

WINCHESTER COMMON COUNCIL
APRIL 9, 2013
AGENDA
7:00 P.M.

CALL TO ORDER AND ROLL CALL

INVOCATION

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES – March 12, 2013 Regular Meeting

REPORT OF THE MAYOR

REPORT OF THE CITY MANAGER

REPORT OF THE CITY ATTORNEY

1.0 PUBLIC HEARINGS

- 1.1 O-2013-06:** Second Reading – AN ORDINANCE TO AUTHORIZE THE MANAGER TO EXECUTE A LETTER OF AGREEMENT WITH SHENANDOAH PERSONAL COMMUNICATIONS COMPANY (“SHENTEL”) FOR THE TEMPORARY USE OF CITY PROPERTY FOR THE PURPOSE OF ERECTING A MOBILE TELECOMMUNICATIONS FACILITY – CELL ON WHEELS (“COW”) ON PROPERTY OWNED BY THE CITY OF WINCHESTER AT THE SOUTH END OF THE TIMBROOK ANNEX DURING THE 2013 APPLE BLOSSOM FESTIVAL **(REQUIRES ROLL-CALL VOTE)(pages 6-20)**
- 1.2 O-2013-08:** Second Reading – AN ORDINANCE TO AMEND SECTIONS 14-5, 18-7, 18-15, 21-3, AND 23-8 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO ADMINISTRATIVE REVIEW, SPECIAL REGULATIONS PERTAINING TO THE PRIMARY & SECONDARY DOWNTOWN ASSESSMENT DISTRICTS, OBSTRUCTION OF RIGHT-OF-WAY, CIVIL PENALTIES AND FEES TA-13-35 **(REQUIRES ROLL-CALL VOTE)(pages 21-34)**
- 1.3 O-2013-09:** Second Reading – AN ORDINANCE TO REPEAL CHAPTER 26, ARTICLE III, DIVISION 2 OF THE WINCHESTER CITY CODE PERTAINING TO SIDEWALK CAFES **(REQUIRES ROLL-CALL VOTE)(pages 35-42)**
- 1.4 O-2013-05:** Second Reading – AN ORDINANCE TO AMEND AND RE-ADOPT SECTIONS 2-4, 2-28, AND 2-29 OF THE WINCHESTER CITY

CODE PERTAINING TO ELECTION AND REMOVAL OF COUNCIL-ELECT OFFICERS (**REQUIRES ROLL-CALL VOTE**)(pages 43-46)

1.5 O-2013-03: Second Reading – AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-66 OF THE WINCHESTER CITY CODE PERTAINING TO INSTALLATION; REQUIRED LEGEND AND SIGNALS (**REQUIRES ROLL-CALL VOTE**)(pages 47-50)

1.6 O-2013-04: Second Reading – AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-68 OF THE WINCHESTER CITY CODE PERTAINING TO WHEN METERS SHALL BE OPERATED (**REQUIRES ROLL-CALL VOTE**)(pages 51-54)

1.7 O-2013-07: Second Reading – AN ORDINANCE TO CONDITIONALLY REZONE 7.74 ACRES OF LAND AT 940 CEDAR CREEK GRADE FROM RESIDENTIAL OFFICE (RO-1) DISTRICT WITH CORRIDOR ENHANCEMENT (CE) DISTRICT OVERLAY TO HIGH DENSITY RESIDENTIAL (HR) DISTRICT WITH PLANNED UNIT DEVELOPMENT (PUD) & CE DISTRICT OVERLAY RZ-12-405 (**REQUIRES ROLL-CALL VOTE**)(pages 55-75)

1.8 CU-13-85: Conditional Use Permit - Request of Glaize Properties for conversion of ground floor nonresidential use to residential use at 110 East Fairfax Lane (Map Number 173-01-S-1) zoned Central Business (B-1) District with Historic Winchester (HW) District overlay. (pages 76-83)

1.9 R-2013-21: Resolution – Approval of Consolidated and Annual Action Plan (pages 84-111)

2.0 PUBLIC COMMENTS

3.0 CONSENT AGENDA

3.1 R-2013-14: Resolution – Authorization to amend the City of Winchester CEMS manual, Section 3.8 Salary Actions, K Career Development (pages 112-122)

3.2 R-2013-15: Resolution – Approval to host the 2014 Cal Ripken 10-year-old World Series (pages 123-135)

3.3 R-2013-16: Resolution – Adoption of the 2012 Updated Version of the Northern Shenandoah Valley Regional Mitigation Plan (pages 136-138)

3.4 R-2013-20: Resolution – Approval to reimburse expenditures with proceeds of a borrowing (pages 139-141)

- 3.5 R-2013-17:** Resolution – Approval to execute grant and cooperative agreements with the Federal Transit Administration on behalf of the Winchester Transit (pages 142-145)
- 3.6 R-2013-22:** Resolution – Approval to execute and file an application to the Virginia Department of Rail and Public Transportation for a grant of financial assistance (pages 146-147)
- 3.7 R-2013-18:** Resolution – Authorization to submit an application for up to \$10,000 in recycling grant funds through the Virginia Department of Environmental Quality (pages 148-151)
- 3.8 R-2013-19:** Resolution – Approval of the revised Winchester Transit Title VI Program (pages 152-187)
- 3.9** Motion to approve the proposed MOUs for the JJC and CVB funding and the termination of shared funding for the Museums as recommended by the Joint Finance Committee (pages 188-202)
- 3.10** Motion to re-appoint Mayor Elizabeth Minor as a member of the Northwestern Regional Jail Authority for a four year term beginning April 9, 2013 and ending on April 30, 2017

4.0 AGENDA

- 4.1** Motion to re-appoint John Bentley, Jr. as a member of the Parks and Recreation Board for a three year term expiring October 31, 2016
- 4.2** Motion to appoint _____, _____, and _____ as members of the Social Services Advisory Board each to serve a four year term expiring March 31, 2017
- 4.3** Motion to appoint _____ and _____ as members of the Parks and Recreation Board each to serve a three year term expiring April 30, 2016
- 4.4** Motion to appoint _____ and _____ as members of the Old Town Development Board each to serve a three year term expiring October 30, 2016
- 4.5** Motion to appoint _____ as a member of the Northwestern Community Services Board to a three year term expiring December 31, 2016
- 4.6** Motion to appoint _____ as a member of the Board of Architectural Review to a four year term expiring April 30, 2017
- 4.7** Motion to appoint _____ as a member of the Planning Commission to a four year term expiring December 31, 2017

- 4.8** Announce the term expiration of Sharion Poston, Melvin Thomas and Mary Margaret Wise as members of the Winchester School Board effective June 30, 2013. Ms. Poston, Mr. Thomas, and Ms. Wise are eligible for re-appointment.
- 4.9** Motion for the Nomination of _____, and _____ for re-appointment to the School Board and direct the Clerk of Council to issue a Notice of a Public Hearing for citizen comment on same in accordance with §22.1-29.1 of the Code of Virginia.
- 4.10** Announce the term expirations of Robert Mitchell, Jr., Mary Riley, and Mark Rudolph as members of the Handley Board of Trustees effective June 30, 2013. Ms. Riley and Mr. Rudolph are eligible for re-appointment. Mr. Mitchell is not eligible.
- 4.11** Announce the term expirations of Fran Jefferies and Joseph Wright as members of the Lord Fairfax Community College Board effective June 30, 2013. Ms Jefferies and Mr. Wright are eligible for re-appointment.
- 4.12** Announce the terms expiration of Dario Savarese, Rebecca Ebert, and Bill Hottel as members of the Winchester-Frederick County Tourism Board effective June 30, 2013. Ms. Ebert and Mr. Hottel are eligible for re-appointment. Mr. Savarese is not eligible.
- 4.13** Announce the term expiration of Dick Helm as a member of the Winchester Parking Authority effective May 31, 2013. Mr. Helm is eligible for re-appointment.
- 4:14** Announce the term expiration of Irvin Shendow as a member of the Winchester Regional Airport Authority effective June 30, 2013. Mr. Shendow is eligible for re-appointment.

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 THE SUBJECT OF SPECIFIC LEGAL MATTERS REQUIRING THE PROVISION OF LEGAL ADVICE BY THE CITY ATTORNEY AND MATTERS OF ACTUAL OR PROBABLE LITIGATION AND PURSUANT TO §2.2-3711(A)(3) AND (6) FOR THE PURPOSE OF DISCUSSION OR CONSIDERATION OF THE SUBJECT OF THE ACQUISITION OF AN INTEREST IN REAL PROPERTY FOR A PUBLIC PURPOSE WHERE IF MADE PUBLIC, THE BARGAINING POSITION OR FINANCIAL INTEREST OF THE CITY WOULD BE ADVERSELY AFFECTED; AND PURSUANT TO §2.2-3711(A)(1) OF THE CODE OF VIRGINIA FOR THE PURPOSE OF DISCUSSION AND

CONSIDERATION OF INFORMATION REGARDING THE SUBJECT OF THE EMPLOYMENT, ASSIGNMENT, APPOINTMENT, AND PERFORMANCE OF SPECIFIC PUBLIC OFFICERS APPOINTEES, AND EMPLOYEES OF THE CITY OF WINCHESTER INCLUDING BUT NOT LIMITED TO MEMBERS OF COUNCIL-APPOINTED BOARDS AND COMMISSIONS.

6.0 ADJOURNMENT

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: 2.19.2013 CUT OFF DATE: 2.12.2013

RESOLUTION ___ ORDINANCE X PUBLIC HEARING ___

ITEM TITLE: Shenandoah Personal Communications establishment of a Cell on Wheels (COW) as a temporary facility on city property located at 107 N. East Lane, Timbrook Annex to support cellular service in the downtown area during the 2013 Apple Blossom Festival.

STAFF RECOMMENDATION: Recommend Shenandoah Personal Communications be permitted to install the COW

PUBLIC NOTICE AND HEARING: N/A

ADVISORY BOARD RECOMMENDATION: N/A

FUNDING DATA: City will receive \$500.00 for use of the property with no expenditure to the city.

INSURANCE: Shenandoah Personal Communications to provide coverage.

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. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. City Attorney	<i>[Signature]</i>	_____	2/12/2013
6. City Manager	<i>[Signature]</i>	_____	_____
7. Clerk of Council	_____	_____	_____

Initiating Department Director's Signature: *[Signature]* Date: 2-6-2013



APPROVED AS TO FORM:

[Signature] 2/13/2013
CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: L. A. Miller
Date: February 5, 2013
Re: Cell Service – Downtown Area During Apple Blossom Festival

THE ISSUE: Temporary Placement of a Telecommunications Facility on or about April 16, 2013 – May 10, 2013

RELATIONSHIP TO STRATEGIC PLAN: Temporary placement of the Cell on Wheels (COW) unit will assist in maintaining cell service in the historic down town area of the city during the 2013 Shenandoah Apple Blossom Festival. In relationship to the Strategic Plan the placement of the COW supports each of the four (4) goals sited in the strategic plan. Cell service will assist in growing the economy, assist public safety agencies to perform as high performance organizations, show case the historic old town revitalization and provide a service making the city more livable.

BACKGROUND: During the 2011 Apple Blossom Festival cell service was lost due to the overloading of cell circuits. The loss of service not only impacted the public at large but many of the public safety and services agencies of the city. Shenandoah Personal Communications initiated discussions relating to establishing a COW during the 2012 festival to avert the loss of cell service. Shenandoah Personal Communications submitted a request to establish a COW on city property located on the southwest corner of 107 N. East Lane (Timbrook Annex). City Council through an ordinance authorized Shenandoah Personal Communications to utilize the location for the establishment of a COW. The establishment of the COW during the festival resulted in a positive outcome. No reports of loss of cell service from city agencies, festival officials or others were reported. Shenandoah Personal Communications is requesting authorization to utilize the site during the 2013 festival to supplement cellular service in the downtown area. The COW would be established on or about April 26, 2013 and dismantled on or about May 10, 2013.

BUDGET IMPACT: In return for utilization of the site for a period beginning on or about April 26, 2013 and extending to on or about May 10, 2013 the city will receive a payment of five hundred dollars. Staff review has not revealed a negative impact either from a policy or fiscal perspective.

OPTIONS: Options Council may consider:

Council may authorize the establishment of the COW as requested

Council may act unfavorably with regard to the request and deny the request

Council may enter into further negotiations with Shenandoah Personal Communications for different terms.

RECOMMENDATIONS: Based on historical data from the 2012 Apple Blossom Festival the establishment of the COW created a positive impact as related to cellular services in the downtown area. No negative impacts have been identified. Staff recommends that City Council authorize the establishment of the COW for the 2013 Shenandoah Apple Blossom Festival.



February 6, 2013

LETTER OF AGREEMENT

Mr. Steve Corbit, Risk Manager
City of Winchester
15 N. Cameron Street - Suite 106
Winchester, VA 22601

Re: Temporary Location of Tower and Cell on Wheels (COW) for
Sprint Wireless Coverage for 2013 Apple Blossom Festival
Tax Parcel 173-1-Q-1 107 North East Lane, Winchester
Shentel Site #885 – Winchester Apple Blossom COW #2

Dear Mr. Corbit:

This letter will serve as the agreement between Shenandoah Personal Communications Company (“Shentel”) and City of Winchester (“Owner”), for the temporary placement of a telecommunications facility (consisting of a mobile trailer and tower), commonly referred to as a cell on wheels (“COW”), to provide additional Sprint wireless service during the 2013 Apple Blossom Festival. The COW will be placed at a mutually agreed upon location on the property of Owner (“Premises”) for a period to cover a set up period prior to and a demobilization period following the Apple Blossom Festival. Shentel hereby agrees to pay the Owner the sum of Five Hundred Dollars (\$500.00) for this period.

Owner hereby grants to Shentel the right and license to locate the COW on the Premises for a period commencing April 22, 2013 and terminating no later than May 9, 2013. Shentel agrees to decommission the COW as expediently as possible. Owner further agrees that Shentel shall have access to the Premises during the term of this agreement 24/7, and the right to run conduit above the ground from the nearest available electrical and telephone supply and install temporary fencing around the COW to secure access thereto.

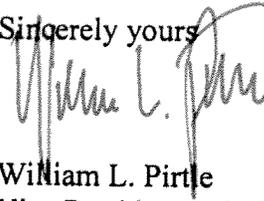
Shentel agrees that it shall repair any damage to the Premises or surrounding areas of the Owner’s property which may be damaged by the use of Shentel’s COW, or the placement thereof. An inspection of the access and Premises will be conducted by Shentel and Owner prior to placement of the COW. Shentel indemnifies and holds the Owner harmless from any and all costs (including reasonable attorneys’ fees) and claims of liability or loss which arise out of its use and/or occupancy of the Premises. This indemnity does not apply to any claims which may arise from the negligence or intentional misconduct of the Owner. This indemnity obligation will survive termination/expiration of this Agreement. Shentel shall also deliver to Owner a Certificate of Liability Insurance naming Owner as an additional insured for the period of its use of Premises.

Mr. Steve Corbit, Risk Manager
City of Winchester
February 6, 2013
Page 2

As applicable, this Agreement incorporates the City of Winchester's Required General Terms and Conditions (copy attached hereto).

Your assistance in this temporary placement of the COW to support Sprint wireless coverage of the Apple Blossom Festival is sincerely appreciated.

Sincerely yours



William L. Pirtle
Vice President – Sales and Marketing

SEEN AND AGREED:

CITY OF WINCHESTER

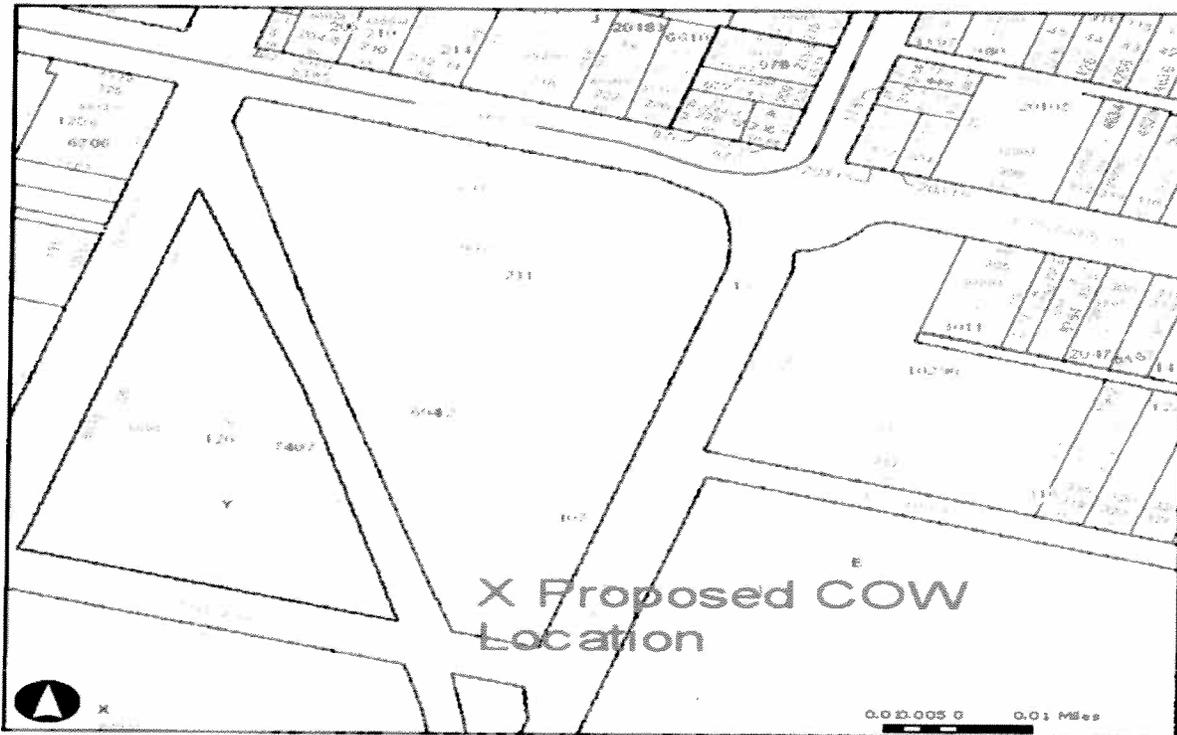
By: _____

By: _____

EXHIBIT A



Parcel 173-1-Q-1



Authorized Agent must initial for Acceptance: _____ Date: _____
CITY OF WINCHESTER

REQUIRED GENERAL TERMS AND CONDITIONS

- A. APPLICABLE LAWS AND COURTS
- B. ANTI-DISCRIMINATION
- C. ETHICS IN PUBLIC CONTRACTING
- E. IMMIGRATION REFORM AND CONTROL ACT OF 1986
- F. DEBARMENT STATUS
- G. ANTITRUST
- H. MANDATORY USE OF CITY FORM AND TERMS AND CONDITIONS
- I. CLARIFICATION OF TERMS
- J. PAYMENT
- K. PRECEDENCE OF TERMS
- L. QUALIFICATIONS OF BIDDERS OR OFFERORS
- M. TESTING AND INSPECTION
- N. ASSIGNMENT OF CONTRACT
- O. SEVERABILITY
- P. CHANGES TO THE CONTRACT
- Q. DEFAULT
- R. TAXES
- S. USE OF BRAND NAMES
- T. TRANSPORTATION AND PACKAGING
- U. INSURANCE
- V. ANNOUNCEMENT OF AWARD
- W. DRUG-FREE WORKPLACE
- X. NONDISCRIMINATION OF CONTRACTORS
- Y. AVAILABILITY OF FUNDS
- Z. LICENSES AND PERMITS
- AZ. TERMINATION
- BZ. HOLD HARMLESS

These General Terms and Conditions are required for all sealed and unsealed written solicitations issued by the City of Winchester for procurements that are subject to the Winchester City Code unless changed, deleted or revised by the City Attorney.

- A. **APPLICABLE LAWS AND COURTS:** This solicitation and any resulting contract shall be governed by the laws of the Commonwealth of Virginia. Any dispute arising from the performance or non-performance of this Agreement shall be resolved or otherwise litigated in the Circuit Court for the City of Winchester, Virginia or the Fourth Circuit Federal District Court in Harrisonburg, Virginia. The agency and the contractor are encouraged to resolve any issues in controversy arising from the award of the contract or any contractual dispute following the Winchester City Code, Chapter 21-61. The contractor shall comply with all applicable federal, state and local laws, rules and regulations.
- B. **ANTI-DISCRIMINATION:** By submitting their (bids/proposals), (bidders/offerors) certify to the City of Winchester that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the *Virginia Public Procurement Act (VPPA)*. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia, § 2.2-4343.1E*).

In every contract over \$10,000 the provisions in 1. and 2. below apply:

- I. During the performance of this contract, the contractor agrees as follows:

Authorized Agent must initial for Acceptance: _____ Date: _____

- a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.
 - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.
2. The contractor will include the provisions of 1. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.
- C. **ETHICS IN PUBLIC CONTRACTING:** By submitting their (bids/proposals), (bidders/offerors) certify that their (bids/proposals) are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other (bidder/offeror), supplier, manufacturer or subcontractor in connection with their (bid/proposal), and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.
- D. **IMMIGRATION REFORM AND CONTROL ACT OF 1986:** By submitting their (bids/proposals), (bidders/offerors) certify that they do not and will not during the performance of this contract employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986.
- E. **DEBARMENT STATUS:** By submitting their (bids/proposals), (bidders/offerors) certify that they are not currently debarred by the Federal Government, Commonwealth of Virginia, or by any City, Town or County from submitting bids or proposals on contracts for the type of goods and/or services covered by this solicitation, nor are they an agent of any person or entity that is currently so debarred.
- F. **ANTITRUST:** By entering into a contract, the contractor conveys, sells, assigns, and transfers to the City of Winchester all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the City of Winchester under said contract.
- H. **MANDATORY USE OF CITY FORM AND TERMS AND CONDITIONS:** Failure to submit a bid/proposal on the official City form provided for that purpose may be a cause for rejection of the bid/proposal. Modification of or additions to the General Terms and Conditions of the solicitation may be cause for rejection of the bid/proposal; however, the City of Winchester reserves the right to decide, on a case by case basis, in its sole discretion, whether to reject such a bid/proposal.
- I. **CLARIFICATION OF TERMS:** If any prospective (bidder/offeror) has questions about the specifications or other solicitation documents, the prospective (bidder/offeror) should contact the buyer whose name appears on the face of the solicitation no later than five working days before the due date. Any revisions to the solicitation will be made only by addendum issued by the Purchasing Agent, or designee.
- J. **PAYMENT:**
1. **To Prime Contractor:**
 - a. Invoices for items ordered, delivered and accepted shall be submitted by the contractor directly to the payment address shown on the purchase order/contract. All invoices shall show the state contract number and/or purchase order number; social security number (for individual contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations).
 - b. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.

Authorized Agent must initial for Acceptance: _____ Date: _____

- c. All goods or services provided under this contract or purchase order, that are to be paid for with public funds, shall be billed by the contractor at the contract price, regardless of which department is being billed.
- d. The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail.
- e. **Unreasonable Charges.** Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Upon determining that invoiced charges are not reasonable, the City of Winchester shall promptly notify the contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A contractor may not institute legal action unless a settlement cannot be reached within thirty (30) days of notification. The provisions of this section do not relieve an agency of its prompt payment obligations with respect to those charges which are not in dispute (*Code of Virginia, § 2.2-4363*).

2. To Subcontractors:

- a. A contractor awarded a contract under this solicitation is hereby obligated:
 - (1) To pay the subcontractor(s) within seven (7) days of the contractor's receipt of payment from the City of Winchester for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or
 - (2) To notify the agency and the subcontractor(s), in writing, of the contractor's intention to withhold payment and the reason.
- b. The contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the contractor that remain unpaid seven (7) days following receipt of payment from the City of Winchester, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under the primary contract. A contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the City of Winchester.

- K. **PRECEDENCE OF TERMS:** The following General Terms and Conditions APPLICABLE LAWS AND COURTS, ANTI-DISCRIMINATION, ETHICS IN PUBLIC CONTRACTING, IMMIGRATION REFORM AND CONTROL ACT OF 1986, DEBARMENT STATUS, ANTITRUST, MANDATORY USE OF CITY FORM AND TERMS AND CONDITIONS, CLARIFICATION OF TERMS, PAYMENT shall apply in all instances. In the event there is a conflict between any of the other General Terms and Conditions and any Special Terms and Conditions in this solicitation, the Special Terms and Conditions shall apply.
- L. **QUALIFICATIONS OF (BIDDERS/OFFERORS):** The City of Winchester may make such reasonable investigations as deemed proper and necessary to determine the ability of the (bidder/offeror) to perform the services/furnish the goods and the (bidder/offeror) shall furnish to the City of Winchester all such information and data for this purpose as may be requested. The City of Winchester reserves the right to inspect (bidder's/offeror's) physical facilities prior to award to satisfy questions regarding the (bidder's/offeror's) capabilities. The City of Winchester further reserves the right to reject any (bid proposal) if the evidence submitted by, or investigations of, such (bidder/offeror) fails to satisfy the City of Winchester that such (bidder/offeror) is properly qualified to carry out the obligations of the contract and to provide the services and/or furnish the goods contemplated therein.
- M. **TESTING AND INSPECTION:** The City of Winchester reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.
- N. **ASSIGNMENT OF CONTRACT:** A contract shall not be assignable by the contractor in whole or in part without the written consent of the City of Winchester.
- O. **SEVERABILITY OF CONTRACT:** In the event that any provision shall be adjudged or decreed to be invalid, such ruling shall not invalidate the entire Agreement but shall pertain only to the provision in question and the remaining provisions shall continue to be valid, binding and in full force and effect.

Authorized Agent must initial for Acceptance: _____ Date: _____

P. **CHANGES TO THE CONTRACT:**

1. A public contract may include provisions for modification of the contract during performance, but no fixed-price contract may be increased by more than twenty-five percent of the amount of the contract or ten thousand dollars (\$10,000), whichever is greater, without the advance written approval of the City Council. In no event may the amount of any contract, without adequate consideration, be increased for any purpose, including, but not limited to, relief of an offeror from the consequences of an error in its bid or offer (Winchester City Code 21-44).
2. Changes can be made to the contract in any of the following ways:
 - a. The parties may agree in writing to modify the scope of the contract. An increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract.
 - b. The City of Winchester may order changes within the general scope of the contract at any time by written notice to the contractor. Changes within the scope of the contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The contractor shall comply with the notice upon receipt. The contractor shall be compensated for any additional costs incurred as the result of such order and shall give the City of Winchester a credit for any savings. Said compensation shall be determined by one of the following methods:
 1. By mutual agreement between the parties in writing; or
 2. By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the contractor accounts for the number of units of work performed, subject to the City of Winchester's right to audit the contractor's records and/or to determine the correct number of units independently; or
 3. By ordering the contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The contractor shall present the City of Winchester with all vouchers and records of expenses incurred and savings realized. The City of Winchester shall have the right to audit the records of the contractor as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the City of Winchester within thirty (30) days from the date of receipt of the written order from the City of Winchester. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the Disputes Clause of this contract or, if there is none, in accordance with the dispute resolution provisions of the City of Winchester Code. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this contract shall excuse the contractor from promptly complying with the changes ordered by the City of Winchester or with the performance of the contract generally.

Q. **DEFAULT:** In case of failure to deliver goods or services in accordance with the contract terms and conditions, the City of Winchester, after due oral or written notice, may procure them from other sources and hold the contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the City of Winchester may have.

R. **TAXES:** Sales to the City of Winchester are normally exempt from State sales tax. State sales and use tax certificates of exemption, Form ST-12, will be issued upon request.

S. **USE OF BRAND NAMES:** Unless otherwise provided in this solicitation, the name of a certain brand, make or manufacturer does not restrict (bidders/offerors) to the specific brand, make or manufacturer named, but conveys the general style, type, character, and quality of the article desired. Any article which the public body, in its sole discretion, determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted. The (bidder/offeror) is responsible to clearly and specifically identify the product being offered and to provide sufficient descriptive literature, catalog cuts and technical detail to enable the City of Winchester to determine if the product offered meets the requirements of the solicitation. This is required even if offering the exact brand, make or manufacturer specified. Normally in competitive sealed bidding only the information furnished with the bid will be considered in the evaluation. Failure to furnish adequate data for evaluation purposes may result in declaring a bid nonresponsive. Unless the (bidder/offeror) clearly indicates in its (bid/proposal) that the

Authorized Agent must initial for Acceptance: _____ Date: _____
 product offered is an equal product, such (bid/proposal) will be considered to offer the brand name product referenced in the solicitation.

- T. **TRANSPORTATION AND PACKAGING:** By submitting their (bids/proposals), all (bidders/offerors) certify and warrant that the price offered for FOB destination includes only the actual freight rate costs at the lowest and best rate and is based upon the actual weight of the goods to be shipped. Except as otherwise specified herein, standard commercial packaging, packing and shipping containers shall be used. All shipping containers shall be legibly marked or labeled on the outside with purchase order number, commodity description, and quantity.
- U. **INSURANCE:** By signing and submitting a bid or proposal under this solicitation, the bidder or offeror certifies that if awarded the contract, it will have the following insurance coverage at the time the contract is awarded. For construction contracts, if any subcontractors are involved, the subcontractor will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the *Code of Virginia*. The bidder or offeror further certifies that the contractor and any subcontractors will maintain these insurance coverage during the entire term of the contract and that all insurance coverage will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

MINIMUM INSURANCE COVERAGES AND LIMITS REQUIRED FOR MOST CONTRACTS:

1. Workers' Compensation - Statutory requirements and benefits. Coverage is compulsory for employers of three or more employees, to include the employer. Contractors who fail to notify the City of Winchester of increases in the number of employees that change their workers' compensation requirements under the *Code of Virginia* during the course of the contract shall be in noncompliance with the contract.
2. Employer's Liability - \$100,000.
3. Commercial General Liability - \$1,000,000 per occurrence. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The City of Winchester must be named as an additional insured and so endorsed on the policy.
4. Automobile Liability - \$1,000,000 per occurrence. (Only used if motor vehicle is to be used in the contract.)

NOTE: In addition, various Professional Liability/Errors and Omissions coverages are required when soliciting those services as follows:

<u>Profession/Service</u>	<u>Limits</u>
Accounting	\$1,000,000 per occurrence, \$3,000,000 aggregate
Architecture	\$2,000,000 per occurrence, \$6,000,000 aggregate
Asbestos Design, Inspection or Abatement Contractors	\$1,000,000 per occurrence, \$3,000,000 aggregate
Health Care Practitioner (to include Dentists, Licensed Dental Hygienists, Optometrists, Registered or Licensed Practical Nurses, Pharmacists, Physicians, Podiatrists, Chiropractors, Physical Therapists, Physical Therapist Assistants, Clinical Psychologists, Clinical Social Workers, Professional Counselors, Hospitals, or Health Maintenance Organizations.)	\$1,925,000 per occurrence, \$3,000,000 aggregate
(Limits increase each July 1 through fiscal year 2008, as follows: July 1, 2008 - \$2,000,000. This complies with §8.01-581.15 of the <i>Code of Virginia</i> .)	
Insurance/Risk Management	\$1,000,000 per occurrence, \$3,000,000 aggregate
Landscape/Architecture	\$1,000,000 per occurrence, \$1,000,000 aggregate
Legal	\$1,000,000 per occurrence, \$5,000,000 aggregate
Professional Engineer	\$2,000,000 per occurrence, \$6,000,000 aggregate
Surveying	\$1,000,000 per occurrence, \$1,000,000 aggregate

- V. **ANNOUNCEMENT OF AWARD:** Upon the award or the announcement of the decision to award a contract over \$50,000, as a result of this solicitation, the Purchasing Agent will publicly post such notice on the City of Winchester's web site (www.winchesterva.gov/purchasing) for a minimum of 10 days.

Authorized Agent must initial for Acceptance: _____ Date: _____

- W. **DRUG-FREE WORKPLACE:** During the performance of this contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "*drug-free workplace*" means a site for the performance of work done in connection with a specific contract awarded to a contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

- X. **NONDISCRIMINATION OF CONTRACTORS:** A bidder, offeror, or contractor shall not be discriminated against in the solicitation or award of this contract because of race, religion, color, sex, national origin, age, disability, faith-based organizational status, any other basis prohibited by state law relating to discrimination in employment or because the bidder or offeror employs ex-offenders unless the state agency, department or institution has made a written determination that employing ex-offenders on the specific contract is not in its best interest. If the award of this contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.
- Y. **AVAILABILITY OF FUNDS:** In the event that funds are not appropriated for this Contract for any City fiscal year, following the City's current year, the Contract shall terminate automatically as of the last day for which funds were appropriated without the City providing written notice to the Contractor prior to the date of termination. The City shall not consider termination of the Contract pursuant to this section default. Upon such termination, the City shall be released from any obligation to make future payments and shall not be liable for cancellation or termination charges.
- Z. **LICENSES AND PERMITS:** Contractors will be responsible for all licenses and permits, if required. Any person, firm, or corporation responding to this invitation to bid which is required to have a current and valid City of Winchester business license and, in fact, does not, will not be considered a "responsive bidder" as such term is defined by the Code of Virginia §2.2-4301, as amended. Any bid received from such an entity may be rejected, at the City's sole option, for that reason alone. In addition, the successful bidder or offeror will be required to produce affirmative evidence, satisfactory to the Purchasing Agent, or designee that it has such a license, or is not required to have such a license, prior to approval and execution of any contract to perform the work herein described.
- AZ **TERMINATION:**
- a. Termination for Convenience: The City of Winchester may terminate a contract, in whole or in part, whenever the City OF Winchester determines that such termination is in the best interest of the City of Winchester, without showing cause, upon giving ten (10) days written notice to the vendor.
 - b. Termination for Default: When the vendor has not performed or has unsatisfactorily performed the contract, the City of Winchester may terminate the contract for default. Upon termination for default, payment may be withheld at the discretion of the City of Winchester. The Vendor will be paid for work satisfactorily performed prior to termination.
- BZ **HOLD HARMLESS:** Bids/Proposal shall provide that during the term of the contract, including warranty period, for the successful bidder/offeror indemnifying, defending, and holding harmless the City, its officers, employees, agent and representatives thereof from all suits, actions, claims of any kind, including attorney's fees, brought on account of any personal injuries, damages, or violation of rights sustained by any person or property in consequence of any neglect in safeguarding contract work, or on account of any act or omission by the contractor or his employees, or from any claims or amounts arising from violation of any law, bylaw, ordinance, regulation or decree. The vendor agrees that this clause shall include claims involving infringement of patent or copyrights.

AN ORDINANCE TO AUTHORIZE THE MANAGER TO EXECUTE A LETTER OF AGREEMENT WITH SHENANDOAH PERSONAL COMMUNICATIONS COMPANY ("SHENTEL") FOR THE TEMPORARY USE OF CITY PROPERTY FOR THE PURPOSE OF ERECTING A MOBILE TELECOMMUNICATIONS FACILITY – CELL ON WHEELS ("COW") ON PROPERTY OWNED BY THE CITY OF WINCHESTER AT THE SOUTH END OF THE TIMBROOK ANNEX DURING THE 2013 APPLE BLOSSOM FESTIVAL

WHEREAS, the Emergency Management Coordinator has expressed the importance of maintaining adequate wireless communications during the Shenandoah Apple Blossom Festival particularly during critical hours; and

WHEREAS, the City currently receives much of its wireless communications services from Shenandoah Personal Communications Company ("SHENTEL"); and

WHEREAS, it is believed that many of the problems with wireless communications during critical hours of the Shenandoah Apple Blossom Festival may be alleviated through the erection of temporary Mobile Telecommunications Facility – Cell on Wheels ("COW"); and

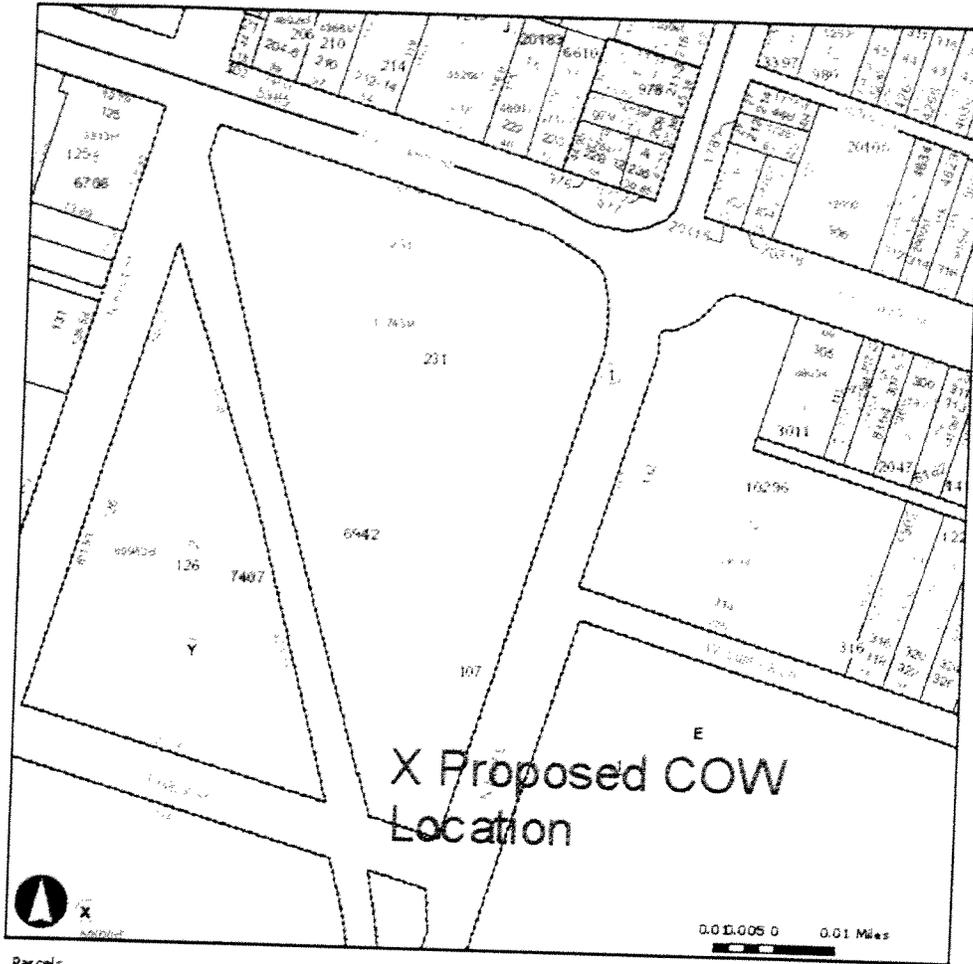
WHEREAS, it has been proposed that such a COW could be erected and utilized during the 2013 Apple Blossom Festival on property owned by the City of Winchester at the South End of the Timbrook Annex on the attached diagram provided with this Ordinance by the Emergency Management Coordinator; and

WHEREAS, it has been proposed that SHENTEL will reimburse the City in the total amount of five hundred and 00/100 dollars (\$500.00) for the temporary use of the property from April 16, 2013 through May 10, 2013; and

WHEREAS, the Risk Manager for the City of Winchester has represented that SHENTEL has satisfied all necessary insurance requirements and has presented a Letter of Agreement that has been reviewed and deemed acceptable by the City Attorney.

NOW THEREFORE be it ORDAINED, that Common Council for the City of Winchester hereby authorizes the property at the South End of the Timbrook Annex to be used during the 2013 Apple Blossom Festival as described in the Letter of Agreement proposed by SHENTEL; and BE IT FURTHER ORDAINED that the City Manager is hereby authorized to execute said Letter of Agreement and take all necessary actions to ensure the execution of all terms described in said Agreement.

Parcel 173-1-Q-1



- Parcels 
- Buildings 
- Double Circle 
- Corporate Limits 



CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 2/26/13 (work session), CUT OFF DATE: 2/20/13
3/12/13 (1st reading); 4/9/13 (2nd reading)

RESOLUTION ___ ORDINANCE X PUBLIC HEARING X

ITEM TITLE:

TA-13-35 AN ORDINANCE TO AMEND SECTIONS 14-5, 18-7, 18-15, 21-3, AND 23-8 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO ADMINISTRATIVE REVIEW, SPECIAL REGULATIONS PERTAINING TO THE PRIMARY & SECONDARY DOWNTOWN ASSESSMENT DISTRICTS, OBSTRUCTION OF RIGHT-OF-WAY, CIVIL PENALTIES AND FEES

STAFF RECOMMENDATION:

Approval

PUBLIC NOTICE AND HEARING:

Public hearing for 4/9/13 Council mtg

ADVISORY BOARD RECOMMENDATION:

OTDB and Planning Commission recommended approval.

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 Zoning, Downtown Manager, City Attorney, City Manager, and Clerk of Council.

Initiating Signature: (Planning)

Handwritten signature and date 2/19/13



Handwritten signature and date 2/19/2013, CITY ATTORNEY

* See Attached Memorandum

CITY COUNCIL ACTION MEMO

To: Mayor and Members of City Council

From: Will Moore, Planner

Date: February 19, 2013

Re: **TA-13-35** AN ORDINANCE TO AMEND SECTIONS 14-5, 18-7, 18-15, 21-3, AND 23-8 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO ADMINISTRATIVE REVIEW, SPECIAL REGULATIONS PERTAINING TO THE PRIMARY & SECONDARY DOWNTOWN ASSESSMENT DISTRICTS, OBSTRUCTION OF RIGHT-OF-WAY, CIVIL PENALTIES AND FEES

THE ISSUE:

The desire is to clarify and centralize the regulations for use of public space in the Downtown Assessment Districts within the Zoning Ordinance and provide for consistent regulation and enforcement of such use.

RELATIONSHIP TO STRATEGIC PLAN:

Goal 3 – Continue the Revitalization of Historic Old Town

BACKGROUND:

Currently, regulations pertaining to use of sidewalks Downtown are located both in the Zoning Ordinance (various uses, inc. cafes, both on the Loudoun St Mall and in Secondary District) and City Code (only cafes, only on Loudoun St Mall). The two sets of regulations contain conflicting requirements for cafes, and the requirements in the Zoning Ordinance, in general, do not provide for protection from liability for the City, do not outline associated fees for such use of public space, and generally lack sufficient detail to provide for consistent regulation and enforcement.

BUDGET IMPACT:

The enhanced ability to track and enforce permits should result in a minimal increase in revenue from the issuance of such permits.

OPTIONS:

- Approve in conjunction with Ordinance to repeal Ch 26, Art III, Div 2 of City Code
- Approve with revisions and in conjunction with Ordinance to repeal Ch 26, Art III, Div 2 of City Code
- Deny

RECOMMENDATIONS:

Old Town Development Board, Planning Commission and staff recommend approval as noted in staff report.

Council Work Session
February 26, 2013

TA-13-35 AN ORDINANCE TO AMEND SECTIONS 14-5, 18-7, 18-15, 21-3, AND 23-8 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO ADMINISTRATIVE REVIEW, SPECIAL REGULATIONS PERTAINING TO THE PRIMARY & SECONDARY DOWNTOWN ASSESSMENT DISTRICTS, OBSTRUCTION OF RIGHT-OF-WAY, CIVIL PENALTIES AND FEES

REQUEST DESCRIPTION

This publicly sponsored zoning text amendment is proposed to amend and clarify regulations pertaining to the use of sidewalks/public-right-of-way in the Primary and Secondary Downtown Assessment Districts and associated processes and fees for applying for such use.

STAFF COMMENTS

Currently, Section 18-7 of the Zoning Ordinance addresses use of sidewalks for outdoor cafes, signs, vendors, etc. in the Downtown Assessment Districts. Separately, Chapter 26, Article III, Division 2 of Winchester City Code addresses use of sidewalks for cafes on the Loudoun St Mall (the Primary Assessment District). As such, there are two different sets of regulations and processes outlined for outdoor cafes. Additionally, the existing regulations for use of public space in Section 18-7 of the Zoning Ordinance do not provide for protection from liability for the City via insurance requirements, do not outline associated fees for such use of public space, and generally lack sufficient detail to provide for consistent regulation and enforcement.

This proposed Ordinance, in conjunction with a separate Ordinance to repeal the existing language in Chapter 26, Article III, Division 2 of Winchester City Code, is intended to accomplish the following:

- Centralize regulations for use of public space in special assessment districts in 18-7 of the Zoning Ordinance.
- Establish an administrative permitting process through the Zoning Administrator, who will consult with others as necessary.
- Exempt cafes that comply with design guidelines recently adopted by the OTDB from separately applying for a Certificate of Appropriateness from the BAR. Those that do not comply with the adopted guidelines may still apply to the BAR for consideration.
- Clarify that nothing permitted for placement in public space can be attached to the Mall, sidewalks, or adjoining buildings.
- Clarify that Insurance and Hold Harmless Agreements apply to all uses in public space, not just cafes.
- Keeps all fees the same as current (evaluation and possible adjustment at some future point), with the exception of outside vendors who will be charged a fee of \$25 per day, rather than an annual fee of \$150.

RECOMMENDATION

The Old Town Development Board endorsed the revision to an administrative approval process at its January 3, 2013 meeting. The Downtown Manager recommended the migration to a “per day” fee for outside vendors.

At its February 19, 2013 meeting, the Planning Commission forwarded **TA-13-35** as identified in “Draft 3 – 2/18/13” to City Council recommending approval because the amendments will clarify regulations and processes for use of public space in the Downtown Assessment Districts and provide for consistent regulation and enforcement of such use.

*(*Some members of the Planning Commission requested that Council consider offering non-profits/charitable organizations a waiver of the outside vendor fee.)*

****TRACK CHANGES IN RED REPRESENT RECOMMENDED REVISIONS FROM CITY ATTORNEY PER PREVIOUS COUNCIL WORK SESSION DISCUSSIONS OF THIS ITEM AS WELL AS ADDITIONAL RECOMMENDATIONS FROM THE RISK MANAGER.**

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AN ORDINANCE TO AMEND SECTIONS 14-5, 18-7, 18-15, 21-3, AND 23-8 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO ADMINISTRATIVE REVIEW, SPECIAL REGULATIONS PERTAINING TO THE PRIMARY & SECONDARY DOWNTOWN ASSESSMENT DISTRICTS, OBSTRUCTION OF RIGHT-OF-WAY, CIVIL PENALTIES AND FEES
TA-13-35

Draft 3 – 2/18/13

Ed. Note: The following text represents excerpts of Sections 14-5, 18-15, 21-3 and 23-8 of the Zoning Ordinance that are subject to change. Words with strikethrough are proposed for repeal. Words that are boldfaced and underlined are proposed for enactment. Existing ordinance language that is not included here is not implied to be repealed simply due to the fact that it is omitted from this excerpted text.

ARTICLE 14

HISTORIC WINCHESTER DISTRICT - HW

SECTION 14-5. ADMINISTRATIVE REVIEW.

14-5-1 Notwithstanding any contrary provision of this article, the Zoning Administrator may review, and may approve or deny, applications for Certificates of Appropriateness, in the following situations:

14-5-1.6 Furniture, fixtures, planters, umbrellas, fencing, and any other appurtenant elements of outdoor dining areas that comply with the *Old Town Winchester Outdoor Dining Guidelines* as adopted by the Old Town Development Board.

14-5-1.7 Vending apparatuses permitted for outside vendors permitted in accordance with Section 18-7-5.

ARTICLE 18

GENERAL PROVISIONS

SECTION 18-15. OBSTRUCTION OF PUBLIC RIGHT-OF-WAY.

Unless explicitly permitted elsewhere in this Ordinance, no building, structure, sign, merchandise, or other obstruction shall be located or conducted on any public right-of-way.

ARTICLE 21

VIOLATION AND PENALTY

21-3 Civil Penalties

A. Any violation of the following provisions of this Ordinance shall be subject to a civil penalty of two hundred dollars (\$200.00) for the first violation, and a civil penalty of five hundred dollars (\$500.00) for each subsequent violation arising from the same set of operative facts. Any person, firm, or corporation, whether as principal, agent, employed or otherwise who receives more than three civil penalties of the same nature but with different operative facts, the violation may be criminally prosecuted under Section 21-2 of this Ordinance.

5) The operation of a business and special regulations pertaining to the Loudoun Street Mall and the **Primary and Secondary Downtown Assessment Districts**, in violation of Section 18-7, specifically Subsections 18-7-1, 18-7-1.1, ~~18-7-1.2, 18-7-1.3, 18-7-1.4, 18-7-1.5, 18-7-3, 18-7-4, or 18-7-5~~ **or 18-7-1.6.**

ARTICLE 23

ADMINISTRATION AND INTERPRETATION

SECTION 23-8. FEES.

23-8-18 Use of sidewalk in Primary/Secondary Assessment Districts per Section 18-7 (annual fees, unless otherwise specified)

<u>Dining Area – up to 500sf</u>	<u>\$85</u>
<u>Dining Area – 501 to 650sf</u>	<u>\$160</u>
<u>Dining Area – 651sf and greater</u>	<u>\$210</u>
<u>Portable sign</u>	<u>\$10</u>
<u>Display of Merchandise</u>	<u>\$25</u>
<u>Outside vendor</u>	<u>\$25/day</u>

Ed. Note: The following text represents a complete rewrite of Article 18-7 of the Zoning Ordinance. All existing language in Section 18-7 is hereby repealed and replaced with the following text:

ARTICLE 18

GENERAL PROVISIONS

SECTION 18-7 SPECIAL REGULATIONS PERTAINING TO THE PRIMARY AND SECONDARY DOWNTOWN ASSESSMENT DISTRICTS.

18-7-1 **USE OF SIDEWALKS.** The sidewalks in the Primary and Secondary Downtown Assessment Districts, as defined in Section [25-1](#) of the Winchester City Code, may be used by proprietors, owners, or tenants of businesses abutting the sidewalks, or outside vendors, subject to the provisions within this Section.

The permitted use of such sidewalks pursuant to this Section shall be considered a license and privilege that is authorized at the discretion of the City and shall not in any way be deemed to constitute a transfer of any property rights whatsoever from the City. The City reserves the right to reject or rescind any permit authorized in accordance with the provisions of this Article.

18-7-1.1 **Permit Required.** Any person or business using the sidewalks in the Primary and Secondary Downtown Assessment Districts must first obtain a permit from the Administrator. The Administrator may consult with the Downtown Manager, Old Town Development Board, Board of Architectural Review, the Commissioner of the Revenue, Health Department, or any other such agencies deemed necessary prior to approving or denying the issuance of such permit, and may impose conditions upon the applicant which are deemed necessary to protect the Mall surface, sidewalks, street furniture, and appurtenances.

18-7-1.2 **Insurance/Damages.** The applicant for any such permit shall provide a Certificate of Insurance, which shall be currently maintained throughout the term of the permit, indicating that the City is an additional insured on a policy of liability insurance issued to the applicant by an insurance company licensed to do business in Virginia with a single limit of not less than \$1,000,000.

Property Damages: Any person or entity that has been issued a permit pursuant to this Article (hereinafter "Permittee") shall immediately notify the City of Winchester Facility Maintenance Director and Risk Manager of all damage to property for which a permit has been issued pursuant to this Article, including but not limited to: damages to utilities, finished surfaces, and trees.

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Deliveries and Storage: It shall be the responsibility of the Permittee to make all arrangements for delivery, unloading, receiving and storing of materials to be placed inside the lessor's building. No shipments, goods, or products shall be stored in the areas for which a permit has been issued pursuant to this Article. The City of Winchester will not assume any responsibility.

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Notification and Handling of an Insurance Claim:

The Permittee shall be responsible for ensuring that all matters concerning insurance claims by third parties arising as a result of the acts and omissions of the lessor's operations or his subcontractors, are handled in a professional manner. To this end, the City expects the lessor to act responsibly with regard to prompt payment of valid insurance claims and upon notice of a claim, the lessor shall immediately notify the City's Risk Manager, investigate and document the claim, and make a liability determination within ten (10) business days. Pending subrogation between the lessor and/or sub-contractor and/or any insurance carrier will not be cause for delay in payment of a valid claim. Default of this provision may result in default this agreement and jeopardize the lessor's future lease with the City of Winchester.

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18-7-1.3 Indemnification and Hold Harmless Agreement. The applicant for such permit shall provide a signed indemnification and hold harmless agreement, on a form approved by the City Attorney, in which the applicant agrees to indemnify and hold the City, its officers, agents, and employees, harmless from any claims for damages to person or property growing out of any activity with the applicant's activities conducted in connection with the permit herein described or caused by the operation or location of the activity on the City's property.

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18-7-1.4 Fee. A fee per Section [23-8-18](#) is required upon issuance of any such permit.

18-7-1.5 Duration. Any such permit issued shall be non-transferable and, shall be valid from January 1 through December 31 of each year, or for any part thereof except as otherwise revoked, rescinded or limited by the provisions of this Article. The application fee will remain the same regardless of the date received, and the fee will not be refunded or prorated based on the date of the application. Upon

expiration or revocation of any such permit, the applicant must apply for a new permit to continue using the sidewalk.

18-7-1.6 Certificate of Appropriateness. All furniture, signs and other ~~appurtenant~~ elements to be used on the sidewalks must receive a Certificate of Appropriateness per Article 14. For items subject to Administrative Review per Section 14-5, the permit application shall concurrently serve as application for the Certificate of Appropriateness.

18-7-1.7 Area Available for Use.

- a. Width. For businesses abutting the sidewalk, use of the sidewalk shall not exceed the width of the individual store front.
- b. Depth.
 - 1) Primary Downtown Assessment District. No sidewalk area extending more than fifteen (15) from the abutting storefront toward the center line of Mall shall be used. However, in all cases, no use of area within a designated fire lane shall be permitted.
 - 2) Secondary Downtown Assessment District. No sidewalk area closer than five (5) feet to the curb shall be used. However, in all cases, a minimum clear path of travel of three (3) feet must be provided.
- c. Outside Vendors. Availability of space to be determined in consultation with the Downtown Manager and in consideration of, but not limited to, the following factors: proximity to existing storefronts or doors; proximity to businesses trading in similar goods/services; ability to provide safe and convenient passage for passersby; and scheduled events.

18-7-1.8 Revocation of Permits. The Administrator may ~~immediately~~ revoke any permit specified in this Section if it is determined ~~at the discretion of the Zoning Administrator~~ that the conditions therein have not been met by the applicant. ~~A permit may also be immediately revoked or suspended if it is determined at the discretion of the Administrator that the continued use of the space poses a threat to public health, safety, or welfare, or if such use is determined to be inconsistent with the best interests of the City of Winchester.~~

~~The Administrator may immediately revoke any permit specified in this Section if it is determined that the permit holder is not maintaining compliance with all applicable laws and regulations related to the use of the permitted space or if the permit holder fails to promptly respond to lawful requests by the Administrator related to the use of the permitted space.~~

~~The use of the space described under this Chapter may also be temporarily suspended for Special Events. The City will make reasonable efforts to notify permit holders in advance so that all privately owned items including but not limited to tables, chairs, and barricades may be removed by the permit holder~~

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prior to such Special Events. Upon a permit holder's failure to timely remove the items, such items may be removed in accordance with 18-7-2.2(b).

18-7-2 **OUTDOOR DINING AREA.** As used herein, "outdoor dining area" shall mean any group of tables, chairs, benches, and suitable devices maintained for the purpose of sale and/or consumption of food, refreshments, and beverages of all kinds as an extension of a restaurant licensed under the Regulations of the Virginia Department of Health. Applicants for outdoor dining areas are encouraged to review the *Old Town Winchester Outdoor Dining Guidelines* as adopted by the Old Town Development Board.

18-7-2.1 In addition to the requirements in Section 18-7-1, applicants for an outdoor dining area must also submit:

- a. Health License. Evidence showing that the applicant has obtained a license to operate as a restaurant from the Virginia Department of Health. Such license shall be currently maintained throughout the term of the permit.

- b. ABC License. If alcoholic beverages are to be sold by the applicant, evidence that the applicant has a valid license for same issued by the Virginia Alcoholic Beverage Control Board, and that it specifically meets that Board's requirements for "outside terraces or patio dining area". Such license shall be currently maintained throughout the term of the permit.
- c. Site Sketch. A scaled plan indicating the location of the proposed dining area, the layout of tables, chairs, enclosure, etc. and all existing obstructions (fire hydrants, tree wells, planters, lamp posts, and public egress) in the area.
- d. Details. Details clearly indicating the materials, color, and construction of the enclosure, furniture, and all ~~appurtenant~~ elements. Such details must include the methods in which the enclosure shall be supported. No enclosure or other elements shall be fastened to the sidewalk or adjoining buildings.

18-7-2.2 As a condition of obtaining and keeping a permit for an outdoor dining area, the applicant is deemed to have agreed to the following terms and conditions:

- a. All outdoor dining areas will be of such design so as to be easily removed for special events, snow removal, emergency access, or other circumstances which require that the sidewalks be cleared of all such dining areas, as determined by City Council or by the Chief of Police. A directive from the Chief of Police or the City Council to clear the area of all furniture, fixtures, decorations, etc., connected with the café operation shall be promptly complied with by the restaurant without question and without unnecessary delay, and the area shall remain cleared of such material until directed otherwise by City Council or the Chief of Police.
- ~~a-b.~~ Upon failure of the permit holder to remove such items upon reasonable Notice, the City is authorized to remove the items and require the permit holder to reimburse the City for the expense of such removal.
- ~~b-c.~~ The entire area delineated for the outdoor dining area must be maintained in a neat and orderly fashion, whether or not the area is actually in use. When in use, the area shall be periodically cleaned throughout the business day, and, especially, at the end of each business day. All food shall be provided by waiter or waitress service, unless self-service operations are approved as a part of the permit. Extensions or enlargements of the area delineated beyond those described in the restaurant's application are expressly prohibited.
- ~~c-d.~~ All furniture, fixtures, enclosures, and all ~~appurtenant~~ elements shall be periodically maintained so that they retain full function as well as present a neat, attractive appearance.
- ~~d-e.~~ The outdoor dining area shall operate only when the restaurant to which a permit has been issued is allowed to operate. In addition, the restaurant shall be responsible to see to it that patrons violate no laws of the Commonwealth or Ordinances of the City, to expressly include the City's Noise Ordinance. A business holding a permit shall have the right to limit access and occupancy to only bona fide

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paying customers, and shall have the same right to deny access or service in the outdoor dining area as it enjoys in its own premises,

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i. provided, however, that no person shall be denied access or service purely on the basis of race, religion, national origin, sex, age or physical disability.

18-7-3 **PORTABLE SIGN.** Portable signs shall not exceed six (6) square feet in area. Applicants for portable signs are encouraged to review the [Winchester Historic District Design Guidelines](#) as published by the Board of Architectural Review.

18-7-3.1 In addition to the requirements in Section 18-7-1, applicants for portable signs must also submit:

- a. **Site Sketch.** A scaled plan indicating the location of the proposed sign and all existing obstructions (fire hydrants, tree wells, planters, lamp posts, and public egress) in the area. Such sign generally shall not impede pedestrian traffic. In all cases, a minimum clear path of travel of three (3) feet must be provided.
- b. **Details.** Details clearly indicating the dimensions, materials, color, construction, etc. of the sign. Such details must include the method in which the sign shall be supported. No portable sign shall be fastened to the sidewalk or adjoining buildings.

18-7-4 **DISPLAY OF MERCHANDISE.** Businesses abutting sidewalks may apply to use such areas for the display of merchandise for the purpose of attracting customers into such businesses, and not expressly for the sale of such items on display. Such displays shall incorporate, or be representative of, merchandise that is regularly sold as part of the business.

18-7-4.1 In addition to the requirements in Section 18-7-1, applicants for display of merchandise must also submit:

- a. **Site Sketch.** A scaled plan indicating the location of the proposed display and all existing obstructions (fire hydrants, tree wells, planters, lamp posts, and public egress) in the area. Such display generally shall not impede pedestrian traffic. In all cases, a minimum clear path of travel of three (3) feet must be provided.
- b. **Details.** Details clearly indicating the materials, color, construction, etc. of any racks, tables, or other ~~appurtenant~~ elements which shall be used to display merchandise. Such details must include the methods in which the display elements shall be supported. No elements shall be fastened to the sidewalk or adjoining buildings.
- c. **Schedule for display.** A description of the days, hours, and frequency of outdoor display.

18-7-5 **OUTSIDE VENDORS.** Vendors without an adjoining storefront and operating from carts or other portable vending apparatuses may apply for a permit to use sidewalk area in the Primary and Secondary Downtown Assessment Districts. As there are limited areas for such vendors to locate without conflicting with existing storefronts, all such vendors shall schedule a pre-application meeting with the Administrator to discuss the pending application. No such permit shall be issued unless it is determined that the design of the vending apparatus and its proposed use is compatible with the design and character of the District and shall be issued only for the vending of food and beverages, flowers, arts and crafts, handicrafts, and similar products and services.

18-7-5.1 In addition to the requirements in Section 18-7-1, applicants for permits as outside vendors must also submit:

- a. Health License. For food and beverage vendors, evidence showing that the applicant has obtained a license to operate as such from the Virginia Department of Health. Such license shall be currently maintained throughout the term of the permit.
- b. Site Sketch. A scaled plan indicating the location of the proposed vending apparatus and all existing obstructions (fire hydrants, tree wells, planters, lamp posts, and public egress) in the area. Such apparatus generally shall not impede pedestrian traffic. In all cases, a minimum clear path of travel of three (3) feet must be provided.
- c. Details. Details clearly indicating the materials, color, construction, etc. of the vending apparatus and any other ~~appurtenant~~ elements which shall be used. Such details must include the methods in which the apparatus shall be supported. No apparatus or ~~appurtenant~~ elements shall be fastened to the sidewalk or adjoining buildings.
- d. Schedule for vending. A detailed description of the specific dates and hours of vending proposed. Outside vendor fees will be determined based on the proposed schedule and shall not be refunded due to non-use of approved dates for any reason.

18-7-5.2 As a condition of obtaining and keeping a permit as an outside vendor, the applicant is deemed to have agreed to the following terms and conditions:

- a. The entire area delineated for the vending must be maintained in a neat and orderly fashion. When in use, the area shall be periodically cleaned throughout the business day, and, especially, at the end of each business day. Extensions or enlargements of the area delineated beyond those described in the application are expressly prohibited.

- b. The vending apparatus and all ~~appurtenant~~ elements shall be periodically maintained so that they retain full function as well as present a neat, attractive appearance.
- c. The vendor may be moved from time to time or use prohibited at the discretion of the Administrator or Downtown Manager due to scheduled promotions or other special events being held in the District.

18-7-6 **SPECIAL EVENTS.** Special Events in the Primary and Secondary Downtown Assessment Districts shall be governed by the provisions of [Chapter 14, Article IX](#) of Winchester City Code.

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 2/26/13 (work session), **CUT OFF DATE:** 2/20/13
3/12/13 (1st reading); 4/9/13 (2nd reading)

RESOLUTION ___ **ORDINANCE** X **PUBLIC HEARING** X

ITEM TITLE:

AN ORDINANCE TO REPEAL CHAPTER 26, ARTICLE III, DIVISION 2 OF THE WINCHESTER CITY CODE PERTAINING TO SIDEWALK CAFES

STAFF RECOMMENDATION:

Approval

PUBLIC NOTICE AND HEARING:

Public hearing for 4/9/13 Council mtg

ADVISORY BOARD RECOMMENDATION:

OTDB recommended approval.

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. Zoning	<u>AMG</u>	_____	<u>2/19/13</u>
2. Downtown Manager	<u>JEB</u>	_____	<u>2/20/13</u>
3. City Attorney	_____	<u>AW*</u>	<u>2/21/2013</u>
4. City Manager	<u>[Signature]</u>	_____	<u>[Signature]</u>
5. Clerk of Council	_____	_____	_____

Initiating Signature:
(Planning)

[Signature]

2/19/13



[Signature] 2/21/2013 *
CITY ATTORNEY

* See Attached Memorandum

CITY COUNCIL ACTION MEMO

To: Mayor and Members of City Council
From: Will Moore, Planner
Date: February 19, 2013
Re: AN ORDINANCE TO REPEAL CHAPTER 26, ARTICLE III, DIVISION 2 OF THE WINCHESTER CITY CODE PERTAINING TO SIDEWALK CAFES

THE ISSUE:

The purpose is to repeal this Division of City Code and centralize the regulations for use of public space in the Downtown Assessment Districts within the Zoning Ordinance.

RELATIONSHIP TO STRATEGIC PLAN:

Goal 3 – Continue the Revitalization of Historic Old Town

BACKGROUND:

Currently, regulations pertaining to use of sidewalks Downtown are located both in the Zoning Ordinance (various uses, inc. cafes, both on the Loudoun St Mall and in Secondary District) and in the subject Division of City Code (only cafes, only on Loudoun St Mall). The two sets of regulations contain conflicting requirements for cafes.

BUDGET IMPACT:

The enhanced ability to track and enforce permits should result in a minimal increase in revenue from the issuance of such permits.

OPTIONS:

- Approve in conjunction with Zoning Text amendment TA-13-35.
- Deny

RECOMMENDATIONS:

The Old Town Development Board and staff recommend approval.

**AN ORDINANCE TO REPEAL CHAPTER 26, ARTICLE III, DIVISION 2 OF THE
WINCHESTER CITY CODE PERTAINING TO SIDEWALK CAFES**

WHEREAS, sidewalk cafes on the Loudoun Street Mall are regulated in Chapter 26, Article III, Division 2 of the Winchester City Code; and

WHEREAS, such cafes are also regulated in Section 18-7 of the Winchester Zoning Ordinance, along with other uses of sidewalks in both the Primary and Secondary Downtown Assessment Districts; and

WHEREAS, these two separate sets of regulations contain conflicting requirements; and

WHEREAS, there is a separate Ordinance under consideration to amend Section 18-7 of the Winchester Zoning Ordinance to clarify and centralize such regulations within the Zoning Ordinance; and

WHEREAS, the separate Ordinance to clarify and centralize such regulations within the Zoning Ordinance has been recommended for approval by the Old Town Development Board at its January 3, 2013 meeting and the Planning Commission at its February 19, 2013 meeting.

NOW THEREFORE BE IT ORDAINED by the Common Council of the City of Winchester, Virginia, that Chapter 26, Article III, Division 2 of the Winchester City Code is hereby repealed.

WINCHESTER CODE

CHAPTER 26

STREETS AND SIDEWALKS

- Art. I. In General, §§26-1 - 26-27
- Art. II. Street Excavations, §§26-28 - 26-32
- Art. III. Loudoun Street Mall, §§26-33 - 26-37
 - Division 1. Generally, §26-33
 - ~~Division 2. Sidewalk Cafes, §26-34 - 26-37~~

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ARTICLE III. LOUDOUN STREET MALL

DIVISION 1. GENERALLY

SECTION 26-33. SPECIAL PROVISIONS RELATING TO LOUDOUN STREET MALL.

- (a) The Loudoun Street Mall shall extend one-way south, between Piccadilly Street and Boscawen Street and Boscawen Street and Cork Street, and it shall be unlawful for any person to operate, drive, ride, push, or park any vehicle thereon. The operation and use of bicycles, skateboards, scooters, and roller skates, to include in-line skates, is prohibited. This subsection shall not apply to:
 - 1. Motor vehicles, other than tractor-trailers, having a gross weight of less than twenty-four thousand (24,000) pounds and using the Mall between the hours of 6:00 A.M. and 11:00 A.M. and 4:00 P.M. and 6:00 P.M. of any day for commercial pickup, commercial delivery, and utility or maintenance services.
 - 2. Passenger vehicles crossing the mall in a westerly direction between the alley on the north side of the Presbyterian Church and Winchester Parking Authority Lot No. 8 for the purpose of discharging and receiving passengers from the Presbyterian Church pre-school.
- (b) The chief of police or his designee may issue a special use permit for vehicles using the Loudoun Street Mall for funerals, Sunday morning church services, weddings, other special events, construction, city maintenance and repair work.
- (c) No vehicles permitted to use the Loudoun Street Mall shall be driven or operated at a speed in excess of ten (10) miles per hour, and all such vehicles shall be driven or operated one-way south, except as provided in (a)(2), above.

STREETS AND SIDEWALKS

- (d) A violation of this section through the use of a motor vehicle shall constitute a Class 4 misdemeanor. A violation of this section through the use of a bicycle, a skateboard, a scooter, or roller skates (to include in-line skates) shall be punishable as a civil penalty in an amount not to exceed \$50.
(Ord. No. 2011-09, 5-10-11)

State Law Reference-- Code of Virginia, §46.2-904

DIVISION 2. SIDEWALK CAFES, REPEALED

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SECTION 26-34. PERMIT REQUIRED.

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~~No person, firm, association, partnership, or corporation shall operate a sidewalk café on Loudoun Street Mall without benefit of a written permit issued by the City, and any such person, firm, association, partnership, or corporation who violates this Section shall be guilty of a violation of Section 15.2-2107 of the Code of Virginia, 1950, as amended, as is in effect on September 14, 1999, and punished as therein provided, said Virginia Code Section being incorporated herein by reference. As used herein, the phrase "sidewalk café" shall mean any group of tables, chairs, benches, and suitable decorative devices maintained upon the surface of Loudoun Street Mall for the purpose of selling food, refreshments, and beverages of all kinds to the general public as an extension of a restaurant licensed under the Regulations of the State Health Department and operating contiguous to the Loudoun Street Mall. (Ord. No. 036-99, 12-14-99)~~

SECTION 26-35. APPLICATION FOR SIDEWALK CAFÉ PERMIT.

~~Any restaurant licensed under the Regulations of the State Health Department and operating contiguous to the Loudoun Street Mall may apply to the Director, Old Town Development Board, for the permit described in Section 26-34 on forms provided for the purpose. In addition to the completed form, the applicant shall also provide the following items in order to file a complete application:~~

- ~~1. A fee in the amount of Ten Dollars (\$10.00) is required for all annual café permit applications.~~
- ~~2. Cafes will be assessed an annual operating fee based on occupancy limits as follows:
 - ~~(a) The amount of Two Hundred Dollars (\$200.00) is required for all cafés with an occupancy limit of 45 or more persons.~~
 - ~~(b) The amount of One Hundred Fifty Dollars (\$150.00) is required for cafés with an occupancy limit between 35-44 persons.~~~~

(e) The amount of Seventy-Five Dollars (\$75.00) is required for cafés with an occupancy limit of 34 or less persons.

3. A Certificate of Appropriateness from the Winchester Board of Architectural Review certifying that the applicant's design for café structures, furnishings, signage and placement of same meet the requirements enforced by that Board. The applicant must submit to the said Board a site plan indicating the location of the proposed café, a sealed sketch depicting the layout of tables, chairs, signage, etc. The area of the café must be delineated by an approved enclosure, may extend no wider than the applicant's storefront, and may not extend into the Loudoun Street Mall area from the storefront more than fifteen (15) feet, or less if necessary to maintain an emergency lane at least sixteen (16) feet wide down the center of the Mall.
4. Evidence showing that the applicant has obtained a license to operate as a restaurant from the State Health Department and the City of Winchester, and that all of the applicant's tax obligations to the City, to expressly include real or personal property tax, business license tax, and meals tax, have been satisfied and are current.
5. A signed agreement, on a form approved by the City Attorney, in which the applicant agrees to hold the City, its officers, agents, and employees, harmless from any claims for damages to person or property growing out of any activity with the applicant's activities conducted in connection with the permit herein described or caused by the operation or location of the café on the City's property. The applicant shall also provide a Certificate of Insurance, which shall be currently maintained throughout the term of the permit, indicating that the City is an additional insured on a policy of liability insurance issued to the applicant by an insurance company licensed to do business in Virginia with a single limit of not less than \$1,000,000.00.
6. If alcoholic beverages are to be sold by the applicant, the applicant must also provide evidence that it has a valid license for same issued by the Virginia Alcoholic Beverage Control Board, and that it specifically meets that Board's requirements for "outside terraces or patio dining area". As a continuing condition of the permit herein described, the applicant must post a sign stating that "the drinking of alcoholic beverages or carrying of an open container that contains alcoholic beverages is unlawful and prohibited outside the delineated area of the Sidewalk Café". (Ord. No. 036-99, 12-14-99; Ord. No. 2009-40, 01-12-10)

SECTION 26-36. — SAME — PERMIT TERM; CONDITIONS.

Any permit issued pursuant to this Division shall be non-transferable and shall be valid from January 1st through December 31st of each year, or for any part thereof. The application fee will remain the same regardless of the date received, and the fee will not

STREETS AND SIDEWALKS

be refunded or pro-rated based on the date of the application. Upon expiration or revocation of any such permit, the restaurant must apply for a new permit to continue operation of a sidewalk café, and must complete all of requirements listed in Section 26-35 of this Code in order to do so. ~~(Ord. No. 036-99, 12-14-99)~~

As a condition of obtaining and keeping such a permit for the full one-year term specified above, the restaurant is deemed to have agreed to the following terms and conditions:

1. ~~All cafes will be of such design so as to be easily removed for special events, snow removal, emergency access, or other circumstances which require that Loudoun Street Mall be cleared of all such cafes, as determined by City Council or by the Chief of Police. A directive from the Chief of Police or the City Council to clear the area of all furniture, fixtures, decorations, etc., connected with the café operation shall be promptly complied with by the restaurant without question and without unnecessary delay, and the area shall remain cleared of such material until directed otherwise by City Council or the Chief of Police.~~
2. ~~The use of concrete furniture, chairs, benches, planters, or any other such items is expressly prohibited.~~
3. ~~The entire area delineated for the sidewalk café must be maintained in a neat and orderly fashion, whether or not the area is actually in use. When in use, the area shall be periodically cleaned throughout the business day, and, especially, at the end of each business day. All food shall be provided by waiter or waitress service, unless self-service operations are approved as a part of the permit. Extensions or enlargements of the area delineated for the café beyond those described in the restaurant's application are expressly prohibited.~~
4. ~~All furniture, fixtures, decorations, etc. connected with the operation of the café shall be periodically maintained so that they retain full function as well as present a neat, attractive appearance to patrons.~~
5. ~~The café shall operate only when the restaurant to which a permit has been issued is allowed to operate. In addition, the restaurant shall be responsible to see to it that patrons of both the café and the restaurant violate no laws of the State or Ordinances of the City, to expressly include the City's Noise Ordinance, during such hours of operation. A business holding a permit shall have the right to limit access and occupancy to only bona fide paying customers, and shall have the same right to deny access or service in the café area as it enjoys in its own premises; Provided, However, that no person shall be denied access or service in a sidewalk café purely on the basis of race, religion, national origin, sex, age or physical disability. (Ord. No. 036-99, 12-14-99)~~

~~SECTION 26-37. — SAME; REVOCATION AND APPEAL.~~

The permit issued under this Division shall be revoked by the City Manager, by letter to the restaurant sent ordinary first-class mail or hand delivered to the address shown on the permit, upon receipt of competent evidence of the following:

- ~~1. Evidence that any of the requirements for application described in Section 26-35 of this Code are not being maintained during the term of the permit, including, but not limited to, withdrawal of the Certificate of Appropriateness or evidence that the café is being operated outside its terms; revocation or suspension of the restaurant's Health Department license or its ABC Board license (where applicable); lapse or cancellation of the restaurant's liability insurance; and failure to remain current as to all City tax obligations, especially the Meals Tax;~~
- ~~2. Evidence that any of the conditions of the permit as listed in Section 26-36 of this Code are being violated, especially including, but not limited to, evidence that the behavior of café patrons or other aspects of the café operation are generating violations of either State or City Code, particularly the Noise Ordinance.~~

~~The restaurant may appeal the decision of the City Manager to the City Council by noting such an appeal to the City Manager, in writing, within ten (10) calendar days, but the permit shall remain revoked while such appeal is pending. Upon receipt of the written notice that such an appeal has been lodged, the City Manager shall cause the matter to appear on the Agenda for the next scheduled meeting of the Common Council, whether regular or special, and the Council shall either affirm the City Manager's decision or restore the permit at that time. The determination of Council shall be final and unappealable. (Ord. No. 036-99, 12-14-99; Ord. No. 2011-21, 10-11-11)~~

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: 02/26/2013(WS) CUT OFF DATE: _____

RESOLUTION ___ ORDINANCE x PUBLIC HEARING x

ITEM TITLE: AN ORDINANCE TO AMEND AND RE-ADOPT SECTIONS 2-4, 2-28, AND 2-29 OF THE WINCHESTER CITY CODE PERTAINING TO ELECTION AND REMOVAL OF COUNCIL-ELECTED OFFICERS

STAFF RECOMMENDATION: N/A

PUBLIC NOTICE AND HEARING: Public Hearing Required

ADVISORY BOARD RECOMMENDATION: Amendments requested by Council for clarification and consistency of existing ordinances.

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. 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. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. City Attorney	<i>AW</i>	_____	2/6/2013
6. City Manager	<i>[Signature]</i>	_____	2-6-13
7. Clerk of Council	_____	_____	_____

Initiating Department Director's Signature: *[Signature]* Date: 2/6/2013

APPROVED AS TO FORM: *[Signature]* 2/6/2013 CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Anthony C. Williams, City Attorney
Date: February 6, 2013
Re: Amendments to Sections 2-4, 2-26, 2-27, 2-28, and 2-29 of the City Code Relating to Election and Removal of Council-Elected Officers

THE ISSUE:

Council has requested amendments to the City Code for clarification and consistency of existing ordinances related to the election and removal of Council-Elected Officers.

RELATIONSHIP TO STRATEGIC PLAN:

Develop a high performing City organization

BACKGROUND:

Amendments to these provisions of the City Code were requested by Common Council upon determination that the provisions, as amended over the years, have become inconsistent with one another. Additional amendments have been requested to revise and clarify the current practice and procedure for election of the President, Vice President, and Vice Mayor. To the extent that the Vice Mayor term is specified in City Charter as "annual", two options have been presented for consideration –annual or biennial for election of President and Vice President.

BUDGET IMPACT:

None

OPTIONS:

Adopt or reject the proposed Code Amendments.

RECOMMENDATIONS:

While this item has been requested by Common Council, with regard to consistency of the existing ordinance provisions, the City Attorney recommends adoption of the revisions.

OPTION 2 – BIENNIAL ELECTIONS OF COUNCIL APPOINTED OFFICERS DOES NOT COINCIDE WITH ANNUAL TERM OF VICE MAYOR (ANNUAL TERM) AS SET BY CITY CHARTER SECTION 3.01

AN ORDINANCE TO AMEND AND RE-ADOPT SECTIONS 2-4, 2-26, 2-27, 2-28, AND 2-29 OF THE WINCHESTER CITY CODE PERTAINING TO ELECTION AND REMOVAL OF COUNCIL-ELECTED OFFICERS

WHEREAS, the Vice Mayor is appointed for a one year term in accordance with Section 3.01 of the City Charter; and

WHEREAS, the President and Vice President of Common Council are elected by the members of Common Council in accordance with Sections 2-4, 2-28, and 2-29 of the City Code; and

WHEREAS, these sections of the Code have been individually amended over the years to facilitate certain procedural changes desired by Common Council; and

WHEREAS, the following amendments have been proposed to ensure that these provisions are consistent with one another and properly reflect the will of the governing body with regard to the process for election and removal of Council-Elected Officers.

NOW, therefore be it ORDAINED that Sections 2-4, 2-28, and 2-29 of the Winchester City Code are hereby amended and re-adopted as follows:

SECTION 2-4. ELECTION, TERM AND REMOVAL OF COUNCIL-ELECTED OFFICERS.

(a) ~~Unless otherwise especially provided, beginning in 2007, every municipal officer elected by the Council~~ the President and Vice President of Common Council shall be elected by the members of Common Council biennially at the first regular meeting of the Council in the month of January, or as soon thereafter as practicable.

(b) ~~Except as otherwise provided, the term of each officer elected as provided in subsection (a) above shall be one year~~ two years and shall commence on the first day of February next succeeding the date of election immediately upon election as provided in subsection (a). Every officer so elected shall hold his office until his successor is appointed and has qualified.

(c) ~~Unless otherwise provided, the City Council may, at its pleasure, remove any officer elected by the Council, including the President, Vice President, and Vice Mayor by motion and vote of “no confidence” by a majority of members present at any regular or special meeting of Council.~~

(d) Any vacancy occurring in any municipal office, to which the holder is elected by the Council, shall be filled by the Council at a regular or ~~adjourned special~~ meeting; provided, that no vacancy shall be filled ~~at an adjourned meeting unless previous notice thereof shall have been given to all members of the Council.~~ All persons appointed to fill an unexpired term vacancy shall hold office only during the unexpired term of the office in which such vacancy occurs.

(Code 1959, §§2-22--2-26; Ord. of 9-20-76; Ord. No. 034-2004, 08-10-2004)

Cross Reference: City Charter Section 3.01 – Office of Vice Mayor

SECTION 2-26. ELECTION AND GENERAL DUTIES OF PRESIDENT.

(a) Biennially, at its first meeting in January ~~beginning in 2007~~, the council shall elect one of its members ~~p~~President, who shall be the presiding officer of the ~~e~~Council.

(b) The ~~p~~President of the ~~e~~Council shall enforce the rules of the ~~e~~Council, preserve order, decide all questions of order, and may give his reasons therefor without vacating the chair.

(Code 1959, §§2-4, 2-5; Ord. of 9-20-76; Ord. No. 033-2004, 8-10-04; Ord. No. 2009-34, 10-27-09)

Charter references--Vesting of administration and government of city, §3; creation and members of council. §4; powers and duties of council generally, §5; investigations by council §7; buying from councilmen, §15; vacancies in council, §23.

Cross reference--Disrupting council meetings, §16-6.1.

State Law Reference--Presiding officer of council, Code of Virginia, §§15.1-809 and 15.2-1423.

SECTION 2-27. ELECTION AND DUTIES OF VICE-PRESIDENT.

Biennially, at the first meeting in January ~~beginning in 2007~~, the Council shall elect one of its members to be vice-president, who shall preside at Council meetings in the absence of the president.

(Code 1959, §2-6; Ord. of 9-20-76; Ord. No. 033-2004, 8-10-04).

~~Note: The effective date of this ordinance shall be January 1, 2007.~~

State Law Reference--Vice-President of Council, Code of Virginia, §15.1-809.

SECTION 2-28. PRESIDENT PRO TEMPORE.

Except as otherwise provided in Section 2-27 and 2-29, in case of the absence of both the ~~P~~resident of Council and ~~and the~~ ~~v~~Vice-~~p~~President, the Mayor shall preside; and in the absence of the President, Vice President, and Mayor, the Vice Mayor shall preside. Where the President, Vice President, Mayor, and Vice Mayor are all absent, ~~the Council shall elect a ~~p~~President ~~p~~Pro ~~t~~Tempore to preside.~~

State Law Reference--Code of Virginia, §15.1-809.

SECTION 2-29. ~~C~~LERK ~~M~~AYOR TO PRESIDE UNTIL PRESIDENT OR VICE-PRESIDENT ELECTED.

Biennially, at the first meeting in ~~July~~January, and until either a ~~p~~President or a ~~v~~Vice-~~p~~President has been elected, the ~~Clerk of Council~~Mayor shall preside; provided that, if the ~~Clerk of Council~~Mayor is absent, the members of the Council may elect a temporary presidentPresident Pro Tempore in accordance with Section 2-28 who shall preside until a ~~p~~President or ~~v~~Vice-~~p~~President has been chosen.

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: 2/19/13 CUT OFF DATE: 2/12/13

RESOLUTION ___ ORDINANCE X PUBLIC HEARING ___

ITEM TITLE: Section 14-66 Installation; Required Legend and Signals, Section B

STAFF RECOMMENDATION: Staff recommends that Council amend and re-enact Section 14-66 Installation; Required Legend and Signals, Section B

PUBLIC NOTICE AND HEARING: 1st Reading March 5, 2013
Public Hearing/2nd Reading April 9, 2013

ADVISORY BOARD RECOMMENDATION: Winchester Parking Authority unanimously approved the recommendation

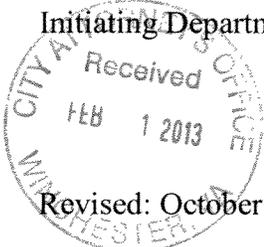
FUNDING DATA: The cost to convert the rate change on the digital meters is \$2,012.50 which the Authority will fund.

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.

Table with 4 columns: DEPARTMENT, INITIALS FOR APPROVAL, INITIALS FOR DISAPPROVAL, DATE. Rows include OTDB, Police, Finance, Economic Redevelopment, City Attorney, City Manager, and Clerk of Council.

Initiating Department Director's Signature: [Signature] Date: 2/18/13



Revised: October 23, 2009



APPROVED AS TO FORM:

[Signature] 2/14/2013 CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Winchester Parking Authority
Date: January 24, 2013
Re: Section 14-66 Installation; Required Legend and Signals, Section B

THE ISSUE:

Change City Code Section 14-66 Installation; Required Legend and Signals by permitting parking at a charge not to exceed seventy-five cents (\$0.75) per hour.

RELATIONSHIP TO STRATEGIC PLAN:

Goal 3 – Continue revitalization of historic Old Town

This code change would allow the Authority a vehicle to maintain the financial projections for bond conformity. The only other option is to continue raising monthly rates in the garages and hope to stay at or above 900 spaces rented (900 spaces rented is used in the projections calculations). Current capacity is at 937 spaces rented.

BACKGROUND:

City Code Section 14-65, *Responsibilities of Finance and Administration Committee and Winchester Parking Authority* stipulates City Council is responsible for the regulation, control, rates up to the maximums set forth in 14-66 below, and use of parking meter installed as provided in this division. The City Manager is responsible for the location of meters within the meter zones. The Winchester Parking Authority is responsible for the operation and maintenance of such parking meters. (Code 1959, 15-115; Ord. No. 036-90, 11-13-90; Ord. No. 041-93, 11-09-93; Ord No. 2011-21, 10-11-11).

Per City Code Section 14-66, Section B, each parking meter installed as provided in this section shall indicate, by proper legend, the legal parking time established by the City for the particular parking meter. Each such meter shall be set so as to display a signal showing legal parking upon the deposit of the appropriate coin or coins, lawful money of the United States, for the period of time prescribed, which parking meters shall require the deposit of coin(s) of the denominations of nickels, dimes or quarters permitting parking at a charge not to exceed twenty-five cents (\$0.25) per one half hour. Each such meter shall be so arranged that, upon the expiration of the lawful time limit, it will indicate by a proper visible signal that the lawful parking period has expired. (Code 1959, 15-113, 15-118, 15-119; Ord. No. 036-90, 11-13-90; Ord. No. 23-2006, 6-13-06; Ord. No. 2011-21, 10-11-11)

BUDGET IMPACT:

The Authority will capture additional parking meter revenue, Monday – Friday when meters are enforced. This will assist the Authority in funding the debt service payments of the George Washington Autopark while maintaining the garages which are open 24/7. Approximate additional revenue on the digital meters is expected to be approximately \$2,188 a month/ \$26,250 a year.

The estimated cost to convert the rate change on the 250 digital meters is \$2,012.50. New parking meter stickers will be purchased notifying customers of the new meter rate and displayed on each parking meter as necessary. The Authority will update its website with the new parking rate at a charge not to exceed seventy-five cents (\$0.75) per hour and an article will be included in Winchester CitE-NEWS.

OPTIONS:

The Authority would like the flexibility to implement meter rates not to exceed seventy-five cents (\$0.75). The Authority would like to implement a higher rate at the digital meters since all the digital meters are located in prime locations including the primary and secondary district.

RECOMMENDATIONS:

The Winchester Parking Authority recommends that Council **AMEND AND RE-ENACT SECTION 14-66 OF THE WINCHESTER CITY CODE PERTAINING TO INSTALLATION; REQUIRED LEGEND AND SIGNALS** at a charge not to exceed seventy-five cents (\$0.75) per hour effective July 1, 2013.

**AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-66 OF THE WINCHESTER CITY CODE
PERTAINING TO INSTALLATION; REQUIRED LEGEND AND SIGNALS**

WHEREAS, the Common Council of the City of Winchester, Virginia, has determined that it is necessary to provide flexibility of meter rates at a charge not to exceed seventy-five cents (\$0.75) per hour from Monday through Friday when meters are enforced.

NOW, THEREFORE, BE IT ORDAINED that Section 14-66 of the Winchester City Code is hereby amended and re-enacted to read as follows:

SECTION 14-66. INSTALLATION; REQUIRED LEGEND AND SIGNALS.

(B) Each parking meter installed as provided in this section shall indicate, by proper legend, the legal parking time established by the City for the particular parking meter. Each such meter shall be set so as to display a signal showing legal parking upon the deposit of the appropriate coin or coins, lawful money of the United States, for the period of time prescribed, which parking meters shall require the deposit of coin(s) of the denominations of nickels, dimes or quarters permitting parking at a charge ~~not to exceed twenty-five cents (\$0.25) per one-half hour~~ not to exceed seventy-five cents (\$0.75) per hour. Each such meter shall be so arranged that, upon the expiration of the lawful time limit, it will indicate by a proper visible signal that the lawful parking period has expired. (Code 1959, 15-113, 15-118, 15-119; Ord. No. 036-90, 11-13-90; Ord. No. 23-2006, 6-13-06; Ord. No. 2011-21, 10-11-11)

0-2013-04

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: 2/19/13 CUT OFF DATE: 2/12/13

RESOLUTION ___ **ORDINANCE X** **PUBLIC HEARING** ___

ITEM TITLE: City Code Section 14-68 When Meters Shall be Operated

STAFF RECOMMENDATION: Staff recommends that Council amend and re-enact Section 14-68 When Meters Shall be Operated

PUBLIC NOTICE AND HEARING: 1st Reading March 5, 2013
Public Hearing/2nd Reading April 9, 2013

ADVISORY BOARD RECOMMENDATION: Winchester Parking Authority unanimously approved the recommendation

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. 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. OTDB	<i>DEB</i>		1/31/13
2. Police	<i>RE</i>		2/1/13
3. Finance	<i>JB</i>		1/31/13
4. Economic Redevelopment	<i>SW</i>		2/4/13
5. City Attorney	<i>W</i>		2/4/2013
6. City Manager	<i>CF</i>		2-5-13
7. Clerk of Council			

Initiating Department Director's Signature: *Amanda Anderson* Date: 2/3/13



Revised: October 23, 2009



APPROVED AS TO FORM:

[Signature] 2/4/2013
CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Winchester Parking Authority
Date: January 24, 2013
Re: City Code Section 14-68 When Meters Shall be Operated

THE ISSUE:

Change City Code Section 14-68 *When Meters Shall be Operated* by adjusting the hours of when parking meters shall be operated from Monday through Friday

RELATIONSHIP TO STRATEGIC PLAN:

Goal 3 – Continue revitalization of historic old town

This code change would allow the Authority a vehicle to maintain the financial projections for bond conformity. The only other option is to continue raising monthly rates in the garages and hope to stay at or above 900 spaces rented (900 spaces rented is used in the projections calculations). Current capacity is at 937 spaces rented.

BACKGROUND:

City Code Section 14-68, *When Meters Shall be Operated* stipulates when meters shall be operated. Currently, meters are operated between the hours of 9 am – 4 pm every day from Monday – Friday except for the designated holidays.

Per City Code Section 14-65, the Finance and Administration Committee of the City Council shall be responsible for the regulation, control, rates up to the maximums set forth in §14-66, and use of parking meters installed as provided in this division. The Public Safety Committee shall be responsible for the location of meters within the meter zones. The Winchester Parking Authority shall be responsible for the operation and maintenance of such parking meters (Code 1959, §15-115; Ord. No. 036-90, 11-13-90; Ord. No. 041-93, 11-09-93).

BUDGET IMPACT:

The Authority will capture additional parking meter revenue and meter fine revenue between the hours of 4 pm – 6 pm, Monday – Friday. This will assist the Authority in funding the debt service payments of the George Washington Autopark while maintaining the garages which are open 24/7. Approximate additional revenue is expected to be approximately \$1,250 a month/ \$15,000 a year (this figure was estimated as \$12,500 a month current * 10%) in parking meter revenue. This does not include expired meter fines.

New parking meter stickers will be purchased notifying customers of the new meter operation hours and displayed on each parking meter. The Authority will update its website with the new operation hours and an article will be included in Winchester CitE-NEWS.

OPTIONS:

The Parking Authority in February 2012 implemented another rate increase for the monthly parkers in the garages; current rates are \$42 undercover and \$35 roof. The Authority would like the flexibility to be able to capture the additional revenue between the hours of 4 pm – 6pm Monday – Friday with the street meters to assist with debt service payments. The Authority would like to encourage turnover in these spaces as the stores have expanded their shopping hours.

RECOMMENDATIONS:

The Winchester Parking Authority recommends that Council **AMEND AND RE-ENACT SECTION 14-68 OF THE WINCHESTER CITY CODE PERTAINING TO WHEN METERS SHALL BE OPERATED** to the hours of 9 am – 6 pm every day from Monday – Friday except for the designated holidays effective July 1, 2013.

**AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-68 OF THE WINCHESTER CITY CODE
PERTAINING TO WHEN METERS SHALL BE OPERATED**

WHEREAS, the Common Council of the City of Winchester, Virginia, has determined that it is necessary to adjust the hours of when parking meters shall be operated from Monday through Friday.

NOW, THEREFORE, BE IT ORDAINED that Section 14-68 of the Winchester City Code is hereby amended and re-enacted to read as follows:

SECTION 14-68. WHEN METERS SHALL BE OPERATED.

Parking meters installed pursuant to this division shall be operated between the hours of ~~9:00 A.M. and 4:00 P.M.~~ 9:00 A.M. and 6:00 P.M. every day from Monday through Friday, except for the following designated holidays: New Year's Day (January 1); Lee Jackson Day (January); Martin Luther King, Jr. Day (January); George Washington Day (February); the Thursday and Friday prior to the Grand Feature Parade of the annual Shenandoah Apple Blossom Festival; Memorial Day (May); Independence Day (July 4); Labor Day (September); Veteran's Day (November 11); Thanksgiving Day and the day after Thanksgiving; Christmas Eve; and Christmas Day. When any of the aforesaid holidays fall on a Sunday, parking meters need not be operated on the following Monday. (Code 1959, 15-117; Ord. No. 019-84, 10-09-84; Ord. No. 041-91, 10-08-91; Ord. No. 003-97, 1-14-97; Ord. No. 2009-41, 2-23-2010).

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 2/26/13 (work session), **CUT OFF DATE:** 2/20/13
3/12/13(1st Reading) 4/9/13 (2nd reading)

RESOLUTION ___ **ORDINANCE** X **PUBLIC HEARING** X

ITEM TITLE:

RZ-12-405 AN ORDINANCE TO CONDITIONALLY REZONE 7.74 ACRES OF LAND AT 940 CEDAR CREEK GRADE FROM RESIDENTIAL OFFICE (RO-1) DISTRICT WITH CORRIDOR ENHANCEMENT (CE) DISTRICT OVERLAY TO HIGH DENSITY RESIDENTIAL (HR) DISTRICT WITH PLANNED UNIT DEVELOPMENT (PUD) & CE DISTRICT OVERLAY

STAFF RECOMMENDATION:

Approval

PUBLIC NOTICE AND HEARING:

Public hearing for 4/9/13 Council mtg

ADVISORY BOARD RECOMMENDATION:

Planning Commission recommended approval.

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. Zoning	<u>AMG</u>	_____	<u>2/20/13</u>
2. Economic Development	<u>Not Available - Ku 2/21/13</u>	_____	_____
3. City Attorney	_____	<u>[Signature]</u> *	<u>2/21/2013</u>
4. City Manager	<u>[Signature]</u>	_____	<u>2-22-13</u>
5. Clerk of Council	_____	_____	_____

Initiating Department Director's Signature: [Signature] 2/20/13
 (Planning)



*Returned 2-21-13
 Needs Economic
 Development Signature*



[Signature] 2/21/2013 *
 CITY ATTORNEY * see attached memo

CITY COUNCIL ACTION MEMO

To: Mayor and Members of City Council
From: Tim Youmans, Planning Director
Date: March 21, 2013
Re: O-2013-07 Racey Meadow Project Update (RZ-12-405)

THE ISSUE:

Rezoning a 7.74-acre tract from RO-1 to HR with PUD overlay. The existing CE overlay zoning would remain on the property. The existing RO-1 zoning would permit office development consistent with the recommendation shown in the Comp Plan. The proposed HR(PUD) zoning would result in a 132-unit apartment complex with no commercial development.

RELATIONSHIP TO STRATEGIC PLAN:

School funding: Direction, Proposal, Decision (see 'Budget Impact' below)
Ward Plaza Development- bringing 132 units on line all at once may negatively impact the market for mixed use redevelopment of Ward Plaza.

BACKGROUND:

See attached staff report (updated to reflect 3-20-13 version of Proffer Statement)

BUDGET IMPACT:

This project could generate school-aged children impacting attendance at City schools. There are no proffers to mitigate the potential impact on education expenses. Also, City's ability to realize long-term revenue from BPOL and/or sales tax associated with commercial use developed under existing RO-1 zoning would be lost. However, new high-quality multifamily development would create more demand for commercial development elsewhere.

OPTIONS:

- Approve subject to latest version of proffers and Development Plan
- Deny (must state reasons for denial in the motion- e.g. "inconsistent with Comp Plan")

RECOMMENDATIONS:

Planning Commission (on a 3-2-1 vote) recommended approval subject to the superseded 2-18-13 version of proffers and the latest Development Plan. Staff believes that the updated proffer which eliminates the 18 three-bedroom apartments is an improvement over the previous plan. The new proffer calls for 60 two-bedroom units instead of 42 two-bedroom units. Twenty-eight of these units would have a study included with them.

CITY COUNCIL ACTION MEMO

To: Mayor and Members of City Council
From: Tim Youmans, Planning Director
Date: March 27, 2013
Re: RZ-12-405 Consistency with Strategic and Comprehensive Plans

THE ISSUE:

The question arose at the 3/26/13 Council work session as to whether or not the Racey Meadows project is consistent with the Citywide Strategic Plan and the Comprehensive Plan.

CONSISTENCY WITH STRATEGIC PLAN:

Vision - "Hometown for Families" and "Great Neighborhoods with a range of housing choices"

Remarks: The project does expand the range of housing choices in a desirable neighborhood, but Council has specifically expressed a desire to not include 3-bedroom units that would encourage families in this development.

Goal#1- "Grow the Economy"

Remarks: The recently completed Fiscal Impact Analysis demonstrates the positive economic impact.

Policy Agenda Priorities- Ward Plaza, Meadow Branch Ave, & S. Pleasant Valley Ave Developments

Remarks: Bringing 132 units on line all at once may negatively impact the market for mixed use redevelopment of these top- and high-priority sites. The project might, however, stimulate development interest in the City.

Goal#3- "Continue Revitalization of Historic Old Town" "Increase the # of residents living downtown"

Remarks: The project is not situated within the downtown.

Goal#4- "Create a more Livable City for All" "Upgrade the quality of rental housing stock"

Remarks: The creation of 132 new rental units helps to upgrade the overall quality of rental housing stock.

CONSISTENCY WITH COMPREHENSIVE PLAN:

Housing Objective#2: "Provide opportunities for new mixed-income and mixed dwelling-type residential use in higher density settings that incorporate the quality design principles of New Urbanism"

Remarks: The project is 100% apartment development and does not incorporate mixed use design principles of New Urbanism.

Housing Objective#6- "Promote appropriate housing development, particularly to serve targeted populations such as young professionals and empty-nesters"

Remarks: The project caters to the designated target populations

Land Use Objective#1- Incentivize the construction of compact, new mixed use projects as a viable reuse of obsolete strip commercial and industrial properties"

Remark: The project is compact and new, but is not mixed use and not on an obsolete strip commercial or industrial site.

Mobility Objective#1- "Encourage the use of alternate modes of mobility including walking, bicycling and public transportation by all sectors of the population to reduce dependency upon private automobile use"

Remark: The project incorporates a network of sidewalks and a multi-use trail out along Cedar Creek Grade, but is not in a location served by public transportation.

CHARACTER MAP- The map calls for '*Commerce Area Revitalization/Infill*' which is more consistent with the current RO-1 zoning than the proposed HR(PUD) zoning. The map does call for the extension of Stoneleigh Drive out to Cedar Creek Grade opposite of Stoneridge Rd. The project includes the extension of Stoneleigh Dr, but the alignment is shifted eastward at the request of neighbors.

April 9, 2013
City Council Meeting

RZ-12-405 AN ORDINANCE TO CONDITIONALLY REZONE 7.74 ACRES OF LAND AT 940 CEDAR CREEK GRADE FROM RESIDENTIAL OFFICE (RO-1) DISTRICT WITH CORRIDOR ENHANCEMENT (CE) DISTRICT OVERLAY TO HIGH DENSITY RESIDENTIAL (HR) DISTRICT WITH PLANNED UNIT DEVELOPMENT (PUD) & CE DISTRICT OVERLAY

REQUEST DESCRIPTION

The request is to change the underlying zoning of a large tract of mostly vacant land at the western limits of the City along the north side of Cedar Creek Grade from RO-1 to HR subject to proffers. While it keeps the Corridor Enhancement (CE) overlay zoning in place, it proposes to add Planned Unit Development (PUD) overlay zoning as well. The HR rezoning would permit the construction of up to 139 apartment units, assuming that the overlay Planned Unit Development (PUD) provisions and Corridor Enhancement (CE) provisions are met. The applicant has provided an updated Conceptual Site Layout Plan dated December 3, 2012 depicting 132 apartment units in seven three-story buildings and 3 four-story buildings. A separate building housing management and maintenance offices as well as recreational amenities is proposed out close to Cedar Creek Grade along with a combination tennis/basketball court. The outdoor recreational facility and adjoining open space, which was originally proposed for conveyance to the City as public parkland, would remain private with an easement granted to the City for public use.

AREA DESCRIPTION

The subject parcel contains a vacant single-family residence and some agricultural structures. This parcel and one residentially used property immediately to the east comprise an existing RO-1 district. Along with numerous other properties throughout the City, these two properties were rezoned by the City (i.e. not at property owner request) in the 1990's in an effort to stem what was then viewed as undesirable multifamily rental housing. Land to the north and further to the east is zoned HR and contains multifamily development as well as townhouse development. Land to the south fronting along Cedar Creek Grade is also zoned HR and contains single-family residences.



Land to the west is situated in Frederick County. The adjoining Frederick County parcel owned by Greystone Properties, LLC was conditionally rezoned from Rural Areas (RA) to Residential Planned Community (R4) by Frederick County along with other properties including a larger tract owned by Miller & Smith about five years ago. The 360-acre Willow Run project is slated for 1,390 residential units as well as 36 acres of commercial uses. The Greystone Properties portion of the larger Willow Run project is primarily single-family attached (i.e. townhouse) residential and age-restricted housing. It includes a spine road (Birchmont Dr) that connects Cedar Creek Grade with the extension of Jubal Early Drive to the north. That connection is required to be built prior to the 200th residential permit being issued. A public street connection to Cidermill Lane from the County spine road is also part of the approved Willow Run project. Cidermill Lane is currently being extended to the County line as part of the last phase of the Orchard Hill townhouse development.

COMMENTS FROM STAFF

An incomplete request was first presented at a public hearing by the Planning Commission on October 16, 2012. The matter was tabled at the applicant's request during the November and December 2012 regular meetings of the Commission pending a traffic impact study. The applicant had requested that the Planning Commission public hearing be delayed from September 2012 until October of 2012 so that additional information could be provided to the City with respect to potential impacts caused by school-aged population generated from developments where there are two- and three-bedroom units. That information was subsequently provided to the Planning Director via email from Mr. Thomas Moore Lawson, on behalf of the applicant as an enclosure with a September 21, 2012 email. A more complete fiscal analysis dated January 10, 2013 was received by the Planning Director on January 14, 2013 and provided to the Planning Commission for consideration at the January 15, 2013 Commission meeting.

In a letter to the Planning Director dated August 15, 2012, Mr. Bob Cocker, Manager for the applicant (Valley View Management, LLC) explains the proposed rezoning and the proposed Racy Meadows Apartment Complex project. The applicant also provided an original Proffer Statement dated August 16, 2012 which is addressed further below in the comments from staff. An updated Proffer Statement dated January 9, 2013 was received via email on January 15, 2013 (the same day as the January Commission meeting) and considered by the Commission on that date. Along with the updated Proffer Statement, an updated exhibit dated 12/3/12 (but received by the City on January 14, 2013) titled 'CONCEPTUAL SITE LAYOUT PLAN Rezoning Exhibit "A"' was also submitted. This second version superseded the original rezoning exhibit titled 'OVERALL SITE PLAN, CONCEPTUAL LAYOUT and TRAFFIC PATTERN PLAN,' dated 8/6/12.

A third version of the Proffer Statement dated February 18, 2013 was received via email by the Planning Director on February 18, 2013 and distributed via email to the Commission on the morning of the February 19, 2013 Commission meeting. The updated proffers were reviewed at the February 19th Commission meeting in advance of the Commission's favorable recommendation to City Council.

A fourth version of the Proffer Statement dated February 26, 2013 was received via email by the Planning Director at 5:23pm on February 26, 2013 (minutes before the 6:00pm Council Work Session on that date). The updated proffers simply reflected corrections to the spelling of 'Racey' and inserted a missing word ('Site') into a reference to the Development Plan.

A fifth version of the Proffer Statement dated March 20, 2013 was received via email by the Planning Director on March 26, 2013. The updated proffers reflected the elimination of the 18 proposed three-bedroom units and instead proposed that 28 of the 60 two-bedroom units would now include a study.

Comprehensive Plan Consistency

The Character Map contained in the adopted Comprehensive Plan calls for a Commerce Revitalization/Infill in this area and for the connection of Stoneleigh Drive to Cedar Creek Grade. PUD overlay allows for consideration of up to 18 dwelling units per acre, which in the case of 7.74 acres would translate to a maximum of 139 dwelling units. The applicant is proposing 132 dwelling units in addition to a building housing management offices and common recreational amenities. The Comprehensive Plan also calls for increased multifamily development citywide to attract young professionals and empty nesters. The proposed upscale apartments would serve these targeted populations.

The Cedar Creek Grade corridor has undergone considerable change over the past 25 years from being primarily single-family development along a two-lane roadway to becoming a mixed use corridor served by a four-lane arterial. A number of sites that were rezoned to RO-1 by the City in the 1990's were

subsequently rezoned on a conditional basis to Highway Commercial (B-2) by private developers. These conditional B-2 rezonings often included restrictions on commercial uses. This effort includes the two lots along the south side of Cedar Creek Grade across from the east end of the subject Racey property where two large office buildings are situated today. Corridor Enhancement (CE) overlay zoning was established along Cedar Creek Grade in 2006.

Potential Impacts & Proffers

The proposal is a conditional rezoning request wherein the applicant has voluntarily submitted proffers to mitigate potential impacts arising from the rezoning of the property from HR to HR (PUD). The original August 6, 2012 Proffer Statement was structured to address six areas under the heading of Site Planning Improvements. These were: Street and Access Improvements; Interior Site Circulation; Site Development; Landscaping and Design; Recreation; and, Stormwater Management. The last paragraph of the Proffer Statement bound the developer to develop the site in accordance with the Conceptual Site Layout Plan, Rezoning Exhibit "A" dated August 6, 2012. The second version of the Proffer Statement dated January 9, 2013 added two more headings which were: Density; and Phasing. The information pertaining to Density was still incomplete as it pertained to Percentages for building coverage and open space. The third version of the Proffer Statement dated February 18, 2013 added one more heading which addressed rules and regulations, including reference to a separate list of tenant rules that are part of a lease agreement.

At the October 16, 2012 meeting, the applicant was asked by the Planning Commission to conduct a Fiscal Impact Analysis and a Traffic Impact Analysis which are two studies that can be required by the Planning Commission for a PUD rezoning application per Sections 13-4-2.2k and l of the Zoning Ordinance.

Fiscal Impact Analysis

The multifamily (i.e. non-commercial) project, from a land use perspective, is inconsistent with the adopted Comprehensive Plan. As noted above, the Commission requested a Fiscal Impact Analysis showing the impacts on City revenue and expenditures generated by the project as compared to revenue and expenditures arising from development allowed under the current RO-1 development. While the current RO-1 zoning permits office development which generates no school-aged population, it also permits single-family residential homes at a density of 4.3 units per acre which is between the current LR and MR residential district densities. Single-family homes tend to generate more school-aged population than multifamily units, but there would be many fewer single-family homes possible under the current RO-1 zoning than possible under the proposed HR zoning.

The proposed conditional HR(PUD) zoning would permit no commercial office development, but would instead yield 132 apartment units, primarily consisting of one- and two-bedroom units. Up until the 5th iteration of the Proffer Statement, the applicant had asked that 18 of the units be allowed to have three bedrooms, which might increase the likelihood of school-aged population. The additional support material provided by Mr. Lawson on behalf of the applicant notes that the 300 units of similar apartment development in Stuart Hill (180 units) and Pemberton Village (120 units) only generate 4 elementary students, 1 middle school student, and 4 high school students. This was determined based upon students picked up at City school bus stops serving these developments. It is possible that some students are transported to the public schools by other means.

The Commission requested that the City's Economic Redevelopment Director review the proposal and comment on the fiscal impacts associated with changing the zoning from the current RO-1 which would support general and medical office development to instead have all HR (PUD) zoning that would specifically consist of 132 apartment units and no commercial development. In the attached memo to the Planning Director dated February 10, 2013, Mr. Deskins suggests that a more economically viable

development scenario would be to retain zoning supporting commercial development such as offices on a two acre portion of the site out along Cedar Creek Grade while allowing the remaining 5.75 acres to be rezoned to HR(PUD) for the development of 120 apartment units. The two acres of RO-1 or B-2 zoned land out front could support upwards of 30,000 square feet of development which would generate BPOL and/or Sales tax revenue for the City in the range of \$15K-\$50K and greatly help offset any expenditures arising from the residential development on the rear of the tract (SEE ATTACHED).

Traffic Impact Analysis

At the October 16, 2012 meeting, the Commission also required a Traffic Impact Analysis. This is appropriate given the close proximity to the Frederick County corporate limits where VDOT has authority to require review of rezonings that create a certain threshold of additional traffic above that generated by the current zoning. A Traffic Signal Warrant Study dated 12/4/12 was submitted on 12/10/12 to the Planning Director and to the Public Services Director, Perry Eisenach. The Warrant Study concluded that a traffic signal would not be warranted at the proposed intersection of Cedar Creek Grade and the extension of Stoneleigh Drive, even if situated opposite of the existing Cedar Creek Grade/Stone Ridge Rd intersection. The Public Services Director reviewed the study and agreed with the findings.

The Traffic Signal Warrant Study included an analysis of Trip Generation based upon four different Development Scenarios. The figures are contained in Table 1 on page 6 of the Study (See attached Table 1). The proposed scenario, calling for 132 apartment units, would generate 94 trips in the PM Peak Hour and an Average Daily Traffic (ADT) volume of 980 trips. If the 7.74 acres were instead developed with by-right office development consisting of upwards of 120,000 square feet of medical-dental office development, then it would generate 424 trips in the PM Peak Hour and an ADT volume of 4,692 trips (about 4.8 times the amount of traffic generated by the development proposed with the rezoning). If the site was rezoned to HR District without the proposed PUD overlay zoning, then it would support upwards of 108 multifamily units. This development would generate 77 trips in the PM Peak Hour and an ADT volume of 799 trips. Staff has not observed problems at intersections such as Harvest Drive and W. Jubal Early Dr where considerably larger numbers of apartments, retirement cottages, assisted living, and conventional single-family units are linked to major streets in the City.

Based upon the updated Development Plan, the development is now proposed to include a private extension of Stoneleigh Drive connecting with another private drive that then intersects Cedar Creek Grade at an unsignalized intersection located approximately 240 feet west of the Harvest Drive intersection. This new location is where the existing driveway into the adjoining Horton property is currently located. That driveway would be eliminated under the proposal and a connection to the Horton property would be provided from a point internal to the Racey Meadows development north of the existing Horton residence closest to Cedar Creek Grade. The original Development Plan aligned the private extension of Stoneleigh Drive with Stoneridge Rd providing access to the Harvest Ridge residential development on the south side of Cedar Creek Grade.

The revised street location reduces impacts on the Harvest Drive neighborhood and provides for a less direct connection to the public portion of Stoneleigh Drive in the Orchard Hill neighborhood. It also provides for improved sight distance to the west as compared with the previous alignment. It will, however, require the granting of an exception by City Council to allow for the new private street to be situated within 300 feet of the existing Harvest Drive intersection. The Commission may wish to ask for additional study of how the addition of this 3-way intersection would impact traffic flow in the area. At a minimum, a dedicated left-turn lane eastbound should be constructed.

Alterations were made to traffic flow on Cedar Creek Grade at Stoneridge Rd intersection after VDOT had widened the road from two lanes to four lanes in 1993. The alteration decreased the capacity of Cedar Creek Grade by converting one of the two eastbound lanes and one of the two westbound lanes

approaching Stoneridge Rd into right-turn and left-turn lanes respectively. That change essentially reduced Cedar Creek Grade down to a single through lane eastbound and westbound at that one location.

The applicant is proffering to extend a private roadway northward to connect with another private roadway internal to the apartment development. It would also connect to the privately-owned portion of Stoneleigh Drive serving the existing Summerfield Apartment development. Summerfield Apartments were approved with improved access only to the north connecting with the public portion of Stoneleigh Dr in the Orchard Hill townhouse development. The developer of the Summerfield Apartment development offered to extend Stoneleigh Drive as a public street southward to allow for an orderly extension of that street ultimately to Cedar Creek Grade once the Racey property was developed. Due to strong opposition from adjoining Orchard Hill residents, City Council turned down a subdivision proposal in 1997 that would have extended the public street, but the apartment development site plan was nonetheless approved relying solely upon access to Harvest Drive, a Category II Collector Street via local (Category I) streets within the Orchard Hill development.

As noted above, the Comprehensive Plan calls for the orderly extension of roadway connecting the Summerfield and Orchard Hill neighborhoods to Cedar Creek Grade. This allows for improved traffic flow and improved service delivery for City services such as fire and rescue, police, school buses, and refuse, yard waste, and recycling pickup. It also implements the New Urbanism principle of an interconnected grid street network advocated in the Comprehensive Plan and avoids undesirably long an inefficient single-access point development typical of 1960's – 1990's suburban sprawl. Total traffic on any one street is reduced since residents do not have to drive through other neighborhoods to get to the major streets in the City. The applicant is also proffering traffic calming measures along the proposed private roadway.

Site Development and Buffering

The updated Conceptual Site Layout Plan depicts 132 apartment units in seven three-story buildings and 3 four-story buildings. Proffers #3 & 4 address Site Development as well as Landscaping and Design. Two of the 3 four-story buildings would back up to the Summerfield Apartment development along the northern boundary furthest from Cedar Creek Grade. The third four-story structure is located along the west side of Stoneleigh Dr. Per the proffered layout, all of the buildings would be situated at least 25 feet away from any exterior property line and at least 50 feet away from Cedar Creek Grade. The closest apartment building is now 135 feet away from Cedar Creek Grade. Proffer #3 provides detailed information about separations between buildings on the site. Proffer #4 provides detailed information about the landscaped buffers, including the quantity of evergreen and deciduous trees required. Staff encouraged the applicant to be more specific about the extent of upright evergreen screening and this was included in the revised proffers.

Recreation and Open Space

Proffer #5 addresses recreational amenities and open space. The applicant is proposing combination basketball court and tennis court situated out close to Cedar Creek Grade just west of the building that would house management offices as well as some indoor recreation use. Since the facility overlaps, it can only be used at one time as either a half-court basketball facility or a tennis court- not both. A single facility for a multifamily development of this size is on the low end of facilities provided per dwelling unit. The applicant should clarify what additional active recreational amenities are proposed in the community building or elsewhere within the development.

The proffers and the plan also call for an 8-foot wide asphalt trail extending through the active recreational area out along Cedar Creek Grade. The revised layout provides for a longer continuous segment of multipurpose trail west of the private street intersection. The applicant is no longer proposing to convey any recreation amenities to the Winchester Parks & Recreation Department (WP&RD) but is

still proposing for it to become a part of a citywide satellite park system. The proffer has been reworded to have the facilities remain with the property owner and have an easement granted for public use of the facilities.

Stormwater Management

Proffer #6 addresses the impacts of stormwater management and the applicant's measures to mitigate the potential impacts. A detailed stormwater analysis would be generated by the applicant and reviewed by the City at the time of site plan. It is intuitive that the applicant's proposed layout which, in many places, calls for a 75-foot wide green buffer at the low end of the site adjoining Cedar Creek Grade is superior to any plan allowed by right under current zoning that would permit impervious coverage consisting of office buildings and parking lots situated as close as 35 feet of the public right of way line.

Density

The updated Proffer Statement of March 20, 2013 includes a breakdown by bedroom count. The applicant now proposes 72 one-bedroom units, and 60 two-bedroom units. No three-bedroom units are proposed, however, 28 of the two-bedroom units would include a study. The actual project density is not specifically stated in the proffer, but it comes out to 17 units per acre where 18 units per acre is the absolute maximum permissible under PUD zoning.

Community Rules and Regulations

As of the February 18, 2013 version, the Proffer Statement includes language making reference to rules and regulations which shall be generated *and amended from time to time by the owner* of the apartment complex. The attachment is an example of the rules and regulations that might be used. The applicant is simply proffering that there will be rules and regulations maintained, but is not committing to any specifics. The Commission had requested more complete information pertaining to covenants and restrictions that will ensure that the project meets high standards for maintenance and management of the complex.

Project Phasing

The applicant has indicated that there is no proposal to phase in the project as part of the PUD rezoning. A note on the Development Plan states: "No Phasing Applies. The Project Shall be Constructed Fourteen (14) Consecutive Months." If the applicant proposes to obtain occupancy of any of the units prior to the entire development being completed, then that should be noted as required per Section 13-4-2.2h. The phasing plan should clearly note the timing of the roadway connection to Summerfield Apartments and the completion of the recreational amenities relative to occupancies of any units.

Other Issues

The applicant has now addressed most if not all of the requirements for a complete PUD proposal as spelled out in Section 13-4 of the Zoning Ordinance. Among the Development Plan requirements are the following:

- Topographic Map
- Land Use plan showing the height of structures
- Width of all streets, driveways and loading areas
- Approximate location of existing and proposed utilities
- A plan or statement detailing covenants, restrictions, and conditions pertaining to the use, maintenance and operation of common spaces
- Percentage of the Total Tract used as Open Space, and,
- A plan or report indicating the extent and timing of all off-site improvements

Design Quality

Project design information, in terms of building design and compliance with the Cedar Creek Grade Corridor Enhancement (CE) District standards and guidelines was absent in the original submission. Proffer #3 was subsequently amended to include a statement that reads: “Applicant proffers that the quality of construction will not be less than the quality of construction of its existing Stuart Hill complex.” Otherwise, the applicant has not submitted any building elevations to ensure conformity with the CE standards and guidelines which do not apply to the Stuart Hill project in Meadow Branch North. A quick review of the Cedar Creek Grade CE standards raises questions as to whether the proposed buildings will meet the minimum standards for length of roof planes and wall planes, as well as building height.

While building elevations and floor plans are not explicitly required for PUD applications, Section 13-4-2 of the WZO states that the Development Plan shall contain supplementary data for a particular development, as reasonably deemed necessary by the Planning Director. Conceptual building elevations were reviewed briefly at a Planning Commission work session, but have never been formally submitted, far less ever made a formal part of the Development Plan. While many of the surrounding residential and nonresidential developments near the Racey Meadow project incorporate brick into the exterior finish, there is only brick at the foundation level of the Stuart Hill apartment units.

RECOMMENDATION

Generally, staff feels that the proposal is consistent with many of the broader elements of the City’s long-term vision to attract more young professionals and empty-nesters to the City. The residential use of the property is compatible with the existing high-density multifamily use to the north as well as existing residential use to the east and south and the proposed residential development in Frederick County immediately to the west.

However, the proposed rezoning does reflect a deviation from the land use designation shown on the Character Map in the Comprehensive Plan. This is particularly a concern given the evolving land use pattern along Cedar Creek Grade which has non-residential development along the street with residential in behind it (e.g. The Landing at Park Place, Melco PUD, and the commercial office development opposite of Harvest Drive on the south side of Cedar Creek Grade). The proposed residential use toward the rear of the site and the proffered indirect extension of Stoneleigh Drive provides for a logical extension of the existing and proposed land uses in this specific segment of Cedar Creek Grade. The efforts to work joint access with the adjoining Horton property also represents good planning practice. Also, the effort by the applicant to situate the apartment buildings, at least 135 feet back from Cedar Creek Grade represents good planning, but the incorporation of some commercial development along Cedar Creek Grade would create better conformity with the ‘Commerce Revitalization/Infill’ designation shown in the Comprehensive Plan exhibit.

At the February 19, 2013 meeting, staff presented the Commission with three draft motions consisting of a completely favorable motion, a partially favorable motion, and an unfavorable motion. The favorable recommendation on **the entire request**, then a motion read:

MOVE, that the Planning Commission forward Rezoning **RZ-12-405** to City Council recommending approval because the proposed HR (PUD/CE) zoning, as proffered, supports the expansion of housing serving targeted populations and facilitates the extension of Stoneleigh Drive as called out in the Comprehensive Plan. The recommendation is subject to adherence with the Proffer Statement updated **February 18, 2013** and the updated Development Plan titled ‘CONCEPTUAL SITE LAYOUT PLAN Rezoning Exhibit “A”’ dated December 3, 2012.

The partially favorable recommendation on the request where City staff recommended that 2 acres be left RO-1 or considered for rezoning to B-2(PUD) instead read:

MOVE, that the Planning Commission forward Rezoning **RZ-12-405** to City Council recommending approval to rezone the rear 5.75 acre portion of the tract because the proposed HR (PUD/CE) zoning, as proffered, supports the expansion of housing serving targeted populations and facilitates the extension of Stoneleigh Drive as called out in the Comprehensive Plan. The recommendation is subject to adherence with the Proffer Statement updated **February 18, 2013** and the updated Development Plan titled ‘CONCEPTUAL SITE LAYOUT PLAN Rezoning Exhibit “A”’ dated December 3, 2012 except as to how it designates apartment development on the front two acres of the tract.

The motion for the unfavorable recommendation on the request read:

MOVE, that the Planning Commission forward Rezoning **RZ-12-405** to City Council recommending disapproval because the proposed HR (PUD/CE) zoning is less desirable than the existing RO-1(CE) zoning, creates potential negative impacts associated with multifamily development, and is inconsistent with the adopted Comprehensive Plan that calls for Commerce Revitalization/Infill in this area of the City.

At the February 19, 2013 meeting, on a 3-2-1 vote (Shore and Beatley opposing and Wiley abstaining), the Planning Commission forwarded Rezoning **RZ-12-405** to City Council recommending approval because the proposed HR (PUD/CE) zoning, as proffered, supports the expansion of housing serving targeted populations and facilitates the extension of Stoneleigh Drive as called out in the Comprehensive Plan. The recommendation was subject to adherence with the Proffer Statement updated February 18, 2013 and the updated Development Plan titled ‘CONCEPTUAL SITE LAYOUT PLAN Rezoning Exhibit “A”’ dated December 3, 2012. The applicant has since submitted updated Proffer Statement dated February 26th and March 20th. The substantive changes of the March 20, 2013 proffer revision address some of the concerns expressed by Planning Commissioners regarding the inclusion of some three-bedroom apartments.

The attached Ordinance has been revised to reflect the submittal of the March 20, 2013 version of the Proffer Statement.

At the March 26, 2013 Council work session, the Council President requested a follow-up staff memo specifying how the proposed project does or does not conform to the adopted Strategic Plan and the adopted Comprehensive Plan. An updated Council Action Memo (CAM) provides this information.

AN ORDINANCE TO CONDITIONALLY REZONE 7.74 ACRES OF LAND AT 940 CEDAR CREEK GRADE FROM RESIDENTIAL OFFICE (RO-1) DISTRICT WITH CORRIDOR ENHANCEMENT (CE) DISTRICT OVERLAY TO HIGH DENSITY RESIDENTIAL (HR) DISTRICT WITH PLANNED UNIT DEVELOPMENT (PUD) & CE DISTRICT OVERLAY
RZ-12-405

WHEREAS, the Common Council has received an application from Valley View Management, LLC to rezone property at 940 Cedar Creek Grade from Residential Office (RO-1) with Corridor Enhancement (CE) District overlay to High Density Residential (HR) District with Planned Unit Development (PUD) District overlay and Corridor Enhancement (CE) District overlay; and,

WHEREAS, the Planning Commission forwarded the request to Council on February 19, 2013 recommending approval of the rezoning request as depicted on an exhibit entitled “*Rezoning Exhibit RZ-12-405 Prepared by Winchester Planning Department February 12, 2013*” because the proposed HR (PUD/CE) zoning, as proffered, supports the expansion of housing serving targeted populations and facilitates the extension of Stoneleigh Drive as called out in the Comprehensive Plan. The recommendation is subject to adherence with the Proffer Statement updated February 18, 2013 and the updated Development Plan titled ‘CONCEPTUAL SITE LAYOUT PLAN Rezoning Exhibit “A”’ dated December 3, 2012; and,

WHEREAS, subsequent to the Planning Commission’s recommendation, the applicant has submitted an updated Proffer Statement dated March 20, 2013; and,

WHEREAS, a synopsis of this Ordinance has been duly advertised and a Public Hearing has been conducted by the Common Council of the City of Winchester, Virginia, all as required by the Code of Virginia, 1950, as amended, and the said Council has determined that the rezoning associated with this property herein designated supports the expansion of housing serving targeted populations and facilitates the extension of Stoneleigh Drive as called out in the Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Winchester, Virginia that the following land is hereby rezoned from the existing zoning designation of Residential Office (RO-1) with Corridor Enhancement (CE) District overlay to High Density Residential (HR) District with Planned Unit Development (PUD) District overlay and Corridor Enhancement (CE) District overlay:

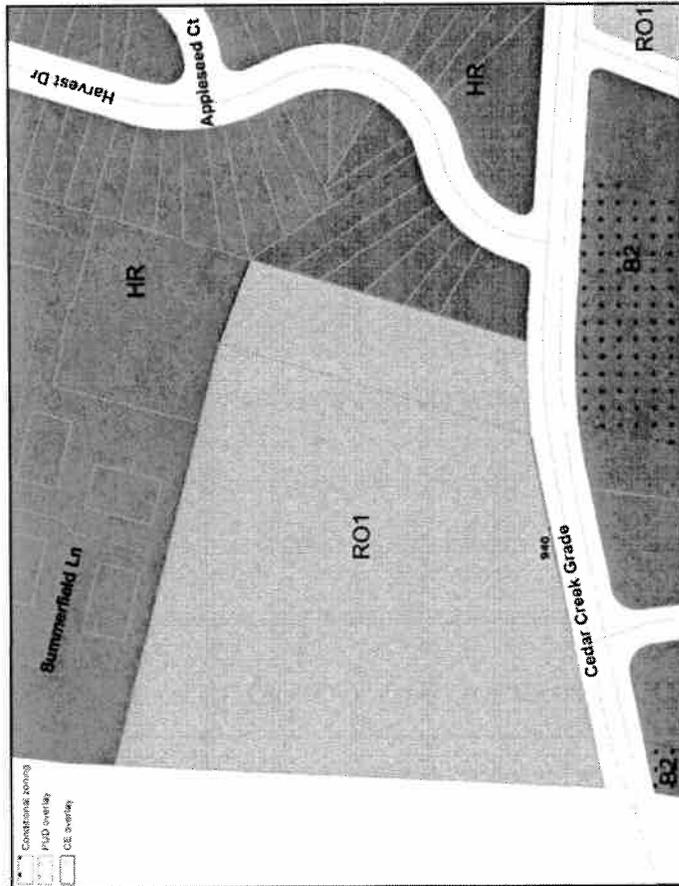
Approximately 7.74 acres of land at 940 Cedar Creek Grade, as depicted on an exhibit entitled “*Rezoning Exhibit RZ-12-405 Prepared by Winchester Planning Department February 12, 2013*”.

BE IT FURTHER ORDAINED by the Common Council of the City of Winchester, Virginia that the rezoning is subject to adherence with the Proffer Statement updated March 20, 2013 and the updated Development Plan titled ‘CONCEPTUAL SITE LAYOUT PLAN Rezoning Exhibit “A”’ dated December 3, 2012.

REZONING EXHIBIT

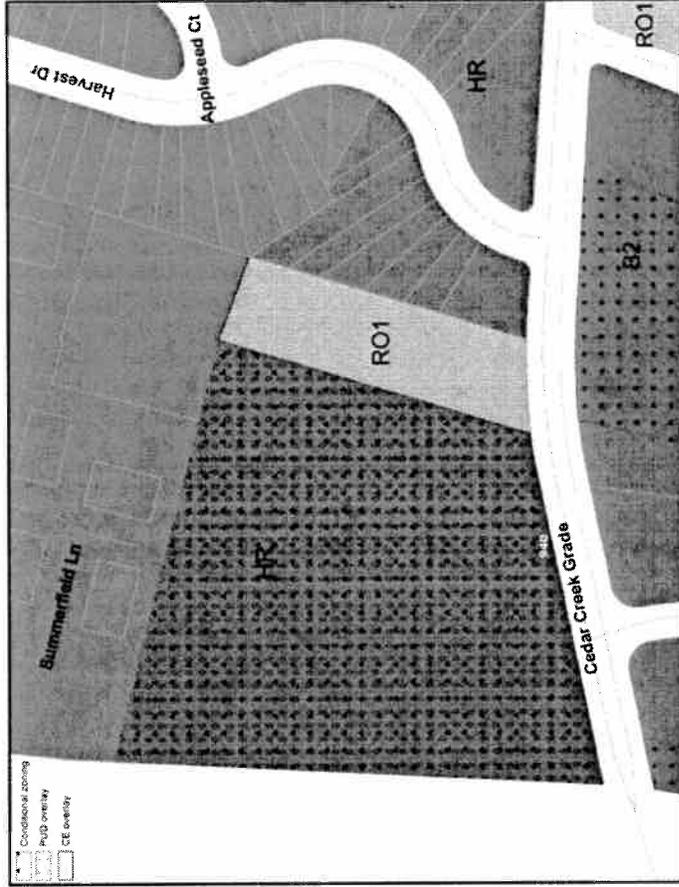
RZ-12-405

PREPARED BY WINCHESTER PLANNING DEPARTMENT
FEBRUARY 12, 2013



EXISTING

RO-1 (CE) ZONING FOR 940 CEDAR CREEK GRADE



PROPOSED

CONDITIONAL HR (PUD/CE) ZONING FOR 940 CEDAR CREEK GRADE

LAWSON AND SILEK, P.L.C.

120 EXETER DRIVE, SUITE 200
POST OFFICE BOX 2740
WINCHESTER, VA 22604
TELEPHONE: (540) 665-0050
FACSIMILE: (540) 722-4051

THOMAS MOORE LAWSON • TLAWSON@LSPLC.COM

March 20, 2013

Mr. Tim Youmans, Planning Director
City of Winchester
Rouss City Hall
15 North Cameron Street
Winchester, VA 22601

Re: Racy Meadows Apartment Complex
Rezoning Application: RZ-12-405
Our File No. 890.007

VIA E-MAIL

Dear Tim:

Thank you for your memo of earlier today. Enclosed please find revised Proffers for the above-referenced rezoning application. You will note that there has been a change in the bedroom mix. Specifically, the eighteen (18) three-bedroom units will now be two-bedroom units. Twenty-eight of those two-bedroom units will also have a study. Now there are no three-bedroom units. We are making this change in response to comments from members of Council that have expressed concerns that three-bedroom units may tend to generate more school children. As you know from our analysis of not only our units but also of other market-rate units as well as looking at information provided by the School Board, this has not been the case. Nevertheless, we are making this bedroom number change.

We understand that you will circulate these revised proffers as part of the Council Member's packets for the March 26th work session. Please allot a little extra time for the Applicant to make a presentation. Not only do we intend to go through the revised Proffers and also the work that has been done to address impacts but also to talk in depth about the fiscal impact of this new project. The Applicant has engaged Patz and Associates to perform a detailed fiscal analysis of this project. A summary of that analysis will be presented at the work session.

Tim Youmans, Planning Director

March 20, 2013

Page 2

Thank you for your continued assistance and cooperation. I look forward to meeting with everyone at the work session. As always, if you have any questions, please do not hesitate to contact me.

Very truly yours,

/s/ Thomas Moore Lawson

Thomas Moore Lawson

TML:jk

Enclosure

cc: Valley View Management LLC
Mr. Tim Painter

**RACEY MEADOWS APARTMENT COMPLEX
REZONING REQUEST PROFFER
(Conditions for this Rezoning Request)**

**Tax Map Number: 249-01-2
Owner: Lester E. Racey & Hilda C. Racey
Applicant: Valley View Management LLC**

**Revision Dates: August 6, 2012, January 9, 2013, February 18, 2013, February 26, 2013,
March 20, 2013**

Property Information

The undersigned applicant hereby proffers that in the event the Council of the City of Winchester (Council) shall approve the rezoning of 7.74 acres from Residential Office District (RO-1) to High Density Residential District (HR) with a Planned Unit Development District (PUD) overlay and maintaining the Corridor Enhancement District (CE), then development of the subject property shall be done in conformity with the terms and conditions as set forth herein, except to the extent that such terms and conditions may be subsequently amended or revised by the applicant and such be approved by the Council in accordance with Virginia law. In the event that such rezoning is not granted, then these proffers shall be deemed withdrawn and have no effect whatsoever. These proffers shall be binding upon the applicant and their legal successor or assigns.

Any and all proffers and conditions, accepted or binding upon the aforementioned property, as a condition of accepting these proffers, shall become void and have no subsequent effect.

Site Planning Improvements

The undersigned applicant, who is acting on behalf of the owners of the above described property, hereby voluntarily proffers that, if the Council of the City of Winchester approves the rezoning, the undersigned will provide:

- 1. Street and Access Improvements:**
 - ❖ Design and construction of approximately 830 feet of Private Street from the existing Cedar Creek Grade Right-of-Way to the private street section of Stoneleigh Drive in the Summerfield Luxury Apartment Complex to the north of this property.
 - ❖ A connection to the Frederick County line shall be planned to connect to the development to the future Birchmont Drive and its possible signalized intersection with Cedar Creek Grade.
 - ❖ Traffic calming measures shall be installed along this private street section to lessen the adverse effects of through traffic in this apartment complex development.

2. Interior Site Circulation:

- ❖ Access shall be provided via interior driveways and drive aisles which connect to the proposed private street section to provide the needed access to Cedar Creek Grade Roadway.

3. Site Development:

- ❖ A minimum separation distance of thirty-two feet (32') shall be maintained between all building pads.
- ❖ A minimum separation distance of sixteen feet (16') shall be maintained between all building lines and the face of curb of the adjacent parking areas.
- ❖ All building restriction setbacks in accordance with the underlying High Density Residential District (HR) shall be maintained with this development to maintain the desired setback requirements between the adjacent parcels and differing residential uses.
- ❖ No buildings shall be constructed closer than fifty feet (50') to the Cedar Creek Grade Right-of-Way, and no apartment building will be constructed closer than one hundred thirty-five feet (135') from the Cedar Creek Grade Right-of-Way.
- ❖ Applicant agrees to construct no more than seventy-two (72) one-bedroom apartment units, and sixty (60) ~~forty two (42)~~ two-bedroom apartment units, ~~and eighteen (18) three bedroom apartments units.~~
- ❖ Applicant proffers that the quality of construction will not be less than the quality of construction of its existing Stuart Hill Apartment complex.

4. Landscaping and Design:

- ❖ A fifty foot (50') active recreation and landscaping buffer shall be provided along the Cedar Creek Grade Right-of-Way. Twenty-five feet (25') of this buffer shall be dedicated to landscaping. Extensive landscaping shall be provided in this 25' buffer that consists of a minimum of two plants per ten linear feet with one half of the plants being evergreen and one half being deciduous. Minimum evergreen plant height, at the time of planting, shall be six feet. The landscaping plan shall be incorporated as part of the site development plans. This landscaping plan shall be approved by the Planning Commission as part of the design of these areas.
- ❖ In the other perimeter areas of the site where existing residential developments have been constructed, specifically along the eastern and northern boundary lines, an opaque screen consisting of an evergreen hedgerow or double row of evergreens shall be constructed. Pursuant to City of Winchester ordinances applicant shall submit for review and approval landscape, lighting and other required plans. Applicant understands that the property is in an area which is subject to a PUD overlay and that the property will be subject to the requirements of the same.

5. Recreation:

- ❖ As stated above, a fifty foot (50') active recreation and landscaping buffer shall be provided along the Cedar Creek Grade Right-of-Way. Twenty-five feet (25') of this buffer shall be dedicated to active recreation for use by the residents of this development and the local public. The active recreation element shall consist of an eight foot (8') walking trail that will become part of the City of Winchester's local trail system.
- ❖ Additionally, a combination tennis/basketball court shall be constructed as part of this development that shall be available for public use as well.
- ❖ At their completion and in accordance with the directives of the Winchester Parks and Recreation Department (WP&RD), these active recreation structures shall be owned by the applicant but shall be made available for use by residents of the City of Winchester taking first into account the recreational needs for use of these facilities by the residents of the apartment complex and to become part of the City-wide satellite parks system.

6. Storm Water Management:

- ❖ All storm water management and storm water quality facilities shall be installed underground in accordance with the standards and specifications of the Winchester Public Works Department. These facilities shall be maintained by the owner of the development and be constructed so as to secure the safety of the public at all times.

Density

Total Number of One-Bedroom Units:	72
Total Number of Two-Bedroom Units*:	4260
Total Number of Three-Bedroom Units:	18
Percentage of Tract to be Occupied by Structures:	__%
Percentage of Tract to be Open Space:	__%

*28 of the Two-Bedroom Units will also have a Study

Community Rules and Regulations

The apartment complex shall operate under rules and regulations which shall be generated and amended from time to time by the owner of the apartment complex. Attached and incorporated to this proffer statement are examples of the rules and regulations which will be appended to and made a part of the lease agreements with all of the tenants within the apartment complex. The applicant proffers to maintain rules and regulations in order to ensure the quality of the apartment complex.

Phasing

Applicant proposes to commence construction on all units within this complex at the same time but does expect that certain units will be delivered for occupancy before others. As part of the overall construction, however, the roadway connections as depicted on the attached and incorporated layout plan will be installed and will have at least a base coat of asphalt on them at the time of occupancy of the first apartment building.

The conditions proffered above and in accordance with the accompanying rezoning exhibit, entitled Racey Meadows Apartment Complex Conceptual Site Layout Plan Exhibit "A" dated December 3, 2012, and as prepared by Painter-Lewis, P.L.C., are presented as a conceptual plan only. The final plan shall be developed after it has been submitted, reviewed and approved by the City of Winchester and as the applicant proceeds through the various approval processes required by the City of Winchester shall be binding upon the heirs, executors, administrators, assigns and successors in interest of the applicant and owner. In the event the Council grants said rezoning and accepts these conditions, the proffered conditions shall apply to the land rezoned in addition to other requirements set forth in the City of Winchester Code.

Respectfully submitted,

APPLICANT

Valley View Management LLC
By: Robert A. Cocker
Its: Manager

Date: _____

STATE/Commonwealth of _____,
CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me this ____ day of February, 2013, by Robert A. Cocker, Manager of VALLEY VIEW MANAGEMENT LLC.

Notary Public

My commission expires: _____.
Registration Number: _____.

PROPERTY OWNER

Hilda C. Racey

Date: _____

STATE/Commonwealth of _____,
CITY/COUNTY OF _____, to-wit:

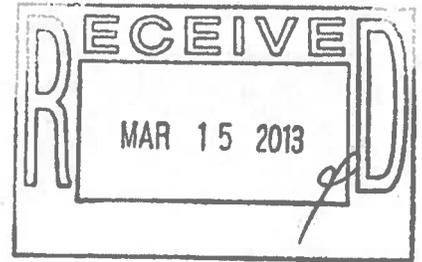
The foregoing instrument was acknowledged before me this _____ day of February, 2013, by HILDA C. RACEY.

Notary Public

My commission expires: _____.
Registration Number: _____.

March 11, 2013

Councilors of the City of Winchester
Rouss City Hall
Winchester, Virginia 22601



My most sincere salutation to our entrusted elected officials,

I am writing to you on behalf of my aunt, Mrs. Lester Racey regarding the impending rezoning of her property at 940 Cedar Creek Grade, Winchester, Virginia. Please be assured that the information and sentiments in this letter are the wished and expressed sentiments of Mrs. Racey.

My great uncle and aunt purchased eight acres of ground in 1955 for the purpose of building their residence. At that time the property was in the jurisdiction of Frederick County, Virginia. In 1960 Mr. Racey established a cabinet and furniture business at 940 Cedar Creek Grade. The property was annexed by the City of Winchester in 1974, at which time Mr. Racey filed his business license with the City of Winchester and maintained his business license until retiring in 2001. He was known in the community as an honest and dedicated craftsman and businessman. His work can be seen and appreciated at many historic landmarks in the City of Winchester.

In 2005 Mr. and Mrs. Racey, then in their eighties, decided to list their property at 940 Cedar Creek Grade. The property was listed at an asking price of \$3,500,000 with Mr. Ed Ambrose of Oakcrest Realty as seller's agent. The property was listed for two years and was unsuccessful in attracting any buyers. In 2007 the property was again listed with Sperry VanNess with Mrs. Betty Friant as seller's agent. It was at this time that the property was rezoned from residential to RO1. Mr. Racey was hesitant in doing so, but was urged by Mrs. Friant that it would be more attractive to potential buyers. The adverse effect of this rezoning has been the tremendous financial burden put upon Mr. and Mrs. Racey. Their yearly tax bill went from \$7200.00 to \$24,000.00 per annum. Since the original listing in 2005, the market sale price of the property has dropped by 50% while the tax assessment has remained the same. Mrs. Racey's current city tax bill is \$36,000.00 per annum. The Racey's had made inquiries on numerous occasions to past Commissioner of Revenue, Mr. Russell and current Commissioner, Mrs. Burkholder. The Racey's have had the property valuated by several realtors in the Winchester community who have concurred the tax assessment is not in keeping with current market trends. The Racey's inquired about having their property rezoned to its previous zoning of residential and were told by Mr. Youman's and Mrs. Burkholder that it "may not be favorable." This undeveloped property continues to have one of the highest assessments in the City of Winchester.

The listing on the property expired in July of 2012 with a listing price at that time of \$2,200,000. In late July Mr. Bob Cocker made inquiry about the property through past seller's agent Mr. Brett Haynes. An offer was presented and Mrs. Racey made a request to meet with Mr. Cocker to discuss details of purchase. The rezoning request is being made by Mrs. Racey to satisfy the terms of sale. The property has been on the market for eight years with only the interest of Mr. Cocker. The city has continued need for the type of housing this rezoning would provide. Surrounding property is of similar zoning to which Mr. Cocker is requesting. Mr. Cocker has had a favorable relationship with the City of Winchester, being forthright and timely in his negotiations with my aunt, and the city planning commission. In speaking to several local real estate firms regarding the property at 940 Cedar Creek Grade, no other buyers have come forward due to the city's saturation of RO1 space. As a city resident and taxpayer I would like to point out the availability of RO1 designated properties; vacant office buildings on Jubal Early Drive and new office buildings being erected on Amherst Street at this time. If this property were to be developed single family it would have tremendous financial implications on the city's delicate infrastructure. Mr. Cocker has spent a great deal of time and money answering the planning commission's varied study requests. I ask that you give serious consideration to Mrs. Racey's rezoning request so that she may be relieved of the tremendous mental, physical, and financial burdens caused by attempts to sell her property. She and my late uncle have been devoted citizens and generous taxpayers to the City of Winchester for many years. Mrs. Racey strongly requests that Council give careful and favorable consideration to this zoning request. Thank you for your time and consideration regarding this matter.

Sincerest regards,

Jason Largent, nephew of Mrs. Lester Racey & Resident 561 West Bellview Avenue, Winchester, Virginia

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 3/26/13 (work session), **CUT OFF DATE:** 3/20/13
4/9/13 (regular mtg)

RESOLUTION ___ **ORDINANCE** ___ **PUBLIC HEARING** X

ITEM TITLE:

CU-12-85 Request of Glaize Properties for a conditional use permit for conversion of ground floor nonresidential use to residential use at 110 East Fairfax Lane zoned Central Business (B-1) District with Historic Winchester (HW) District overlay.

STAFF RECOMMENDATION:

Approval with 1 condition

PUBLIC NOTICE AND HEARING:

Public hearing for 4/9/13 Council mtg

ADVISORY BOARD RECOMMENDATION:

Planning Commission recommended approval with 1 condition

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. Zoning & Inspections	<u>AMG</u>	_____	<u>3/20/13</u>
2. City Attorney	<u>aw</u>	_____	<u>3/20/2013</u>
3. City Manager	<u>[Signature]</u>	_____	_____
4. Clerk of Council	_____	_____	_____

Initiating Department Director's Signature: [Signature] 3/20/13
 (Planning Dept)



APPROVED AS TO FORM:

[Signature] 3/20/2013
CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Mayor and Members of City Council
From: Tim Youmans, Planning Director
Date: March 20, 2013
Re: CUP-13-85

THE ISSUE:

Conversion of ground-floor nonresidential space to single-family residential use

RELATIONSHIP TO STRATEGIC PLAN:

Vision 2028 states that Winchester has a 'Vibrant Downtown' and 'Great Neighborhoods with a range of housing choices'. Continued Revitalization of Historic Old Town is a 2018 Goal.

BACKGROUND:

See attached staff report

BUDGET IMPACT:

None

OPTIONS:

- Approve with condition recommended by Planning Commission
- Approve with revised condition eliminating ground floor front bedroom
- Deny because proposed use is not as desirable as non-residential use

RECOMMENDATIONS:

Planning Commission recommended approval including ground floor bedroom with 1 condition as noted in staff report. Staff also offered 2nd option to approve without ground floor bedroom.

Council Worksession
March 26, 2013

CU-13-85 Request of Glaize Properties for a conditional use permit for conversion of ground floor nonresidential use to residential use at 110 East Fairfax Lane (*Map Number 173-01-S-1*) zoned Central Business (B-1) District with Historic Winchester (HW) District overlay.

REQUEST DESCRIPTION

The request is for Conditional Use Permit (CUP) approval under Section 9-2-16 of the Zoning Ordinance pertaining to conversion of nonresidential ground floor area to residential use. The entire two-story structure is proposed for conversion from a former lumber company shipping office to a single-family residence and includes a ground floor bedroom toward the front.

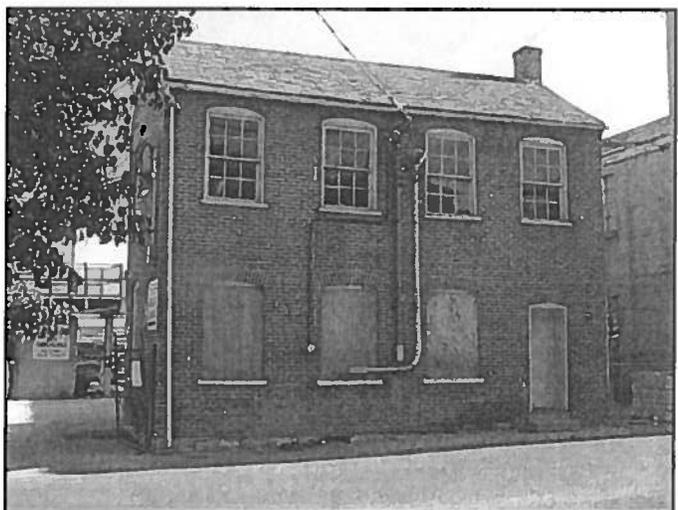
AREA DESCRIPTION

The property and all adjoining properties along both sides of E. Fairfax Lane are zoned B-1 with Historic Winchester (HW) overlay District. Land on the opposite (east) side of the CSX railroad is zoned Residential-Business (RB-1) with Historic Winchester (HW) overlay District. The subject stretch of E. Fairfax Lane has structures associated with the former lumber company use which has ceased. The structures immediately to the west and north are undergoing conversion to mixed use including residential on the upper levels. The site falls within the 100% parking exempt district.



STAFF COMMENTS

The CUP request for conversion of the former ground-floor office space to residential use is outlined in a letter to the City dated January 31, 2013 from Mr. Phillip Glaize and Mr. Richard Helm, both managing partners of Glaize Properties. This request applies to the existing brick structure at 110 E. Fairfax Lane. The structure has an exterior appearance that resembles a single-family dwelling. The door and window openings are typical of a dwelling rather than a commercial storefront. The building currently has a doorway directly oriented to E. Fairfax Lane and there is very little distance between the front of the structure and the public street. One of the two proposed bedrooms is proposed on the ground floor out towards the street.



Staff suggested that the applicant reconsider having a bedroom this ground floor bedroom out so close to the public street and sidewalk and instead just have the one larger single bedroom upstairs. The Planning Director has determined that this segment of E. Fairfax Lane does not represent a major commercial street and would suggest that City Council could find the ground-floor residence to be as suitable as nonresidential reuse.

RECOMMENDATION

For a conditional use permit to be approved, Council must find 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.

Two favorable motions were offered to the Planning Commission for consideration. The first option would support the request with the first floor front bedroom and reads:

MOVE, that the Planning Commission forward **CU-13-85** to City Council recommending approval per Sections 9-2-16 of the Zoning Ordinance because the proposal, **as submitted**, 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. The approval is based upon City Council finding that the proposed ground-floor residential unit is as suitable or preferable to other permitted uses on the ground floor and is subject to the following:

1. Conformity with the floor plans depicting a two-bedroom dwelling with no more than one bedroom on the ground floor.

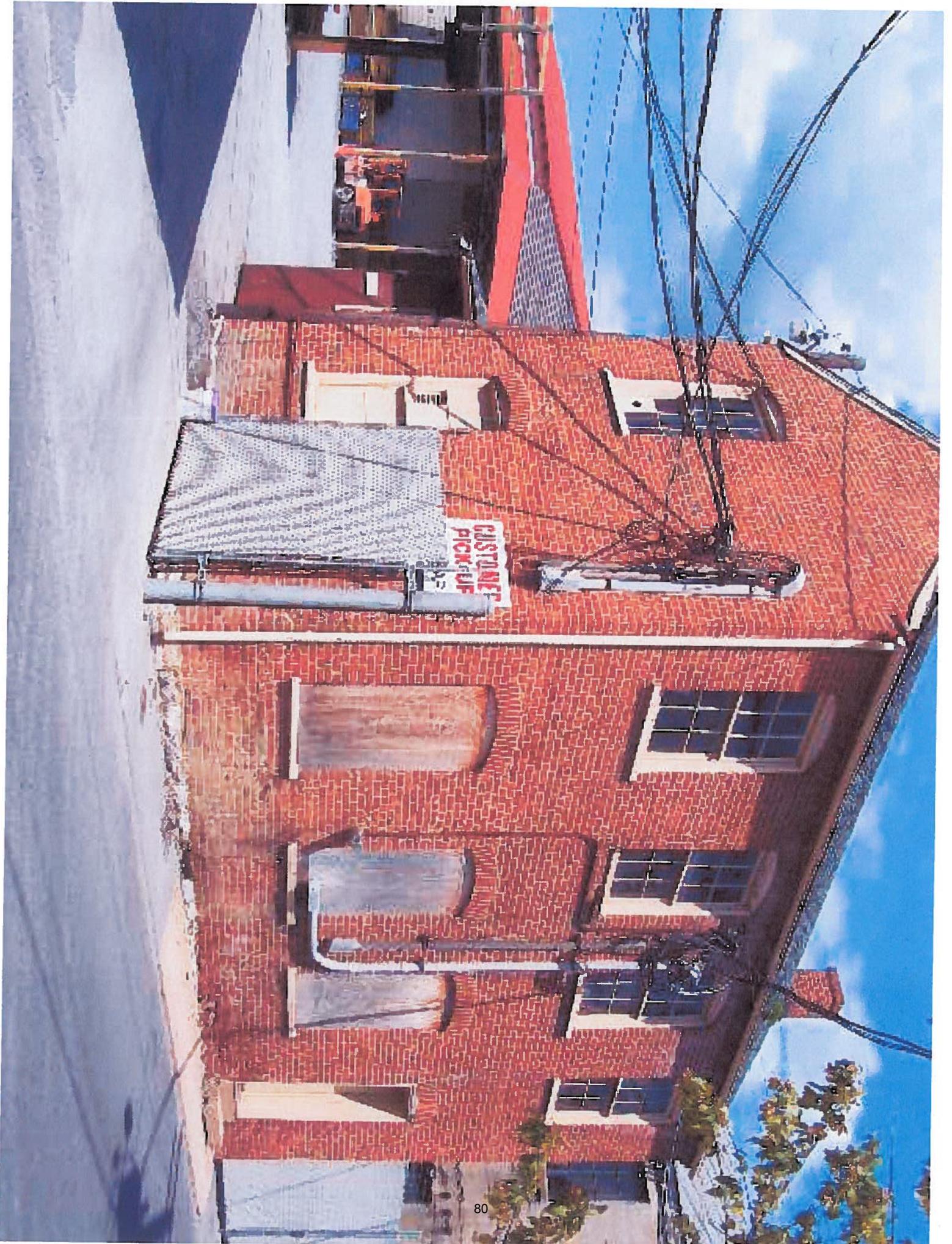
The second option would support the request without the first floor front bedroom and reads:

MOVE, that the Planning Commission forward **CU-13-85** to City Council recommending approval per Sections 9-2-16 of the Zoning Ordinance because the proposal, **as modified to eliminate the ground floor bedroom oriented toward the street**, 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. The approval is based upon City Council finding that the proposed ground-floor residential unit is as suitable or preferable to other permitted uses on the ground floor and is subject to the following:

1. Modifying the floor plans to depict a one-bedroom dwelling with one bedroom on the upper floor only.

At its March 19, 2013 meeting, the Planning Commission on a 4-0-1 vote forwarded CU-13-85 to City Council recommending approval per Sections 9-2-16 of the Zoning Ordinance because the proposal, **as submitted**, 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. The approval is based upon City Council finding that the proposed ground-floor residential unit is as suitable or preferable to other permitted uses on the ground floor and is subject to the following:

1. Conformity with the floor plans depicting a two-bedroom dwelling with no more than one bedroom on the ground floor.





EXIST ASPHALT
SHINGLE ROOF

FIN. FL. + 4.5' = 14.5'

FIN. FL. + 12.5' = 10.5''

FIN. FL. + 4.5'

FIN. FL. + 12.5'

RESTORE ORIGINAL
WINDOWS

RESTORE ORIGINAL
DOOR

EAST FAIRFAX LANE

SHIPPING BLDG: FINISH SOUTH ELEVATION

1/4" = 1'-0"

GLAIZE PROPERTIES

PO BOX 2077

WINCHESTER, VA 22604

January 31, 2013

City of Winchester
Planning Commission
15 North Cameron Street
Winchester, Va. 22601

Planning Commission Members:

Glaize Properties is in the process of redeveloping the former Glaize Lumber Company property at the corner of North Cameron Street and Fairfax Lane. Included in this redevelopment is the former shipping office located at 110 Fairfax Lane.

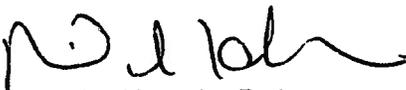
This request is to allow the ground floor conversion of the shipping office to residential use. The shipping office is a small building, measuring less than 680 square feet on the first floor, which would be difficult to market as commercial space. It is not on a major commercial street. The exterior appearance resembles a residential dwelling with no commercial windows.

The site plan for the redevelopment calls for a courtyard which would visually connect this building with the residential units on the second floor of the Cameron Street buildings adjoining this property to the West.

This property is part of the OLD TOWN/NORTH CENTRAL GEOGRAPHIC PLANNING AREA. The Comprehensive Plan suggests that efforts be taken to promote residential or mixed use in this area. The conversion of this small building to residential in conjunction with the redevelopment of the retail and residential use of the adjoining Cameron Street property would be compatible with the mixed use of residential and retail envisioned by the Comprehensive Plan.

Thank you for your consideration of this request.


Phillip Glaize, Managing Partner


Richard Helm, Managing Partner

R-2013-21

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: March 26, 2013 CUT OFF DATE: __

RESOLUTION X ORDINANCE ___ PUBLIC HEARING ___

ITEM TITLE: Approval of Consolidated and Annual Action Plan

STAFF RECOMMENDATION: Provisional Approval Pending Future Public Comment

PUBLIC NOTICE AND HEARING: Authorize advertisement of proposed use of CDBG and HOME funds for Consolidated and Annual Action Plan for purposes of receiving public comment and hold public hearing April 9th, 2013.

ADVISORY BOARD RECOMMENDATION: The City's Community Development Committee and Northern Shenandoah Valley Regional Commission's Housing & Community Services Policy Board have discussed and recommend the attached proposal

FUNDING DATA: CDBG and HOME Allocation

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. Finance	<i>[Signature]</i>		<u>3-15-13</u>
2. _____			
3. _____			
4. _____			
5. City Attorney	<i>[Signature]</i>		<u>3/18/2013</u>
6. City Manager	<i>[Signature]</i>		
7. Clerk of Council			

Initiating Department Director's Signature: *[Signature]* 3-15-13
Date



APPROVED AS TO FORM:

[Signature] 3/15/2013
CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Tyler Schenck, Grants Coordinator and Project Specialist
Date: March 26, 2013
Re: The City of Winchester's Adoption of the New Consolidated Plan and Annual Action Plan

THE ISSUE: Recipient jurisdictions of Community Development Block Grant, HOME Investment Partnership, Emergency Shelter or Housing for Persons with AIDS/HIV program funding must submit to the US Department of Housing and Urban Development (HUD) a Consolidated Plan for use of federal funds on a 3, 4, or 5-year frequency as well as an Annual Action Plan for use of specific allocations in a given fiscal year.

RELATIONSHIP TO STRATEGIC PLAN: Allocations will be used to help create a more livable City for all.

BACKGROUND: FY14 allocations from HUD have not been announced at this time, and the CDBG and HOME proposed activities are subject to the availability of funding and subject to revisions. The Consolidated and Annual Action Plans are awaiting provisional Council approval and will be final upon the conclusion of the public comment period. The Plans are subject to final revisions by staff and public comment after Council approval until the conclusion of the public comment period at 11:59PM on April 9th, 2013. The proposed breakdown of this year's Annual Action Plan for CDBG and HOME funding is displayed below:

- 100% to repayment of Section 108 Loan for the Taylor Hotel Rehabilitation Project
- In the Northern Shenandoah Valley Region the Policy Board recommended the following allocation of HOME funds for FY14:
 - Up to 25% to Homeownership Activities
 - Up to 30% to Homeowner Rehabilitation Activities
 - Up to 20% to Tenant Based Rental Assistance
 - Minimum of 15% to local CHDO's as the eligible set-aside
 - Maximum of 10% to Administrative Activities

The proposed allocation of CDBG and HOME funds over the life of the Consolidated Plan (five years) is listed below:

- 100% to repayment of Section 108 Loan for the Taylor Hotel Rehabilitation Project
- In the NSV Region, the Policy Board recommended the following allocation of HOME funds over the life of the Consolidated Plan (5 years):
 - 20% to Homeownership Activities
 - 30% to Homeowner Rehabilitation Activities

- 25% to Rental Housing Development and/or Tenant Based Rental Assistance
- 10% to local CHDO's as the eligible set-aside
- 5% to local CHDO's as the eligible seed funding
- 10% to Administrative Activities

BUDGET IMPACT: The adoption of the Consolidated and Annual Action Plan dictates how CDBG and HOME funds will be allocated for the duration of the Plans.

OPTIONS: Council may approve or disapprove either of the Plans

RESOLUTION

WHEREAS, agencies that receive U.S. Department of Housing and Urban Development (HUD) funds must prepare and submit a five year Consolidated Plan and an annual Action Plan; and

WHEREAS, the City of Winchester desires to receive HUD funds to develop a viable urban community and to expand economic opportunities; and

WHEREAS, the City of Winchester has developed a Consolidated Plan and an Action Plan and has satisfactorily followed HUD requirements for the creation of each.

THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WINCHESTER, AS FOLLOWS:

SECTION 1. The adoption of this Resolution shall serve as provisional approval of the Consolidated Plan and the Annual Action Plan pending final public comment.

SECTION 2. The Mayor, or presiding officer, is hereby authorized to affix his or her signature to this Resolution signifying its adoption by the City Council of the City of Winchester, and the City Clerk, or her duly appointed deputy, is directed to attest thereto.

SECTION 3. The City Manager, or his designee, is directed to submit the Consolidated Plan and Annual Action Plan to the U.S. Department of Housing and Urban Development.



Executive Summary

ES-05 Executive Summary

1. Introduction

This Consolidated Plan covers program years 2013-2017 (fiscal years 2014-2018). The Plan was developed through a comprehensive planning process involving a cross section of citizens, local government staff and representatives of low and moderate income individuals. Input was solicited through a series of public meetings scheduled specifically to discuss priority needs in the service area. This Plan will serve as the blueprint for affordable housing and community development activities funded through the CDBG and HOME programs in the City of Winchester and Northern Shenandoah Valley Region, respectively. It will also hopefully serve as a guide to private sector involvement in affordable housing and community development and provide helpful information to local community

organizations partnering with the City of Winchester and HOME Consortium. The Northern Shenandoah Valley Region consists of the City of Winchester, and Counties of Clarke, Frederick, Page, Shenandoah and Warren as well as all of the Towns located therein.

The purpose of the Consolidated Plan is to identify a community's housing and community development needs, priorities, goals and strategies, and to stipulate how funds will be allocated to housing and community development activities.

2. Summary of the objectives and outcomes identified in the Plan Needs Assessment Overview

The Consolidated Plan has three parts: a Needs Assessment, Market Analysis and Strategic Plan. On an annual basis, an Action Plan is submitted to HUD which details specific goals, objectives and measurable outcomes for the program year. Below is a summary of each section of the Consolidated Plan.

This Needs Assessment is a tool for organizing and analyzing information specific to the Northern Shenandoah Valley region relating to housing, homelessness and other community development needs. The purpose of this assessment is to identify any outstanding gaps or needs for housing and how, when, and where to address local housing issues. Needs identified include: the cost burden of housing, prevalence of substandard housing and units lacking complete plumbing, need for services and facilities to support homeless and nearly homeless persons and a overall need to improve community infrastructure and services especially in the most dense areas of the region.

The Market Analysis outlined the current market conditions that have resulted in a change in the supply of housing stock in the area. The downturn in the homebuyer market has resulted in a more relaxed rental market. Especially in the case of units converted from owner to rental, prices are falling. However, the reality still remains that there is a need for affordable housing in the area.

While income levels within the Northern Shenandoah Valley region have risen consistently over the past several decades, income has not kept pace with increases in the region's housing supply costs. As such, a substantial housing cost burden has appeared as described below, even for those individual and families above the defined poverty level.

The purpose of the Market Analysis section is to provide a snapshot of the environment in which the region will administer its programs over the course of the Consolidated Plan.

The Strategic Plan represents a coordinated effort to meet needs of low and moderate income individuals and families throughout the region. In order to efficiently develop strategies to meet identified priority needs, two advisory groups were initiated to steer the planning process. In the City of Winchester, the Community Development Committee is a City Council appointed body of Winchester Citizens responsible for oversight of the CDBG program; the Housing and Community Services Policy Board is comprised of appointed representatives from each of the HOME Consortium member

jurisdictions. Both advisory bodies are charged with evaluating data, citizen input and community characteristics to determine priority needs and most appropriate strategies to meet those needs.

This Strategic Plan articulates application of percentage of anticipated funding for eligible activity areas in each of the HUD funded programs. In Winchester City, the Community Development Committee recommended the following allocation of funds over the life of the Consolidated Plan (5 years):

- 100% to repayment of Section 108 Loan for the Taylor Hotel Rehabilitation Project

In the NSV Region, the Policy Board recommended the following allocation of HOME funds over the life of the Consolidated Plan (5 years):

- 20% to Homeownership Activities
- 30% to Homeowner Rehabilitation Activities
- 25% to Rental Housing Development and/or Tenant Based Rental Assistance
- 10% to local CHDO's as the eligible set-aside
- 5% to local CHDO's as the eligible seed funding
- 10% to Administrative Activities

3. Evaluation of past performance

The 2008-2012 Consolidated Plan was the Region's first Strategic Plan for identifying and addressing community development and housing needs. Over the course of the Plan, the City of Winchester (CDBG program) and the Northern Shenandoah Valley Regional Commission (HOME program) were able to successfully implement a diverse range of program and projects including: community infrastructure improvement, homeless prevention, neighborhood improvements, homeownership development, development of new rental units, revitalization of substandard rent and single-family housing, rental assistance and foreclosure mitigation. The program and projects reached all five (5) counties and towns in the Northern Shenandoah Valley.

4. Summary of citizen participation process and consultation process

The Plan was developed through a comprehensive planning process involving a cross section of citizens, local government staff and representatives of low and moderate income individuals. Input was solicited through a series of public meetings scheduled specifically to discuss priority needs in the service area.

The Northern Shenandoah Valley Regional Commission (NSVRC) in its role as a local body for regional collaboration has actively solicited input from public and private entities to enhance its consolidated

planning activates. The NSVRC has a regional Housing & Community Services Policy Board (HCSPB) that meet's bi-monthly and is composed of local leaders representing the health care, education, social services, real estate, workforce investment, economic development, special interest, government and planning sectors. This body serves as the principle group for the evaluation for the consortiums effort to undertake housing and development activities with federal funds (primarily HOME). Advising the process is a stakeholder Technical Advisory Network (TAN) comprise of regional housing, homelessness and other service providers. This regional forum meets bi-monthly and advises the HCSPB on housing and community development activities. This coordination creates a comprehensive network of local experts providing input, outreach and feedback on HOME funded activities to meet the local market conditions.

The City of Winchester utilizes a Community Development Committee (CDC) comprised of City elected officials, key staff, non-profits, and other local stakeholders to inform community development activities, primarily those related to public infrastructure, within the City of Winchester.

5. Summary of public comments

No public comments were received.

6. Summary of comments or views not accepted and the reasons for not accepting them

No public comments were received.

7. Summary

To recap, this Consolidated Plan covers program years 2013-2017 (fiscal years 2014-2018). The Plan was developed through a comprehensive planning process involving a cross section of citizens, local government staff and representatives of low and moderate income individuals. Input was solicited through a series of public meetings scheduled specifically to discuss priority needs in the service area. This Plan will serve as the blueprint for affordable housing and community development activities funded through the CDBG and HOME programs in the City of Winchester and Northern Shenandoah Valley Region, respectively.

This Strategic Plan articulates application of percentage of anticipated funding for eligible activity areas in each of the HUD funded programs.

The Process

PR-05 Lead & Responsible Agencies

1. Agency/entity responsible for preparing/administering the Consolidated Plan

The following are the agencies/entities responsible for preparing the Consolidated Plan and those responsible for administration of each grant program and funding source.

Agency Role	Name	Department/Agency
Lead Agency	WINCHESTER	

Table 1 – Responsible Agencies

Narrative

The City of Winchester serves as the grantee for Community Development Block Grant (CDBG) and HOME Investment Partnership (HOME) entitlement funds. The City of Winchester has delegated administration of the HOME program through a written agreement to the Northern Shenandoah Valley Regional Commission (NSVRC). NSVRC is responsible for the development of the five-year consolidated plan.

Consolidated Plan Public Contact Information

M. Tyler Klein

Community Development Planner, Northern Shenandoah Valley Regional Commission

400 E Kendrick Lane, Front Royal VA, 22630

Tyler Schenck

City of Winchester

15 South Cameron Street, Winchester VA, 22601

Expected Resources

AP-15 Expected Resources Introduction

Anticipated resources identified below were prorated based on 2012 CDBG and HOME entitlement allocations. All anticipated resources are estimates; leveraged funds will also be necessary to ensure project implementation and meeting Consolidated Plan goals.

Anticipated Resources

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 1				Expected Amount Available Remainder of ConPlan \$	Narrative Description
			Annual Allocation: \$	Program Income: \$	Prior Year Resources: \$	Total: \$		
CDBG	public - federal	Acquisition Admin and Planning Economic Development Housing Public Improvements Public Services					Anticipated resources for CDBG funds will be utilized over the next five (5) years for the re-payment of the Section 108 Loan awarded to the City of Winchester in 2012.	
HOME	public - federal	Acquisition Homebuyer assistance Homeowner	0	0	0	0	Anticipated resources for HOME funds estimated using 2012 allocation prorated at an equal amount of the five (5) year period of the Consolidated Plan.	
						771,000		
			0	0	0	0	1,760,000	

Annual Action Plan
2013

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 1			Expected Amount Available Remainder of ConPlan	Narrative Description
			Annual Allocation: \$	Program Income: \$	Prior Year Resources: \$		
		rehab Multifamily rental new construction Multifamily rental rehab New construction for ownership TBRA				\$	

Table 1 - Expected Resources – Priority Table

Explain how federal funds will leverage those additional resources (private, state and local funds), including a description of how matching requirements will be satisfied

Federal funds will be leverage to supplement resources to achieve goals outlined in the Consolidated Plan. Additional resources (private, state and local funds) will be necessary to implement projects and programs on an annual basis. Subsidy layer analysis will be conducted for all funded projects to ensure that federal funds represent a small percentage of all project funding.

If appropriate, describe publically owned land or property located within the jurisdiction that may be used to address the needs identified in the plan

There is no public owned lane or property located within the appropriate jurisdictions that will be used to address the needs identified in the plan.

Discussion

Annual Goals and Objectives

AP-20 Annual Goals and Objectives

Goals Summary Information

Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
Create and Enhance Economic Opportunities	2013	2017	Non-Housing Community Development	CDBG TARGET AREA			Other: 1 Other

Table 2 – Goals Summary

Estimate the number of extremely low-income, low-income, and moderate-income families to whom the jurisdiction will provide affordable housing as defined by HOME 91.215(b)

Projects

AP-38 Project Summary Project Summary Information

No.	Project	Goals Supported	Geographic Areas	Needs Addressed	Funding
1	TENANT BASED RENTAL ASSISTANCE	Provide Safe, Affordable, and Accessible Housing	HOME TARGET AREA - Other	Creates Stable Housing Situations	
	Description	Tenant Based Rental Assistance program serving: Clarke, Frederick, Warren, Shenandoah & Page Counties. Program provides short-term rental assistance in the form of security deposits and first-months rent to qualified low-income persons (including homeless and nearly homeless persons). Program also will provide security deposits for utilities and first-months payments.			
2	Planned Activities	Program provides short-term rental assistance in the form of security deposits and first-months rent to qualified low-income persons (including homeless and nearly homeless persons). Program also will provide security deposits for utilities and first-months payments.			
	DOWN-PAYMENT ASSISTANCE	Provide Safe, Affordable, and Accessible Housing	HOME TARGET AREA - Other	Creates Stable Housing Situations	
3	DOWN-PAYMENT ASSISTANCE	Program to cover City of Winchester, Clarke, Frederick, Page, Shenandoah & Warren Counties. Program provides down-payment and closing cost assistance to first-time low-income home buyers.			
	Description	Program provides down-payment and closing cost assistance to first-time low-income home buyers.			
4	OWNER-OCCUPIED HOME REPAIR	Provide Safe, Affordable, and Accessible Housing	HOME TARGET AREA - Other	Addressing Substandard Housing	
	Description	Program covers: Clarke, Frederick, Page, Shenandoah & Warren Counties. Program provides funds to cover the cost of rehabilitation of eligible low-income owner-occupied homes in internal and external repairs including: energy efficiency upgrades, accessibility and plumbing improvements. Funds are targeted to elderly and disabled persons and families.			
5	Planned Activities	Program provides funds to cover the cost of rehabilitation of eligible low-income owner-occupied homes in internal and external repairs including: energy efficiency upgrades, accessibility and plumbing improvements. Funds are targeted to elderly and disabled persons and families.			
	CHDO PRE-DEVELOPMENT LOAN	Provide Safe, Affordable, and Accessible Housing	HOME TARGET AREA - Other	Addressing Substandard Housing	
6	Description	Pre-development loan to qualified CHDO organization.		Creates Stable Housing Situations	
	Planned Activities	Pre-development loan to qualified CHDO organization.			
7	SECTION 108 LOAN RE-PAYMENT	Create and Enhance Economic Opportunities	CDBG TARGET AREA - Local Target area		
	Description	Re-payment of Section 108 Loan for rehabilitation of the Taylor Hotel property in Downtown Winchester, VA.			
8	Planned Activities	Re-payment of Section 108 Loan for rehabilitation of the Taylor Hotel property in Downtown Winchester, VA.			

Table 3 – Project Summary

Annual Action Plan
2013

AP-35 Projects

Introduction

2013 Annual Action Plan priorities are as follows:

CDBG PROGRAM

- 100% to repayment of Section 108 Loan for the Taylor Hotel Rehabilitation Project

HOME PROGRAM

- Up to 25% to Homeownership Activities
- Up to 30% to Homeowner Rehabilitation Activities
- Up to 20% Tenant Based Rental Assistance
- Minimum of 15% to local CHDO's as the eligible set-aside
- Maximum of 10% to Administrative Activities

Describe the reasons for allocation priorities and any obstacles to addressing underserved needs

CDBG priorities were identified by the Winchester Community Development Committee. For 2013 this includes the 100% use of funds for the repayment of the Section 108 Loan Repayment. 2013 HOME funding priorities were identified by the Housing & Community Services Policy Board to address: HOME program administration, CHDO eligible activities, homeownership development, tenant based rental assistance, and owner occupied home repair.

AP-50 Geographic Distribution

Description of the geographic areas of the entitlement (including areas of low-income and minority concentration) where assistance will be directed

The Taylor Hotel is located in the City's pedestrian mall which is in the historic downtown district. The Taylor Hotel was finished in 1848 and has served as a hotel, Civil War headquarters and hospital, theater, department store and telecom center. The building has been vacant since 2004, and its condition has rapidly deteriorated since then, especially after a partial roof collapse in 2007. The property was condemned by the City in 2010, but a substantial investment has been made in the property by the City and redevelopment efforts began in late 2012.

Geographic Distribution

Target Area	Percentage of Funds
CDBG TARGET AREA	100
HOME TARGET AREA	100

Table 5 - Geographic Distribution

Rationale for the priorities for allocating investments geographically

The Old Town Development Board, Community Development Committee, and Economic Development Authority identified the Taylor Hotel located in the historical district as a prime location for redevelopment. The 19th century property had fallen into severe disarray after sitting vacant since 2007. The combined efforts of these public entities helped identify the Taylor Hotel as a target area and initiate its redevelopment.

Discussion

Affordable Housing

AP-55 Affordable Housing

Introduction

2013 Annual Action Plan priorities are as follows:

CDBG PROGRAM

- 100% to repayment of Section 108 Loan for the Taylor Hotel Rehabilitation Project

HOME PROGRAM

- Up to 25% to Homeownership Activities
- Up to 30% to Homeowner Rehabilitation Activities
- Up to 20% Tenant Based Rental Assistance
- Minimum of 15% to local CHDO's as the eligible set-aside
- Maximum of 10% to Administrative Activities

One Year Goals for the Number of Households to be Supported	
Homeless	36
Non-Homeless	60
Special-Needs	14
Total	110

Table 6 - One Year Goals for Affordable Housing by Support Requirement

One Year Goals for the Number of Households Supported Through	
Rental Assistance	78
The Production of New Units	0
Rehab of Existing Units	14
Acquisition of Existing Units	18
Total	110

Table 7 - One Year Goals for Affordable Housing by Support Type

Discussion

AP-60 Public Housing

Introduction

There is no public housing in the Northern Shenandoah Valley.

Actions planned during the next year to address the needs to public housing

There is no public housing in the Northern Shenandoah Valley.

Actions to encourage public housing residents to become more involved in management and participate in homeownership

There is no public housing in the Northern Shenandoah Valley.

If the PHA is designated as troubled, describe the manner in which financial assistance will be provided or other assistance

There is no public housing in the Northern Shenandoah Valley.

Discussion

AP-65 Homeless and Other Special Needs Activities

Introduction

Outlined below are the one-year goals and the specific actions steps the Northern Shenandoah Valley region will undertake in the program year to carry out the homeless and other special needs strategy outlined in the Consolidated Plan. Specific goals for the program year include: homeless prevention and rapid-rehousing, expansion of outreach and services to special needs populations and strengthening strategic and organization capacity of the Continuum of Care (CoC) and partner organizations.

Describe the jurisdictions one-year goals and actions for reducing and ending homelessness including

Reaching out to homeless persons (especially unsheltered persons) and assessing their individual needs

As outlined in the region's Ten (10) Year Plan to End Homelessness, the Continuum of Care (COC) is committed to forming a broad-based advisory committee comprised of members throughout the community, including elected officials, representatives of local government, the United Way, community and health foundations, and other influential community leaders who are dedicated to ending homelessness. The advisory committee will assist the COC to raise awareness of the problem of and solutions to homelessness in the community as well as to increase and leverage resources to achieve the goals of the ten year plan. The COC will seek out a prominent community leader to serve as a chairperson of the committee and act as a community spokesperson for the cause of solving homelessness in the Northern Shenandoah Valley.

Addressing the emergency shelter and transitional housing needs of homeless persons

The COC is working towards strengthening capacity of existing emergency shelter and transitional housing providers in the region. Recent changes in the US Department of Housing & Urban Development's (HUD) programming for homelessness has lead the COC, through the 10-Year Plan to End Homelessness, to begin actively transitioning shelter and service providers from emergency shelters and transitional housing operations towards permanent supportive housing. Over the next ten (10) years the COC looks to successfully transition existing providers to permanent supportive housing and create new permanent supportive housing facilities throughout the region.

Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals

and families to affordable housing units, and preventing individuals and families who were recently homeless from becoming homeless again

The region's Ten (10) Year Plan to End Homelessness proposes the following goals to address helping homeless persons and families access affordable housing options:

Permanent Supportive Housing – Permanent supportive housing has been identified as a solution to homelessness for a sub-set of the population – those who experience homelessness for long periods of time (chronic homelessness) with multiple barriers to housing stability, including mental disabilities, chemical dependence, and other chronic health conditions. Permanent supportive housing provides first a home and then continuing supportive services to help individuals maintain a home. These support services either directly provide or connect individuals to services in the community. Support services include direct or coordinated care in the areas of mental health, substance abuse, health care, dental care, education, employment, and access to benefits.

Rapid Re-Housing – Rapid re-housing is a strategy to assist families and individuals experiencing homelessness to access housing as quickly as possible and then deliver uniquely tailored services to help them maintain stable housing. It follows a “housing first” philosophy which says that individuals and families experiencing homelessness need housing first, and then they need services.

Rapid re-housing differs from traditional homeless assistance in that it does not require a family or individual to live in emergency shelter or transitional housing for a certain length of time prior to returning to permanent housing. It can, however, be delivered in an emergency shelter or transitional housing setting and is not mutually exclusive from emergency shelter and transitional housing settings.

Services are consumer-driven in that the person, with the help of a case manager, determines the services that she or he needs to maintain their housing. Services are critical to help a family maintain their housing, access and maintain employment, and increase their self-sufficiency and well-being. It is the housing *and* services that make rapid re-housing an effective permanent solution to homelessness.

Partnering with Landlords – Many agencies and community organizations have developed partnerships with landlords, and these partnerships have resulted in access to affordable housing options for those experiencing and at risk of homelessness. The partnership is an agreement that the landlord will rent to this population and, in some cases, the service agency agrees to maintain contact and provide services to help the household remain stably housed. It is a win-win situation for all parties in that the person accesses affordable housing, the service agency helps to house their clients, and the landlord has a source of support if any problems with the tenant arise.

Partnering with Affordable Housing Developers – Non-profit and for-profit affordable housing developers can be important partners in the financing and development of affordable, subsidized, and permanent supportive housing that can serve as a resource to homeless assistance agencies who wish to increase housing available to people experiencing homelessness.

Partnering with Veterans Administration Medical Centers to access HUD VASH vouchers – Case managers at Veterans Administration (VA) Medical Centers may refer eligible veterans experiencing homelessness to receive vouchers for supportive housing. To end veteran homelessness it is therefore imperative to partner with case management staff at the Martinsburg VA Medical Center to assure veterans experiencing homelessness in Northern Shenandoah Valley receive HUD VASH vouchers to which they are eligible.

Helping low-income individuals and families avoid becoming homeless, especially extremely low-income individuals and families and those who are: being discharged from publicly funded institutions and systems of care (such as health care facilities, mental health facilities, foster care and other youth facilities, and corrections programs and institutions); or, receiving assistance from public or private agencies that address housing, health, social services, employment, education, or youth needs.

The COC, in meeting the goals and strategies outline in the Ten (10) Year Plan to End Homelessness, proposes creating a "Supportive Services" and "Prevention" committee's, which will be tasked with meeting their respective goals. The Supportive Services committee will be responsible for:

- Overseeing the implementation of strategies that increase income through employment;
- Overseeing the creation of a system of centralized intake and assessment;
- Overseeing the implementation of strategies that increase access to disability and other benefits for those who are eligible;
- Overseeing increased access to supportive services.

The Prevention committee will be responsible for:

- Overseeing strategies that prevent the homelessness of people being discharged from hospitals and mental health institutions;
- Overseeing strategies that prevent the homelessness of people exiting from jails;
- Overseeing strategies that prevent the homelessness of youth aging out of foster care;
- Overseeing strategies that prevent the homelessness of unaccompanied youth.

Discussion

AP-75 Barriers to affordable housing

Introduction

Local and regional public policies, as well as national, regional, and local trends and conditions, can affect a region's ability to provide and maintain a viable affordable housing stock. Local policies especially tax policy on property, land use controls, zoning ordinances, building codes, development fees and charges, growth limits, and policies that affect return on residential investment. The Northern Shenandoah Valley Regional Commission, in partnership with the Continuum of Care (COC) and Virginia Fair Housing Office have informed the state-wide Housing Affordability Index (HAI) being assembled by Housing Virginia, which provides a comprehensive guide to policies, regulations and programs to further the development of affordable housing units and programs in the region.

Actions it planned to remove or ameliorate the negative effects of public policies that serve as barriers to affordable housing such as land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting the return on residential investment

The Northern Shenandoah Valley HOME Consortium and the City of Winchester recognize that impediments to fair housing choice do exist and are working to improve fair housing choice. The Northern Shenandoah Valley Regional Commission will hold fair housing workshops to educate local officials, housing providers, service providers and the public at-large are aware of fair housing law. Outlined below are proposed strategies to be undertaken in reducing fair housing impediments:

1. Increase transparency surrounding fair housing and complaint process.
2. Increase landlords' and property managers' knowledge of fair housing.
3. Assist persons with disabilities to obtain access to housing and services.
4. Work to reduce NIMBYism by encouraging neighborhood diversity.
5. Encourage affordable housing development.

Discussion

AP-85 Other Actions

Introduction

This section outlines the regions planned actions for 2013-2014 to carry out strategies outlined in the Consolidated Plan for: meeting underserved needs, furthering affordable housing development, reducing lead-based paint hazards, reducing poverty, developing institutional structure and enhancing coordination among agencies.

Actions planned to address obstacles to meeting underserved needs

2013 is the third year in which priority special needs populations are identified for project funding, including those individuals and families transitioning from homelessness. It is the intention annually that increased integration between the annual action planning process and the continuum of care planning process we can achieve a higher level of coordination and efficiency of resource allocation and service delivery. The CoC/TAN will continue to work, with support of NSVRC staff, to implement a strategic plan to end homelessness in the Northern Shenandoah Valley. This Ten (10) Year Plan to End Homelessness is included in the 2013-2017 Consolidated Plan.

Actions planned to foster and maintain affordable housing

Actions planned to foster and maintain affordable housing in the Northern Shenandoah Valley region for the upcoming program year include: building organizational capacity for housing providers to carry out affordable housing development (homeownership), rehabilitation of substandard housing, and assistance to at-risk persons of homelessness through tenant based rental assistance (TBRA); further physical development and improvement to owner and rental units and continued financial assistance through down-payment and TBRA programs.

Actions planned to reduce lead-based paint hazards

As part of the monitoring and compliance activities, NSVRC will assure that all subgrantees, subrecipients and CHDOs conform to the lead based paint requirements associated with rehabilitation. There is little data available to suggest that lead based paint hazards are a major concern in the Northern Shenandoah Valley, but we do encourage identification of such potential hazards for consideration in our Home Repair Programs.

Actions planned to reduce the number of poverty-level families

As part of the work program from 2013, NSVRC will be coordinating with the region's economic development directors to identify strategies to promote economic development and redevelopment opportunities throughout the region, including identification of resources available to persons who are

at risk of poverty. Strategies might include job retraining programs, small business development programs, micro-lending and general self-sufficiency programs.

Actions planned to develop institutional structure

NSVRC continues to coordinate with area stakeholders, namely human service providers, through staff support provided to the Housing and Community Services Technical Advisory Network. Currently in the midst of a ongoing “membership drive”, we hope to engage additional agencies not directly related to the provision and development of affordable housing but those who serve primarily low and moderate income individuals and families, or members of the prioritized special needs populations.

NSVRC will continue to host and promote training opportunities, particularly those focused on resource development, capacity building, and sustainability. A full calendar of training events will be developed and adopted in July, 2013.

Actions planned to enhance coordination between public and private housing and social service agencies

NSVRC continues to coordinate with area stakeholders, namely human service providers, through staff support provided to the Housing and Community Services Technical Advisory Network/Continuum of Care.

Discussion

Program Specific Requirements

AP-90 Program Specific Requirements

Introduction

The purpose of this section is to outline program-specific requirements for the Annual Action Plan and ensure program compliance for the Community Development Block Grant (CDBG) and HOME Investment Partnership Funds. Specifically these program requirements align with the Consolidated Plan Final Ruling.

Community Development Block Grant Program (CDBG)

Reference 24 CFR 91.220.(I)(1)

Projects planned with all CDBG funds expected to be available during the year are identified in the Projects Table. The following identifies program income that is available for use that is included in projects to be carried out.

1. The total amount of program income that will have been received before the start of the next program year and that has not yet been reprogrammed	0
2. The amount of proceeds from section 108 loan guarantees that will be used during the year to address the priority needs and specific objectives identified in the grantee's strategic plan.	0
3. The amount of surplus funds from urban renewal settlements	0
4. The amount of any grant funds returned to the line of credit for which the planned use has not been included in a prior statement or plan	0
5. The amount of income from float-funded activities	0
Total Program Income:	0

Other CDBG Requirements

1. The amount of urgent need activities	0
2. The estimated percentage of CDBG funds that will be used for activities that benefit persons of low and moderate income. Overall Benefit - A consecutive period of one, two or three years may be used to determine that a minimum overall benefit of 70% of CDBG funds is used to benefit persons of low and moderate income. Specify the years covered that include this Annual Action Plan.	100.00%

HOME Investment Partnership Program (HOME)
Reference 24 CFR 91.220.(1)(2)

1. A description of other forms of investment being used beyond those identified in Section 92.205 is as follows:

As outlined in the Northern Shenandoah Valley HOME Manual: because HOME funds are only one source of funding, applicants are required to utilize leverage to complete the project. Leverage is all other sources of funding in a project or activity (excluding HOME funds). Leverage includes match. The application process requires a project to successfully utilize leverage. Leverage is essential for a successful project.

- bank loans or other loans not repayable to the HOME account
- CDBG funds
- Contributions to units that are not HOME-assisted or HOME-eligible
- Federal funds, either grants or loans
- All forms of Owner Equity

2. A description of the guidelines that will be used for resale or recapture of HOME funds when used for homebuyer activities as required in 92.254, is as follows:

In order to assure continued affordability of HOME assisted housing units, the Northern Shenandoah Valley (NSV) HOME Consortium imposed a recapture provision by which all or a portion of the direct subsidy for housing be recaptured from the net proceeds of the sale in the event a sale occurs during the affordability period.

For HOME assisted homebuyer projects/activities, recaptured funds will be based on net proceeds from the sale of the HOME assisted housing (either voluntary or involuntary) and be reduced on a pro rata basis for the time the homeowner has owned and occupied the housing measured against the affordability applicable period. For example, if \$15,000 in HOME assistance is provided and the unit sells in year four of ownership, the Consortium will require that \$3,000 be returned, if net proceeds are equal to or exceed this amount.

All HOME agreements with homebuyers and with CHDO's/subrecipients will include these resale/recapture provisions to ensure compliance with regulation.

3. A description of the guidelines for resale or recapture that ensures the affordability of units acquired with HOME funds? See 24 CFR 92.254(a)(4) are as follows:

In order to assure continued affordability of HOME assisted housing units, the Northern Shenandoah Valley (NSV) HOME Consortium imposed a recapture provision by which all or a portion of the direct subsidy for housing be recaptured from the net proceeds of the sale in the event a sale occurs during the affordability period.

For HOME assisted projects where funds were used for acquisition, recaptured funds will be based on net proceeds from the sale of the HOME assisted housing (either voluntary or involuntary) and be reduced on a pro rata basis for the time the homeowner has owned and occupied the housing measured against the affordability applicable period. For example, if \$15,000 in HOME assistance is provided and the unit sells in year four of ownership, the Consortium will require that \$3,000 be returned, if net proceeds are equal to or exceed this amount.

All HOME agreements with CHDO's/subrecipients will include these resale/recapture provisions to ensure compliance with regulation.

4. Plans for using HOME funds to refinance existing debt secured by multifamily housing that is rehabilitated with HOME funds along with a description of the refinancing guidelines required that will be used under 24 CFR 92.206(b), are as follows:

In order to assure continued compliance with HOME assisted multifamily housing that was rehabilitated with HOME funds, the Northern Shenandoah Valley HOME Consortium proposes the following plans to refinance existing debt as consistent with 24 CFR 92.206(b) and adopted in the NSV HOME Consortium Manual:

As required by the HOME regulations, to be funded under the CHDO set-aside category, a CHDO must assume the role of owner, developer and/or sponsor. In this scenario, the nonprofit is not assuming any of these three roles, as defined by the regulations. As a result, this unit in question would be classified as homeowner rehabilitation, which is not a CHDO-eligible activity

Furthermore, if a nonprofit was funded for homebuyer activity, but under the CHDO set-aside category, the scenario would still be classified as homeowner rehabilitation and would not be eligible.

R-2013-14

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: 4/9/13 CUT OFF DATE: 3/19/13

RESOLUTION XX ORDINANCE ___ PUBLIC HEARING ___

ITEM TITLE: CEMS Change: CEMS Section 3.8 K Career Development

STAFF RECOMMENDATION: The Chief of Police recommends that the City Council approve the resolution adding career development for ECC Specialist I-III to Section 3.8 K of CEMS

PUBLIC NOTICE AND HEARING: N/A

ADVISORY BOARD RECOMMENDATION: N/A

FUNDING DATA: No additional funds needed.

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. Administration	<i>[Signature]</i>		2/20/13
2. Finance	<i>[Signature]</i>		2-20-13
3. _____			
4. _____			
5. City Attorney	<i>[Signature]</i>		2/22/2013
6. City Manager	<i>[Signature]</i>		
7. Clerk of Council			
Initiating Department Director's Signature:	<i>[Signature]</i> Chief Kevin L. Sanzenbacher		2/19/13 Date



APPROVED AS TO FORM:

[Signature] 2/22/2013
CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Chief Kevin L. Sanzenbacher
Date: February 19, 2013
Re: Change to CEMS manual

THE ISSUE: The Human Resources Director recently discovered that a Career Development Plan was apparently never approved for the positions of Emergency Communications Center (ECC) Specialist I-III. This needs to be corrected before employees currently eligible for this advancement can be processed.

RELATIONSHIP TO STRATEGIC PLAN: Developing a high performance organization.

BACKGROUND: Our records indicate that as far back as 2002 employees in the ECC have been moving up the career ladder as part of the career development process. In addition, job descriptions have been in place that describe the varied and different functions required to perform the duties of ECC Specialist I, II, and III for a period of time. However, there is no record that a Career Development plan for ECC Specialist I-III was ever approved by the Common Council as required under CEMS Section 3.8 K.

We feel it is extremely important to rectify this immediately. We have at least one employee eligible for advancement, who has met all the requirements to advance, yet has been denied because of this situation. Since, under the current payroll system, this is the only way an employee is assured of a pay increase commensurate with their increased experience it is vital that this career development track for ECC employees, like many other city employees, be approved. This is especially important since the last salary review process actually lowered the starting salary for ECC employees, a position we find extremely difficult to fill.

As required in CEMS a proposal has been formalized to insure each application for advancement is reviewed through our chain of command and that employees meet all the requisite qualifications as described in the job description to which they aspire. This proposal has been reviewed and approved by both the Administration Director and the City Manager. This proposal, once approved by Council, will be incorporated in the General Orders of the Police Department.

BUDGET IMPACT: There will be no adverse budget impact to approving this change. The Office of Finance has already built anticipated advancement requests into this year's budget so the funding is available.

OPTIONS: The only option is to not approve this request. This would be extremely detrimental to the staffing and morale in the ECC and would create an inequity between these employees and other City staff. ECC employees are our first link to citizens in emergent situations. They work in an extremely stressful environment with long and varied hours. We currently must search months to get qualified candidates into vacant positions and the lack of a career development plan would only aggravate this condition.

RECOMMENDATIONS: The Chief of Police recommends the Council approve this request.

A RESOLUTION TO APPROVE
A REQUEST TO CHANGE THE COMPREHENSIVE EMPLOYEE
MANAGEMENT SYSTEM

WHEREAS, the City of Winchester Comprehensive Employee Management System (CEMS) states that career development plans for employees be approved by the Common Council, and;

WHEREAS, the purpose of the Career Development Program is to provide employees an opportunity for advancement in a career path, and;

WHEREAS, the City is committed to a policy that increases the prestige and performance level of employees who continue professional development efforts throughout their careers; and

WHEREAS, the Emergency Communication Center and its employees are a vital link in the public safety emergency response process, and;

WHEREAS, the City of Winchester's primary concern is the protection of life and property for the citizens.

NOW THEREFORE BE IT RESOLVED, that the Common Council of the City of Winchester, Virginia hereby authorizes City staff to amend the City of Winchester CEMS manual, Section 3.8 Salary Actions, K Career Development as follows:

K. Career Development Program

The purpose of the Career Development Program is to provide employees an opportunity for advancement in a career path. The City is committed to a policy that increases the prestige and performance level of employees who continue professional development efforts throughout their careers.

The Department Head may submit to the Administration Director and City Manager a career development proposal indicating the positions included in the program, the criteria for movement to each position and the administrative procedures for the program. The Administration Director and City Manager shall review the program for conformity and consistency with overall career development objectives, and recommend such plans meeting these objectives to Council for approval.

Advancement under an approved career development program shall be accompanied by an increase of 5% to the existing base salary or increase to the minimum of the new pay grade, whichever is greater.

Administrative changes to an approved career development program shall be submitted by the Department Head to the Administration Director for recommendations and approval by the City Manager.

The following programs and positions are hereby authorized:

1. Fire and Rescue Department:
 - a. Probationary Firefighter
 - b. Firefighter/EMT
 - c. Firefighter Technician

2. Juvenile Detention Center:
 - a. Detention Specialist I
 - b. Detention Specialist II
 - c. Senior Detention Specialist

3. Police Department:
 - a. Police Officer I
 - b. Police Officer II
 - c. Police Officer III
 - d. Master Police Officer

Emergency Communications Center

- a. Communications Specialist I**
- b. Communications Specialist II**
- c. Communications Specialist III**

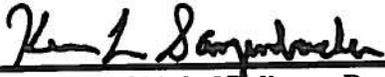
4. Sheriff:
 - a. Deputy Sheriff I
 - b. Deputy Sheriff II
 - c. Deputy Sheriff III

5. Social Services Department:
 - a. Benefit Programs Screener
 - b. Benefit Programs Worker I
 - c. Benefit Programs Worker II

Changes underlined

WINCHESTER POLICE DEPARTMENT OPERATION ORDER

NOTE: This directive is for internal use only, and does not enlarge an employee's civil liability in any way. It should not be construed as the creation of a higher standard of safety or case in an evidentiary sense, with respect to third party claims. Violation of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.

Number 1-14	Effective Date March 1, 2013	Review Date March 1, 2013	Reviewing Division Administration
Subject CAREER DEVELOPMENT PROGRAM- ECC	<input checked="" type="checkbox"/> New Directive <input type="checkbox"/> Amends <input type="checkbox"/> Replaces: <input type="checkbox"/> Revised:		This directive shall apply to personnel assigned to the following divisions: <input checked="" type="checkbox"/> All Personnel <input checked="" type="checkbox"/> Patrol Division <input checked="" type="checkbox"/> Administration Division <input checked="" type="checkbox"/> Investigation Division
References: CEMS: 3.7K VLEPSC: PER.05.01 - .04 CALEA			
 _____ Chief of Police or Designee		_____ March 1, 2013 Date	

I. PURPOSE

The purpose of this directive is to provide each Communications Specialist with knowledge of the criteria for movement in the career development path and the procedures required to initiate consideration for upward movement.

II. POLICY

The welfare of the community depends on the Emergency Communications Specialist (ECS). The Winchester Police Department is committed to a policy that increases the prestige and level of performance of these ECSs and encourages them to continue their professional development by providing incentives throughout their communication careers. The career development process shall stress actual job performance, combined with professional growth and development. The assignment to a particular status in the Career Development Program (CDP) should not be considered a promotion, but an incentive to an ECS who have and will continue to apply themselves as career oriented communication specialists.

III. PROCEDURES

A. Career Advancement Board (CAB)- ECS

1. The CAB shall consist of the Deputy Chief of Police, Emergency Communications Director and the Captain of Patrol.
2. The CAB will meet whenever necessary to consider individual ECS's request for advancement in the CDP.

3. The CAB will schedule and conduct meetings to consider appeals from those communications specialist who were not advanced in CDP status.

B. Initiating Responsibility

1. It is the responsibility of each Communication Specialist to review the criteria that must be met and maintained for each level in the CDP. An ECS who wishes to be considered for entrance or progression in the CDP must submit a written request to the CAB, through their chain of command, on or near their individual anniversary date or when eligible for advancement.
2. Each Communication Specialist must obtain a recommendation from their immediate supervisor. The supervisor shall consider each criterion, address them separately, and state how the requesting ECS has or has not met the criteria. The supervisor may include a narrative concerning the individual's advancement in the CDP. This recommendation will accompany the ECS's request to the Emergency Communication Director.

C. Notification of Board's Recommendation

1. The CAB shall notify the Chief of Police of the board's recommendation. The CAB may make either a favorable or non-favorable recommendation. This notification shall be made no later than ten (10) business days following the respective CAB meeting.
2. Communications Specialist shall have ten (10) business days after notification to appeal a non-favorable recommendation to the CAB. The CAB will then schedule and hear the Communications Specialist appeal.

D. Notification of Acceptance or Rejection

1. If the candidate is rejected after an appeal to the CAB for entrance or advancement in the CDP, the ECS has ten (10) business days to initiate an appeal to the Chief of Police through the chain of command.
2. The Chief of Police will make the final determination of CDP status.
3. If the final determination is rejection of the candidate's request for entrance or advancement in the CDP, the candidate shall be placed on a six (6) month special evaluation status.
4. The ECS's immediate supervisor will draft a memorandum outlining the area(s) of deficiency, indicating what improvements are expected in order to comply with the standards for the CDP and notify the ECS formally of the special evaluation.
5. If upon completion of the six (6) month special evaluation period the affected ECS has complied with the standards outlined and meets the

requirements of entrance or advancement in the CDP, the ECS may re-apply for CDP status. Re-application will require the ECS to submit a written request to the CAB through their chain of command, which includes a recommendation from the ECS's immediate supervisor and an updated employee performance evaluation.

E. Reduction in Career Development Status

1. No appointment at any level within the CDP should be considered permanent. Each ECS must meet the minimum adjusted evaluation in order to be appointed to each level of the CDP, and must maintain those performance levels to retain their position, to include an active status on all specialty certifications and trainings.
2. Reevaluation of an employee's current appointment will be conducted on an annual basis through the authorization of the Chief of Police.
3. The ECS's immediate supervisor shall monitor the ECS's evaluation and negative points to assure ECS are maintaining the required minimum standards. If the supervisor becomes aware that an ECS is no longer active with their training or certification, they will make a written account of it and forward it through the chain of command to the Chief of Police.
4. If it is determined that an ECS is not maintaining the minimum standards prescribed for their respective level with the CDP, the affected ECS shall be placed on a six (6) month special evaluation status by the supervisor.
5. The ECS's immediate supervisor will draft a memorandum outlining the area(s) of deficiency, indicating what improvements are expected in order to comply with the standards, and notify the ECS formally of the special evaluation.
6. If upon completion of the six (6) month special evaluation period the affected ECS has not complied with the standards outlined, the ECS's immediate supervisor shall forward a memorandum to the Chief of Police recommending reduction in the ECS's CDP status. This memo shall contain an outline of events leading to the recommendation for reduction in the CDP level.
7. The Chief of Police shall make the final determination on whether a reduction in CDP status is in order and the level to which the ECS is to be reduced. The Chief of Police or his/her designee will make the necessary notifications concerning the ECS's reduction in the CDP.
8. Once an ECS's level has been reduced in the CDP, that ECS must apply to the CAB if they wish to be considered for CDP advancement.
9. An ECS may not be considered for CDP advancement until twelve (12) months after the date of status reduction.

F. Compensation

During the time an ECS is in an advanced CDP status, he or she will receive a percentage of their annual salary determined by advancement to the appropriate pay grade or a 5% pay increase, whichever is greater.

IV. CRITERIA

The following criteria will be met for each of the CDP advancement positions:

A. ECS I

Designation assigned upon appointment. While in training an Emergency Communication Specialist I can't be eligible for promotion.

B. ECS II

1. Complete 24 months as an ECS I with the Winchester Police Department;
2. Certified by the Division of Criminal Justice Services (DCJS) as a communication specialist;
3. Satisfactorily completed the department probationary period per city policy;
4. A minimum of acceptable performance ratings in every competency and job specific responsibility category on the most recent department employee performance evaluation;
5. Maintain a minimum of 3.0 career development points;
6. Maintain proficiency in EMD, phone, radio, computer, VCIN/NCIC entries and use as required by the department;
7. Successfully completed the approved EMD certification;
8. Must maintain twelve (12) hours annual continuing education hours specific to communications training;
9. Recommendation for advancement by the immediate supervisor; and
10. Selection by the CAB.

C. ECS III

1. Completed at least (2) years of service as an ECS II with the Winchester Police Department;
2. A minimum of acceptable performance ratings in every competency and job specific responsibility category on the most recent department employee performance evaluation;
3. Maintain a minimum of 4.0 career development points;
3. Maintain proficiency in EMD, phone, radio, computer, VCIN/NCIC entries and use as required by the department;
4. Successfully completed an approved Communications Training Officer course;
5. Must maintain sixteen (16) hours annual continuing education hours specific to communications training;
6. Recommendation for advancement by the immediate supervisor; and
7. Selection by the CAB.

D. Proficiency Criteria

1. EMD/Phone: Each ECS is evaluated monthly based on calls received during this time period according to the designated minimum standard.
2. NCIC/VCIN Proficiency: Each ECS must exhibit exemplary performance in the use of NCIC and VCIN. This is demonstrated by eagerness and proficiency in the entry and use of the State system and reiterated through recertification bi-annually.
4. Professionalism: Each ECS must clearly demonstrate knowledge of the Winchester PD Rules and Regulations.
5. Department Policy and State Law: Each ECS must demonstrate a working knowledge of the Winchester Police Department's and Fire and Rescue Rules & Regulations, General Orders and procedures.
6. Sick Leave: Each ECS must follow the requirements of the City of Winchester sick leave policy. Each ECS must have a sick leave usage rate equal or less than the average usage in the department. Computation of such shall be on a twelve (12) month basis. Instances of legitimate hospitalization, injuries, or illness shall not be cause of rejection or reduction. However, each ECS will be required to provide testimony to the legitimacy of such when sick leave usage exceeds the maximum time allowed. More than two (2) violations of the sick leave policy during any

twelve (12) month period shall be cause for rejection or reduction in CDP status.

E. Criterion Bonus Points

Bonus points will be awarded for proficiency in specified criterion as outlined as follows (certifications and specialty team memberships must be active):

- .2 State Certified Specialist Instructor, (VCIN and CPR);
- .3 State Certified Instructor;
- .4 Recruiting Officer;
- .4 Speak Spanish to level of interpreting;
- .4 Crisis Negotiation Team;
- .5 ENP- Emergency Number Professional;
- .6 RPL- Registered Professional Leader;
- .1-.7 Other criterion assigned by the Chief of Police.

G. Penalty Points

Penalty points will be subtracted from the bonus points score as outlined. Suspension days will be accumulative. Any combination of days suspended will be totaled within the time period.

- .4 One (1) grievable offense within the past two (2) years;
- .5 Two (2) grievable offenses within the past three (3) years;
- 1.0 One (1) to three (3) days suspension within the last two (2) years;
- 1.5 Four (4) or more days suspension within last five (5) years; and
- .1-1.0 Other criterion assigned by the Chief of Police.

V. STANDARDS

The following standards will apply for considering bonus points in specified criterion:

A. State Certified Communications Instructor

ECS who has been certified by the State of Virginia and is actively used each year to instruct on a department basis or state level. To be recertified by the Commonwealth of Virginia, an ECS must instruct at an approved academy, except for firearms instructors.

B. Recruiter

Officer assigned to and actively involved in the recruitment function.

C. Crisis Negotiation Team (CNT) Member

ECS who has been selected and assigned to the CNT by the department. Assigned members will attend the required training.

D. ENP-Emergency Number Professional

ECS demonstrates a mastery of the comprehensive knowledge base required for emergency number program management.

E. RPL- Registered Public Safety Leader

ECS successfully completes a certificate program that focuses on the skills sets that make for solid leadership performance.

F. Other Criterion

Additional disciplines may be approved by the Chief of Police if the disciplines signify professional advancement and are a distinct benefit to the department.

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Bradley S. Veach, Parks & Recreation Director *BV*
Date: March 19, 2013
Re: 2014 Cal Ripken 10-Year-Old World Series Proposal

THE ISSUE: Hosting the 2014 Cal Ripken 10-year-old World Series at Yost Field in Jim Barnett Park.

RELATIONSHIP TO STRATEGIC PLAN: Goal 1-Objective 1 More tourists coming to experience Winchester. Expanding community events is considered a top priority in the City of Winchester's 2013-2014 Management Agenda.

BACKGROUND: Winchester's Jim Barnett Park was the host site of the 2011 Cal Ripken 10-year-old World Series. The event attracted tourists from around the United States. Our guests stayed an average of 9.8 days and contributed towards sales, meal and hotel tax revenue. The City invested nearly \$70,000 towards improvements to Yost Field and its surrounding area that will be an asset to the park system for many years. Improvements included additional field lights, trail resurfacing, ADA improvements, and field resurfacing. The event yielded an impressive local economic impact of \$413,000. In 2011, the total operating costs including overtime and use of City services for the event was \$163,500 and \$131,500 in revenue. The community volunteered 2,850 hours valued at nearly \$61,000 to support this event.

Because of our success in 2011, Babe Ruth League has asked the City of Winchester to host the 10-year-old World Series in 2014.

Over the last two budget cycles, the City of Winchester and the youth sports leagues have invested nearly \$400,000 to make improvements on the sports fields in Jim Barnett and neighborhood parks. The investment has yielded better playing facilities for our citizens and draws the attention of organizations like Babe Ruth League to attract national events to our community.

BUDGET IMPACT: Babe Ruth League requires a franchise fee of \$45,000 to host the event. Based upon data collected from the 2011 Series, we estimate that the total cost to host the event will not exceed \$126,000 (which includes the franchise fee) and revenues (excluding sales and hotel tax revenue) will be approximately \$146,000. After the 2011 World Series, the Executive Committee identified approximately \$40,000 in operating costs that can be reduced if we are chosen to host this event again. Cost savings include: the elimination of events not required by the contract; one time purchase items that can be reused; narrowing the time that we market and advertise the event by focusing in on two to three months leading up to the event; reworking the required banquets and meals to save money; new pricing strategy for souvenirs and tickets; sharing concession profits between the City and Winchester Baseball; and expanding negotiation with hotels to offer better rates and minimize incidental fees charged to the City. By making these operational changes and generating similar revenue numbers we will be able to cover all expenses and possibly turn a profit without factoring in the sales and hotel tax revenue generated in the City of Winchester.

OPTIONS:

1. Approve a resolution and direct the Parks & Recreation Director to proceed with negotiations and authorize the City Manager to execute a contract with Babe Ruth League to host the 2014 Cal Ripken 10-year-old World Series
2. Do not proceed with executing a contract and direct the Parks & Recreation Director to notify Babe Ruth League.

RECOMMENDATIONS: This event will stimulate our economy over the 10-day event and showcase Winchester, VA, its tremendous history and all we have to offer. The event will also provide a once in a lifetime experience for the youth in our community to play on a national stage and compete against some of the best youth baseball players in the United States. I ask that Council approve the enclosed resolution showing your support of this event and direct the City Manager to execute a contract with Babe Ruth League to host the 2014 Cal Ripken 10-year-old World Series.

Estimated Budget for the 2014 World Series

			Fiscal Year Budgets	
Expenses	-		FY2014	FY2015
Budget Code	-	Total Amount	Amount	Amount
111-7111-471-3170	-	\$7,200.00	\$0.00	\$7,200.00
111-7111-471-3501	-	\$13,000.00	\$6,500.00	\$6,500.00
111-7111-471-3601	-	\$15,000.00	\$1,000.00	\$14,000.00
111-7111-471-3948	-	\$7,000.00	\$0.00	\$7,000.00
111-7111-471-5210	-	\$150.00	\$0.00	\$150.00
111-7111-471-5230	-	\$1,200.00	\$0.00	\$1,200.00
111-7111-471-5410	-	\$750.00	\$0.00	\$750.00
111-7111-471-5872	-	\$56,250.00	\$45,000.00	\$11,250.00
111-7111-471-6001	-	\$800.00	\$800.00	\$0.00
111-7111-471-6002	-	\$1,200.00	\$0.00	\$1,200.00
111-7111-471-6005	-	\$200.00	\$200.00	\$0.00
111-7111-471-6007	-	\$75.00	\$0.00	\$75.00
111-7111-471-6008	-	\$150.00	\$0.00	\$150.00
111-7111-471-6009	-	\$300.00	\$0.00	\$300.00
111-7111-471-6014	-	\$2,500.00	\$0.00	\$2,500.00
111-7111-471-6015	-	\$18,650.00	\$6,000.00	\$12,650.00
111-7111-471-6026	-	\$125.00	\$125.00	\$0.00
111-7111-471-6039	-	\$1,000.00	\$0.00	\$1,000.00
	-			
	Total	\$125,550.00	\$59,625.00	\$65,925.00
Revenue				
Revenue	-		FY2014	FY2015
Revenue Codes	-			
111-318-9903	Sponsorship	\$75,000.00	\$60,000.00	\$15,000.00
111-318-9917	Ticket Sales	\$35,000.00		\$35,000.00
111-318-9905	Souvenir Sales	\$24,000.00		\$24,000.00
111-315-0203	Vendor Fees	\$2,500.00		\$2,500.00
111-316-1328	Concessions	\$10,000.00		\$10,000.00
	Total Revenue	\$146,500.00	\$60,000.00	\$86,500.00
	Estimated Revenue	\$20,950.00	\$375.00	\$20,575.00

Economic Impact

Visitor survey results from the 2011 Cal Ripken World Series

Total number of traveling families (players)	116
Average number of players per team	12.9 players
Number of traveling teams	9 teams
Average nights spent in Winchester, VA	9.8 days
Average number of family members/fanstraveling with player	4.36 people
Average daily local spend per player's family	\$216.77/day
Average spend per player's family during entire stay	\$2,124.35

Projected Economic Impact

Players and traveling family members

Formula: # of families x average daily spend x average # of days

$$116 \times \$216.77 \times 9.8 = \underline{\underline{\$246,424.14}}$$

Babe Ruth Task Force and Dignitaries

$$86 \text{ total hotel nights} \times \$175 \text{ average spent per day} = \underline{\underline{\$15,050.00}}$$

Total Spent by Guests **\$261,474.14**

Local Economic Impact Summary

World Series player and family local spend	\$261,474.14
World Series operational expenses spent locally	\$105,710.73
Capital Improvements spent locally	\$45,743.75

Local Spend Total: **\$412,928.62**

Total local spend with 2.37 economic impact multiplier **\$771,148.19***

*The Virginia Tourism Corporation and the National Association of Sports Commissions (NASC) use a 2.37 multiplier as an industry average when calculating the economic impact of an event.

A RESOLUTION TO APPROVE WINCHESTER, VIRGINIA
AS THE OFFICIAL HOST SITE
OF THE 2014 CAL RIPKEN-BABE RUTH LEAGUE
10-YEAR-OLD WORLD SERIES

WHEREAS, the City of Winchester, VA has been asked to be the host site for the Cal Ripken-Babe Ruth League 10-Year-Old World Series in the summer of 2014; and

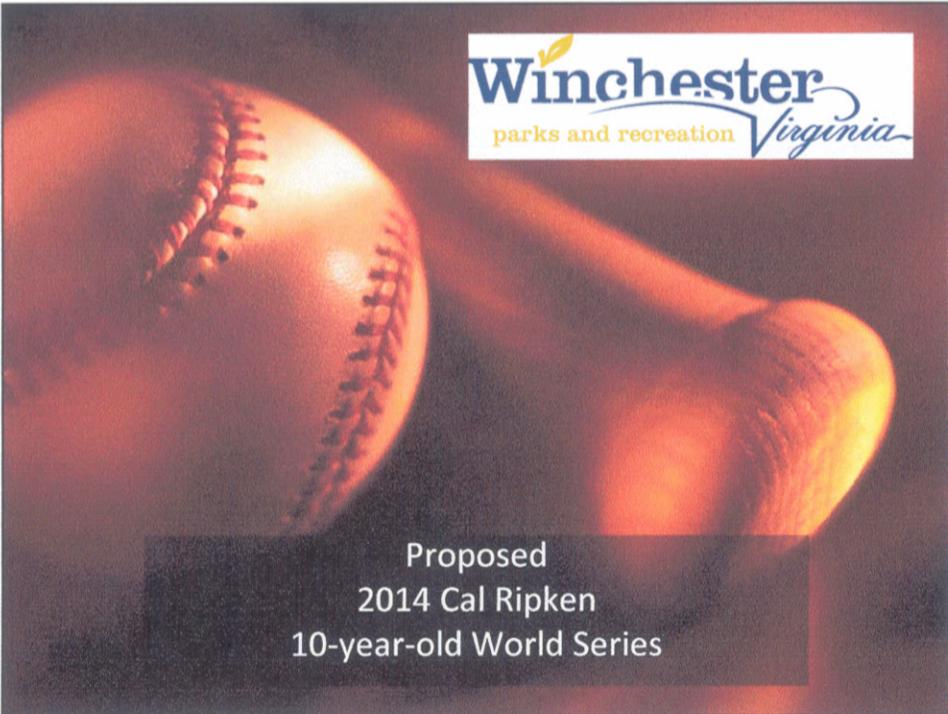
WHEREAS, the City of Winchester realizes that our community, including our businesses and citizens, benefited from hosting the same event in 2011; and

WHEREAS, the City of Winchester is dedicated to providing opportunities and enriching experiences to the youth in our community; and

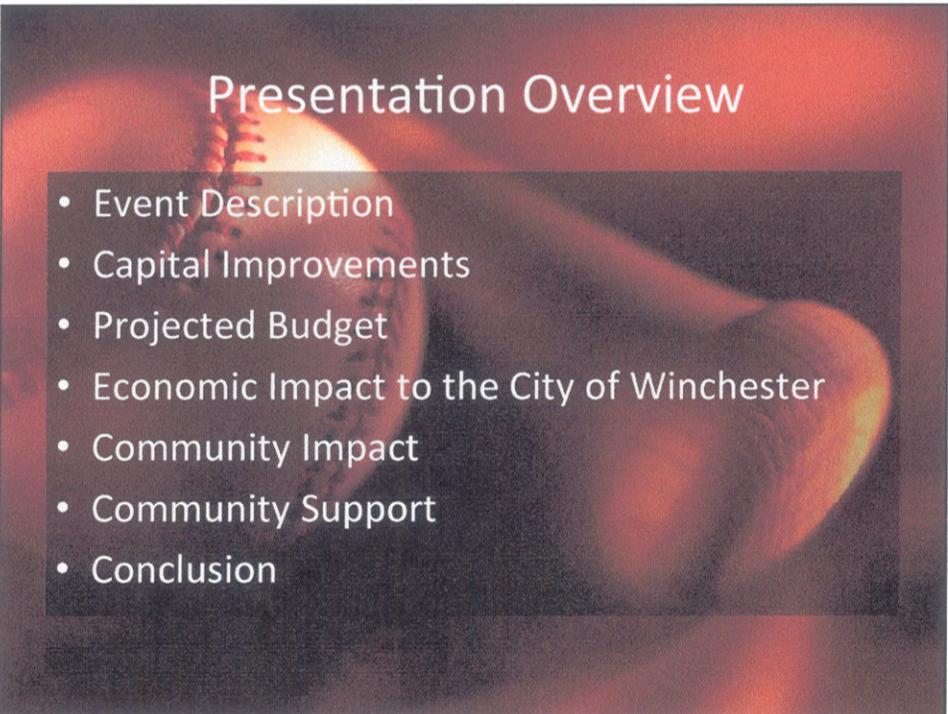
WHEREAS, this event will attract players, parents, fans and visitors from across the United States to Winchester for a 10 day period; and

WHEREAS, this event will provide a positive economic impact and exposure to the Winchester community, its businesses and its rich history.

NOW THEREFORE BE IT RESOLVED, that the Common Council of the City of Winchester, Virginia hereby authorizes and directs the City Manager to execute all necessary documents and contracts to guarantee Winchester, Virginia as the host site of the 2014 Cal Ripken 10-Year-Old World Series.



Proposed
2014 Cal Ripken
10-year-old World Series



Presentation Overview

- Event Description
- Capital Improvements
- Projected Budget
- Economic Impact to the City of Winchester
- Community Impact
- Community Support
- Conclusion

Cal Ripken World Series

- Winchester Parks & Recreation would be the sponsor and operator.
- A local team of 10 year olds would be Winchester's "National" Representative.
- Nine (9) teams & their families from around the United States will travel to Winchester, VA.
- World Series tournaments are "Pool Play" which requires an average 9.8 days stay per family in Winchester.

Cal Ripken World Series

- These tournaments receive local and regional media coverage.
- The 10-Year-Old World Series is the most desirable Series due to the fact that this age group attracts the largest following of parents, extended family and fans. In addition, host families are not required which means more hotel rooms.
- This results in a higher economic spend in the community during the tournament.

Improvements in 2011

Yost Field

- \$69,000 worth of improvements
 - Field lighting, trail resurfacing for ADA access, press box upgrades, field regrading with new sod, fencing repairs, and backstop padding.
 - No improvements are required to host the World Series in 2014

Projected Budget

Expenses:	\$125,550
Revenue:	<u>\$146,500</u>
Estimated Revenue:	+\$20,950

Economic Impact Numbers from the 2011 World Series Survey

-Total number of traveling families (players)	116
-Average number of players per team	12.9 players
-Number of traveling teams	9 teams
-Average nights spent in Winchester, VA	9.8 days
-Average number of family members/fans traveling with player	4.36 people
-Average daily local spend per player's family	\$216.77/day
-Average spend per player's family during entire stay	\$2,124.35

Economic Impact from 2011 Event

Projected Economic Impact

Players and traveling family members

Formula: # of families x average daily spend x average # of days

$$116 \times \$216.77 \times 9.8 = \underline{\$246,424.14}$$

Babe Ruth Task Force and Dignitaries

$$86 \text{ total hotel nights} \times \$175 \text{ average spent per day} = \underline{\$15,050.00}$$

Total Spent by Guests

$$\underline{\$261,474.14}$$

Economic Impact from 2011 Event

Local Economic Impact Summary

World Series player and family local spend	\$261,474.14
World Series operational expenses spent locally	\$105,710.73
Capital Improvements spent locally	\$45,743.75
Local Spend Total:	<u>\$412,928.62</u>
Total local spend with 2.37 economic impact multiplier	<u>\$771,148.19*</u>

* The Virginia Tourism Corporation and the National Association of Sports Commissions (NASC) use a 2.37 multiplier as an industry average when calculating the economic impact of an event.

City of Winchester Local Tax Revenue Estimates

- In 2010, the Virginia Tourism Corporation estimated that localities in the State of Virginia were likely to receive approximately 3.6 cents in taxes for every dollar spent during events like the World Series.
- Conservative Tax Revenue Calculations:
 - Local Tax Revenue (from 2011 World Series survey figures)
 - \$771,148 would total \$27,761 (with 2.37 multiplier.)
 - \$412,928 would total \$14,865 (without multiplier.)

A close-up, low-angle shot of a baseball, showing its characteristic stitching and texture. The lighting is dramatic, with a strong light source from the side, creating a bright highlight on the top of the ball and deep shadows elsewhere. The background is a dark, warm-toned gradient.

Community Impact

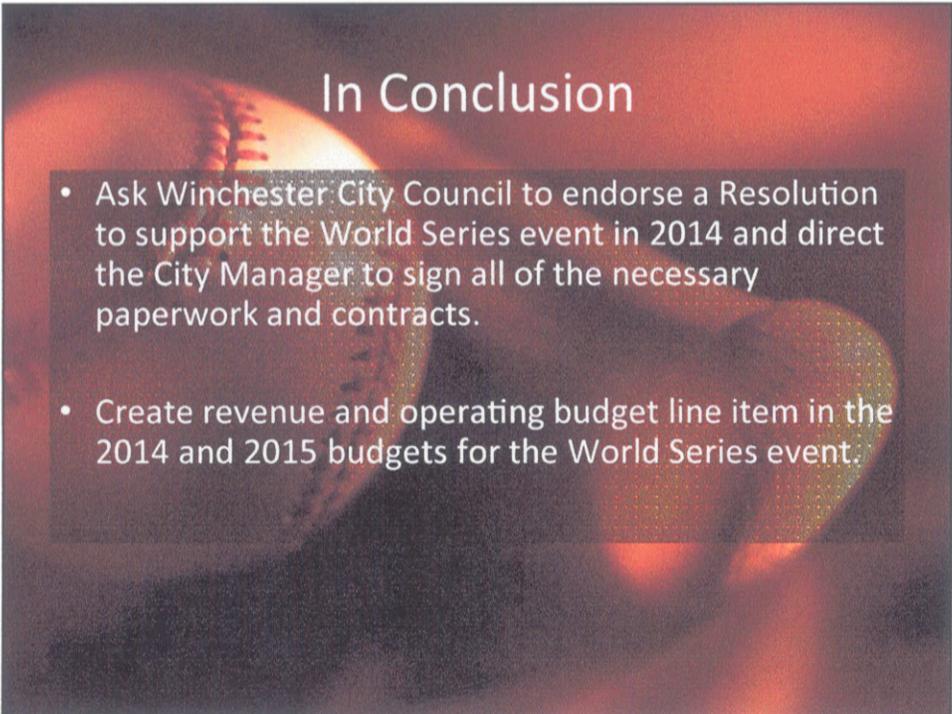
- Local and regional media coverage
- Attract visitors/fans from other communities around the state and country.
- Winchester will be known for hosting this level of tournament resulting in repeat tournaments and economic impact.
- Will motivate local families and youth to become more involved in all youth sports programs.
- Other youth sports programs may host tournaments (soccer, basketball, BMX, etc.) resulting in additional economic impact.
- Market Winchester businesses (hotels, restaurants, attractions) in pre-event packets and promotional materials.

A close-up, low-angle shot of a baseball, showing its characteristic stitching and texture. The lighting is dramatic, with a strong light source from the side, creating a bright highlight on the top of the ball and deep shadows elsewhere. The background is a dark, warm-toned gradient.

Community Support

Over 300 volunteers contributing 2,850 hours during the 2011 Cal Ripken World Series. The community embraced this event and we expect a similar response if we are fortunate enough to host the event again in 2014.

Title sponsor from 2011 Cal Ripken World Series has expressed interest in supporting the event again at the same funding level. We anticipate securing many repeat sponsors.

The background of the slide features a close-up, low-angle shot of a baseball and a baseball bat. The baseball is on the left, and the bat is on the right, both illuminated with a warm, reddish-orange light that creates a soft glow and highlights the textures of the leather and wood. The overall mood is dramatic and focused on the sport.

In Conclusion

- Ask Winchester City Council to endorse a Resolution to support the World Series event in 2014 and direct the City Manager to sign all of the necessary paperwork and contracts.
- Create revenue and operating budget line item in the 2014 and 2015 budgets for the World Series event.

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: 3.19.2013 CUT OFF DATE: _____

RESOLUTION X ORDINANCE ___ PUBLIC HEARING ___

ITEM TITLE: Northern Shenandoah Valley Regional Hazard Mitigation Plan

STAFF RECOMMENDATION: Recommend adoption of 2012 Plan

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. 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. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. City Attorney	<i>AW</i>	_____	<i>3/13/2013</i>
6. City Manager	<i>[Signature]</i>	_____	<i>3-14-13</i>
7. Clerk of Council	_____	_____	_____

Initiating Department Director's Signature: *[Signature]* _____ Date: *3-6-2013*



APPROVED AS TO FORM:

[Signature] 3/13/2013
CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: L. A. Miller, emergency Management Coordinator
Date: March 6, 2013
Re: Adoption Northern Shenandoah Valley Hazard Mitigation Plan

THE ISSUE: Adoption of 2012 Northern Shenandoah Valley Hazard Mitigation Plan

RELATIONSHIP TO STRATEGIC PLAN: Support Emergency Management Program through the creation of a More Livable City for All and increase the opportunities to Growth of the Economy and the Develop of a High Performing Organization

BACKGROUND: The original Hazard Mitigation Plan was adopted on a regional basis in 2007 and criteria requires the plan be reviewed annually and edited and presented to the governing bodies for update and re-adoption at five (5) year intervals.

Adoption of the plan meets the criteria sited in the Virginia Department of Emergency Management's Emergency Operations Plan Standard hazard Mitigation Plan, support Annex 3 (Volume II) requires that each of Virginia's cities, counties, and town develop or take an active role in the development of a hazard mitigation plan for their respective areas. Additionally adoption of the plan satisfies the state mitigation planning requirements of the Disaster Mitigation Act of 2000 which amended the Robert T. Stafford Disaster Relief and Emergency Assistance Act. Therefore the adoption of the plan continues to permit the city and other jurisdictions adopting the plan to remain eligible for Hazard Mitigation Grant Program (HMGP) Hazard Mitigation Assistance Programs which include Pre-Disaster Mitigation (PDM), Flood Mitigation Assistance (FMAA), Repetitive Flood Claims (RFC) and Severe Repetitive Loss (SRL) grant programs.

A hardcopy of the 2012 plan is available in the City Manager's Office for review. An electronic copy of the plan has also been place in the Public Folder under Emergency Preparedness.

BUDGET IMPACT: Adoption presents no negative impact on the budget but could create a significant positive impact in relationship to various grant opportunities created through adoption.

OPTIONS: Adoption of the plan
Take no action resulting in no adoption of the plan

RECOMMENDATIONS: Staff recommends Council adopt the plan through resolution.

**A RESOLUTION TO ADOPT THE 2012 UPDATED VERSION OF
THE NORTHERN SHENANDOAH VALLEY
REGIONAL HAZARD MITIGATION PLAN**

WHEREAS, the Common Council of the City of Winchester endorses the Emergency Management program of the City of Winchester; and

WHEREAS, the Emergency Management program includes operational criteria including Planning, Training, Exercising, Response, Recovery and Mitigation; and

WHEREAS, Council embraces each of the operational criteria; and

WHEREAS, every five years each jurisdiction must adopt a current hazard Mitigation Plan to remain eligible for funding opportunities offered through the Federal Emergency Management Agency, (FEMA); and

WHEREAS, the Virginia Department of Emergency Management's Emergency Operations Plan Standard Hazard Mitigation Plan requires that each of Virginia's cities, counties, and towns develop or take an active role in the development of a hazard mitigation plan for their respective community; and

WHEREAS, Council acknowledges the Emergency Management program contains the operational criteria of Mitigation; and

WHEREAS, Mitigation is invaluable as related to preparatory measure to reduce the loss of life, injury and property damage; and

WHEREAS, the City of Winchester has selected to join with neighboring jurisdictions to craft a regional mitigation plan.

NOW THEREFORE BE IT RESOLVED that the Common Council of the City of Winchester hereby adopts the 2012 Northern Shenandoah Valley Hazard Mitigation Plan.

B.2013-20

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: March 26, 2013 CUT OFF DATE:

RESOLUTION X ORDINANCE PUBLIC HEARING

ITEM TITLE:

Resolution to reimburse expenditures with proceeds of a borrowing

STAFF RECOMMENDATION:

Approve as recommended

PUBLIC NOTICE AND HEARING:

N/A

ADVISORY BOARD RECOMMENDATION:

N/A

FUNDING DATA:

Funding appropriated as needed.

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.

Table with 4 columns: DEPARTMENT, INITIALS FOR APPROVAL, INITIALS FOR DISAPPROVAL, DATE. Rows include City Attorney, City Manager, Clerk of Council, and a signature for Mary Blowe dated 3/18/2013.

Initiating Department Director's Signature: Mary Blowe Date: 3-15-13



APPROVED AS TO FORM:

Signature and date 3/18/2013 CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Mary Blowe, Finance Director
Date: March 26, 2013
Re: Resolution to reimburse Public Safety Emergency Communications project expenses with proceeds of a borrowing

THE ISSUE: The City of Winchester is considering bonding a portion of the expenses for the Public Safety Emergency communications system. This resolution would allow us to reimburse ourselves for expenses that occur prior to the bond issuance.

RELATIONSHIP TO STRATEGIC PLAN: With this resolution, City administration can work within our budget to maintain services and reallocate funds to accomplish *a more liveable City for all. And support of our mission of a financially sound City providing top quality municipal services while focusing on the customer and engaging our Community.*

BACKGROUND: During last year's budget Cycle (FY 2013), City Staff recommended to utilize cash to pay for the entire Emergency Communications project, however, as we have been developing the FY 2014 budget it is clear that we have capacity to bond these necessary expenses to free up available cash for other one time expenses. Last year, we were not aware of where our real estate assessments would be as they apply to our debt policy.

BUDGET IMPACT: With the change, we would bond \$1.6M for 20 years (in conjunction with a larger project) This portion of debt would be approximately \$126,000 annually for 20 years.

OPTIONS: City Council can choose to continue with the cash option and forego the other one-time projects presented in the budget, or simply save the cash in our unassigned fund balance.

RECOMMENDATIONS: Staff recommends the approval of the bond reimbursement resolution to fund the capital portion of the Public Safety Emergency Communications project.

**RESOLUTION OF OFFICIAL INTENT TO REIMBURSE
EXPENDITURES WITH PROCEEDS OF A BORROWING**

WHEREAS, the City of Winchester, Virginia (the “Borrower”), intends to finance the acquisition of communications equipment for public safety purposes (the “Project”); and

WHEREAS, plans for the Project have advanced and the Borrower expects to advance its own funds to pay expenditures related to the Project (the “Expenditures”) prior to incurring indebtedness and to receive reimbursement for such Expenditures from proceeds of tax-exempt bonds or taxable debt, or both;

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

1. The Borrower intends to utilize the proceeds of tax-exempt bonds (the “Bonds”) or to incur other debt, in an amount not currently expected to exceed \$2,000,000 to pay the costs of the Project.

2. The Borrower intends that the proceeds of the Bonds be used to reimburse the Borrower for Expenditures with respect to the Project made on or after the date that is no more than 60 days prior to the date of this Resolution. The Borrower reasonably expects on the date hereof that it will reimburse the Expenditures with the proceeds of the Bonds or other debt.

3. Each Expenditure was or will be, unless otherwise approved by bond counsel, either (a) of a type properly chargeable to a capital account under general federal income tax principles (determined in each case as of the date of the Expenditure), (b) a cost of issuance with respect to the Bonds, (c) a nonrecurring item that is not customarily payable from current revenues, or (d) a grant to a party that is not related to or an agent of the Borrower so long as such grant does not impose any obligation or condition (directly or indirectly) to repay any amount to or for the benefit of the Borrower.

4. The Borrower intends to make a reimbursement allocation, which is a written allocation by the Borrower that evidences the Borrower’s use of proceeds of the Bonds to reimburse an Expenditure, no later than 18 months after the later of the date on which the Expenditure is paid or the Project is placed in service or abandoned, but in no event more than three years after the date on which the Expenditure is paid. The Borrower recognizes that exceptions are available for certain “preliminary expenditures,” costs of issuance, certain de minimis amounts, expenditures by “small issuers” (based on the year of issuance and not the year of expenditure) and expenditures for construction of at least five years.

5. The Borrower intends that the adoption of this resolution confirms the “official intent” within the meaning of Treasury Regulations Section 1.150-2 promulgated under the Internal Revenue Code of 1986, as amended.

6. This resolution shall take effect immediately upon its passage.

Adopted _____, 2013.

R-2013-17 +
R-2013-22

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: March 26, 2013 **CUT OFF DATE:** _____

RESOLUTION X ORDINANCE PUBLIC HEARING

ITEM TITLE: Federal Transit Administration (FTA) and Virginia Department of Rail and Public Transportation (VDRPT) Financial Assistance

STAFF RECOMMENDATION: Approval of two (2) resolutions.

PUBLIC NOTICE AND HEARING: NA

ADVISORY BOARD RECOMMENDATION: NA

FUNDING DATA: See attached.

INSURANCE: NA

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. Finance	<u> B </u>	_____	<u> 3-18-13 </u>
2. City Attorney	<u> P </u>	_____	<u> 3/18/2013 </u>
3. City Manager	<u> [Signature] </u>	_____	_____
4. Clerk of Council	_____	_____	_____
Initiating Department Director's Signature: <u> [Signature] </u>			<u> 3/14/13 </u> Date



APPROVED AS TO FORM:

 [Signature] 3/14/2013
CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Perry Eisenach, Public Services Director
Date: March 14, 2013
Re: Federal Transit Administration Financial Assistance, and
Virginia Department of Rail and Public Transportation Financial Assistance

THE ISSUE: Federal Transit Administration Financial Assistance, and Virginia Department of Rail and Public Transportation Financial Assistance

RELATIONSHIP TO STRATEGIC PLAN: N/A

BACKGROUND: The City receives significant funding from the Federal Transit Administration (FTA) and the Virginia Department of Rail and Public Transportation (VDRPT) for the operation of the Winchester Transit system. FTA and VDRPT rules require that City Council adopt resolutions each year in order to accept these federal funds and state funds.

The total amount of federal and state funding for FY13 will be:

	Federal Funds (FTA)	State Funds (VDRPT)
Operating Assistance	\$451,733	\$159,455
Capital Assistance	\$560,000	\$ 77,000
Total Funding	\$1,011,733	\$236,455

BUDGET IMPACT: The federal and state funds that will be received from FTA and VDRPT are already included in the current FY13 operating and capital budget for Transit.

OPTIONS: Either approve or not approve the attached resolutions.

RECOMMENDATIONS: Approve the resolutions.



THE COMMON COUNCIL

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

RESOLUTION

Federal Transit Administration Financial Assistance

WHEREAS, the Federal Transit Administration has been delegated authority to award Federal financial assistance for transportation services and projects; and

WHEREAS, the grant or cooperative agreement for Federal financial assistance will impose certain obligations upon the Applicant, and may require the Applicant to provide the local share of the project cost; and

WHEREAS, the applicant will provide all annual Certifications and Assurances to the Federal Transit Administration required for the project; and

NOW, THEREFORE, BE IT RESOLVED BY the Common Council of the City of Winchester for Winchester that:

1. The City Manager or his designee is authorized to execute and file an application for Federal assistance on behalf of the Winchester Transit with the Federal Transit Administration for Federal operating assistance, in the amount of \$451,733, and Federal capital expenditure assistance in the amount of \$560,000, as authorized by 49 U.S.C. Chapter 53, Title 23, United States Code, or other Federal statutes authorizing a project administered by the Federal Transit Administration. The City of Winchester is the designated recipient of said funds.

2. The City Manager or his designee is authorized to execute and file with its applications the annual certifications and assurances and other documents the Federal Transit Administration requires before awarding a Federal assistance grant or cooperative agreement.
3. The City Manager or his designee is authorized to execute grant and cooperative agreements with the Federal Transit Administration on behalf of the Winchester Transit.

Resolution No.

ADOPTED by the Common Council of the City of Winchester on the ____ day of _____, 2013.

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



THE COMMON COUNCIL

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

RESOLUTION

Virginia Department of Rail and Public Transportation Financial Assistance

WHEREAS, the Virginia Department of Rail and Public Transportation has been delegated authority to award State financial assistance for transportation services and projects; and

WHEREAS, the grant or cooperative agreement for State financial assistance will impose certain obligations upon the Applicant, and may require the Applicant to provide the local share of the project cost; and

WHEREAS, the applicant will provide all annual Certifications and Assurances to the Virginia Department of Rail and Public Transportation as required for the project; and

NOW, THEREFORE, BE IT RESOLVED BY the Common Council of the City of Winchester for Winchester that the City Manager or his designee is authorized, for and on behalf of the Winchester Transit, to execute and file an application to the Department of Rail and Public Transportation, Commonwealth of Virginia, for a grant of financial assistance to defray the operating costs borne by the Winchester Transit for public transportation purposes and to accept from the Virginia Department of Rail and Public Transportation grants in the amount of \$159,455 in Operating Assistance and \$77,000 in Capital Assistance, as may be awarded, and to authorize the Winchester Transit to furnish to the Virginia Department of Rail and Public Transportation such documents and other information as may be required for processing the grant request.

The Common Council of the City of Winchester certifies that the funds shall be used in accordance with the requirements of Section 58.1-638.A.4 of the Code of Virginia, that the Winchester Transit will provide funds which will be used to match the state funds in the ratio as required in such Act, that the records of receipts of expenditures of funds granted the Winchester Transit may be subject to audit by the Virginia Department of Rail and Public Transportation and by the State Auditor of Public Accounts, and that the funds granted to the Winchester Transit for defraying the expenses of the Winchester Transit shall be used only for such purposes as authorized in the Code of Virginia.

Resolution No.

ADOPTED by the Common Council of the City of Winchester on the ____ day of _____, 2013.

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

R.2013-18

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: March 26, 2013 **CUT OFF DATE:** _____

RESOLUTION X ORDINANCE __ PUBLIC HEARING __

ITEM TITLE: Recycling Grant Application to Virginia Department of Environmental Quality

STAFF RECOMMENDATION: Approval of resolution.

PUBLIC NOTICE AND HEARING: NA

ADVISORY BOARD RECOMMENDATION: NA

FUNDING DATA: See attached.

INSURANCE: NA

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. Finance	<i>[Signature]</i>		3-18-13
2. City Attorney	<i>[Signature]</i>		3/18/2013
3. City Manager	<i>[Signature]</i>		
4. Clerk of Council			
Initiating Department Director's Signature:	<i>[Signature]</i>		3/14/13 Date



APPROVED AS TO FORM:

[Signature] 3/18/2013
CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Perry Eisenach, Public Services Director
Date: March 14, 2013
Re: Recycling Grant Application to Virginia Department of Environmental Quality

THE ISSUE: Recycling Grant Application to Virginia Department of Environmental Quality

RELATIONSHIP TO STRATEGIC PLAN: N/A

BACKGROUND: Grant funds are available from the Virginia Department of Environmental Quality to assist localities with recycling programs. The Public Services Department is requesting approval from City Council to submit an application for \$10,000 which would be used primarily to purchase new recycling bins for residents. No City matching funds are required and the City has received funds from this program in previous years.

BUDGET IMPACT: No City funds are required for this grant.

OPTIONS: Either approve or not approve the attached resolution.

RECOMMENDATIONS: Approve the resolution to submit the grant application.



THE COMMON COUNCIL

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

RESOLUTION

APPROVE A REQUEST TO APPLY FOR A VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY RECYCLING GRANT

WHEREAS, grant funds are available from the Virginia Department of Environmental Quality to assist localities with recycling programs; and

WHEREAS, the City of Winchester has developed a very successful recycling program; and

WHEREAS, the grant funds from this program would assist the City with its efforts to increase recycling within the community.

NOW, THEREFORE, BE IT RESOLVED THAT: The City of Winchester Common Council hereby authorizes City staff to submit an application for up to \$10,000 in recycling grant funds through the Virginia Department of Environmental Quality.

Resolution No.

ADOPTED by the Common Council of the City of Winchester on the __ day of _____,
2013.

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



**FY 2014 APPLICATION AND CONTRACT
FOR A VIRGINIA LITTER PREVENTION AND RECYCLING GRANT**

Deadline for application: June 30, 2013
Grant Period: July 1, 2013 through June 30, 2014

Are you applying as a single locality? **Yes** or **No** (If yes, fill in **ONLY** your local government name on the line for The Primary Agency)

Are you applying as a co-op? **Yes** or **No** (If yes, fill in your agency as the primary agency and the localities that you are representing in addition to your own on the "Localities of" line)

The Primary Agency City of Winchester

The Localities of _____

The Agency is applying for FY 2013 grant funding and agrees to use these grant funds to perform the litter prevention and recycling activities listed below: (Note: for an agency to qualify, a minimum of *two* items must be selected.)

Yes	No		Yes	No	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Planning & Organization	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Adopt-A Programs (List)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Recycling			<u>Adopt-A-Street</u>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Youth Education			_____
<input type="checkbox"/>	<input type="checkbox"/>	Cleanups	<input type="checkbox"/>	<input type="checkbox"/>	Other (List) _____
<input type="checkbox"/>	<input type="checkbox"/>	Law Enforcement			_____
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Public Communication			_____

I certify that the above information is correct and agree to the terms and conditions contained herein and in the [Guidelines](#) for this grant program. For Co-op applications, I certify that a written agreement between the Coordinating Agency and each participating locality is on file.

Name of Organization: City of Winchester

Name of Authorized Official: Dale Iman diman@ci.winchester.va.us
(Please print) Email Address

Circle correct title: (County Administrator, **City Manager**, Town Manager or Coordinating Agency's Executive Director)

Signature: _____ Date: _____
Address: 15 N Cameron St. FIN# 54-6001683
Winchester VA 22601 FIPS# 804
Phone: (540) 667-1815 ext. 1401

As long grant funds are committed by June 30, they can be reported as committed funds (outstanding invoices) on your accounting report as having been spent. Unspent funds will be deducted from the locality's FY 2013 – 2014 grant.

INFORMATION BELOW IS FOR DEPARTMENT OF ENVIRONMENTAL QUALITY USE ONLY

Signature of DEQ Official: _____ Date: _____

**DEQ
USE
ONLY**

TRANS	AGENCY	FUND FUND DET	FFY	PROGRAM PROG SUB ELE	OBJECT	AMOUNT	COST CODE
325	440	0925	2013	515 09 00	1451		
INVOICE NUMBER			PROJECT CODE		DESCRIPTION		
			90024				
GRANTS				LITTER PREVENTION AND RECYCLING			

Mail to: Steve Coe, Litter and Recycling Grant, P.O. Box 1105, Richmond VA 23218

B.2013-19

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: March 26, 2013 **CUT OFF DATE:** _____

RESOLUTION XX ORDINANCE __ **PUBLIC HEARING** __

ITEM TITLE: Approval of Winchester Transit Title VI Program

STAFF RECOMMENDATION: NA

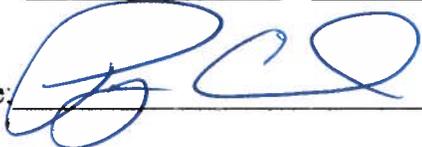
PUBLIC NOTICE AND HEARING: NA

ADVISORY BOARD RECOMMENDATION: NA

FUNDING DATA: See attached.

INSURANCE: NA

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. City Attorney			<u>3/18/2013</u>
2. City Manager			_____
3. Clerk of Council			_____
Initiating Department Director's Signature:			<u>3/14/13</u> Date



APPROVED AS TO FORM:

 3/18/2013
CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Perry Eisenach, Public Services Director
Date: March 14, 2013
Re: Approval of Winchester Transit Title VI Program

THE ISSUE: Approval of the Winchester Transit Title VI Program.

RELATIONSHIP TO STRATEGIC PLAN: N/A

BACKGROUND: Winchester Transit is required to have a Title VI Program, approved by City Council, in order to receive federal funds from the Federal Transit Administration. The Title VI Program is required to ensure that the level and quality of transit service is provided without regard to race, color, national origin, or income status. The program must be revised and approved every three (3) years to reflect any modifications to federal regulations.

BUDGET IMPACT: No budget impact.

OPTIONS: Either approve or not approve the revised Title VI Program.

RECOMMENDATIONS: Approve the revised Title VI Program.



THE COMMON COUNCIL

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

RESOLUTION

APPROVAL OF WINCHESTER TRANSIT TITLE VI PROGRAM

WHEREAS, the City receives significant funding from the Federal Transit Administration for the operation of the City's transit system; and

WHEREAS, the City is required to have a Title VI Program in place to receive this federal funding to ensure that the level and quality of transit service is provided without regard to race, color, national origin, or income status; and

WHEREAS, the Title VI Program must be revised every three years to reflect any modifications to federal regulations.

NOW, THEREFORE, BE IT RESOLVED THAT: The City of Winchester Common Council hereby approves the revised Winchester Transit Title VI Program.

Resolution No.

ADOPTED by the Common Council of the City of Winchester on the ___th
day of _____, 2013.

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



**City of Winchester
Transit Department
Title VI Program**

301 East Cork Street
Winchester, VA 22601
Phone 540.667.1815 • Fax 540.662.4626

Submitted to:
Federal Transit Administration
Region 3
1760 Market Street
Philadelphia, PA 19103

May 2013

Table of Contents

INTRODUCTION	1
PURPOSE	1
OBJECTIVES	2
GENERAL REPORTING REQUIREMENTS	2
CERTIFICATION AND ASSURANCE	2
COMPLAINT PROCEDURES	2
INVESTIGATIONS, COMPLAINTS AND LAWSUITS	2
LEP	3
NOTIFICATION TO BENEFICIARIES	4
CIVIL RIGHTS COMPLIANCE REVIEW ACTIVITIES	4
CONSTRUCTION PROJECTS	4
PROMOTION OF INCLUSIVE PUBLIC PARTICIPATION	5
OTHER	5
ATTACHMENTS	
SYSTEM ROUTE MAP	ATTACHMENT 1
DEMOGRAPHIC MAP	ATTACHMENT 2
TITLE VI COMPLAINT PROCESS	ATTACHMENT 3
COMPLAINT FORM	ATTACHMENT 4
LANGUAGE IMPLEMENTATION PLAN	ATTACHMENT 5
TITLE VI PUBLIC NOTICE TO BENEFICIARIES	ATTACHMENT 6
CE CHECKLIST	ATTACHMENT 7

INTRODUCTION

Winchester Transit provides transit service within the city limits of Winchester. It is a department within the municipality of the City of Winchester. Winchester Transit operates fixed-route and complimentary para-transit service to a population of approximately 26,000.

Winchester Transit has been responsible for providing public transit service in Winchester since 1951. Currently Winchester Transit has a fleet of 11 revenue vehicles. All fixed-route and complimentary para-transit services are directly operated by Winchester Transit.

Winchester Transit operates a network of 7 fixed routes. Service is provided as follows:

- Monday – Friday, 6:00 a.m. to 8:00 p.m.
- Saturday, 9:00 a.m. to 5:00 p.m.
- Trolley Service – Monday, Wednesday, and Friday – 8:00 a.m. to 6:00 p.m.
- Trolley Service – Saturday – 10:00 a.m. to 4:00 p.m.

Winchester Transit's complementary para-transit service operates during the same days and hours of service as the fixed-route service.

Winchester Transit operates from a single administration facility located on the same property where all vehicles are maintained in the transit maintenance facility. This site is also used as the hub for service. Maintenance is provided by the City of Winchester's Equipment Division.

Transit routes are available in all census tracts within the City of Winchester. A map of Winchester Transit's bus routes is attached (Attachment 1).

PURPOSE

The purpose of Winchester Transit's Title VI Program is to ensure that the level and quality of transit service is provided without regard to race, color, national origin or income status. Each direct recipient of FTA funds must provide a compliance report with updates every three years or whenever significant changes in the program occur. Winchester Transit currently receives and will annually apply for operating and capital assistance from FTA under Section 5307.

The U.S. Department of Transportation and FTA require agencies that operate transit service to comply with the general requirements of the Title VI regulations. Winchester Transit's 2012 Title IV Program has been updated to be consistent with current Federal Transit Administration (FTA) guidelines for Title VI compliance known as FTA Circular 4702.1B, dated October 1, 2012.

OBJECTIVES

The City of Winchester is committed to insuring that no person is discriminated against on the basis of race, color or national origin with respect to service or other transit benefits. The objectives of the Winchester Transit Title VI Program are identical to the objectives stated in Chapter II of the FTA Circular 4702.1B:

1. Ensure that the level and quality of transportation service is provided in a nondiscriminatory manner;
2. Promote full and fair participation in public transportation decision-making without regard to race, color, or national origin;
3. Ensure meaningful access to transit-related programs and activities by persons with limited English proficiency.

GENERAL REPORTING REQUIREMENTS

1. Certification and Assurance

In accordance with 49 CFR Section 21.7, Winchester Transit annually submits the Title VI assurance as part of its annual Certification and Assurance submission to FTA. The Title VI Assurance states that the applicant will carry out the program in compliance with Title VI of the Civil Rights Act of 1964.

2. Complaint Procedures

In order to comply with 49 CFR Section 21.9(b), recipients and subrecipients shall develop procedures for investigating and tracking Title VI complaints filed against them and make their procedures for filing a complaint available to members of the public upon request.

Winchester Transit promptly investigates all complaints filed under Title VI. A complaint log is maintained by the administrative staff at Winchester Transit. Procedures for filing a complaint are available to the public upon request (Attachment 3 - Title VI Complaint Process). Winchester Transit has a Complaint Form (Attachment 4 - Title VI Complaint Form) available for all complaints or compliments.

3. Investigations, Complaints and Lawsuits

In order to comply with 49 CFR Section 21.9(b), recipients and subrecipients shall prepare and maintain a list of any active investigations conducted by entities other than FTA, lawsuits, or complaints naming the recipient and/or

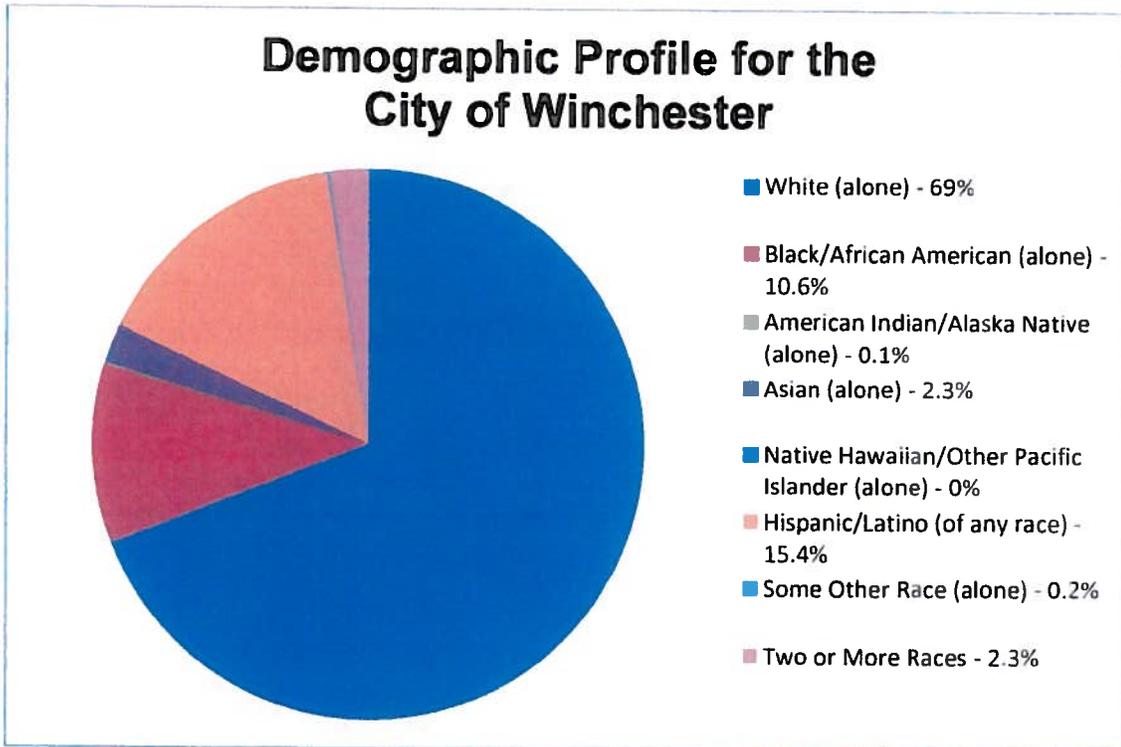
sub recipient that allege discrimination on the basis of race, color, or national origin. This list shall include the date of the investigation, lawsuit, or complaint filed; a summary of the allegation(s); the status of the investigation, lawsuit, or complaint; and actions taken by the recipient or subrecipient in response to the investigation, lawsuit, or complaint.

There have been no lawsuits filed against Winchester Transit alleging discrimination with respect to transit service or other amenities. Winchester Transit has received no complaints alleging discrimination on the basis of race, color, or national origin.

4. LEP

Title VI and its implementing regulations require that FTA recipients take responsible steps to ensure meaningful access to the benefits, services, information, and other important portions of their programs and activities for individuals who are Limited English Proficient (LEP).

The 2010 Census Demographic Profile for the City of Winchester reports the following statistics (Attachment 2 – Demographic Map):



Winchester Transit has an approved Language Implementation Plan (Attachment 5 – Language Implementation Plan). Winchester Transit strives to provide multilingual facilities; signs in English and Spanish have been posted in all transit facilities and buses in active service notifying passengers of civil rights complaint procedures.

All bus schedules, brochures, applications and transit information are provided in English and Spanish and are disseminated to areas such as libraries, human service agencies, hotels, visitor centers, local attractions and at City Hall's customer service center.

Winchester Transit employees have access to a telephone interpretation service with tele-conference capabilities.

5. Notification to Beneficiaries

In order to comply with 49 CFR Section 21.9(d) Winchester Transit provides information to the public regarding Title VI obligations and protections against discrimination afforded to them by Title VI.

Winchester Transit informs the public of their rights under Title VI by placing posters in all transit-owned facilities, vehicles and transfer stations. All Title VI information is translated in English and Spanish. (Attachment 6 – Title VI Notice to Beneficiaries)

6. Civil Rights Compliance Review Activities

Winchester Transit has not had a Civil Rights Compliance Review during the past three years. However, as part of the 2012 Triennial Review, a deficiency was found in the Title VI review area (Finding D-06 – Lacking assessment or provisions for LEP persons). Per required corrective action, Winchester Transit submitted a Language Implementation Plan containing a completed LEP four factor analysis, along with a list of language assistance that has been or will be provided, as well as a timeline for providing additional assistance; final approval for the Language Implementation Plan was received on February 11, 2013 (See Attachment 5 – Language Implementation Plan).

7. Construction Projects

In order to integrate, into environmental analyses, considerations expressed in the DOT Order on Environmental Justice, recipients and sub recipients should integrate an environmental justice analysis into their NEPA documentation of construction projects.

In October 2012, Winchester Transit began construction of an administrative office facility for all transit staff. (Attachment 7 – CE Checklist)

8. Promotion of Inclusive Public Participation

In order to integrate, into community outreach activities, considerations expressed in the DOT Order on Environmental Justice, and the DOT LEP Guidance, recipients and sub recipients should seek out and consider the viewpoints of minority, low-income, and LEP populations in the course of conducting public outreach and involvement activities.

Winchester Transit utilizes the local media, print and radio, as well as local television, TV3, to disseminate transit-related information. Transit staff informally attends neighborhood association and similar organization meetings to collect feedback and share information about transit programs, activities and service with local residents. Information is also shared via posting notices in all vehicles, at stations and by drivers. All information is translated in English and Spanish.

Over the past 3 years, Winchester Transit has made presentations to the staff at the Department of Rehabilitative Services and Department of Social Services to educate and promote transit-related programs and services. Staff has also met with several staff members at Access Independence to collect feedback as well as promote services available to individuals with disabilities. Winchester Transit has been featured as a guest speaker on local television, TV3, to discuss transit programs, activities and services, as well as participated in local community fairs and festivals and promoted public transportation through Dump the Pump Day.

9. Other

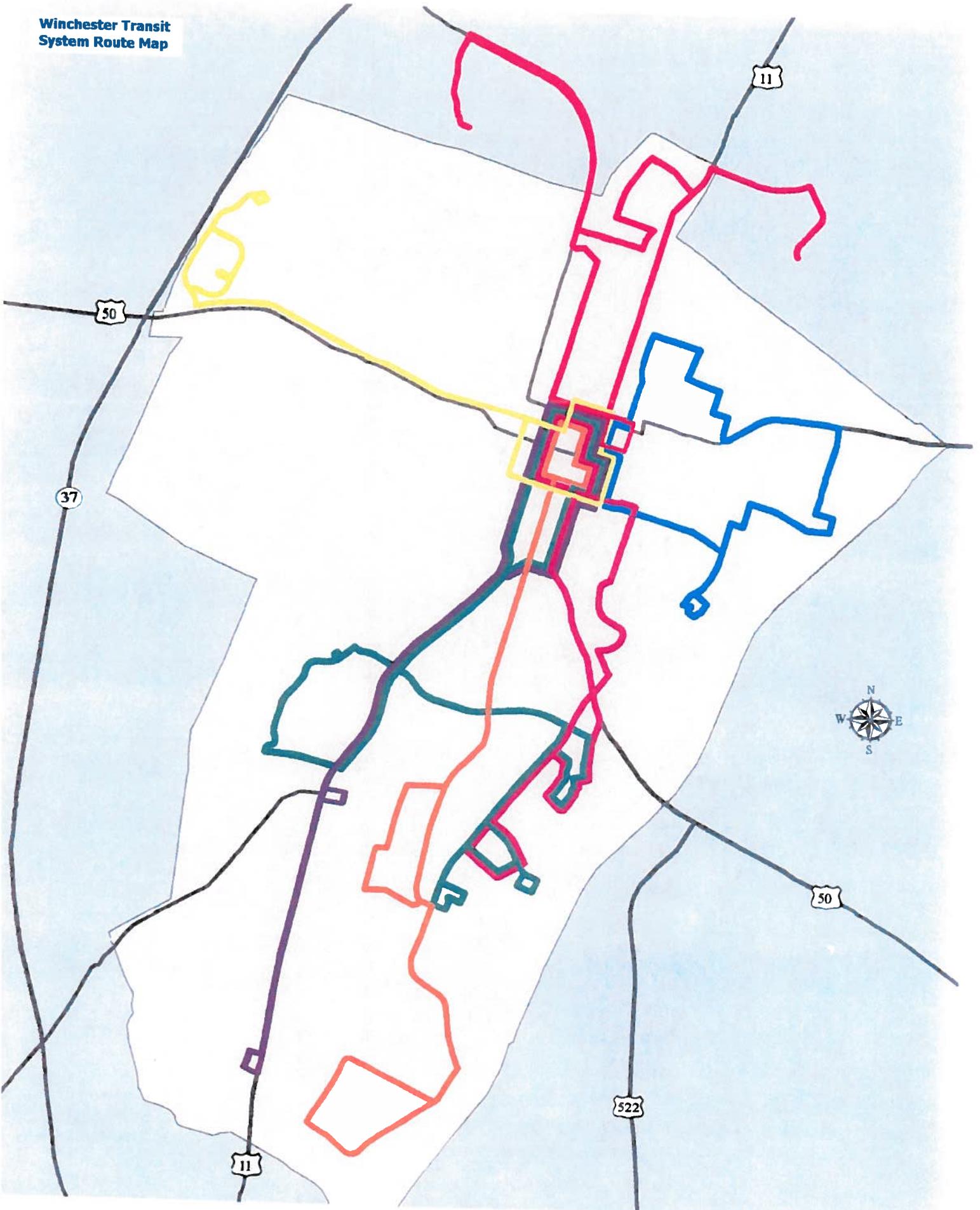
Over the past three years, Winchester Transit has completed the following projects:

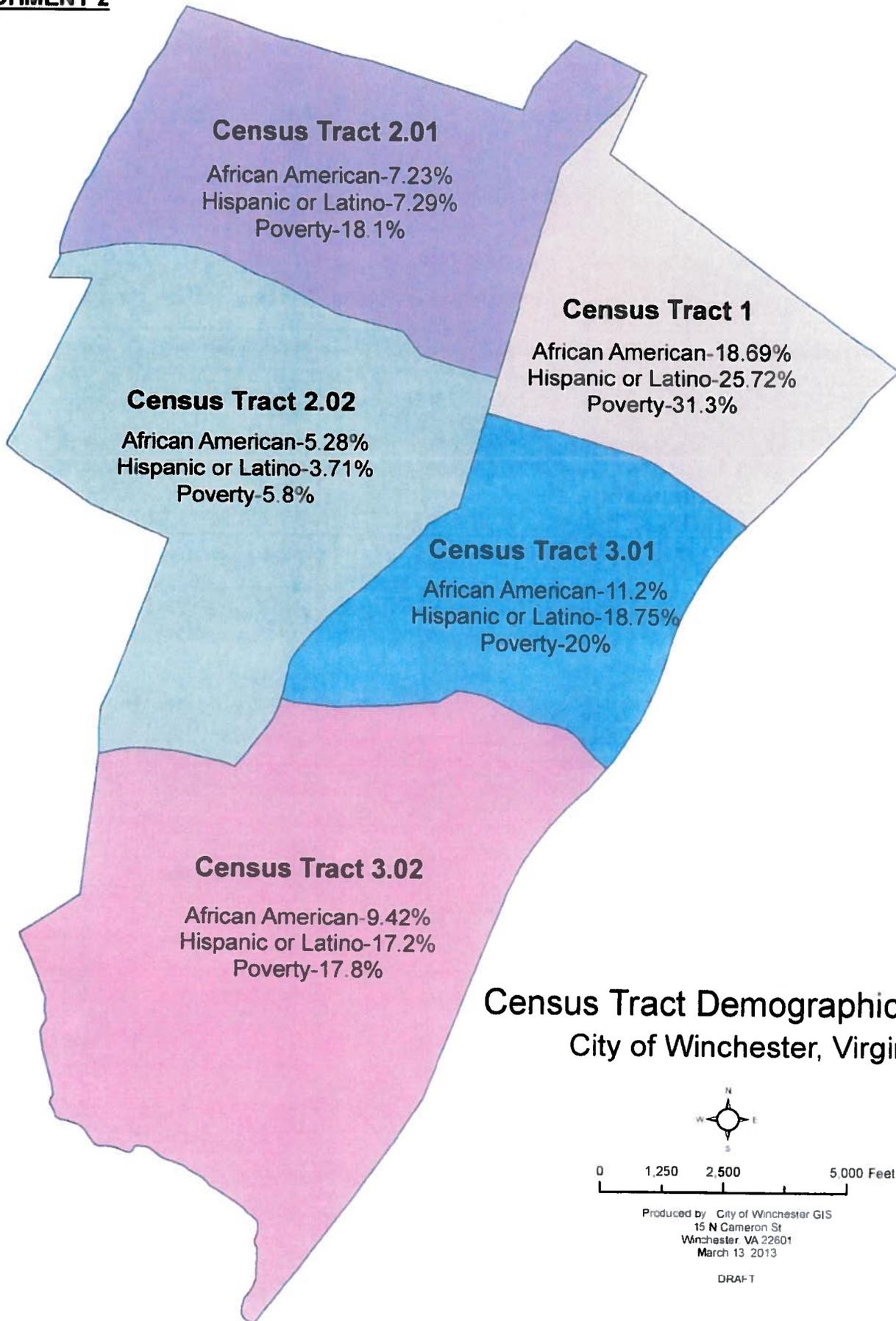
- Utilized ARRA funds to install automatic stop announcement systems in all transit vehicles;
- Utilized ARRA funds to purchase para-transit scheduling software;
- Purchased and installed bus shelters and benches for all fixed-routes;
- Purchased and installed bike racks on all fixed-route vehicles; and
- Utilized ARRA funds to design and install new bus stop signs at all fixed-route bus stops.

ATTACHMENTS

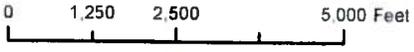
ATTACHMENT 1

**Winchester Transit
System Route Map**





**Census Tract Demographic Profile
City of Winchester, Virginia**



Produced by City of Winchester GIS
15 N Cameron St
Winchester VA 22601
March 13 2013

DRAFT

ATTACHMENT 3

WINCHESTER TRANSIT TITLE VI COMPLAINT PROCESS

Winchester Transit will promptly investigate all complaints filed under Title VI in accordance with Department of Transportation (DOT) regulations at 49 CFR Section 21.11(b) and 21.11(c).

1. **RIGHT TO FILE A COMPLAINT.** Any person who believes himself or any specific class of persons to be subjected to discrimination prohibited by Title VI may by himself or by a representative file a written complaint.
2. **INVESTIGATIONS.** Winchester Transit will make a prompt investigation of all Title VI complaints. The investigation will include, reporting the complaint to the City Attorney, Human Resources Director and City Manager, interviewing all parties and/or witnesses related to the complaint, reviewing any video surveillance data available related to the complaint and reviewing Winchester Transit's practices and policies to determine whether Winchester Transit has failed to comply with Title VI.
4. **LETTERS OF FINDING AND RESOLUTION.** Once an investigation has been completed, Winchester Transit will transmit to the complainant one of the following letters based on its findings:
 - a. A letter of resolution that explains the steps taken or actions to take to remedy the complaint.
 - b. A letter of finding that states the complaint is not found to be in noncompliance with Title VI. This letter will include an explanation of why the complaint is unfounded and provide notification of the complainant's appeal rights.
5. **APPEALS PROCESS.** The letter of finding and resolution will offer the complainant the opportunity to provide additional information regarding the complaint within 30 days of the date of the letter. After reviewing this information, Winchester Transit will respond either by issuing a revised letter of resolution or finding to the appealing party, or by informing the appealing party that the original letter of resolution or finding remains in force within 30 days.

**Winchester Transit
Complaint Form**

<u>Name:</u>	
<u>Address:</u>	
<u>Phone:</u>	(Home) (Work) (Other)
<u>Best Time to Contact:</u>	
<u>Accessible Format Requirements?</u>	
<u>Please circle:</u>	Audio Tape Large Print TDD Other (please list):

<u>Nature of the Situation:</u>	
<u>Route:</u>	
<u>Date:</u>	
<u>Time:</u>	
<u>Driver Name (if applicable):</u>	
<u>Description:</u>	

Are you filing this Complaint on your own behalf? Yes No
If not, please supply the name and relationship of the person for whom you are representing:

Please confirm that you have obtained the permission of the aggrieved party to file this complaint on his/her behalf: Yes No

Please sign here: _____

Date: _____

ATTACHMENT 5

City of Winchester
Transit Department
Language Implementation Plan
September 2012

LANGUAGE ACCESS POLICY

1. Policy Statement

- a. It is the Policy of Winchester Transit that all staff shall take reasonable steps to provide limited English proficient (LEP) persons with meaningful access to all programs or activities conducted by Winchester Transit.
- b. This policy is based on the principle that it is the responsibility of Winchester Transit and not the LEP person to take reasonable steps to ensure that communications between Winchester Transit and the LEP person are not impaired as a result of the limited English proficiency of the individual.
- c. Winchester Transit staff shall take reasonable steps to effectively inform the public of the availability of language accessible programs and activities.

2. Purpose

- a. The purpose of this Language Implementation Plan is to make reasonable efforts to eliminate or reduce limited English proficiency as a barrier to accessing Winchester Transit programs.

3. Authority

- a. This Language Implementation Plan is in accordance with Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, 65 Fed. Reg. 50, 121 (August 16, 2000). The guidelines are consistent with the U.S. Department of Transportation's Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient (LEP) Persons (DOT LEP Guidance, Federal Register, vol. 70, no. 239, pp. 74087–74100, December 14, 2005).
- b. Title VI of the Civil Rights Act of 1964 and its implementing regulations provide that no person shall be subjected to discrimination on the basis of race, color or national origin under any program or activity that receives Federal financial assistance.

4. Compliance

- a. Winchester Transit staff will take reasonable steps to provide language assistance services to LEP individuals when they encounter or have reason to believe that they may encounter LEP individuals in the course of their daily job duties. Winchester Transit staff will also take reasonable steps to provide language assistance services upon request by an LEP person who wishes to access Winchester Transit programs or to who staff wishes to communicate.

BACKGROUND

Most individuals living in the United States read, write, speak and understand English. However, there are many individuals for whom English is not their primary language. If individuals have a limited ability to read, write, speak, or understand English, they are limited English proficient, or "LEP."

Every day, Winchester Transit staff come in contact with and/or transport individuals who have a limited ability to read, write, speak, or understand English. Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq., and its implementing regulations provide that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity that receives Federal financial assistance.

Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," reprinted at 65 FR 50121 (August 16, 2000), directs each Federal agency to examine the services it provides and develop and implement a system by which LEP persons can meaningfully access those services. Federal agencies were instructed to publish guidance for their respective recipients in order to assist them with their obligations to LEP persons under Title VI. The Executive Order states that recipients must take reasonable steps to ensure meaningful access to their programs and activities by LEP persons. President Bush affirmed his commitment to Executive Order 13166 through a memorandum issued on October 25, 2001 by Assistant Attorney General for Civil Rights, Ralph F. Boyd, Jr. FTA references the DOT LEP guidance in its Circular 4702.1A, "Title VI and Title VI-Dependent Guidelines for FTA Recipients" (April 13, 2007).

The DOT LEP Guidance recommends determining what steps are necessary to provide "meaningful access" on the basis of four factors:

1. The number and proportion of LEP persons served or encountered in the eligible service population;
2. The frequency with which LEP individuals come into contact with the program, activity or service;

3. The nature and importance of the program, activity or service provided by the program; and
4. The resources available to the recipient and cost.

DETERMINING THE NEED FOR LANGUAGE ASSISTANCE - FOUR FACTOR ANALYSIS

Information obtained during the four factor analysis indicated a need for Spanish language assistance for potential transit users.

1. Who are the LEP persons serviced or likely to be encountered by Winchester Transit?

While population information changes faster than census data can be reported, per the 2010 Census Data, the number or proportion of LEP's in the Winchester Transit service area is as follows:

POPULATION 5 YEARS AND OVER BY LANGUAGE SPOKEN AT HOME AND ABILITY TO SPEAK ENGLISH		
Population 5 years and over	24195	100.0
Speak only English	19461	80.4
Speak a language other than English	4734	19.6
Spanish	2731	100.0
Speak English "very well"	712	26.1
Speak English "well"	572	20.9
Speak English "not well"	1136	41.6
Speak English "not at all"	311	11.4
Other Indo-European languages	1514	100.0
Speak English "very well"	511	33.8
Speak English "well"	506	33.4
Speak English "not well"	497	32.8
Speak English "not at all"	0	0
Asian and Pacific Island languages	310	100.0
Speak English "very well"	180	58.0
Speak English "well"	39	12.6
Speak English "not well"	91	29.4
Speak English "not at all"	0	0
All other languages	179	100.0
Speak English "very well"	162	90.5
Speak English "well"	17	9.5
Speak English "not well"	0	0

Speak English "not at all"	0	0
ABILITY TO SPEAK ENGLISH		
Population 5 years and over	24195	100.0
Speak a language other than English	4734	19.6
5 to 17 years	965	20.4
18 to 64 years	3555	75.1
65 years and over	214	0.9
Speak English less than "very well"	3169	13.1
5 to 17 years	333	1.4
18 to 64 years	2710	11.2
65 years and over	126	0.5

2. What is the frequency with which LEP individuals come in contact with Winchester Transit staff or representatives?

A service may be provided in or near a large LEP population but may have little contact with that population. If a lack of contact exists, it is critical to determine if this lack of contact is due to language barriers. Consideration of the languages spoken by the LEP individuals should also be noted. The more frequent the contact, the more likely enhanced language services are necessary.

Interviews with Winchester Transit staff (drivers, office assistant, and supervisor) revealed there is daily interaction with LEP individuals and indicated a need for Spanish language assistance for Hispanic or Latino riders. Fixed-route bus drivers stated that interaction with LEP individuals mostly pertained to next-bus information and specific destinations. Interviews also confirmed interaction with LEP individuals as being the greatest when driving on the three (3) routes servicing the City's main shopping and health care districts (Winchester Transit has a total of seven (7) fixed routes). While drivers indicated that the majority of the interactions with LEP individuals were positive, suggestions were made to provide additional outreach information to include symbols and/or landmark information for popular destinations on each route.

Interviews with the Transit Supervisor and Office Assistant/Dispatcher revealed that interaction with LEP individuals mostly pertained to next-bus information with inquiries being the greatest for the three (3) routes servicing the City's main shopping and health care districts. Both the Supervisor and Office Assistant/Dispatcher indicated that interactions with LEP individuals were positive and they were easily able to provide proper customer service and assistance.

Interviews with Winchester Transit para-transit bus drivers revealed that interaction with LEP individuals was limited and mostly pertained to information on scheduled pick-up and drop-off times. All para-transit drivers indicated that

while interactions with LEP individuals were limited, all interactions were positive and offered no suggestions on providing additional outreach information.

3. What is the nature and importance of the program, activity, or service provided by Winchester Transit?

The mission of Winchester Transit is to provide quality service to our passengers in a safe, efficient and reliable manner. Our mission is accomplished through: professional leadership; safe professional drivers; and, a dedicated customer-oriented workforce.

Winchester Transit provides vital public transportation to individuals with disabilities and to those individuals who have no other means of transportation in the City of Winchester and immediate area of Frederick County.

Of the major employers and job training centers, human service agencies, local school systems, community organizations, and local government agencies (including local police) interviewed, all entities indicated an increasing Hispanic/Latino population; therefore, a need for Spanish language assistance for potential transit users.

4. What resources are needed to provide effective language assistance, including location, availability and arrangements necessary for timely use?

The key to providing effective language assistance for LEP persons is to ensure that effective communication exists between the individuals providing the service and the LEP person.

Winchester Transit's current language assistance measures are limited to the translation of several vital documents pertaining to services, bus schedules, and use of a telephone interpreting service. The City of Winchester also requires all employees to attend a Spanish training provided by an instructor from the local community college. Translation services and staff time are currently the only financial burden for providing these language assistance measures; telephone interpreting services and mandatory training are provided by the City of Winchester at no cost to individual departments.

Recent analysis has determined that additional language assistance measures are needed to provide meaningful access to its programs and activities. Proposed additional language measures and cost estimates are outlined in the table below:

Language Assistance Measure	Type of Service	Estimated Cost
Notices of Language Service Availability	Translation	Per word rates ranging from \$0.02 per word to \$0.20 per word
Vital Document Translation	Translation	Per word rates ranging from \$0.02 per word to \$0.20 per word
Public Notices/Public Service Announcements	Translation/Interpreter	Per word rates ranging from \$0.02 per word to \$0.20 per word; rates for interpreter services range from \$50/hr (2 hr minimum)
Language ("I Speak") Identification Cards	N/A	Free
Bilingual services	Interpreter	Rates for interpreter services range from \$50/hr to \$200/hr, depending on the type of service requested; free service may be available via qualified bilingual staff or a qualified voluntary community interpreter
Alternative Communication Methods – schematic maps, pictograms, color-coded warnings, graphics, etc.	N/A	No cost other than staff time and printing, in-house
Training	Interpreter	\$200/hr for conference and simultaneous interpretation (2 interpreters required for service lasting more than 1 hr); Limited free training is available

In an attempt to provide the additional language assistance measures listed above, Winchester Transit will request additional operating funds to be devoted to providing additional language assistance measures, when and if needed. Winchester Transit will monitor budgeted expenses and will also pursue cost saving methods in providing additional language assistance, i.e. pooling resources with other agencies and standardizing documents to reduce translation needs.

LANGUAGE ASSISTANCE MEASURES

Winchester Transit will use the following measures to provide meaningful access to services and to assist the City of Winchester's LEP population:

1. Notice of Availability of Language Services

Winchester Transit will use the following methods to inform LEP individuals of available LEP services:

- Signs, in English and Spanish will be posted in all buses, offices and other appropriate locations to notify LEP individuals of available services and how to obtain services.
- Vital Documents will include a notice that language assistance services are available. The notice will be listed in English and Spanish.
- Community organizations will be notified of available language assistance services for potential transit users.
- Public notices and/or public service announcements will periodically be made about available language assistance services and how to access them.

2. Oral Language Assistance

Winchester Transit will provide LEP individuals with oral language assistance in a timely manner. Winchester Transit staff will utilize language identification cards when first encountering an LEP individual. Language identification cards are used to identify the primary language of limited English proficient individuals during face-to-face contacts. Oral language assistance may be in the form of qualified bilingual staff, use of an outside interpreter service, use of skilled voluntary community interpreters or through a language line provider.

3. Written Language Assistance

Documents determined to be essential in informing the public about Winchester Transit programs, projects or services will be made available in Spanish. Winchester Transit will translate vital documents and materials that are routinely provided in English to applicants, customers and the general public. Vital documents and materials include, but are not limited to: notices regarding available language services, applications, letters requiring a response from customers, public notices, rules and regulations, schedules, electronic information available via the Winchester Transit website, complaint forms, information pertaining to a person's right to appeal, and civil rights information.

(*Safe Harbor requires written translations of vital documents for each LEP group that meets the threshold. Safe Harbor LEP threshold is 5% or 1,000 individuals, whichever is less)

4. Alternative Communication Methods

To reduce cost and communication difficulty, Winchester Transit may explore the use of methods and/or devices that do not require the use of language. For example, Winchester Transit may use schematic maps, pictograms, symbol signs/standard symbolic signs (SMS's), diagrams, color-coded warnings, illustrations, graphics and pictures.

5. Training

Training staff how to determine whether a customer needs language assistance services is essential. Winchester Transit will train all staff on how to effectively communicate with LEP individuals through available language assistance services and communication with interpreters and translators; specialized training may be required for front-line staffs that are likely to have considerable interaction with LEP individuals.

6. Monitoring

Monitoring of the accessibility and quality of language assistance needs of LEP individuals to ensure that all LEP individuals have meaningful access to programs and services is vital. Winchester Transit will conduct continuing assessments of its LEP services to determine:

- Current LEP composition of its service area
- Communication needs of LEP individuals
- Effectiveness of existing assistance
- Staff training
- Sources of assistance

Winchester Transit will conduct follow-up meetings with all community organizations and businesses initially contacted to determine if there have been any changes in the demographics of the LEP population within its service area and to receive input on whether implemented language assistance measures and efforts are working. These meetings will provide an opportunity to inform the LEP community of any new or updated language assistance available and will also likely provide feedback that will be used to make future changes to the types of language assistance provided as well as to staff training and outreach programs.

Winchester Transit will also utilize community LEP organizations to aid in conducting random surveys of LEP individuals to determine how frequently they utilize and the importance of the services available.

Winchester Transit will meet quarterly with staff to determine the effectiveness of implemented language assistance measures. These meetings will also provide an opportunity to discuss additional training opportunities available or needed. Winchester Transit will randomly utilize "secret shopper" volunteers from the local LEP community to monitor office personnel and front-line staffs to ensure LEP individuals are receiving proper language assistance and to aid in determining if additional staff training is needed.

Winchester Transit management will randomly monitor all language assistance measures that have been implemented to aid in determining if assistance is being provided competently and effectively.

Based on feedback received from community organizations and businesses and Winchester Transit staff, Winchester Transit will make necessary modifications to the type of language assistance provided as well as to staff training and outreach programs, as needed.



Winchester Transit is committed to ensuring that no person is discriminated against on the basis of race, color or national origin with respect to service or other transit amenities and benefits, as provided by Title VI of the Civil Rights Act of 1964, as amended.

**Comments, Questions or Complaints?
Please call:**

**Renee Wells
Transit Director
(540) 667-1815**

Or

**Federal Transit Administration – (215) 656-7100
U.S. Department of Transportation – (202) 336-4000**

Grant Applicant: City of Winchester

Date: March 12, 2012

**INFORMATION REQUIRED FOR PROBABLE
CATEGORICAL EXCLUSION
(SECTION 771.117(d))**

- A. DETAILED PROJECT DESCRIPTION: Describe type of project and transit nexus (include applicable FTA Transit Programs supported by this project). This description should include the proposed use, property size, parcel history, ownership information, acreage, and previous and current studies.**

Project consists of the construction of a new, small office building that will be used to run the day-to-day operations of the City's Transit system. The size of the new office building is approximately 2,550 square feet and will be located adjacent to the new bus garage that was constructed in 2009 and used to house the City's Transit vehicles. The existing Transit office building is located in close proximity to where the new building will be constructed and is old and does not meet the needs of the Transit operation. The property where this facility will be constructed is owned by the City of Winchester and is approximately 11.2 acres in size. In addition to the transit operation, this property is also utilized for the City's Public Works operations. See Exhibit A for photos of the project site.

- B. LOCATION (INCLUDING ADDRESS): Attach a site map, land use plan or diagram, which identifies the land uses and resources on the site and the adjacent or nearby land uses and resources. This is used to determine the probability of impact on sensitive receptors (such as schools, hospitals, residences) and on protected resources. This must include adjacent parcels.**

See attached – Exhibit B. The address of this property is 301 E. Cork Street, Winchester, Virginia.

- C. METROPOLITAN PLANNING AND AIR QUALITY CONFORMITY: Is the proposed project "included" in the current adopted MPO plan, either explicitly or in a grouping of projects or activities? What is the conformity status of that plan? Is the proposed project, or are appropriate phases of the project, included in the TIP? What is the conformity status of the TIP? If the project is not located within MPO boundaries, then indicate in narrative response.**

Yes, this proposed project is included in the current adopted MPO plan.

Winchester is in conformance for air quality and **is not** included within a designated "non-attainment" or "maintenance" area.

- D. ZONING: Description of zoning and land use and consistency with proposed use. Describe in narrative why project is compatible with current land use and/or zoning. In cases where additional ordinances exist describe ordinance and explain project compatibility.**

The property owned by the City where this project will be constructed is zoned CM1, Commercial Industrial. This zoning is consistent with the existing and proposed use. This property is currently used by the Transit operation and the City's Public Works Department.

- E. TRAFFIC IMPACTS: Describe potential traffic impacts, including whether the existing roadways have adequate capacity to handle increased bus and other vehicular traffic. Also include description of ingress, egress and safety.**

There will be no change in traffic once the project is completed as the existing Transit operation is located on the same property. There are two locations for ingress and egress from the property – one from the north on Cork Street and the other from the south on Pall Mall Street. The site can be easily accessed by any necessary emergency vehicles.

There will be some additional traffic during the construction of the project, however, this additional traffic will be minimal and the existing roadways have adequate capacity to handle the existing traffic and the construction traffic.

- F. CO HOT SPOTS: If there are serious traffic impacts at any affected intersection, and if the area is nonattainment for CO, demonstrate that CO hot spots will not result. In nonattainment areas, IAC concurrence and documentation must be attached. If project is not in a non-attainment area for CO, state in narrative.**

There will be no serious traffic impacts at any affected intersection. Winchester is not in a non-attainment area for CO.

- G. HISTORIC RESOURCES: Describe any cultural, historic, or archaeological resource that is located in the immediate vicinity of the proposed project and the impact of the project on the resource. Include documentation from the National Register of Historic Places website (<http://www.nps.gov/nr>). If a historic resource is located in the vicinity of the property (historic site is visible from property), State Historic Preservation Office (SHPO) or Tribal Historic Preservation Office (THPO) concurrence should be included. In addition, SHPO/THPO concurrence is required if archeological resources are located on property. If no historic or archaeological resource is located in the vicinity of property, please state and provide documentation per website.**

There are no cultural, historic, or archaeological resources that are located in the immediate vicinity of this project site.

- H. **NOISE:** Assess the noise impacts using the FTA Noise and Vibration Manual (http://www.fta.dot.gov/documents/FTA_Noise_and_Vibration_Manual.pdf). Compare the distance between the center of the proposed project and the nearest noise receptor to the screening distance for the type of project per the manual. If the screening distance is not achieved, attach a "General Noise Assessment" with conclusions.

There will be no additional noise generated from this project.

- I. **VIBRATION:** Assess the vibration impacts using the FTA Noise and Vibration Manual (http://www.fta.dot.gov/documents/FTA_Noise_and_Vibration_Manual.pdf). If the proposed project involves new or relocated steel tracks, compare the distance between the center of the proposed project and the nearest vibration receptor to the screening distance for this type of project in FTA's guidelines. If the screening distance is not achieved, attach a "General Vibration Assessment" with conclusions. If the project does not involve new or relocated steel tracks, then there will be no vibration impacts. If so, please state in narrative.

This project does not involve new or relocated steel tracks so there will be no vibration impacts.

- J. **ACQUISITIONS & RELOCATIONS REQUIRED:** Describe land acquisitions and displacements of residences and businesses. Include current use, ownership information and date of property acquisition (if applicable). Please note if FTA funds are used to acquire property or the property is used as local match the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (<http://www.fhwa.dot.gov/realestate/ua/ualic.htm>) must be followed and documented.

There is no land acquisition or displacements for this project. The property is already owned by the City of Winchester.

- K. **HAZARDOUS MATERIALS:** If real property is to be acquired, has a Phase I site assessment for contaminated soil and groundwater been performed? If a Phase II site assessment is recommended, has it been performed? What steps will be taken to ensure that the community in which the project is located is protected from contamination during construction and operation of the project? State the results of consultation with the cognizant State agency regarding the proposed remediation?

There is no property to be acquired, so a Phase I site assessment is not necessary. There are no known hazardous materials on the site. During construction, the proper soil and erosion control methods will be implemented to mitigate any possible environmental impacts.

- L. COMMUNITY DISRUPTION AND ENVIRONMENTAL JUSTICE:** Provide a socioeconomic profile (and socioeconomic census map) of the affected community. Describe the impacts of the proposed project on the community. Identify any community resources that would be affected and the nature of the effect. Identify if there would be any impact to minority and/or low-income communities and identify if there would be any disproportionate and adverse effect to these communities as a result of the proposed project (Executive Order 12898). If project is not located in a distressed socioeconomic area, provide narrative and census map documentation (<http://www.fhwa.dot.gov/environment/ej2.htm>).

This project will have no impacts on the surrounding community. The construction of the new transit office building is to replace the existing offices that are located on the same property owned by the City of Winchester. There will be no change to the operation of the transit system for the public as a result of this project.

- M. USE OF PUBLIC PARKLAND AND RECREATION AREAS:** Indicate parks and recreational areas on the site map. If the activities and purposes of these resources will be affected by the proposed project, state how and provide concurrence from the appropriate government authority having jurisdiction over the asset(s) should be included. If the proposed project is not located in or in the vicinity of a public parkland and recreation areas, please state such and provide documentation (map).

This project is located approximately 0.5 miles from Jim Barnett Park and will have no impact on the park or the recreational activities conducted at the park (see Attachment C).

- N. IMPACTS ON WETLANDS:** Show potential wetlands on the site map. Describe the project's impact to on-site and adjacent wetlands. If the project impacts wetlands, please provide mitigation efforts. If the project is not located on wetlands or will not impact any wetland areas, please state and provide documentation (map).

There are no wetlands located on or adjacent to the project location so this project will have no impact on any wetlands.

- O. FLOODPLAIN IMPACTS:** Is the proposed project located within the 100-year or 500-year floodplain? If so, address possible flooding of the proposed project site and flooding induced by proposed project due to its taking of floodplain capacity. In addition, please provide documentation on how project will be designed to restore floodplain capacity. If project is not located in the 100- year or 500-year floodplain, please state and provide documentation (map).

This project is not located in the 100-year or 500-year floodplain (see Attachment D).

P. IMPACTS ON WATER QUALITY, NAVIGABLE WATERWAYS, & COASTAL ZONES: If any of these are implicated, provide detailed analysis. If not, please state and provide documentation (how can they get documentation).

This project will have no impact on water quality, navigable waterways, or coastal zones. The project is located on a previously disturbed site and is not in the vicinity of any navigable waterways or coastal zones.

Q. IMPACTS ON ECOLOGICALLY-SENSITIVE AREAS AND ENDANGERED SPECIES: Describe any natural areas (woodlands, prairies, wetlands, rivers, lakes, streams, designated wildlife or waterfowl refuges, and geological formations) on or near the proposed project area. If present, state the results of consultation with the state department of natural resources and US Fish and Wildlife Service on the impacts to these natural areas and on threatened and endangered fauna and flora that may be affected.

This project will have no impact on ecologically sensitive areas or endangered species. The project is located on a previously disturbed site and is not in the vicinity of any ecologically sensitive areas or endangered species.

R. IMPACTS ON SAFETY AND SECURITY: Describe the measures that would need to be taken to provide for the safe and secure operation of the project after its construction.

The project is located within the City owned property that is already fenced and secured. The gates to the property are locked during non-business hours. There will be an additional security camera placed in operation to monitor the building for any possible vandalism.

S. IMPACTS CAUSED BY CONSTRUCTION: Describe the construction plan and identify impacts due to construction noise, utility disruption, debris and spoil disposal, air and water quality, safety and security, and disruptions of traffic and access to property. If applicable, please include any National Pollutant Discharge Elimination System best practice measures.

The construction of the project is estimated to take approximately 5 months to complete. The noise from construction will be minimal and will not have a negative impact on adjacent properties above the existing noise from the current Public Works operations on the property or the adjacent train. There will be no utility disruption or impacts to air and water quality.

All debris and soil will be disposed of properly at the Frederick County Regional Landfill.

There will be no disruption to traffic on the adjacent roadways or access to the property as a result of this project.

An erosion and sediment control plan has been developed for the construction of the project and the City will ensure that the contractor follows this plan and maintains the required erosion and sediment control measures throughout the construction period.

The action described above meets the criteria for a NEPA categorical exclusion (CE) in accordance with 23 CFR Part 771.117(d)(8): Construction of new bus storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is not inconsistent with existing zoning and located on or near a street with adequate capacity to handle anticipated bus and support vehicle traffic.



3/12/12

Perry Eisenach, P.E.
Public Services Director
City of Winchester

Date

Exhibit A
Photos of Project Site (Adjacent to New Bus Garage)

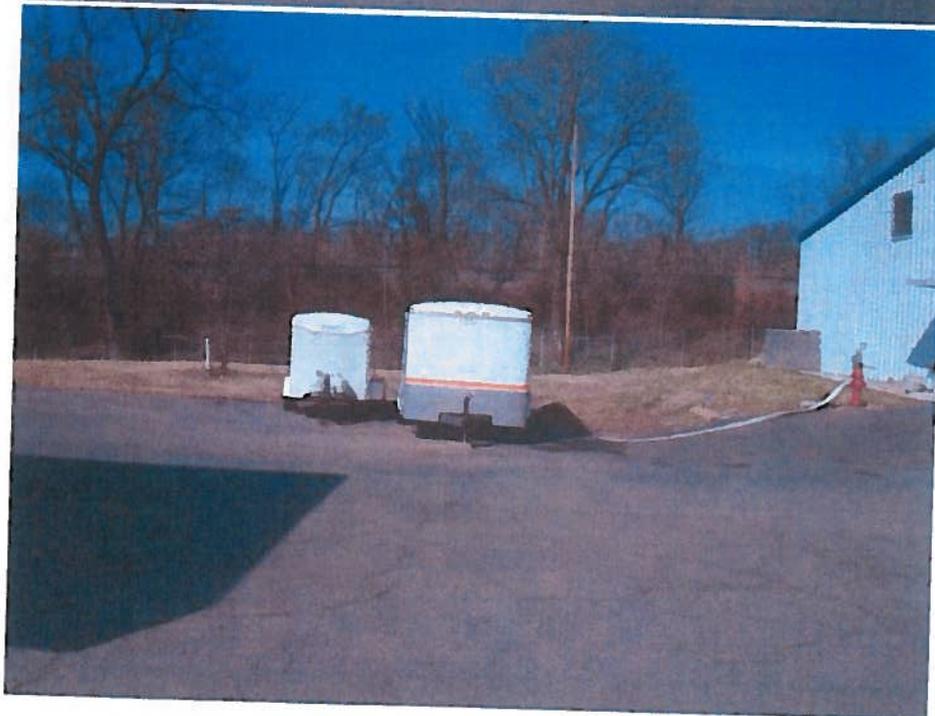




Exhibit B - Site Map

Location of New Office Building

City Owned Parcel





CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: March 26, 2013 CUT OFF DATE:

RESOLUTION ORDINANCE PUBLIC HEARING
 MOU ADOPTION X

ITEM TITLE:

Adoption of Various MOU's pertaining to Joint operations between the City and County of Frederick

STAFF RECOMMENDATION:

Approve as recommended

PUBLIC NOTICE AND HEARING:

N/A

ADVISORY BOARD RECOMMENDATION:

N/A

FUNDING DATA:

Funding appropriated as needed.

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		_____	<u>3/20/2013</u>
6. City Manager		_____	<u>3-21-13</u>
7. Clerk of Council	_____	_____	_____

Initiating Department Director's Signature: 

3-15-13
Date

Mary Blowe, Finance Director



APPROVED AS TO FORM:


3/20/2013
 CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Mary Blowe, Finance Director
Date: March 26, 2013
Re: Adoption of Joint agreement MOU's with Frederick County

THE ISSUE: Frederick County has drafted MOU's that pertain to operations that the City and County are currently abiding to, but this would formalize the process and give both the City and County clarity and documentation on the processes.

RELATIONSHIP TO STRATEGIC PLAN: With this resolution, City administration can work within our budget to maintain services and reallocate funds to accomplish *a more liveable City for all. And support of our mission of a financially sound City providing top quality municipal services while focusing on the customer and engaging our Community.*

BACKGROUND: The City and County through the joint finance committee process have in the past created operational procedures for the following purposes:

- Joint Judicial Center
- Winchester-Frederick County Convention and Visitors Bureau
- Museums

In the following MOU's our current operating procedures are documented.

BUDGET IMPACT: The City of Winchester serves as the fiscal agent for the Joint Judicial Center and each entity pays expenditures on a 50/50 split. The City of Winchester is the fiscal agent for the Winchester-Frederick County Convention and Visitors Bureau. Each locality contributes \$100,500 each fiscal year to this bureau. Other contributions mutually agreed upon to go to this entity would be funded on a 50/50 basis between the City and County. The purpose of the MOU regarding the museums states that the City will fund the City owned museums and the County will fund their museums. Each locality will serve as the fiscal agent for the respective museums.

OPTIONS: City Council can review the MOU's and decide to make changes to either the funding or fiscal agent responsibilities.

RECOMMENDATIONS: Staff recommends the approval of MOU's as recommend through the joint finance committee process.



COUNTY of FREDERICK

John R. Riley, Jr.
County Administrator

540/665-5666
Fax 540/667-0370

E-mail:
jriley@co.frederick.va.us

TO: Board of Supervisors
FROM: John R. Riley, Jr., County Administrator
DATE: March 4, 2013
RE: Joint Finance Committee Meeting

The Joint Finance Committee met on Wednesday, February 27, 2013 at 8:00 A.M., in the First Floor Conference Room, County Administration Building, 107 North Kent Street, Winchester, Virginia. Present were Chairman Richard Shickle and Bill M. Ewing, Frederick County representatives; and John Willingham, and Milt McInturff, City of Winchester representatives. Others present: John R. Riley, Jr., County Administrator; Jay E. Tibbs, Deputy County Administrator; Dale Iman, City Manager; Roderick B. Williams, County Attorney, Anthony Williams, City Attorney; Mary Blowe, Finance Director, City of Winchester; Cheryl Shiffler, Finance Director, Frederick County; Douglas Hewett, Assistant City Manager; and Matt Armstrong, *The Winchester Star*.

Mr. Shickle called the meeting to order.

*****For Board Action*****

MEMORANDUMS OF UNDERSTANDING FOR JOINT PROJECTS

The committee reviewed the draft Memorandums of Understanding regarding the Joint Judicial Center, Economic Development Commission, and the Convention and Visitors' Bureau (a.k.a. Tourism Board). It was noted the annual contribution amount contained in the Convention and Visitors' Bureau should be \$100,500 per locality.

Mr. Iman noted the Memorandum of Understanding for the Economic Development Commission needed to provide for the recognition of the Winchester EDA and the EDA Director. A revised Memorandum of Understanding will be brought back to the Joint Finance Committee for consideration.

In addition, the committee reviewed a Memorandum of Understanding terminating the joint funding relationship as it relates to the funding allocation for the Old Frederick County Courthouse Civil War Museum, George Washington's Headquarters, Stonewall Jackson's Headquarters, and Abrams Delight. Under the termination MOU, each locality shall serve as the fiscal agent for the respective museum(s) for which it owns the real property, which reflects the current practice.

Upon a motion by Mr. Willingham, seconded by Mr. Ewing, the committee recommended approval of the Memorandums of Understanding for the Joint Judicial Center, the Convention and Visitors' Bureau, with the noted amendment, and Museums. **(See attached.)**

*****For Information Only*****

COURTHOUSE RENOVATIONS/RFP UPDATE/SPACE NEEDS

Winchester City Manager Dale Iman provided a brief overview of the January 2, 2013 meeting with Judge Wetsel regarding the project and the actions taken to date to get staff input regarding space needs, etc. He advised a draft RFP would be provided to Mr. Riley for his review next week. If both localities were in agreement with the RFP then funding would be solicited.

GENERAL DISTRICT AND JUVENILE & DOMESTIC RELATIONS COURTS EMPLOYEE SUBSIDY REQUEST

The committee received a request from the clerks of the Winchester/Frederick County General District Courts and Juvenile Domestic Relations Court for salary supplements for their staff. The clerks noted there were positions within the departments that were behind the city and county employee with regard to salary. They noted both courts were understaffed. The General District Court has a total of 11 full-time employees and the Juvenile District Relations Court has 8 full-time employees. The joint request totaled \$45,600 or \$22,800 per locality.

The committee discussed this request at length. There were numerous issues:

- What is the fiscal impact to the localities?
- The City currently does not currently subsidize the salaries of court employees.
- Which locality would administer this subsidy, if it were to be approved?
- Would the employees become county or city employees?

The committee had compassion for the employees, but needed additional information.

Upon a motion by Mr. Ewing, seconded by Mr. Willingham, the committee denied the request and asked that it be resubmitted next year for reconsideration. **(See attached.)**

LIBRARY FUNDING FOR FY 2014

City Manager Iman stated the library director advised him that the City fully funded the library in the current fiscal year, but Frederick County and Clarke County did not and the City was not notified. He asked what the county's intent was for the upcoming fiscal year regarding library funding.

County Administrator John R. Riley, Jr. responded that the county level funded based on the Board of Supervisors' policy over the past few years of no operating increase. He noted this year the library requested \$850,000, which is more than they were funded in FY 2013.

Finance Director Cheryl Shiffler stated Frederick County would know in March the amount of funding for the library.

City Manager Iman asked that the information be communicated when that decision is made.

OUTSIDE AGENCY FUNDING DISCUSSIONS

The committee discussed how each locality addresses funding requests from outside agencies.

Administrator Riley advised that Frederick County provides funding through the General Fund. He went on to say the county has not funded any new agencies.

City Manager Iman advised that Winchester was reviewing its process for funding outside agencies. One avenue included the possible use of Community Development Block Grant funding to serve as seed money for a few years, after which time, the funding would be reduced and the agencies should be self-sustaining. **(See attached.)**

There being no further business, the meeting was adjourned at 9:00 a.m.

MEMORANDUM OF UNDERSTANDING

**FREDERICK COUNTY AND CITY OF WINCHESTER
JOINT AGREEMENT RE: JUDICIAL CENTER**

I. PURPOSE

The County of Frederick and the City of Winchester are entering into this Memorandum of Understanding (MOU) to determine the funding allocation for the Winchester-Frederick County Joint Judicial Center.

This MOU shall supersede all existing agreements effective July 1, 2012.

II. FUNDING

Funding contributions shall be on a 50%-50% basis between Frederick County and the City of Winchester, subject to annual appropriation.

Funding requests for the ensuing fiscal year shall be submitted to each jurisdiction no later than December 1st of each year.

Notification of proposed appropriation shall be given to each jurisdiction no later than May 1st of each year.

III. FISCAL AGENT

The City of Winchester shall serve as the fiscal agent for the undertaking(s) covered by this MOU.

IV. TERM

The term of this MOU shall be July 1 through June 30 of each fiscal year. Unless otherwise terminated as herein provided, this agreement shall automatically renew and continue in full force and effect from year to year unless terminated by either party in such manner and at such time as hereinafter provided for terminations.

V. TERMINATION

This MOU may be terminated by either party only upon written notice to the other party by certified or registered mail, return receipt requested, at least 90 days prior to the expiration of the initial term or any renewal term; otherwise this MOU shall renew and continue as provided.

Upon termination of this MOU, the parties shall mutually agree as to the disposition of the personal property of the operation and of any jointly owned real property of the operation.

IX. EVIDENCE OF AUTHORITY TO EXECUTE

In accordance with the provisions of the attached Resolutions (incorporated by reference as if set forth fully herein) duly adopted by the parties to this Memorandum of Understanding, the undersigned individuals are hereby authorized and directed to execute this Memorandum of Understanding on behalf of the respective governing bodies, and do hereby acknowledge and agree to abide its terms.

Given under my hand this _____ day of _____, 2013 on behalf of the City of Winchester, Virginia.

Dale Iman, City Manager for the City of Winchester, VA

Given under my hand this _____ day of _____, 2013 on behalf of the County of Frederick, VA

John R. Riley, Jr., County Administrator for the County of Frederick, VA

DRAFT

MEMORANDUM OF UNDERSTANDING

**FREDERICK COUNTY AND CITY OF WINCHESTER
JOINT AGREEMENT RE: WINCHESTER-FREDERICK COUNTY
CONVENTION AND VISITORS' BUREAU**

I. PURPOSE

The County of Frederick and the City of Winchester are entering into this Memorandum of Understanding (MOU) to determine the funding allocation for the Winchester-Frederick County Convention and Visitors' Bureau.

This MOU shall supersede all existing agreements effective July 1, 2012.

II. FUNDING

Each jurisdiction shall contribute \$100,500.00 each to fund the operations of the Convention and Visitors' Bureau. Contributions shall be on a 50%-50% basis between Frederick County and the City of Winchester, subject to annual appropriation, based on the smaller appropriation of each locality.

Funding requests for the ensuing fiscal year shall be submitted to each jurisdiction no later than December 1st of each year.

Notification of proposed appropriation shall be given to each jurisdiction no later than May 1st of each year.

III. FISCAL AGENT

The City of Winchester shall serve as the fiscal agent for the undertaking(s) covered by this MOU.

IV. REPRESENTATION

Representation on the Winchester-Frederick County Convention and Visitors' Bureau shall be apportioned as stated in the Bureau's by-laws. Members shall be appointed jointly by the Frederick County Board of Supervisors and the Winchester City Council.

V. TERM

The term of this MOU shall be July 1 through June 30 of each fiscal year. Unless otherwise terminated as herein provided, this agreement shall automatically renew and continue in full

force and effect from year to year unless terminated by either party in such manner and at such time as hereinafter provided for terminations.

VI. TERMINATION

This MOU may be terminated by either party only upon written notice to the other party by certified or registered mail, return receipt requested, at least 90 days prior to the expiration of the initial term or any renewal term; otherwise this MOU shall renew and continue as provided.

Upon termination of this MOU, the parties shall mutually agree as to the disposition of the personal property of the operation and of any jointly owned real property of the operation.

VII. EVIDENCE OF AUTHORITY TO EXECUTE

In accordance with the provisions of the attached Resolutions (incorporated by reference as if set forth fully herein) duly adopted by the parties to this Memorandum of Understanding, the undersigned individuals are hereby authorized and directed to execute this Memorandum of Understanding on behalf of the respective governing bodies, and do hereby acknowledge and agree to abide its terms.

Given under my hand this _____ day of _____, 2012 on behalf of the City of Winchester, Virginia.

Dale Iman, City Manager for the City of Winchester, VA

Given under my hand this _____ day of _____, 2012 on behalf of the County of Frederick, VA

John R. Riley, Jr., County Administrator for the County of Frederick, VA

MEMORANDUM OF UNDERSTANDING

**FREDERICK COUNTY AND CITY OF WINCHESTER
JOINT AGREEMENT RE: MUSEUMS**

I. PURPOSE

The County of Frederick and the City of Winchester are entering into this Memorandum of Understanding (MOU) to terminate the Memorandum of Understanding between the County of Frederick (the "County") and the City of Winchester (the "City") approved by the City on December 13, 1994 and by the County on December 14, 1994 as it relates to the funding allocation for the Old Frederick County Courthouse Civil War Museum, George Washington's Headquarters, Stonewall Jackson's Headquarters, and Abrams Delight.

This MOU shall supersede all existing agreements effective July 1, 2011.

II. FUNDING

Commencing July 1, 2011, funding for the museums shall no longer be on a shared funding basis. Each of the museums shall be subject to such funding as is made available by the entity that owns the respective museum's real property.

III. FISCAL AGENT

Each locality shall serve as the fiscal agent for the respective museum(s) for which it owns the real property.

IX. EVIDENCE OF AUTHORITY TO EXECUTE

In accordance with the provisions of the attached Resolutions (incorporated by reference as if set forth fully herein) duly adopted by the parties to this Memorandum of Understanding, the undersigned individuals are hereby authorized and directed to execute this Memorandum of Understanding on behalf of the respective governing bodies, and do hereby acknowledge and agree to abide its terms.

Given under my hand this _____ day of _____, 2013 on behalf of the City of Winchester, Virginia.

Dale Iman, City Manager for the City of Winchester, VA

Given under my hand this _____ day of _____, 2013 on behalf of the County of Frederick, VA

John R. Riley, Jr., County Administrator for the County of Frederick, VA

DRAFT



COMMONWEALTH of VIRGINIA

William W. Sharp
Judge

JUVENILE AND DOMESTIC RELATIONS DISTRICT COURT CITY OF WINCHESTER — COUNTY OF FREDERICK

Ann B. Lloyd
Court Clerk

Elizabeth Kellas
Judge

JUDICIAL CENTER
5 North Kent Street
Winchester, Virginia 22601
(540) 667-5770
(For TDD Users - Call VRC 1-800-828-1120)
FAX Number: (540) 723-8886

December 12, 2012

To: City of Winchester Finance
County of Frederick Finance

From: Brenda L. Vance, Clerk-General District Courts for Winchester/Frederick Co.
Ann B. Lloyd, Clerk-JDR Courts for Winchester/Frederick County

Re: Budget Requests for Supplements to staff salaries

On behalf of the district court clerk staff for the City of Winchester and County of Frederick we are asking that the localities consider supplementing staff salaries for the following reasons.

- Information provided by Karl Hade, Executive Secretary of the Supreme Court of Virginia, indicates that studies they have performed reflect that 92.3 percent of district court employees earn less than the state average for state employees.
The General Assembly only changed the statute in the past year or so that allowed courts to request staff supplements. That code section is 16.1-69.45.
16.1-69.45. Salaries of clerks and personnel.
The Committee on District Courts shall fix the salaries for the clerks and personnel of the district courts. Any county or city may supplement the salaries of the clerks and other personnel of the district court wholly out of local funds. However, no supplements may be paid to full-time district court judges or substitute judges.
- Comparisons made with jobs descriptions for the City of Winchester and County of Frederick employees compared to those of the district court show we are behind in

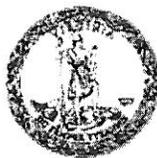
salaries in a range from several thousand to 10,000 dollars or more for different positions within the clerk's office.

- The localities currently support and supplement, in various ways, other state funded offices such as the Office of the Commonwealth's Attorney for both City and County and the Circuit Courts by staffing positions and other means. For example, a recent decision was made in Frederick County to fund a full time assistant commonwealth attorney with the local paper reflecting a cost of approximately \$80,000.
- The localities have added additional sheriff deputies and police officers/city deputies, which have, in turn, increased work loads for the courts who have not received staffing to support the increase in caseload. Both courts have shown increases in caseload, with the General District Court having an increase of almost 7,000 new cases from 2010 to 2011, alone. At this time, both courts have the highest caseloads in the 26th District, exceeding Harrisonburg/Rockingham who have a larger population.
- Both courts are understaffed by 2011 figures at 2.2 staff members in the JDR court and 3.2 staff members in the GD Court. This understaffing places additional workload and expectations on staff members who are already underpaid. Employing and retaining competent, loyal staff is difficult at the current salaries and turnover is problematic.
- In further support of our request we note that local collections for our courts is approximately as follows for 2012 thus far (11 months).
 - City of Winchester: \$390,000.00
 - County of Frederick \$555,000.00

Our joint proposal is to ask for a supplement to be paid, quarterly, in the amount of \$600 per employee for a total of \$2,400 per employee per year, Shared between the City and County. The General District has a total of 11 full time employees and the Juvenile/Domestic District Court has 8. That would equal a total of \$45,600 or ~~\$22,800 per locality~~. That would equal out to about .4 percent of what we collect for the County and around 5.75 for the City.

We feel this amount would boost morale and be an encouragement to staff to stay in these positions, a win-win situation for both the City, the County and the courts.

At the request of the City Manager we will, in January, have a listing of courts who are now receiving supplements from their localities as well as courts like ours' who are in the process of making the request.



COMMONWEALTH of VIRGINIA

William W. Sharp
Judge

**JUVENILE AND DOMESTIC RELATIONS DISTRICT COURT
CITY OF WINCHESTER — COUNTY OF FREDERICK**

Ann B. Lloyd
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FAX Number: (540) 723-8886

January 14, 2013

To: Mary Blowe, Finance Director, City of Winchester

From: Ann B. Lloyd, Clerk-JDR Court
Brenda L. Vance, Clerk-GD Court

Re: Courts receiving supplements

Mary,

The statute changed a year or so ago allowing courts to ask their localities for supplements. As explained in our request for same, we are asking for this as our salaries are far below the state average and the courts do generate funds that come back to the localities.

The following courts are ones that we are aware of that have requested and received supplements:

Arlington County
Dickenson County
Washington County
City of Hopewell

Courts now requesting, or preparing to ask for supplements **that we are personally aware of** are:

Loudoun County
Staunton-Augusta
Waynesboro
Shenandoah County

Supplements range from 15 percent of employee salaries (Arlington) to quarterly pay outs received by Washington County.

Please let us know if you have any further questions. Thank you.

Joint Project Summary

Project	Frederick						Winchester					
	2012 Request	2012 Allocated	2013 Request	2013 Allocated	2014 Request	2014 Allocated	2012 Request	2012 Allocated	2013 Request	2013 Allocated	2014 Request	2014 Allocated
Library	801,050	801,050	801,050	801,050	851,389		385,026	385,026	390,334	390,334	390,334	-
Clean	10,519	10,519	10,519	10,519	15,000		0	0	0	0	10,000	-
Early Act Comp	0	0	0	0	0		0	0	0	0	0	0
Literacy Volunteers	0	0	0	0	0		5,000	0	10,000	0	10,000	-
LFCC	56,493	56,493	56,493	56,493	76,936		31,255	31,255	37,391	37,391	48,946	-
Soil & Water Dist	7,650	7,650	7,650	7,650	11,250		4,500	1,000	4,500	1,000	4,500	-
Northwestern Comm. Svc.	318,263	318,263	318,263	318,263	318,263		183,307	183,307	183,307	183,307	183,307	-
Disability Serv Bd	0	0	0	0	0		0	0	0	0	-	-
Reg Commission	26,365	26,365	43,622	43,622	44,085		15,078	15,078	15,198	15,198	50,177	-
Courthouse Museum	25,000	25,000	25,000	25,000	25,000		0	0	0	0	-	-
Our Health	20,655	20,655	20,655	20,655	25,000		25,000	20,188	25,000	20,188	25,000	-
Area Agency on Aging	60,930	60,930	60,930	60,930	100,215		60,000	20,000	45,000	20,000	35,000	-
Compassionate Pharmacy	0	0	0	0	0		0	0	0	0	0	0
Health Dept	301,959	301,959	301,959	301,959	354,205		257,884	257,884	258,766	258,766	266,701	-
Museums (Historical Society)*	0	0	0	0	0		79,156	79,525	79,156	79,525	128,750	-
M P O	8,220	8,220	8,220	8,220	20,000		22,000	22,000	20,000	20,000	20,000	-
JJC	339,000	339,000	339,000	339,000	453,600		391,325	391,325	495,150	495,150	453,600	-
Airport (Oper. & Capital)**	16,874	16,874	16,874	16,874	45,785		58,413	58,412	53,329	53,329	106,866	-
Jail	3,733,510	3,733,510	4,199,498	4,199,498	5,754,532		3,495,106	3,495,106	3,383,564	3,474,064	3,996,427	-
JDC	364,979	364,979	395,456	395,456	395,276		255,957	255,957	267,090	267,090	299,751	-
Tourism	100,500	100,500	100,500	100,500	100,500		100,500	100,500	100,500	100,500	100,500	-
Win/Fred Co EDC	395,949	395,949	401,151	401,151	437,624		72,000	72,000	72,000	72,000	99,756	-
Detox	13,350	0	0	0	0		0	0	0	0	0	0
CSA Early Intervention	0	0	0	0	0		0	0	0	0	0	0
Magistrate's Office	8,819	8,819	8,819	8,819	5,375		4,000	4,000	4,000	4,000	5,375	-
Youth Development Center	22,950	22,950	22,950	22,950	30,000		10,000	10,000	10,000	10,000	10,000	-
Discovery Museum	19,125	19,125	19,125	19,125	25,000		25,000	10,000	25,000	10,000	50,000	-
Patsy Cline Museum	0	0	0	0	0		0	0	0	0	0	0
Northwestern VA Health Sys.	0	0	0	0	0		0	0	0	0	0	0
Apple Country Head Start	0	0	0	0	0		0	0	0	0	0	0
Boys & Girls Club	0	0	0	0	0		20,000	10,000	20,000	10,000	20,000	-
Healthy Families	0	0	0	0	0		10,000	10,000	10,000	10,000	10,000	-
Winchester Day Nursery	0	0	0	0	0		10,000	10,000	20,000	10,000	12,500	-
The Laurel Center*	6503	6503	6503	6503	58,000		5,000	3,000	5,000	3,000	55,000	-
Fremont Street Nursery	0	0	0	0	0		10,000	10,000	10,000	10,000	15,000	-
Winc/Fred Child Advocacy	0	0	0	0	0		0	0	12,600	0	-	-
Blue Ridge Legal Services	2851	2851	2851	2851	5,756		3,000	0	4,873	0	4,873	-
Concern Hotline	0	0	0	0	0		5,000	0	5,000	0	2,000	-
Access Independence	11475	11475	11475	11475	12,000		0	0	0	0	10,000	-
Child Safe Center	0	0	0	0	0		0	0	0	0	12,600	-
Help with Housing	0	0	0	0	10,000		0	0	0	0	5,000	-
LF EMS Council	16420	16420	16420	16420	16,420		0	0	0	8,306	8,306	-
Shen Apple Blossom Festival	3825	3825	3825	3825	5,000		0	0	0	0	5,000	-
VA Comm of the Arts Grant	0	0	0	0	0		0	0	0	10,000	12,000	-
SPCA	0	0	0	0	0		0	0	0	115,000	490,844	-

* Operating and Capital

**Approved amount is for Airport Operating only. Airport Capital is approved by supplemental appropriation after budget adoption