

**WINCHESTER COMMON COUNCIL
COUNCIL CHAMBERS – ROUSS CITY HALL
APRIL 8, 2014
AGENDA
7:00 P.M.**

CALL TO ORDER AND ROLL CALL

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES – February 25, 2014 Special Meeting, February 25, 2014 Work Session, March 4, 2014 Special Meeting, March 11, 2014 Regular Meeting, March 18, 2014 Work Session, and April 1, 2014 Special Meeting

REPORT OF THE MAYOR

R-2014-13: Resolution – Honor the retirement of Battalion Chief Kevin M. Yost (page 4)

REPORT OF THE CITY MANAGER

REPORT OF THE CITY ATTORNEY

1.0 PUBLIC HEARINGS

- 1.1 O-2014-04:** Second Reading – AN ORDINANCE TO PLACE REQUIREMENTS ON TOW COMPANIES REQUESTED BY THE POLICE TO PROTECT CONSUMER INTERESTS **(REQUIRES ROLL-CALL VOTE)(pages 5-17)**

- 1.2 O-2014-05:** Second Reading – AN ORDINANCE TO AUTHORIZE THE ADDITIONAL APPROPRIATION OF FUNDS FOR NECESSARY EXPENDITURES OF THE CITY OF WINCHESTER, VIRGINIA FOR THE FISCAL YEAR ENDING June 30, 2014 **(REQUIRES ROLL-CALL VOTE)(pages 18-28)**

- 1.3 O-2014-08:** Second Reading – AN ORDINANCE TO AUTHORIZE THE ACQUISITION OF PROPERTIES NECESSARY FOR THE REALIGNMENT OF NATIONAL AVENUE GATEWAY IMPROVEMENT PROJECT BY MEANS INCLUDING BUT NOT LIMITED TO CONDEMNATION AND ACCEPTANCE BY THE CITY OF SAID PROPERTY **(REQUIRES ROLL-CALL VOTE)(pages 29-32)**

2.0 PUBLIC COMMENTS

3.0 CONSENT AGENDA

- 3.1 O-2014-07:** First Reading – AN ORDINANCE TO AMEND AND RE-ADOPT SECTIONS 25-17 AND 18-1 OF THE WINCHESTER CITY CODE TO ELIMINATE FORMALLY APPOINTED COUNCIL LIAISONS FROM THESE AND OTHER COUNCIL APPOINTED BOARDS AND COMMISSIONS (pages 33-36)
- 3.2 O-2014-09:** First Reading – AN ORDINANCE TO CONDITIONALLY VACATE A PORTION OF S. INDIAN ALLEY RIGHT-OF-WAY ADJOINING THE PROPOSED SHENANDOAH VALLEY DISCOVERY MUSEUM AT 19 W. CORK STREET AND CONDITIONALLY CONVEY IT TO THE SHENANDOAH VALLEY DISCOVERY MUSEUM (pages 37-45)
- 3.3 O-2014-10:** First Reading – AN ORDINANCE AMENDING ARTICLE 14.1 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO FLOODPLAIN REGULATIONS (pages 46-70)
- 3.4 R-2014-07:** Resolution – Approval to refund overpaid estimated business license taxes to DEI Inc. in the amount of \$3,107.29 (pages 71-74)
- 3.5 R-2014-08:** Resolution – Approval to payout accumulated sick leave for an employee of the Clerk of the Court (pages 75-78)
- 3.6 R-2014-09:** Resolution – Approval of the Personal Property Tax Relief Rate for Tax Year 2014 (pages 79-81)
- 3.7 R-2014-10:** An appeal of the decision by the Board of Architectural Review (BAR-13-524) requiring the removal of vinyl siding and replacement with wood siding for the property located at 16 West Monmouth Street zoned Residential Business (RB-1) District with Historic Winchester (HW) District overlay (pages 82-95)
- 3.8 R-2014-12:** Resolution – Review and design selection for the National Avenue Gateway Improvements Project (pages 96-126)
- 3.9** Announce the term expirations of Erica Truban, Cynthia Ford, and Vince Di Benedetto as members of the Winchester School Board effective June 30, 2014. Ms. Truban and Mr. Di Benedetto are eligible for re-appointment. Ms. Ford is not eligible.
- 3.10** Announce the term expirations of John Marker, Dan Martin, and Sue Robinson as members of the Winchester-Frederick County Tourism Board effective June 30, 2014. Mr. Marker, Mr. Martin, and Ms. Robinson are not eligible for re-appointment.

4.0 AGENDA

5.0 EXECUTIVE SESSION

5.1 MOTION TO CONVENE IN EXECUTIVE SESSION PURSUANT TO SECTION 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)(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 THE APPOINTMENT OF OR PROSPECTIVE APPOINTMENT OF MEMBERS TO CERTAIN BOARDS AND COMMISSIONS 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 AND FOR THE PURPOSE OF DISCUSSION OF THE SUBJECT OF INVESTMENT OF PUBLIC FUNDS WHERE BARGAINING IS INVOLVED, AND WHERE IF MADE PUBLIC, THE BARGAINING POSITION OR FINANCIAL INTEREST OF THE CITY WOULD BE ADVERSELY AFFECTED AND PURSUANT TO §2.2-3711(a)(29) FOR THE PURPOSE OF DISCUSSION OF THE AWARD OF A PUBLIC CONTRACT INVOLVING THE EXPENDITURE OF PUBLIC FUNDS, INCLUDING INTERVIEWS OF BIDDERS OR OFFERORS, AND DISCUSSION OF THE TERMS AND SCOPE OF SUCH CONTRACT, WHERE DISCUSSION IN AN OPEN SESSION WOULD ADVERSELY AFFECT THE BARGAINING POSITION OR NEGOTIATING STRATEGY OF THE CITY AND PURSUANT TO §2.2-3711(A)(40) FOR THE PURPOSE OF DISCUSSION OF RECORDS EXCLUDED FROM CHAPTER 37 OF TITLE 2.2 OF THE CODE OF VIRGINIA PURSUANT TO SUBDIVISION 3 of § 2.2-3705.6

6.0 ADJOURNMENT



THE COMMON COUNCIL

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

I, Kari J. Van Diest, Deputy Clerk of the Common Council, hereby certify on this 8th day of April 2014 that the following Resolution is a true and exact copy of one and the same adopted by the Common Council of the City of Winchester, assembled in regular session on the 8th day of April 2014.

RESOLUTION

WHEREAS, Kevin M. Yost has reliably served the City of Winchester Fire and Rescue Department, achieving the rank of Battalion Chief, from August 1988, until his retirement April 2014; and

WHEREAS, Kevin performed a commendable service to the City by responding to countless fire, hazmat and emergency medical service calls; and

WHEREAS, Kevin's extensive knowledge of his profession was invaluable in training and growing those around him; and

WHEREAS, Kevin received numerous letters of commendation and words of thanks during his career, due in large part to the high level of professionalism and care he has shown towards citizens; and

WHEREAS, Kevin was one of our Hazmat Officers and the point of contact for all department communication equipment; and

WHEREAS, Kevin's dedication and professionalism will be sorely missed by City employees, elected officials, and the citizens he served.

NOW, THEREFORE, BE IT RESOLVED that the Common Council of the City of Winchester, on behalf of the citizens they represent, hereby records their appreciation to Kevin M. Yost for his exemplary service to the City and wishes him happiness, good health, and many years of hunting; and

BE IT FURTHER RESOLVED that the Clerk of Council is hereby directed to prepare an attested copy of this resolution for presentation to Kevin M. Yost.

Resolution No. 2014-13.

ADOPTED by the Common Council of the City of Winchester on the 8th day of April 2014.

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

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

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: 2/11/14 CUT OFF DATE: 1/21/14

RESOLUTION__ ORDINANCE XX PUBLIC HEARING __

ITEM TITLE: Regulation of Tow Companies

STAFF RECOMMENDATION: The Chief of Police requests approval

PUBLIC NOTICE AND HEARING: N/A

ADVISORY BOARD RECOMMENDATION: N/A

FUNDING DATA: N/A

INSURANCE:N/A

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

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. Zoning Administrator	AMG		12/16/13
2. Director of Finance	CB		12/19/13
3. _____			
4. _____			
5. City Attorney	AW		1/22/2014
6. City Manager	DI		12-26-13
7. Clerk of Council			
Initiating Department Director's Signature: <u>Chip K. L. L.</u>			1/13/14 Date



APPROVED AS TO FORM:

[Signature] 1/22/2014
CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Chief Kevin L. Sanzenbacher
Date: Work Session 1/21/14
Council Session 2/11/14
Re: Tow Truck Control

THE ISSUE: Currently there is nothing in City ordinance that regulates tow companies. This can lead to issues of citizens being overcharged for services, towed vehicles being stored in unprotected areas, and the inability of vehicle owners to get access to their vehicles and possessions when cars have been towed. The proposed ordinance would give the City the authority to better protect consumers by regulating the tow companies that are used by the Winchester Police Department.

RELATIONSHIP TO STRATEGIC PLAN: Develop a High-Performing City Organization

BACKGROUND: Currently any company that wishes to be on the call list with the WPD for tow services can request to be placed on this list. The PD calls tow companies from this list when they are needed to clear streets of collisions or disabled vehicles. Currently there are no standards in place that govern the tow company operators used by the Winchester Police Department. This lack of protection has led to issues of price gouging, extravagant storage fees, thefts from stored vehicles and inability for owners to retrieve their vehicles or possession from stored vehicles. The proposed ordinance will provide the following protections:

- Establish minimum standards for tow vehicles and operators
- Regulate prices that can be charged for tow services and storage fees
- Establish requirements for where and how vehicles must be stored
- Establish requirements for how tow operators will make vehicles and property available to motorists who may have had their vehicles towed.
- Requirements for contact information for locating an impounded vehicle.

BUDGET IMPACT: This action may require some expenditure of funds by the WPD to provide more hours to our part-time compliance investigator. A portion of this funding will be recovered by application and processing fees required in the ordinance. Any additional cost may be absorbed in the operating budget.

DISCUSSION: We currently have eight (8) companies on our list to provide tow service in the city. Two of those companies provide the majority of service (Minnicks and Combs). Anticipating possible opposition from the tow industry to this proposal I met with the owners of both Minnicks and Combs tow services to share a draft proposal with them and solicit their feedback. Both owners looked favorably on the draft ordinance and recommended several minor changes that were incorporated into the ordinance now before Council.

In addition, a letter (included in your package) was sent to the remaining tow companies advising them of this proposal. To date none have responded with any objections or comments.

Finally the ordinance before you was adapted from the City of Fredericksburg after searching for similar ordinances during the draft process. I have spoken to their Chief of Police and he reports no issues with compliance or enforcement of their ordinance.

OPTIONS: Available options include:

1. Maintain the status quo
2. Adopt the ordinance
3. Modify the current draft to address unidentified concerns

RECOMMENDATION: Staff recommends the Council adopted the ordinance as drafted.

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ART. X POLICE-REQUESTED TOWING

SECTION 14-158. PURPOSE AND DEFINITIONS.

This article, adopted in accordance with §§46.2-1217 and 1232 of the Code of Virginia, is intended to apply to requests for towing services made by the Winchester Police Department in order to ensure storage, availability, and service by persons and firms authorized to provide towing services at the request of the Chief of Police or other law enforcement personnel. The provisions of this ordinance are not applicable to towing not at the request of official law enforcement personnel.

Notwithstanding this division or any agreement executed pursuant to it, all tow services authorized to provide service shall remain independent contractors and shall not be deemed to be employees of the city.

This Article is intended to complement other specific provisions of the City Code related to towing including but not limited to the towing of abandoned vehicles under Chapter 14, Art. XIII, and towing for non-payment of parking citations covered under in Section 14-61. To the extent that the provisions of this article conflict with other specific provisions of the Code, the other specific provision of the Code shall supersede.

The following definitions shall be used in the interpretation and administration of this Article. The definitions of various terms as presented herein do not necessarily represent the same definitions as may be found for the same terms in other Chapters of the Code.

- (a) *Authorized Towing Service*: A towing firm or service which meets the requirements of the Code of Virginia, Title 46.2, Chapter 12, and that has entered into a Towing Service Agreement to provide services at the request of the Police Department or other law enforcement personnel.
- (b) *Emergency*: Refers to a critical traffic problem or extreme weather condition, a parade or other similar public event, a riot, or a disaster or similar event not ordinarily or usually occurring, as determined by the City Manager or his or her designee.
- (c) Heavy-duty tow rotation list means the list maintained by the chief of police of those towers meeting the requirements of section 14-169.b herein, who are authorized to respond city-wide to the police department or other law enforcement personnel's requests for heavy towing.

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- (d) *Officer*: Refers to a law enforcement officer sworn in the City of Winchester or any other sworn law enforcement officer with jurisdiction at the scene of the tow. This term may also refer to law enforcement communications made by dispatch personnel.
- (e) *Police-Requested Towing*: All requests made by law enforcement officers of the City pursuant to the Code of Virginia §46.2-1218 or 1209, or requests made by a law enforcement officer at the request of an owner or operator of an unattended, abandoned, or immobile vehicle, when no specific service provider is requested by such owner or operator.
- (f) *Suspension*: Temporary removal from the City's Towing Rotation List.
- (g) *Termination*: Permanent removal from the City's Towing Rotation List as well as termination of the Towing Service Agreement.
- (h) *Towing Business*: A towing service in operation for a minimum of one (1) year and meeting the requirements of Section 14-161, herein operating from a location within the City or within five miles of the City limits such that service response can be made within response times allotted.. For purposes of this Article, multiple corporations, partnerships, sole proprietorships or other legal entities owned or controlled by one or more members of a single household are deemed to constitute a single towing business.
- (i) *Tow Rotation List*: List maintained by the Chief of Police indicating those towing services authorized to respond to requests made by law enforcement personnel for the towing of vehicles. "Heavy-Duty Tow Rotation List" refers to a separate list of authorized towing services capable of responding to requests for heavy-duty towing.
- (j) *Vehicle*: Refers to a motor vehicle, trailer, semitrailer, or parts thereof.

SECTION 14-159. POLICE-REQUESTED TOWING; TOWING SERVICE AGREEMENT AND TOW ROTATION LIST.

- (a) The City adopts this Article pursuant to authority provided in the Code of Virginia §46.2-1217 and 1232 to regulate services rendered in response to police towing requests. Such regulation shall be established through use of a Towing Service Agreement, which shall specify the criteria for becoming an authorized towing service upon the advice of the Towing and Recovery Advisory Board.
- (b) *Application*. A towing and recovery operator may apply for inclusion on the Tow Rotation List by submitting an application to the Chief of Police. The Chief of Police shall conduct an investigation to determine the accuracy of the information provided and the eligibility of the applicant based upon the criteria set forth in the Towing Service Agreement. Qualified towing services will sign a standard Towing Service Agreement and be placed on the Tow Rotation List or Heavy Duty Tow Rotation List as appropriate.

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Applicants found to be unqualified will have their application returned with a written determination indicating the reasons for the denial. Except as otherwise provided herein, the only modification to the standard agreement shall be as to the type of towing vehicles the authorized tower will supply

- (c) **Tow Rotation List.** The Chief of Police shall ensure that towing services are called on a rotating basis in accordance with the Tow Rotation List. Towing services not included on the Tow Rotation List shall not be called by an officer except in the event of an emergency, as defined above and in the Code of Virginia §46.2-1317, or at the specific request of a vehicle owner or operator. If, for the reasons stated above, a towing service is utilized that is not on the list, it must be reported to the Communications Office for record purposes.
- (d) **Equal Call System.** Each towing service on the Tow Rotation List will have an equal opportunity to respond to police requests for towing. If the Police Department makes two (2) attempts to contact an authorized towing service and receives no answer or a busy signal on both attempts, the next business on the list will be called. If a towing service refuses to respond to a request, or responds but is deemed unfit to proceed by an officer at the scene, they will lose their turn in the rotation and fall to the bottom of the list. In the event a towing service responds to a call but does not provide service due to no fault of its own, that business will be placed back on the top of the Tow Rotation List.

SECTION 14-160. TOWING AND RECOVERY ADVISORY BOARD.

- (a) A Towing and Recovery Advisory Board shall be created pursuant to §46.2-1217 and §46.2-1233.2 of the Virginia Code. The purpose of the Towing and Recovery Advisory Board shall be to:
 - (1) Study the governing practices of towing and recovery services rendered pursuant to police towing requests;
 - (2) Make recommendations to City Council and the Winchester Police Department regarding adoption or amendment of any ordinance, regulation, or contract pertaining to the same;
 - (3) Hear appeals and complaints arising from police towing requests;
 - (4) Periodically review fees charged by authorized towing services to allow for timely adjustment of fee limitations implemented pursuant to §46.2-1233.1 of the Code of Virginia.
- (b) The Board shall consist of three (3) members appointed by City Council, including one (1) representative from a local law enforcement agency, one (1) representative of a licensed towing and recovery operator, and one (1) member of the general public. The Board shall meet at least once per year at the call of the Chairman, who shall be elected annually by a majority vote of the voting members of the Board.

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SECTION 14-161. DUTIES AND REQUIREMENTS OF AUTHORIZED TOWING SERVICES.

- (a) Safety. Authorized towing services responding to police requests shall tow vehicles in a manner that does not cause damage to the vehicle and that uses the safest and most direct route. The towing service shall remove all litter, glass, and debris caused by incidents necessitating towing, excluding the contents of a load carried by a private or commercial truck, van, or similar vehicle.
- (b) License and Registration. Authorized towing services shall comply with all applicable federal, state, and local laws, including but not limited to, the securing of all necessary federal, state, and local licenses and payment of registration fees. All authorized towing services shall display a WT-TAG ("Tow Truck for Hire") or a Virginia apportioned tag while maintaining \$1,000,000.00 in liability insurance. All authorized towing services must be current in all financial obligations to the City including all tax and license obligations.

All towing operators shall possess a valid Virginia Driver's License or Commercial Driver's License (as may be required by law) and shall be qualified to operate the tow vehicle and its equipment. Authorized towing services shall ensure that all employees participating in towing operations meet these requirements.

- (c) Insurance. Prior to entering into a Towing Service Agreement, a towing service must provide the Chief of Police with evidence of the following insurance coverage for the duration of the proposed agreement:
 - (1) Garage Keeper's Legal Liability Insurance in the minimum amount of \$75,000.00 to cover fire, theft, windstorm, vandalism, and explosion for each lot (\$200,000.00 for towing services on the Heavy-Duty Rotation List);
 - (2) Insurance sufficient to cover any and all claims of loss, damage, or bodily injury resulting from its acts or incurred in the operation of the towing service's equipment and vehicles in the amount required by the state (vehicle liability policy);
 - (3) Insurance sufficient to cover claims under the Worker's Compensation Act, if applicable, for all employees. If any work will be sublet due to a need for specialized equipment, the subcontractor shall provide similar coverage; and
 - (4) A Certificate of Insurance listing the City as an additional insured on its policy.

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- (d) Service. All authorized towing services shall provide service twenty-four (24) hours a day, 365 days a year, and shall have available at all times a sufficient number of qualified personnel to effectively receive calls and to respond to towing requests using only their own equipment and personnel. All authorized towing services shall have a business card which contains the name of the business, a physical address, telephone number, and after-hours telephone number if necessary.
- (e) Regular Towing Equipment. All equipment used by authorized towing services must be in good working order, and the use of equipment from another towing firm, regardless of ownership, is prohibited. Authorized towing services shall have at least one regular tow truck and one rollback to perform services under this Article. The rollback must have at least an eight thousand (8,000) pound winch and a deck rating of a minimum seven thousand (7,000) pounds, which shall be maintained in good condition with Virginia license plates, current Virginia inspection stickers, and an SCC license. The towing business name, address, and telephone number must be printed on both sides of the towing vehicle in letters and numbers of such size, shape and color as to be readily legible during daylight hours from a distance of fifty (50) feet while the vehicle is not in motion. All towing vehicles, including heavy-duty wreckers, must be equipped with the following:
- (1) A chassis rated with sufficient gross vehicle weight to match the maximum capacity of the crane mounted thereon;
 - (2) One (1) five-pound ABC or one (1) ten-pound ABC fire extinguisher;
 - (3) Two (2) operable amber revolving or flashing emergency lights, mounted on the highest part of the vehicle and visible from all sides;
 - (4) One (1) heavy-duty street broom and one (1) shovel; and
 - (5) Liquid absorbent source for small clean-ups.
- (f) Heavy-Duty Towing Equipment. Towing services included on the Heavy-Duty Tow Rotation List shall make available a heavy-duty wrecker, equipped with a wrecker crane capable of lifting at least 50,000 pounds and capable of towing at least 80,000 pounds. It shall be equipped with:
- (1) A wheel lift or under-reach of sufficient size to tow all types of trucks, tractors, and trailers without damage;
 - (2) A heavy-duty sling;
 - (3) Air brakes; and
 - (4) An auxiliary air supply capable of tying into the air brakes of the disable vehicle to enable safe towing under the braking control of the wrecker.

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- (g) Response Time. Time is of the essence in the performance of services. The authorized towing service shall arrive on the scene within thirty (30) minutes of receiving a call, with a grace period of ten minutes if requested by the towing service within the first twenty-five (25) minutes. If such time limit is not met, the request will be considered cancelled, and an officer may request service from the next authorized towing service on the list. In such an event, neither the City nor the vehicle owner shall be liable for any payment to the initial towing service. Heavy-duty towing services are exempt from this requirement, provided they notify the law enforcement agency within the first twenty-five (25) minutes of receiving a call and arrive in a reasonably timely manner.

Authorized towing services will not be responsible for unavoidable delays caused by circumstances such as natural disasters or Acts of God. However, if the Chief of Police deems that excessive delays are the result of circumstances within the control of the towing service, including but not limited to negligence, lack of manpower, and poorly conditioned equipment, he or she may suspend and/or terminate the towing service from the Towing Rotation List.

If a tow truck is not available or the authorized towing service cannot respond within the time required, the towing service shall immediately notify the dispatcher and explain the reason why. If upon arrival at the towing scene, the towing and recovery operator determines that the responding towing vehicle will not be sufficient for the task, the towing service will be permitted to retrieve additional equipment, provided it is able to respond within the thirty (30) minute time period required.

- (h) Storage and Security of Vehicles. All authorized towing services shall have a secured lot for storage of vehicles located within the City of Winchester or within five (5) miles of the City of Winchester. Storage lots located in the City must meet **off-street parking area surface requirements of the Winchester Zoning Ordinance**, however a storage facility allowing for the inside storage of vehicles is also permissible. A sign must be conspicuously posted at the lot or facility identifying the towing firm's name and telephone number. The space available in a lot shall be a minimum of 1,500 feet. Share lots are permitted, so long as each towing service sharing the lot meets the minimum space requirement of 1,500 feet.

SECTION 14-162. LIABILITY AND PROHIBITED ACTS.

- (a) Prohibited Acts. Violation of any provision of this section may subject the towing service to temporary or permanent removal from the Tow Rotation List, as well as

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possible termination of the Towing Service Agreement. Violations shall include, but are not limited to:

- (1) Deliberate failure of a towing business to respond to a call after accepting it;
- (2) Securing a Towing Service Agreement by fraud or concealment of a material fact which, if known, would cause the application to be rejected;
- (3) Violation of the Towing Service Agreement;
- (4) Chronic or repeated violations, even if minor in nature, of this Article, and/or;
- (5) A single, serious violation of this provision, including but not limited to:
 - a. Soliciting business at the scene of accidents;
 - b. Knowingly charging excessive fees for services, or charging for services not rendered in violation of §46.2-118;
 - c. Alcohol or drug use;
 - d. Repeated failure to take a call and/or failing to respond to calls in a timely manner;
 - e. Failure to notify the Chief of Police of immediate changes regarding insurance, or the taking on of a new partner(s), owner(s), agent(s), corporate officer(s), or any other material changes to information disclosed in the application for a Towing Service Agreement;
 - f. Failure to remain current in financial obligations to the City;
 - g. Failure to comply with the requirements of this Article.

Unauthorized Provision of Towing Service. No towing service shall respond to an accident for the purpose of towing vehicles unless specifically called there by the Police Department, other law enforcement personnel, or the person involved in the accident or emergency. Violation of this section shall result in suspension from the towing list for thirty (30) days for the first offense, sixty (60) days for the second offense and permanent removal from the Tow Rotation List for the third offense.

(b) Liability. All authorized towing and recovery operators entering into a Towing Service Agreement shall remain independent contractors and shall not be deemed to be employees of the City. Any such operator utilized in response to a police request shall indemnify and hold free and harmless the City for any costs and expenses, including but not limited to, attorneys' fees, reasonable investigative and discovery costs, court costs, and all other sums which the City, its agents, employees, and representatives may pay or become obligated to pay on account of any, all, and every demand for claim or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of an act or omission of the towing and recovery operator, its agents, employees, owners, officers, or directors.

(b)

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SECTION 14-163. FEES AND COMPENSATION.

(a) Maximum Fees. An authorized towing service, in accordance with §46.2-118, must have readily available at their principal office, upon request, information on the maximum fees normally charged for basic services, including the towing and initial hookup of vehicles. The hookup and initial towing fee of a vehicle without the consent of the vehicle owner or operator shall not exceed one hundred ~~and twenty-five dollars and~~ fifty dollars (\$150.00), however the City may set reasonable limits on fees charged for the removal of vehicles from private property in violation of §46.2-1231 and 1215 if the fair market value of such removal is taken into consideration.

(b) Storage Fee. An authorized towing service may charge fifty dollars (\$50.00) a day for the storage of a towed vehicle; however there shall be no charge for the first twenty-four hours of vehicle storage for vehicles towed in accordance with §46.2-1233.1 of the Code of Virginia. An administrative fee of ninety dollars (\$90.00) may be charged for long-term storage exceeding seventy-two (72) hours.

(c) Record of Fees Charged. The towing service shall issue an itemized receipt for payment for towing and storage services to the owner of the towed vehicle. Said receipt shall include a signature line where the owner of the vehicle may acknowledge receipt of the vehicle and acceptance of the fees charged.

SECTION 14-164. RECORDS AND INSPECTIONS.

(a) Inspections by Chief of Police. All tow vehicles, required equipment and storage facilities utilized by authorized towing services on the Tow Rotation List shall be inspected and approved by the Chief of Police prior to initial use. The Chief of Police may periodically inspect any tow trucks, equipment, and storage facilities used under this Article. The tow truck inspection shall take place at a location designated by the Chief of Police. There will be an annual inspection of all tow trucks, equipment, and storage facilities, for which a fee of fifty dollars (\$50.00) will be charged for each vehicle inspected. Such annual inspection shall occur on or about the anniversary date of the approval of the towing service's application. If a towing service changes the location of its storage facility, a new inspection must be conducted prior to approval of the new facility.

The Chief of Police shall give the towing service written notice if a vehicle or storage facility is found to be unacceptable. Unacceptable tow trucks, equipment and/or storage facilities may not be used in the performance of duties under a Towing Service Agreement until replaced, repaired, or otherwise brought into compliance and approved by the Chief of Police. Failure to comply with this provision shall result in suspension of

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the towing service from the Tow Rotation List until the necessary corrections have been made.

- (b) **Inspection of Stored Vehicles.** Upon receiving a request to release or permit an inspection of a stored or seized vehicle from the owner, operator, other authorized person during other than normal business hours, a towing service may require one hour's notice for the release of such vehicle. A fee may be charged for after-hours access to the vehicle for purposes of inspection, release, or retrieval of property; however such fees shall be reasonable in light of fees charged by other towing services in the City for comparable service.
- (c) **Responsibility to Vehicle Owner.** Towing services shall comply with the rights of owners of vehicles as set forth in the Code of Virginia §46.2-1217. Towing services must allow for the retrieval of personal property from the vehicle and shall not require that payment for towing and storage be rendered prior to providing such access to the vehicle owner or operator. Additionally, authorized towing services shall be responsible for vehicle(s) towed, including any contents within, from the time the vehicle is towed until the occurrence of one of the following:
 - (1) The vehicle is delivered to a location specified by the owner or other authorized person;
 - (2) The vehicle and property is released to and accepted by the owner or authorized person in the condition as originally towed. A facsimile authorization shall be acceptable as a form of release from the owner of the vehicle along with a photocopy of photo identification; or
 - (3) The vehicle is otherwise disposed of according to law.
- (d) **Records.** All authorized towing businesses shall keep records of all vehicles towed pursuant to the Towing Service Agreement. These records shall include, at a minimum, the date and time of the tow, the vehicle's license number and state of issue, the model and color of vehicle, the location from which it was towed, the charges for towing and storage, the disposition of the vehicle and the date of disposition, and an inventory of any items of value. Such records shall be retained for at least twelve (12) months following the date of tow, and shall be available for inspection by the Chief of Police during the towing service's normal business hours.
- (e) **Release and Disposition of Vehicle.** An attendant must be on duty between the hours of 8:00AM and 5:00PM every Monday through Friday, with the exception of holidays, to permit inspection or release of stored vehicles. After hours, the owner or attendant must be available by telephone. If an owner or lien holder fails to claim any vehicle or if a towing service wants to satisfy any lien which it has on a vehicle, it shall be the towing service's responsibility to dispose of or sell the vehicle in compliance with the Code of

WINCHESTER CODE

Virginia. Towing services shall not release any vehicle designated as “seized” or “seized for forfeiture” by the Police Department or other law enforcement agency until the towing service obtains permission from the requesting agency. The towing service shall bill the requesting agency for the cost of the tow and storage.

SECTION 14-165. COMPLAINTS.

Complaints resulting from a failure to adhere to proper towing procedure, as outlined in the standard Towing Service Agreement, shall be handled as any other citizen complaint. This may include direction of the complaint through the applicable chain of command, to the Chief of Police, or to the Towing Advisory Board. Authorized towing services must agree to abide by decisions rendered by the Chief of Police and the Towing Advisory Board in response to and resolution of complaints.

SECTION 14-166. AMENDMENTS TO ORDINANCES.

The Towing Advisory Board is authorized to recommend revisions to this section. Revisions shall be effective from the date on which they are adopted by the City Council, unless otherwise provided. Towing businesses on the Tow Rotation List shall be given written notification of any changes ten (10) days prior to the revision being adopted. They may cancel their participation on the Tow Rotation List if they do not wish to accept the revision. Cancellations must be submitted in writing to the Chief of Police.

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: February 18, 2014 **CUT OFF DATE:**

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

ITEM TITLE: Authorize Supplemental Appropriations for the FY 2014 budget

STAFF RECOMMENDATION: Approve as recommended; send to public hearing

PUBLIC NOTICE AND HEARING: April 8, 2014

ADVISORY BOARD RECOMMENDATION: N/A

FUNDING DATA:
See attached contract

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>[Signature]</i>	_____	2/12/2014
6. City Manager	<i>[Signature]</i>	_____	2-12-14
7. Clerk of Council	<i>[Signature]</i>	_____	2-12-14
Initiating Department Director's Signature:	<i>[Signature]</i>	_____	2-5-14
	Finance Director		Date



APPROVED AS TO FORM:

[Signature]
CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Mary Blowe, Finance Director
Date: February 25, 2014
Re: Ordinance to authorize the additional appropriation of funds for necessary expenditures for Fiscal Year 2014

THE ISSUE: The FY 2014 budget needs to be amended to account for additional revenues and proposed expenditures.

RELATIONSHIP TO STRATEGIC PLAN: These budget amendments help to create a more livable City for all, particularly objective 1, to upgrade City school facilities and also develop a high performing organization with the use of grant funds.

BACKGROUND: City Staff is requesting the following amendments to the FY 2014 budget:

- 1. General Fund** to increase by \$20,324,845 for the following items: \$20,191,249 bond proceeds for bond issuance costs and to transfer to Schools for school construction; Police Department including \$4,237 federal grant for police supplies , \$15,325 asset forfeiture funds and \$8,400 sale of surplus property for vehicle maintenance; Commonwealth Attorney for \$26,175 asset forfeiture funds for operating supplies; Sheriff's Office for \$60,000 asset forfeiture funds for courthouse security; and \$19,459 for a vehicle for Zoning & Inspections which was funded in the FY2013 budget but received in FY2014. In addition, \$66,000 will be transferred from the Information Technology budget to the Police budget to purchase a police SWAT vehicle.
- 2. Highway Maintenance Fund** to increase by \$79,400 for snow removal funded by state funds.
- 3. School Funds** – see attached School Board Resolutions dated July 8, 2013 and October 28, 2013.

BUDGET IMPACT: The City's budget will increase to allow for the expenditure of grant funds and bond proceeds. In addition, \$19,459 is being requested from unassigned General Fund fund balance.

OPTIONS: Adopt ordinance as presented or amend the ordinance.

RECOMMENDATIONS: Staff recommends the adoption of this ordinance.

**FY 2014 Supplemental Appropriations
General Fund 111**

Description		Account Number		Amount	
				Debit	Credit
<u>February 2014 Supplement (Pending 5/13/2014 Council Action)</u>					
Revenue	Local	111-0000-318	9906		8,400
Revenue	State Asset Forfeiture Funds	111-0000-324	0523		7,500
Revenue	Federal Asset Forfeiture Funds	111-0000-333	0114		90,000
Revenue	Federal Grant	111-0000-333	1011		4,237
Revenue	Bond Proceeds	111-0000-341	0458		18,709,518
Revenue	Bond Premium	111-0000-341	0420		1,481,730
Revenue	Fund Balance/Supplemental Appropriation	111-0000-341	0701		23,459
Total Revenue					\$ - \$ 20,324,845
Expenditure	Information Technology- Police Body Cameras	111-1251-415	6014	(66,000)	
Expenditure	Sheriff	111-2171-420	xxxx	60,000	
Expenditure	Commonwealth Attorney	111-2211-422	6026	26,175	
Expenditure	Police - Vehicle repair & maintenance	111-3111-431	3315	8,400	
Expenditure	Police - Vehicle	111-3111-431	8105	66,000	
Expenditure	Police Grants	111-3172-431	6010	4,237	
Expenditure	Police Assest Forfeiture Funds	111-3172-431	xxxx	15,325	
Expenditure	Zoning & Inspections	111-3421-434	8105	19,459	
Expenditure	Transfer to Schools - Bond Proceeds	111-9311-493	9232	20,000,000	
Expenditure	Bond Issuance Costs	111-9511-495	9125	191,249	
Total Expenditures					\$ 20,324,845 \$ -

DATE: JULY 8, 2013
TO: SCHOOL BOARD MEMBERS
FROM: LINDA MEADOWS
SUBJECT: BUDGET AMENDMENTS

BACKGROUND

The attached resolution will increase the Capital Improvements Fund (CIP) by \$210,000. These funds along with the FY 2014 budget amount of \$490,000 will be used for summer project work.

RECOMMENDATION

It is recommended that the School Board approve the budget amendments as presented.

KEY POINTS

- Will fund summer project work for Quarles Elementary, John Kerr, and Va. Ave/Charlotte DeHart Elementary Schools.
- They will also fund projects at the City Yards for the Transportation Department.
- FY 2014 budget appropriation totaled \$490,000

STRATEGIC PLAN REFERENCE

GOALS

- Effective & Efficient System Management

PRIORITIES

- Provide high-quality and appropriate products, resources, and services that are essential to the success of students and personnel
- Promote efficient use of resources to include efficiency in energy use, hiring, record retention, food services, and transportation service

LAW, POLICY, REGULATION

Section 22 1-94, Section 22 1-115, and Section 15 2-2507 of the State Code and Winchester Public School policy DA-management of Funds.

FISCAL IMPACT

The FY 2014 Capital Improvements fund will increase by \$210,000.

**WINCHESTER PUBLIC SCHOOLS
SCHOOL BOARD RESOLUTION
JULY 8, 2013**

Be it resolved that the Winchester City School Board requests the following budget amendments for fiscal year 2013-2014:

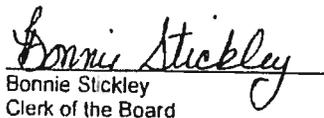
CAPITAL IMPROVEMENTS FUND

INCREASE OF \$210,000 FOR SUMMER PROJECTS. These estimated carryover funds will fund summer project work for the following:

Quarles Elementary	Modulars, building a ramp, carpet and painting
John Kerr Elementary	Architect fees
Va. Ave./Charlotte DeHart Elementary	Building a ramp
City Yards	Paving school bus area
City Yards	Transportation office



Chairman



Bonnie Stickley
Clerk of the Board

Finance\RS1.07 8 13 budget amendments

**WINCHESTER PUBLIC SCHOOLS
SCHOOL BOARD RESOLUTION
OCTOBER 28, 2013**

Be it resolved that the Winchester City School Board requests the following budget amendments for fiscal year 2013-2014:

SCHOOL OPERATING FUND

PROJECT GRADUATION INCREASE OF \$2,721. These reimbursable state funds will target students who have not achieved a verified credit in English, Writing, Reading, and/or Algebra.

CTE STATE EQUIPMENT INCREASE OF \$5,278. These reimbursable state funds will be used for Career-Technical Education (CTE) Equipment and materials.

CTE WORKPLACE READINESS GRANT OF \$688. These reimbursable state funds will provide workplace readiness skills for standard diploma graduates.

HOMELESS INCREASE FOR DONATIONS RECEIVED IN FY 14 OF \$24,299. These donated funds were received in FY 14 from the Chain of Checks Charitable Program and to assist students and families affected by an apartment building fire.

WEF DONATION OF \$2,000. This donation will be used to help fund the StarBase program at Handley High School.

FOOD SERVICES FUND

FRESH FRUIT AND VEGETABLE PROGRAM (FFVP) GRANT INCREASE OF \$60,295. These reimbursable federal funds will be used to provide fresh fruit and vegetable snacks for students at QES and VACDES.

FEDERAL GRANT FUNDS

TITLE I DECREASE OF \$24,133. These carryover reimbursable funds are used for expenses associated with the pre-school program, and the elementary reading programs.

TITLE II, PART A, DECREASE OF \$13,743. These reimbursable funds are used for professional development and class size reduction,

TITLE III INCREASE OF \$20,575. These reimbursable carryover funds will be used for the instruction of LEP Students and translation services.

21ST CENTURY JHHS-GPS GRANT, DECREASE OF \$27,978. These reimbursable funds are used for the 21st century program at Handley High School.

BUDGET AMENDMENTS
OCTOBER 28, 2013

TITLE VIB, INCREASE OF \$40,859. These reimburseable funds are used to help fund Special Education programs.

TITLE VI-B PRESCHOOL, DECREASE OF \$1,431. These reimburseable preschool funds are used for expenses related to the preschool program.

CARL PERKINS GRANT, DECREASE OF \$3,720. These reimburseable funds will increase the career-technical education (CTE) program expenditures.

HOMELESS – PROJECT HOPE GRANT INCREASE OF 8,006. These reimbursable funds will be used for instructional supplies and pupil transportation.

SUMMARY OF FEDERAL GRANT FUNDS

GRANT	ALLOCATION	CARRY OVER	TOTAL	FY14 BUDGET	DIFFERENCE
Title VIB Grant	842,384	71,512	913,718	873,037	40,859
Title VIB Preschool	29,015	0	29,015	30,446	-1,431
21 st CC JHHS-GPS	0	169,993	169,993	197,971	-27,978
Title I Grant	897,051	253,471	1,150,522	1,174,655	-24,133
Carl Perkins Grant	72,927	0	72,927	76,647	-3,720
Homeless Grant	20,000	18,006	38,006	30,000	8,006
Title II Grant	146,735	23,206	169,941	183,684	-13,743
Title III Grant	96,255	33,324	129,579	109,004	20,575
TOTAL	2,104,367	569,512	2,673,701	2,675,444	-1,565

CAPITAL IMPROVEMENTS FUND

CAPITAL IMPROVEMENT FUND INCREASE OF \$1,426,115 . These funds are composed of carryover funds of \$1,326,115 and a state security equipment grant of \$100,000. They will be allocated as follows:

PROJECT	AMOUNT
Facilities	\$ 1,116,000
Technology	\$ 310,115
TOTAL	\$ 1,426,115

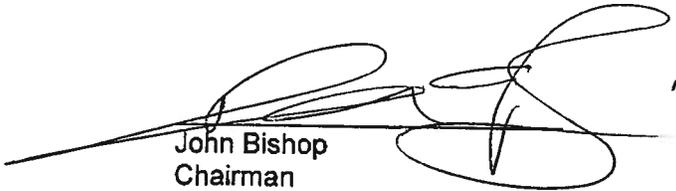
BUDGET AMENDMENTS
OCTOBER 28, 2013

FUND RAISING FUND

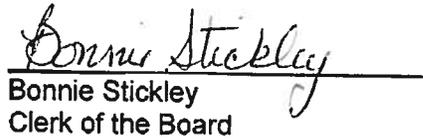
FUND RAISING CARRYOVER OF \$181,235. These are funds remaining from the historic tax credits and Handley donations. These funds will be used for the Handley project.

TEXTBOOK FUNDS

TEXTBOOK FUND CARRYOVER OF \$84,314. These carryover funds will be used to purchase textbooks for all schools.



John Bishop
Chairman



Bonnie Stickley
Clerk of the Board

COMMON COUNCIL



Rouss City Hall
15 North Cameron Street
Winchester, VA 22601
540-667-1815
TDD 540-722-0782
www.ci.winchester.va.us

AN ORDINANCE TO AUTHORIZE THE ADDITIONAL APPROPRIATION OF FUNDS FOR NECESSARY EXPENDITURES OF THE CITY OF WINCHESTER, VIRGINIA FOR THE FISCAL YEAR ENDING JUNE 30, 2014

WHEREAS, Council approves the following additional funds for the purposes herein specified for the fiscal year ending June 30, 2014:

GENERAL FUND

REVENUE

Local	8,400
State	7,500
Federal	94,237
Bond Proceeds	20,191,249
Fund Balance/Supplemental Appropriation	<u>23,459</u>
TOTAL GENERAL FUND REVENUE	20,324,845

EXPENDITURES

General Government	(66,000)
Judicial Administration	86,175
Public Safety	113,421
Transfers	20,000,000
Community Development	<u>191,249</u>
TOTAL GENERAL FUND EXPENDITURES	20,324,845

HIGHWAY MAINTENANCE FUND

REVENUE

State	<u>79,400</u>
TOTAL HIGHWAY MAINTENANCE REVENUE	79,400

EXPENDITURES

Public Works	<u>79,400</u>
TOTAL HIGHWAY MAINTENANCE EXPENDITURES	79,400

SCHOOL OPERATING FUND

<u>REVENUE</u>	
Local	26,299
State	<u>8,687</u>
TOTAL SCHOOL OPERATING REVENUE	34,986
 <u>EXPENDITURES</u>	
Instruction	27,708
Technology	<u>7,278</u>
TOTAL SCHOOL OPERATING EXPENDITURES	34,986

SCHOOL FEDERAL GRANTS FUND

<u>REVENUE</u>	
Federal	(1,565)
TOTAL SCHOOL GRANTS REVENUE	(1,565)
 <u>EXPENDITURES</u>	
Instruction	2,155
Technology	<u>(3,720)</u>
TOTAL SCHOOL GRANTS EXPENDITURES	(1,565)

SCHOOL TEXTBOOK FUND

<u>REVENUE</u>	
Fund Balance/Supplemental Appropriation	<u>84,314</u>
TOTAL SCHOOL TEXTBOOK REVENUE	84,314
 <u>EXPENDITURES</u>	
Instruction	<u>84,314</u>
TOTAL SCHOOL TEXTBOOK EXPENDITURES	84,314

SCHOOL CAPITAL IMPROVEMENTS FUND

<u>REVENUE</u>	
State	100,000
Fund Balance/Supplemental Appropriation	<u>1,536,115</u>
TOTAL SCHOOL CIP REVENUE	1,636,115
 <u>EXPENDITURES</u>	
Facilities	1,116,000
Technology	310,115
Transportation	<u>210,000</u>
TOTAL SCHOOL CIP EXPENDITURES	1,636,115

SCHOOL FUND RAISING FUND

REVENUE

Fund Balance/Supplemental Appropriation	<u>181,235</u>
TOTAL SCHOOL FUND RAISING REVENUE	181,235

EXPENDITURES

Facilities	<u>181,235</u>
TOTAL SCHOOL FUND RAISING EXPENDITURES	181,235

SCHOOL FOOD SERVICES FUND

REVENUE

Federal	<u>60,295</u>
TOTAL SCHOOL FOOD SERVICES REVENUE	60,295

EXPENDITURES

Food Services	<u>60,295</u>
TOTAL SCHOOL FOOD SERVICES EXPENDITURES	60,295

WHEREAS, there is available in the general fund an unencumbered and unappropriated sum sufficient to meet such appropriations, and

WHEREAS, all appropriations shall lapse at the end of the budget year to the extent that they shall not have been expended or lawfully obligated or encumbered, and

WHEREAS, all ordinances and parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed.

NOW THEREFORE BE IT ORDAINED, by the Common Council of the City of Winchester that the additional appropriations specified herein are hereby appropriated for the purposes specified for the fiscal year ending June 30, 2014.

0-2014-08

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: March 25, 2014 CUT OFF DATE: __

RESOLUTION __ ORDINANCE X PUBLIC HEARING X

ITEM TITLE: Ordinance to Authorize the Acquisition of Property Necessary for the Realignment of National Avenue-Piccadilly Street-East Lane

STAFF RECOMMENDATION: Authorize approval of condemnation to continue the implementation of the Realignment of National Avenue- Piccadilly Street- East Lane Project

PUBLIC NOTICE AND HEARING: Authorize advertisement of condemnation for purposes of receiving public comment and hold public hearing April 8, 2014.

ADVISORY BOARD RECOMMENDATION: The City of Winchester Economic Development Authority have discussed and recommend the attached Ordinance

FUNDING DATA: All funding necessary for the acquisition of the property identified in attached Ordinance have been included in the Budget Ordinance for FY14

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. Economic Redevelopment	<i>JW</i>		3/18/14
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. City Attorney	<i>[Signature]</i>		3/18/2014
6. City Manager	<i>[Signature]</i>		3-18-14
7. Clerk of Council	_____	_____	_____

Initiating Department Director's Signature: _____

APPROVED AS TO FORM:

3/18/14
Date



[Signature]
CITY ATTORNEY 3/18/2014

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council

From: Jim Deskins, Economic Redevelopment Director

Date: March 25, 2014

Re: Ordinance to Authorize the Acquisition of Property Necessary for the Realignment of National Avenue-Piccadilly Street-East Lane

THE ISSUE: City Staff is seeking the approval of the Common Council for the City of Winchester to take all necessary steps to acquire the property identified in the attached Ordinance in furtherance of the realignment of National Avenue-Piccadilly Street-East Lane for the public use described herein, by condemnation or other means.

RELATIONSHIP TO STRATEGIC PLAN:

Goal 2: Create a More Livable City for All

BACKGROUND: Common Council for the City of Winchester desires to realign National Avenue to connect to Piccadilly Street in a manner that will create a safer and more efficient traffic pattern thereby enhancing traffic flow into, out of and/or through the Old Town area of the City of Winchester. All properties necessary for completion of this project are under contract, except 228-232 E. Piccadilly Street. It is believed that the property owner may not accept the City's offer or allow voluntary acquisition of said property

BUDGET IMPACT: All funding necessary for the acquisition of the property identified in attached Ordinance have been included in the Budget Ordinance for FY14

OPTIONS: Council may approve or disapprove the Ordinance

AN ORDINANCE TO AUTHORIZE THE ACQUISITION OF PROPERTIES NECESSARY FOR THE NATIONAL AVENUE GATEWAY IMPROVEMENT PROJECT BY MEANS INCLUDING BUT NOT LIMITED TO CONDEMNATION AND ACCEPTANCE BY THE CITY OF SAID PROPERTY

WHEREAS, Common Council for the City of Winchester desires to realign National Avenue to connect to Piccadilly Street in a manner that will create a safer and more efficient traffic pattern thereby enhancing traffic flow into, out of and/or through the Old Town area of the City of Winchester; and

WHEREAS, a preliminary design concept has been developed realigning National Avenue to connect with Piccadilly Street as further detailed in (Exhibit A) attached hereto and titled "Proposed National-Piccadilly-East Ln., and Realignment"; and

WHEREAS, all funding necessary for the acquisitions of the properties to complete the Realignment of National Avenue- Piccadilly Street- East Lane Project have been included in the Budget Ordinance for the Fiscal Year Ending June 30, 2014 (O-2013-11); and

WHEREAS, the properties or designated portions thereof necessary for completion of this project are identified as follows: 216 East Piccadilly St., 222 East Piccadilly St., 226 East Piccadilly St., 228-232 East Piccadilly St., 236 East Piccadilly St., 209 East Ln., 211-13 East Ln., 215 East Ln., 219 East Ln., 221 East Ln., and 247 East Fairfax Lane; and

WHEREAS, the Economic Development Authority of the City of Winchester Virginia has negotiated to facilitate the voluntary acquisition and entered into contract for the same of 216 East Piccadilly St., 222 East Piccadilly St., 226 East Piccadilly St., 236 East Piccadilly St., 209 East Ln., 211-13 East Ln., 215 East Ln., 219 East Ln., 221 East Ln., and 247 East Fairfax Lane; and

WHEREAS, the property or designated portion thereof necessary for completion of this project is identified as follows:

*228-232 East Piccadilly Street, Winchester VA
TM -174-07-B
Instrument No.: 050004395 Land Records of City of Winchester, Va
Owned by: Piccadilly & East, LLC*

WHEREAS, it is believed that the owner of 228-232 E. Piccadilly Street may not accept the offers or allow voluntary acquisition of said property; and

WHEREAS, the City has obtained a proper Title Examination from Pratt's Title & Abstract, Inc., for each of the foregoing properties identifying the ownership of the respective properties; and

WHEREAS, the City has ordered the appraisal for 228-232 E. Piccadilly St. from McPherson & Associates, Inc.; and

WHEREAS, the City will provide all of the foregoing information to the respective owner, their designated employees, agents, or assigns in a bona fide offer to purchase letter in accordance with §§25.1-204; 25.1-417; and 25.1-303 of the code of Virginia; and

WHEREAS, such bona fide offer to purchase will be certified as having been reviewed by the City for the purposes of compliance with §1-219.1 of the Code of Virginia and it was determined that the proposed acquisitions are in compliance therewith; and

WHEREAS, the acquisition of property identified in this Ordinance is necessary for the completion of the project; and

WHEREAS, this Ordinance has been presented for adoption by Common Council in compliance with the provisions of §15.2-1903 of the Code of Virginia; and

WHEREAS, it is the wish of Common Council for the City of Winchester that the City proceed with completion of the Realignment of National Avenue- Piccadilly Street- East Lane Project as it is believed to be in the best interests of the City.

NOW THEREFORE BE IT ORDAINED, that Common Council hereby APPROVES the public use described in this Ordinance and DIRECTS the City Manager and City Attorney to take all necessary steps to acquire the properties identified in this Ordinance in furtherance of the Realignment of National Avenue- Piccadilly Street- East Lane Project for the public use described herein, by condemnation or other means, and that all properties acquired in furtherance of this project are hereby accepted by the City.

BE IT FURTHER ORDAINED that the bona fide offer to purchase previously issued by the Manger is hereby ratified and approved and that the City Attorney and City Manager are hereby authorized to negotiate on behalf of the City in furtherance of completion of this project and that non-substantial adjustments or amendments to the area may become necessary in proceeding on these matters, and which are approved as such by the City Attorney and City Manager are hereby authorized and accepted without the need for further action by Common Council.

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: 04/08/2014 CUT OFF DATE: 03/13/2014

RESOLUTION ORDINANCE X PUBLIC HEARING X

ITEM TITLE: AN ORDINANCE TO AMEND AND RE-ADOPT SECTIONS 25-17 AND 18-1 OF THE WINCHESTER CITY CODE TO ELIMINATE FORMALLY APPOINTED COUNCIL LIAISONS FROM THESE AND OTHER COUNCIL APPOINTED BOARDS AND COMMISSIONS.

STAFF RECOMMENDATION: This has been prepared by the City Attorney at the request of Common Council.

PUBLIC NOTICE AND HEARING: Required

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>3/12/2014</i>
6. City Manager	<i>[Signature]</i>	_____	<i>3-13-14</i>
7. Clerk of Council	<i>[Signature]</i>	_____	<i>3-13-14</i>
Initiating Department Director's Signature: _____	[REQUESTED BY COUNCIL]	<i>aw</i>	<i>3/12/2014</i>
			Date

APPROVED AS TO FORM:

CITY ATTORNEY *3/12/2014*

CITY COUNCIL ACTION MEMO

To: Honorable Members of Common Council

From: Anthony C. Williams, City Attorney

Date: March 12, 2014

RE: AN ORDINANCE TO AMEND AND RE-ADOPT SECTIONS 25-17 AND 18-1 OF THE WINCHESTER CITY CODE TO ELIMINATE FORMALLY APPOINTED COUNCIL LIAISONS FROM THESE AND OTHER COUNCIL APPOINTED BOARDS AND COMMISSIONS.

THE ISSUE: Elimination of Council Liaison positions on Council Appointed Boards and Commissions in order to foster the relationship between the Staff Liaison and their respective Boards and Commissions and allow Staff Liaisons to take a more active role with Council by providing the updates and reports to Council on the activities of these various entities.

RELATIONSHIP TO STRATEGIC PLAN: Goal 2— Develop High Performing Organization

BACKGROUND: The City currently has more than thirty-five (35) Council-appointed Boards and Commissions serving the City of Winchester. Over the years, Common Council and/or the President of Common Council have appointed individual members of the governing body to serve as “Council Liaisons” to certain Council-appointed Boards and Commissions to update Council and report on the activities of these various entities. Most, if not all of these Boards and Commissions also have an individually assigned “Staff Liaison” who is an employee of the City who has been assigned by the City Manager to work with these various entities. In making efforts to pursue Council’s goal of developing a high performing Organization, Council has expressed a wish to consider the elimination of Council Liaison positions in order to foster the relationship between the Staff Liaison and their respective Boards and Commissions and allow Staff Liaisons to take a more active role with Council by providing the updates and reports to Council on the activities of these various entities. Effectuating this effort will require amendment of certain provisions of the Winchester City Code as provided for in this Agenda Package.

BUDGET IMPACT: No additional fiscal impact.

OPTIONS: Adopt, reject, or modify Ordinance.

RECOMMENDATIONS: Ordinance has been prepared at request of Common Council.

AN ORDINANCE TO AMEND AND RE-ADOPT SECTIONS 25-17 AND 18-1 OF THE WINCHESTER CITY CODE TO ELIMINATE FORMALLY APPOINTED COUNCIL LIAISONS FROM THESE AND OTHER COUNCIL APPOINTED BOARDS AND COMMISSIONS

WHEREAS, the City currently has more than thirty-five (35) Council-appointed Boards and Commissions serving the City of Winchester, and

WHEREAS, Common Council and/or the President of Common Council have previously appointed individual members of the governing body to serve as “Council Liaisons” to certain Council-appointed Boards and Commissions to update Council and report on the activities of these various entities; and

WHEREAS, most, if not all of these Boards and Commissions also have an individually assigned “Staff Liaison” who is an employee of the City who has been assigned by the City Manager to work with these various entities; and

WHEREAS, it is the wish of Common Council to foster the relationship between the Staff Liaison and their respective Boards and Commissions and allow Staff Liaisons to provide the updates and reports to Council on the activities of these various entities; and

WHEREAS, effectuating this effort will require amendment of certain provisions of the Winchester City Code.

NOW therefore be it ORDAINED that the “Council Liaisons” are hereby removed and eliminated from the following Boards and Commissions and that the City Manager is hereby directed to appoint “Staff Liaisons” for each of the following Boards and Commissions or ensure that such positions have been appointed in accordance with the law, and that such reporting requirements as may be required by Council shall be fulfilled at its discretion for these respective Boards and Commissions by the appointed Staff Liaisons following the adoption of this Ordinance:

- COMMUNITY CRIMINAL JUSTICE BOARD
- COMMUNITY DEVELOPMENT COMMITTEE
- FREDERICK WINCHESTER SERVICE AUTHORITY
- OLD DOMINION ASAP BOARD
- WINCHESTER PARKING AUTHORITY
- LOCAL EMERGENCY PLANNING COMMITTEE
- OLD TOWN DEVELOPMENT BOARD
- OPERATION CLEAN
- PARKS AND RECREATION BOARD
- WINCHESTER TRANSPORTATION SAFETY COMMITTEE

BE IT FURTHER ORDAINED that the following provisions are hereby amended and re-adopted as follows:

SECTION 25-17. COMPOSITION; APPOINTMENT; TERM.

The Old Town Development Board shall consist of eleven (11) members as follows: Six (6) members shall own property or operate a business within the area subject to local assessment of local improvement under this chapter (3 year term). Three (3) members shall be at-large (3 year term) and shall be residents of the City. One (1) member shall own property or operate a business within the area subject to local assessment of local improvement under this chapter and/or represent a business within the City (3 year term).

One (1) member recommended by the President of Shenandoah University who shall serve in such capacity during the term of holding such office, without re-appointment.

~~*Additionally, the President of Common Council shall annually appoint a Council Member to serve as a liaison to the Old Town Development Board. The liaison shall not be considered a voting member of the Old Town Development Board, but shall be included in any open or closed meeting of the Board and shall be permitted to participate in any discussion in order to foster an ongoing harmonious relationship between the Old Town Development Board and Common Council.*~~

The Downtown Manager, who shall fully report to the City Manager, shall serve as the primary staff liaison to the Old Town Development Board.

SECTION 18-1. PARKS AND RECREATION ADVISORY BOARD.

There is hereby created a Parks and Recreation Advisory Board for the City. This Board shall be composed of:

~~*1. Nine (9) members of the Board shall be appointed by the Common Council for terms of three (3) years each. The members of the Board appointed under the prior City Code chapter shall complete their terms as initial terms. Thereafter, all appointments shall be for terms of three years with no more than two consecutive terms. Past Parks & Recreation Board members who have fulfilled their two consecutive term limit may be considered by the Common Council or a new appointment no sooner than three (3) years after their last expired term.*~~

~~*2. One (1) non-voting Council liaison shall be appointed by the President of the Common Council.*~~

This ORDINANCE shall be effective upon adoption and shall supersede and replace previously adopted Resolutions and Ordinances relating to the appointment of "Council Liaisons" for the Boards and Commissions specifically identified in this Ordinance.

0-2014-09

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 3/25/14 (work session),
4 /8/14 (regular mtg)

CUT OFF DATE: 3/20/14

RESOLUTION ORDINANCE X PUBLIC HEARING

ITEM TITLE:

SV-14- 94 AN ORDINANCE TO CONDITIONALLY VACATE A PORTION OF S. INDIAN ALLEY RIGHT-OF-WAY ADJOINING THE PROPOSED SHENANDOAH VALLEY DISCOVERY MUSEUM AT 19 W. CORK STREET AND CONDITIONALLY CONVEY IT TO THE SHENANDOAH VALLEY DISCOVERY MUSEUM

STAFF RECOMMENDATION:

Staff recommends proceeding with 1st Reading on this ordinance and working with the Discovery Museum to prepare an Agreement that would stipulate terms and conditions for possible future reversion of ownership of the vacated and conveyed area back to the City.

PUBLIC NOTICE AND HEARING:

5/13/14 Regular Council meeting

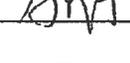
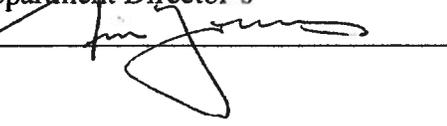
ADVISORY BOARD RECOMMENDATION:

Planning Commission reviewed the item at the 3/18/14 meeting and recommended approval with conditions (see attached staff report).

FUNDING DATA: Expenses would be covered by the Discovery Museum

INSURANCE: Conditional conveyance of the land eliminates liability that the City would have as owner of the land.

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. Public Services			3/19/14
2. Police			3/19/14
3. Fire & Rescue			3/19/14
4. Downtown Mgr			3/20/14
5. WPA			3/19/14
6. City Attorney			
7. City Manager			3-20-14
8. Clerk of Council			3-20-14
Initiating Department Director's Signature: (Planning)			3/19/13

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 3/25/14 (work session)
4 /8/14 (regular mtg)

CUT OFF DATE: 3/20/14

RESOLUTION ORDINANCE X PUBLIC HEARING

ITEM TITLE:

SV-14- 94 AN ORDINANCE TO CONDITIONALLY VACATE A PORTION OF S. INDIAN ALLEY RIGHT-OF-WAY ADJOINING THE PROPOSED SHENANDOAH VALLEY DISCOVERY MUSEUM AT 19 W. CORK STREET AND CONDITIONALLY CONVEY IT TO THE SHENANDOAH VALLEY DISCOVERY MUSEUM

STAFF RECOMMENDATION:

Staff recommends proceeding with 1st Reading on this ordinance and working with the Discovery Museum to prepare an Agreement that would stipulate terms and conditions for possible future reversion of ownership of the vacated and conveyed area back to the City.

PUBLIC NOTICE AND HEARING:

5/13/14 Regular Council meeting

ADVISORY BOARD RECOMMENDATION:

Planning Commission reviewed the item at the 3/18/14 meeting and recommended approval with conditions (see attached staff report).

FUNDING DATA: Expenses would be covered by the Discovery Museum

INSURANCE: Conditional conveyance of the land eliminates liability that the City would have as owner of the land.

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. Public Services			3/19/14
2. Police			3/19/14
3. Fire & Rescue			3/19/14
4. Downtown Mgr			3/20/14
5. WPA			3/19/14
6. City Attorney			03202014
7. City Manager			
8. Clerk of Council			

Initiating Department Director's
 Signature:
 (Planning)

3/19/13



APPROVED AS TO FORM:

CITY ATTORNEY

03202014

CITY COUNCIL ACTION MEMO

To: Mayor and Members of City Council
From: Tim Youmans, Planning Director
Date: March 19, 2014
Re: S. Indian Alley Vacation & Conveyance

THE ISSUE:

The Shenandoah Valley Discovery Museum proposes to make revisions to the intersection of Indian Alley and W. Cork Street beside their proposed museum. The revisions are intended to improve pedestrian safety and create a small outdoor area where a dinosaur climbing structure would be provided. A small portion of Indian Alley would be vacated and conveyed for this.

RELATIONSHIP TO STRATEGIC PLAN:

Goal #3- Continued Revitalization of Historic Old Town

Goal #1- Grow the Economy (Objective#1: *More Tourists coming to experience Winchester*)

BACKGROUND:

The City received a request from representatives of the Discovery Museum to make adjustments to the blind intersection at the NE corner of the proposed Discovery Museum where Indian Alley approaches W. Cork St from the south. The request is outlined in an undated proposal titled: "Proposal for Indian Alley and Sidewalk, 19 W. Cork Street." Mr. Phil Glaize will make a presentation on behalf of the Discovery Museum.

The proposal has been reviewed by staff from: Planning, Public Services, Police, Fire & Rescue, Downtown Management, and the Parking Authority. Overall, staff is supportive of the proposed changes.

BUDGET IMPACT:

None, other than possible revenue loss to WPA from removal of one or more metered curbside parking spaces if removed along W. Cork St. to provide bus standing.

OPTIONS:

- 1) Proceed with 1st Reading on an ordinance to vacate & convey and draft an Agreement covering terms of possible future reversion of the land to the City
- 2) Disapprove the request
- 3) Defer 1st Reading until the terms of reversion are fully drafted as part of the Agreement.

RECOMMENDATIONS:

Staff recommends Option #1 since the Vacation & Conveyance ordinance process requires 3 separate meetings of City Council, thus leaving ample time to work out the details of the Agreement prior to 2nd Reading and action.

Council Work Session
March 25, 2014

SV-14- 94 AN ORDINANCE TO CONDITIONALLY VACATE A PORTION OF S. INDIAN ALLEY RIGHT-OF-WAY ADJOINING THE PROPOSED SHENANDOAH VALLEY DISCOVERY MUSEUM AT 19 W. CORK STREET AND CONDITIONALLY CONVEY IT TO THE SHENANDOAH VALLEY DISCOVERY MUSEUM

REQUEST DESCRIPTION

This request by the Shenandoah Valley Discovery Museum ('Discovery Museum') entails vacating the public street purpose of an improved section of S. Indian Alley adjoining the east side of the Discovery Museum property at 19 W. Cork Street. The proposal calls for conditionally vacating and conveying an irregular-shaped portion of the alley comprising approximately 235 square feet closest to the south side of W. Cork Street. A reversion clause would allow the City to reclaim the land for public alley purpose if the Discovery Museum ceases to use the property or fails to maintain it in safe and orderly manner as determined by City Council.

AREA DESCRIPTION

The segment of S. Indian Alley between W. Cork St and W. Clifford Street to the south has a very low volume of traffic. It is accessed mostly by motorists who own or lease property that has frontage along the one-block long section of the public alley. The Discovery Museum owns the adjoining property along the west side of the proposed vacation area and the City owns the parking lot property along the east side. There is already gravel access from Indian Alley into the WPA lot which would be improved. No parking spaces would be lost or relocated on the WPA lot because of this revised alignment of traffic flow.

STAFF COMMENTS

This vacation and conveyance request has been reviewed by a wide array of City Departments including: Police, Fire & Rescue, Planning, Public Services, Parks & Recreation, Downtown Management, WPA, and Tourism. Comments are provided in a separate matrix.

A vacation and conveyance of this subject 10-foot wide portion of S. Indian Alley would need to be conditioned upon establishing utility easements for existing utilities situated within the existing public right-of-way and for any needed drainage. Staff also recommends that the ordinance be subject to a reversion clause which would allow the City to reclaim ownership of the area for public alley purpose. The triggers for reversion could be spelled out in an agreement between the City and the Museum, but would likely include: discontinued use of the property at 19 W. Cork St as a museum; failure to maintain the area in a safe and/or orderly manner, or if the City and/or the WPA discontinue use of the WPA property for public parking. Council should determine what provisions should be included in the agreement to ensure that improvements such as fencing, walls, and statuary.

Staff believes that the use of internal viewers on this request would be appropriate and would recommend that the conveyance be subject to only a nominal (i.e. \$10) dollar amount since it would be subject to possible reversion.

RECOMMENDATION

At it's March 18, 2013 meeting, the Planning Commission forwarded SV-14-94 recommending approval of the vacation and conveyance because it is consistent with the Comprehensive Plan subject to:

1. Establishment of utility easements for existing utilities situated within the existing public right-of-way;
2. An agreement between the City and the Discovery Museum spelling out the terms and conditions of any possible reversion of ownership back to the City in the future; and,
3. Submittal of an operational plan that adequately addresses the safety concerns that may arise in the future.

Updated: 2-19-14						
ISSUE	Downtown Mgr	Fire & Rescue	Planning	Police	Public Services	WPA
Alley Traffic flow						
volume	volume low but I recommend a no left turn whether we convey the park or not	No issues	Very low volume. Should not be problem	No issues	Volume is low. Do not currently have traffic counts.	
diversion into Cork St lot	already permitted no real change people who see it as convenient will use it regardless	No parking should be allowed in the alley to avoid impairing access for emergency vehicles.	Already permitted via connector. Does not reduce # of spaces in lot	No issues		See 1-31-14 letter from WPA Chairman
safety	definitely increases safety to create some distance between cars and the entrance to the museum, we see the visability		Cork St lot has Superior curbcut on Cork St & provides better line of sight	No issues	Improve Safety: The sight distance out of the Cork Street lot is better than out of Indian Alley.	
Changes on Cork St						
bus parking	I would put bus parking on the Discover Museum side and make it open parking after 5.	Bus Parking, if any, is acceptable as long driver stays with vehicle.	Can be decided separate from alley vacation	Not relevant to vacation		
non-bus parking		Same As Above	Can be decided separate from alley vacation	Not relevant to vacation		
bump out/crosswalk	The crosswalk is essential could be raised or not.	Same As Above	Seems desirable and improves pedestrian safety for all	Not relevant to vacation	Bumpout at this location should be fine (not interfere with traffic	
Use of vacated alley						
Dinosaur Climbing area	Great visual image, like public art which is good for the downtown also good to have	Same As Above	Seems consistent with goals to make old town 'kid-friendly'	No issue other than potential vandalism		
safety of children	Smart design with appropriate fencing and cushioned surface are important.	Same As Above	Will require monitoring	Not issue for us		
wall construction	I recommend attractive wrought iron type that can be both see through in an attractive color and design but also increase safety.	Same As Above	Need to see details on site plan. Ensure 3' separation from vehicle travel ways.	No issue		
maintenance		Same As Above	Could be condition of vacation ordinance.	No issue		
aesthetics	the museum and character of the overall downtown.	Same As Above	Will need BAR approval	No issue		



George Washington Autopark
Samantha Anderson, Executive Director
128 North Cameron Street
Winchester, VA 22601

Telephone: (540) 722-7575
FAX: (540) 722-7570
Website: www.winchesterva.gov

January 31, 2014

Honorable Mayor and Members of Council
Rouss City Hall
15 North Cameron St
Winchester, VA 22601

RE: Conceptual Discovery Museum pocket park presented September 2013

Dear Honorable Mayor and Members of Council,

The Authority willingly defers the discussion of traffic dynamics to those with expertise. We do, however, have serious concerns over the public parking capacity on the south end of Old Town. We would hope that our collective efforts would be to increase the number, safety and efficiencies of parking spaces in the area rather than being creative to reduce them. The Authority would be very willing to assist the City in acquiring additional public spaces should the opportunity arise.

The Cork St. lot is the only public parking serving the businesses and residents south of the pedestrian mall. It also is an essential resource for Apple Blossom and has staged some special events for Old Town. The concept of redirecting a lane of traffic through to Loudoun St. would eliminate those opportunities.

We can't help but think that moving traffic into a parking area would, at best, transfer the safety issues onto the parking lot where motorists tend not to look for through traffic when backing into or out of a space. Further, to encourage children to play in such close proximity to bus, street and parking traffic seems to invite the inevitable accident.

Respectfully submitted,

Richard Helm
Chairman, Winchester Parking Authority

AN ORDINANCE TO CONDITIONALLY VACATE A PORTION OF S. INDIAN ALLEY RIGHT-OF-WAY ADJOINING THE PROPOSED SHENANDOAH VALLEY DISCOVERY MUSEUM AT 19 W. CORK STREET AND CONDITIONALLY CONVEY IT TO THE SHENANDOAH VALLEY DISCOVERY MUSEUM **SV-14- 94**

WHEREAS, the Common Council has received a request from the Shenandoah Valley Discovery Museum, owner of 19 W. Cork Street, to vacate and convey to it a portion of existing S. Indian Alley right-of-way as generally depicted in red on the attached exhibit dated February 2014; and,

WHEREAS, the City is empowered to vacate rights-of-way in the City and, if desired, convey them to certain individuals as a condition of vacation pursuant to, and in conformance with, the provisions of Virginia Code Section §15.2-2006 and §15.2-2008 et. seq., respectively, as amended; and,

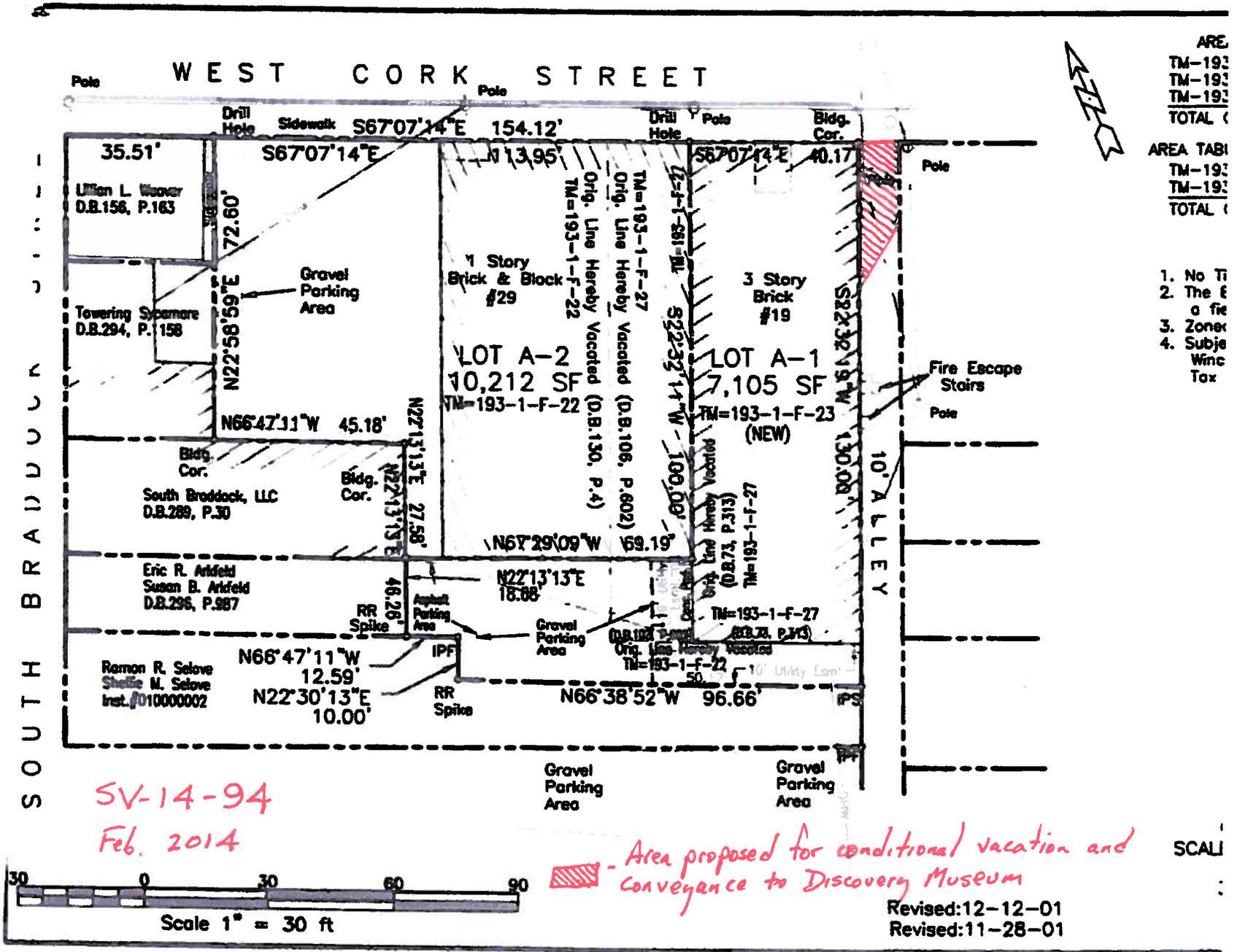
WHEREAS, the Planning Commission of the City of Winchester has reviewed the aforesaid request and, at its meeting of March 18, 2014, recommended approval of this action subject to: 1. Establishment of utility easements for existing utilities situated within the existing public right-of-way; 2. An agreement between the City and the Discovery Museum spelling out the terms and conditions of any possible reversion of ownership back to the City in the future; and, 3. Submittal of an operational plan that adequately addresses the safety concerns that may arise in the future; 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, and viewers were appointed to report on the inconvenience, if any, of said vacation, all as required by and provided for under the Code of Virginia, 1950, as amended; and,

WHEREAS, the viewers have prepared a report in writing, said report concluding that an inconvenience would not result from discontinuing the right-of-way provided conditions are met.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Winchester, Virginia, that the portion of S. Indian Alley public right of way depicted on the attached exhibit dated February 2014 be conditionally vacated as to its public use subject to: 1. Establishment of utility easements for existing utilities situated within the existing public right-of-way; 2. Establishment of terms agreeable to the City which shall provide for an automatic reversion of the property upon conditions prescribed by the City, which terms shall be reflected in a written agreement and recorded in the deed of the subject property; and, 3. Submittal of an operational plan that adequately addresses the safety concerns that may arise in the future.

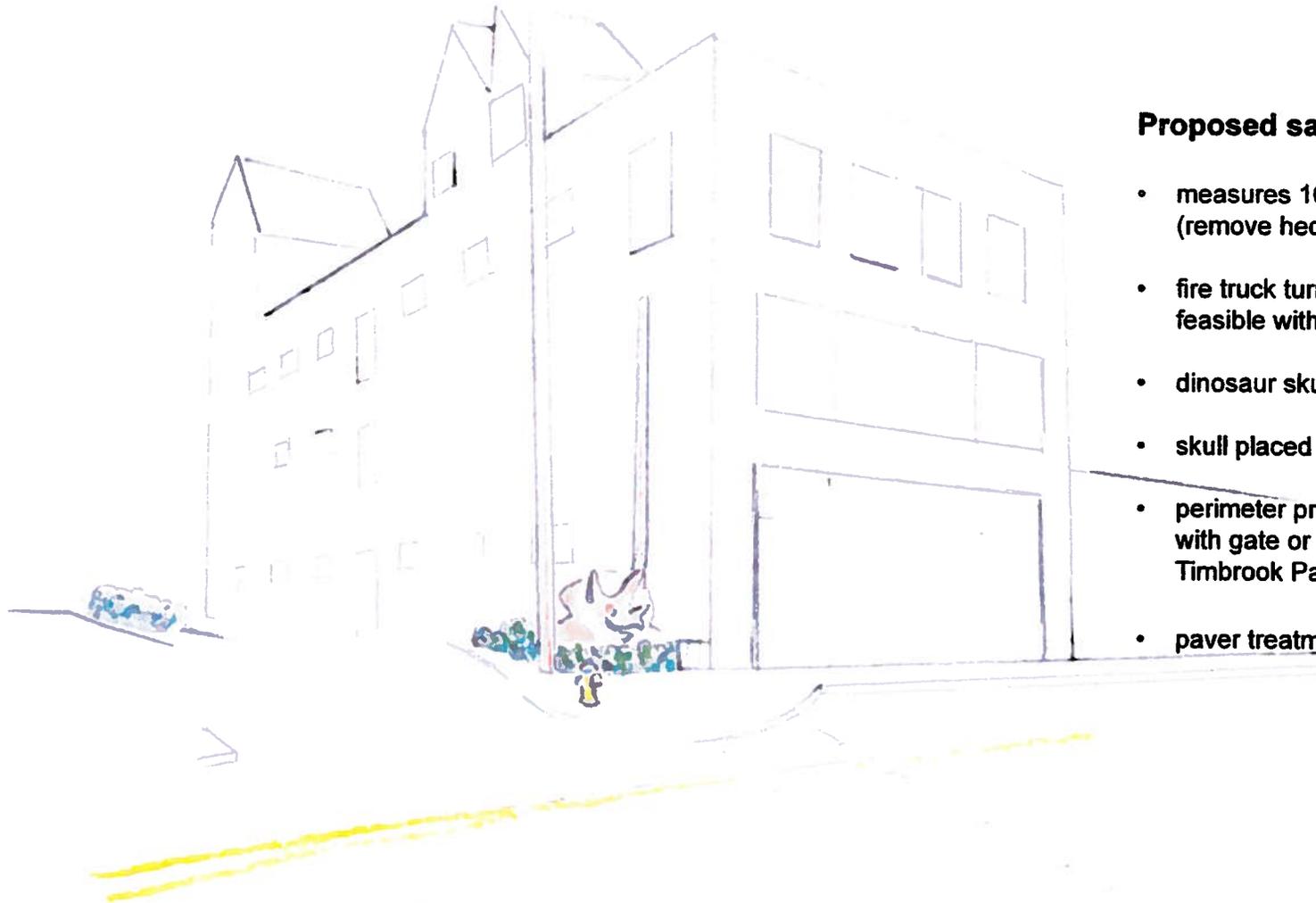
BE IT FURTHER ORDAINED that the ordinance shall not take effect until Shenandoah Valley Discovery Museum has secured approval of a Minor Subdivision to assemble the vacated public right of way in with the adjoining property at 19 W. Cork Street. The City Attorney is directed to prepare a deed for the conveyance and the City Manager is directed and authorized to execute all documents necessary to carry out this ordinance.



Shenandoah Valley Discovery Museum: Safety Buffer at Indian Alley and 19 W. Cork Street

Proposed safety buffer:

- measures 16 feet wide to hedge (remove hedge); and 33 feet long
- fire truck turning radius of 26 feet feasible with above dimensions
- dinosaur skull measures 4.3 x 6.5 ft.
- skull placed on bed of bark mulch
- perimeter protection of low hedge with gate or iron fence similar to Timbrook Park
- paver treatment similar to sidewalk



- CORK STREET

0-2014-10

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 3/25/14 (Work Session), **CUT OFF DATE:** 3/19/14
4/8/14 (First Reading) 5/13/14 (Second Reading/Public Hearing)

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

ITEM TITLE:
TA-14-33 AN ORDINANCE AMENDING ARTICLE 14.1 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO FLOODPLAIN REGULATIONS *(Proposal establishes additional definitions and identifies the floodplain administrator and her assigned duties and responsibilities)*

STAFF RECOMMENDATION:
Approval.

PUBLIC NOTICE AND HEARING:
Public hearing required at second reading on 5/13/14.

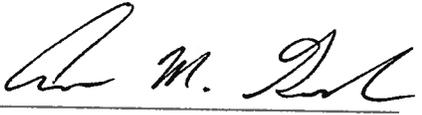
ADVISORY BOARD RECOMMENDATION:
Planning Commission unanimously recommended approval.

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. Planning		_____	<u>3/19/14</u>
2. City Attorney	_____	_____	_____
3. City Manager		_____	<u>3-20-14</u>
4. Clerk of Council	_____	_____	<u>3-20-14</u>

Initiating Department Director's Signature:  3/19/14
(Zoning and Inspections)



CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 3/25/14 (Work Session), **CUT OFF DATE:** 3/19/14
4/8/14 (First Reading) 5/13/14 (Second Reading/Public Hearing)

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

ITEM TITLE:

TA-14-33 AN ORDINANCE AMENDING ARTICLE 14.1 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO FLOODPLAIN REGULATIONS (*Proposal establishes additional definitions and identifies the floodplain administrator and her assigned duties and responsibilities*)

STAFF RECOMMENDATION:

Approval.

PUBLIC NOTICE AND HEARING:

Public hearing required at second reading on 5/13/14.

ADVISORY BOARD RECOMMENDATION:

Planning Commission unanimously 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. Planning			3/19/14
2. City Attorney			03202014
3. City Manager			
4. Clerk of Council			

Initiating Department Director's Signature:
(Zoning and Inspections)

3/19/14



APPROVED AS TO FORM:

CITY ATTORNEY

03202014

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Aaron Grisdale, Director of Zoning and Inspections *AMG*
Date: March 25, 2014
Re: Zoning Text Amendment (TA-14-33) – Floodplain Provisions

THE ISSUE:

The proposed Zoning Ordinance text amendment will modify the existing Zoning Ordinance language pertaining to floodplain provisions, incorporating recommendations from the Department of Conservation and Recreation (DCR) following a Community Assistance Visit (CAV) in August 2013.

RELATIONSHIP TO STRATEGIC PLAN:

This text amendment correlates to the 2018 Goal #4 of "Create a More Livable City For All" by providing additional information for possible development on properties within flood hazard areas.

BACKGROUND:

This publicly sponsored Zoning Ordinance text amendment serves to refine our existing Floodplain Regulations in the Zoning Ordinance, upon recommendation from a representative with DCR following a Community Assistance Visit in August 2013. The majority of existing standards are not changing with this proposal. There are four areas where adjustments and clarifications will be made:

- The inclusion of the enabling authority for the Floodplain Ordinance (Section 14.1-1)
- Additional definitions for terms used in Article 14.1 (14.1-7-11 through 14.1-7-16)
- Clarifying information about the designation and duties of the Floodplain Administrator (14.1-8 through 14.1-9)
- Clarifying an ordinance reference (14.1-15-6) to an earlier section of the floodplain ordinance.

The proposed language codifies the existing duties and practices of the City into the Zoning Ordinance to ensure continuity for the future as well as provide guidance to citizens, developers and businesses for proposed work in the established floodplain districts. (Full staff report attached).

BUDGET IMPACT:

No funding is required.

OPTIONS:

- Adopt the Zoning Ordinance Text Amendment
- Decline to adopt the Zoning Ordinance Text Amendment

RECOMMENDATIONS:

The Planning Commission recommended approved unanimously.

**TA-14-33 AN ORDINANCE AMENDING ARTICLE 14.1 OF THE WINCHESTER ZONING ORDINANCE
PERTAINING TO FLOODPLAIN REGULATIONS**

REQUEST DESCRIPTION

This is a publicly sponsored text amendment pertaining to revisions to the City's existing floodplain provisions. The proposed changes involve additional language that was recommended by the Virginia Department of Conservation and Recreation following a site visit and discussion involving the City's existing regulations and procedures.

STAFF COMMENTS

The Floodplain provisions were originally adopted in October 1999, and subsequently amended in 2009. In August 2013, City Staff, including the Public Services Director, City Engineer, Zoning and Inspections Director and Building Official met with a representative of the Department of Conservation and Recreation in order to review and discuss the City's floodplain regulations and procedures. Following this community assistance visit, the DCR representative recommended a few minor adjustments to the City's Zoning Ordinance. The recommended areas of change include the following:

- The inclusion of the enabling authority for the Floodplain Ordinance (14.1-1)
- Additional definitions for terms used in Article 14.1 (14.1-7-11 through 14.1-7-16)
- Clarifying information about the designation and duties of the Floodplain Administrator (14.1-8 through 14.1-9)
- Clarifying an ordinance reference (14.1-15-6) to an earlier section of the floodplain ordinance.

The bulk of this proposed amendment involves clarifying the appointment and duties of the Floodplain Administrator: the City Engineer. Presently the Zoning and Inspections, Planning and Engineering departments work closely on projects that involve work or rehabilitation in the floodplain. The proposed language codifies the existing duties and practices of the City into the Zoning Ordinance to ensure continuity for the future as well as provide guidance to citizens, developers and businesses for proposed work in the established floodplain districts.

RECOMMENDATION

At their March 18, 2014 meeting, the Planning Commission forwarded **TA-14-33** with a favorable recommendation because the amendment, as proposed, presents good planning practice by providing clear local ordinances for development and redevelopment within established floodplain districts in order to meet the requirements of FEMA and the National Flood Insurance Program.

AN ORDINANCE AMENDING ARTICLE 14.1 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO
FLOODPLAIN REGULATIONS

TA-14-33

WHEREAS, the Federal Emergency Management Administration, hereinafter "FEMA," prescribes certain requirements for Floodplain District Ordinances; and,

WHEREAS, Section 14.1 of the Winchester Zoning Ordinance, containing provisions of the City's Floodplain districts, was adopted by Council on October 13, 1999, and further amended on September 1, 2009; and,

WHEREAS, necessary changes have been identified by the Virginia Department of Conservation and Recreation of the City's existing Floodplain ordinance; and,

WHEREAS, the Zoning Ordinance provides floodplain standards in order to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and impairment of the tax base; and,

WHEREAS, it is the interest of the City to necessitate these changes in order to best meet the requirements of FEMA and the National Flood Insurance Program; and,

WHEREAS, the Planning Commission has considered the aforesaid amendment and, at its meeting of March 18, 2014, forwarded TA-14-33 to City Council recommending approval because the amendment presents good planning practice by providing clear local ordinances for development and redevelopment within established floodplain districts in order to meet the requirements of FEMA and the National Flood Insurance Program; 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 amendment represents good planning practice.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Winchester, Virginia, that the Winchester Zoning Ordinance of 1976, as amended, be further amended to read as follows:

AN ORDINANCE AMENDING ARTICLE 14.1 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO
FLOODPLAIN REGULATIONS

TA 14-33

Draft 1 – (1/14/2014)

*Ed. Note: The following text represents an excerpt of Article 14.2 of the Zoning Ordinance that is 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 14.1

FLOODPLAIN DISTRICTS - FP

STATEMENT OF INTENT

The purpose of these provisions is to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

- A. Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies.
- B. Restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding.
- C. Requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or floodproofed against flooding and flood damage.
- D. Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

14.1-1 **STATUTORY AUTHORIZATION AND PURPOSE**

This ordinance is adopted pursuant to the authority granted to localities by Va. Code § 15.2 - 2280.

14.1-2 **APPLICABILITY**

These provisions shall apply to all lands within the jurisdiction of the City and identified as being in the 100-year floodplain by the Federal Insurance Administration.

14.1-3 COMPLIANCE AND LIABILITY

- A. No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this ordinance and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this ordinance.
- B. The degree of flood protection sought by the provisions of this ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that districts outside the floodplain district, or that land uses permitted within such district will be free from flooding or flood damages.
- C. This ordinance shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.
- D. Records of actions associated with administering this ordinance shall be kept on file and maintained by the Program Administrator.

14.1-4 PENALTY FOR VIOLATIONS

Any person who fails to comply with any of the requirements or provisions of this article or directions of the Program Administrator or any authorized employee of the City of Winchester shall be subject to the penalties therefor.

In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this article. The imposition of a fine or penalty for any violation of, or noncompliance with, this article shall not excuse the violation or noncompliance or permit it to continue; and all such persons shall be required to correct or remedy such violations or noncompliances within a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in noncompliance with this article may be declared by the City of Winchester to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this article.

14.1-5 SEVERABILITY

If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this ordinance. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this ordinance are hereby declared to be severable.

14.1-6 ABROGATION AND GREATER RESTRICTIONS

This ordinance supersedes any ordinance currently in effect in flood-prone districts. However, any underlying ordinance shall remain in full force and effect to the extent that its provisions are more restrictive than this ordinance.

14.1-7 DEFINITIONS

- 14.1-7-1 Base Flood/One-Hundred Year Flood - A flood that, on the average, is likely to occur once every 100 years (i.e., that has a one (1) percent chance of occurring each year, although the flood may occur in any year).
- 14.1-7-2 Base Flood Elevation (BFE) - The Federal Insurance Administration designated 100 year water surface elevation.
- 14.1-7-3 Basement – (For purposes of this Article...) Any area of the building having its floor sub-grade (below ground level) on all sides.
- 14.1-7-4 Development - Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
- 14.1-7-5 Elevated building - A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, or columns (posts and piers).
- 14.1-7-6 Encroachment - The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.
- 14.1-7-7 Existing manufactured home park or subdivision - a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.
- 14.1-7-8 Expansion to an existing manufactured home park or subdivision - the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

- 14.1-7-9 Flood or flooding -
1. A general or temporary condition of partial or complete inundation of normally dry land areas from
 - a. the overflow of inland or tidal waters; or,
 - b. the unusual and rapid accumulation or runoff of surface waters from any source.
 2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph 1 (a) of this definition.
 3. Mudflows which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- 14.1-7-10 Flood Insurance Rate Map (FIRM) - an official map of a community, on which the Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community
- 14.1-7-11 Flood Insurance Study (FIS) – a report by FEMA that examines, evaluates and determines flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.
- 14.1-7-12 Floodplain or flood-prone area - Any land area susceptible to being inundated by water from any source.
- 14.1-7-13 Flood proofing - any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- 14.1-7-14 Floodway - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
- 14.1-7-15 Freeboard - A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed.

14.1-7-16 **Highest adjacent grade - the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.**

14.1-7-17 **Historic structure** - Any structure that is

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
4. individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either
 - a. by an approved state program as determined by the Secretary of the Interior; or,
 - b. directly by the Secretary of the Interior in states without approved programs.

14.1-7-18 **Lowest Floor** - The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44CFR §60.3.

14.1-7-19 **Manufactured home** - A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

14.1-7-20 **Manufactured home park or subdivision** - a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

- 14.1-7-21** New construction - For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial Flood Insurance Rate Map on or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which *start of construction* commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
- 14.1-7-22** Recreational vehicle - A vehicle which is
1. built on a single chassis;
 2. 400 square feet or less when measured at the largest horizontal projection;
 3. designed to be self-propelled or permanently towable by a light duty truck; and,
 4. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.
- 14.1-7-23** Special flood hazard area - The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in Section 14.1-6 of this ordinance.
- 14.1-7-24** Start of construction - The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- 14.1-7-25** Structure - for flood plain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. "Structure" for insurance coverage purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

- 14.1-7-26 Substantial Damage - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- 14.1-7-27 Substantial Improvement - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. The term does not, however, include either: (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (2) any alteration of a "historic structure", provided that the alteration will not preclude the structures continued designation as a "historic structure".
- 14.1-7-28 Violation - the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Sec. 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.
- 14.1-7-29 Watercourse - A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

14.1-8 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The City Engineer is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may:

- A. **Do the work themselves. In the absence of a designated Floodplain Administrator, the duties are conducted by the City of Winchester chief executive officer.**
- B. **Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.**
- C. **Enter into a written agreement or written contract with another community or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.**

14.1-9 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

- A. Review applications for permits to determine whether proposed activities will be located in the Special Flood Hazard Area (SFHA).
- B. Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.
- C. Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.
- D. Review applications to determine whether all necessary permits have been obtained from the Federal, State or local agencies from which prior or concurrent approval is required; in particular, permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free-flowing non-tidal waters of the State.
- E. Verify that applicants proposing an alteration of a watercourse have notified adjacent communities, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), and other appropriate agencies (VADEQ, USACE) and have submitted copies of such notifications to FEMA.
- F. Advise applicants for new construction or substantial improvement of structures that are located within an area of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act that Federal flood insurance is not available on such structures; areas subject to this limitation are shown on Flood Insurance Rate Maps as Coastal Barrier Resource System Areas (CBRS) or Otherwise Protected Areas (OPA).
- G. Approve applications and issue permits to develop in flood hazard areas if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met.
- H. Inspect or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with these regulations or to determine if non-compliance has occurred or violations have been committed.
- I. Review Elevation Certificates and require incomplete or deficient certificates to be corrected.
- J. Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for the (community), within six months after such data and information becomes available if the analyses indicate changes in base flood elevations.

- K. Maintain and permanently keep records that are necessary for the administration of these regulations, including:
1. Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies and maps and current effective studies and maps) and Letters of Map Change; and
 2. Documentation supporting issuance and denial of permits, Elevation Certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been floodproofed, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.
- L. Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.
- M. Advise the Board of Zoning Appeals regarding the intent of these regulations and, for each application for a variance, prepare a staff report and recommendation.
- N. Administer the requirements related to proposed work on existing buildings:
1. Make determinations as to whether buildings and structures that are located in flood hazard areas and that are damaged by any cause have been substantially damaged.
 2. Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct, and prohibit the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage.
- O. Undertake, as determined appropriate by the Floodplain Administrator due to the circumstances, other actions which may include but are not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures; coordinating with other Federal, State, and local agencies to assist with substantial damage determinations; providing owners of damaged structures information related to the proper repair of damaged structures in special flood hazard areas; and assisting property owners with documentation necessary to file claims for Increased Cost of Compliance coverage under NFIP flood insurance policies.
- P. Notify the Federal Emergency Management Agency when the corporate boundaries of the (community) have been modified and:
1. Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and

2. If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.
- Q. Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHA, number of permits issued for development in the SFHA, and number of variances issued for development in the SFHA.
- R. It is the duty of the Community Floodplain Administrator to take into account flood, mudslide and flood-related erosion hazards, to the extent that they are known, in all official actions relating to land management and use throughout the entire jurisdictional area of the Community, whether or not those hazards have been specifically delineated geographically (e.g. via mapping or surveying).

14.1-10 DESCRIPTION OF DISTRICTS

14.1-10-1 Basis of Districts

The various floodplain districts shall include special flood hazard areas. The basis for the delineation of these districts shall be the Flood Insurance Study (FIS) and the Flood Insurance Rate Maps for the City of Winchester prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated September 2, 2009, as amended.

1. The Floodway District is delineated, for purposes of this ordinance, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the one hundred (100)-year flood without increasing the water surface elevation of that flood more than one (1) foot at any point. The areas included in this District are specifically defined in Table 2 of the above-referenced Flood Insurance Study and shown on the accompanying Flood Insurance Rate Map.
2. The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one hundred (100)-year floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the Flood Insurance Study. For these areas, the one hundred (100)-year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one hundred (100)-year flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and

hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the City.

3. The Special Floodplain District shall be those areas identified as an AE Zone on the maps accompanying the Flood Insurance Study for which one hundred (100)-year flood elevations have been provided.

14.1-10-2 Overlay Concept

1. The Floodplain Districts described above shall be overlays to the existing underlying districts as shown on the Official Zoning Map, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.
2. Any conflict between the provisions or requirements of the Floodplain Districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.
3. In the event any provision concerning a Floodplain District is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

14.1-11 OFFICIAL ZONING MAP

The boundaries of the Floodplain Districts are established as shown on the Flood Insurance Rate Map which is declared to be a part of this ordinance and which shall be kept on file at the City.

14.1-12 DISTRICT BOUNDARY CHANGES

The delineation of any of the Floodplain Districts may be revised by the Governing Body where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U. S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration.

14.1-13 SUBMITTING TECHNICAL DATA

A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and flood plain management requirements will be based upon current data.

14.1-14 INTERPRETATION OF DISTRICT BOUNDARIES

Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Administrator. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the District boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

14.1-15 GENERAL PROVISIONS

14.1-15-1 Permit Requirement

All uses, activities, and development occurring within any floodplain district shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of the Ordinance and with all other applicable codes and ordinances, such as the Virginia Uniform Statewide Building Code and the City Land Subdivision Regulations. Prior to the issuance of any such permit, the Administrator shall require all applications to include compliance with all applicable state and federal laws. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodway of any watercourse, drainage ditch, or any other drainage facility or system.

14.1-15-2 Alteration or Relocation of Watercourse

Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U. S. Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and the Federal Insurance Administration.

14.1-15-3 General Standards

In all special flood hazard areas the following provisions shall apply:

- a) New construction and substantial improvements shall be according to the VA USBC, and anchored to prevent flotation, collapse or lateral movement of the structure.
- b) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.

- c) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- d) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- e) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- i) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this ordinance shall meet the requirements of "new construction" as contained in this ordinance.
- j) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this ordinance, shall be undertaken only if said non-conformity is not furthered, extended, or replaced.
- k) Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U. S. Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and the Federal Insurance Administration.
- l) The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

14.1-~~15~~-4 Drainage Facilities

Storm drainage facilities shall be designed to convey the flow of storm water runoff in a safe and efficient manner. The system shall insure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

14.1-~~15~~-5 Site Plans and Permit Applications

All applications for development in the floodplain district and all building permits issued for the floodplain shall incorporate the following information:

1. For structures to be elevated, the elevation of the lowest floor (including basement).
2. For structures to be floodproofed (non-residential only), the elevation to which the structure will be floodproofed.
3. The elevation of the one hundred (100)-year flood.
4. Topographic information showing existing and proposed ground elevations.

14.1-~~15~~-6 Specific Standards

In all special flood hazard areas where base flood elevations have been provided in the Flood Insurance Study or generated according to Article 14.1, Section 14.1-10-1.2, the following provisions shall apply:

a) Residential Construction

New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated no lower than 1 foot above the base flood elevation.

b) Non-Residential Construction

New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than 1 foot above the base flood elevation. Buildings located in all A1-30, AE, and AH zones may be floodproofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE plus one foot are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied.

c) Elevated Buildings

Enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:

1. not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator).
2. be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
3. include, in Zones AE and A, measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
 - a. Provide a minimum of two openings on different sides of each enclosed area subject to flooding.
 - b. The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.
 - c. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.
 - d. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.
 - e. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
 - f. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

14.1-15-7 Manufactured Homes and Recreational Vehicles

1. All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, in a new manufactured home park or subdivision or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, must meet all the requirements for new construction.
2. All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision in which a manufactured home has not incurred substantial damage as the result of a flood shall be elevated so that either
 - a. the lowest floor of the manufactured home is elevated no lower than 3 feet above the base flood elevation; or
 - b. the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade
 - c. and be securely anchored to the adequately anchored foundation system to resist flotation, collapse and lateral movement.
3. All recreational vehicles placed on sites must either
 - a. be on the site for fewer than 180 consecutive days;
 - b. be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or,
 - c. meet all the requirements for manufactured homes.

14.1-16 **FLOODWAY DISTRICT**

In the Floodway District no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the one hundred (100)-year flood elevation.

14.1-16-1 Permitted Uses in the Floodway District

The following uses and activities are permitted provided that they are in compliance with the provisions of the underlying area and are not prohibited by any other ordinance and provided that they do not require structures, fill, or storage of materials and equipment:

1. Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
2. Public and private recreational uses and activities, such as parks, day camps, picnic grounds, golf courses, boat launching and swimming areas, horseback riding and hiking trails, wildlife and nature preserves, game farms, fish hatcheries, trap and skeet game ranges, and hunting and fishing areas.
3. Accessory residential uses, such as yard areas, gardens, play areas, and pervious loading areas.
4. Accessory industrial and commercial uses such as yard areas, pervious parking and loading areas, airport landing strips, etc.

14.1-17 SPECIAL FLOODPLAIN DISTRICT

The following provisions shall apply within the Special Floodplain District:

Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zones A and AE on the Flood Rate Insurance Map, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the City of Winchester.

Development activities in Zones A and AE on the Frederick County Flood Insurance Rate Map which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the applicant first applies – with the City of Winchester’s endorsement – for a conditional Flood Insurance Rate Map revision, and receives the approval of the Federal Emergency Management Agency.

14.1-17-1 Standards for Approximated Floodplain

The following provisions shall apply with the Approximate Floodplain District:

1. The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one hundred (100)-year floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the Flood Insurance Study. For these areas, the one hundred (100)-year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one hundred (100)-year flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of

demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Program Administrator.

2. When such base flood elevation data is utilized, the lowest floor shall be 1 foot above the base flood elevation. During the permitting process, the Program Administrator shall obtain:
 - a) the elevation of the lowest floor (including the basement) of all new and substantially improved structures; and,
 - b) if the structure has been flood-proofed in accordance with the requirements of this article, the elevation to which the structure has been flood-proofed.

14.1-17-2

Standards for Subdivision Proposals

1. All subdivision proposals shall be consistent with the need to minimize flood damage;
2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and
4. Base flood elevation data shall be provided for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser.

14.1-18

VARIANCES: FACTORS TO BE CONSIDERED

In passing upon applications for Variances, the Board of Zoning Appeals ("the Board") shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:

- A. The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any Floodway District that will cause any increase in the one hundred (100)-year flood elevation. No variance shall be granted within the Special Flood Plain District for any proposed development that would cause an increase of more than one foot in the one hundred (100) year flood elevation.
- B. The danger that materials may be swept on to other lands or downstream to the injury of others.

- C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- E. The importance of the services provided by the proposed facility to the community.
- F. The requirements of the facility for a waterfront location.
- G. The availability of alternative locations not subject to flooding for the proposed use.
- H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- I. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- J. The safety of access by ordinary and emergency vehicles to the property in time of flood.
- K. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- L. The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- M. Such other factors which are relevant to the purposes of this ordinance.

The Board may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

Variances shall be issued only after the Board has determined that the granting of such will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

Variances shall be issued only after the Board has determined that variance will be the minimum required to provide relief from hardship to the applicant.

The Board shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the one hundred (100)-year flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.

A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances which are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

14.1-19 EXISTING STRUCTURES IN FLOODPLAIN DISTRICTS

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:

- A. Existing structures in the Floodway District shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed expansion would not result in any increase in the one hundred (100)-year flood elevation.
- B. Any modifications, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain area to an extent or amount of less than fifty (50) percent of its market value, elevation and/or floodproofing should be considered to the greatest extent possible.
- C. The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its locations in a floodplain area, to an extent or amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with the provisions of this ordinance and the Virginia Uniform Statewide Building Code.
- D. Existing structures in the Special Flood Plain District shall not be expanded or enlarged unless it has been demonstrated through hydraulic and hydraulic analyses performed in accordance with standard engineering practices that the proposed expansion or enlargement would not result in an increase of more than one foot in the one hundred (100) year flood elevation.

14.1-20 FLOODING

Land subject to flooding and land deemed to be topographically unsuitable shall not be platted for residential occupancy, nor for such other uses as may increase danger of health, life or property, or aggravate erosion or flood hazard. Such land within the subdivision shall be set aside on the plat for such uses as shall not be endangered by periodic or occasional inundation or shall not produce conditions contrary to public welfare. All subdivisions within the City of Winchester shall conform with the recommendation of the applicable Storm Drainage Report. Any new subdivision or development shall be subject to the requirements of Article 14.1 FLOODPLAIN DISTRICTS, FP, of the Official Zoning Ordinance.

B.2014-07

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: 04/08/2014 **CUT OFF DATE:** _____

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

ITEM TITLE: Refund D E I Inc. for overpaid estimated business license taxes

STAFF RECOMMENDATION: Approve

PUBLIC NOTICE AND HEARING:

ADVISORY BOARD RECOMMENDATION:

FUNDING DATA:

INSURANCE:

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. <u>Finance</u>	<u>JB</u>		<u>3/5/14</u>
2. <u>Treasurer</u>	<u>JB</u>		<u>2/28/2014</u>
3. _____			
4. _____			
5. <u>City Attorney</u>	<u>GW</u>		<u>3/10/2014</u>
6. <u>City Manager</u>	<u>ST</u>		<u>3-6-14</u>
7. <u>Clerk of Council</u>			

Initiating Department Director's Signature: [Signature] Date: 02/28/14



APPROVED AS TO FORM:

[Signature] 3/10/2014
CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Ann T. Burkholder, Commissioner of the Revenue
Date: 02/28/2014
Re: Refund for Overpaid Estimated Business License Taxes

THE ISSUE: A business has requested a refund for overpaid estimated business taxes on a local contractor business license.

RELATIONSHIP TO STRATEGIC PLAN: This is a matter of fair and equitable taxation, which relates to Goal 2: Create a high-performing City organization.

BACKGROUND: Code of the City of Winchester §27-8, in accordance with Code of Virginia §58.1-3981 requires City Council approval of any refunds in excess of \$2,500.00. Code of the City of Winchester §28-12 provides for refunds of BPOL taxes paid under certain circumstances.

BUDGET IMPACT: Minimal.

OPTIONS: When appropriate, the office of the Commissioner of the Revenue offers the option of either a credit on the account towards future taxes or a refund.

RECOMMENDATION: Pursuant to Code of the City of Winchester §27-8, the Commissioner of the Revenue respectfully requests that the City Council, with the consent of the City Attorney, authorize the Treasurer to issue the refund in the amount certified by the Commissioner of the Revenue for each.



Ann T. Burkholder, Commissioner of the Revenue
15 North Cameron Street
Winchester, VA 22601
Email: commrevenue@winchesterva.gov

Telephone: (540) 667-1815
FAX: (540) 667-8937
TDD: (540) 722-0782
Website: www.winchesterva.gov

Certificate of the Commissioner of the Revenue

Pursuant to Code of the City of Winchester §28-12, D E I Inc. has requested a prorated refund for overpayment of 2013 estimated business license taxes.

Pursuant to Code of the City of Winchester §27-8 and §58.1-3981 of the Code of Virginia, I certify that D E I Inc. is due a refund of \$3107.29 for overpaid Business License taxes.

Verified by Commissioner of the Revenue: 

Ann T. Burkholder

Date: 02/28/2014

Consent by City Attorney:



Anthony C. Williams

Date: 3/10/2014

RESOLUTION

WHEREAS, D E I Inc. has requested a refund for overpayment of estimated business license taxes for 2013; and

WHEREAS, the office of the Commissioner of the Revenue has certified that the taxpayer has properly requested and is entitled to this refund; and

WHEREAS, the office of the Commissioner of the Revenue wishes to maintain accurate and equitable tax records.

NOW therefore be it RESOLVED, that Common Council hereby approves the refund of \$3,107.29 to D E I Inc. for overpayment of estimated business license taxes and directs the City Treasurer to refund said amounts together with any penalties and interest paid thereon.

R-2014-08

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: March 18, 2014 **CUT OFF DATE:**

RESOLUTION (X) ORDINANCE PUBLIC HEARING

ITEM TITLE: Payment of Accumulated Sick Leave for Winchester Circuit Court Clerk's Office Employee

STAFF RECOMMENDATION: Winchester Circuit Court Clerk Terry Whittle requests the Common Council's approval.

PUBLIC NOTICE AND HEARING: N/A

ADVISORY BOARD RECOMMENDATION: N/A

FUNDING DATA: N/A

INSURANCE:N/A

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

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. Human Resources	pm		3/6/14
2. Finance	TD		3/6/14
3. _____			
4. _____			
5. City Attorney	aw		3/10/2014
6. City Manager	DI		3-11-14
7. Clerk of Council			

Initiating Department Director's Signature: Terry Whittle 3/6/14
Date

APPROVED AS TO FORM:

CITY ATTORNEY 3/10/2014

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Terry Whittle, Winchester Circuit Court Clerk
Thru: Dale Iman, City Manager
Date: March 18, 2014
Re: Resolution Authorizing Payment of Accumulated Sick Leave for a Winchester Circuit Court Clerk's Office Employee

THE ISSUE: Section 5.3 Sick Leave of the City's Comprehensive Employee Management System, CEMS, provides that:

Classified employees who have five or more continuous years of employed service with the City shall be paid 25% of the accumulated sick leave balance at the time of termination or retirement. The amount paid shall not exceed \$5,000.00 for any one employee.

Consistent with this section of CEMS, the Winchester Circuit Court Clerk is requesting payment for Teresa Cosentini who has been with his office since 2004 and has unused accumulated sick leave.

RELATIONSHIP TO STRATEGIC PLAN: Goal 2 – Develop a High Performing Organization,

BACKGROUND: As shown on the attached, Ms. Consentini began working for the Winchester City Circuit Court in February 2004. She is leaving on March 28, 2014 to join her husband who has accepted a job as a City Manager in a town near Nashville, Tennessee.

Ms. Consentini has accumulated 800 hours of sick leave and based on her current hourly rate of \$18.4132, she would be entitled to a payout of \$3,682.64 based upon CEMS 5.3 Sick Leave.

As the Winchester Circuit Court Clerk's Office doesn't have an executed memorandum of understanding to follow CEMS, any such payments must be approved by the Common Council.

BUDGET IMPACT:

The budget impact would be \$3,682.64 based upon the information provided. The final amount would be calculated based upon final accumulated sick leave balances and consistent with City practices, if approved by the Common Council.

OPTIONS:

1. Approve the request;
2. Deny the request; or
3. Provide additional direction to staff, and/or take no action at this time.

RECOMMENDATIONS: Winchester Circuit Court Clerk Terry Whittle requests the Common Council's approval.

COMMON COUNCIL



Rouss City Hall
15 North Cameron Street
Winchester, VA 22601
540-667-1815
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www.ci.winchester.va.us

A RESOLUTION AUTHORIZING ACCUMULATED SICK LEAVE PAYOUT FOR WINCHESTER CIRCUIT COURT CLERK'S OFFICE EMPLOYEE CONSISTENT WITH THE WINCHESTER COMPREHENSIVE EMPLOYEE MANAGEMENT SYSTEM, SECTION 5.3 SICK LEAVE

WHEREAS, the City of Winchester has adopted the Comprehensive Management System, CEMS, that provides policies and guidelines for all City employees except for employees of Constitutional Officers; and

WHEREAS, CEMS allows for classified employees who have five or more continuous years of employed service with the City to be paid 25% of the accumulated sick leave balance at the time of termination or retirement, with the amount paid not exceeding \$5,000.00 for any one employee; and

WHEREAS, Constitutional Officer and Winchester Circuit Court Clerk Terry Whittle has requested an accumulated sick leave payout for Ms. Teresa Cosentini, an employee leaving the City's workforce with more than five years of service; and

WHEREAS, as the Winchester Circuit Court Clerk's Office staff is exempted from CEMS, approval of this request must be made by the Winchester Common Council.

NOW, THEREFORE BE IT RESOLVED, that the Winchester Common Council approves this request and directs that any payout to Ms. Consentini be handled consistent with City policy and guidelines following her time of separation with the City.

RESOLUTION No. _____

Doug Hewett

From: Terry Whittle
Sent: Tuesday, February 25, 2014 8:16 AM
To: Doug Hewett
Subject: Payout for Teresa Cosentini

Doug,

Per our conversation, I would like a matter be placed on a city council work session to consider my request to have Teresa Cosentini receive a payout for her unused sick leave.

Teresa began working for the Winchester City Circuit Court on Feb 2004. She is leaving on March 28, 2014 to join her husband who has accepted a job as a City Manager in a town near Nashville Tennessee.

Teresa has accumulated 800 hours of sick leave and based on her current hourly rate of \$18.4132, she would be entitled to a payout of \$3,682.64

Let me know when this matter can be brought before a council work session so I can be there.

Thanks. Let me know if you need any more information.

Terry Whittle
Clerk-Winchester Circuit Court
5 N Kent Street
Winchester, Va. 22601
540-667-1868
FAX 540-667-6638
twhittle@courts.state.va.us

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: 04/08/2014 **CUT OFF DATE:** _____

RESOLUTION X ORDINANCE PUBLIC HEARING

ITEM TITLE: Personal Property Tax Relief Rate for Tax Year 2014

STAFF RECOMMENDATION: Approve

PUBLIC NOTICE AND HEARING:

ADVISORY BOARD RECOMMENDATION:

FUNDING DATA:

INSURANCE:

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. <u>Finance</u>	<u>JS</u>		<u>3/12/14</u>
2. <u>Treasurer</u>	<u>JB</u>		<u>3/11/2014</u>
3. _____			
4. _____			
5. <u>City Attorney</u>	<u>AW</u>		<u>3/13/2014</u>
6. <u>City Manager</u>	<u>[Signature]</u>		<u>3-13-14</u>
7. <u>Clerk of Council</u>	<u>[Signature]</u>		<u>3-13-14</u>
Initiating Department Director's Signature: <u>[Signature]</u>			<u>03/11/14</u> Date



APPROVED AS TO FORM:

CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Ann T. Burkholder, Commissioner of the Revenue *ATB*
Date: March 11, 2014
Re: Personal Property Tax Relief Rate for Tax Year 2014

THE ISSUE: Approval of the Personal Property Tax Relief Rate for tax year 2014 at the proposed rate of fifty-three percent (53%).

RELATIONSHIP TO STRATEGIC PLAN: This is a matter of fair and equitable taxation.

BACKGROUND: The Personal Property Tax Relief Act of 1998 is explained in detail in Code of Virginia §58.1-3523 through §58.1-3536. As of the 2006 Amendments to this Act, the City of Winchester receives \$2,600,000 (\$2.6 million) annually from the state pool of tax relief funds to distribute equitably across the first \$20,000 in assessed value of qualifying vehicles, including those which are those for personal use and of a gross weight not to exceed 7,500 pounds. Although the current personal property tax rate for the City is \$4.50 per \$100.00 of assessed value, the City calculates personal property tax relief based upon the \$3.50 rate in effect as of 2006.

As the City bills vehicle personal property one year in arrears, we face the challenge of predicting an accurate reimbursement rate two years into our billing future. This recommendation is based upon considerations of economic and historical trending, consultation with other City departments and improved data accuracy.

BUDGET IMPACT: Minimal.

OPTIONS: As this is a state-mandated program, the only option is to be as accurate as possible. Distributing less than the allocated amount deprives taxpayers of state aid, while any over-distribution becomes the financial responsibility of the locality. Analysis indicates stability amongst the overall pool of qualifying vehicles, and thus a recommendation to extend the 2013 reimbursement rate to 2014.

RECOMMENDATION: The Commissioner of the Revenue recommends a Personal Property Tax Relief Rate for tax year 2014 at fifty-three percent (53%) for qualifying vehicles in the City of Winchester.



THE COMMON COUNCIL

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

RESOLUTION

WHEREAS, by ordinance No.031-2005, adopted by Council on October 11, 2005, as amended by Ordinance No 2006-27, adopted by Council on July 11, 2006,("Implementing Ordinance"), Council shall by resolution set the rate of tax relief in implementation of the Personal Property Tax Relief Act of 1998, as amended; and

WHEREAS, the Commissioner of Revenue for the City of Winchester has provided information to Council to assist Council in setting the rate of tax relief

NOW therefore be it RESOLVED, pursuant to Section 2(b) of the Implementing Ordinance, that for tax year 2014 the rate of tax relief shall be fifty-three percent (53%) of the tax levy on qualified vehicles, based on a tax rate of \$3.50 per \$100.00 of valuation.

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 3/18/14 (Work Session), CUT OFF DATE: 3/13/14
4/8/14 - Regular Meeting

RESOLUTION X ORDINANCE PUBLIC HEARING

ITEM TITLE:

An appeal of the decision by the Board of Architectural Review (BAR-13-524) requiring the removal of vinyl siding and replacement with wood siding for the property located at 16 West Monmouth Street zoned Residential Business (RB-1) District with Historic Winchester (HW) District overlay.

STAFF RECOMMENDATION:

Approval.

PUBLIC NOTICE AND HEARING:

Public Hearing Required and Held - 1/14/14.

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.

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

Initiating Department Director's Signature: [Signature] 3/12/2014
(Zoning and Inspections)



APPROVED AS TO FORM:

[Signature] 3/13/2014 CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Aaron Grisdale, Director of Zoning and Inspections *AMG*
Date: March 18, 2014
Re: Appeal of BAR Decision (BAR-13-524) to City Council

THE ISSUE:

The Clerk of Council received an appeal of a BAR decision (BAR-13-524). City Council must hold a public hearing within 60 days of the date of appeal.

RELATIONSHIP TO STRATEGIC PLAN:

N/A

BACKGROUND:

In 2013, the property owner of 16 West Monmouth Street, located in the Historic Winchester district, replaced Bricktex siding with vinyl siding without a Certificate of Appropriateness. When an application was made to the Board of Architectural Review for siding and several additional changes, approval was made for a portion of the proposed items and the owner was required to take off the installed vinyl siding. The violation was initially documented during a neighborhood walkthrough in February 2013; however, as a result of an oversight within the Zoning and Inspections department case management, the violation was not properly documented and a letter was not sent in a timely manner to the property owner. However, another inspector observed the change in May 2013, and sent a notice of violation to the property owner. Staff sent two certified letters and posted the notice of violation to the property, no contact was received from the property owner and the violation was not addressed or corrected, as a result a civil penalty was issued for the unresolved violation.

On January 14, 2014, City Council held a public hearing in conformance with the requirement of Section 14-9-1 of the Winchester Zoning Ordinance.

A draft resolution is presented for Council's consideration to uphold the decision of the Board of Architectural Review.

BUDGET IMPACT:

No funding is required.

OPTIONS:

- Uphold the decision of the Board of Architectural Review
- Amend the decision of the Board of Architectural Review
- Reverse the decision of the Board of Architectural Review

RECOMMENDATIONS:

The Director of Zoning and Inspections recommends upholding the decision of the BAR.

RESOLUTION REGARDING THE DISPOSITION OF THE APPEAL TO COMMON COUNCIL OF THE DECISION OF THE BOARD OF ARCHITECTURAL REVIEW IN BAR -13-524 CONCERNING THE APPLICATION OF VINYL SIDING TO THE PROPERTY LOCATED AT 16 WEST MONMOUTH STREET IN THE CITY OF WINCHESTER, VIRGINIA

WHEREAS, the property located at 16 West Monmouth Street in the City of Winchester, Virginia (hereinafter "the property") is owned by Samuel L. Maddox, (hereinafter "owner"); and

WHEREAS, said property is located in the Historic District in the City of Winchester and is therefore subject to compliance with Historic District Guidelines; and

WHEREAS, the owner applied vinyl siding to the exterior of the building located on the property as a replacement for the deteriorating exterior paneling; and

WHEREAS, the Department of Zoning and Inspections cited several issues with the property including this application of vinyl siding as a violation Historic District Guidelines, specifically (with regard to the vinyl siding) of Chapter 3, page 15 of the Winchester Historic District Design Guidelines which state "*Synthetic sidings are not appropriate in the district. In addition to changing the appearance of a historic building, synthetic sidings may make maintenance more difficult because they may cover up potential moisture problems that can become more serious*" (**Exhibit A**); and

WHEREAS, the owner of this property also owns other property located in the Historic District and knows or reasonably should have known that Historic District Guidelines would apply to his property; and

WHEREAS, the owner applied to the Board of Architectural Review ("BAR") for a Certificate of Appropriateness with regard to the application of vinyl siding to the structure; and

WHEREAS, the BAR approved the Certificate of Appropriateness for other unrelated issues associated with the building, but specifically required that the vinyl siding be removed in BAR-13-524 (**Exhibit B**) citing the provisions of the Winchester Historic District Design Guidelines referenced by the Department of Zoning and Inspections; and

WHEREAS, Section 14-9 of the Winchester Zoning Ordinance allows for an appeal to the approval or denial of a Certificate of Appropriateness by the BAR to Common Council who shall apply the same standards as the BAR and consult with the BAR prior to rendering a decision to affirm, reverse, or modify the decision of the BAR; and

WHEREAS, Common Council has complied with the requirements of Section 14-9 by receiving consultation from the BAR (**Exhibit C**) and holding a public hearing (**Exhibit D**) and receiving a presentation from the applicant and Staff on January 14, 2014.

UPON REVIEW of the materials presented, Common Council for the City of Winchester hereby AFFIRMS the decision of the BAR in denying the Certificate of Appropriateness in BAR-13-524 based on the fact that the application of the vinyl siding to the structure is a clear violation of Chapter 3, page 15 of the Winchester Historic District Design Guidelines which state *“Synthetic sidings are not appropriate in the district. In addition to changing the appearance of a historic building, synthetic sidings may make maintenance more difficult because they may cover up potential moisture problems that can become more serious”*

Council further FINDS that the owner knew or reasonably should have known of the requirement that the property comply with Winchester Historic District Guidelines based upon his ownership of other property located in the Historic District.

However, based on the review of this matter, Council also FINDS that there was a significant delay from the time that the violation should have first been discovered to the time that the owner was actually cited with the violation, and that the failure to exercise due diligence on the part of the Department of Zoning and Inspections resulted in the owner substantially completing the application of the vinyl siding before finally being placed on notice of the violation, and that it is the opinion of Common Council that had the Department of Zoning and Inspections acted promptly in identifying and citing the violation, its removal and restoration of the building in compliance with the Historic District Guidelines could have been accomplished with far less cost and inconvenience.

Accordingly, Common Council hereby MODIFIES the BAR decision to provide that so long as the property remains under its current ownership, the owner shall have ten (10) years from the date of adoption of this Resolution to remove the vinyl siding and replace it with materials and in accordance with the provisions of the Historic District Guidelines. If the property is sold or otherwise transferred to another owner during this ten (10) year period, it may only be transferred after the current owner has made the necessary repairs to bring the property in compliance with the Historic District Guidelines by removing the vinyl siding and replacing it with materials and in accordance with the provisions of the Historic District Guidelines and this Resolution.



Rouss City Hall
15 North Cameron Street
Winchester, VA 22601

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

May 10, 2013

MADDOX SAMUEL LANDON
16 WEST MONMOUTH STREET
WINCHESTER, VA 22601

**RE: NOTICE OF VIOLATION, 16 W MONMOUTH ST (Tax Map ID: 193-01-1-9 -> <01)
Case #: 13-00002548, CERTIFIED MAIL**

Dear,

The purpose of this letter is to formally identify and resolve zoning violations at 16 W MONMOUTH ST, Winchester, Virginia. According to the records of the City Assessor, this property is owned by you. This property is located entirely within the **RB1 (Residential Business)** Zoning District, in the Winchester Historic District. During a recent inspection on May 9, 2013, zoning violations were observed. During a site inspection it was observed that there is new siding on the dwelling without an approved Certificate of Appropriateness. Since this property is located within the Historic Winchester District, and the changes can be seen from the public right of way, the new siding must receive a Certificate of Appropriateness from the Board of Architectural Review, pursuant to Section 14-3-1 of the Winchester Zoning Ordinance:

- §14-3-1 No building or structure within the Historic Winchester District shall be erected, reconstructed, altered, restored, or demolished, unless and until an application for a Certificate of Appropriateness shall have been approved by the Board of Architectural Review.
- §14-2-2 For the purpose of this article, "structure" shall include walls, fences, signs, light fixtures, steps, or appurtenant elements thereof.

In order to fully comply with the Zoning Ordinance, the following options are available:

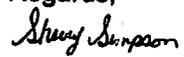
1. Complete and submit an application for a Certificate of Appropriateness for the BAR, with all required materials no later than May 28, 2013 by noon for the June 6, 2013 meeting; or,
2. Appeal this decision to the Board of Zoning Appeals no later than 30 days after your receipt of this letter.

Failure to correct the violation by the stated compliance date may result in the issuance of civil penalties. I have included for your convenience an application for the BAR. If you

have any questions or concerns, please do not hesitate to contact me directly at (540) 667-2316 or Aaron Grisdale (Zoning Administrator) at 667-1815 ex 1492.

In accordance with Section 15.2-2311 of the Code of Virginia (1950), as amended, you have the right to appeal the foregoing determinations to the Board of Zoning Appeals within thirty (30) days after the date of this letter. Otherwise, the decisions set forth in this letter shall be final and unappealable if not appealed within the thirty-day period. The filing fee for appeals is \$200.00 and should be enclosed with the completed application, if you intent to appeal this determination.

Regards,



Sherry Simpson
City of Winchester
Code Enforcement



Rouss City Hall
15 North Cameron Street
Winchester, VA 22601

Telephone: (540) 667-1815
FAX: (540) 722-3618
TDD: (540) 722-0782
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October 17, 2013

Samuel L. Maddox
16 W. Monmouth Street
Winchester, VA 22601

Dear Mr. Maddox:

On Thursday, October 17, 2013, the Board of Architectural Review acted on the following request:

BAR-13-524 Request of Samuel Maddox, property owner, for a certificate of appropriateness to replace windows and siding and exterior paint for the property at 16 W. Monmouth Street, zoned Residential Business (RB-1) District with Historic Winchester (HW) District overlay.

On a vote of 5-0, the Board approved a certificate of appropriateness to **BAR-13-524** with the following conditions:

- The coal chute that was removed must be restored to its original place
- The windows on the back side of the house can be replaced as desired
- The vinyl siding must be removed and wood siding put back or existing wood siding reused and painted
- All wood siding must match in size and design with what is existing
- Paint must match the paint used on the second story

The decision of the Board may be appealed to the Common Council of the City of Winchester within 30 days of the Board's decision. Please do not hesitate to contact me should you have any questions at 667-1815, ext. 1492.

Sincerely yours,

Aaron M. Grisdale, CZA
Director of Zoning and Inspections



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Winchester, VA 22601

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January 2, 2014

BAR-13-524 Request of Samuel Maddox, property owner, for a certificate of appropriateness to replace windows and siding and exterior paint for the property at 16 W. Monmouth Street, zoned Residential Business (RB-1) District with Historic Winchester (HW) District overlay.

At the Board of Architectural Review meeting on October 17, 2013, on a vote of 5-0, the Board granted a Certificate of Appropriateness for portions of the application, including replacement of rear windows and paint. However, the use of vinyl siding was not approved, and it was required for the siding to be returned back to previously existing wood siding or use new replacement wood siding. The application for vinyl siding was made after the installation of such siding was started by the property owner, rather than before starting work as is typical with applications for Certificates of Appropriateness.

The purpose of this document is to memorialize the findings of fact regarding BAR-13-524. This decision on October 17, 2013 was based upon the Winchester Historic District Design Guidelines, specifically the following from Chapter 3: Residential Rehabilitation, page 15 – Substitute Materials (emphasis added):

A building's historic character is a combination of its design, age, setting, and materials. The exterior walls of a building, because they are so visible, play a very important role in defining its historic appearance. Wood clapboards, wood shingles, wood board-and-batten, brick, stone, stucco or a combination of the above materials all have distinctive characteristics. Synthetic materials can never have the same patina, texture, or light-reflective qualities.

These modern materials have changed over time, but have included asbestos, asphalt, vinyl, aluminum, and EIFS (exterior insulation and finish system) and have been used to artificially create the appearance of brick, stone, shingle, stucco and wood siding surfaces.

Synthetic sidings are not appropriate in the district. In addition to changing the appearance of a historic building, synthetic sidings may make maintenance more difficult because they may cover up potential moisture problems that can become more serious. Artificial siding, once it dents or fades may need painting just as frequently as wood.

Based upon the above guidelines, the Board made its decision for the following reasons:

1. During the October 17, 2013 meeting, the Board of Architectural Review reviewed all the submitted materials included with the Certificate of Appropriateness application, BAR-13-524.

"To be a financially sound City providing top quality municipal services while focusing on the customer and engaging our community."

2. The property owner, Samuel L. Maddox, was present at the October 17, 2013 meeting to provide background information on the proposal and answer questions from the Board.
3. The side wall (East wall) of the house, which is covered by vinyl siding, is visible from the public right-of-way and is subject to the Board of Architectural Review approval.
4. The Winchester Historic District Design Guidelines state that "[s]ynthetic sidings are not appropriate in the district. In addition to changing the appearance of a historic building, synthetic sidings may make maintenance more difficult because they may cover up potential moisture problems that can become more serious."
5. Vinyl siding is considered to be a "synthetic siding," which is clearly stated that it is not an appropriate material for residential rehabilitation within the Historic Winchester district according to the design guidelines, Chapter 3, page 15.

For the foregoing reasons, this Board did not grant approval in the form of a Certificate of Appropriateness to the applicant for the use of vinyl siding on the structure. The applicant is required to remove the vinyl siding and use a wood material similar to what is installed underneath the vinyl siding.

Date: January 2, 2014

Signature: _____

Thomas Rockwood, Chairman of Board of Architectural Review



**NOTICE OF
PUBLIC HEARING**

TO THE CITIZENS OF WINCHESTER:

Notice is hereby given that the Common Council of the City of Winchester will conduct a public hearing at the Tuesday, January 14, 2014, Regular Meeting beginning at 7:00 p.m. in the Council Chambers, Rouss City Hall, to provide an opportunity for citizen input on the following:

O-2013-41: Second Reading – AN ORDINANCE TO AMEND AND REENACT ARTICLES 3, 4, 5, 5.1, 6, 7, 8, 9, 13, AND 18 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO HOME OCCUPATIONS PERMITTED IN ACCESSORY STRUCTURES WITH A CONDITIONAL USE PERMIT TA-13-493 (*Proposal to allow home occupations in accessory structures with a conditional use permit*)

CU-13-593: Conditional Use Permit – Request of Michael Bortz on behalf of T-Mobile Northeast, LLC, to upgrade existing telecommunications facilities with replacement antennas at 799 Fairmont Avenue (*Map Number 153-01-2*) zoned Limited Industrial (M-1) District

Public Hearing: An appeal of the decision by the Board of Architectural Review (BAR-13-524) requiring the removal of vinyl siding and replacement with wood siding for the property located at 16 West Monmouth Street zoned Residential Business (RB-1) District with Historic Winchester (HW) District overlay.

Copies of these documents are available and may be examined in the City Clerk's Office, Third Floor, Rouss City Hall, between the hours of 8:30 a.m. and 5:00 p.m.

If the Council Meeting is cancelled, the Public Hearing scheduled above may be moved to the same place and time on February 4, 2014 without further public notice.

**Karl J. Van Diest, CMC
Deputy Clerk of the Common Council**



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PUBLIC HEARING**

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Kari J. Van Diest
Kari J. Van Diest, CMC
Deputy Clerk of the Common Council



THE COMMON COUNCIL

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

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Public Hearing: An appeal of the decision by the Board of Architectural Review (BAR-13-524) requiring the removal of vinyl siding and replacement with wood siding for the property located at 16 West Monmouth Street zoned Residential Business (RB-1) District with Historic Winchester (HW) District overlay.

Copies of these documents are available and may be examined in the City Clerk's Office, Third Floor, Rouss City Hall, between the hours of 8:30 a.m. and 5:00 p.m.

If the Council Meeting is cancelled, the Public Hearing scheduled above may be moved to the same place and time on February 4, 2014 without further public notice.

Kari J. Van Diest, CMC
Deputy Clerk of the Common Council

MEMORANDUM

TO: WINCHESTER STAR/Tanya Cagle/Fax # 667-0012

FROM: Kari J. Van Diest, Deputy Clerk of Council
City of Winchester (667-1815 ext. 1502)

DATE: December 20, 2013

RE: City Council Public Hearings

Please advertise twice, once on Monday, December 30, 2013, and again on Monday, January 6, 2014. Double-column format; 8-point type. Thanks, Kari!

**WINCHESTER COMMON COUNCIL
JANUARY 14, 2014
AGENDA
7:00 P.M.**

CALL TO ORDER AND ROLL CALL

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES – December 10, 2013 Regular Meeting

REPORT OF THE MAYOR

REPORT OF THE CITY MANAGER

REPORT OF THE CITY ATTORNEY

1.0 PUBLIC HEARINGS

- 1.1 O-2013-41: Second Reading – AN ORDINANCE TO AMEND AND REENACT ARTICLES 3, 4, 5, 5.1, 6, 7, 8, 9, 13, AND 18 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO HOME OCCUPATIONS PERMITTED IN ACCESSORY STRUCTURES WITH A CONDITIONAL USE PERMIT TA-13-493 (Proposal to allow home occupations in accessory structures with a conditional use permit)(REQUIRES ROLL-CALL VOTE)(pages 3-11)**
- 1.2 CU-13-593: Conditional Use Permit – Request of Michael Bortz on behalf of T-Mobile Northeast, LLC, to upgrade existing telecommunications facilities with replacement antennas at 799 Fairmont Avenue (Map Number 153-01-2) zoned Limited Industrial (M-1) District (REQUIRES ROLL-CALL VOTE)(pages 12-25)**
- 1.3 Public Hearing: An appeal of the decision by the Board of Architectural Review (BAR-13-524) requiring the removal of vinyl siding and replacement with wood siding for the property located at 16 West Monmouth Street zoned Residential Business (RB-1) District with Historic Winchester (HW) District overlay. (pages 26-63)**

2.0 PUBLIC COMMENTS

3.0 CONSENT AGENDA

- 3.1 O-2014-02: First Reading – AN ORDINANCE TO ADOPT SECTION 14-15 OF THE WINCHESTER CITY CODE PERTAINING TO USE OF PHOTO-MONITORING SYSTEMS TO ENFORCE LAW AGAINST PASSING STOPPED SCHOOL BUSES (Allows the use of video monitoring systems on school buses for the purpose is issuing citations to motorists)(pages 64-69)**

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: April 8, 2014 CUT OFF DATE: _____

RESOLUTION ORDINANCE PUBLIC HEARING

ITEM TITLE: Options for National Avenue Gateway Improvements Project

STAFF RECOMMENDATION: See attached.

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		_____	4/3/2014
2. City Manager		_____	4-3-14
3. Clerk of Council		_____	4-3-14
Initiating Department Director's Signature:		_____	4/3/14 Date



APPROVED AS TO FORM:


CITY ATTORNEY 4/3/2014

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Perry Eisenach, Public Services Director
Date: April 8, 2014 (Council Regular Meeting)
Re: Options for National Avenue Gateway Project

****UPDATE**:** At the City Council work session on March 25, Council forwarded the attached resolution to the April 8 meeting for formal approval with Option A – the roundabout.

THE ISSUE: City Council consideration of options to construct the National Avenue Gateway Improvements Project

RELATIONSHIP TO STRATEGIC PLAN: **Goal 3:** Continue Revitalization of Historic Old Town and **Goal 4:** Create a More Livable City for All.

BACKGROUND: The City is continuing in its efforts to complete the purchase of multiple parcels of property on the west side of East Lane between Piccadilly and Fairfax Lane. These property acquisitions will allow the City to realign the roadway through this area which will significantly improve safety and will provide for much desired gateway improvements into downtown.

The City's consultant, Painter-Lewis, has developed two options for the construction of the roadway improvements. Option A would provide for a roundabout and Option B would provide for a linear intersection (see attachments).

BUDGET IMPACT: There is currently \$1.4 million in the proposed FY15 budget for the construction of this project which includes both demolition of the existing structures and construction of the roadway improvements and landscaping. This funding consists of \$700,000 of City funds and \$700,000 state Revenue Sharing funds.

OPTIONS: From an engineering perspective, both of the options being considered will work and both options have certain advantages. A summary of the primary advantages of each is provided below:

Option A – Roundabout

- Would provide for a more unique and enhanced gateway entering downtown.
- Would serve as a traffic calming measure.
- Would provide for improved and safer traffic flow for vehicles turning south onto East Lane from National and vehicles turning west onto Piccadilly from East Lane.

Option B – Linear Intersection

- More familiar for area residents (some local residents do not like roundabouts).
- Provides for more on-street parking.

- Probably have slightly lower construction cost (both options can be completed within the \$1.4 million budget).

PUBLIC COMMENTS: A public open house was held on Tuesday, March 4 to give residents the opportunity to view the two options being considered and provide comments. The attendance at the event was excellent and many comments were received.

Overall, the significant majority of residents were very in much in favor of the proposed project, though some comments were received indicating they felt the project was not needed at all. A preference between the two options was fairly even between residents, though more emphatic comments were received by residents that do not like roundabouts in any situation. Another comment often heard was of concern for large trucks traversing the roundabout. While large trucks would need to slow down, the attached drawings show how a large truck could traverse the roundabout without having to drive over any of the proposed landscaping improvements.

The comments received from the public open house and during the past two weeks are attached. City staff comments are also included in the attached.

There were some excellent suggestions received such as traffic flow modifications coming out of/onto Jolley Lane (alley) and additional parking on Fairfax Lane that staff plans to incorporate into the final design, regardless of which option is selected by City Council.

PROJECT SCHEDULE: Once City Council selects their preferred option, the final engineering design drawings for the project will be prepared and the project advertised for construction bids. Staff currently anticipates beginning construction on the project by late summer and completing the project around Thanksgiving later this year.

RECOMMENDATION: As both options will work from an engineering perspective and both have certain advantages, selecting the preferred option is more of a subjective decision. The Public Services Department prefers Option A, the roundabout.

OPTIONS FOR CITY COUNCIL: Approve either Option A (roundabout) or Option B (linear intersection).



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 OPTION FOR NATIONAL AVENUE GATEWAY IMPROVEMENTS PROJECT

WHEREAS, constructing improvements to major gateways into the City has been identified by City Council as one of the City's highest priorities in the Strategic Plan; and

WHEREAS, the City is in the process of acquiring multiple properties between Piccadilly Street and Fairfax Lane on the east side of East Lane; and

WHEREAS, these properties will allow the City to realign a section of this roadway to improve safety and construct some much desired gateway enhancements on this major entrance into downtown; and

WHEREAS, two options for completing the project have been developed – Option A, a roundabout, and Option B, a linear intersection, for City Council's consideration.

NOW, THEREFORE, BE IT RESOLVED THAT: The City of Winchester Common Council hereby selects and authorizes City staff to complete the project utilizing Option A – roundabout.

Resolution No.

ADOPTED by the Common Council of the City of Winchester on the ____th
day of _____, 2014.

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

B-2014-12

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: March 25, 2014 **CUT OFF DATE:** _____

RESOLUTION **ORDINANCE** **PUBLIC HEARING**

ITEM TITLE: Options for National Avenue Gateway Improvements Project

STAFF RECOMMENDATION: See attached.

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	B		3-17-14
2. Planning	TS		3/17/14
3. Economic Development	JD		
4. City Attorney			
5. City Manager	DE		3-18-14
6. Clerk of Council			
Initiating Department Director's Signature:	[Signature]		3/17/14 Date



APPROVED AS TO FORM:
[Signature] 3/18/2014
CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Perry Eisenach, Public Services Director
Date: March 25, 2014 (Council Work Session)
Re: Options for National Avenue Gateway Project

THE ISSUE: City Council consideration of options to construct the National Avenue Gateway Improvements Project

RELATIONSHIP TO STRATEGIC PLAN: **Goal 3:** Continue Revitalization of Historic Old Town and **Goal 4:** Create a More Livable City for All.

BACKGROUND: The City is continuing in its efforts to complete the purchase of multiple parcels of property on the west side of East Lane between Piccadilly and Fairfax Lane. These property acquisitions will allow the City to realign the roadway through this area which will significantly improve safety and will provide for much desired gateway improvements into downtown.

The City's consultant, Painter-Lewis, has developed two options for the construction of the roadway improvements. Option A would provide for a roundabout and Option B would provide for a linear intersection (see attachments).

BUDGET IMPACT: There is currently \$1.4 million in the proposed FY15 budget for the construction of this project which includes both demolition of the existing structures and construction of the roadway improvements and landscaping. This funding consists of \$700,000 of City funds and \$700,000 state Revenue Sharing funds.

OPTIONS: From an engineering perspective, both of the options being considered will work and both options have certain advantages. A summary of the primary advantages of each is provided below:

Option A – Roundabout

- Would provide for a more unique and enhanced gateway entering downtown.
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Option B – Linear Intersection

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- Provides for more on-street parking.
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RECOMMENDATION: As both options will work from an engineering perspective and both have certain advantages, selecting the preferred option is more of a subjective decision. The Public Services Department prefers Option A, the roundabout.

OPTIONS FOR CITY COUNCIL: Approve either Option A (roundabout) or Option B (linear intersection).



THE COMMON COUNCIL

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WHEREAS, these properties will allow the City to realign a section of this roadway to improve safety and construct some much desired gateway enhancements on this major entrance into downtown; and

WHEREAS, two options for completing the project have been developed – Option A, a roundabout, and Option B, a linear intersection, for City Council's consideration.

NOW, THEREFORE, BE IT RESOLVED THAT: The City of Winchester Common Council hereby selects and authorizes City staff to complete the project utilizing [Option A – roundabout] [Option B – linear intersection].

Resolution No.

ADOPTED by the Common Council of the City of Winchester on the ___th
day of _____, 2014.

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

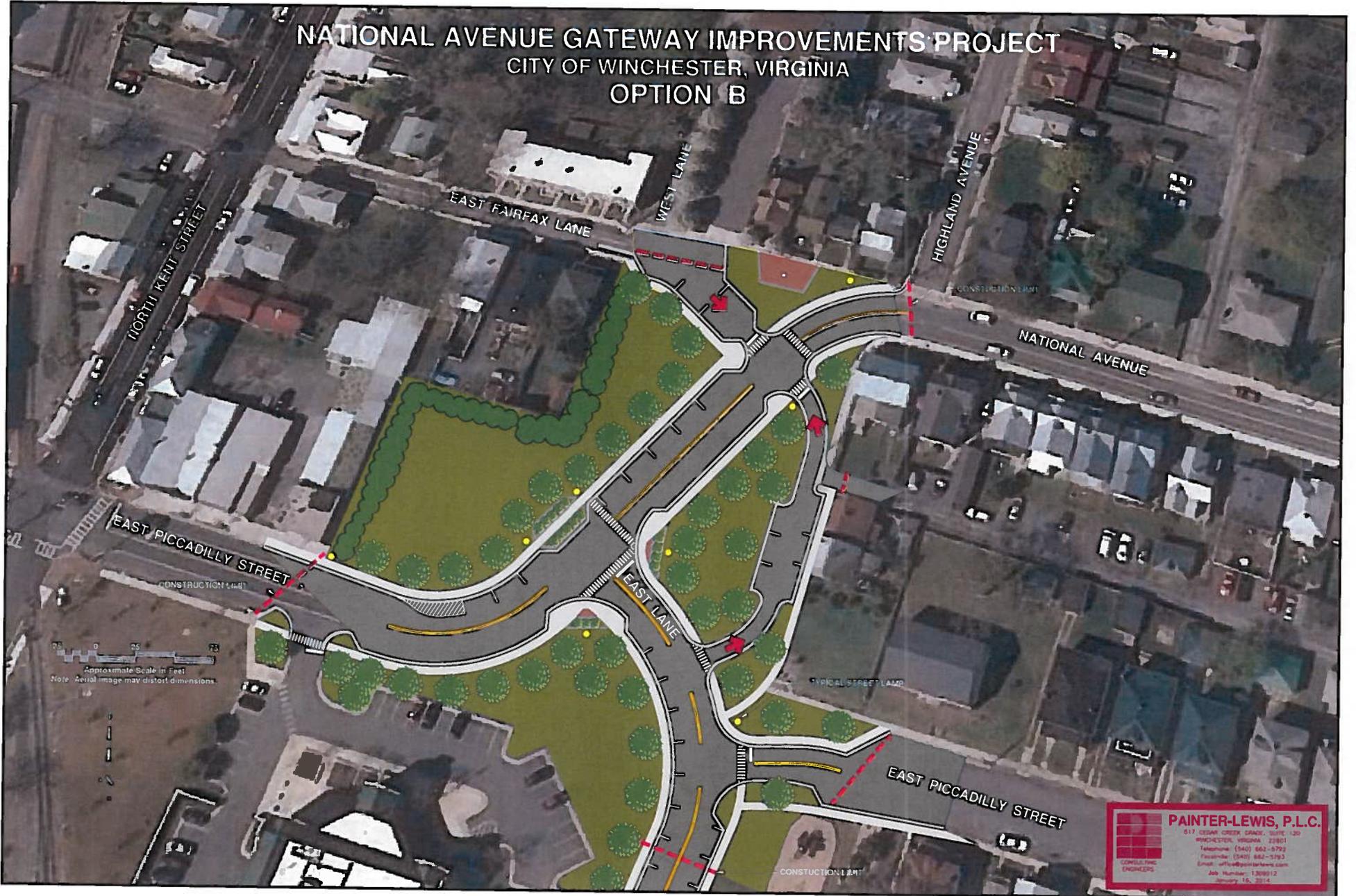
NATIONAL AVENUE GATEWAY IMPROVEMENTS PROJECT CITY OF WINCHESTER, VIRGINIA OPTION A



75 0 75
Approximate Scale in Feet
Note: Aerial image may distort dimensions.

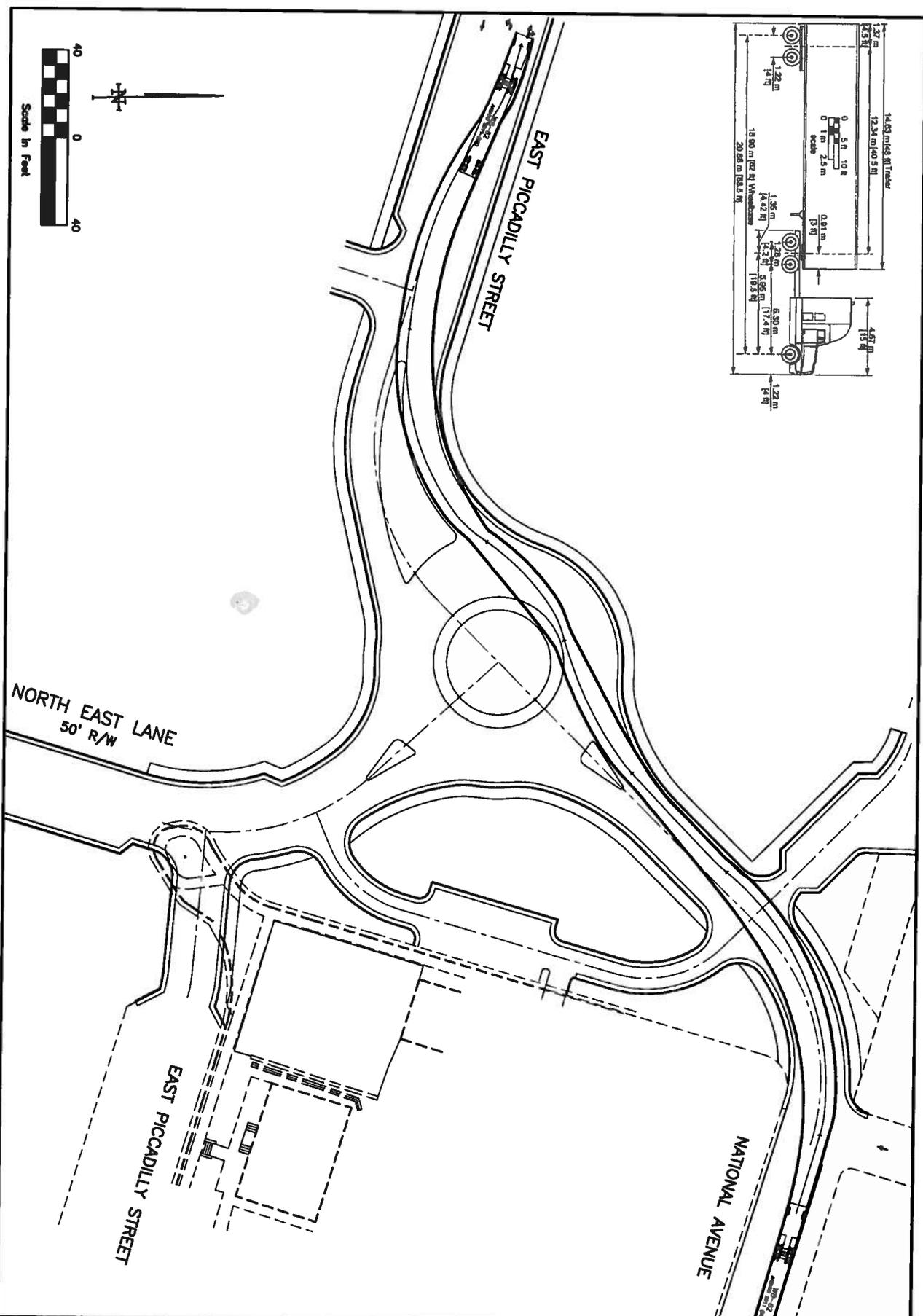
PAINTER-LEWIS, P.L.C.
817 CEDAR CREEK GRADUATE SUITE 120
WINCHESTER, VIRGINIA 22091
Telephone: (540) 962-5793
Facsimile: (540) 962-5793
Email: office@painter-lewis.com
Job Number: 1308012
January 15, 2014

NATIONAL AVENUE GATEWAY IMPROVEMENTS PROJECT CITY OF WINCHESTER, VIRGINIA OPTION B



0 25 75
Approximate Scale in Feet
Note: Aerial image may distort dimensions.

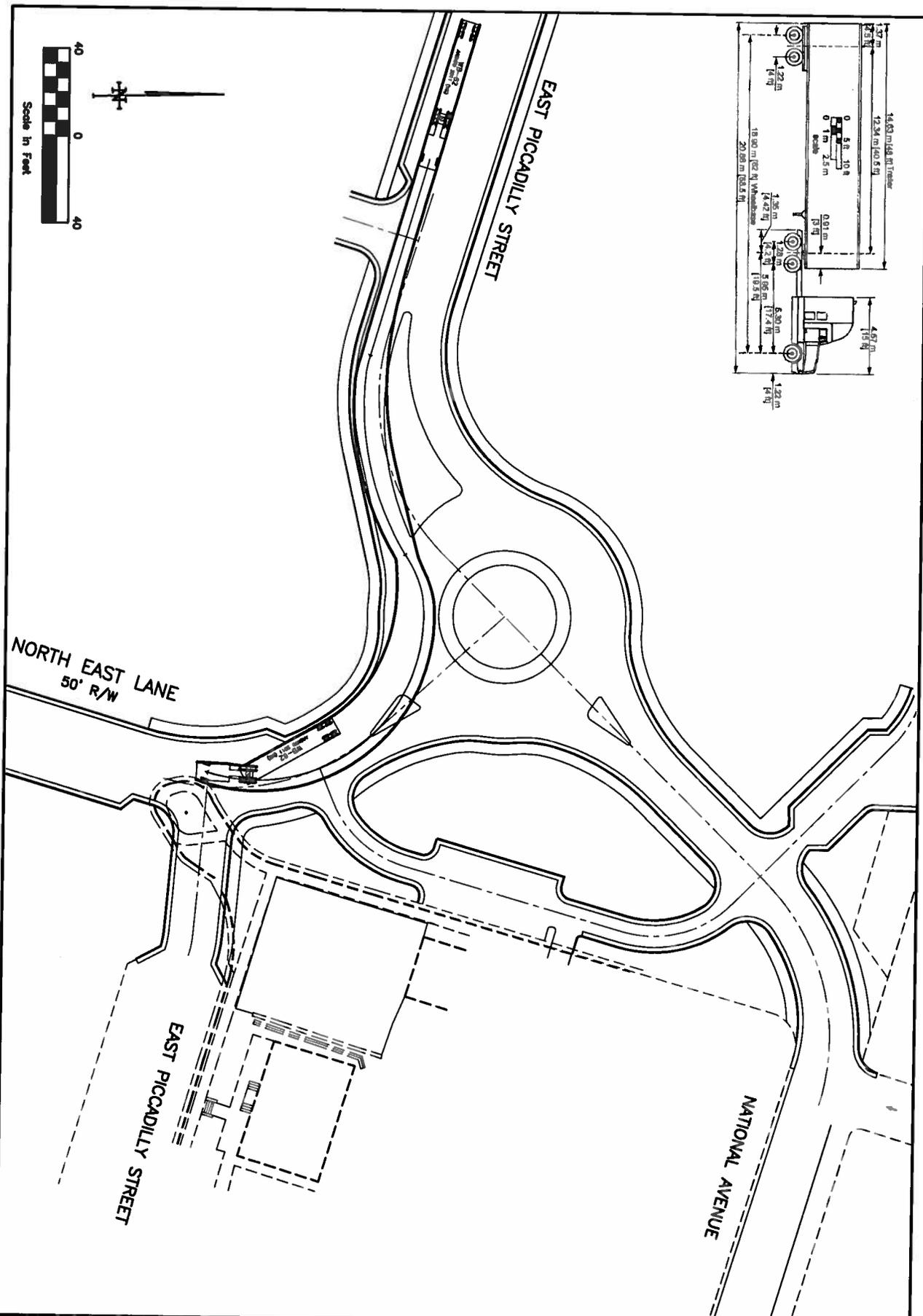
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Facsimile: (540) 862-5793
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Job Number: 1309012
January 16, 2014



SURVEY: P-L
 DRAWN BY: P-L
 SCALE: 1" = 40'
 DATE: 3/13/14
 SHEET: WB62 SW

PAINTER-LEWIS, P.L.C.
 CONSULTING ENGINEERS
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PROJECT: NATIONAL AVENUE GATEWAY ROUNDABOUT OPTION A WB-62 TURNING MOVMENT WINCHESTER, VIRGINIA

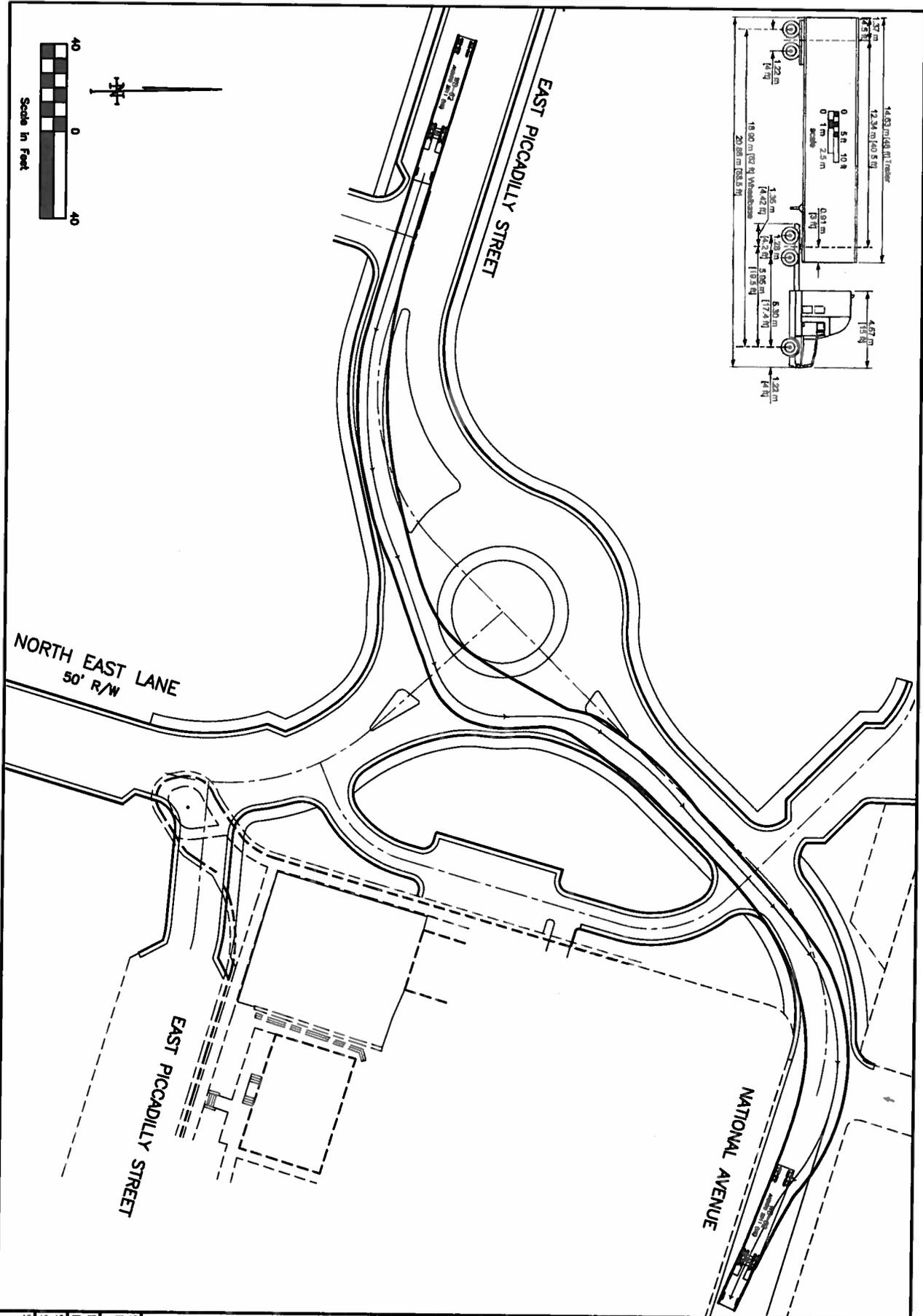


SURVEY: P-L
 CL: NA
 DRAWN BY: P-L
 JOB NO.: 1309012
 SCALE: DATE: 3/13/14
 SHEET: WB62 NAVE



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PROJECT:
**NATIONAL AVENUE GATEWAY
 ROUNDABOUT OPTION A
 WB-62 TURNING MOVMENT
 WINCHESTER, VIRGINIA**



SHEET: WB62 NE
 DRAWN BY: JOB NO.:
 P-L 1309012
 SCALE: 3/13/14
 DATE:

SURVEY: P-L
 CONSULTING ENGINEERS
 C.I.: N/A

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PROJECT:
**NATIONAL AVENUE GATEWAY
 ROUNDABOUT OPTION A
 WB-62 TURNING MOVMENT
 WINCHESTER, VIRGINIA**

CITY OF WINCHESTER
NATIONAL AVENUE PROJECT OPEN HOUSE March 4, 2014
CITIZEN COMMENTS WORKSHEET
Revised March 17, 2014-at 9:00 a.m.

NO.	NAME & ADDRESS:	COMMENTS:	OPTION A	OPTION B
1	Allen Baldwin 301 George Street Winchester, VA 22601	No comments.	X	
2	Philip Burns 226 Liberty Avenue Winchester, VA 22601	No comments.	No option	No option
3	James L. Dix & Judith Reed 905 Mahone Drive Winchester, VA 22601	We are taking the mess the City made & making it worse. East Piccadilly & East Lane should be lined back up. Getting on & off East Piccadilly is a nightmare.		X
4	Maggie Peterson 1000 Caroline Street Winchester, VA 22601	This seems to be the clearer, more direct option.		X
5	Sam Leinbach 317 Fairmont Avenue Winchester, VA 22601	Roundabout-may not easily handle Police & Fire vehicles coming out of East Lane & not yielding right-of-way to drivers coming from the East. Roundabout could also cause confusion.		X
6	Nikola C. 355 National Avenue Winchester, VA 22601	No comments.	X	
7	William Hall 217 West Monmouth St. Winchester, VA 22601	Straighter shot, don't like traffic circles.		X
8	Staggs Griswell 303 National Avenue Winchester, VA 22601	<ol style="list-style-type: none"> 1. Some drivers find roundabouts confusing. 2. Option B seems to allow more green space. 3. Both options eliminate Morgan's corner store, a vital business for an area with a large percentage of residents who walk rather than drive. I would like to see 		X

		either option create a space for a local market or convenience store.		
9	Shirley Guess 413 North Kent Street Winchester, VA 22601	No comments.		X
10	Chris Cardinale 448 National Avenue Winchester, VA 22601	<ol style="list-style-type: none"> 1. Worried about the closures that may happen to National Avenue. 2. I own 2 businesses that rely on traffic from both directions. 3. We already had to deal with road & sidewalk replacement & utility work over the past 10 years. 4. Please keep to roads open & keep both directions flowing. 		X
11	George Johnson 1145 Millwood Pike Winchester, VA 22602	No truck route-option A.	X	
12	Randy & Linda Estep 346 East Piccadilly Street Winchester, VA 22601	<ol style="list-style-type: none"> 1. Please realize how much traffic East Piccadilly Street has from Police Station to Lincoln Street. 2. Approximately 56 residences traffic from Day Nursery (2 x day) & each residence having approximately 2 vehicles. 3. Currently a busy intersection, plus Church. Plus Street was used for a short cut to Berryville Avenue. 4. A Roundabout, I believe, would cause more congestion & present a safety hazard. 5. Thank you for giving us an opportunity to give feedback. 6. We are all improving our area. 		X Absolutely Please
13	John M. Gregory 243 Fairfax Lane Winchester, VA 22601	<ol style="list-style-type: none"> 1. Need privacy fence at back-245-230 & full length on 230 Fairfax Lane. 2. Right turn only at Fairfax & Piccadilly Street for this would be a shortcut or cut through for trucks & buses from 522 to National Avenue. 		X

		3. Parking spaces for the green instead of the street for safety reasons.		
14	Eric Kirk 367 East Piccadilly Street Winchester, VA 22601	1. Roundabouts, in my location, do not work. 2. A tilted roundabout would be less likely to work than an elevated roundabout (tilted to the topography).		X
15	Michael Butler 2653 Windwood Drive Winchester, VA 22601	No comments.	X	
16	Dave Donovan	Parking.		X
17	John M. Gregory	See number 13 above.	N/A	N/A
18	Ed Acker 106 Clevenger Court Winchester, VA 22601	1. Cul-de-sac end of East Fairfax, redirect to exit at N. Kent. This will eliminate it as a cut through to avoid three on Piccadilly. 2. Eliminate parking on blind curve. Create an 8-10 car parking area on cleared land with entry/exit driveway opposite East Lane access. 3. Where will Polly's Cab park?		X-with Modifications
19	Fred McKay 419 Mosby Street Winchester, VA 22601	Thanks.	X	
20	Rose Lane 241 & 243 E. Fairfax Lane Winchester, VA 22601	1. East on Piccadilly where the corner store is make that parking-take out those spaces on roundabout. 2. Privacy fence from Fairfax Northside around new construction. 3. Leave parking in front of funeral home. 4. No trucks at East Traffic on Fairfax. 5. Parking at corner store green but also straighten the space back to take some of the curve. 6. Put statue in middle of circle. 7. Top of Piccadilly & National-widen the curve to be truck friendly.	X-with some changes	
21	Ed Gallagher 241 East Fairfax Lane	1. The roundabout will not allow enough room to pass with a tractor trailer. They	X-(Yes)	

	Winchester, VA 22601	<p>will cut the circle.</p> <ol style="list-style-type: none"> 2. Fairfax Lane must end with a right-turn only away from National Avenue. This will eliminate 90% of cut through traffic of large trucks, tractor trailers & cars from 522. Police refuse to monitor the street, say it's a city problem. 3. The new property line from Fairfax Lane to Piccadilly needs a (6') six foot wall to protect the Fairfax Lane properties from trespassers & vandals. Put shrubs or trees in front of wall as shown on layout. 4. No through trucks of any kind larger than a pick-up. 5. No parking on option B on street. Eliminate green area across from Police Station & make additional parking spaces which are desperately needed. 6. All cross streets on Fairfax Lane from Rt. 522 to Piccadilly or National area dangerous with blind spots. 7. Plan "B" – eliminate parking on street from National/Fairfax to East Lane. 8. East Lane & Piccadilly needs traffic light for left hand turns. 9. Extend National Avenue 20-25' coming west then begin turn to Piccadilly to eliminate tractor trailers taking front porch off 1st house on National Avenue (This porch was replaced again last summer because of a 53' tractor trailer couldn't make the turn. 		
22	Wendy Werner 112 Morningside Drive Winchester, VA 22601	No comments.	X	
23	Gary Auerbach 112 Morningside Drive Winchester, VA 22601	East Fairfax Lane could be reversed ow.	X	

24	Carol Stroebe 678 Berryville Avenue Winchester, VA 22601	<ol style="list-style-type: none"> 1. Roundabout is clearly preferable for safety, traffic flow, walkability, & aesthetics. 2. As a bicyclist, I would also prefer the roundabout to the "linear" intersection. 3. Also, traffic calming & speed...I keep thinking of additional merits of the roundabout. 	X	
25	Allen Smith 208-218 East Fairfax Lane Winchester, VA 22601	Additional parking at the top of East Fairfax Lane (angled parking slots) would be very beneficial to residents.		X
26	Larry Yates 678 Berryville Avenue Winchester, VA 22601	I was disappointed that City Staff did not have traffic counts, & did not know if displaced businesses would be assisted.		X
27	Benjamin Pinner 124 East Clifford Street Winchester, VA 22601	No Comments.		X
28	Sue Pinner 124 East Clifford Street Winchester, VA 22601	I don't like roundabouts but this does look good.	X	
29	Kristen Goff 1617 Merrimans Lane Winchester, VA 22601	<ol style="list-style-type: none"> 1. Interested as I am on committee of First Presbyterian Church regarding Old Stone Church. 2. Both designs exhibit positive potential. 3. I favor round-about as am familiar with them in other locations. 4. Need to ascertain bus/truck ability to negotiate-i.e. provide enough room. 5. Thank you for the opportunity. 	X	
30	Milton Paul 319 National Avenue Winchester, VA 22601	<ol style="list-style-type: none"> 1. Any chance they can grade and/or pave Jolley Lane as part of this? 2. 20 years untouched is very hard on our cars. 3. Thanks, Milton. 	X	
31	Amie Cave 365 National Avenue Winchester, VA 22601	Make sure entrance to Jolley Lane is wide enough for larger trucks to make the turn since both options force a right turn onto the lane.	X	
32	Josh Huff	Widen entrance/improve Jolley Lane.	X	

	365 National Avenue Winchester, VA 22601			
33	Steven Mark Georgia 316 East Piccadilly Street Winchester, VA 22601	East side of intersection needs to be parking.		X
34	Barbara J. Fogle 605 Baker Lane Winchester, VA 22601	<ol style="list-style-type: none"> 1. So glad to see options presented in color, clearly labeled, to see & visualize how to simplify this. 2. Soften the green space conducive to pedestrians/lunchers/walkers to enjoy the new changes. 3. Make a "walk-over" connecting the green spaces on either side of the street(s). 		X
35	Jean Richardson 808 National Avenue Winchester, VA 22601	No comments.	No option.	No option.
36	Chester Ramey 947 Franklin Street Winchester, VA 22601	<ol style="list-style-type: none"> 1. Put resident only parking lot on west side of National (SW corner) versus the 6 spaces on the east side of the road. 2. Re-name Piccadilly/National/Berryville-all Berryville Avenue from Kent to Pleasant Valley (would help tourists & other out-of-towners orientate themselves-if you're enhancing Berryville Avenue between Pleasant Valley & I-81 & making road improvements-finish the job by making it <u>one</u> street name. 		X
37	Rachel Delgado-Simmons 316 East Piccadilly Street Winchester, VA 22601	<ol style="list-style-type: none"> 1. I like it because it slows traffic & looks attractive (modern). 2. I am concerned about the crossing the street because there are a lot of families. 3. However, what is going in the green area-benches? Picnic tables? Etc. 4. What is in the middle of the circle? Another statue-(perhaps John Kirby-black jazz singer). 5. Also-where is our corner store going to be? We really use that store & hope it can 	X	

		relocate nearby. Seems like it is one of the few remaining neighborhood stores? It is very important to us.		
38	Larry J. Walters 1604 Whittier Avenue Winchester, VA 22601	Option A-only if General Morgan is in the middle.	#2	X
40	I.H. Terrill	<p>1. The simplest configuration is the safest one.</p> <p>2. It would be a mistake to put in a traffic circle, otherwise known as a 'roundabout'.</p> <p>3. Because there are no existing traffic lights at the intersection, a traffic circle offers no benefit.</p> <p>4. Traffic circles can be confusing to people who are not familiar with them, and result in accidents.</p> <p>5. A traffic circle would also be a nuisance to truck drivers who would need to avoid smaller more agile cars as they move into and leave the circle.</p> <p>6. In this context, a traffic circle is nothing more than a gimmick, a detriment to free flow of traffic.</p> <p>7. The most sensible, SAFE, and appropriate street design is a straightened road, which is OPTION B, please.</p>		X
41	John Shepherd 398 East Piccadilly Street Winchester, VA 22601	<p>Perry -- Thank you for your kind and timely comments. As you may have guessed, I am opposed to any "roundabout: or traffic circle". My experience driving in Gettysburg as a young and not-so-</p> <p>young driver tells me that folks who live in the 300 block will simply drive out of our way to avoid the thing. Any way you slice it, the folks who live here will have one more hurdle to deal with as we drive in the direction of Old Town just to go to church (at First United Methodist).</p> <p>PLEASE don't put in a traffic circle, Perry!</p>		X

42	Ron Kattas National Home Management East Fairfax Lane	My biggest concern is the project does not create enough parking. We have always had parking issues for my tenants on East Fairfax Lane. My strong preference would be to create more parking in some of the green space. Both proposals create a lot of green space that could be used allocated for more parking.	X	
43	Sarah Chapman 137 North Loudoun Street Winchester, VA 22601	I think the roundabout is a unique feature that would emphasize the gateway to Old Town. My only concern is if locals are familiar with how roundabouts work. I am not originally from this area and where I came from, we had roundabouts, so I am used to them, but I know they can be confusing/intimidating for people who aren't experienced with them. A roundabout is an excellent traffic calming device and I think it fits the area because of the 3 roads converging at atypical angles. The roundabout also aids in keeping traffic moving and not backing up as can happen with traffic signals. With the addition of beautiful landscaping, I think this gateway could be really great.	X	
44	James Tillery	I really like the roundabout concept. It gives the sense of being a gateway into the city. It would be especially nice if the center of the roundabout had a fountain or statue. The roundabout also allows for the smooth and save flow of traffic. I've seen roundabouts like this as city entrance ways in Europe and it really looks nice and is very functional.	X	
45	Derek Tucker 2627 Middle Road Winchester, VA 22601	Prefer Option A as it will control vehicle speed more effectively & slow down vehicles as they enter downtown. It is also more visually appealing & attributes more to the "gateway" appearance approach. Looking forward to this positive change in Winchester.	X	
46	Jed Rau 265 Parkway Street	I have lived in and visited many places that regularly use roundabouts as part of their	X	

	Winchester, VA 22601	<p>transportation/traffic strategy. My main example would be Blacksburg, VA. Blacksburg certainly had its detractors when roundabouts first showed up on VA Tech campus, then spread to the town itself, but few people argue now that they were all good ideas (including a 4-lane roundabout at a major intersection that used to be a nightmare during afternoon rush-hour but is now easy/quick to navigate). Roundabouts slow down traffic to safer neighborhood speeds, while also keeping that same traffic moving rather than halted at a stop sign or turning vehicle. When my wife and i first moved to Winchester over 8 years ago, she and I both remarked that this intersection would be better as a roundabout. I hope that is the option chosen. While i don't live on National (or nearby streets) i use the intersection regularly and was very happy to hear that the city was buying land and planning a possible roundabout to ease my way safely through that intersection. Thank you for this opportunity to comment.</p>		
47	John Kent	<p>1. Money spent in recent years to rework the East Lane/ Piccadilly intersection: Wasted 2. Acquisition/ Demolition of potential residences (or developable lots), and possibly the last remaining Community store w/ in Downtown: Gone, and at a signification cost. Why does the City discourage locally owned Community stores? 3. The only drive-ability issue w/in the road alignments referenced: Making a right hand turn (Piccadilly heading east on National). This could have simply been rectified w/ the house on the corner (SE National/ Piccadilly intersection) being removed and realignment of the turn.</p>		X

		<p>4. Now there are turns involved navigating Fairfax onto National: Why can't we drive in a straight line?</p> <p>5. Round-a-bouts will confuse so many drivers in Winchester (young and old). The closest two (Frederick & Warren Counties) still make little-to-no sense. In some instances, yes they are desirable, but in Downtown Winchester?</p> <p>6. Besides getting rid of some dilapidated properties, and correcting the 90 degree turn from Piccadilly to National, what is the City gaining other than "beautification", at a significant cost?</p>		
48	George Schember	Voicemail	X	
49	Scott Street	Voicemail	X	
50	Doug Watson	<p>I would strongly recommend that the City use option B (Straight through). I do not believe that the roundabout is necessary to handle what traffic flows through the intersection. Rarely do I see more than 1 or two cars backed up waiting to get out onto Piccadilly Street from East Lane except when Kent/Piccadilly is closed for a train coming through which the roundabout won't help.</p> <p>I currently drive my children to John Kerr every morning and travel on Jefferson Street to do so. It has been my observation that the roundabout at Jefferson/Handley does not work well at all. Most people still think that Jefferson St. traffic has the right of way and either stop and wait at Handley or start to pull out and the person on Jefferson hits their brakes not realizing the Handley Ave vehicle has the right of way since they got there first. I have even seen cars stop in all directions at the intersection because people aren't sure who has the right of way. I feel that you will have the same issues at</p>		X

		National Avenue if a roundabout is placed there. Thank you for your consideration.		
51	Aaron Jewell	I prefer Option A. The roundabout would ease the flow of traffic. Option B is only a slight upgrade and congestion could still be a problem.	X	
52	Judy Bauserman	I vote for the straight option. Roundabouts can be very confusing to people.		X
53	Patrick Rodgers	The primary traffic concerns are backups due to people turning left onto East Piccadilly/East Lane and visibility/safety of an uncontrolled and very busy intersection. The traffic circle takes care of both. By allowing traffic to continue to flow while allowing people to loop over to EP/EL it should mitigate the jams that sometimes reach along most of National Ave. Additionally, the traffic circle provides a "one way" area eliminating the turns across traffic. The circle will also help naturally slow traffic in a pedestrian heavy area. Please let me know if you would like to discuss.	X	
54	Brandon Horton	I feel the roundabout would be the best choice short-term but more long-term. As the city traffic increase the roundabout will allow for a continuous flow, reducing congestion. The Linear intersection seem to have more stop and start activity (if I understand it right) which would cause back-up and delays during rush-hours.	X	
55	L. Sullivan 1301 Front Royal Pike Winchester, VA	Hate roundabouts. Confusing to those entering & leaving. Meadowbranch East-West Road is more needful. Is this project really worth the money?		X
56	Pamela Beamer 601 Van Fossen Street Winchester, VA 22601	No comments.		X
57	Susan Rhodes 364 Parkway Winchester, VA	No comments.	X	
58	Eugene Rhodes	Looks to be much better for traffic flow.	X	

	364 Parkway Street Winchester, VA			
59	Pail J. Whittmore Winchester News Stand	I hope this will work.		X
60	T.L. Edwards, Jr. 107 Meadowbrook Drive Stephens City, VA	Don't complicate the flow of traffic with a roundabout.		X
61	Marlene Cross 437 S. Buckton Road Middletown, VA 22645	When we come to Winchester & head out Rt. 7 we use this area & think the straight shot would be easier to use with only 2 crosswalks across Piccadilly Street-rather than 4. Out-of-Towners may be confused with side street traffic turning in front of them out of East Lane to go around the circle to get back into town.		X
62	Raymond P. Cross 437 Buckton Road Middletown, VA 22645	No comments.		X
63	Peter Serafin 539 N. Braddock Street Winchester, VA 22601	I prefer neither option. We should slow traffic down, not speed it up. I believe this project is a waste of tax \$, with very little accomplished. What is the green space going to be used for?		
64	Bill Wiley 104 West North Avenue Winchester, VA 22601	No comments.		X
65	Catherine Mattens Academy Lane Winchester, VA	No comments.	X	
66	Donald F. Crigler 29 East Boscawen Street Winchester, VA 22601	<ol style="list-style-type: none"> 1. Traffic Circles are usually recommended for the intersection of 2 or more busy roads. In this situation National Avenue/Piccadilly is the only busy road. This will also cause semi-truck deliveries coming in Rt. 7 to have to negotiate the traffic circle, rather than straight through intersection. 2. The traffic circle requires more impervious pavement rather either leaving open space or adjacent space for future 		X

		<p>development.</p> <p>3. I would suggest the elimination of the parallel parking spaces on National Avenue. Without any proposed development in this area they are not needed & will hinder visibility.</p>		
67	Jennifer Bell Downtown Manager	<p>I lean towards the curve proposal over the roundabout but do not have a strong preference.</p> <p>I think the E. Fairfax lane area where it empties onto National Ave should be a right turn only for safety and the corresponding byway on the right side should be a right turn only.</p> <p>I am also not a fan of the parking spaces on the National Avenue entrance area (North Side) for the curve proposal. I am not sure about the safety of people getting out of their cars and also I think it takes away from the beauty and impact of the landscaping that would be done in that area. Not 100% on this as I am having trouble visualizing it.</p> <p>Street Lights - would prefer they be of the style of other downtown street lamps if possible and with capability of holding banners and possibly hanging flower baskets. This would help indicate that people are entering the downtown.</p> <p>Would prefer flowers be included in the landscaping.</p> <p>Could there be a Welcome To Old Town Winchester sign or something along those lines right before people curve going West(Fairfax Lane area)?</p> <p>I would love for there to be a fountain or public</p>		

		art in the center of the roundabout if that is the design selected.		
68	Tim Youmans Planning Director	Mr. Youmans' comments are attached at the end of this document (below).		

**Pros and Cons of a Roundabout vs. Linear Intersection
National Avenue Gateway Project
By Tim Youmans, Planning Director**

Option A: Roundabout Intersection

- Continuous traffic flow at slow speed (No stacking of inbound vehicles behind left-turning traffic approaching east lane and no stacking of vehicles making left-turn onto Piccadilly from East Ln).
- Safer- reduced chance of head-on vehicle collisions.
- Pedestrians cross one direction of traffic at a time.
- Makes a statement as to City gateway transition.

- Higher design and construction cost than linear design, especially placing roundabout on hillside.
- Takes up more land area (120' diameter from backside of sidewalk to backside of sidewalk on opposite points on roundabout as compared to 50' width from backside of walk on each side of linear intersection)
- Requires more upright signage for motorists and pedestrians if VDOT signage standards followed.
- Greater challenges for turning tractor trailer trucks.
- Reduced curbside parking (19 spaces fewer than linear option).
- Less opportunity for redevelopment of excess land on west side.

Option B: Linear Intersection

- Familiar intersection design in downtown grid street environment.
- Expanded curbside parking (19 spaces more than roundabout).
- Less expensive to design and build.
- Requires less land area (50' width from backside of walk on each side of linear intersection as compared to 120' diameter from backside of sidewalk to backside of sidewalk on opposite points on roundabout).

- Greater opportunity for redevelopment of excess land on west side.
- Less maintenance costs than roundabout (e.g. mowing/weeding center island and splitter islands, repaving, snowplowing, sign maintenance).
- Still subject to inbound stacking behind vehicles making left turn onto East Ln (if a dedicated LT lane is not included in the design) and does not address stacking of vehicles making left-turn onto Piccadilly from East Ln.
- Does not create a 'Statement' entry feature.

The following information was prepared using information from the Insurance Institute for Highway Safety (IIHS), in 2008 and was contained on the Wisconsin Dept of Transportation website.

Where are appropriate locations for roundabouts?

Roundabouts are appropriate at intersections that have:

- High crash rates- **the existing East Ln/Piccadilly intersection is not a high crash location.**
- Large traffic delays- **the existing East Ln/Piccadilly intersection does not have large delays.**
- Complex geometry (>4 approach roads)- **the existing and proposed East Ln/Piccadilly intersection has only 3 approaches.**
- Frequent left-turn movements. **East Ln/Piccadilly does not have high LT movements relative to the predominant Rte 7 through movement.**

Roundabouts can be constructed along congested arterials, in lieu of road widening.- **E. Piccadilly & National Ave are not congested arterials where the City is otherwise looking at road widening.**

Roundabouts can be an appropriate replacement for traffic signals- **the current intersection is not signalized and no traffic signal has been warranted.**

Roundabouts can reduce pollution from emissions and reduce fuel consumption where they replace a standard signalized intersection- **East Ln/Piccadilly is not signalized and vehicle stacking/idling is minimal except during certain AM periods.**

What types of intersections may not be good candidates for roundabouts?

Roundabouts are not appropriate everywhere. Intersections that may not be good candidates include:

- Those with topographic or site constraints that limit the ability to provide appropriate geometry.- East Ln/Piccadilly, after demolition of structures, does not have site constraints, but the area between National Ave on the high end and E. Piccadilly St on the low end (near the Timbrook Ctr entrance) is topographically sloped about 22 feet. Roundabouts are rarely situated on hillsides.
- Those with highly unbalanced traffic flows (that is, high traffic volumes on the main street and light traffic on the side street).- East Ln/Piccadilly St intersection has a highly unbalanced traffic flow such that the overwhelming majority of traffic follows the Rte 7 corridor with only a relatively small volume on East Lane.
- Isolated intersections in a network of coordinated traffic signals.- not an issue at East Ln/Piccadilly St.

Source: *Technical Summary*

Roundabouts

Federal Highway Administration
Office of Safety FHWA-SA-10-006

6.5 Vertical Design

As a general practice, a cross slope of 2 percent away from the central island should be used for the circulatory roadway on single-lane roundabouts.

It is **generally not desirable to locate roundabouts in locations where grades through the intersection are greater than four percent**, although roundabouts have been installed on grades of 10 percent or more. Care is needed when designing roundabouts on steep grades. On approach roadways with downgrades steeper than 4 percent, it is more difficult for entering drivers to slow or stop on the approach (as with any intersection). In addition, significant slope breaks within the roundabout can create potential problems for semi-trailer trucks, including load shifting and overturning.

Steep gradients at entries and exits should be avoided or flattened to minimize grade breaks at the entry and ensure that users are able to safely enter and exit the circulatory roadway.

Note: The grading plan for Option A has not been prepared yet, but the distance between the high point on National Ave near the Highland Ave intersection and the low point on E. Piccadilly St near the entrance to the Timbrook Center following the curvature of the roadway including movement through the roundabout is approximately 440 feet. The total elevation change between these two points is about 22 feet. That translates to about a 5% grade.

