



CITY COUNCIL AGENDA
January 3, 2012

6:00 p.m. – 7:00 p.m.

Closed session as provided by Section 2.2-3712 of the Virginia Code
(Second Floor Conference Room)

TYPE OF ITEM

SUBJECT

CALL TO ORDER
PLEDGE OF ALLEGIANCE
ROLL CALL

ELECTION OF MAYOR AND VICE MAYOR

**AWARDS/RECOGNITIONS
ANNOUNCEMENTS**

Celebrate 250 Proclamation
Budget Work Session by Council on January 5, 2012

MATTERS BY THE PUBLIC

Public comment will be permitted for the first 12 speakers to sign up in advance of the meeting (limit of 3 minutes per speaker) and at the end of the meeting on any item, provided that a public hearing is not planned or has not previously been held on the matter.

COUNCIL RESPONSES TO MATTERS BY THE PUBLIC

1. CONSENT AGENDA*

(Items removed from the consent agenda will be considered at the end of the regular agenda.)

a. Minutes of December 16 and
December 19

b. **APPROPRIATION:**

Reimbursement for CATEC Bus Loop Expenses - \$69,798.37 (2nd of 2 readings)

c. **APPROPRIATION:**

Reimbursement for Central Library Renovations - \$41,645.41 (2nd of 2 readings)

d. **APPROPRIATION:**

Reimbursement for Facilities Assessments - \$11,335.62 (2nd of 2 readings)

e. **APPROPRIATION:**

Amend FY2012 Schools Budget - \$575,534 (2nd of 2 readings)

f. **APPROPRIATION:**

Azalea Park Improvements Grant - \$100,000 (1st of 2 readings)

g. **APPROPRIATION:**

Community Attention Youth Intern Program - \$10,000 (1st of 2 readings)

h. **APPROPRIATION:**

Virginia Fire Department Programs Grant - \$99,796 (1st of 2 readings)

i. **APPROPRIATION:**

Westhaven Clinic Funding - \$7,000 (1st of 2 readings)

j. **APPROPRIATION:**

Reimbursement for Traffic Signal Improvements - \$19,454 (1st of 2 readings)

k. **RESOLUTION:**

Special use permit for 98 Midmont Lane (1st of 1 reading)

l. **ORDINANCE:**

Conservation Easement across City Owned Lands along Meadow Creek (2nd of 2 readings)

m. **ORDINANCE:**

Retirement Plan Amendments (2nd of 2 readings)

2. REPORT

Region Ten Legislative Goals

3. REPORT

Clarification of Issues – Water Supply Cost Sharing Allocation Agreement

4. REPORT

Jefferson Area CHIP Update

5. RESOLUTION*

Acceptance of Center of Town Marker (1st of 1 reading)

6. RESOLUTION*

Allocation of \$200,000 for Fifeville CDBG Priority Neighborhood (1st of 1 reading)

7. ORDINANCE*

Amendments to Critical Slopes Regulations (1st of 2 readings)

OTHER BUSINESS
MATTERS BY THE PUBLIC

*ACTION NEEDED

Reasonable accommodations will be provided for persons with disabilities upon request.

APPROPRIATION
Albemarle County Reimbursement for CATEC Bus Loop
\$69,798.37

WHEREAS, Albemarle County has submitted payment to the City of Charlottesville in the amount of \$69,798.37.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that the sum of \$69,798.37 from Albemarle County is hereby appropriated in the following manner:

Revenues - \$69,798.37

Fund: 426 Project: P-00631 G/L Account: 432030

Expenditures - \$69,798.37

Fund: 426 Project: P-00631 G/L Account: 599999

BE IT FURTHER RESOLVED, that this appropriation is conditioned upon the receipt of \$69,798.37 from Albemarle County.

APPROPRIATION
Albemarle County Reimbursement for Central Library McIntire Room
\$41,645.41

WHEREAS, Albemarle County has submitted payment to the City of Charlottesville in the amount of \$41,645.41.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that the sum of \$41,645.41 from Albemarle County is hereby appropriated in the following manner:

Revenues - \$41,645.41

Fund: 107 Project: FR-001 G/L Account: 432030

Expenditures - \$41,645.41

Fund: 107 Project: FR-001 G/L Account: 599999

BE IT FURTHER RESOLVED, that this appropriation is conditioned upon the receipt of \$41,645.41 from Albemarle County.

APPROPRIATION
Albemarle County Reimbursement for Facility Condition Assessments
\$11,335.62

WHEREAS, Albemarle County has submitted payment to the City of Charlottesville in the amount of \$11,335.62.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that the sum of \$11,335.62 from Albemarle County is hereby appropriated in the following manner:

Revenues - \$11,335.62

Fund: 425 Project: CP-009 G/L Account: 432030

Expenditures - \$11,335.62

Fund: 425 Project: CP-009 G/L Account: 599999

BE IT FURTHER RESOLVED, that this appropriation is conditioned upon the receipt of \$11,335.62 from Albemarle County.

APPROPRIATION
Amendments to FY 2012 Adopted City Schools General Fund and Grant & Other
Governmental Funds Budget
\$575,534

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that the FY 2012 Adopted School Budget is amended by \$575,534 for a total combined funds budget of \$69,645,102.

**RESOLUTION GRANTING A SPECIAL USE PERMIT
TO ST. THOMAS AQUINAS PRIORY
TO ESTABLISH AN INDOOR CEMETERY AT 98 MIDMONT LANE.**

WHEREAS, The Dominican Fathers, Province of St. Joseph, owner of the property at 98 Midmont Lane, has requested a special use permit with respect to the property identified on City Tax Map 13 as Parcel 9, consisting of approximately 37,224 square feet (“Subject Property”), to establish an indoor cemetery which will house up to 300 niches for cremation urns and 9 burial vaults; and

WHEREAS, the Subject Property is zoned “R-1U” (Residential District) and, pursuant to §34-420 of the City Code, such modifications for use of the property are allowed by Special Use Permit; and

WHEREAS, following a joint public hearing before this Council and the Planning Commission, duly advertised and held on December 13, 2011, this Council finds that such use is allowed under City Code Section 34-420 (specifically under the category “Non-residential: General and Misc. Commercial” – Cemetery – R-1U Residential District) by special use permit, and will conform to the criteria applicable to special permits generally under Chapter 34 of the City Code; now, therefore

BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that a special use permit is hereby approved and granted to The Dominican Fathers, Province of St. Joseph, for establishment of an indoor cemetery at 98 Midmont Lane. Approval of this special use permit is conditioned upon the following:

1. Information on the venting system is submitted to City staff.
2. The ventilation system must be fully operable at all times.

**AN ORDINANCE
AUTHORIZING THE CONVEYANCE OF A
CONSERVATION EASEMENT ACROSS CITY-OWNED LANDS
ALONG MEADOW CREEK TO THE NATURE CONSERVANCY**

WHEREAS, The Nature Conservancy wishes to acquire a conservation easement across three (3) City-owned parcels of land (City Tax Map Parcels 41B-4A, a portion of 41B-6 and 41D-107 – the “Property”), shown on the attached drawings, for stream restoration and general protection of natural resources; and

WHEREAS, in accordance with Virginia Code sections 15.2-1800(B), a public hearing was held to give the public an opportunity to comment on the proposed conveyance of the City property as requested by The Nature Conservancy; and

WHEREAS, by Resolution approved on November 16, 2009, this Council endorsed the concept of granting a permanent conservation easement to The Nature Conservancy across City-owned lands surrounding Meadow Creek; and

WHEREAS, the Department of Public Works and Department of Parks and Recreation have reviewed the proposed conveyance and have no objection thereto;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Charlottesville, Virginia that the Mayor is authorized to execute a Deed of Gift of Conservation Easement, in form approved by the City Attorney, from the City to The Nature Conservancy across the above-described Property. The City Manager is hereby authorized to execute an Escrow Agreement with The Nature Conservancy and Republic Title Company to allow the fully executed Deed of Gift of Conservation Easement to be held in escrow by Republic Title Company in accordance with the terms of the Escrow Agreement. The City Attorney is hereby authorized to take whatever steps are necessary to effect the closing of said conveyance.

AN ORDINANCE
AMENDING AND REORDAINING SECTIONS 19-91, 19-92, 19-93, 19-95, 19-96,
19-104, 19-105 AND 19-106 OF ARTICLE IV OF CHAPTER 19 AND ADDING A
NEW SECTION 19-104.1 TO ARTICLE IV OF CHAPTER 19
AND AMENDING AND REORDAINING SECTION 19-139 OF ARTICLE V OF
CHAPTER 19 OF THE CITY CODE OF CHARLOTTESVILLE, 1990,
AS AMENDED, RELATING TO CHANGES TO THE
RETIREMENT PLAN AND GROUP HEALTH INSURANCE

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia that Sections 19-91, 19-92, 19-93, 19-95, 19-96, 19-104, 19-105 and 19-106 of Article IV are hereby amended and reordained and a new Section 19-104.1 is added to Article IV and Section 19-139 of Article V of the Charlottesville City Code, 1990, as amended, are hereby amended and reordained as follows:

ARTICLE IV. SUPPLEMENTAL RETIREMENT OR PENSION PLAN

Sec. 19-91. Definitions.

As used in this article, the following words and phrases shall have the meanings ascribed to them by this section, unless a different meaning is plainly required by the text:

Accumulated contributions means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account, all amounts the member may contribute to purchase creditable service and all interest credited to the member's contribution account pursuant to section 19-92(g).

Actuarial equivalent means a benefit of equal value when computed upon the basis of such actuarial tables as are adopted by the commission. The actuarial equivalents and all actuarial calculations shall be determined on the basis of interest at an assumed rate of ~~eight (8) percent~~ 8%, and the UP84 Mortality Table for the member, and the UP84 Mortality Table with a ~~five~~ 5-year setback in age for spouses and/or beneficiaries.

Appointing authority means the city council in the case of city council appointees; the commissioner of revenue, the city treasurer, the city sheriff, the clerk of the circuit court and the commonwealth's attorney in the case of their employees; and the city manager in the case of all other members of the plan, except for such elected constitutional officers.

Average final compensation means the average annual creditable compensation of a member during the three (3) consecutive years of creditable service in which such compensation was at its greatest amount. However, for any person who becomes a member after June 30, 2012, average final compensation means the average annual creditable compensation of a member during the five (5) consecutive years of creditable service in which such compensation was at its greatest amount.

Beneficiary means any person entitled to receive benefits under this article. A beneficiary for purposes of a payment made in the event of death (other than a contingent beneficiary under an annuity option form or the survivor allowance payable pursuant to section 19-105(b) or (c)) shall be that person named by the member in a beneficiary designation form filed with the City. If no designation is filed, the beneficiary shall be the members' spouse or, if none, the member's estate.

Commission means the retirement plan commission provided for in article III of this chapter.

Creditable compensation means the full compensation payable annually to an employee working the full normal working time for his position exclusive of overtime. The creditable compensation of an employee paid on an hourly basis shall be computed at his regular hourly rate multiplied by the regular number of working hours per week multiplied by fifty-two (52). In cases where compensation includes maintenance and other perquisites, the city manager shall fix the value of the part of the compensation not paid in money. Notwithstanding the foregoing, creditable compensation taken into account for purposes of determining benefits under the plan shall be limited by the compensation limit pursuant to Section 401(a)(17) of the Internal Revenue Code of 1986, as amended. For purposes hereof, the compensation limit, for years beginning on or after January 1, 1986 but before December 31, 1992, is \$200,000 as adjusted by the cost of living adjustment factor prescribed by the Secretary of the Treasury or his delegate under Section 415(d) of the Internal Revenue Code of 1986, as amended, the "adjustment factor"; and for years beginning on or after January 1, 1993, is \$150,000 (as adjusted by the adjustment factor in \$10,000 increments on the basis of a base period of the calendar quarter beginning October 1, 1993). For purposes of applying the limitation applicable to each year, the limit for a plan year shall be the limitation in effect for the calendar year in which the plan year begins determined without increases in the limitation for subsequent years.

Creditable service means, for any member who is in service at any time after July 1, 1982, his total service as an employee, whether or not continuous, exclusive of any separate period of service of less than nine (9) months in duration, but inclusive of official leave for military service, to the extent required by federal or state law. Creditable service shall be counted in terms of calendar years, with completed months of creditable service in excess of complete years being counted as a fractional part of a year.

For any employee eligible to retire pursuant to the provisions of section 19-95 (a), (e), (g) or section 19-100 of this chapter, creditable service shall include, for purposes of computing the retirement allowance, one-half (1/2) of the employee's accumulated and unused sick leave as of the date of retirement, up to a maximum of two thousand (2,000) hours.

Employee means any person who is employed by the city on a full-time, year-round basis, whether paid by the hour, week, month or otherwise. Such term shall not include any

person, judicial, professional or otherwise, employed either on a part-time basis or on a seasonal basis; nor shall it include any official elected by the people or any person employed in the office of such official; except, that it shall include the commissioner of revenue, the city treasurer, the city sheriff, the clerk of the circuit court, the commonwealth's attorney and their full-time employees. Such term shall not include the employees of any office, department or agency which participates in the Virginia Supplemental Retirement System, regardless of whether such office, department or agency is funded wholly or partly by the city; provided, that any clerk or employee of the district court employed in such capacity on June 30, 1973, who elected not to participate in the Virginia Supplemental Retirement System shall continue to be considered an employee, for purposes of this article only, and be eligible for benefits hereunder to the full extent of his salary. Such term shall include the employees of any multi-jurisdictional agency in which the city is a participating jurisdiction, when such employees are not covered under the Virginia Supplemental Retirement System, or in any other retirement plan, and when the city has contractually agreed to include such employees in the retirement plan provided by this article. Notwithstanding the foregoing definition, "employee" also includes any person who meets the foregoing definition, except that he:

- (1) Works less than full-time but at least half-time;
- (2) Works less than year-round but at least thirty-six (36) weeks per year; and
- (3) Is in service on or after July 1, 1987.

In case of dispute, the commission shall determine who is an employee within the meaning of this article.

Member means any employee or former employee who is currently, or shall in the future, be recognized as having membership in the plan.

Member contribution account means the account established under the plan to hold the member's contributions and earnings thereon required and credited pursuant to section 19-92.

Normal retirement date means the first day of the month coinciding with or next following:

- (1) For a member who is ~~the director of public safety~~, a police officer, firefighter, sheriff or sheriff's deputy, the sixtieth (60th) birthday of the member, and
- (2) For a member who is ~~the director of public safety~~ not a police officer, firefighter, sheriff or sheriff's deputy, the sixty-fifth (65th) birthday of the member.

Person who becomes a member after June 30, 2012 means a person who is not a member of a plan described in section 19-94(a) or (c) who is hired or rehired after June 30, 2012 as an employee as defined herein. In the case of an employee who is rehired after such

date and whose credited service attributable to employment prior to July 1, 2012 is reinstated or is otherwise not disregarded, shall not be treated as a person who becomes a member after June 30, 2012 if such employee elects to be a member of a plan described in section 19-94(a) or (c) at the time of his rehire. Any benefit accumulated under the plan based on employment prior to July 1, 2012 shall remain frozen as though his employment after June 30, 2012 had not occurred. If such employee does not elect to be a member of a plan described in section 19-94(a) or (c) at the time of his rehire, his benefit under the plan shall be determined based on the provisions applicable to a person who becomes a member after June 30, 2012, except that no employee contribution shall be required or collected with respect to service performed prior to July 1, 2012.

Plan means "The Supplemental Retirement or Pension Plan of the City of Charlottesville," as set forth in this article.

Retirement allowance means the retirement payments to which a member is entitled, as provided in this article.

Service means service as an employee for which compensation is paid.

Sec. 19-92. Contributions and Members' contribution account.

~~(a) No contributions shall be made or shall be required to be made by members of the plan.~~ Beginning June 30, 2012, each person who becomes a member after June 30, 2012 including a police officer, firefighter, sheriff or sheriff's deputy, shall contribute three percent (3%) of his creditable compensation each pay period. No contributions shall be deducted from the compensation of any member who is not a person who became a member after June 30, 2012.

The city and any other employer adopting the plan shall deduct the contribution payable by the member and every employee accepting or continuing employment shall be deemed to consent and agree to any deductions from his creditable compensation required by this section.

Notwithstanding the foregoing, the employee contributions, although designated as employee contributions hereunder, will be paid by the city and any other employer adopting the plan and shall be treated as employer contributions pursuant to Section 414(h) of the Internal Revenue Code of 1986, as amended, and shall not be included as gross income of the employee until such time as they are distributed or made available to the employee. The city and any other employer adopting the plan shall "pick-up" the employee contributions by reducing the amount payable to each employee by the amount of his required employee contribution on a salary reduction basis.

(b) Beginning July 1, 1992, the city council shall appropriate, and the city shall contribute annually to the retirement fund established pursuant to section 19-63, an

amount equal to the sum of the normal contribution, and the accrued liability contribution, if any.

(c) The normal contribution for any year shall be determined as a percentage, equal to the normal contribution rate, of the total creditable compensation of the members for such year. Similarly, the accrued liability contribution rate for any year shall be determined as a percentage, equal to the accrued liability contribution rate, of such total creditable compensation. In determining the amount of any contribution, a reasonable approximation to the exactly computed amount may be used.

(d) The normal contribution rate shall be determined as the percentage of the total annual creditable compensation of the members that is represented by the sum of the annual service cost determined under the projected unit credit funding method, computed in accordance with recognized actuarial principles on the basis of methods and assumptions approved by the commission. The normal contribution rate shall be determined from the results of each valuation which shall be made as directed by the commission not less frequently than biennially.

(e) The accrued liability contribution rate shall be determined as the percentage of the total annual creditable compensation of the members that is represented by the level annual contribution necessary to:

- (1) Amortize the unfunded actuarial accrued liability as of July 1, 1992 over thirty (30) years from July 1, 1992 with payments increasing four (4) percent each year, and
- (2) Amortize any increase or decrease in the actuarial accrued liability due to the plan changes, actuarial gains, and/or actuarial losses incurred after January 1, 1992 over twenty (20) years from the date of the actuarial valuation first recognizing such increase or decrease with payments increasing four (4) percent each year.

The unfunded actuarial accrued liability as of any valuation date shall be determined in accordance with the projected unit credit funding method, in accordance with recognized actuarial principles on the basis of methods and assumptions approved by the commission.

The accrued liability contribution rate shall be determined from the results of each valuation, which shall be made as directed by the commission not less frequently than biennially.

(f) The commission shall certify to city council the normal contribution rate, the accrued contribution rate and every change made from time to time in any of such rates.

(g) All members' contributions and interest allowances shall be credited to the member's contribution account. Accumulated contributions required to be returned to the member or required to be paid on account of the member's death shall be paid from the

member's contribution account. As of each June 30, the member contribution account of each active member shall be credited with interest at a rate to be determined annually by the retirement commission. Initially, the rate shall be three percent (3%) annually. Interest shall accrue on any contribution beginning on the first day of the fiscal year following the year in which the contribution was made. No interest shall be credited to the member contribution account after the effective date of the member's retirement.

Sec. 19-93. Membership; cessation.

(a) Membership in the plan as of any date shall consist of the following:

(1) All employees at such date, inclusive of those on authorized leave from service.

(2) All former employees who have not retired under the provisions of the plan and who either:

- a. Have five (5) years or more of creditable service and were in service at some time after June 30, 1975, and who have not received a refund of such member's accumulated contributions pursuant to section 19-104.1 or
- b. Have twenty (20) years or more of creditable service and were included in the membership of the plan on June 30, 1975.

(b) The membership of any person in the plan shall cease upon:

(1) Termination of service as an employee prior to the completion of five (5) years of creditable service, or in the case of a person who becomes a member after June 30, 2012, the refund of such member's accumulated contributions pursuant to section 19-104.1; or

(2) Retirement; or

(3) Death.

(c) When membership ceases, except in the case of retirement or of death under circumstances calling for the payment of benefits hereunder, an employee shall thereafter lose all right to any retirement allowance or benefits under this article arising from service prior to the date of such cessation of membership except for any vested deferred retirement benefits such employee might be entitled to receive, provided that if any such employee should subsequently again be in service, ~~the provisions of this subsection shall be inapplicable to his previous period or periods of creditable service shall be reinstated.~~ In the case of a person who becomes a member after June 30, 2012, if such person received a refund of his accumulated contributions pursuant to section 19-104.1, he shall

be treated as a new member upon subsequent reemployment. If no refund was made, his previous period or periods of creditable service shall be reinstated.

Sec. 19-95. Service retirement--Mandatory retirement dates.

(a) Any member who is in service at his normal retirement date may retire then or at any time thereafter, provided he has completed five (5) or more years of creditable service, upon written notification to the commission made by the member or by his appointing authority setting forth at what date the retirement is to become effective. Such effective date shall be after the member's last day of service and shall not be more than ninety (90) days prior to the filing of such notification.

(b) No member who is ~~the director of public safety,~~ a police officer, fire fighter or sheriff's deputy shall be permitted to continue in service after his normal retirement date, unless the member's appointing authority, upon a determination that organizational needs so require, grants the member an exemption from such mandatory retirement requirements. Any such member who continues in service under such an exemption from the appointing authority, may be retired by that authority at any time thereafter. Such retirement shall be initiated by the appointing authority by notification to the commission setting forth at what date the retirement is to become effective. Such effective date shall be after the member's last day of service and shall not be more than ninety (90) days prior to the filing of such notification.

(c) The commissioner of revenue, city treasurer, city sheriff, clerk of the circuit court and commonwealth's attorney may continue in service so long as they hold office.

(d) The appointing authority of any member not listed in subsection (b) or (c) of this section, subsequent to the member's normal retirement date, upon a determination that age is a bona fide occupational qualification reasonably necessary to the normal operation of the city, and that such member has reached the age limit, or upon a determination that such member is incapable of performing his duties in a safe and efficient manner, may require the service retirement of such member upon written notification to the commission setting forth at what date the retirement is to become effective. Such effective date shall be after the member's last day of service and shall not be more than ninety (90) days prior to the filing of such notification. Notwithstanding the foregoing, if such member lacks five (5) years of creditable service, such member shall be discharged and shall be ineligible for a retirement allowance.

(e) Any member who is in service and who has completed five (5) or more years of creditable service may retire at any time after the fifty-fifth (55th) birthday of the member or, in the case of a person who becomes a member after June 30, 2012 other than a police officer, firefighter, sheriff or sheriff's deputy, after the sixtieth (60th) birthday of the member, or at any time thereafter, upon written notification to the commission, made by the member, setting forth at what date the retirement to become effective. Such effective

date shall be after the member's last day of service and shall not be more than ninety (90) days prior to the filing of such notification.

(f) Any member who terminates service after completing five (5) or more years of creditable service may retire under the provisions of either subsection (a) or subsection (c) of this section; provided, that the requirement as to such member being in service shall not apply.

(g) Any member who is in service and who has completed thirty (30) or more years of creditable service may retire at age fifty (50), or, in the case of a person who becomes a member after June 30, 2012, at age sixty (60), or at any time thereafter, upon written notification to the commission, made by the member, setting forth at what date the retirement is to be effective, without suffering the penalty imposed by section 19-96(d). Such effective date shall be after the member's last day of service and shall not be more than ninety (90) days prior to the filing of such notification.

(h) Any member who is ~~the director of public safety~~ a police officer, firefighter, sheriff or sheriff's deputy, and has completed twenty-five (25) or more years in service may retire at age fifty (50), or at any time thereafter until the mandatory retirement date is reached, without suffering the penalty imposed by section 19-96(e).

(i) Notwithstanding the forgoing, on or after January 1, 1989, the retirement allowance of a member who has terminated employment shall begin no later April 1 of the calendar year following the later of (i) the calendar year in which the member attains seventy and one-half (70 1/2) years of age, or (ii) the calendar year in which the member terminates employment.

Sec. 19-96. Same--Allowance.

(a) Upon service retirement on or after July 1, 2000, a member with creditable service which commenced prior to July 1, 2000, shall receive an annual retirement allowance payable monthly to him for life commencing on the first day of the month coinciding with or next following his date of retirement, in an amount computed as the larger of (1) and (2) following:

- (1) The excess, if any, of two (2) percent of such member's average final compensation multiplied by the number of years of his creditable service, over two and one-half (2.5) percent of such member's annual primary social security benefit, multiplied by the number of years of his creditable service up to a maximum of twenty (20) years.
- (2) One and sixty hundredths (1.60) percent of such member's average final compensation multiplied by the total number of years of his creditable service.

(b) Upon service retirement after July 1, 2000, a member whose employment commenced after June 30, 2000, shall receive an annual retirement allowance payable monthly to him for life commencing on the first day of the month coinciding with or next following his date of retirement, in an amount computed as follows:

(1) One and sixty hundredths (1.60) percent of such member's average final compensation multiplied by the total number of years of his creditable service.

(c) In addition to the retirement allowance to which a member is entitled under the provisions of subsections (a) and (b) of this section, a retired member who at the date of his retirement was in service as ~~the director of public safety~~ a police officer, firefighter, sheriff or sheriff's deputy and who has completed twenty (20) years or more of creditable service shall receive an additional annual allowance, payable monthly, during the period after the member's date of retirement and until his attainment of full retirement age, as in effect on July 1, 2005, for purposes of qualifying for unreduced Social Security benefits, equal to one (1) percent of average final compensation multiplied by the number of years of his creditable service. In no event shall ~~the director of public safety~~ a police officer, firefighter, sheriff or sheriff's deputy receive both the supplement under this section and Social Security benefits. However, a person who becomes a member after June 30, 2012, shall be entitled to this additional annual allowance only if such person has completed at least twenty (20) years of creditable service in a position of a police officer, firefighter, sheriff or sheriff's deputy. This additional annual allowance shall be limited in the case of a person who becomes a member after June 30, 2012, to his estimated unreduced primary social security benefit determined under section 19-97.

(d) The provisions of subsections (a) and (b) of this section to the contrary notwithstanding, if the retirement date of a member with less than thirty (30) years of creditable service precedes his normal retirement date, the retirement allowance amount as computed in accordance with subsections (a) and (b) of this section, as appropriate, shall be reduced by one-half (0.5) percent for each complete month in the period between the member's retirement date and the earlier of his normal retirement date or the date on which the member would have completed thirty (30) years of creditable service had he remained an employee continuously until such date.

(e) The provisions of subsections (a) and (b) of this section to the contrary notwithstanding, if the retirement date of a member who is a police officer, firefighter, or sheriff's deputy with less than twenty-five (25) years of creditable service precedes his normal retirement date, the retirement allowance amount as computed in accordance with subsections (a) and (b) of this section, as appropriate, shall be reduced by one-half (0.5) percent for each complete month in the period between the member's retirement date and the earlier of his normal retirement date or the date on which the member would have completed twenty-five (25) years of creditable service had he remained an employee continuously until such date.

...

Sec. 19-104. Optional benefits.

(a) Each member shall have the right at any time, not after the later of the effective date of the member's retirement or the date of the written notification to the commission of the retirement of the member, to elect to have his retirement allowance, other than any

portion of such allowance that is payable under the provisions of section 19-96(c), payable under one (1) of the options set forth in subsections (b) and (c) of this section, in lieu of the retirement allowance otherwise payable to him upon retirement. The amount of any such optional retirement allowance shall be the actuarial equivalent of the amount of such retirement allowance otherwise payable to the member. The member shall make such an election by written notice to the commission.

(b) A member may elect to receive a decreased retirement allowance during his lifetime and have such retirement allowance, or a designated fraction thereof, continued after his death to one (1) other person, called a contingent beneficiary, during the lifetime of such contingent beneficiary; provided, however, that the actuarially computed present value of the payments expected to be made to the retired member must be at least one-half (1/2) of the actuarially computed present value of the combined total payments expected to be made to the retired member and the contingent beneficiary. In the case of a member who retires for disability under the provisions of section 19-100, the election of this option shall not become effective, and need not be made, until he attains the date that would have been his normal retirement date had he remained in service until then.

(c) A member who retires for early service retirement under the provisions of section 19-95(e) may elect to receive an increased retirement allowance up to the date his primary social security benefit is expected to commence, and a decreased retirement allowance thereafter, thereby providing a more nearly level retirement allowance when such decreased retirement allowance is added to his anticipated primary benefits under the ~~Federal~~ federal Social Security Act.

(d) The election by a member of any one (1) of the options provided in subsections (b) and (c) of this section shall be null and void if the member dies prior to retirement, or prior to the date the option becomes effective, and the election by a member of the option provided in subsection (b) of this section shall be null and void if the designated contingent beneficiary dies before the member's retirement or before the date the option becomes effective.

(e) A member who has elected any one (1) of the options provided in subsections (b) and (c) of this section may, at any time prior to the later of the effective date of the member's retirement or the date the option becomes effective revoke such an election by written notification to the commission. The election of any one (1) of such options shall automatically revoke any previous election then in effect.

(f) The commission may, in its discretion, if the amount of any retirement allowance which would be payable on an optional basis elected pursuant to this section be less than twenty dollars (\$20.00) per month, decline to permit election of such option.

(g) Effective January 1, 1993, notwithstanding anything to the contrary in this article, but subject to any de minimis or other exceptions or limitations provided for under Section 401(a)(31) of the Internal Revenue Code of 1986, as amended, any prospective recipient any prospective recipient (whether a member, a surviving spouse, a current or

former spouse who is an alternate payee under a qualified domestic relations order or any other person eligible to make a rollover) of a distribution from the plan which constitutes an “eligible rollover distribution” (to the extent otherwise includible in the recipient’s gross income) may direct the commission to pay the distribution directly to an “eligible retirement plan”. For purposes hereof, the following terms have the meanings assigned to them in Section 401(a)(31) of the Internal Revenue Code of 1986, as amended, and, to the extent not inconsistent therewith, shall have the following meanings:

- (i) The term “eligible retirement plan” means a defined contribution plan which is either an individual retirement account described in Section 408(a) of the Internal Revenue Code of 1986, as amended, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code of 1986, as amended (other than an endowment contract), an annuity plan described in Section 403(a) of the Internal Revenue Code of 1986, as amended, or a qualified trust described in Section 401(a) of the Internal Revenue Code of 1986, as amended, that accepts the prospective recipient’s eligible rollover distribution.. For distributions made before January 1, 2002, for eligible rollover distribution payable to a member’s surviving spouse, an “eligible retirement plan” means only an individual retirement account or individual retirement annuity. Effective for distributions made after December 31, 2001, an eligible retirement plan shall also mean an annuity contract described in section 403(b) of the Internal Revenue Code of 1986, as amended, and an eligible plan under section 457(b) of the Internal Revenue Code of 1986, as amended, 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 account separately for amounts transferred into such plan from this plan. Effective for distributions made after December 31, 2001, the definition of eligible retirement plan applicable to a participant shall also apply for a distribution to a participant's surviving spouse and to a participant's spouse or former spouse who is the alternate payee under a domestic relations order accepted by the system. Effective for distributions made after December 31, 2007, an “eligible retirement plan” includes an individual retirement plan described in section 408A of the Internal Revenue Code of 1986, as amended (sometimes referred to as a Roth IRA) provided that for tax years beginning before January 1, 2010, the recipient does not have modified adjusted gross income in excess of \$100,000 and is not married filing a separate return, both as determined under Section 408A(c)(3)(B) of the Internal Revenue Code of 1986, as amended. For distributions made in Plan Years beginning on or after January 1, 2010, in the case of an eligible rollover distribution payable to a non-spouse designated Beneficiary within the meaning of Section 401(a)(9)(E) of the Internal Revenue Code of 1986, as amended, an “eligible retirement plan” means only an “inherited IRA”.
- (ii) The term “eligible rollover distribution” means any distribution other than:

(A) A distribution which is one ~~(1)~~ of a series of substantially equal periodic payments (not less frequently than annually) made either for the life (or life expectancy) of the recipient or the joint lives (or joint life expectancies) of the recipient and his beneficiary who is an individual or for a specified period of ten (10) or more years, ~~or~~

(B) A distribution to the extent it is required under the minimum distribution requirement of Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, or.

(C) Any other amount which is not considered an eligible rollover distribution for purposes of Section 402(c)(4) of the Internal Revenue Code of 1986, as amended, with respect to the Plan.

- (iii) The term “inherited IRA” means an individual retirement account described in Section 408(a) of the Internal Revenue Code of 1986, as amended, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code of 1986, as amended (other than an endowment contract) or, for Plan Years beginning in or after 2010, an individual retirement plan described in section 408A of the Internal Revenue Code of 1986, as amended (sometimes referred to as a Roth IRA) established for the purpose of receiving the distribution where the individual retirement account or annuity or Roth IRA is treated as an inherited individual retirement account or annuity within the meaning of Section 408(d)(3)(C) or, as applicable, Section 409A(d)(3)(B) of the Internal Revenue Code of 1986, as amended.

Any such direction shall be filed with the commission in such form and at such time as the commission may require and shall adequately specify the eligible retirement plan to which the payment shall be made. The commission shall make payment as directed only if the proposed transferee plan will accept the payment. Any such plan to plan transfer shall be considered a distribution option under this plan and shall be subject to all the usual distribution rules of this plan (including but not limited to the requirement an advance explanation of the option). The commission is authorized in its discretion, applied on a uniform and non-discriminatory basis, to apply any discretionary de minimis or other discretionary exceptions or limitations provided for under Section 401(a)(31) of the Internal Revenue Code of 1986, as amended, in effecting or declining to effect plan to plan transfers hereunder. Within a reasonable time (generally not more than ninety (90) nor less than thirty (30) days) before the benefit payment date of a prospective recipient of an eligible rollover distribution from the plan, the commission shall provide the prospective recipient with a written explanation of the rollover and tax rules required by Section 402(f) of the Internal Revenue Code of 1986, as amended. In the event of a mandatory distribution greater than ~~one thousand dollars (\$1,000.00)~~ \$1,000, if the member does not elect to have such distribution paid directly to an eligible retirement plan specified by the member in a direct rollover or to receive the distribution directly in accordance with this section, then the member will pay the distribution in a direct rollover to an individual retirement plan designated by the plan administrator. The commission will select the

individual retirement plan in accordance with the safe harbor provisions established under ~~Virginia~~ VA Code Section 51.1-803.C., and such provisions shall be interpreted and administered in accordance therewith. This mandatory rollover requirement does not apply to a lump sum payment made to a surviving spouse or former spouse who is an alternate payee under a domestic relations order accepted by the system.

(h) Should the member die while receiving a retirement allowance under a form of payment with no contingent beneficiary, any excess accumulated contributions as of the effective date of the member's retirement, over the total retirement allowance previously received by him shall be paid to the member's estate.

(i) Should the contingent beneficiary of a member die while receiving a retirement allowance under a form of payment with a contingent beneficiary, any excess accumulated contributions as of the effective date of the member's retirement, over the total retirement allowance previously received by the member and the contingent beneficiary shall be paid to the contingent beneficiary's estate.

Sec. 19-104.1. Refund of accumulated contributions before retirement.

(a) Any member hired after June 30, 2012 who has five or more years of creditable service, who ceases to be a member other than by death or retirement may request and receive a refund of the balance in the member's contribution account reduced by the amount of any retirement allowance previously received by him under the provisions of this article.

(b) Any member hired after June 30, 2012 who has less than five years of creditable service who ceases to be an employee other than by death shall be paid the balance in the member's contribution account in a mandatory cash-out as soon as administratively practical following his ceasing to be employed by the City or any other employer adopting the plan.

(c) Upon receipt of a refund of the balance in the member's contribution account, pursuant to (a) and (b) herein, the member shall cease to be a member and shall not be entitled to any future benefits. If the person again becomes a member, no creditable service attributable to the refund shall be counted in determining the benefit to be accrued following rehire.

Sec. 19-105. Survivor's allowance.

(a) Should a member hired after June 30, 2012 die in service before completing at least five (5) years of creditable service, the member's beneficiary shall receive a refund of the balance in the member's contribution account.

(b) Should a member die in service at any time before retirement and after either becoming eligible for early service retirement under section 19-95(e), or completing at least thirty (30) years of creditable service, the member's surviving spouse if any, shall

receive a retirement allowance payable monthly for the life of such spouse. Such allowance shall be in the same amount and shall commence at the same date as the retirement allowance that would have been payable to the member, computed in accordance with section 19-96, subsections (a) and (b), whichever is applicable, had the member survived and retired on the first day of the month coinciding with or next following the date on which his death occurred after having elected an allowance paid under the full joint and last survivor option provided for in section 19-104(b), with his surviving spouse designated as contingent beneficiary. In the case of a member who had not become eligible for early service retirement at his date of death, it shall be assumed that the requirements of section 19-95(e) were such that he would have been eligible for early service retirement and that the retirement allowance payable in such event would be reduced by one-half percent for each complete month in the period between the member's date of death and a date five (5) years prior to his normal retirement date.

(bc) Should a member die in service at any time after July 1, 2000 and after completing five (5) years of creditable service and before either becoming eligible for early service retirement under section 19-95(e), or completing at least thirty (30) years of creditable service, the member's surviving spouse, if any, shall receive a retirement allowance payable monthly for the life of such spouse. Such allowance shall commence at the same date as the retirement allowance that would have been payable to the member, computed in accordance with section 19-96, subsection (b), had the member survived and retired on the first day of the month coinciding with or next following the date on which the member's death occurred after having elected an allowance paid under the one-half joint and survivor option provided for in section 19-104(b), with the surviving spouse designated as contingent beneficiary.

(ed) Any allowance payable to the member's surviving spouse under this section shall be reduced by the amount of any payments made to such member's surviving spouse as required by the Virginia Workers' Compensation Act, and the excess of such allowance over such required payments, if any, shall be paid to the member's surviving spouse. When the time for payment of compensation under such act shall have elapsed, the member's surviving spouse shall thereafter receive the full amount of the allowance, as provided by subsections (a) and (b) of this section, monthly during such spouse's lifetime.

(e) For any member hired after June 30, 2012, whose surviving spouse receiving an allowance payable under the provisions set forth above dies, any excess balance in the member's contribution account as of the date of the member's death, over the total survivor allowance paid to the member or surviving spouse shall be paid to the spouse's estate.

Sec. 19-106. Death benefit for certain employees.

(a) Upon retirement after July 1, 2000, an employee shall be eligible for life insurance in the amount of his basic life insurance provided by the city at his date of retirement. Effective the first of each month thereafter, the amount of life insurance shall be reduced by two (2) percent until it reaches one-half (1/2) of the amount at time of retirement.

However, in the case of a person who becomes a member after June 30, 2012, such person shall be eligible for such life insurance only if he is has at least ten (10) years of creditable service. Further, the amount of such person's life insurance shall be reduced by twenty-five percent (25%) per year until it reaches one-half (1/2) of the amount at time of retirement.

(b) Every employee initially employed by the city on or after January 1, 1978 who has retired, is receiving a benefit as of July 1, 2000, and was covered by the city's group life insurance program at the time of retirement, shall no longer be eligible for a post-retirement lump sum benefit from the retirement fund but shall be eligible for life insurance as set forth in subsection (a).

...

ARTICLE V. GROUP HEALTH INSURANCE PLAN

...

Sec. 19-139. Termination of coverage; termination of service; retirement.

(a) Effective January 1, 1985 city contributions to the expense of any employee's health care coverage shall cease as of the last day of the month during which any such employee leaves city service without retiring either for service or disability, even if such employee may be a vested member of the city's supplemental retirement or pension plan and eligible to retire under such plan in the future. However, coverage may continue during the period that coverage is required to be available on a continuation basis pursuant to the Public Health Services Act, if the former employee or other qualified beneficiary pays one hundred (100) percent of the cost plus a two (2) percent administrative fee, if charged by the city.

(b) All employees eligible for city health care coverage on December 2, 2002 who continue to work for the city until they retire for service or disability, shall remain eligible in retirement for city health care coverage on the same terms and conditions as active employees who are eligible for coverage, but the city reserves the right to amend the plan from time to time as it deems appropriate.

(c) Any city employee who (i) retires for service or disability on or before December 2, 2002 and (ii) who, immediately prior to their effective date of retirement, was eligible for city health care coverage, shall remain eligible in retirement for city health care coverage on the same terms and conditions as active employees who are eligible for coverage.

(d) Employees who begin city employment on or after December 3, 2002 but before June 30, 2012, shall be eligible to continue in the city's health care plan following retirement for service or disability upon payment of a portion of the cost of such membership. Each year the city will determine the amount of its contribution to the premium costs of health care coverage for individual employees. For employees who retire with five (5) years of service and elect to continue in the city's health care plan after

retirement, the city will pay twenty percent (20%) of the annual contribution amount. For employees who retire with more than five (5) years of service, the city will pay an additional four percent (4%) of the annual contribution amount for each additional full year of service completed as of the effective date of retirement up to a maximum of 100% of the annual contribution amount.

The retiree will be required to pay the remaining percentage of the city's annual contribution and the additional premium or cost, if any, of the health care plan selected as a condition of membership in the plan.

(e) Employees who begin city employment after June 30, 2012 shall be eligible to continue in the city's health care plan following retirement for service or disability until such employee becomes eligible to elect Medicare, upon payment of a portion of the cost of such membership. Each year the city will determine the amount of its contribution to the premium costs of health care coverage for individual employees. For employees who retire with ten (10) years of service and elect to continue in the city's health care plan after retirement, the city will pay forty percent (40%) of the annual contribution amount. For employees who retire with more than ten (10) years of service, the city will pay an additional four percent (4%) of the annual contribution amount for each additional full year of service completed as of the effective date of retirement up to a maximum of 100% of the annual contribution amount.

The retiree will be required to pay the remaining percentage of the city's annual contribution and the additional premium or cost, if any, of the health care plan selected as a condition of membership in the plan.

(f) Notwithstanding the foregoing, employees who elect pursuant to subsection 19-94(c) of Article IV of this chapter to participate in the optional defined contribution plan adopted pursuant to that subsection, shall be eligible to enroll, at the retiree's expense, in the health care coverage offered through the city following retirement under such plan.

- (fg) (1) An employee enrolled in the health care plan who retires for service or disability prior to July 1, 2013 may elect to enroll a family member in the plan at the retiree's sole expense, provided such election is made prior to the date of retirement. For employees retired on or before July 1, 2010, such election shall be made on or before July 1, 2010.
- (2) Effective July 1, 2013, an employee enrolled in the health care plan who retires for service or disability may elect to continue the enrollment of a family member in the plan at the retiree's sole expense, provided (i) such election to continue enrollment of the family member is made prior to the date of retirement; and (ii) the family member has been enrolled in the health care plan for no less than thirty-six (36) consecutive months immediately prior to the employee's retirement date.
- (3) Any spouse or other family member who is enrolled in the city's health care plan at the time of the retiree's death may continue as a member of the plan upon payment of the applicable premium.

(gh) Notwithstanding the foregoing, enrollment of a retiree's family members is subject to certain restrictions that may vary from time to time, and the city reserves the right to amend its health care coverage plan from time to time as the city in its discretion deems appropriate.

RESOLUTION
Acceptance of Center of Town Marker

BE IT RESOLVED by the Council for the City of Charlottesville, Virginia, that the City hereby accepts the Center of Town Marker, created by Steve Trumbull, as a gift to the City. The marker will be placed at the intersection of First Street and Main Street on the downtown mall, and will be substantially the same as the drawing of the marker attached to this Resolution. Mr. Trumbull will be responsible for the marker's installation, and acceptance is conditioned upon satisfactory inspection and approval of the marker's installation by City staff.

**A RESOLUTION
FOR CDBG PRIORITY NEIGHBORHOOD
COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS**

WHEREAS, the City Council for the City of Charlottesville approved and appropriated \$200,000 of Community Development Block Grant (CDBG) funds for the Fifeville neighborhood at its April 18, 2011 meeting; and

WHEREAS, a Council appointed Fifeville CDBG Task Force has been regularly meeting to discuss neighborhood priorities and recommendations for expending the appropriated funds; now, therefore,

BE IT RESOLVED by the City Council of Charlottesville, Virginia, that \$200,000 from the CDBG fund is approved for the following projects:

- Pedestrian island on Cherry Avenue at the intersection of 5th St. SW and the entrance to Tonsler Park
- Streetscape improvements on 5th St. SW at the intersection with Cherry Avenue.