVED:

MAYOR

ATTEST:

CLERK

Approved as to
Form and Legal Sufficiency:

City Attorney

**AGENCY DESIGNATION AGREEMENT
BETWEEN THE CITY OF DANVILLE, VIRGINIA
AND AMERICAN MUNICIPAL POWER, INC.
FOR THE DESIGNATION OF AMP AS BILLING AGENT
FOR THE KENTUCK SOLAR PROJECT**

This Agency Designation Agreement to designate American Municipal Power, Inc., (“AMP”) as Agent is made by the City of Danville, Virginia (“Municipality”) as Principal.

RECITALS:

WHEREAS, Municipality and AMP have entered into a Master Service Agreement (“MSA”, AMP Contract No. C-2-2006-4975) under which certain services may be provided under schedules thereto;

WHEREAS, Municipality has entered into a Power Purchase Agreement for power from the Kentuck Solar power project with WGL Energy (“WGL PPA”);

WHEREAS, Municipality desires to designate AMP as its agent for the purpose of metering the power produced by the Kentuck Solar power project, billing Municipality and remitting payment to WGL Kentuck Solar (or their agent) on behalf of Municipality.

1. Designation of AMP as Billing Agent

Municipality hereby designates and authorizes AMP, and AMP hereby accepts and agrees, to be Municipality’s exclusive billing agent for deliveries of electric power and energy to Municipality from the Kentuck Solar power project pursuant to the WGL PPA during the term of such WGL PPA.

2. Rate

Municipality shall pay AMP's power sales service fee B (\$0.00058/kWh as of January 1, 2018) for all power purchased by Municipality pursuant to the WGL PPA for the services provided by AMP to Municipality pursuant to this Agreement.

3. Coordination and metering to facilitate invoicing

To facilitate the timely and accurate invoicing by AMP to Municipality for the power purchased from the Kentuck Solar power project, the Parties agree as follows:

- a. For the purpose of obtaining from the Kentuck Solar power project the information necessary to determine Municipality's cost responsibilities, AMP has installed a remote terminal unit ("RTU") to retrieve data remotely through WGL Kentuck Solar's meters. Each month, AMP shall remotely read the meter and include a line item on the AMP invoice for the power purchased at the rates set forth in the WGL PPA plus the AMP service fee B.
- b. AMP shall invoice Municipality for the WGL Kentuck Solar power one month in advance based on estimated values and then provide a true-up on the next month invoice, so that Municipality's payment shall be remitted to AMP in advance of the date by which payment is due to WGL Kentuck Solar.
- c. AMP shall remit payment to WGL Kentuck Solar pursuant to the terms and conditions set forth in the WGL PPA.
- d. The Parties will cooperate in good faith in the further sharing of information as may be appropriate to support the efficient and cost-effective implementation of billing services for the Kentuck Solar power project.

4. Term and Termination.

Either Party may terminate this Declaration by providing at least thirty (30) days prior written notification to the other Party. Upon such termination, Municipality shall take full rights, responsibilities, obligations, ownership and operation of all accounts described herein.

5. Limitation of Liability

Municipality shall, at all times, remain obligated to pay for the power produced by the Kentuck Solar power project received pursuant to the terms and conditions of the WGL PPA. Under the terms and conditions of this Agreement, AMP agrees to serve as the billing agent for Municipality but AMP shall not take ownership at any time of any power produced by the Kentuck Solar power project and is not liable for any costs associated with any power produced by the Kentuck Solar power project. The total

aggregate of liability of AMP to Municipality for any and all claims, whether caused by negligence, error, omissions, strict liability, breach of contract or contribution or indemnity claims based on third party claims, shall not exceed the total compensation received by AMP under this Schedule.

6. MISCELLANEOUS.

a. **INDEPENDENT CONTRACTOR.** AMP is an independent contractor providing services to Municipality. This Schedule shall not be construed or interpreted as creating any employment, partnerships, or joint venture relationship between AMP and Municipality. AMP shall not exercise any control over Municipality's employees or agents and Municipality shall not exercise any control over AMP's employees or agents.

b. **CONTROLLING LAW.** This Schedule shall be controlled by the laws of the State of Ohio. The Parties agree that the courts of Franklin County, Ohio shall have exclusive jurisdiction over any litigation arising out of this Schedule.

c. **ASSIGNMENT.** Neither Municipality nor AMP may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that may become due or moneys that are due) in this Schedule without the written consent of the other, such consent not to be unreasonably withheld. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Schedule.

d. **THIRD PARTY RELIANCE.** Except as noted, nothing in this Schedule shall be construed to give any rights or benefits in this Schedule to anyone other than Municipality or AMP and all duties and responsibilities undertaken pursuant to this Schedule will be for the sole and exclusive benefit of Municipality and AMP and not for the benefit of any other party.

e. **MODIFICATION.** Modifications to this Schedule may, from time to time, be necessary. All modifications to this Schedule shall be through a written amendment, executed by the duly authorized representatives of both Parties.

f. **NOTICES.** Any notice required pursuant to this Schedule must be in writing and addressed to the other Party as listed below:

Municipality:

City of Danville
1040 Monument Street
Danville, VA 24541
Attn: Jason Grey
Director of Utilities

AMP:

American Municipal Power, Inc.
1111 Schrock Road, Suite 100
Columbus, Ohio 43229
Attn: General Counsel

Notices shall be deemed to have been given by a Party to the other Party upon the date of receipt thereof by the other Party.

g. SURVIVAL. All express representations, indemnifications, or limitations of liability made or given in this Schedule will survive the completion of all Services and the termination of this Schedule for any reason.

h. SEVERABILITY. Any provision or part of this Schedule held to be void or unenforceable under any law or regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Municipality and AMP.

i. TERMS OF MSA. This Schedule is entered into as a supplement to the MSA. All terms and conditions of the MSA not in direct conflict with the terms and conditions of this Schedule shall apply to this Schedule as if fully set forth herein.

j. EXECUTION IN COUNTERPARTS. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

[signature page follows]

IN WITNESS WHEREOF, Municipality and AMP execute this Declaration to be effective as of the date written above.

MUNICIPALITY AS PRINCIPAL Signature: _____ Name: _____ Title: _____	AMERICAN MUNICIPAL POWER, INC. AS AGENT: Signature: _____ Name: <u>Marc S. Gerken, P.E.</u> Title: <u>President/CEO</u>
Municipality Name: _____	Approved as to Form: Signature: _____ Name: <u>Lisa G. McAlister</u> Title: <u>SVP/General Counsel for Regulatory Affairs</u>

4824-8041-9936, v. 3

Council Letter

City of Danville, Virginia



CL-1965

New Business Item #: E.

City Council Regular Meeting

Meeting Date: 08/21/2018

Subject: Request by River District Association to Rescind Ordinance #2005-09.12

From: Earl B. Reynolds, Jr., Deputy City Manager

COUNCIL ACTION

Business Meeting: 08/21/2018

SUMMARY

The City has received a request by the River District Association to Rescind Ordinance No. 2005-09.12, Pertaining to the Approval Process for the Painting of Murals in Downtown Danville.

The Downtown Danville Association, Inc., doing business as the River District Association, has requested that the subject Ordinance be rescinded (see attached letter). In 2005, the Downtown Danville Association, Inc., was tasked, by Ordinance, with the responsibility of developing and managing a mural program to enhance the attractiveness of the Downtown and Tobacco Warehouse Historic Districts. A side goal was to ultimately be designated as a Mural City under the auspices of the Mural Cities USA Program, which no longer exists.

BACKGROUND

In 2011, the City developed a new Economic and Comprehensive Plan to promote the revival of the downtown area. The Plan created what is now known as The River District, which boundary goes beyond the Historic Districts named in the subject Ordinance. The Plan also recommended, and the City Council approved, the creation of The River District Design Commission and official River District Design Guidelines that govern development activities within the River District, which includes the painting of murals. With the Commission and Guidelines now in place, the subject Ordinance has been superseded in its intent, and its requirements are often in conflict with and duplicative of what is required by the River District Commission and Guidelines.

RECOMMENDATION

It is recommended that the City Council concur in the request of The River District Association, which is to rescind Ordinance No. 2005-09.12, Pertaining to the Approval Process for the Painting of Murals in Downtown Danville.

Attachments

[Ordinance](#)

[RDA Letter](#)

[2005 Ordinance](#)

PRESENTED: _____

ADOPTED: _____

ORDINANCE NO. 2018-____.____

AN ORDINANCE REPEALING ORDINANCE NO. 2005-09.12 ENTITLED COLLABORATION BETWEEN THE CITY OF DANVILLE AND THE DOWNTOWN DANVILLE ASSOCIATION TO IMPLEMENT A MURAL PROGRAM IN DOWNTOWN DANVILLE.

WHEREAS, the City Council approved Ordinance No. 2005-09.12 to establish a mural district and implement a mural program in Downtown Danville; and

WHEREAS the River District Association has petitioned the City Council to repeal Ordinance No. 2005-09.12; and

WHEREAS, Council believes it is in the public's best interest to do so.

NOW THEREFORE, BE IT ORDAINED by the council of the City of Danville, Virginia, that it hereby repeals Ordinance No. 2005-09.12 and it shall be stricken from the City Code.

APPROVED:

MAYOR

ATTEST:

CLERK

Approved as to
Form and Legal Sufficiency:

City Attorney



RIVER DISTRICT ASSOCIATION

442 Main Street • Post Office Box 853, Danville, Virginia 24543
DanvilleRiverDistrict.com [f](#) DowntownDanville [t](#) DowntownDanVA

Board of Directors

Ted R. Laws
American National Bank
& Trust Company
(President)

Rachel Covington
Danville/Pittsylvania Chamber
of Commerce
(Vice President)

Earl B. Reynolds, Jr.
City of Danville
(Secretary)

William Crumpton
Caswell Family Medical Center
(Treasurer)

Robin Jones
Vintages by the Dan
(Past President)

Jerry Amburn
Amburn & Company Salon

Robert Brooks

Rachel Covington
Danville/Pittsylvania Chamber
of Commerce

John C. Hamlin
Danville Distributing Company

Phillip L. Hayes, Jr.
Nobils

Kelvin Perry
City of Danville, Office of
Economic Development

Varun Sadana
The Launch Place

Dr. Bruce R. Scism
Danville Community College

Barbara Seamster
Kare Pharmacy

Leslie Smith-Sturdivant
Danville Regional Medical
Center

Von Wellington
Von Wellington Photography

Staff

Diana L. Schwartz
Executive Director

Caitlin Hutcherson
Office Coordinator

July 02, 2018

City of Danville
Attn: Ken Larking, City Manager
427 Patton Street
Danville, VA 24541

Mr. Larking,

I am writing today on behalf of the River District Association in regard to Ordinance #2005-0912 dated September 6, 2005 that authorizes collaboration between the City of Danville and the Downtown Danville Association (DBA River District Association) to implement a mural program in Downtown Danville.

At the time this ordinance was enacted, there was a desire by the city manager to begin a mural program in Danville similar to the one that had been conducted in his former community. A workgroup was formed and the decision was made to appoint the RDA to administer this program on behalf of the city.

Since that time, Danville has changed considerably, with one of those changes being the River District Design Guidelines that were implemented in 2014. With these guidelines, the River District Design Commission was also appointed by City Council to approve any and all activities that fall under the guidelines. This also applies to murals within the district. Currently, if an entity wants to erect a mural, they must first work through the RDA for approval, and then go again for approval before the RDDC, requiring twice the work. The criteria within the RDDC guidelines covers the original concerns that were covered in the ordinance.

While a Mural Program is still part of our strategy, we would like to request that the current ordinance be rescinded. The ordinance no longer reflects the current policy and procedure of the city, and creates additional red tape that is no longer necessary. Rescinding this ordinance will allow additional entities that would like to add to the culture and artistic beautification of our downtown an equal opportunity to contribute to the community without undue burden.

Thank you for your consideration.

Sincerely,

Diana L. Schwartz
Executive Director

cc: Earl Reynolds
Clarke Whitfield

PRESENTED: September 6, 2005

ADOPTED: September 6, 2005

ORDINANCE NO. 2005- 09 12

AN ORDINANCE AUTHORIZING COLLABORATION BETWEEN THE CITY OF DANVILLE AND THE DOWNTOWN DANVILLE ASSOCIATION TO IMPLEMENT A MURAL PROGRAM IN DOWNTOWN DANVILLE.

WHEREAS, the Downtown Danville Association, in conjunction with the City of Danville would like to initiate a program to commemorate the history and people of Danville through the painting of murals in the Downtown Historic District and the Tobacco Warehouse District; and

WHEREAS, these murals will significantly contribute to the economy and culture of Danville; and

WHEREAS, it is in the public interest to assure that the subject matter of such murals be appropriate and that the murals are of high quality; and

WHEREAS, it is in the public interest to assure that the murals be preserved and properly maintained.

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Danville, Virginia:

1. That the Danville Mural District is hereby established in the following areas defined on the attached maps:

a. The Downtown Historic District

b. The Tobacco Warehouse Historic District

2. No mural shall be painted on any outside wall or on the exterior of any building or structure in the above defined Danville Mural District unless a permit for such mural has been issued by the City. Applications for a permit will be made in writing to the Community Development Coordinator for a review of compliance with this and all other City ordinances. The Community Development Coordinator shall then forward said application to the Downtown Danville Association for consideration. No permit shall be issued by the City of Danville for any mural in the Danville Mural District until the application for the said mural has been reviewed and approved by the Downtown Danville Association.

3. The Downtown Danville Association is hereby authorized and directed to review all applications for any mural to be painted in the Danville Mural District. In reviewing all applications, the Downtown Danville Association shall consider the natural, social, cultural or historical significance of the proposed mural. In the event the Downtown Danville Association fails to approve the application for any proposed mural, any aggrieved individual, corporation or entity may appeal to the City Council of the City of Danville for a hearing on the matter within forty-five(45)days from the

time a written appeal is forwarded to them by the Downtown Danville Association. The City Council of the City of Danville shall have the authority to either uphold the decision of the Downtown Danville Association or to reverse the denial of a mural permit.

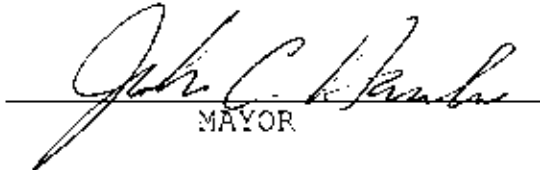
4. Once the mural has been approved by the Downtown Danville Association or City Council a rendering along with the application and a signed contract between the Downtown Danville Association and owner of the property shall be forwarded to the City Planner, who shall then issue a permit to the property owner.

5. The Downtown Danville Association is serving as an instrumentality of the City of Danville for the protection and preservation of the murals. Any meeting of the Board of Directors of the Downtown Danville Association held for the purpose of reviewing an application for a mural shall be open to the public. Written records of such Board meetings, including the reasons for the disapproval of any mural or artist, shall be maintained by the Downtown Danville Association. Copies of these records shall be provided to the City of Danville and shall be made available to the public upon request.

6. The Downtown Danville Association or any successor thereof shall be responsible for the continued maintenance of

all murals in the newly created districts, including upon the transfer of building to a subsequent owner.

APPROVED:


MAYOR

ATTEST:


CLERK

Approved as to
Form and Legal Sufficiency:


Assistant City Attorney

CONTRACT

This agreement is entered into on this _____ day of _____, 2005, between the Downtown Danville Association, a non-profit corporation, (hereinafter referred to as the DDA) and _____.

WHEREAS, the DDA has initiated a program to commemorate the history and people of Danville and the surrounding area through painting murals in the Danville Mural District; and

WHEREAS, these murals contribute significantly to the economy and culture of Danville and the surrounding area; and

WHEREAS, the murals are painted on the outside walls of buildings owned by private entities; and

WHEREAS, the DDA incurs much expense for the cost of preparation of the outside wall and the actual painting of the mural by selected artist; and

WHEREAS, _____ desires a mural to be painted on the outside wall of his/her building located within the Danville Mural District at _____, Danville, Virginia, and has granted permission for said mural to be painted on his/her building; and

WHEREAS, the DDA desires to use the aforesaid location for a mural and desires to protect the investment and uniqueness of the copyrighted material from future destruction and demolition of said building; and

NOW THEREFORE, in consideration of the mutual covenants flowing from each to the other the parties do hereby agree as follows:

- 1) That _____ does hereby agree and consent to the use of the _____ wall located on _____ Danville, Virginia for the preparation and painting of a mural.
- 2) That the DDA does hereby relieve _____, of any and all liability for the preparation of said wall and the actual painting of said mural, and will take steps as are reasonably necessary to protect the mural.
- 3) That the DDA will prepare the surface of the wall, select the artist and agree to paint said mural if the necessary funding is available.
- 4) That _____, in consideration of the mural being painted, will agree to reimburse the DDA for any and all expenses in the preparation and painting of said mural, including fees paid to the artist, if the selected wall is

altered, demolished, refurbished or destroyed by the owner, or at his direction, to the extent that it affects the painted mural.

- 5) That in consideration of the mural being painted, _____ does hereby agree that this contract shall stay with the deed to the property located at _____ and be transferred to any subsequent owner who shall be bound by this contract the same as the original owner.

_____ further agrees that a copy of this contract and any other necessary documentation will be filed in the Danville Circuit Court Clerk's Office to be placed with the deed to the property located at _____, to put any subsequent owner on notice of the obligation under this contract.

- 6) The DDA shall be responsible for the continued maintenance of the mural. That if the DDA permits the mural to fade to where they are no longer attractive and useful, the two parties shall meet and decide if the DDA is to repaint the mural. If the mural is not to be repainted, then the DDA will provide the owner with written verification that he/she will be absolved from any liability for continuing the integrity of the wall.
- 7) Should the DDA be dissolved or no longer be in existence, this contract may be assigned to its successor. Any party assigned this contract from the DDA will be obligated the same as the DDA for the continued maintenance of the mural.

IN WITNESS WHEREOF, the parties hereto affix their signatures this _____ day of _____, 2005.

OWNER

Downtown Danville Association
Director/ Chairman

STATE OF VIRGINIA
CITY OF DANVILLE

I, the undersigned Notary Public in and for said City and State, hereby certify that _____ whose name is signed to the foregoing contract, and who is known to me, acknowledged before me on this day that, being informed of the contents of said contract, he executed the same voluntarily on the day that bears the same date.

Given under my hand, this _____ day of _____, 2005

Notary Public
My Commission Expires: _____

MURAL CONTRACT AWARD

The following contract is offered to _____ to paint the mural,
_____, at the following location in Danville, Virginia,
_____. Total amount to be paid the artist for painting mural
will be _____. This amount includes the cost of the paint.

- 1) The artist, as required in the Letter of Proposal, will submit pencil or ink drawing of the proposed mural. If needed, changes, based on appropriateness, and/or corrections in the interest of historical accuracy in the pencil or ink line drawing, will be noted by the Downtown Danville Association, and agreed to by the artist, before this contract is signed. The artist shall submit a finished full color scale painting.
- 2) The artist will receive 10% of the contract amount when the colored scale painting is approved, $\frac{1}{2}$ of the remaining amount when painting is half finished, and the remaining when the painting is completed. The scale painting should be $\frac{1}{2}" = 1'$.

NOTE: The scale painting will be photographed by the Downtown Danville Association and the slides will be used to project the image onto the wall for drawing. Deviations from painting (colors, etc.) in executing the mural will require prior written approval from the Downtown Danville Association.

- 3) The artist is required to assign the ownership and copyrights of both the scale painting and the completed mural to the Downtown Danville Association.
- 4) The mural must be completed by the artist by _____ months after funding is secured, unless an extension is agreed to between the artist and the Downtown Danville Association in writing.

Accepted by Artist _____

DATE: _____

For the Downtown Danville Association

_____, Chairman/ Director

DATE: _____

Council Letter

City of Danville, Virginia



CL-1938

New Business Item #: F.

City Council Regular Meeting

Meeting Date: 08/21/2018

Subject: Purchase Agreement to Acquire the Daniel Group Hangar

From: Marc Adelman, Director of Transportation Services

COUNCIL ACTION

Business Meeting: 08/21/2018

SUMMARY

The Danville Regional Airport seeks to acquire the Daniel Group hangar to support the growing need for hangar space by Averett University's Aeronautics program. Due to increased enrollment associated with the University's flight school and the expansion of its fleet, there is a need to make additional hangar space available for lease to facilitate aircraft storage requirements. The Daniel Group, which owns a hangar at the airport, has agreed to sell its facility to the City of Danville. Funding requirements to acquire the hangar were approved in conjunction with the FY 2019 budget.

BACKGROUND

Averett University has maintained a flight school at the Danville Regional Airport since 1981. Over the past three years, enrollment in Averett University's Aeronautics program has increased from 40 students to over 100 students. Presently, the University owns eight aircraft and is in the process of acquiring another aircraft to facilitate the growing interest in their program. Since 1996, Averett University has expanded their use of available hangar space at the airport to store aircraft. However, presently the University has indicated that they maintain little room to maneuver planes and as a result their aircraft are at risk with being damaged when pushing or pulling planes in and out of hangar areas.

The Danville Regional Airport would like to support the growth of the flight school program and accommodate the University's need for hangar space by acquiring the Daniel Group hangar which has remained vacant for several years. The agreed cost to acquire the hangar from the owner is \$140,000. This hangar is approximately 16 years old and is 59' x 66' or 3894 square feet. Funding for this acquisition was approved as part of the City of Danville's FY 2019 budget.

RECOMMENDATION

It is recommended that Danville City Council approve the purchase agreement to acquire the Daniel Group hangar.

Attachments

Resolution

Purchase Agreement

PRESENTED: _____

ADOPTED: _____

RESOLUTION NO. 2018____.____

A RESOLUTION APPROVING A PURCHASE AGREEMENT TO ACQUIRE
THE DANIEL GROUP HANGAR AT THE DANVILLE REGIONAL AIRPORT.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of
Danville, Virginia that the Purchase Agreement, substantially in the form attached hereto
and made a part hereof, between the City of Danville, Virginia and the Daniel Group, Inc.
which provides for the acquisition of a hangar and office space be, and the same is hereby,
approved; and

BE IT FURTHER RESOLVED that the City Manager, Ken Larking, be, and
he is hereby, authorized to execute said agreement on behalf of the City.

APPROVED:

MAYOR

ATTEST:

CLERK

Approved as to
Form and Legal Sufficiency:

City Attorney

PURCHASE CONTRACT

THIS SALE CONTRACT, made and entered into this ____ day of _____, 2018, by and between THE DANIEL GROUP, INC, a Virginia corporation, principally located in Danville, Virginia, hereinafter referred to as SELLER; and the CITY OF DANVILLE, VIRGINIA, a municipal corporation, P.O. Box 3300, Danville, Virginia 24543, Grantee, hereinafter referred to as CITY;

WITNESSETH:

WHEREAS, the SELLER hereby agrees to sell and the CITY hereby agrees to buy the hereinafter described property upon the terms and conditions set forth herein.

PROPERTY

The SELLER agrees to sell and the CITY hereby agrees to buy the airplane hangar currently located on CITY's property and being in fact the hangar currently located at 424 Airport Drive, Building 100, on the following described real estate, to wit: (SEE EXHIBIT A, ATTACHED)

PURCHASE PRICE

The purchase price for the hangar is One Hundred Forty Thousand Dollars and 00/100 (\$140,000.00), Which will be payable to SELLER in cash by cashiers or certified check, or by wired funds within thirty (30) days of acceptance of this agreement subject to the inspection of the property by the CITY within fifteen (15) days of the signing of this agreement.

CLOSING, POSSESSION DATE AND PRORATIONS

Possession of the property shall take place within thirty (30) days of acceptance of this agreement.

Possession shall be given upon payment by the CITY to the SELLER. If the property being sold is under Land use taxation, SELLER, prior to the closing shall pay all rollback taxes, penalties, and interest, if any on the property.

SELLER, prior to closing, shall remove all excess items on the property not desired by the city.

SELLER, prior to closing, shall be responsible for any areas of the property needing repair prior to closing to include those items as identified by the CITY's inspection punch list: (SEE EXHIBIT B, ATTACHED)

SELLER and the CITY further agree that the land lease dated October 24, 2001, between the parties is terminated effective the date of closing, and neither party shall have any further liability to the other in connection with such lease agreement.

LIENS OF PROPERTY

SELLER agrees to provide property to CITY free of any liens or judgements. SELLER further confirms that no approval of any court or tribunal is required in order to convey the property and that SELLER will use reasonable best efforts to have liens held by SELLERS' secured lenders released within thirty (30) days after both parties execute the contract.

RISK OF LOSS

All risk of loss shall remain on the SELLER until the date possession is given to the CITY. If there is any material change in the property prior to this possession by the CITY, the CITY shall have the option of terminating this contract and having all deposits immediately returned to the CITY.

GOVERNING LAW

This contract shall be governed by the laws of the Commonwealth of Virginia. It shall be binding upon all parties, their heirs, legal representatives, successors, and assigns. This contract shall not be assigned by the CITY without the prior written consent of the SELLER, which consent shall be recorded in the office of the Circuit Court for the City of Danville, Virginia.

(SIGNATURES ON NEXT PAGE)

WITNESS the following signatures and seals:

The Daniel Group Inc:

_____(SEAL)

BY:

City of Danville, Virginia:

_____(SEAL)

BY:

COMMONWEALTH OF VIRGINIA

CITY OF DANVILLE:

The following instrument was acknowledged before me this _____ day of _____, 2018, by

_____, in his capacity as City Manager for the City of Danville.

Notary Public

My commission expires:_____

EXHIBIT A

Page: 4

Building Information - 10

Property Class:	Commercial	Finished Square Feet:	15,808
Style:	No Data	Basement Square Feet:	0
Year Built:	1995	Total Rooms:	0
Condition:	No Data	* Bathrooms are not included in total room count.	
Story Height:	No Data		
Bedrooms:	0		
Dining Rooms:	0		
Family Rooms:	0		
Living Rooms:	0		
Full Bath:	0		
Half Bath:	0		
Features:		Size:	
Single -Metal on Steel Frame		100 %	

Building Information - 11

Property Class:	Commercial	Finished Square Feet:	6,570
Style:	No Data	Basement Square Feet:	0
Year Built:	2002	Total Rooms:	0
Condition:	No Data	* Bathrooms are not included in total room count.	
Story Height:	No Data		
Bedrooms:	0		
Dining Rooms:	0		
Family Rooms:	0		
Living Rooms:	0		
Full Bath:	0		
Half Bath:	0		
Features:		Size:	
Single -Metal on Steel Frame		100 %	
Space Heater		100 %	

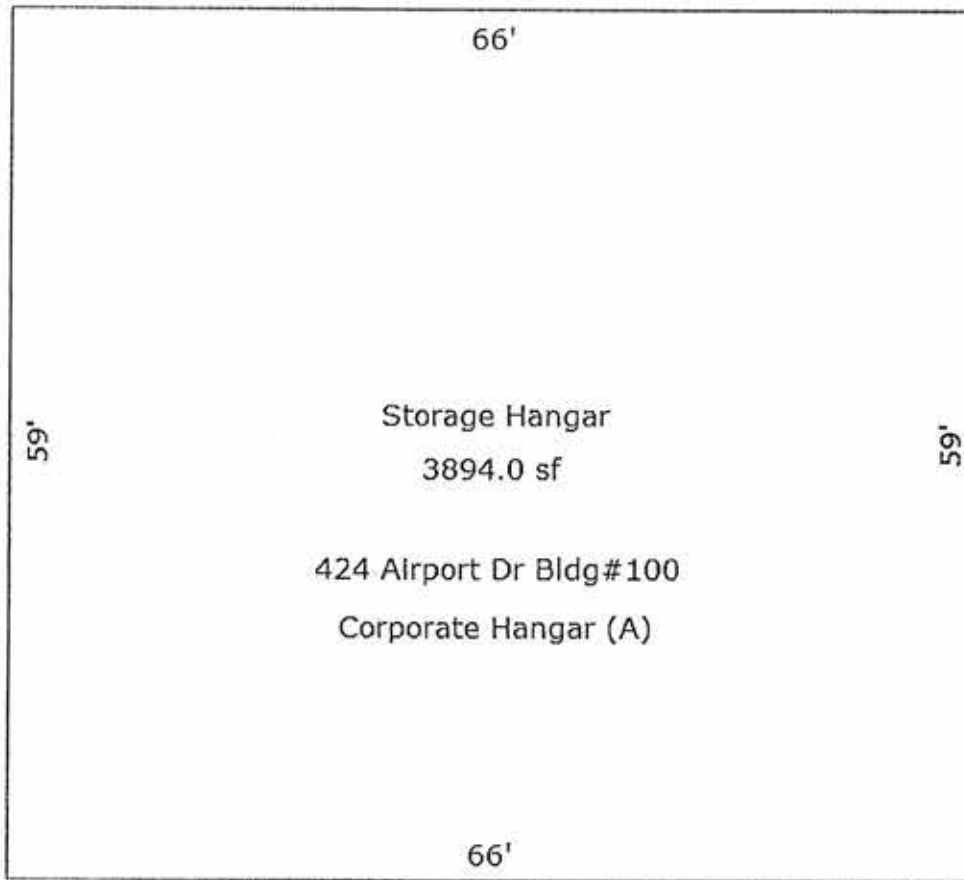
Building Information - 12

Property Class:	Commercial	Finished Square Feet:	3,894
Style:	No Data	Basement Square Feet:	0
Year Built:	2002	Total Rooms:	0
Condition:	No Data	* Bathrooms are not included in total room count.	
Story Height:	No Data		
Bedrooms:	0		
Dining Rooms:	0		
Family Rooms:	0		
Living Rooms:	0		
Full Bath:	0		
Half Bath:	0		
Features:		Size:	
Single -Metal on Steel Frame		100 %	
Space Heater		100 %	

Building Information - 13

Property Class:	Commercial	Finished Square Feet:	6,864
Style:	No Data	Basement Square Feet:	0
Year Built:	2003	Total Rooms:	0
Condition:	No Data	* Bathrooms are not included in total room count.	
Story Height:	No Data		
Bedrooms:	0		
Dining Rooms:	0		
Family Rooms:	0		
Living Rooms:	0		
Full Bath:	0		
Half Bath:	0		
Features:		Size:	

EXHIBIT A



Sketch by Apex Meding™

EXHIBIT B

Hangar 100, Inspection Punch List:

1. Clean-out located at fence not capped and sealed properly. (Needs a new plug)
2. Potable water system protected with a Watts 007 double check valve. No records of this device being tested. Recommend replacing with an ASSE 1015 Double check valve assembly.
3. Water fountain was not plugged in during inspection. Daniel representative said the valve was sticking when used and would not turn off all the time.
4. Water heater was off at the time of inspection. Unable to verify it functions properly.
5. Fire extinguishers were out of date as of 2004. Markers were green indicating they are usable.

Council Letter

City of Danville, Virginia



CL-1939

New Business Item #: G.

City Council Regular Meeting

Meeting Date: 08/21/2018

Subject: Averett University Flight Center Lease

From: Marc Adelman, Director of Transportation Services

COUNCIL ACTION

Business Meeting: 08/21/2018

SUMMARY

Averett University has requested to renew its facility lease with the Danville Regional Airport and to occupy additional hangar space as part of the five year lease agreement. As a result, the current monthly lease fee of \$1100 is proposed to be increased to \$1900 per month. Other fees that Averett University pays as part of its lease for supporting the cost of the operations advisory tower in the amount of \$4800 annually, have not been revised. The University has agreed to the proposed fee arrangement for additional hangar space.

BACKGROUND

Averett University presently leases facility space at the Danville Regional Airport that includes a 12,908 square foot flight center building, an area to tie-down aircraft and a vehicle parking area for students and instructors. The University has expressed interest to renew its five year lease and to occupy additional hangar space to support existing and future aircraft storage requirements. The proposed five year lease renewal identifies an increase in rental fees from \$1100 to \$1900 per month that would include additional hangar space contingent upon the acquisition of the Daniel Group hangar which is a 3,894 square foot facility.

RECOMMENDATION

It is recommended that Danville City Council approve a five year lease renewal agreement with Averett University for leased premises space at the Danville Regional Airport.

Attachments

Resolution

Averett Lease Agreement

PRESENTED: _____

ADOPTED: _____

RESOLUTION NO. 2018____.____

A RESOLUTION APPROVING AN AGREEMENT LEASING HANGAR AND ADMINISTRATIVE SPACE AT THE DANVILLE REGIONAL AIRPORT TO AVERETT UNIVERSITY FOR IT'S FLIGHT CENTER.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Danville, Virginia, that the Lease Agreement, substantially in the form attached hereto and made a part hereof, between the City of Danville, Virginia and Averett University, which provides a lease for part of the premises owned by the City located at the Danville Regional Airport, involving hangar and administrative space be, and the same is hereby, approved; and

BE IT FURTHER RESOLVED that the City Manager, Ken Larking, be, and he is hereby, authorized to execute said agreement on behalf of the City.

APPROVED:

MAYOR

ATTEST:

CLERK

Approved as to
Form and Legal Sufficiency:

City Attorney

AIRPORT FACILITY LEASE

THIS LEASE AND OPERATING AGREEMENT (the "Agreement") entered into as of the 1st day of _____, 2018, by and between the CITY OF DANVILLE, VIRGINIA, a municipal corporation of the Commonwealth of Virginia, hereinafter called the Lessor, and AVERETT UNIVERSITY hereinafter called the Lessee;

WITNESSETH

WHEREAS, Lessor now owns, controls, and operates the Airport known as Danville Regional Airport (the "Airport") in the City of Danville Virginia; and

WHEREAS, flight school instruction is essential to the proper accommodation of general aviation at the Airport; and

WHEREAS, Lessor and Lessee desire to make such services available at the Airport and Lessee is qualified, ready, willing and able to provide such services; and

WHEREAS, the Lessee wishes to base its aircraft and hangar planes at the Danville Regional Airport;

NOW, THEREFORE, in consideration of the promises and the mutual covenants contained in this Agreement, the parties hereby agree as follows:

ARTICLE I

TERM

The term of this Agreement shall be for a period of five (5) years, commencing on the 1st day of _____ 2018, and continuing through the 30th day of _____ 2023 unless earlier terminated under the provisions of this Agreement.

ARTICLE II

LEASED PREMISES

A. Premises. Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the premises described, identified, and shown on Exhibit A, hereto (the "Premises"), together with the right of ingress and egress for vehicles and aircraft.

B. General Privileges. Lessor grants to Lessee the following general privileges, uses, and rights, in common with others, all of which shall be subject to the terms, conditions, and covenants set forth and all of which shall be non-exclusive on the airport:

1. The use in common with the public generally of all public airport facilities and improvements that are now or may afterwards be connected with or appurtenant to the airport, except as herein provided, to be used by Lessee for commercial or noncommercial aviation activities and fixed base operators, and all activities in connection with or incidental to the business or operation, as herein defined.

For the purposes of this lease, "public airport facilities" shall include all necessary landing area appurtenances, including, but not limited to, approach areas, runways, taxiways, public aprons, public automobile parking areas, public roadways, public sidewalks, navigational and navigational aids, lighting facilities, public terminal facilities, or other public facilities appurtenant to the airport.

2. The right of ingress to and egress from the demised premises over and across public roadways serving the airport for Lessee, its agents, employees, servants, patrons, invitees, suppliers of service, and furnishers of material.

3. The rights above shall be subject to the ordinances, rules, and regulations as now or may afterwards have application at the airport.

For purposes of this Agreement, the term "Premises" shall include leasehold MODIFICATIONS, if any, constructed by Lessee pursuant to Article V of this Agreement.

C. Subject to Appropriations. It is the intent of Lessor to meet all performance requirements hereunder for the full term of this agreement. However, in the event that sufficient funds are not appropriated by the Council of the City of Danville, Virginia; or, if appropriated, are not allocated or available; or, in the event the amounts due hereunder are to be paid with funds given to Lessor by another private or governmental entity, and such funds are not sufficient for continuation of this agreement during any fiscal year after Lessor's first fiscal year; Lessor may, upon prior written notice to Lessee, terminate this Agreement in whole or in part. If Lessor terminates this Agreement in whole or in part pursuant to the provisions of this Section, Lessor shall not enter into any agreement on substantially similar terms with any new lease during the remainder of the fiscal year for which it lacked funds to continue performance.

The provisions of this Section shall apply notwithstanding any other provision in this Agreement to the contrary.

ARTICLE III

RIGHTS AND OBLIGATIONS OF LESSEE

A. Required Services. Lessee is hereby granted the non-exclusive privilege to engage in, and Lessee is required to and agrees to engage in, the business of providing fixed base operation services at the Airport, in accordance with the Minimum Standards and Rules and Regulations for the Danville Regional Airport, Danville, Virginia, Resolution No. 2000-08.11 (January 19, 2016) as amended ("Minimum Standards"), and specifically as set out in Exhibit C attached hereto and expressly incorporated herein.

B. Authorized Services. In addition to the services required to be provided by Lessee pursuant to Paragraph A above, Lessee is permitted, but not required, to provide services pursuant to Exhibit "B" attached, provided that all applicable federal, state, and local requirements for the provision of those services, including, but not limited to, all F.A.A. regulations and the Minimum Standards, have been met.

For the purposes of this Agreement, "aeronautical activity" is defined as any activity which involves, makes possible, or is required for the operation of aircraft, or which contributes to or is required for the safety of such operations.

C. Prohibited Services. Nothing contained in this Agreement shall authorize the provision of services by Lessee except as expressly set forth herein, or as may be specifically authorized by independent agreements entered into between Lessor and Lessee.

D. Operating Standards. In providing any of the required and/or authorized services or activities specified in this Agreement, Lessee shall operate for student and private corporate use and shall meet or exceed the following standards:

1. Lessee shall maintain high standards of cleanliness and good appearances in its areas and employees.

2. Lessee shall provide, at its sole expense, a sufficient number of employees to provide effectively and efficiently the services authorized in this Agreement.

3. Lessee shall control the conduct, demeanor, and appearance of its employees and students, who shall be trained by Lessee and who shall possess such technical

qualifications and hold such certificates of qualification as may be required in carrying out assigned duties. It shall be the responsibility of Lessee to maintain close supervision over its employees and students to assure a high standard of service, and to maintain good public relations for the Airport.

4. Lessee shall meet all expenses and payments in connection with the use of the Premises and the rights and privileges herein granted, including taxes, pennit fees, license fees and assessments lawfully levied or assessed upon the Premises or propetiyy at any time situated therein and thereon. Lessee may, however, at its sole expense and cost, contest any tax, fee, or assessment.

5. Lessee shall comply with all federal, state and local laws, rules and regulations which may apply to the conduct of the business contemplated, including The Minimum Standards & Rules and Regulations for the Danville Regional Airport, Danville, Virginia, Resolution No. 2000-08.11 (January 19, 2016), as amended ("Minimum Standards"), and any other rules and regulations promulgated by Lessor, and Lessee shall keep in effect and post in a prominent place all necessary and/or required licenses or permits.

6. Lessee shall be responsible for the normal and routine maintenance and repair of the Premises and shall keep and maintain the Premises in good condition, order and repair, and shall sun-ender the same upon the expiration of this Agreement, in the condition in which they are required to be kept, reasonable wear and tear and damage by the elements not caused by Lessee's negligence excepted.

It is expressly understood and agreed that, in providing required and authorized services pursuant to this Agreement, Lessee shall have the right to choose, in its sole discretion, its vendors and suppliers.

Lessor shall be responsible for the non-routine maintenance, repair, and replacement of structures located on the Premises.

7. Lessee shall make available for inspection by Lessor, at Lessor's request, all Lessee's facilities.

E. Signs. During the term of this Agreement, Lessee shall have the right, at its expense, to place in or on the Premises a sign or signs identifying Lessee. Said sign or signs shall be of a size, shape and design, and at a location or locations, approved by Lessor and in conformance with any overall directional graphics or sign program established by Lessor as well

as all zoning regulations pertaining to signs. Lessor's approval shall not be withheld unreasonably. Notwithstanding any other provision of this Agreement, said sign(s) shall remain the property of Lessee. Lessee shall remove, at its expense, all lettering, signs and placards so erected on the Premises at the expiration of the term of this Agreement.

F. Non-exclusive Right. It is not the intent of this Agreement to grant to Lessee the exclusive right to provide any or all of the services described in this article at any time during the term of this Agreement. Lessor reserves the right, at its sole discretion, to grant others certain rights and privileges upon the Airport which are identical in part or in whole to those granted to Lessee. However, Lessor does covenant and agree that:

1. It shall enforce all minimum operating standards or requirements for all aeronautical endeavors and activities conducted at the Airport;

2. It will not permit the conduct of any aeronautical endeavor or activity at the Airport except under an approved lease and operating agreement.

In the event that any provision of this Agreement shall be finally determined by any court or administrative agency having jurisdiction to constitute the granting of an exclusive right, the entire Agreement shall not be void, but the offending provision shall be stricken from this Agreement, and the remaining provisions shall continue in effect as nearly as possible in accordance with the original intent of the parties.

ARTICLE IV

APPURTENANT PRIVILEGES

A. Use of Airport Facilities. Lessee shall be entitled, in common with others so authorized, to the use of all facilities and improvements of a public nature which now are or may hereafter be connected with or appurtenant to the Airport, including the use of landing areas, runways, taxiways, navigational aids, terminal facilities, and aircraft parking areas designated by Lessor.

B. Maintenance of Airport Facilities. Lessor shall maintain all public and common or joint use areas of the Airport, including the Air Operations Area, in good repair, and shall make such repairs, replacements, or additions thereto as, in its opinion, are required and necessary for the safe and efficient operation of the Airport.

C. Aerial Approaches . Lessor reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport against obstruction, together with the right to prevent Lessee from erecting, or permitting to be erected, any building or other structure on or adjacent to the Airport which, in the opinion of Lessor, would limit the usefulness of the Airport or constitutes a hazard to aircraft.

ARTICLE V

LEASEHOLD MODIFICATIONS

A. MODIFICATIONS.

1. As part of the consideration for the privileges herein granted, Lessee may, with Lessor's approval, construct or otherwise make modifications to the Premises. Lessee agrees that it shall, prior to beginning or contracting for such modifications, submit to Lessor, for approval, detailed plans and specifications for all of the proposed leasehold modifications. Lessor agrees that it shall either approve the plans and specifications as submitted, or transmit proposed revisions to Lessee, or withhold approval, within thirty (30) calendar days of receipt of the plans and specifications from Lessee. Lessor's approval of plans and specifications shall not be withheld unreasonably.

2. Upon receiving final Lessor approval of the plans and specifications, Lessee shall engage one or more qualified contractors to construct said modifications. Construction shall commence within sixty (60) calendar days of Lessee's receipt of Lessor's final approval of the plans and specifications and shall be scheduled for completion not later than 180 calendar days after commencement of construction. It is agreed and understood that leasehold modifications undertaken pursuant to this provision shall become the property of Lessor upon final completion of construction.

3. Documentation for approved leasehold modifications should be submitted to the airport manager for approval. Related documentation should identify labor and material charges. The lessor will provide written approval of the documentation to the lessee.

ARTICLE VI

PAYMENTS

A. Rent and Fees. In consideration of the rights and privileges granted by this Agreement, Lessee agrees to pay to Lessor during the term of this Agreement the following:

1. Rent. A rental of One Thousand Nine Hundred Dollars (\$1,900) per month for the Premises effective _____, 2018 through _____, 2023.

The Unicom Recovery fee of \$4,800 will be paid annually for the period _____ 1st through _____ 30th. It is recognized that this fee may be adjusted upward or downward subject to the approval of all parties.

B. Payments.

1. The rental payment specified in Paragraph A.1, above, shall be paid monthly in advance in the sum of One Thousand Nine Hundred Dollars (\$1,900) per month, the payment to be made on or before the first day of each month during the term of this Agreement.

C. Delinquency Charge. A delinquency charge of ten (10) percent per year shall be added to payments required by Paragraphs B.1, above, which are paid more than thirty (30) days delinquent.

D. Place of Payment. All payments due Lessor from Lessee shall be delivered to the place designated in writing by Lessor.

ARTICLE VII

UTILITIES

Lessee shall have the right to use the utility service facilities located on the Premises at the commencement of the term of this Agreement. In addition, should Lessee's operations require additional utility service facilities, Lessor shall, at its expense, extend such facilities to the Premises. Lessor's obligation under this provision shall be limited to utilities extended by a public utility company to Lessor's property line, and nothing herein shall obligate Lessor to provide any utility to Lessee that is not otherwise available to Lessor at its property line. Such limitation shall also include the inability of Lessor to provide utility facilities or service due to the imposition of any limit on consumption or on the construction of additional utility facilities, or the allocation or curtailment of utility facilities or service by law or regulation.

Lessee agrees to pay the cost of all utilities. In the event Lessee fails to pay any utility bills when due, Lessor may, at its option, pay the same and collect from Lessee the amounts so disbursed, plus interest at the rate of ten (10) percent per month or fraction thereof.

For all Premises located in the terminal building, Lessor shall provide electricity, water, and air conditioning, for which Lessee shall reimburse the City of Danville based on metered readings.

ARTICLE VIII

INSURANCE

A. Required Insurance. Lessee shall obtain and maintain continuously in effect during the term of this Agreement, at Lessee's sole expense, the insurance required by the Commonwealth of Virginia as applicable to the activities of Lessee carried out pursuant to Exhibit B of this Agreement. The insurance required shall name Lessor as an additional insured.

B. Notice. Lessor agrees to notify Lessee in writing as soon as practicable of any claim, demand or action arising out of an occurrence covered hereunder of which Lessor has knowledge, and to cooperate with Lessee in the investigation and defense thereof.

ARTICLE IX
INDEMNIFICATION

To the extent not covered by insurance catTied by Lessee in favor of Lessor, Lessee shall keep and hold hannless Lessor from and against any and all claims, demands, suits, judgment s, costs and expenses asserted by any person or persons, including agents or employees of Lessor or Lessee, by reason of death or injury to persons or loss or damage to property, resulting from Lessee's operations, or anything done or omitted by Lessee, under this Agreement except to the extent that such claims, demands, suits, judgments, costs and expenses may be attributed to the acts or omissions of Lessor or its agents or employees.

ARTICLE X
LESSEE AS INDEPENDENT CONTRACTOR

In conducting its business hereunder, Lessee acts as an independent contractor and not as an agent of Lessor. The selection, retention, assignment, direction and payment of Lessee's employees shall be the sole responsibility of Lessee, and Lessor shall not attempt to exercise any control over the daily performance of duties by Lessee's employees.

ARTICLE XI
NONDISCRIMINATION

A. Lessee, in performing under this Agreement, agrees to comply with all applicable nondiscrimination provisions of federal, state, and local laws and regulations, now in existence or hereafter enacted or promulgated, as fully as if set forth fully herein.

B. This Agreement involves the construction of, use of, or access to, space on, over, or under real property acquired, or improved under the Airport Development Aid Program and the Federal Aviation Administration, and therefore, involves activity which services the public.

Notwithstanding any other or inconsistent provision of this Agreement, during the performance of this Agreement, Lessee, for itself, its heirs, personal representatives, successors in interest and assigns, as part of the consideration for this Agreement, does hereby covenant and agree, as a covenant running with the land, that:

1. No person on the grounds of race, color, religion, sex or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination in, the use of the Premises.

2. In the construction of any improvement on, over or under the Premises, and the furnishing of services therein or thereon, no person on the grounds of race, color, religion, sex or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination.

3. Lessee shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended; and in compliance with all similar provisions of federal, state, or local law or regulations, including but not limited to, if applicable, 14 C.F.R. Part 152, and 49 C.F.R. Part 23.

4. In the event of breach of any of the above nondiscrimination covenants, Lessor shall have the right to terminate this Agreement and to reenter and repossess and hold the same as if said Agreement had never been made or issued. This provision does not become effective until the procedures of 49 C.F.R. Part 21 have been followed and completed, including expiration of appeal rights.

ARTICLE XII

REQUIREMENTS OF THE UNITED STATES

This Agreement shall be subject and subordinate to the provisions of any existing or future agreement between Lessor and the United States, or any agency thereof, relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development or operation of the Airport; provided, however, that Lessor shall, to the extent permitted by law, use its best efforts to cause any such agreements to include provisions protecting and preserving the rights of Lessee in and to the Premises, and to compensation for the taking thereof, interference therewith and damage thereto, caused by such agreement or by actions of Lessor or the United States pursuant thereto.

ARTICLE XIII
DEFAULT AND TERMINATION

A. Termination by Lessee. This Agreement shall be subject to termination by Lessee in the event of any one or more of the following events:

1. The abandonment of the Airport as an airport or airfield for any type, class or category of aircraft.

2. The default by Lessor in the performance of any of the terms, covenants or conditions of this Agreement, and the failure of Lessor to remedy, or undertake to remedy, to Lessee's satisfaction, such default for a period of thirty (30) days after receipt of notice from Lessee to remedy the same.

3. Damage to or destruction of all or a material part of the Premises or Airport facilities necessary to the operation of Lessee's business.

4. The lawful assumption by the United States, or any authorized agency thereof, of the operation, control or use of the Airport, or any substantial part or parts thereof, in such a manner as to restrict substantially Lessee from conducting business operations for a period in excess of ninety (90) days.

B. Termination by Lessor. This Agreement shall be subject to termination by Lessor in the event of any one or more of the following events:

1. The default by Lessee in the performance of any of the terms, covenants or conditions of this Agreement, and the failure of Lessee to remedy, or undertake to remedy, to Lessor's satisfaction, such default for a period of thirty (30) days after receipt of notice from Lessor to remedy the same.

2. Lessee files a voluntary petition in bankruptcy, including a reorganization plan, makes a general or other assignment for the benefit of creditors, is adjudicated as bankrupt or if a receiver is appointed for the property or affairs of Lessee and such receivership is not vacated within thirty (30) days after the appointment of such receiver.

3. The bona fide determination by the Council of the City of Danville, Virginia, that the continued use, maintenance, or occupation of the Premises for airport purposes by the City is no longer in the best interests of the public or the Danville Regional Airport; or that the cost of Lessor's obligations pursuant to this Agreement is no longer justified by the benefits accruing to Lessor pursuant to this Agreement and can no longer be paid with

public funds. As a condition precedent to termination under this provision, Lessor shall give at least six (6) months' written notice to Lessee of its intention to terminate, and shall appropriate funds sufficient to pay Lessee for modifications, if any, made by Lessee pursuant to the terms of Article V, Section 3 of this agreement prior to the effective date of termination.

C. Exercise. Except as otherwise provided, exercise of the rights of termination set forth in Paragraphs A and B, above, shall be by notice to the other party within thirty (30) days following the event giving rise to the termination.

D. Removal of Property. Upon termination of this Agreement for any reason, Lessee, at its sole expense, shall remove from the Premises all signs, trade fixtures, furnishings, personal property equipment and materials, which Lessee was permitted to install or maintain under the rights granted herein. If Lessee shall fail to do so within thirty (30) days, then Lessor may effect such removal or restoration at Lessee's expense, and Lessee agrees to pay Lessor the costs of such removal or restoration promptly upon receipt of a proper invoice therefor.

E. Causes of Breach; Waiver.

1. Neither party shall be held to be in breach of this Agreement because of any failure to perform any of its obligations hereunder if said failure is due to any cause for which it is not responsible and over which it has no control; provided, however, that the foregoing provision shall not apply to failures by Lessee to pay fees, rents or other charges to Lessor.

2. The waiver of any breach, violation or default in or with respect to the performance or observance of the covenants and conditions contained herein shall not be taken to constitute a waiver of any such subsequent breach, violation or default in or with respect to the same or any other covenant or condition hereof.

ARTICLE XIV

MISCELLANEOUS PROVISIONS

A. Contract Documents. The Agreement between the parties consists of the following documents. In the event of conflict between the terms of the documents, the following priority of interpretation shall prevail:

1. Federal Regulations.
2. This Agreement.

3. Exhibits A and B attached hereto and expressly incorporated by reference.

4. Exhibit C attached hereto "Minimum Standards" (as described in Article III.A. hereof).

B. Entire Agreement. This Agreement constitutes the entire understanding between the parties, and as of its effective date supersedes all prior or independent agreements between the parties covering the subject matter hereof. Any change or modification hereof must be in writing signed by both parties.

C. Severability. If a provision hereof shall be finally declared void or illegal by any court or administrative agency having jurisdiction, the entire Agreement shall not be void, but the remaining provisions shall continue in effect as nearly as possible in accordance with the original intent of the parties.

D. Notice. Any notice given by one party to the other in connection with this Agreement shall be in writing and shall be sent by registered mail, return receipt requested, with postage and registration fees prepaid :

1. If to Lessor, addressed to:

Director
Danville Regional Airport
P.O. Box 3300
Danville, Virginia 24543

2. If to Lessee, addressed to:

Chief Financial Officer
Averett University
420 West Main St.

Danville, Virginia 24541

Notices shall be deemed to have been received on the date of receipt as shown on the return receipt.

E. Headings. The headings used in this Agreement are intended for convenience of reference only and do not define or limit the scope or meaning of any provision of this Agreement.

F. Governing Law. This agreement and the performance thereof shall be governed by and enforced under the laws of the Commonwealth of Virginia, and if legal action by either party is necessary for or with respect to the enforcement of any or all of the terms and conditions hereof, then exclusive venue shall lie in the City of Danville, Virginia.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

CITY OF DANVILLE, VIRGINIA

By: _____
City Manager

(SEAL)
ATTEST:

City Clerk

AVERETI UNIVERSITY

By: _____
Title:

LEASED PREMISES--DESCRIPTION

A. General Aviation Terminal/ Flight Center Building: An area comprising approximately 12,908 square feet, together with the MODIFICATIONS located thereon, as shown below in Exhibit A.

B. Corporate Hangar: An area comprising approximately 3894 square feet, as shown below in Exhibit B.

C. Tie-Down Area: An area comprising nine (9) unsheltered tie-down spaces located with access to runways; the location of these spaces shall be designated by Lessor. Additional tie down spaces may be leased at the discretion of the airport manager as shown in Exhibit A.

D. Parking Area: An area comprised of paved parking space adequate for twenty four (24) standard-sized automobiles; the location of this area shall be designated by Lessor adjacent to the General Aviation Terminal as shown in Exhibit A. Additional parking area for the corporate hangar to include five (5) parking spaces and one (1) disabled parking space for a total of six (6) parking spaces as identified in Exhibit B.

PERMITTED ACTIVITIES

- A. Flight training, including ground school, in any format approved by the FAA.
- B. Accommodations for students' use as waiting or lounge area, separate and apart from areas open to the public or other users of Airport facilities.
- C. Noncommercial operations of aircraft.

MINIMUM STANDARDS

- See attached

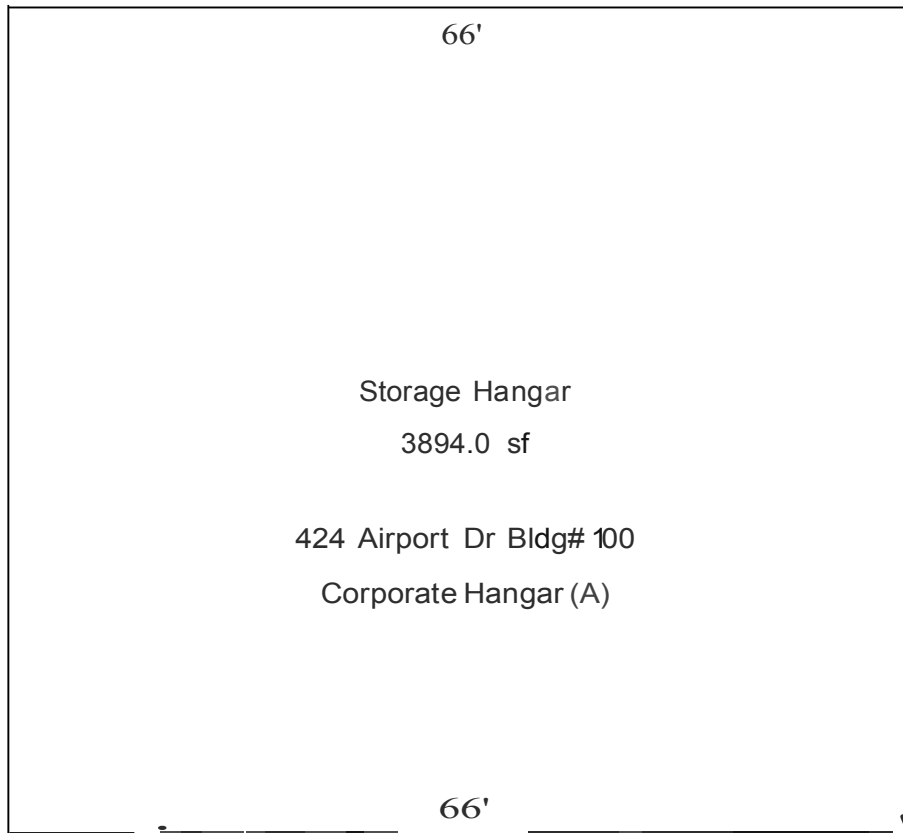
Exhibit A

Tie-Down Area

Parking Area

Flight Center

EXHIBIT A



Skicb by Apex 1.1 ina"

Exhibit B

Corporate
Hangar →

↑
Parking
rea

EXHIBIT C

MINIMUM STANDARDS

- See attached

DANVILLE REGIONAL AIRPORT

Minimum Operating Standards

Adopted January 19, 2016

CHAPTER I

GENERAL PROVISIONS

Section I Purpose

These Airport Minimum Standards and Rules and Regulations, hereinafter referred to as "regulations and standards" are adopted by the City of Danville to establish administrative, operational, and safety regulations and standards for the management, government, development and use of Danville Regional Airport. These regulations and standards apply to everyone using the Airport and shall be observed in the interest of safety, security, and the financial well being of all interested parties.

Section 2 Definitions

The following words and terms shall have meaning as indicated below, unless the context clearly requires otherwise.

- **Aeronautical Activity** is any activity which involves, makes possible, or is required for the operation of aircraft, or which contributes to or is required for the safety of such operations. Aeronautical activities are addressed in Section 2 of Chapter IV and elsewhere in these regulations and standards.
- **AIM** means Aeronautical Information Manual, which is a publication containing Basic Flight Information and ATC Procedures designed primarily as a pilot's instructional manual for use in the National Airspace System of the United States.
- **Air Carrier also Airline** means a business using the airport for the transport of passengers or goods and operating the business under the terms and conditions of FAR Part 121.
- **Aircraft also Airplane, Balloon, Ultralight, Helicopter.** Any contrivance now known or hereafter invented and used for navigation and flight in air or space.
- **Aircraft Emergency.** A problem or condition involving an aircraft in flight or on the ground that could endanger lives or property.

- Aircraft Maintenance. Any work performed on an aircraft by a pilot, owner or mechanic other than the routine cleaning, upkeep and servicing of an aircraft in preparation for flight. Removal of engine cowling, replacement of parts, defueling of an aircraft or temporary removal of parts normally used for safe flight are activities that place any aircraft in an 'aircraft maintenance' mode.
- Aircraft Operation. Any aircraft takeoff, landing or other ground movement.
- Aircraft Operator. Any person who pilots, controls, owns or maintains an aircraft.
- Aircraft Parking and Storage Areas. Those hangar and apron locations of the airport designated by the Airport Layout Plan (ALP) or the Airport Manager for the parking and storage of aircraft. These areas include "tie-down" aprons equipped with rope or chain devices that are used to secure light-weight aircraft during windy conditions.
- Airfield. See Air Operations Area.
- Air Operations Area also AOA. Any area of the airport used for landing, takeoff or surface maneuvering of aircraft. The AOA is considered a restricted area and is off-limits to the general public.
- Airport means the Danville Regional Airport and all of the areas, buildings, facilities and improvements within the interior boundaries of such airport as it now exists or as it may hereinafter be extended or enlarged and as depicted on a recognized current Airport Master Plan.
- Airport Commission means the Commission established by the provisions of Division 2, entitled "Airport Commission", of Article II, entitled "Danville Regional Airport", of Chapter 6, entitled "Transportation and Aviation" of the Code of the City of Danville, Virginia, 1986, as amended.
- Airport Layout Plan also ALP. A graphic presentation to scale of existing and proposed airport facilities, their location on the airport and the pertinent clearance and dimensional information required to show conformance with applicable standards.
- Airport Manager means the Airport Manager or Director of Transportation Services, who, as authorized by the City, shall be responsible for the operations, management and maintenance of the airport and for the enforcement of the provisions of these standards and regulations.
- Airside means the buildings, hangars, instrument and communications facilities, runways, taxiways, ramps, aprons and run-up areas used by aircraft on the Airport.

- ASOS means Automated Surface Observation System.
- ATC means air traffic control, as established by the FAA.
- Based Aircraft means any aircraft whose "home base" or "permanent residency" is identified with a specific airport
- City means the City of Danville, Virginia.
- Department of Transportation Services is the managing city agency.
- Emergency Vehicles are vehicles that are painted, marked, lighted or escorted and used by the police (security officers), fire department, ambulances or other airport officials in response to an emergency situation.
- EPA is the U.S. Environment Protection Agency.
- FAA means the Federal Aviation Administration.
- FAR means the Federal Aviation Regulations as written, approved and published by the FAA.
- FBO means Fixed Base Operator or any person or organization which is duly authorized by written agreement with the authority to operate one or more aeronautical activities, as described in Section 8, of Chapter IV of these regulations and standards, which will be made available to the public for profit.
- Flammable Liquid is a liquid having a closed cup flash point below 100°F (38°C). Flammable liquids are further categorized into a group known as Class I liquids. The Class I category is subdivided as follows:
 - Class IA. Liquids having a flash point below 73°F (23°C) and having a boiling point below 100°F (38°C).
 - Class IB. Liquids having a flash point below 73°F (23°C) and having a boiling point at or above 100°F (38°C).
 - Class IC. Liquids having a flash point at or above 73°F (23°C) and below 100°F (38°C).
- IFR means Instrumental Flight Rules, as defined within FARs, which govern the procedures for conducting instrument flight.
- Large Aircraft is an aircraft of 12,500 or more pounds certified takeoff weight as defined within FARs.
- Master Plan includes the official concept of the ultimate development of the airport. It presents the research and logic from which the plan evolved and displays the plan in written and graphic forms. It presents a schedule of proposed development in the 0-5, 6-10 and 11-20-year time periods.

- Minimum Operating Standards means qualifications that may be established as the minimum requirements to be met as a condition for right to conduct an aeronautical activity on the airport.
- MSL means an altitude expressed in feet measured above Mean Sea Level. (See AIM)
- NFPA is National Fire Protection Association.
- OC means Operation Center, which is the location of UNICOM.
- NDB means Non-Directional Beacon. (See AIM)
- NOTAM means Notice to Airmen, which are distributed by the FAA.
- Parking Areas also Parking Lot Those areas designated by the Airport Layout Plan (ALP) as vehicle parking areas for passengers, other customers, employees and ground transportation staging areas (rental cars, taxicabs, buses and shuttles).
- PAPI's means Precision Approach Path Indicator. (See AIM)
- Public Use Areas are those areas normally used by the general public. These areas include restrooms, passenger terminal lobbies, hallways, public transportation waiting areas, viewing areas, roads, sidewalks and public motor vehicle parking lots. They do not include areas leased by Commercial Aviation Businesses unless those businesses so designate certain areas as public use areas. They do not include the AOA and restricted areas.
- Ramp also Apron, Tarmac are areas of the airport, both public and privately leased, designated by the Airport Manager for the parking or storage of aircraft. As a rule, these areas are usually restricted areas and involve activities such as enplaning and deplaning passengers, servicing aircraft, air cargo movements and the general aviation ramp.
- Restricted Areas are areas closed to access by the general public. These are limited access areas that the Airport Manager, the FAA, or Commercial Aviation Business owners have elected to restrict for purposes of security or safety. These areas include but are not limited to the AOA, airport perimeter roadways, fenced-in areas, aircraft hangars and maintenance shops, fuel storage areas and hazardous materials storage areas.
- Runway. An area of the airport developed and improved for the purpose of accommodating the landing and takeoff of aircraft.

- **Small Aircraft** means an aircraft of less than 12,500 pounds maximum certified takeoff weight as defined within FARs.
- **Taxilane** is an area of the airport developed and improved for the purpose of maneuvering aircraft between taxiways and aircraft parking positions.
- **Taxiway** is an area of the airport developed and improved for the purpose of maneuvering aircraft on the ground between runways and aprons and between other parts of the airport
- **Tenant.** An entity having a written lease, rental agreement or other agreement with the City, which grants that entity certain rights and privileges on the airport
- **Terminal also Terminal Building, Passenger Terminal and General Aviation Terminal.** That central or primary facility or facilities in which airport passengers, air cargo and general aviation activities are accommodated, housed and processed.
- **Touch and Go Landing also Stop and Go Landing, Transitional Landing.** An aircraft landing on an airport runway, slowing down or coming to a full stop on that runway, remaining on that runway and then adding full power to the aircraft and proceeding to takeoff.
- **UNICOM** means a communication, which provides airport and weather advisory information.
- **VASI** means Visual Approach Slope Indicator. (See AIM)
- **VDOA** means the Virginia Department of Aviation.
- **VFR** means Visual Flight Rules, as defined within FARs, used when weather minimums are above those required by IFR (Instrument Flight Rules).

Section 3 Rules and Regulations

All aeronautical activities at the Airport and all business and other activities at the Airport and all hangar lease provisions shall be conducted in conformity with these regulations and standards, and all pertinent rules, regulations, orders, rulings and ordinances of the City of Danville, Virginia, specifically including Chapter 6 of the Code of the City of Danville, Virginia, as amended, and the 2012 Virginia Statewide Fire Prevention Code as appropriate, which are made a part of these regulations and standards by this reference. In the event of any conflict between these regulations and standards and any law, rule, regulation, order or ordinance of any governmental agency cited in this Section or any

other State or federal agency exercising the same or similar jurisdiction, the latter shall prevail.

Section 4 Special Events

Special Events, including but not limited to the following:

- Air Shows
- Balloon Festivals
- War Bird Shows
- Fly-In Meets
- Remote Controlled Aircraft
- Parachute Jumps or Demonstrations

or other similar events requiring the general use of the Airport, for other than normal or routine airport traffic, shall not be held unless written approval is obtained from the Airport Manager. The written authorization shall specify the areas of the Airport authorized for such special use, dates, insurance, as required by the City, and such other terms and conditions as the City may require.

Section 5 Public Use

The Airport common use areas shall be open for public use during designated hours, subject to regulations, restrictions due to weather or, the conditions of the Airport operational area, special events or like causes, as may be determined by the Airport Manager.

Section 6 Vehicular Traffic

No person shall take or drive any vehicle on Airport airside surfaces unless permission has been first obtained from the Airport Manager or his/her designee.

The following rules of operation apply to vehicles operated on the Airport airside:

- A. No person shall operate a motor vehicle of any kind on the Airport in a reckless or negligent manner or in excess of 15 miles an hour.
- B. Pedestrians and aircraft shall have the right of way at all times.

- C. When parking on the tie-down or transient apron for purposes of ramp privilege, vehicles shall be parked clear of taxi lanes and parked aircraft so as not to endanger or damage such aircraft.
- D. The operator of any vehicle on the Airport must have a valid driver's license and be qualified to drive the vehicle being operated.

Section 7 Pedestrians

All pedestrians or visitors at the Airport should follow all safety regulations and remain outside the airside operational areas, unless arriving or departing in an aircraft. No reckless activity shall take place by pedestrians. Sightseers should remain outside of the airside operations areas, unless accompanied by a licensed pilot or agent of the City of Danville.

Section 8 Advertising and Signs

Signs or other advertising shall not be placed or constructed upon the Airport or on any building or structure or improvement thereon without having first obtained written approval from the Airport Manager. All Airport signs must comply with City zoning and building regulations.

Section 9 Acceptance of Regulations and Standards by Users

The use of the Airport or any of its facilities in any manner shall constitute an acceptance by the user of these regulations and standards and create an obligation on the part of the user to abide by and obey these regulations and standards.

Section 10 Airport Manager

The Airport Manager is authorized to take all actions necessary for the handling, policing, protection and safeguarding of the public while on Airport premises, to regulate aircraft and vehicular traffic at the Airport and to oversee all Airport operations consistent with these minimum standards, FAA rules and regulations, and the laws of the Commonwealth of Virginia. The Airport Manager is the City Representative at the Airport and shall report to the City Manager and shall keep the Airport Commission informed of any changes or contemplated changes in the operation of the Airport.

Section 11 Airport Commission

Duties are defined by City Code Sec. 6-38

CHAPTER II
AIRCRAFT OPERATION AND AIRPORT TRAFFIC

Section 1 General

- A. Persons operating an aircraft shall comply with all pertinent rules, regulations, orders and ruling of the City, FAA, VDOA, and other appropriate governmental agencies. Persons operating aircraft are responsible for the safe operation of their aircraft and the safety of others exposed to such operation.
- B. In the event an aircraft is wrecked or damaged to the extent that it cannot be moved under its own power, the Airport Manager, or designee, shall be immediately notified by the operator and/or FBO. After the local Emergency Services Agency (911), has been notified, the dispatch will communicate with appropriate agencies. Subject to governmental investigations and inspection of the wreckage, the owner or pilot of the wrecked or damaged aircraft, or the owner's agent or legal representative shall, as soon as reasonably possible, obtain the necessary permission from the Airport Manager to relocate and conduct such relocation of the wreckage to an area designated by the Airport Manager. In the event the owner of the aircraft fails for any reason to remove the wrecked or damaged aircraft from the Airport as may be requested by the Airport Manager, the Airport Manager may cause the removal and storage or disposal of such wrecked or damaged aircraft at the expense of the aircraft owner.

Section 2 Parked / Hangared Aircraft

- A. The pilot or owner shall properly secure his/her aircraft while parked or stored. Aircraft pilots or owners are solely responsible for parking and tying down their aircraft, including any special security measures required by weather or other conditions at the Airport. Aircraft pilots or owners shall also be responsible for securing aircraft in a manner necessary to avoid damage to other aircraft or buildings at the Airport in the event of winds or other severe weather. Owners of all aircraft shall be held solely responsible for any damage or loss resulting from the failure of such owner or the pilot of such aircraft to comply with this rule. The City's obligation, unless otherwise provided in a lease agreement, shall be limited

to the maintenance of the aircraft parking space. Parking space maintenance shall include, but not be limited to, such things as line painting, rope replacement, grommet repair, and asphalt or sod repair. Snow removal shall be limited to paved taxilanes adjacent to tie down spaces.

- B. A specific tie-down space shall be assigned each aircraft when space is rented on a monthly basis. Separate areas shall be designated by the Airport Manager for itinerant tie-downs. No one shall take or use any aircraft anchoring or tie-down facilities when such facilities are reserved for another aircraft.
- C. Aircraft engines shall not be run up unless the aircraft is in such a position that the propeller or jet blast clears all hangars, shops and buildings, persons, other aircraft, automobiles or vehicles, and the flight path of landing aircraft.
- D. Hangars are rented with the understanding that they are for the primary purpose of harboring aircraft. Incidental use of hangar for storing items (vehicles, shelves, chairs etc...) is permissible provided they do not impede the primary usage of aircraft storage.

Section 3 Maintenance of Aircraft

A. Scheduled Aircraft Maintenance

- 1. Any aircraft owner or operator may perform Federal Aviation Regulation (FAR) Part 43 Authorized Owner Maintenance on his owned aircraft provided such maintenance or service is performed by the owner or approved employee. Any owner utilizing an employee to perform aircraft maintenance may be required to produce evidence of employment in a form acceptable to the Commission.
- 2. An aircraft owner shall not contract with a second party, such as an aircraft maintenance company or contractor, to perform scheduled maintenance on his aircraft at Danville Regional Airport unless said contractor is recognized by the City of Danville Airport Management and the scheduled maintenance cannot be performed by an existing FBO (Fixed Based Operator).

B. Unscheduled Aircraft Maintenance

1. No person shall allow a person onto the airport to perform unscheduled maintenance on their owned or operated aircraft unless warranted maintenance work that requires repair by the warranting company, malfunction prevents the aircraft from being flown to another airport for maintenance work that requires a specialty service that is not provided by an existing FBO (Fixed Based Operator).

Section 4 Traffic Rules

- A. All traffic must be in compliance with the FARs.
- B. In VFR conditions, traffic pattern traffic shall have the right of way over all instrument practice approaches.
- C. All aircraft should minimize the time period of being stopped on runway.

Section 5 Specialized Aeronautical Activities

A. Activities Regulated by Airport Management

1. Specialized Aeronautical Activities include, but are not limited to, the following:
 - Ultralight aircraft
 - Hot air balloons
 - Parachute drops

These aeronautical activities require coordination and regulation through the office of the Airport Manager.

2. Operation of ultralight aircraft into the airport traffic area and landings, parking and takeoffs require prior coordination and approval of the Airport Manager.
3. The Airport Manager has the authority and responsibility to designate specific runways, taxiways, or other suitable paved or prepared surfaces for occasional ultralight activity.
4. The Airport Manager has the authority and responsibility to approve/disapprove locations on airport property and specific dates for hot air balloon launches, experimental aircraft tests and parachute drops.

B. Mandatory Compliance by Owners/Operators of Specialized Aeronautical Activity Equipment

1. Prior to operating any type of equipment listed above, the owner/operator of the specialized aeronautical equipment must obtain approval in writing from the AirportManager.
2. The owner/operator of such specialized aeronautical equipment will be limited by the AirportManager to launching, testing, high speed taxi or parachute landing to/from specific sites on the airport. Those sites might be runways, portions of runways, taxiways, clear zones or other airportproperty. Specific site location may also be limited by designated time of day use.
3. Proof of liability insurance, as required by the city.

CHAPTER III

FIRE PREVENTION AND AIRCRAFT SELF-FUELING

Section 1 General

The purpose of the Section is to provide fire prevention and self-fueling regulations and standards for pilots and aircraft owners operating on the Airport who engage in servicing and fueling their own aircraft. Persons operating aircraft on the Airport and who intend to use flammable or volatile liquids on the Airport and/or fuel their own aircraft shall do so in accordance with the requirements of National Fire Protection Association (NFPA) 407 Standard for Aircraft Fuel Servicing, and FAA Advisory Circular 150/5230-4B (as amended).

Section 2 Flammable and Volatile Liquids

No person shall use flammable or volatile liquids having a flash point of less than 100° F. in the cleaning of aircraft, aircraft engines, propellers, appliances, or for any other purpose. The procedures and precautions outlined in the criteria of NFPA 410 for Safeguarding Aircraft Cleaning, Painting, and Paint Removal and Aircraft Cabin Cleaning and Refurbishing Operations are hereby incorporated by reference and made part of this chapter as if fully set out herein, and shall be adhered to in addition to the 2012 Virginia Statewide Fire Prevention Code in all cleaning, painting, and refurbishing operations using flammable and volatile fluids, including the storage of such fluids.

Section 3 Spills

Cleanup of any spill of flammable and combustible liquids shall comply with Chapter 20, Section 2004.4 and Section 2006.11 of the 2012 Virginia Statewide Fire Prevention Code.

Section 4 Liquid Disposal

Fuels, oils, dopes, paints, solvents and acids shall not be dumped into drains, on the aprons, catch basins, ditches (on or adjacent to the Airport) or elsewhere on the Airport and shall

comply with Chapter 50 Section 5003.3 of the 2012 Virginia Statewide Fire Prevention Code.

Section 5 Cleaning Floors

Floors shall be kept clean and free of oil. The use of volatile, flammable solvents for cleaning floors is prohibited.

Section 6 Drip Pans

If required by aircraft design, drip pans shall be placed under engines and kept clean as required by NFPA 410.

Section 7 Compressed Gases

Cylinders or flasks of compressed flammable gases shall not be stored inside of hangars or occupied buildings but shall be stored external to occupied buildings and hangars in facilities approved in writing by the Manager.

Section 8 Fueling Operations

- A. Persons may self-fuel aircraft owned or leased (by written lease) to them provided such operation is conducted in accordance with NFPA 407 and the 2012 Virginia Statewide Fire Prevention Code and the following provisions are met:
 - 1. Fuel needed is not provided on the field by the FBO (Fixed Based Operator)
 - 2. A request to self-fuel must be submitted in writing to the Airport Manager
 - 3. Self-fueling equipment must be inspected by the City of Danville Fire Marshall's Office
 - 4. Self-fueling location to be specified by Airport Management. Refueling is not allowed in hangars.

Section 9 Fuel Storage

A maximum of five (5) gallons of fuel may be stored in a UL listed safety can in the hangars. No other fuels shall be stored on airport property other than in the bulk storage and distribution systems owned and operated by the City.

Section 10 Fuel Servicing Vehicles

Persons operating on the Airport and electing to, with the written permission of the City, use a fuel servicing vehicle (hereinafter referred to as "refueler") for the purpose of dispensing fuel to service their owned aircraft, must meet the following rules:

- A. Refuelers and their systems shall be maintained and operated in accordance with NFPA 407 and NFPA 385 (if applicable for highway use) and shall conform with FAA Advisory Circular 150/5230-48 as amended.
- B. Refuelers of any kind shall not be stored or parked on Airport property other than in the order designated by the Airport Manager. Refuelers shall be parked or positioned on other portions of Airport property only when actually dispensing fuel to the owner's aircraft. Once fuel dispensing is complete, refuelers shall be immediately returned to the area designated for the storage or parking of refuelers.
- C. Refuelers shall use only the entrance, exit, and route designated by the Airport Manager during the transportation of fuel onto and off the Airport.

Section 11 Contracts Prohibited

An aircraft owner shall not contract with a second party, such as an oil company or fuel contract, to refuel his aircraft. The second party is considered a commercial aeronautical activity.

Section 12 Fuel Farm

The fuel farm, utilizing above ground storage tanks, will be operated and managed under contract with the City and an FBO. All fuel used in fueling aircraft at the Airport, except in the case of aircraft owners who choose to self-fuel, shall be obtained from said fuel farm.

CHAPTER IV
AIRPORT OPERATORS, LEASED, AND CONCESSION

Section 1 Business Activity Compliance

Subject to applicable orders, certificates or permits of the FAA, or its successors, Grant Agreements with the FAA and the laws of the Commonwealth of Virginia, no person shall use the airport or any portion thereof or any of its improvements or facilities for commercial, business or aeronautical activities who has not first complied with these regulations and standards and obtained the required approval and written consent of and/or permit or license for such activities from the City and entered into such written leases and other agreements prescribed by the City.

Section 2 Application

Application for leases of ground on the Airport, or for permission to conduct on any commercial, business or aeronautical activity at the Airport shall be made to the Airport Manager on forms prescribed by the City. The city may, if it deems advisable, have a public hearing upon the receipt of the application. The applicant shall submit all information and material necessary or requested by the City to establish to the satisfaction of the City that the applicant can qualify and will comply with these regulations and standard. The application shall contain a statement of the names of every party owning an interest in the business, the sole proprietor or every partner of the partnership, or each director and officer of the corporation as the case may be, and such application shall be signed by such persons who shall have authority to do so under the laws of the Commonwealth of Virginia. The City shall take such actions as it deems appropriate, which may include acceptance or rejection, or denial or modification of such application, the city shall decide any proposal made pursuant to this Section within 120 days from receipt of such unsolicited proposal.

Section 3 Airport License and Leases Nontransferable

Rights, privileges, permits or licensed to do business at the Airport, or any lease of any area of the Airport or part thereof shall not be assigned, sold or otherwise transferred or conveyed in whole or in part without the prior express written consent of the City. Leases, or any portion thereof, shall not be assigned or sublet without prior approval of the City and all assignees or subleased as approved by the city shall comply with these regulations and standards.

Section 4 Rate

Rates charged by an FBO at its leasehold that hold a certificate authorizing operations, maintenance and training under the following parts but not limited to 119, 121, 125, 135, 141, 142 and 145 shall not be excessive, discriminatory or otherwise unreasonable.

Section 5 Refuse

Persons shall not throw, dump or deposit any waste, refuse or garbage on the Airport. All waste, refuse or garbage shall be placed and kept in proper containers until disposed of as specifically prescribed by the Airport Manager. All operating areas shall be kept in a safe, neat, clean and orderly manner at all times and in such a manner as to minimize any hazards.

Section 6 Approval of Construction

Buildings, structures, tie-downs, ramps, paving, taxi areas or any other improvements or addition shall not be placed, constructed, altered or removed without prior written approval of the City. In the event of any construction, the City may, at its discretion, require an appropriate bond to guarantee the completion of the construction in accordance with its approval. The City shall consider conformance to the Airport's Capital Improvement Program and Airport Master Plan prior to the approval or denial of any construction or development at the airport.

Section 7 Operation Area

Persons authorized to operate or conduct business activities at the Airport shall do so only on areas specified by the lease agreement, or approved in writing by the City.

Section 8 Fixed Base Operators

- A. An FBO shall be an entity which carries on or conducts one or more of the following services at the Airport including, but not limited to and be considered by the Airport Manager, Airport Commission and the City of Danville. No person shall operate a non-leased operation without disclosing relevant information for the approval of the Airport Manager.
1. Aircraft Sales
 2. Parts and Accessories Sales
 3. Charter operations which include, without limitations: passenger or air taxi, freight or freight delivery, photography, aerial survey, agricultural spraying, etc.
 4. Aircraft Rental
 5. Flight instruction or ground schools
 6. Maintenance services which shall include services in one or more of the following:
 - a. Airframe overhaul and repair
 - b. Engine overhaul and repair
 - c. Radio and electrical shop
 - d. Instrument shop
 - e. Aircraft interior work
 - f. Refinishing and painting
 7. Lines services which shall include one or more of the following services:
 - a. Supplying the fuel, oil and other fluids
 - b. Deicing fluid
 - c. Interior cleaning
 8. Aircraft Storage, inside and outside
- B. An applicant for an FBO's license shall specify all services mentioned in Subsection A of this Section, which the applicant desires to conduct on the Airport. An FBO shall carry on or conduct only those services which have been granted by license or other written approval by the City.

Section 9 Flying Clubs

All flying clubs desiring to base their aircraft and operate on the Airport must comply with the applicable provisions of these regulations and standards. However, they shall be exempt from regular fixed base operator requirements upon satisfactory fulfillment of the conditions contained herein.

- A. The clubs shall be nonprofit entity (corporation, association or partnership) organized for the express purpose of providing its members with aircraft for their personal use and enjoyment only.
- B. The flying club, with its initial application, shall furnish the City with,
 - 1. A copy of its charter and bylaws;
 - 2. Articles of association, partnership agreement or other documentation supporting its existence;
 - 3. A current roster, or list of members, including names of officers and directors, (to be revised annually or within thirty (30) days of change);
 - 4. Number and type of aircraft;
 - 5. Evidence that ownership or leasehold is vested in the club;
 - 6. Operating rules of the club; and
 - 7. Evidence of insurance, as required by the city, in the form of a certificate of insurance and policy coverage limits. These limits shall be subject to review by the Airport Commission and/or Airport Manager

A flying club that violates any of the foregoing, or permits one or more members to do so, shall be warned in writing. If the condition is not corrected within a reasonable specified time, as established by the City, the club will be required to terminate all operations.

Section 10 Waiver of Chapter IV Provisions

The City, upon the recommendation of the Airport Commission, may in its discretion, waive all or any portion of this chapter for the benefit of any government or governmental agency performing nonprofit public services for the aircraft industry, or performing fire prevention or fire fighting operations, but only to the extent permitted by the rules of the FAA and the Laws of the Commonwealth of Virginia.

Section 11 Pioneers

When an applicant wishes to qualify as a specialized FBO in order to provide services not already provided at the airport, the foregoing minimum standards may be modified subject to the written approval of the City for a limited period of time (not to exceed one (1) year). It is the express purpose of this provision to encourage the expansion of services at the airport where they do not exist and only to the extent and for the period of time necessary to create an inducement to the establishment of such service.

Section 12 Acts of God

Nothing contained in these regulations and standards shall be construed as requiring the City to maintain, repair, restore or replace any structure, improvement or facility which is substantially damaged or destroyed due to an Act of God or other condition or circumstance beyond the control of the City.

CHAPTER V
PENALTIES

Section 1 General

In addition to any penalties otherwise provided by City ordinance, or the Federal Aviation Regulations, and all other rules and regulations of the Commonwealth of Virginia and the FAA, any person violating these regulations and standards may be promptly removed or ejected, either temporarily or permanently, from the Airport by the Airport Manager. The City shall, in writing, within 14 days of any such removal or ejection, render to the same person removed or ejected under this section, a letter to his last known mailing address delineating the specific violation of these regulations and standards which necessitated such removal. Any person so removed may within ten (10) days of receipt of such letter from the City request in writing a hearing on the propriety or reasonableness of his removal. The request for such hearing shall be addressed to the Airport Manager. The Airport Commission will hear any such appeal within thirty (30) days of the receipt by the Airport Manager of such request and shall forward their recommendations on the question to the City Manager within five (5) days thereafter. The City Manager will render a decision on such appeal within five (5) days of the receipt of the recommendations of the Airport Commission.

Council Letter

City of Danville, Virginia



CL-1952

New Business Item #: H.

City Council Regular Meeting

Meeting Date: 08/21/2018

Subject: Historic Tax Credits

From: Telly D. Tucker, Economic Development Director

COUNCIL ACTION

Business Meeting: 08/21/2018

SUMMARY

Rep. Darin LaHood (R-IL) and Rep. Earl Blumenauer (D-OR), and Sen. Bill Cassidy (R-LA), Sen. Ben Cardin (D-MD) and Sen. Susan Collins (R-ME), have introduced bi-partisan legislation – The Historic Tax Credit Enhancement Act – that would make the credit more attractive to developers while bringing it in line with a more recently enacted tax incentive, the Low-Income Housing Tax Credit (LIHTC).

Presently, the tax code requires that building owners subtract the amount of federal historic tax credits from a building's basis--the amount a property is worth for tax purposes. The HTC basis adjustment legislation would eliminate this requirement, providing greater tax benefits for any qualified historic building owner who chooses to substantially rehabilitate their building, and attracting more capital from tax credit investors -- resulting in more dollars flowing to historic rehabilitation projects.

Locally, the HTC program has spurred over \$102.4 million in private investment within the City of Danville since 2005 and has been the main driver for growth and rehabilitation in the River District. In turn, these once-blighted or unused structures have been given new life and increased real estate tax revenues for those properties. Enacting this legislative change modernizes the credit while still preserving the vast majority of the savings achieved by the Tax Cut and Jobs Act, serving to minimize costs and maximize economic impact for communities throughout the country.

With approval of this resolution, we are asking our congressional delegation – Senator Mark Warner, Senator Tim Kaine, and Representative Tom Garrett – to support the Historic Tax Credit Enhancement Act, sponsored by Cassidy/Cardin in the Senate (S. 3058) and LaHood/Blumenauer in the House of Representatives (H.R. 6081).

BACKGROUND

The Historic Tax Credit program (HTC) provides owners of historic buildings with an incentive to invest in the difficult task of rehabilitating their properties according to governmental standards that maintain a historic building's character and integrity. Since it was enacted by President Ronald Reagan in 1981, this program has transformed tens of thousands of underused buildings for new and productive uses, created millions of good-paying jobs, and attracted more than \$131 billion in private investment for cities and towns across America.

RECOMMENDATION

It is recommended that Danville City Council approve a Resolution Urging the City of Danville's Congressional Delegation to Support the Historic Tax Credit Enhancement Act of 2018.

Attachments

Resolution

PRESENTED: _____

ADOPTED: _____

RESOLUTION NO. 2018-_____._____

A RESOLUTION URGING THE CITY OF DANVILLE'S CONGRESSIONAL DELEGATION TO SUPPORT THE HISTORIC TAX CREDIT ENHANCEMENT ACT OF 2018.

WHEREAS, the federal Historic Tax Credit program (HTC) was first put in place by Congress and the Reagan Administration to attract capital to historic rehabilitation projects that help stimulate local economies; and

WHEREAS, since the inception of the HTC, it has created over 2.4 million jobs, rehabilitated more than 42,00 buildings, and leveraged over \$131 billion in private investment; and

WHEREAS, recognizing the importance of this successful federal economic development program, more than 35 states have enacted complementary state historic tax credit programs to help revitalize the commercial downtowns of their cities and Main Street communities; and

WHEREAS, federal HTC projects have a 99 percent success rate, leverage four private dollars for every dollar of federal support, and are catalytic, building neighborhood confidence and generating follow-on projects for blocks around; and

WHEREAS, over the life of this program, the HTC has generated \$29.8 billion in federal tax revenues compared to the \$25.2 billion in credits allocated – more than paying for itself; and

WHEREAS, the federal HTC program has spurred over \$102.4 million in private investment with the city of Danville since 2005, which has increased real estate revenues on each property; and

WHEREAS, this program has been the main driver in reenergizing our River District, the urban core of our community, by converting blighted structured into

residences storefronts for businesses, and places to enjoy for both residents and visitors;
and

WHEREAS, the changes outlined in the Historic Tax Credit Enhancement Act of 2018 will continue to provide developers with the incentive to continue rehabilitation and redevelopment of our communities while increasing the local tax base.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Danville, Virginia, supports the Historic Tax Credit Enhancement Act of 2018 and urges our federal delegation to lend support for passage.

APPROVED:

MAYOR

ATTEST:

CLERK

Approved as to
Form and Legal Sufficiency:

City Attorney

Council Letter

City of Danville, Virginia



CL-1964

New Business Item #: I.

City Council Regular Meeting

Meeting Date: 08/21/2018

Subject: Acceptance of a VHDA Grant to Assist with the Stabilization of 205 Jefferson Avenue

From: Earl B. Reynolds, Jr., Deputy City Manager

COUNCIL ACTION

Business Meeting: 08/21/2018

SUMMARY

The subject property was condemned as being unfit for human habitation in 2014 after years of enforcement actions by City Inspections staff (see attached Register and Bee article). The property is currently owned by a Texas registered LLC, Agomuo Ventures, LLC. City staff was authorized to file a Circuit Court Petition in April 2017 to obtain Receivership rights under Virginia Code Statute 15.2-907.2. Receivership allows City staff or their designees to enter the property, make necessary repairs, and take measures deemed necessary and appropriate to protect the property from further destruction. The Receivership Order also puts the owner(s) on notice that the Court will allow the City to recover its documented costs of providing the aforementioned services by either voluntary payment by the owner(s) or by judicial sale, subject to Court approval.

BACKGROUND

Since the Receivership Order was issued by the Circuit Court, City staff objectives have been to (1) identify a redevelopment scenario which would get the property into responsible ownership to ensure a high quality renovation project equal to what has been experienced in the River District, and (2) be the least costly alternative to the City. Two very favorable events have occurred, which will allow these objectives to be met.

1. **VHDA Community Impact Grant** in the amount of **\$125,000** has been awarded to the City to assist with property stabilization. A **\$75,000 local contribution** for stabilization has been reserved in the Blight Eradication CIP to assist with this effort.
2. **Danville Neighborhood Development Corporation Purchase**: The DNDC will purchase the property with a deferred loan to be provided by Preservation Virginia, Inc. (PV); the PV Board of Directors has acted favorably on the loan. The loan details are still being worked out between Preservation Virginia, Inc., and the Virginia Department of Historic Resources.

RECOMMENDATION

It is recommended that the City Council concur with the following actions:

1. Authorize the City Manager or the Deputy City Manager to execute the VHDA grant award which will provide \$125,000 to help stabilize the subject property. This action acknowledges the use of \$75,000 from the Blight CIP Fund to support this activity; and
2. Authorize the Budget Director to set up an account in the Grant Fund for this purpose.

Attachments

Ordinance

R/B Article

Grant Award

PRESENTED: _____

ADOPTED: _____

ORDINANCE NO. 2018 - _____._____

AN ORDINANCE AMENDING THE FISCAL YEAR 2019 BUDGET APPROPRIATION ORDINANCE TO PROVIDE FOR GRANT FROM THE VIRGINIA HOUSING DEVELOPMENT AUTHORITY IN THE AMOUNT OF \$125,000 AND LOCAL SHARE IN THE AMOUNT OF \$75,000 AND APPROPRIATING THE SAME.

WHEREAS the City of Danville has received a grant from the Virginia Housing Development Authority to underwrite the cost of property stabilization for 205 Jefferson Street within the Old West End Historic District.

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Danville, Virginia that the Fiscal Year 2019 Budget Appropriation Ordinance be, and it is hereby, amended by increasing revenues from the Virginia Housing Development Authority in the amount of \$125,000 for the purpose of structural stabilization for 205 Jefferson Street within the Old West End Historic District and such funds to be appropriated in the Special Grant Fund as follows:

ANTICIPATED REVENUES

<u>Description</u>	<u>Account No.</u>	<u>Amount</u>
VHDA-205 Jefferson Street Categorical Aid-State	61455000-45840	\$ 125,000

ANTICIPATED EXPENDITURES

Description	Account No.	Amount
VHDA-205 Jefferson Street	61455999-50	\$125,000

AND BE IT FURTHER ORDAINED that a transfer is authorized from the City's Comprehensive Blight Removal project to the VHDA-205 Jefferson Street Project in the amount of \$75,000 such transfer as follows:

TRANSFER FROM

<u>Description</u>	<u>Account No.</u>	<u>Amount</u>
Capital Projects Fund		
Comprehensive Blight Removal		
Transfer Out to Special Grants	60806000-6014	\$ 75,000
Comprehensive Blight Removal Project	60806999-50	75,000

TRANSFER TO

<u>Description</u>	<u>Account No.</u>	<u>Amount</u>
Special Grant Fund		
VHDA-205 Jefferson Street		
Transfer In From Capital Projects	61455000-6125	\$ 75,000
Five Forks Historical Project	61455999-50	75,000

AND BE IT FURTHER ORDAINED that this appropriation shall be a flexible budget to appropriate additional State revenue received and transfer from the Comprehensive Blight Removal Project any local share required by the State; and

AND BE IT FINALLY ORDAINED that all other accounts and provisions of the Fiscal Year 2019 Budget Appropriation Ordinance, as amended, not hereby amended, shall continue in full force and effect unless and until hereafter further amended or repealed.

APPROVED:

MAYOR

ATTEST:

CLERK

Approved as to
Form and Legal Sufficiency:

City Attorney

City wants to avoid tearing down apartment building unfit for occupancy

John Crane

- - Nov 20, 2016

Built in the 1920s, the 26-unit, stucco-covered building was declared unfit for human occupancy in 2014.

A window pane hangs precariously over a sidewalk at the side of the apartment building at 205 Jefferson Ave. in Danville.

City officials want to avoid tearing down the 16,773-square-foot structure at 205 Jefferson Ave., which has historic importance in the neighborhood.

Danville is close to declaring an apartment building at 205 Jefferson Ave. a blighted property.

Built in the 1920s, the 26-unit, stucco-covered building was declared unfit for human occupancy in 2014. It had gas, ceiling and roof leaks, mold, roaches, deteriorated floors and plumbing that didn't work, said Jerry Rigney, director of Danville's inspections division.

City officials want to avoid tearing down the 16,773-square-foot structure, which has historic importance in the neighborhood.

The city is giving the owner a chance to make repairs or it will petition the court to act as a receiver for the property.

"We don't believe it is too much to the point where we can force demolition on it," said City Manager Ken Larking. "There is still an opportunity for it to be rehabbed. We prefer that buildings get rehabbed rather than demolished. In this case, we feel like there's a good opportunity for that apartment complex to be redeveloped."

The building could fill a housing need close to the River District, Larking said.

"This is an effort to try not to lose the building," Rigney said during an interview at the property Friday morning.

According to the city's online real estate records, Agomuo Ventures LLC owns the property. A voice message left at the firm's phone number was not returned Friday.

The city's inspections division has imposed numerous enforcement measures on the property since the late 1980s. The first correction order for maintenance code violations was issued in 1988, and additional orders were issued in 2002, 2008, 2013, 2014, 2015 and 2016, according to city officials.

The city declared the building unfit for human occupancy in 2014 and the tenants were removed. It has since been boarded up and secured.

"It's deteriorating from the inside out," Rigney said.

During a visit to the property by the Danville Register & Bee, a window pane hung precariously over a sidewalk at the side of the building. Windows were boarded up and trash littered the property.

Virginia law has provided localities the option of receivership to control a property in exchange for its repair, City Attorney Clarke Whitfield said during Danville City Council's work session Tuesday night.

Once the property is brought back up to code, it would be sold and the city paid for the cost of repairs. The property owner would get any money left over, Whitfield said.

The goal of receivership is for the city to spend enough money on the property to bring it into compliance and make it ready for someone to make use of it, Whitfield said.

The city must declare the property blighted before it can petition for receivership in circuit court. A blighted property means that the structure "endangers the public health, safety or welfare" because it is "dilapidated, or deteriorated, or because the structure or improvements violate minimum health and safety standards," according to state law.

Receivership provides an option for the city when it's not able to pursue a case administratively because a property is not unsafe enough to warrant it, said Cory Wolfe, assistant city attorney.

Danville must also adopt a spot blight abatement plan outlining the blight conditions on the property and giving the owner a time frame to make repairs.

City Council will vote next month whether to declare the property blighted and adopt a spot blight abatement plan.



Recipient	
1. Cont	
Informa	
Agency	
Address	
2. Unive	
3. VHDA	
4. Grant	
5. Fundin	
6. Grant /	
7. Grant	
8. Grant	
Amount	
9. Perio	
Award	
18. Proj	
19. Aut	
J. Mich	
Date:	

**VIRGINIA HOUSING DEVELOPMENT AUTHORITY
DEPARTMENT OF COMMUNITY HOUSING
COMMUNITY IMPACT PLANNING GRANT**

This Agreement entered into by and between the Virginia Housing Development Authority hereinafter referred to as "VHDA" and the City of Danville hereinafter referred to as "Grantee"

Article 1 – General

Grantee is the recipient of a VHDA Community Impact Grant in the amount of \$125,000.00. This Grantee Agreement sets forth the terms and conditions under which VHDA will provide grant funds to the Grantee. Grantee agrees to carry out its eligible activities under this Grantee Agreement.

Whereas, the Grantee has identified the need for financial resources to the following activities:

1. Develop construction write up and plans.
2. Post public Request for Proposals and complete contract with chosen construction company.
3. Construction for the exterior rehabilitation and stabilization of 205 Jefferson Avenue.

Article 2 – Terms & Conditions

The parties hereto agree to the terms and conditions as follows:

1. To accept the \$125,000.00 awarded by the Virginia Housing Development Authority in support of this redevelopment initiative to market to developers. This project is located within the Old West End Historic District (OWE). The boundaries stretch along Main Street/West Main Street from Patton Street to Mt Vernon Avenue, including the side streets of Jefferson Avenue, Pine Street, Chestnut Street, Green Street and Holbrook Avenue.
2. The period of performance shall begin on **June 30, 2018** and expire at midnight on **June 30, 2021**.
3. To use the VHDA awarded funds solely for the stated purpose of supporting the costs associated with the planning and development for the referenced area.
4. To provide VHDA with copies of all planning, design, or development documents generated as a result of the referenced project including such documents generated as a result of financial support provided by other leveraged resources.
5. To authorize VHDA full use of all such generated documents
6. Grantee agrees to provide quarterly status updates on the project to VHDA due by the last day of the month in March, June, September, and December.
7. VHDA agrees to provide grantee with technical assistance in application for VHDA multifamily permanent financing. VHDA and Grantee acknowledge and agree that this Planning Grant Agreement does not in any way guarantee that the Grantee will receive multifamily permanent financing through VHDA.

8. The following documents which are a part of this AGREEMENT and are incorporated by reference herein as if set out in full: PLANNING GRANT APPLICATION PACKAGE, BUDGET, and STATUS REPORTS.

Article 3 – Oversight

By entering into this Agreement, Grantee including any subsidiary or affiliate of Grantee agrees to cooperate fully with the monitoring and oversight efforts as conducted by VHDA, its agents, authorized representatives, and third-party contractors, through site visits, file audits, and other methods. Oversight may include, but is not limited to, remote inspection or on-site performance reviews by VHDA and/or third parties acting on behalf of VHDA. Grantee must cooperate with all VHDA oversight activities, to include requests for access to facilities, access to Grantee's records and requests for information. If Grantee has other obligations that require client information to be kept confidential, measures must be taken to ensure that VHDA and/or third parties acting on behalf of VHDA has access to client files and information for audit and oversight purposes that demonstrates to the satisfaction of VHDA the requirements of this Agreement are being or have been met.

Article 4 - Recordkeeping, Compliance, and Recording Keeping

1. **Record Keeping Requirements.** All files associated with this Agreement (see list below) for three (3) years after completion of this Agreement.
 - a. Grantee agrees to retain all financial records, supporting documentation, statistical records, and all other records pertinent to this Agreement for a period of three (3) years. The only exceptions are the following:
 - i. If any litigation, claim or audit is started before expiration of the three (3) year period, the records shall be retained until the litigation, claims or audit findings involving the records have been resolved and final action taken.
 - ii. Records for real property and equipment acquired shall be retained for three (3) years after final disposition.
 - b. Note that Grantee may also be subject to record retention requirements under other applicable laws and regulations.
2. **Type of Record Keeping System.** Grantee may use any record keeping system provided that the chosen system results in a complete and accurate set of records that are retained per the requirements in this agreement. The resulting records must enable easy monitoring by VHDA when conducting a performance review of the Grantee's activities.
 - a. Grantee agrees to provide updated financial statements (including general ledger details and quarterly financial statements) before each disbursement of funds as requested by VHDA and/or third parties acting on behalf of VHDA.
3. **Compliance.** Grantees must comply with all requirements to include applicable handbooks, current legislative & programmatic requirements, as well as requirements for program eligibility, approval, delivery of services, record keeping, reporting, performance monitoring, and all other documentation related to this Agreement.
 - a. Grantee is required to notify VHDA if they are the subject of any pending investigation related to the disbursement of funds, financial reporting, and use of funds, related to this Agreement.

4. **Auditing.** Grantee agrees to cooperate fully with VHDA, its agents, authorized representatives, and third-party contractors as they perform evaluation, monitoring, quality control, audit, audit-related activities and compliance reviews.
- Whenever possible, VHDA and/or third parties acting on behalf of VHDA will give Grantee fifteen (15) days' notice before conducting an on-site review. However, in situations where a specific concern warrants immediate action, VHDA and/or third parties acting on behalf of VHDA reserves the right to give less than fifteen (15) days' notice.
 - VHDA and/or third parties acting on behalf of VHDA shall have the right to request,

Default and Termination. If Grantee fails to resolve the non-compliance to the satisfaction of VHDA within six months of the date of the notice of suspension, or within any extended timeframe previously approved, VHDA may take one or more of the following actions: (1) recover misspent or unspent funds, (2) de-obligate awarded but un-disbursed funds, (3) terminate the Agreement for cause, or (4) take other remedies that may be legally available. Upon termination of the Agreement, all unspent funds (as determined by VHDA) shall revert immediately to VHDA, either in the form of recapture or de-obligation.

VHDA reserves the right to amend or cancel this grant agreement at any time with a written notice to be provided to the grantee at the contact information provided in the application. Upon termination of the Agreement, all unspent funds (as determined by VHDA) shall revert immediately to VHDA, either in the form of recapture or de-obligation.

In witness whereof, the parties hereto have executed or caused to be executed by their duly authorized official this Agreement in duplicate, each copy of which will be deemed an original.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

DATE: _____

BY: _____
Its: Authorized Officer

DATE: _____

City of Danville
Organization

BY: _____

Title: _____

Start

1 / 5

I agree to the [Terms of Use](#) and [Consumer Disclosure](#) of this document