

WINCHESTER COMMON COUNCIL
FEBRUARY 12, 2013
AGENDA
7:00 P.M.

CALL TO ORDER AND ROLL CALL

INVOCATION

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES –

Motion to approve the January 8, 2013 Regular Meeting and January 8, 2013 Special Work Session minutes as presented

MOTION TO AMEND THE OCTOBER 9, 2012 ADOPTED MINUTES OF COMMON COUNCIL DUE TO A CLERICAL ERROR REGARDING THE PROPOSED APPOINTMENTS TO THE FREDERICK WINCHESTER SERVICE AUTHORITY: The minutes reflect “Vice-President Willingham moved to approve the appointments of Randy Moulton and Les Veach to the Frederick-Winchester Service Authority”. After review of the audio recording, by the Deputy Clerk of Council, it was found the minutes should be corrected to read “**Vice-President Willingham moved to table the appointments of Randy Moulton and Les Veach to the Frederick-Winchester Service Authority.**” The Clerk requests a motion to correct and amend the October 9, 2012 regular meeting minutes as described.

REPORT OF THE MAYOR

REPORT OF THE CITY MANAGER

REPORT OF THE CITY ATTORNEY

1.0 PUBLIC HEARINGS

1.1 O-2012-38: Second Reading – AN ORDINANCE TO AUTHORIZE THE CONVEYANCE OF REAL PROPERTY OWNED BY THE CITY OF WINCHESTER LOCATED AT 119-129 NORTH LOUDOUN STREET, WINCHESTER, VIRGINIA (TAYLOR HOTEL) (**REQUIRES ROLL-CALL VOTE**)(pages 4-6)

1.2 CU-12-597: Conditional Use Permit – Request of Shenandoah Personal Communications, LLC for a conditional use permit for a telecommunications facility at 119-129 North Loudoun Street (Map Number 173-01-F-26) zoned Central Business (B-1) District with Historic Winchester (HW) District overlay (pages 7-10)

- 1.3 CU-12-556:** Conditional Use Permit – Request of Emad Khezam dba Alibaba Hookah Bar for a conditional use permit for nightclub use and to modify conditions of an existing conditional use permit for hookah establishment use at 932 Berryville Avenue (*Map Number 176-07-3*) zoned Highway Commercial (B-2) District. (pages 11-15)

2.0 PUBLIC COMMENTS

3.0 CONSENT AGENDA

- 3.1 O-2013-02:** First Reading – AN ORDINANCE TO INCREASE THE SALARIES OF THE MAYOR OF THE CITY OF WINCHESTER AND THE MEMBERS OF THE COMMON COUNCIL FOR THE CITY OF WINCHESTER (pages 16-20)
- 3.2 R-2013-04:** Resolution - Consent to refunding of bonds and issuance of new monies by the Northwestern Regional Jail Authority (pages 21-26)
- 3.3** Motion to appoint City Manager Dale Iman as a member of the Northwestern Regional Jail Authority
- 3.4** Motion to re-appoint Art Major and Richard Helm as members of the Frederick Winchester Service Authority for a three (3) year term commencing February 12, 2013 and ending on February 12, 2016

4.0 AGENDA

- 4.1** Motion to implement the recommendations outlined in the December 21, 2012 memorandum regarding Council Appointed Boards and Commissions (pages 27-34)
- 4.2** Motion to appoint Dave Shore as a member of the Planning Commission to fill a temporary vacancy from February 1, 2013 to June 30, 2013
- 4.3** Announce the term expiration of Don Crigler as a member of the Board of Architectural Review effective April 30, 2013 and direct the Clerk of Council to advertise the vacancy. Mr. Crigler is eligible for re-appointment.
- 4.4** Announce the term expirations of Catherine Mattens and John Bentley as members of the Parks and Recreation Board effective April 30, 2013 and direct the Clerk of Council to advertise the vacancies. Ms. Mattens and Mr. Bentley are eligible for re-appointment.
- 4.5** Announce the resignation of Brian Hester as a member of the Board of Zoning Appeals effective April 1, 2013, and direct the Clerk of Council to advertise the vacancy.

5.0 EXECUTIVE SESSION

5.1 MOTION TO CONVENE IN EXECUTIVE SESSION PURSUANT TO §2.2-3711(A)(7) OF THE CODE OF VIRGINIA FOR THE PURPOSE OF RECEIVING LEGAL ADVICE AND STATUS UPDATE FROM THE CITY ATTORNEY AND LEGAL CONSULTATION REGARDING SPECIFIC LEGAL MATTERS REQUIRING THE PROVISION OF LEGAL ADVICE BY THE CITY ATTORNEY AND MATTERS OF ACTUAL OR PROBABLE LITIGATION WHERE SUCH CONSULTATION OR BRIEFING IN OPEN MEETING WOULD ADVERSELY AFFECT THE NEGOTIATING OR LITIGATING POSTURE OF THE PUBLIC BODY.

6.0 ADJOURNMENT

0-2012-38

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 12/18/2012 **CUT OFF DATE:** 12/8/2012

RESOLUTION ORDINANCE XX PUBLIC HEARING

ITEM TITLE: AN ORDINANCE TO AUTHORIZE THE CONVEYANCE OF REAL PROPERTY OWNED BY THE CITY OF WINCHESTER LOCATED AT 119-129 NORTH LOUDOUN STREET, WINCHESTER VIRGINIA (TAYLOR HOTEL)

STAFF RECOMMENDATION: Approval recommended by the Economic Redevelopment Director

PUBLIC NOTICE AND HEARING: N/A

ADVISORY BOARD RECOMMENDATION: N/A

FUNDING DATA: N/A

INSURANCE: N/A

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda.

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____
5.	_____	_____	_____
6. City Attorney	<i>[Signature]</i>	_____	12/10/2012
7. City Manager	<i>[Signature]</i>	_____	12-12-12

Initiating Department Director's Signature: _____

[Signature]

12/7/12
Date



APPROVED AS TO FORM:

[Signature]
CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Jim Deskins, Economic Redevelopment Director
Date: December 7, 2012
Re: Ordinance to Convey Taylor Hotel

THE ISSUE: Upon the completion of Phase I of the Taylor Hotel the Hotel and Fly Tower will need to be conveyed back to the EDA for completion and the City will retain the remainder of the property for the Farmers Market and Pavilion as a Public Pocket Park.

RELATIONSHIP TO STRATEGIC PLAN: Completion of the Taylor Hotel

BACKGROUND: As a requirement of the HUD funding Phase I of the Taylor Hotel Project was to be completed by the City, and the Farmers Market and Pavilion area would be retained by the City with a Management agreement for development completion operations in place with the Taylor Pavilion LLC. A subdivision Plat will be prepared and presented with the Ordinance before final approval

BUDGET IMPACT: Funding has been approved and appropriated.

OPTIONS: None

RECOMMENDATIONS: Approve the Ordinance and authorize the City Manager to do all things necessary to convey the property

AN ORDINANCE TO AUTHORIZE THE CONVEYANCE OF REAL PROPERTY OWNED BY THE CITY OF WEINCHESTER LOCATED AT 119-129 NORTH LOUDOUN STREET, WINCHESTER, VIRGINIA (TAYLOR Hotel)

WHEREAS, the City of Winchester is the current owner of the real property located at 199-129 North Loudoun Street (hereinafter “the property”); and

WHEREAS, the Common Council desires to see a portion of the property completely rehabilitated in accordance with the U.S. Department of Interior’s Historic Tax Credit Rehabilitation Standards in a public private partnership between the Winchester EDA and private investors and placed back in the City’s tax roles; and

WHEREAS, the Common Council desires to see a portion of the property to remain in City ownership for use as a public pocket park; and

WHEREAS, completion of the project will require that the city convey the portions of this property referred to as the original Taylor Hotel and the Fly Tower building, as identified in the attached survey and subdivision plat, to the EDA.

NOW THEREFORE BE IT ORDAINED that the City Manager is hereby authorized to take all necessary actions to convey the portion of said property containing the structures referred to as the original Taylor Hotel and the fly tower building further described on the survey and subdivision plat attached to the EDA.

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 1/22/13 (work session), CUT OFF DATE: 1/16/13
2/12/13 (regular mtg)

RESOLUTION ___ ORDINANCE ___ PUBLIC HEARING X

ITEM TITLE:

CU-12-597 Request of Shenandoah Personal Communications, LLC for a conditional use permit for a telecommunications facility at 119-129 North Loudoun Street (Map Number 173-01-F-26) zoned Central Business (B-1) District with Historic Winchester (HW) District overlay.

STAFF RECOMMENDATION:

Approval with conditions

PUBLIC NOTICE AND HEARING:

Public hearing for 2/12/13 Council mtg

ADVISORY BOARD RECOMMENDATION:

Planning Commission recommended approval with conditions

FUNDING DATA: N/A

INSURANCE: N/A

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda.

Table with 4 columns: DEPARTMENT, INITIALS FOR APPROVAL, INITIALS FOR DISAPPROVAL, DATE. Rows include Planning, City Attorney, City Manager, and Clerk of Council.

Initiating Department Director's Signature: (Zoning and Inspections) [Signature] 1/16/13



APPROVED AS TO FORM: [Signature] 1/16/2013 CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Aaron Grisdale, Director of Zoning and Inspections
Date: January 15, 2013
Re: Conditional Use Permit (CU-12-597) – Telecommunications Facility

THE ISSUE:

Request for CUP for installation of six antennas to the brick façade of the fly-tower portion of the Taylor Hotel property at 119-129 North Loudoun Street.

RELATIONSHIP TO STRATEGIC PLAN:

N/A

BACKGROUND:

City staff has received a conditional use permit application for creation of a telecommunications facility at 119-129 North Loudoun Street. The applicant intends to install six antennas against the brick façade of the fly tower portion of the site. The antennas will be camouflaged to match the existing brick color. There presently are no other wireless facilities approved for the site, and the applicant has received the necessary approvals from the Board of Architectural Review. (Full staff report is attached).

BUDGET IMPACT:

No funding is required.

OPTIONS:

- Approve with conditions recommended by the Planning Commission
- Approve with revised conditions
- Deny the application

RECOMMENDATIONS:

Planning Commission and staff recommend approval with conditions as noted within the staff report.

City Council
February 12, 2013

CU-12-597 Request of Shenandoah Personal Communications, LLC for a conditional use permit for a telecommunications facility at 119-129 North Loudoun Street (*Map Number 173-01-F-26*) zoned Central Business (B-1) District with Historic Winchester (HW) District overlay.

REQUEST DESCRIPTION

The applicant is proposing to establish a new telecommunications facility by adding six (6) antennas to the brick façade of the fly-tower portion of the Taylor Hotel property at 119-129 North Loudoun Street.

AREA DESCRIPTION

The subject parcel is located adjacent to the pedestrian walking mall at 119-129 North Loudoun Street, known as the Taylor Hotel property. The parcel is zoned Central Business (B-1) District with Historic Winchester (HW) District overlay. The surrounding properties are similarly zoned. The vicinity is composed of a mixture of commercial and residential uses.



STAFF COMMENTS

The applicant intends to install six (6) antennas to the existing brick façade located approximately 84-feet in height on the fly-tower portion of the site as part of an upgrade of service to provide Sprint 4G wireless service to the downtown area. The applicant had also sought co-location options including the parking garages on Cameron Street, the ZeroPak warehouse, the Bank of Clarke County, as well as the George Washington Hotel. Site characteristics and/or unsuccessful negotiations resulted in each of these locations not being candidates for the facility location.

The applicant intends to minimize visual impact of the proposed antennas by camouflaging the antennas to the color of the existing brick on the fly-tower. Additionally, the applicant sought and received a certificate of appropriateness by the Board of Architectural Review during their December 6, 2012 meeting. The antennas will be installed on the face/corners of the building. Additionally, all the proposed cabling and coax will be placed within the structure to minimize visual impact. Shentel proposes installing the required radio equipment on the ground outside the north side of the building, within an existing fenced-in area. Currently, there are no other telecommunications facilities located on this site; the nearest building with telecommunications facilities is the George Washington Hotel.

RECOMMENDATION

For a conditional use permit to be approved, a finding must be made that the proposal as submitted or modified will not adversely affect the health, safety or welfare of persons residing or working in the neighborhood nor be detrimental to public welfare or injurious to property or improvements in the neighborhood.

During their January 15, 2013, meeting the Planning Commission forwarded **CU-12-597** to Council recommending approval because the use, as proposed, should not adversely affect the health, safety, or welfare of residents and workers in the neighborhood nor be injurious to adjacent properties or improvements in the neighborhood. The recommended approval is subject to the following conditions:

1. Submit an as-built emissions certification after the facility is in operation;
2. The applicant, tower owner, or property owner shall remove equipment within ninety (90) days once the equipment is no longer in active use;
3. Submit a bond guaranteeing removal of facilities should the use cease.

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 1/22/13 (work session), CUT OFF DATE: 1/22/13
2/12/13 (regular mtg)

RESOLUTION ___ ORDINANCE ___ PUBLIC HEARING X

ITEM TITLE:

CU-12-556 Request of Emad Khezam dba Alibaba Hookah Bar for a conditional use permit for nightclub use and to modify conditions of an existing conditional use permit for hookah establishment use at 932 Berryville Avenue (Map Number 176-07-3) zoned Highway Commercial (B-2) District.

STAFF RECOMMENDATION:

Approval with conditions

PUBLIC NOTICE AND HEARING:

Public hearing for 2/15/13 Council mtg

ADVISORY BOARD RECOMMENDATION:

Planning Commission recommended approval with conditions

FUNDING DATA: N/A

INSURANCE: N/A

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda.

Table with 4 columns: DEPARTMENT, INITIALS FOR APPROVAL, INITIALS FOR DISAPPROVAL, DATE. Rows include Planning, City Attorney, City Manager, and Clerk of Council.

Initiating Department Director's Signature: [Signature] 1/15/13
(Zoning and Inspections)



APPROVED AS TO FORM: [Signature] 1/15/2013 CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Aaron Grisdale, Director of Zoning and Inspections
Date: January 15, 2013
Re: Conditional Use Permit (CU-12-556) – Hookah Bar Nightclub

THE ISSUE:

Request for CUP for modification of existing CUP for the hookah bar establishment, and for addition of a nightclub.

RELATIONSHIP TO STRATEGIC PLAN:

N/A

BACKGROUND:

City staff has received a conditional use permit application for modification of the existing CUP approved by City Council in May 2011, and for the establishment of a nightclub with a CUP. Unlike a similar proposal that was denied before City Council in February 2012, this proposal does not ask for the restriction on alcohol sales to be lifted. The applicant is only seeking modified operational hours and for the addition of live entertainment after 10:00 PM. (Full staff report is attached).

BUDGET IMPACT:

No funding is required.

OPTIONS:

- Approve with conditions recommended by the Planning Commission
- Approve with revised conditions
- Deny the application

RECOMMENDATIONS:

Planning Commission and staff recommend approval with conditions as noted within the staff report.

City Council
February 12, 2013

CU-12-556 Request of Emad Khezam dba Alibaba Hookah Bar for a conditional use permit for nightclub use and to modify conditions of an existing conditional use permit for hookah establishment use at 932 Berryville Avenue (*Map Number 176-07-3*) zoned Highway Commercial (B-2) District.

REQUEST DESCRIPTION

The applicant is proposing to establish a nightclub and modify an existing Hookah Establishment, as defined in the Zoning Ordinance, at the subject property, which is located at 932 Berryville Avenue.

AREA DESCRIPTION

The subject property is located on the north side of Rt. 7 (Berryville Avenue), and is zoned Highway Commercial (B-2). Similarly zoned parcels are located to the east, west, and north. Across the street and to the south, properties are primarily used for single-family residential and zoned Medium Density Residential (MR).



STAFF COMMENTS

The applicants have returned with an application for a nightclub and modification of current Hookah Establishment conditions. The Hookah Bar was initially granted a conditional use permit (CU-11-76) on May 10, 2011. The approval was subject to eleven conditions, which are enumerated as follows:

1. Review in three months and re-approval required every two years thereafter;
2. No one under 18 years of age is permitted to enter the establishment as a patron; and, no one under 18 years shall be employed within the establishment.
3. Clearly marked signage, as represented in ATTACHMENT 'A', shall be placed adjacent to the entrance door, indicating that no one under 18 years of age shall be permitted to enter the establishment; nor, to purchase or attempt to purchase tobacco, to include citing the Code of Virginia section (§ 18.2-371.2) and applicability of civil fines and penalties associated with violations.
4. The establishment shall post prominent warning signs, as represented in ATTACHMENT 'B', about the harmful effects of hookah smoking, to specifically include: "*Hookah smoking causes lung cancer, heart and other diseases and cancers. Hookah tobacco contains nicotine, and hookah smoking is not a safe alternative to cigarettes.*" Similar warnings shall also be included on all marketing materials, including newspaper advertisements, websites, and menus.
5. The hours of operation for the Hookah Establishment shall be limited to not earlier than 11:00AM, nor later than 12:00 midnight.
6. No alcohol will be served or consumed within the establishment.
7. Food service and related inspections shall be reviewed and permitted through the Virginia Department of Health – Lord Fairfax Regional Office.
8. Individually-wrapped and disposable smoking hoses for hookah devices shall be provided, one per customer, with no repeated use allowed so as to reduce or prevent the transfer of communicable disease and illness.

9. Any nuisances created or caused by the establishment pertaining to noise, odor, fumes, or smoke that adversely affect adjoining businesses within the same commercial building shall be immediately addressed and abated.
10. Applicant or business owner is responsible for maintaining the sanitary condition of hookah devices and any related equipment.
11. Strict obedience with all local, state, and federal laws.

The business owners subsequently submitted a nightclub application (CU-11-702) in December 2011 for expansion of their Hookah Establishment to include a nightclub, and amend their conditions from CU-11-76 to allow for alcohol consumption.

At its January 17, 2012 meeting, the Planning Commission forwarded CU-11-702 to City Council recommending denial of removing the restriction of on-premise sale and consumption of alcohol; and, recommending approval of nightclub use at the Ali Baba Hookah Bar, located at 932 Berryville Avenue. The Commission expressed concerns regarding the sale of alcohol in an environment where a majority of patrons are between the ages of 18-25. City Council subsequently denied the request on February 14, 2012, by a vote of 5-4.

With the current proposal, Mr. Khezam has submitted a request that is consistent with what the Planning Commission was comfortable with: asking for the approval of a nightclub permit, but not asking for the revocation of the condition prohibiting alcohol sales. Additionally, Mr. Khezam is requesting a modification of the conditions in CU-11-76 to allow for expanded business hours. He states that “[t]o better serve our customers, we would like to change the closing time of our business from 12:00am to 2:00am.”

Since the original conditional use permit (CU-11-76) will be coming due in May 2013, staff recommends amending the current proposal to include the two-year review/re-approval of the existing hookah bar permit. This will also make the conditions in the future clearer for both the business owner and staff by having one set of conditions attached to the business operations.

RECOMMENDATION

For a conditional use permit to be approved, a finding must be made that the proposal as submitted or modified will not adversely affect the health, safety or welfare of persons residing or working in the neighborhood nor be detrimental to public welfare or injurious to property or improvements in the neighborhood.

At its December 11, 2012 meeting, the Planning Commission forwarded **CU-12-556** to City Council recommending approval because the use, as proposed, should not adversely affect the health, safety, or welfare of residents and workers in the neighborhood nor be injurious to adjacent properties or improvements in the neighborhood. The recommendation is subject to:

1. Review in six months and reapproval required every three years thereafter;
2. Modification of the Hookah Establishment conditional use permit (CU-11-76) condition #5 to allow for hours of operation from 11:00am to 2:00am.
3. Nightclub use to end no later than 11:59pm Sunday through Wednesday nights and no later than 2:00am Thursday night/Friday morning through Saturday night/Sunday morning;
4. The applicant taking into consideration the concerns of all of the neighbors and addressing them as they come up;

5. A maximum of four (4) criminal offense calls per month within or attributable to the establishment, after which private security may be required and the permit may be subject to revocation;
6. All windows and exterior doors to remain closed during nightclub use and no aspects of nightclub use to occur outside the building;
7. Strict obedience with all local and state laws, especially those pertaining to the noise ordinance outlined in City Code and the timely payment of all local taxes;
8. The CUP expires automatically if the nightclub use ceases for more than one year or if the use of the property changes; and,
9. The applicant is responsible for cleaning up any trash outside the facility after closing.

As noted above in the report, staff recommends that the current proposal also include the two-year review and renewal of the existing conditional use permit (CU-11-76) for the hookah establishment itself. This combined approval will result in the two sets of conditions being merged into the following (CU-12-556), subject City Council approval:

1. Review in six months and reapproval required every three years thereafter;
2. No one under 18 years of age is permitted to enter the establishment as a patron; and, no one under 18 years shall be employed within the establishment;
3. Clearly marked signage, as represented in ATTACHMENT 'A', shall be placed adjacent to the entrance door, indicating that no one under 18 years of age shall be permitted to enter the establishment; nor, to purchase or attempt to purchase tobacco, to include citing the Code of Virginia section (§ 18.2-371.2) and applicability of civil fines and penalties associated with violations;
4. The establishment shall post prominent warning signs, as represented in ATTACHMENT 'B', about the harmful effects of hookah smoking, to specifically include: "*Hookah smoking causes lung cancer, heart and other diseases and cancers. Hookah tobacco contains nicotine, and hookah smoking is not a safe alternative to cigarettes.*" Similar warnings shall also be included on all marketing materials, including newspaper advertisements, websites, and menus;
5. The hours of operation for the Hookah Establishment shall be limited to not earlier than 11:00AM, nor later than 2:00 AM;
6. Nightclub use to end no later than 11:59pm Sunday through Wednesday nights and no later than 2:00am Thursday night/Friday morning through Saturday night/Sunday morning;
7. The applicant taking into consideration the concerns of all of the neighbors and addressing them as they come up;
8. No alcohol will be served or consumed within the establishment;
9. A maximum of four (4) criminal offense calls per month within or attributable to the establishment, after which private security may be required and the permit may be subject to revocation;
10. All windows and exterior doors to remain closed during nightclub use and no aspects of nightclub use to occur outside the building;
11. Food service and related inspections shall be reviewed and permitted through the Virginia Department of Health – Lord Fairfax Regional Office;
12. Strict obedience with all local and state laws, especially those pertaining to the noise ordinance outlined in City Code and the timely payment of all local taxes;
13. Applicant or business owner is responsible for maintaining the sanitary condition of hookah devices and any related equipment;
14. The CUP expires automatically if the nightclub use ceases for more than one year or if the use of the property changes; and,
15. The applicant is responsible for cleaning up any trash outside the facility after closing.

0-2013-02

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: 2/12/13 **CUT OFF DATE:** _____

RESOLUTION ___ **ORDINANCE** x **PUBLIC HEARING** x

ITEM TITLE: An Ordinance to Increase the Salaries of the Mayor and Members of the Common Council.

STAFF RECOMMENDATION: Adoption of the Ordinance

PUBLIC NOTICE AND HEARING: Required

ADVISORY BOARD RECOMMENDATION: N/A

FUNDING DATA: Salary Increases will be funded through the General Fund

INSURANCE: N/A

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda. The Director's initials for approval or disapproval address only the readiness of the issue for Council consideration. This does not address the Director's recommendation for approval or denial of the issue.

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. Finance Director	<i>JB</i>		<u>1-25-13</u>
2. _____			
3. _____			
4. _____			
5. City Attorney	<i>AW</i>		<u>1/29/2013</u>
6. City Manager	<i>DI</i>		<u>2-5-13</u>
7. Clerk of Council			

Initiating Department Director's Signature: *[Signature]* 1/25/13
Date



APPROVED AS TO FORM:

[Signature] 1/29/2013
CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council

From: Joel Davis, Human Resources Director

Date: December 18, 2012

REVISED ON JANUARY 25, 2013 FOR FEBRUARY 12, 2013 CITY COUNCIL MEETING

Re: Council Pay Increase Discussion

THE ISSUE: Is it appropriate to increase compensation for members of Council.

RELATIONSHIP TO STRATEGIC PLAN: Compensation/Benefits for Council

BACKGROUND: Upon reviewing the Committee on Council Reorganization, hereafter referred to as (COCO) report dated April 2000, and taking into consideration the recommendation of that committee in regards to Council's pay, and after reviewing salary survey information, I offer the following for your consideration.

As you know Section 15.2-1414.6 of the Virginia Code has established maximums in regards to the salary that can be paid to members of council as well as the mayor or president of the council based upon the population of the jurisdiction. Winchester falls within the range of 20,000-34,999 with a maximum salary for the Mayor being \$13,000 and \$12,000 for the other councilors. It is important to note that per the aforementioned Code, no increase in the salary of a member of council shall take effect until July 1 after the next regularly scheduled general election of council members, which in this case will be July 1, 2015 (see attached).

The (COCO) recommended in its report that the Mayor be paid \$6,500 and other council members \$6,000 (see attached). The Committee felt that half of the statutory maximum was appropriate after reviewing compensation paid in other jurisdictions comparable to Winchester.

After reviewing the attached salary survey completed in August of 2012, which is based upon the 2010 population census of jurisdictions comparable to Winchester, I offer the following options for your consideration.

BUDGET IMPACT: This will be dependent upon the option that is adopted by Council. They are summarized below.

Current Compensation: \$33,600 (\$3,600 for Council Members and \$4,800 for the Mayor)

Option 1: \$54,500 (\$6,000 for Council members and 6,500 for the Mayor)

Option 2: \$77,287 (\$8,457 for Council members and \$9,631 for the Mayor)

Option 3: \$109,000 (\$12,000 for Council members and \$13,000 for the Mayor)

****COUNCIL'S DECIDED OPTION: \$84,600 (\$9,000 FOR COUNCIL MEMBERS AND \$10,800 FOR THE MAYOR AND COUNCIL PRESIDENT)***

OPTIONS:

1. Set the salaries at the levels recommended in the 2000 COCO report, which are \$6,500 for the Mayor and \$6,000 for the other members of Council.
2. Set the salaries at the average rate of the jurisdictions that are close in population to Winchester as identified in the attached salary survey, which would be \$9,631 for the Mayor and \$8,457 for the other members of Council.
3. Set the salaries at the statutory maximum for the Mayor, which would be \$13,000 and \$12,000 for the other members of Council.

RECOMMENDATION: My recommendation is to set the salaries as per Option 2. This provides the members of Council with a moderate increase in salary and brings them closer to the jurisdictions similar in population to Winchester's. This coupled with the extension of health and dental benefits to members of Council greatly enhances the overall compensatory package, which will more appropriately compensate existing members, as is the case in other comparable jurisdictions, as well as be helpful in attracting citizens to run for positions on the Common Council.

****WHILE THE AFORMEMENTIONED THREE (3) OPTIONS WERE RECOMMENDED BY STAFF FOR CONSIDERATION BY THE COMMON COUNCIL, AT ITS WORK SESSION ON DECEMBER 18TH, 2012 THE COMMON COUNCIL VOTED TO MOVE THIS ITEM FORWARD AND TO SET THE SALARIES FOR MEMBERS OF THE COMMON COUNCIL TO BE THE SAME AS THE FREDRICK COUNTY BOARD OF SUPERVISORS, WITH THE MAYOR AND COUNCIL PRESIDENT TO RECEIVE THE SAME SALARY AS THE CHAIRPERSON OF THE BOARD OF SUPERVISORS.***



THE COMMON COUNCIL

Rouss City Hall
15 North Cameron Street
Winchester, VA 22601
540-667-1815
TDD 540-722-0782
www.winchesterva.gov

I, Kari J. Van Diest, Deputy Clerk of the Common Council, hereby certify on this 12th day of February 2013 that the following Resolution is a true and exact copy of one and the same adopted by the Common Council of the City of Winchester, assembled in regular session on the 12th day of February 2013.

AN ORDINANCE TO INCREASE THE SALARIES OF THE MAYOR OF THE CITY OF WINCHESTER AND THE MEMBERS OF THE COMMON COUNCIL FOR THE CITY OF WINCHESTER

WHEREAS, Virginia Code Section 15.2-1414.6 authorizes the Common Council for the City of Winchester to set the annual salaries for its members and the Mayor of the City of Winchester; and

WHEREAS, members of the Common Council for the City of Winchester are currently paid Three Hundred Dollars (\$300) per month, and the Mayor of the City of Winchester is currently paid Four Hundred Dollars (\$400) per month; and

WHEREAS, Virginia Code Section 15.2-1414.6 permits a city Winchester size to pay its Common Council members up to Twelve Thousand Dollars (\$12,000) per year and its Mayor up to Thirteen Thousand Dollars (\$13,000) per year; and

WHEREAS, an increase in the salary of the members of the Common Council to Seven Hundred and Fifty Dollars (\$750) per month, and the Mayor and Council President to Nine Hundred Dollars (\$900) per month, would help to offset the financial burden incurred by members of the Common Council and the Mayor as a result of the time they spend on City matters; and

WHEREAS, such increases, which result in a total annual salary of Nine Thousand Dollars (\$9,000) for members of the Common Council, and Ten Thousand Eight Hundred Dollars for the Mayor and Council President (\$10,800), are still less than the maximum permitted by Section 15.2-1414.6 of the Code of Virginia; and

WHEREAS, Virginia Code Section 15.2-1414.6 requires that every proposed increase in the salary of a member of council shall be adopted at least four months prior to the date of the next municipal election; and

WHEREAS, the date of the next municipal election is November 2014, thus enactment of this ordinance in 2013 will be in compliance with Virginia Code Section 15.2-1414.6; and

WHEREAS, Virginia Code Section 15.2-1414.6 requires that increases in council salaries shall not take effect until July 1 after the next regularly scheduled general election of council members; and

WHEREAS, the date of the next regularly scheduled general election of council members is currently November 2014, thus July 1, 2015 as the effective date of the salary increases will be in compliance with Virginia Code Section 15.2-1414.6; and

WHEREAS, Section 4 of the Charter of the City of Winchester requires that no change (shall be) made in the compensation of salaried and fee officials during their present term of office; and

WHEREAS, on January 1, 2015, none of the members of the Common Council voting for this ordinance will be in their present term of office, thus enactment of this ordinance will be in compliance with Section 4 of the Charter of the City of Winchester; and

WHEREAS, the Common Council has determined that it is appropriate and proper to provide for salary increases.

NOW, THEREFORE, BE IT ORDAINED that:

1. The salary of the members of the Common Council shall be increased to Seven Hundred and Fifty Dollars (\$750) per month, and the salary of the Mayor and Council President shall be increased to Nine Hundred Dollars (\$900) per month.
2. Such increases shall take effect July 1, 2015.

State Law Reference-Virginia Code – 15.2-1414.6.

Resolution No. 2013-

ADOPTED by the Common Council of the City of Winchester on the 12th day of February 2013.

Witness my hand and the seal of the City of Winchester, Virginia.

*Kari J. Van Diest
Deputy Clerk of the Common Council*

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: January 22, 2013 CUT OFF DATE:

RESOLUTION X ORDINANCE PUBLIC HEARING

ITEM TITLE:

Jail Authority refunding and new monies issuance

STAFF RECOMMENDATION:

Refund bonds that can provide savings to the Northwestern Regional Jail authority & fund capital

PUBLIC NOTICE AND HEARING:

N/A

ADVISORY BOARD RECOMMENDATION:

N/A

FUNDING DATA:

No funding; possible significant savings in FY 2014 and FY 2015

INSURANCE:

No liability assumed.

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda.

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. City Attorney	<i>aw</i>	_____	<i>1/17/2013</i>
6. City Manager	<i>DF</i>	_____	<i>1-17-13</i>
7. Clerk of Council	_____	_____	_____

Initiating Department Director's Signature: _____

M. Blaw

1-17-13
Date



APPROVED AS TO FORM:

[Signature] *1/17/13*
CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Mary Blowe, Finance Director
Date: January 17, 2013
Re: Resolution to allow NWRJA to refund bonds and issue new debt

THE ISSUE: The Market has allowed us to be able to refund previously issued debt by the Northwestern Regional Jail Authority that was issued in 2005 the following way: \$16,560,000 jail facilities revenue bonds. The jail also desires to add new money (capital projects of approx. 1M).

RELATIONSHIP TO STRATEGIC PLAN: Savings in our jail expenditure line items will allow the City Council to (financially) forward other items in the strategic plan that otherwise may not have been able to be funded.

BACKGROUND: In June 2005, the Jail Authority issued \$16,560,000 of long-term Jail Facilities Revenue Bonds and \$10M of short-term jail facilities grant anticipation notes. The Bonds have a call date of July 1, 2015 and have previously not been able to be refunded. However, with the current record low rates we have seen in the market, we can advance refund some of the maturities and take advantage of some savings.

BUDGET IMPACT: The existing interest rates on the bonds outstanding after the call date range from 4% in 2016 to 5% in 2033. The new debt issuance would produce rates of 1.06% in 2016 to 3.44% in 2033. The net present value savings would be \$1,312,128, with a NPV savings of 10.20%

OPTIONS: City Council could not approve the resolution and disallow the Authority from continuing with the refunding and new money issuance.

RECOMMENDATIONS: It is recommended that the Council adopt the resolution entitled:

RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF WINCHESTER, VIRGINIA, CONSENTING TO THE ISSUANCE OF BONDS BY THE NORTHWESTERN REGIONAL JAIL AUTHORITY PURSUANT TO THE SECOND AMENDED AND RESTATED REGIONAL JAIL AGREEMENT AND OTHER MATTERS IN CONNECTION THEREWITH.

RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF WINCHESTER, VIRGINIA, CONSENTING TO THE ISSUANCE OF BONDS BY THE NORTHWESTERN REGIONAL JAIL AUTHORITY PURSUANT TO THE SECOND AMENDED AND RESTATED REGIONAL JAIL AGREEMENT AND OTHER MATTERS IN CONNECTION THEREWITH

WHEREAS, the Counties of Clarke, Fauquier and Frederick, Virginia, and the City of Winchester, Virginia (collectively, the “Participating Jurisdictions”), have created the Northwestern Regional Jail Authority (the “Authority”) pursuant to Chapter 3, Article 3.1 of Title 53.1 (the “Act”) of the Code of Virginia, 1950, as amended (the “Code”), for purposes of owning and operating the Northwestern Regional Adult Detention Center (the “Regional Jail”);

WHEREAS, the Participating Jurisdictions and the Authority have entered into a Second Amended and Restated Regional Jail Agreement dated as of June 1, 2005 (the “Jail Agreement”), providing for the ownership, operation and financing of the Regional Jail;

WHEREAS, the Authority issued its \$16,560,000 Jail Facilities Revenue Bonds, Series 2005 (the “2005 Bonds”), and its \$10,000,000 Jail Facilities Grant Anticipation Notes, Series 2005 (the “2005 Notes”), secured by a pledge of the revenues received by the Authority under and pursuant to the Jail Agreement;

WHEREAS, the 2005 Notes have been paid in full and are no longer outstanding;

WHEREAS, the Authority issued and sold its \$495,000 Taxable Jail Facilities Revenue Bond, Series 2011 (the “2011 Bond”), to the Virginia Resources Authority and used the proceeds for an energy-savings project, which bond was secured as to the pledge of revenues on a parity with the pledge of revenues securing the 2005 Bonds;

WHEREAS, on January 17, 2013, the Authority adopted a resolution expressing its desire to realize debt service savings by refunding all or a portion of the 2005 Bonds with proceeds derived from the issuance and sale of its Jail Facilities Revenue and Refunding Bonds, Series 2013 (the “2013 Bonds”);

WHEREAS, the Authority has also expressed its desire to use proceeds of the 2013 Bonds to finance the cost of new capital improvements, including without limitation, a replacement cooling tower, a replacement chiller compressor, and a new telephone system (collectively, the “2013 Projects”);

WHEREAS, the 2013 Bonds will be payable from and secured by amounts derived from the Participating Jurisdiction Obligations (defined below) in accordance with the terms of the Act and the Jail Agreement;

WHEREAS, pursuant to Sections 4 and 6.F. of the Jail Agreement, each Participating Jurisdiction has each agreed to pay to the Authority amounts sufficient to pay when due the Participating Jurisdiction’s respective share of the principal of and interest on the Obligations,

including the 2013 Bonds, based upon the “Allocation Formula” set forth in Section 4.A. of the Jail Agreement as such Allocation Formula may be adjusted pursuant to Section 6.F. in the event the Authority lacks sufficient funds to pay scheduled debt service on the Obligations or certain other costs (collectively, the “Participating Jurisdiction Obligations”); and

WHEREAS, the Authority has requested the consent of the Participating Jurisdictions to the issuance of the 2013 Bonds as provided in Section 3 of the Jail Agreement;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF WINCHESTER, VIRGINIA:

1. The Common Council (the “Council”) of the City of Winchester, Virginia (the “City”), approves and consents, for purposes of the provisions of Section 3 of the Jail Agreement, to the issuance by the Authority of the 2013 Bonds in a principal amount not to exceed \$17,000,000, and the use of the proceeds thereof to refund the 2005 Bonds, to finance the 2013 Projects, to fund a reserve and to pay related refunding and issuance costs.
2. The Council acknowledges that the 2013 Bonds will be payable from and secured by amounts received by the Authority from the payment of Participating Jurisdiction Obligations.
3. For purposes of Section 265(b)(3)(C)(iii) of the Internal Revenue Code of 1986, as amended, the City irrevocably agrees that the amount of the 2013 Bonds shall be allocated to each Participating Jurisdiction in the same proportion that each Participating Jurisdiction has been allocated payment responsibilities under the “Allocation Formula,” determined for Fiscal year ending June 30, 2012, under the Jail Agreement with respect to the 2013 Bonds.
4. The Council authorizes and consents to the inclusion of City information in the Official Statement (in its preliminary and final forms) to be prepared by the Authority for purposes of marketing the 2013 Bonds and hereby directs City staff to assist the Authority in the preparation of such City disclosure.
5. The City Manager is hereby authorized and directed to execute and deliver such documents and certificates as are necessary to enable the Authority to issue the 2013 Bonds, to refund the 2005 Bonds and to finance the 2013 Projects, including, but not limited to, a continuing disclosure agreement and closing certificates requested by the Authority and its bond counsel. Any other City official so designated by the City Manager is hereby similarly authorized and directed to execute and deliver such documents and certificates.
6. All other acts of the officers of the City, heretofore or hereafter taken, that are in conformity with the purposes and intent of this Resolution and in furtherance of the issuance and sale of the 2013 Bonds, the refunding of the 2005 Bonds and the financing of the 2013 Projects by the Authority are hereby approved, ratified and confirmed.
7. Nothing in this Resolution or in the Jail Agreement is or shall be deemed to be a lending of the credit of the City or other Participating Jurisdictions to the Authority or to any holder of any of the 2013 Bonds or to any other person, and nothing herein contained is or shall

be deemed to be a pledge of the faith and credit or the taxing power of the City or the other Participating Jurisdictions within the meaning of the Constitution of Virginia.

8. This Resolution shall take effect immediately.

The undersigned [Deputy] Clerk of the Common Council of the City of Winchester, Virginia, hereby certifies that the foregoing constitutes a true and correct extract from the minutes of a meeting of the Common Council held on _____, 2013, and of the whole thereof so far as applicable to the matters referred to in such extract. I hereby further certify that such meeting was a regularly scheduled meeting and that, during the consideration of the foregoing resolution, a quorum was present. Members present at the meeting were:

Members absent from the meeting were: _____.

Members voting in favor of the foregoing resolution were:
_____.

Members voting against the foregoing resolution were:
_____.

Members abstaining from voting on the foregoing resolution were:
_____.

WITNESS MY HAND and the seal of the City of Winchester, Virginia, this ___ day of _____, 2013.

Clerk, Common Council, City of Winchester,
Virginia

[SEAL]

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Dale Iman
Date: 01/10/13
Re: Council Appointed Boards and Commissions

THE ISSUE: To review the City's current composition and operation of Council Appointed Boards and Commissions.

RELATIONSHIP TO STRATEGIC PLAN:

Goal 2 – Develop a High Performing Organization

BACKGROUND:

Council Vice President, Willingham and Vice Mayor, McInturff were assigned the task of reviewing the Council process of soliciting, appointing and training members of the City's numerous Boards and Commissions. Working closely with the City Manager and City Attorney the attached report and recommendation has been developed which is designed to improve the appointment process and improve the flow of information between boards, commissions and the City Council. In addition, the proposed policy addresses the feasibility of combining the responsibilities of some boards and commissions in an effort to reduce the total number of boards and commissions required.

BUDGET IMPACT:

There will be no impact on the Budget.

OPTIONS:

1. Implement the recommended procedural changes.
2. Do not change the existing procedure.

RECOMMENDATIONS:

It is recommended that Council direct staff to make the required changes and implement the recommendations outlined in the report.

Rouss City Hall
15 North Cameron Street
Winchester, VA 22601

Telephone: (540) 667-1815
FAX: (540) 722-3618
TDD: (540) 722-0782
Website: www.winchesterva.gov

To: Honorable Members of Common Council

From: Vice President Willingham and Vice Mayor McInturff

Subj.: Council Appointed Boards and Commissions

Date: December 21, 2012

MEMORADUM

On August 21, 2012, Vice President Willingham and Vice Mayor McInturff were asked to work with the City Manager, City Attorney, and City Staff to review the City's current composition and operation of Council Appointed Boards and Commissions. Through a review of available materials and a series of individual and group discussions, this report was generated as an update and recommendation to Common Council focusing on the following areas:

1. Composition/Operations

There are currently thirty-six (36) Council Appointed Boards and Commissions identified on the City's Boards and Commissions List. With very few exceptions, these bodies are either statutorily required entities (such as the Planning Commission and School Board), or otherwise required as part of a program that the City has chosen to undertake (such as the Board of Architectural Review and Community Development Committee). There are very few Council Appointed Boards and Commissions which are purely discretionary in nature (such as the

Natural Resources Advisory Board) or not mandated but established by choice as part of a program or initiative that the City is participating in (such as the Old Town Development Board).

In order to ensure that all Council Appointed Boards and Commission positions are adequately filled and in timely fashion, with the most qualified personnel, we recommend that the City Manager be tasked with initiating an ongoing process to encourage and solicit citizen involvement in appointed boards and commissions. In addition, the President shall annually appoint two (2) members of Council to serve as the Council Liaisons for handling all matters associated with reviewing applications and conducting preliminary interviews of candidates.

The recommended process would be as follows:

1. The Manager shall ensure that a Staff Liaison is appointed to every Board and Commission.
2. The Staff appointed liaison would be responsible for collecting and reviewing qualifications of candidates for their respective boards and to notify the Assistant City Manager of Board and Commission vacancies 60 days prior to the expiration date.
3. The Assistant City Manager would then contact the Council Liaisons to make them aware of applications and any open positions that need to be filled and to provide application material of citizens who have expressed formal interest in serving.
4. The Assistant City Manager would be responsible for conveying this to the Council Liaisons in a timely manner to ensure adequate time for review of applications and interviewing of candidates.
5. The Assistant City Manager would be responsible to keep the Council Liaisons up to date on the status of board participants, vacancies, expiration of terms, etc.
6. The Staff Liaison would contact board members eligible for reappointment and determine their interest and report findings to the Assistant City Manager .
7. At the end of the term of each member, the staff liaison will give a report to the Assistant City Manager on the board members participation, attendance, performance, etc. The Assistant City Manager would be responsible to keep the Council Liaisons up to date on the status of board participants, attendance, performance etc.

8. The Council Liaisons shall be responsible for reviewing this information and recommending to Council timely appointments to the various Boards and Commissions.
9. Staff Liaisons shall prepare a "Council Appointed Board Report" on a monthly basis, or as frequently as deemed necessary by the Manager, which shall be submitted to the City Manager for inclusion with the Written Reports submitted for Council review on monthly Work Session Agendas. The reports shall include actions and items of interest currently underway with regard to Council Appointed Boards as well as Board vacancies and other operational concerns.

This process would ensure that Council maintains involvement and awareness of the needs of the various boards and commissions while ensuring that City Staff personnel are continuing to address the needs of the boards as well as the needs of the City's Administration.

Consistent with the second goal discussed during the 2012 Council Strategic Planning Process ("To develop a high performing City Organization"), we would recommend that Council consider reorganizing some of its appointed Boards and Commissions which are not specifically mandated by state legislation.

For example, we would recommend the elimination of the Natural Resources Advisory Board and Tree Commission and the consolidation of the responsibilities and resources of these two individual boards under the umbrella of the Parks and Recreation Board. It is believed that this reallocation of resources will provide for more efficient and effective local governance of the issues faced by these three individual Council Appointed Boards.

If Council decides to move forward with this recommendation, the Department of Parks and Recreation will be called upon to work with the City Attorney and Public Services Department to incorporate the necessary revisions into the City Code.

Finally, while this Report has been drafted specifically to address issues related to Council Appointed Boards and Commissions, during the review of these matters, it was concluded that the appointment of the Mayor, Members of Council, or other City Officials to serve in their official capacities as participating and voting members of non-governmental organizations may create significant conflicts of interest and should be avoided. This should not be construed as a recommendation to preclude the Mayor, Members of Council, or other City Officials from volunteering to serve in their individual and personal capacities on such organizations, nor preclude the appointment by Council of non-voting liaisons who do not participate directly in the organizational operations of these entities.

2. Training / Orientation

A formal Orientation shall be required for all new members of Council Appointed Boards and Commissions. The orientation shall identify and train new members regarding the Goals and Objectives of Common Council, their responsibilities as appointed members of the respective Boards and Commissions, describe the general functioning of the City's Administration, and introduce new members to the general operation of local government in the City of Winchester.

This presentation shall be organized by the City Manager, and shall include presentations from the City Attorney, City Staff, and member(s) of Council at the discretion of the governing body.

3. Code of Ethics

The City currently has a Code of Ethics embodied within its Comprehensive Employee Management System ("CEMS") in Section 7.16 which applies to all City Employees, Members

of Council, and Members of Council Appointed Boards and Commissions. The section reads as follows:

7.16 Code of Ethics

The Code of Ethics is intended to provide ethical guidelines for City Councilors, employees and Council appointed Board and Commission members that are responsive to the public needs and preclude even the appearance of impropriety in the performance of their duties. All City Councilors, employees and Council appointed Board and Commission members have an obligation to conduct their official duties in a manner that serves the public interest, upholds the public trust and protects the City's resources. To this end, City Councilors, employees and Council appointed Board and Commission members have a responsibility to:

- 1. Perform their duties to the very best of their abilities, treating the public and each other in a courteous manner that is fair and equitable, without regard to race, color, gender, age, religion, national origin, disability, political affiliation, or any other factor unrelated to the impartial conduct of City business.*
- 2. Demonstrate integrity, honesty, and ethical behavior in the conduct of all City business.*
- 3. Ensure that their personal interests do not come into conflict with their official duties, resulting in a real conflict of interest or the appearance of a conflict of interest when dealing with vendors, customers, and other individuals doing business or seeking to do business with the City.*
- 4. Ensure that they do not accept any gift, favor or thing of value that may tend to, or be reasonably perceived to, influence the discharge of their duties, or grant any improper favor, service or thing of value in the discharge of their duties. This shall include the acceptance of a gift from a person who has interests that may be substantially affected by the performance of the employee's official duties under circumstances where timing and nature of the gift would cause a reasonable person to question the employee's impartiality in the matter affecting the donor. This prohibition shall not apply to the acceptance of any gift, favor or thing of value that benefits the City and/or the community as a whole.*
- 5. Ensure that information concerning the property, government or affairs of the City is held confidential, disclosed only with proper legal authorization, and never to advance the financial or other special interest of themselves or others.*
- 6. Ensure that all City resources, including City funds, equipment, vehicles and other property, are used in strict compliance with City policies and solely for the benefit of the City.*

7. Avoid any behavior that could fall under the definitions of misconduct in Section 7.2 Discipline of the City's Comprehensive Employee Management System.

Councilors, Board and Commission members, Department Heads, and supervisors must take a leadership role in the promotion and execution of the Code of Ethics. All City officials and employees have a responsibility to place cooperation, trust, and respect at the head of all they do.

But despite the formal incorporation of these provisions into the CEMS, which has been adopted and approved by a Resolution of Common Council, members of Council Appointed Boards and Commissions do not receive exposure or any formal training on this upon their appointment. As such, it is very likely that few members are even aware of their duties and responsibilities consistent with the foregoing Code of Ethics.

Accordingly, it is recommended that all members of Council Appointed Boards and Commissions consent to and follow, as a condition precedent to participation, the Code of Ethics as approved by the Governing Body. This consent shall be memorialized in a signed document prepared by the City Attorney reflecting the provisions of Section 7.16 of the CEMS and may include any additional provisions deemed necessary by Council to create a uniform Code of Ethics that embodies the expectations of Council and the Community with regard to service on a Council Appointed Board or Commission. Service on such bodies should be viewed and acknowledged as a privilege with accompanying responsibilities of appropriate conduct. The Code of Ethics should be signed by all appointed members prior to their formal appointment and should be enforced where violations occur.

Additionally, it is recommended that the Manager be directed to expand the CEMS provisions to include a non-comprehensive list of causes for removal or other forms of

disciplinary action available to Common Council to address instances of improper conduct by an appointed member of a Board or Commission.

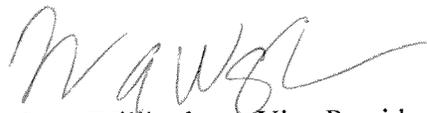
CONCLUSION

The City should require all new members of Council Appointed Boards and Commissions to execute a written Agreement prepared by the City Attorney memorializing that they are aware of, and will abide by the Code of Ethics in Section 7.16 of the CEMS and any other ethical requirements that the governing body may adopt as applicable to such members. The CEMS should be expanded to include causes for removal and other disciplinary measures for members who do not abide by these rules.

New members should receive training through a formal Orientation process which shall be organized by the Manager or his designee and should include presentations by City Staff, the City Attorney and members of Council (at Council's discretion) on topics including ethical responsibilities as an appointed board member and the general operation of City government.

Finally, a Council Liaison system should be established to continually work with the Assistant City Manager to ensure that vacancies to various the boards and commissions are properly filled. An outline of one possible system is included in Section 3 of this Memorandum.

Respectfully Submitted:



John Willingham, Vice President



Milt McInturff, Vice Mayor