C I T Y O F W I N C H E S T E R, V I R G I N I A

CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: October 13, 2015

RESOLUTION ✓ **ORDINANCE** ___ **DESCRIPTION/PRESENTATION** ___

ITEM TITLE: Approval of Tevis Street Extension Project

PUBLIC HEARING DATE:

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 completion of review only addresses the readiness of the issue for Council consideration. This does not address the recommendation for approval or denial of the issue.

Review:

Perry Eisenach	Completed	09/11/2015 12:00 PM
Anthony Williams	Completed	10/08/2015 3:01 PM
Eden Freeman	Completed	10/08/2015 4:13 PM

Perry Eisenach
Perry Eisenach, Public Services Director 9/11/2015

Eden Freeman, City Manager 10/8/2015

Approved as to form:

By: _____

Winchester Virginia office of the city attorney

Anthony C. Williams, City Attorney
Office of the City Attorney
15 N. Cameron Street, Suite 313
Winchester, VA 22601
Phone: 540-667-1815, x 1433
Fax: 540-667-2259

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council

From: Perry Eisenach, Public Services Director

Date: October 13, 2015

Re: Approval of Tevis Street Extension Project

THE ISSUE: Approval of Tevis Street Extension Project.

RELATIONSHIP TO STRATEGIC PLAN: Goal #2 - Promote and accelerate revitalization of targeted areas throughout the City.

BACKGROUND: The extension of Tevis Street between Legge Blvd and the future bridge that will be constructed over Interstate-81 has long been a very high priority for the City. The City has been awarded $800,000 in Revenue Sharing Funds from VDOT to pay for half of the construction of the project and the property owner, Glaize Developments, has agreed to pay for the other half of the project. The City will manage and oversee the design and construction of the project. If approved, the goal would be to complete the construction of the project during the summer of 2016.

BUDGET IMPACT: This project is included in the adopted FY16 budget. No City funds will be used as one half of the cost of the project is being paid for by VDOT and the other half of the cost is being paid for by Glaize Developments.

OPTIONS: Either approve the resolution to proceed with the project or not approve the resolution.

RECOMMENDATIONS: Approve the resolution and proceed with the project.

APPROVAL OF TEVIS STREET EXTENSION PROJECT

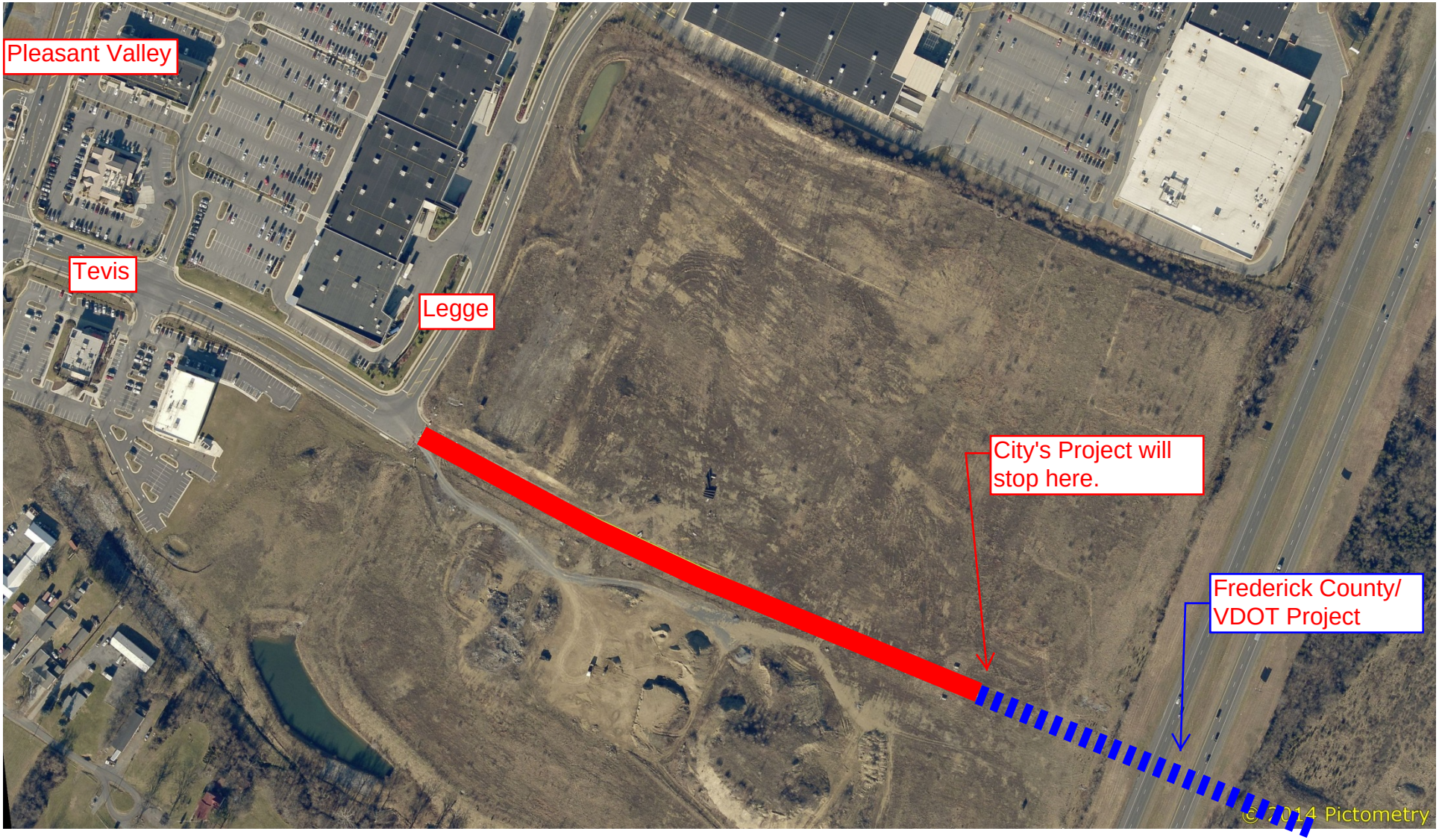
WHEREAS, the extension of Tevis Street between Legge Boulevard and a future bridge that will be constructed over Interstate-81 is a high priority for City Council; and

WHEREAS, the City has been awarded $800,000 in Revenue Sharing Funds from the Virginia Department of Transportation to pay for one-half of the cost of constructing this extension of Tevis Street; and

WHEREAS, Glaize Developments owns the property adjacent to where this extension of Tevis Street will be constructed and has agreed to pay for the other half of constructing the project; and

WHEREAS, the City has agreed to manage and oversee the design and construction of Tevis Street extension.

NOW, THEREFORE, BE IT RESOLVED BY the Common Council of the City of Winchester hereby approves and authorizes the City Manager to execute the Road Construction and Funding Agreement (Agreement) between the City and Glaize Developments and authorizes City staff to proceed with the design and construction of the project following the execution of the Agreement.



Tevis Street Extension Project

Road Construction and Funding Agreement

Tevis Street Extension Project

THIS AGREEMENT, made and dated this _____ day of _____, 2015 is made by and between the **CITY OF WINCHESTER, VIRGINIA** (hereinafter, "the City"), a political subdivision of Virginia, and **GLAIZE DEVELOPMENTS, INCORPORATED.** (hereinafter "Glaize").

RECITALS:

A. At all times herein mentioned, Glaize, whose principal office is located at 112 E. Piccadilly Street, Winchester, VA, was and remains a Virginia Corporation formed and operating under the laws of the Commonwealth of Virginia.

B. At all times herein mentioned, the City, whose principal offices are located at 15 N. Cameron Street, Winchester, VA, was and remains a municipal corporation formed and operating under the laws of the Commonwealth of Virginia.

C. Glaize is the owner of the property on both sides of the proposed Tevis Street Extension Project between Legge Blvd. and Interstate-81.

D. Both the City and Glaize desire to arrange for the design and construction of Tevis Street Extension between Legge Blvd. and Interstate-81 (Project).

E. The City and Glaize desire to finance the Project using funds from Glaize and matching funds that the City will receive from Virginia Department of Transportation (VDOT) from the Commonwealth's Revenue Sharing Program.

F. All commitments made herein are conditioned upon the appropriation of funding by the State and/or City respectively which shall be a condition precedent to the performance of any of the parties' obligations pursuant to this Agreement.

NOW, THEREFORE, WITNESSETH: That for and in consideration of the sum of One Dollar ($1.00), cash in hand paid by each of the parties hereto unto the other, the receipt and sufficiency of which is hereby acknowledged, and for the mutual benefits, covenants, and promises to perform herein described, the parties do agree as follows:

1. **RECITALS:** The Recitals are made a material part hereof and incorporated herein by reference as if set out in full.

2. **THE PROJECT:** The Project shall consist of the design and construction of certain roadway improvements and facilities related to the extension of Tevis Street, which shall be as particularly set forth in the final plans and specifications for the Project (the "Scope of Work"), once completed, and which Scope of Work shall provide for the following:

   a. The extension of Tevis Street between the current terminus at Legge Boulevard to a point that is the beginning of the bridge ramp for the bridge that will be constructed by Frederick County over Interstate-81 (Station 29+50 on the previous roadway design plans from PHRA dated February 2007).
   b. The roadway extension will consist of four lanes with a center median to be located within the boundaries of the right of way currently dedicated by Glaize for Tevis Street and its appurtenant improvements.
   c. Two commercial, full-access entrances (with left-hand turn lanes) shall be constructed and located east of the intersection with Legge Boulevard and a west-bound, right-hand turn lane shall be constructed and located at the intersection of Tevis Street and Legge Bouelvard.
   d. A minimum five-foot wide concrete sidewalk will be constructed on both sides of Tevis to be located within the boundaries of the right of way currently dedicated by Glaize for Tevis Street and its appurtenant improvements.
   e. A new traffic signal will be constructed at the intersection of Tevis/Legge.
   f. Drainage improvements in conformity with the original, approved design set forth in the plans currently available as of the date of entry of this Agreement.
   g. Streetlights to be located within the boundaries of the right of way currently dedicated by Glaize for Tevis Street and its appurtenant improvements.
   h. Trees and grass will be placed in the center median where feasible.
   i. A City of Winchester monument sign with accompanying landscaping shall be placed in the center median on the eastern edge of the Project. Such signage shall not be included in the calculation of permitted signage available for use on any property owned by Glaize, its successors or assigns, pursuant to all applicable laws, ordinances or regulations.
   j. Conduit for the placement of utilities and connections servicing the contiguous Glaize properties (except sanitary sewer facilities) will be located within the boundaries of the right of way currently dedicated by Glaize for Tevis Street and its appurtenant improvements. Glaize's consent to the number, size and location of conduit for utilities and connections shall be obtained by the City from Glaize before including the same in the Scope of Work for the Project. Glaize's consent to the same shall not be unreasonably conditioned, delayed or withheld.
   k. Sanitary sewer facilities servicing the contiguous Glaize properties and located within the boundaries of the right of way currently dedicated by Glaize for Tevis

Street and its appurtenant improvements may be specified by Glaize, at Glaize's cost, as part of the Scope of Work.

l. Installation of a VDOT approved entrance and/or access on the south side of the intersection of Legge Boulevard and Tevis Street accessing the Glaize property which shall be designed to complete the fourth section of the intersection of Legge Boulevard and Tevis Street.

m. Installation of a private entrance and/or access between the Glaize property and the adjoining Target store property approved by all applicable governmental authorities and the respective property owners. This work shall be completed at the sole cost of Glaize.

n. Glaize will pay the cost of any sand filter which may be included in the Scope of Work due to specifications requested by Glaize.

3. PROJECT FUNDING:

a. The estimated total cost of the Project is $1.6 million. The Project shall be paid for utilizing up to $800,000 in Glaize funds and $800,000 in Revenue Sharing funds that the City will receive from VDOT. If such funds are not received by the City from VDOT, the City must provide notice of the same to Glaize and, thereafter, may utilize other funding sources and commence work within six (6) months of providing notice to Glaize that funds are not received from VDOT or at its discretion,discontinue the project..

b. In the event that reasonably necessary, unforeseen costs are encountered in the performance of the Scope of Work for the Project, Glaize agrees to expend such additional funds as are reasonable and necessary to complete the Project within the Scope of Work and the City agrees to match these additional funds with state Revenue Sharing funds if available.

c. The City and Glaize will work cooperatively to try to complete the project within the allocated budget as reflected in the Scope of Work and to minimize and mitigate any possible unforeseen additional Project costs.

4. CITY RESPONSIBILITIES:

a. The City shall act as the fiscal agent and project manager for the Project. The City's responsibilities as fiscal agent and project manager shall include the management and oversight of all roadway design, environmental approvals and permitting, and construction in a commercially reasonable manner.

b. The City shall not be responsible for expending any City funds, other than funds provided to the City through VDOT Revenue Sharing for the Project

c. The City shall issue a task order for the final engineering design of the project within 30 days of full execution of this Agreement.
d. The City shall supervise the design, engineering, and environmental phases of the Project which shall be done in accordance with all applicable standards, including all City and VDOT standards.
e. The City shall give written notice to Glaize for any unforeseen design, engineering, or environmental issue encountered within forty-eight (48) hours of discovery of such issues. The City shall reasonably assist Glaize with the remediation of any environmental issues caused by Glaize or discovered on the Glaize property (to the extent such environmental issues were not caused by any work performed under the Scope of Work on the Project), the remediation of which is necessary to performance of the Scope of Work for the Project. Notwithstanding the foregoing, all costs associated with any environmental remediation caused by Glaize or discovered on the Glaize property (to the extent such environmental issues were not caused by any work performed under the Scope of Work on the Project), the remediation of which is necessary to performance of the Scope of Work for the Project, shall be the sole responsibility of Glaize.
f. The City shall be responsible for advertising the project for construction bids and for awarding a construction contract to the lowest, qualified, responsive bidder.
g. The City shall be responsible for inspecting the Project throughout construction and ensuring that the construction is completed in accordance with the Scope of Work and all Project specifications.
h. The City shall give written notice to Glaize for any unforeseen issues encountered during the performance of the Scope of Work within forty-eight (48) hours of discovery of such issues. The City will use its best efforts to minimize the costs of any unforeseen conditions.
i. The City shall pay all invoices for performance of the Scope of Work for the Project.
j. The City shall be responsible for all coordination required with VDOT and all other authorities having jurisdiction over the performance of any aspects of the Scope of Work and for requesting and receiving reimbursement from VDOT for Commonwealth Revenue Sharing funds.
k. The City shall submit invoices to Glaize for Glaize's share of the costs incurred for the performance of the Scope of Work not more than once per month. In the event that Glaize fails to timely reimburse the City for Glaize's share of the actual costs, after receiving written notice of such failure and the opportunity to cure the same, the City may file a lien on the subject property and property owned by Glaize contiguous to the Project.

l. Upon completion of the Project, the City shall be solely responsible for the ongoing repair and maintenance of the improvements constructed under the Scope of Work, with the exception of those improvements specified and paid for solely by Glaize under the terms of this Agreement.

5. GLAIZE RESPONSIBILITIES:

a. Glaize shall provide reasonable and customary access to its property to the City, its employees and representatives, and all approved contractors, subcontractors, materialmen and suppliers, their employees and representatives, engaged to perform any of the Scope of Work for the Project.
b. Glaize shall reimburse the City for Glaize's share of the costs incurred for the performance of the Scope of Work within thirty (30) days of receipt of properly documented invoices from the City for the same.
c. Glaize shall provide the City with all previous surveys and design plans for the roadway in Glaize's possession.
d. All costs associated with any environmental remediation caused by Glaize or discovered on the Glaize property (to the extent such environmental issues were not caused by any work performed under the Scope of Work on the Project), the remediation of which is necessary to performance of the Scope of Work for the Project, shall be the sole responsibility of Glaize.
e. As a condition precedent to the performance of any of the City's responsibilities herein, and within ten (10) days after the City has delivered to Glaize written documentation that the City has received $800,000.00 in Revenue Sharing funds from VDOT (or that the City has obtained $800,000.00 in funds from some other source) together with all requisite authority to expend said $800,000.00 in funds on the Project, Glaize shall provide a bond or letter of credit in a form and from an issuer deemed acceptable by the City to cover the full amount of the funds committed by Glaize pursuant to this Agreement ($800,000.00), which shall become immediately payable to the City upon default by Glaize of any of the terms recited in this Agreement.

6. PROJECT SCHEDULE:

a. The City will issue a task order to complete the engineering design of the project within thirty (30) days of full execution of this Agreement.
b. The City will use its best efforts to complete the design of the Project and advertise the Project for construction bids as quickly as possible.

c. The City will use its best efforts to initiate construction on the project in the spring of 2016 and complete the construction of the Project by the end of the summer of 2016.

7. NOTICES:

a. All notices, demands, or other communications that may be necessary or proper hereunder shall be deemed duly given if personally delivered, or when deposited in the United States mail, postage pre-paid, first class, registered or certified, return receipt requested, addressed respectively as follows:

b. City:

City of Winchester
Attention: Perry Eisenach, Public Services Director
15 N. Cameron Street
Winchester, VA 22601

c. Glaize:

Glaize Developments, Inc.
Attention: J.P. Carr
P.O. Box 888
Winchester, VA 22604

8. ENTIRE AGREEMENT; AMENDMENTS; TIME:

a. This Agreement constitutes the entire agreement of the parties and supersedes any prior understandings, whether oral or written, of the parties regarding the subject matter of the Agreement and no amendment to this Agreement shall be effective unless made in writing and signed by both parties.
b. Time is of the essence with respect to all matters set forth in the Agreement.
c. This Agreement shall be binding upon and the obligations and benefits hereof shall accrue to the parties hereto and their successors and assigns.
d. The parties hereby warrant and represent, each to the other, that the person signing this Agreement on behalf of each party has all requisite authority to do so, and that each party has all requisite authority to enter into this Agreement, which Agreement is acknowledged to be the valid and binding obligation of each party, enforceable under its terms.

9. **GOVERNING LAW AND VENUE:** This Agreement shall be governed by and interpreted according to the laws of the Commonwealth of Virginia and any dispute hereunder shall be heard only in the Circuit Court of the City of Winchester, Virginia.

WITNESS the following signatures and seals:

CITY OF WINCHESTER, VIRGINIA

_____

By: City Manager

ATTEST:

_____

GLAIZE DEVELOPMENTS, INC.

_____

By:

ATTEST:

_____